

By the Committee on Criminal Justice; and Senators Brandes,
Negrón, and Clemens

591-02558-16

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1 A bill to be entitled
2 An act relating to forfeiture of contraband; amending
3 s. 932.703, F.S.; providing for the acquisition of the
4 provisional title of seized property under certain
5 circumstances; prohibiting the seizure of property
6 under the Florida Contraband Forfeiture Act until the
7 owner of such property is arrested for a criminal
8 offense that renders the property a contraband
9 article; providing an exception; prohibiting the
10 seizing law enforcement agency from threatening a
11 property owner with property seizure or forfeiture
12 under certain circumstances; requiring the return of
13 property by the seizing law enforcement agency to the
14 property owner under certain circumstances;
15 prohibiting a forfeiture under the Florida Contraband
16 Forfeiture Act from being final until the owner of the
17 seized property is prosecuted and convicted of or
18 pleads guilty or nolo contendere to a criminal offense
19 that renders the property a contraband article;
20 providing that the property is deemed a contraband
21 article and forfeited subject to forfeiture
22 proceedings under certain circumstances; specifying
23 circumstances under which the seizing law enforcement
24 agency must return the property to the owner; deleting
25 a provision vesting rights, interests, and title to
26 contraband articles in the seizing law enforcement
27 agency; amending s. 322.34, F.S.; conforming a
28 provision to changes made by the act; reenacting s.
29 403.413(6)(e), F.S., relating to forfeiture under the
30 Florida Litter Law, to incorporate the amendment made
31 to s. 932.703, F.S., in a reference thereto; providing

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32 an effective date.

33
34 Be It Enacted by the Legislature of the State of Florida:

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36 Section 1. Subsection (1) of section 932.703, Florida
37 Statutes, is amended to read:

38 932.703 Forfeiture of contraband article; exceptions.—

39 (1) (a) Any contraband article, vessel, motor vehicle,
40 aircraft, other personal property, or real property used in
41 violation of ~~any provision of~~ the Florida Contraband Forfeiture
42 Act, or in, upon, or by means of which any violation of the
43 Florida Contraband Forfeiture Act has taken or is taking place,
44 may be seized and shall be forfeited subject to ~~the provisions~~
45 ~~of~~ the Florida Contraband Forfeiture Act.

46 (b) Notwithstanding any other provision of the Florida
47 Contraband Forfeiture Act, except ~~the provisions of~~ paragraph
48 (a), contraband articles set forth in s. 932.701(2)(a)7. used in
49 violation of ~~any provision of~~ the Florida Contraband Forfeiture
50 Act, or in, upon, or by means of which any violation of the
51 Florida Contraband Forfeiture Act has taken or is taking place,
52 shall be seized and shall be forfeited subject to ~~the provisions~~
53 ~~of~~ the Florida Contraband Forfeiture Act.

54 (c) At the time of seizure or entry of a restraining order,
55 the state acquires provisional title to the seized property.
56 Property may not be seized under the Florida Contraband
57 Forfeiture Act until the owner of such property is arrested for
58 a criminal offense that renders the property a contraband
59 article. However, property may be seized if the owner of the
60 property is a confidential informant in lieu of an arrest. The

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61 confidential informant status must be agreed upon between the
62 seizing agency and the property owner, and the property owner
63 must actively participate as a confidential informant in
64 gathering criminal intelligence or investigative information for
65 an active criminal investigation. The seizing agency may not use
66 the threat of property seizure or forfeiture when offering the
67 property owner the status of confidential informant in lieu of
68 an arrest. If charges are not brought against the property
69 owner, the property must be returned to the owner at the
70 conclusion of the active criminal investigation or the cessation
71 of the status of criminal informant. Final forfeiture of
72 property may be included as a component of the agreement to
73 serve as a confidential informant. A forfeiture under the
74 Florida Contraband Forfeiture Act is not final, and title or
75 other indicia of ownership, other than provisional title, does
76 not pass to the state or jurisdiction seeking forfeiture until
77 the owner of the seized property is prosecuted and convicted of
78 or pleads guilty or nolo contendere to a criminal offense,
79 without regard to whether adjudication is withheld, that renders
80 the property a contraband article. If, after 3 months, the
81 seizing agency cannot find the owner of the seized property
82 after a diligent effort, the seized property is deemed a
83 contraband article and forfeited subject to s. 932.704. However,
84 if the seizing agency finds the owner, the seizing agency shall
85 return the property to the owner within 5 days after:

- 86 1. The court finding that the owner had a bona fide
87 security interest;
- 88 2. The court finding that the owner was an innocent owner;
- 89 3. The acquittal or dismissal of the owner of the criminal

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90 charge that was the basis of the forfeiture proceedings; or

91 4. The disposal of the criminal charge that was the basis
92 of the forfeiture proceedings by nolle prosequi. The seizing
93 agency is responsible for any damage, storage fee, and related
94 cost applicable to the property ~~All rights to, interest in, and~~
95 ~~title to contraband articles used in violation of s. 932.702~~
96 ~~shall immediately vest in the seizing law enforcement agency~~
97 ~~upon seizure.~~

98 (d) The seizing agency may not use the seized property for
99 any purpose until the rights to, interest in, and title to the
100 seized property are perfected in accordance with the Florida
101 Contraband Forfeiture Act. This section does not prohibit use or
102 operation necessary for reasonable maintenance of seized
103 property. Reasonable efforts shall be made to maintain seized
104 property in such a manner as to minimize loss of value.

105 Section 2. Paragraph (c) of subsection (9) of section
106 322.34, Florida Statutes, is amended to read:

107 322.34 Driving while license suspended, revoked, canceled,
108 or disqualified.—

109 (9)

110 (c) Notwithstanding ~~s. 932.703(1)(c) or~~ s. 932.7055, when
111 the seizing agency obtains a final judgment granting forfeiture
112 of the motor vehicle under this section, 30 percent of the net
113 proceeds from the sale of the motor vehicle shall be retained by
114 the seizing law enforcement agency and 70 percent shall be
115 deposited in the General Revenue Fund for use by regional
116 workforce boards in providing transportation services for
117 participants of the welfare transition program. In a forfeiture
118 proceeding under this section, the court may consider the extent

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119 that the family of the owner has other public or private means
120 of transportation.

121 Section 3. For the purpose of incorporating the amendment
122 made by this act to section 932.703, Florida Statutes, in a
123 reference thereto, paragraph (e) of subsection (6) of section
124 403.413, Florida Statutes, is reenacted to read:

125 403.413 Florida Litter Law.—

126 (6) PENALTIES; ENFORCEMENT.—

127 (e) A motor vehicle, vessel, aircraft, container, crane,
128 winch, or machine used to dump litter that exceeds 500 pounds in
129 weight or 100 cubic feet in volume is declared contraband and is
130 subject to forfeiture in the same manner as provided in ss.
131 932.703 and 932.704.

132 Section 4. This act shall take effect July 1, 2016.