

HB 883

2016

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 a forfeiture under the
6 Florida Contraband Forfeiture Act from being final
7 until the owner of the seized property is prosecuted
8 and convicted of a criminal act that renders the
9 property a contraband article; providing that the
10 property is deemed a contraband article and forfeited
11 subject to forfeiture proceedings under certain
12 circumstances; specifying circumstances under which
13 the seizing law enforcement agency must return the
14 property to the owner; deleting a provision vesting
15 rights, interests, and title to contraband articles in
16 the seizing law enforcement agency; amending s.
17 322.34, F.S.; conforming a provision to changes made
18 by the act; reenacting s. 403.413(6)(e), F.S.,
19 relating to forfeiture under the Florida Litter Law,
20 to incorporate the amendment made to s. 932.703, F.S.,
21 in a reference thereto; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (1) of section 932.703, Florida
26 Statutes, is amended to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 932.703 Forfeiture of contraband article; exceptions.—

28 (1) (a) Any contraband article, vessel, motor vehicle,
 29 aircraft, other personal property, or real property used in
 30 violation of ~~any provision of~~ the Florida Contraband Forfeiture
 31 Act, or in, upon, or by means of which any violation of the
 32 Florida Contraband Forfeiture Act has taken or is taking place,
 33 may be seized and shall be forfeited subject to ~~the provisions~~
 34 ~~of~~ the Florida Contraband Forfeiture Act.

35 (b) Notwithstanding any other provision of the Florida
 36 Contraband Forfeiture Act, except ~~the provisions of~~ paragraph
 37 (a), contraband articles set forth in s. 932.701(2)(a)7. used in
 38 violation of ~~any provision of~~ the Florida Contraband Forfeiture
 39 Act, or in, upon, or by means of which any violation of the
 40 Florida Contraband Forfeiture Act has taken or is taking place,
 41 shall be seized and shall be forfeited subject to ~~the provisions~~
 42 ~~of~~ the Florida Contraband Forfeiture Act.

43 (c) At the time of seizure or entry of a restraining
 44 order, the state acquires provisional title to the seized
 45 property. A forfeiture under the Florida Contraband Forfeiture
 46 Act is not final, and title or other indicia of ownership, other
 47 than provisional title, do not pass to the state or jurisdiction
 48 seeking forfeiture until the owner of the seized property is
 49 prosecuted and convicted of a criminal act that renders the
 50 property a contraband article. If, after 3 months, the seizing
 51 agency cannot find the owner of the seized property after a
 52 diligent effort, the seized property is deemed a contraband

53 article and forfeited subject to s. 932.704. However, if the
 54 seizing agency finds the owner, the seizing agency shall return
 55 the property to the owner within 5 days after:

- 56 1. The court finding that the owner had a bona fide
 57 security interest;
- 58 2. The court finding that the owner was an innocent owner;
- 59 3. The acquittal or dismissal of the owner of the criminal
 60 charge that was the basis of the forfeiture proceedings; or
- 61 4. The disposal of the criminal charge that was the basis
 62 of the forfeiture proceedings by nolle prosequi. The seizing
 63 agency is responsible for any damage, storage fee, and related
 64 cost applicable to the property ~~All rights to, interest in, and~~
 65 ~~title to contraband articles used in violation of s. 932.702~~
 66 ~~shall immediately vest in the seizing law enforcement agency~~
 67 ~~upon seizure.~~

68 (d) The seizing agency may not use the seized property for
 69 any purpose until the rights to, interest in, and title to the
 70 seized property are perfected in accordance with the Florida
 71 Contraband Forfeiture Act. This section does not prohibit use or
 72 operation necessary for reasonable maintenance of seized
 73 property. Reasonable efforts shall be made to maintain seized
 74 property in such a manner as to minimize loss of value.

75 Section 2. Paragraph (c) of subsection (9) of section
 76 322.34, Florida Statutes, is amended to read:

77 322.34 Driving while license suspended, revoked, canceled,
 78 or disqualified.—

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79 (9)

80 (c) Notwithstanding ~~s. 932.703(1)(c)~~ or s. 932.7055, when
81 the seizing agency obtains a final judgment granting forfeiture
82 of the motor vehicle under this section, 30 percent of the net
83 proceeds from the sale of the motor vehicle shall be retained by
84 the seizing law enforcement agency and 70 percent shall be
85 deposited in the General Revenue Fund for use by regional
86 workforce boards in providing transportation services for
87 participants of the welfare transition program. In a forfeiture
88 proceeding under this section, the court may consider the extent
89 that the family of the owner has other public or private means
90 of transportation.

91 Section 3. For the purpose of incorporating the amendment
92 made by this act to section 932.703, Florida Statutes, in a
93 reference thereto, paragraph (e) of subsection (6) of section
94 403.413, Florida Statutes, is reenacted to read:

95 403.413 Florida Litter Law.—

96 (6) PENALTIES; ENFORCEMENT.—

97 (e) A motor vehicle, vessel, aircraft, container, crane,
98 winch, or machine used to dump litter that exceeds 500 pounds in
99 weight or 100 cubic feet in volume is declared contraband and is
100 subject to forfeiture in the same manner as provided in ss.
101 932.703 and 932.704.

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