

By Senator Bean

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1                   A bill to be entitled  
2       An act relating to contraband forfeiture; amending s.  
3       932.701, F.S.; revising the applicability of a short  
4       title; amending s. 932.704, F.S.; requiring each state  
5       or local law enforcement agency that seizes property  
6       for the purpose of forfeiture to perform a specified  
7       review at least annually; prohibiting certain  
8       compensation or benefit to any law enforcement officer  
9       from being dependent upon attaining a quota of  
10      seizures; requiring a seizing agency to adopt certain  
11      written policies, procedures, and training to ensure  
12      compliance; requiring that supervisory personnel  
13      review seizures to determine whether probable cause  
14      existed; requiring prompt notification of the seizing  
15      agency's legal counsel after a determination is made  
16      regarding seizure; requiring that the legal counsel  
17      conduct a specified review; requiring each seizing  
18      agency to adopt and implement specified written  
19      policies and procedures for the prompt release of  
20      seized property under certain circumstances; requiring  
21      that the settlement of forfeiture actions be  
22      consistent with certain mandates and with the seizing  
23      agency's policy; requiring specified training and the  
24      maintenance of related records; creating s. 932.7061,  
25      F.S.; requiring each state or local law enforcement  
26      agency that seizes property for the purpose of  
27      forfeiture to complete an annual report; requiring  
28      certain information to be included in the annual  
29      report; requiring the report to be maintained by the

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30 seizing agency and made available to the public;  
31 amending ss. 322.34, 323.001, 328.07, and 817.625,  
32 F.S.; conforming cross-references; reenacting ss.  
33 27.3451 and 874.08, F.S., relating to the State  
34 Attorney's Forfeiture and Investigative Support Trust  
35 Fund, and criminal gang activity, recruitment, and  
36 forfeiture, respectively, to incorporate the amendment  
37 made to s. 932.704, F.S., in references thereto;  
38 providing an effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Subsection (1) of section 932.701, Florida  
43 Statutes, is amended to read:

44 932.701 Short title; definitions.—

45 (1) Sections 932.701-932.7061 ~~932.706~~ shall be known and  
46 may be cited as the "Florida Contraband Forfeiture Act."

47 Section 2. Subsection (11) of section 932.704, Florida  
48 Statutes, is amended to read:

49 932.704 Forfeiture proceedings.—

50 (11) (a) The Department of Law Enforcement, in consultation  
51 with the Florida Sheriffs Association and the Florida Police  
52 Chiefs Association, shall develop guidelines and training  
53 procedures to be used by state and local law enforcement  
54 agencies and state attorneys in implementing the Florida  
55 Contraband Forfeiture Act. At least annually, each state or  
56 local law enforcement agency that seizes property for the  
57 purpose of forfeiture shall ~~periodically~~ review such seizures ~~of~~  
58 ~~assets made by the agency's law enforcement officers,~~ any

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59 settlements, and any forfeiture proceedings initiated by the law  
60 enforcement agency, ~~to determine whether they such seizures,~~  
61 ~~settlements, and forfeitures~~ comply with the Florida Contraband  
62 Forfeiture Act and the guidelines adopted under this subsection.  
63 If the review suggests deficiencies, the state or local law  
64 enforcement agency shall promptly take action to comply with  
65 this act.

66 (b) The determination as to ~~of~~ whether an agency will file  
67 a civil forfeiture action is ~~must be~~ the sole responsibility of  
68 the head of the agency or his or her designee.

69 (c) ~~(b)~~ The determination as to ~~of~~ whether to seize currency  
70 must be made by supervisory personnel. The agency's legal  
71 counsel must be notified as soon as possible after a  
72 determination is made.

73 (d) The employment, salary, promotion, or other  
74 compensation of any law enforcement officer may not be dependent  
75 on the ability of the officer to meet a quota for seizures.

76 (e) A seizing agency shall adopt and implement written  
77 policies, procedures, and training to ensure compliance with all  
78 applicable legal requirements regarding seizing, maintaining,  
79 and forfeiting property under this act.

80 (f) When property is seized for forfeiture, the probable  
81 cause supporting the seizure must be promptly reviewed by  
82 supervisory personnel. The seizing agency's legal counsel must  
83 be notified as soon as possible of all seizures and shall  
84 conduct a review to determine whether there is legal sufficiency  
85 to proceed with a forfeiture action.

86 (g) Each seizing agency shall adopt and implement written  
87 policies and procedures promoting the prompt release of seized

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88 property as may be required by the act or by agency  
89 determination when there is no legitimate basis for holding  
90 seized property. To help assure that property is not wrongfully  
91 held after seizure, each law enforcement agency must adopt  
92 written policies and procedures ensuring that all asserted  
93 claims of interest in seized property are promptly reviewed for  
94 potential validity.

95 (h) The settlement of any forfeiture action must be  
96 consistent with this act and the agency's policy.

97 (i) Law enforcement agency personnel involved in the  
98 seizure of property for forfeiture shall receive basic training  
99 and continuing education as required by this act. Each agency  
100 shall maintain records demonstrating each law enforcement  
101 officer's compliance with this requirement. Among other things,  
102 the training must address the legal aspects of forfeiture,  
103 including, but not limited to, search and seizure and other  
104 constitutional considerations.

105 Section 3. Section 932.7061, Florida Statutes, is created  
106 to read:

107 932.7061 Reporting seized property for forfeiture.—Each  
108 state or local law enforcement agency that seizes property for  
109 the purpose of forfeiture must complete an annual report  
110 indicating whether that agency has received or forfeited  
111 property under this act. The report, which must be submitted on  
112 a form designed by the law enforcement agency, must, at a  
113 minimum, specify the type of property seized, its approximate  
114 value, the court case number, the type of offense in connection  
115 with which the property was seized, disposition of the property,  
116 and the dollar amount of the proceeds received or expended in

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117 seizing the property. The seizing agency shall maintain the  
118 report, which must be available to the public.

119 Section 4. Paragraph (a) of subsection (9) of section  
120 322.34, Florida Statutes, is amended to read:

121 322.34 Driving while license suspended, revoked, canceled,  
122 or disqualified.—

123 (9) (a) A motor vehicle that is driven by a person under the  
124 influence of alcohol or drugs in violation of s. 316.193 is  
125 subject to seizure and forfeiture under ss. 932.701-932.7061  
126 ~~932.706~~ and is subject to liens for recovering, towing, or  
127 storing vehicles under s. 713.78 if, at the time of the offense,  
128 the person's driver license is suspended, revoked, or canceled  
129 as a result of a prior conviction for driving under the  
130 influence.

131 Section 5. Subsection (4) of section 323.001, Florida  
132 Statutes, is amended to read:

133 323.001 Wrecker operator storage facilities; vehicle  
134 holds.—

135 (4) The requirements for a written hold apply when the  
136 following conditions are present:

137 (a) The officer has probable cause to believe the vehicle  
138 should be seized and forfeited under the Florida Contraband  
139 Forfeiture Act, ss. 932.701-932.7061 ~~932.706~~;

140 (b) The officer has probable cause to believe the vehicle  
141 should be seized and forfeited under chapter 379;

142 (c) The officer has probable cause to believe the vehicle  
143 was used as the means of committing a crime;

144 (d) The officer has probable cause to believe that the  
145 vehicle is itself evidence that tends to show that a crime has

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146 been committed or that the vehicle contains evidence, which  
147 cannot readily be removed, which tends to show that a crime has  
148 been committed;

149 (e) The officer has probable cause to believe the vehicle  
150 was involved in a traffic accident resulting in death or  
151 personal injury and should be sealed for investigation and  
152 collection of evidence by a vehicular homicide investigator;

153 (f) The vehicle is impounded or immobilized pursuant to s.  
154 316.193 or s. 322.34; or

155 (g) The officer is complying with a court order.

156 Section 6. Paragraph (b) of subsection (3) of section  
157 328.07, Florida Statutes, is amended to read:

158 328.07 Hull identification number required.—

159 (3)

160 (b) If any of the hull identification numbers required by  
161 the United States Coast Guard for a vessel manufactured after  
162 October 31, 1972, do not exist or have been altered, removed,  
163 destroyed, covered, or defaced or the real identity of the  
164 vessel cannot be determined, the vessel may be seized as  
165 contraband property by a law enforcement agency or the division,  
166 and shall be subject to forfeiture pursuant to ss. 932.701-  
167 932.7061 ~~932.706~~. Such vessel may not be sold or operated on the  
168 waters of the state unless the division receives a request from  
169 a law enforcement agency providing adequate documentation or is  
170 directed by written order of a court of competent jurisdiction  
171 to issue to the vessel a replacement hull identification number  
172 which shall thereafter be used for identification purposes. No  
173 vessel shall be forfeited under the Florida Contraband  
174 Forfeiture Act when the owner unknowingly, inadvertently, or

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175 neglectfully altered, removed, destroyed, covered, or defaced  
176 the vessel hull identification number.

177 Section 7. Paragraph (c) of subsection (2) of section  
178 817.625, Florida Statutes, is amended to read:

179 817.625 Use of scanning device or reencoder to defraud;  
180 penalties.—

181 (2)

182 (c) Any person who violates subparagraph (a)1. or  
183 subparagraph (a)2. shall also be subject to the provisions of  
184 ss. 932.701-932.7061 ~~932.706~~.

185 Section 8. For the purpose of incorporating the amendment  
186 made by this act to section 932.704, Florida Statutes, in a  
187 reference thereto, section 27.3451, Florida Statutes, is  
188 reenacted to read:

189 27.3451 State Attorney's Forfeiture and Investigative  
190 Support Trust Fund.—There is created for each of the several  
191 state attorneys a trust fund to be known as the State Attorney's  
192 Forfeiture and Investigative Support Trust Fund. Revenues  
193 received by a state attorney as a result of forfeiture  
194 proceedings, as provided under s. 932.704, shall be deposited in  
195 such trust fund and shall be used, when authorized by  
196 appropriation or action of the Executive Office of the Governor  
197 pursuant to s. 216.181(11), for the investigation of crime,  
198 prosecution of criminals, or other law enforcement purposes.

199 Section 9. For the purpose of incorporating the amendment  
200 made by this act to section 932.704, Florida Statutes, in a  
201 reference thereto, section 874.08, Florida Statutes, is  
202 reenacted to read:

203 874.08 Criminal gang activity and recruitment; forfeiture.—

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204 All profits, proceeds, and instrumentalities of criminal gang  
205 activity and all property used or intended or attempted to be  
206 used to facilitate the criminal activity of any criminal gang or  
207 of any criminal gang member; and all profits, proceeds, and  
208 instrumentalities of criminal gang recruitment and all property  
209 used or intended or attempted to be used to facilitate criminal  
210 gang recruitment are subject to seizure and forfeiture under the  
211 Florida Contraband Forfeiture Act, s. 932.704.

212 Section 10. This act shall take effect July 1, 2016.