

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 423 Lost or Abandoned Personal Property

**SPONSOR(S):** Roach

**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	15 Y, 0 N	Thompson	Anstead
2) Civil Justice Subcommittee	14 Y, 0 N	Mawn	Poche
3) Commerce Committee			

### SUMMARY ANALYSIS

Any person who finds lost or abandoned property on public property must report the description and location of the property to a law enforcement officer (officer). The officer is then required to make a reasonable attempt to ascertain the rightful owner and must give public notice before such property is sold, retained, donated, traded, or surrendered to the finder. However, the procedures relating to lost or abandoned personal property do not apply to personal property lost or abandoned on premises owned or controlled by the operator of a public-use airport with regularly scheduled international passenger service, the campus of a State University System institution, or the campus of a Florida College System institution.

HB 423 exempts theme parks, entertainment complexes, zoos, museums, aquariums, public food service establishments, and public lodging establishments from the existing procedures for lost or abandoned property, if the facilities opt to participate in the alternative disposal process set forth in the bill. Under the alternative disposal process, facilities must hold the property for at least 30 days and either dispose of it or donate it to a charitable institution.

The bill requires a charitable institution receiving a donation of lost or abandoned personal property to make reasonable efforts to delete personal data from any unsecure electronic device prior to its sale or disposal.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Any person who finds lost<sup>1</sup> or abandoned<sup>2</sup> property must report the description and location of the property to a law enforcement officer (officer).<sup>3</sup> If the lost or abandoned property is easily removable, the officer must take custody of the item and make a reasonable attempt to ascertain the owner.<sup>4</sup> The officer must retain custody of the item for 90 days, and the law enforcement agency (agency) must publish a notice of the intended disposition<sup>5</sup> of the property during the first 45 days of this time period.<sup>6</sup> If the property is not easily removable, the officer must place a notice<sup>7</sup> on the item and make a reasonable attempt to ascertain the name and address of the owner; if the name and address of the owner are available to the officer, the officer must mail a copy of the notice posted on the item to the owner.<sup>8</sup> Any person who appropriates lost or abandoned personal property to his or her own use or who refuses to deliver such property when required commits theft as defined in s. 812.014, F.S.<sup>9</sup>

The procedures relating to lost or abandoned personal property<sup>10</sup> do not apply to personal property lost or abandoned on premises owned or controlled by the operator of a public-use airport with regularly scheduled international passenger service, the campus of a State University System institution, or the campus of a Florida College System institution.<sup>11</sup> These facilities may designate an individual to take charge of the property, record the date the property is found, and wait 30 days before retaining, trading, donating, selling, or disposing of the property.<sup>12</sup>

##### Effect of Proposed Changes

HB 423 exempts the following facilities from the procedures relating to lost or abandoned personal property, if the owner or operator of any such facility elects to comply with an alternative disposal process:

- Theme parks or entertainment complexes;<sup>13</sup>
- Zoos, museums, or aquariums;
- Public food service establishments;<sup>14</sup> and

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<sup>1</sup> "Lost property" means all tangible personal property which does not have an identifiable owner and which has been mislaid on public property, upon a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner. S. 705.101(2), F.S.

<sup>2</sup> "Abandoned property" means all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the owner. S. 705.101, F.S.

<sup>3</sup> S. 705.102(1), F.S.

<sup>4</sup> S. 705.103(1), F.S.

<sup>5</sup> Disposition options include agency retention, donation to a charitable organization, surrender to the finder, sale, or trading to another agency. S. 705.103(2)(b)1., F.S.

<sup>6</sup> S. 705.103(2)(b), F.S.

<sup>7</sup> The notice must warn the owner and all persons interested in the property that the item is unlawfully upon public property and must be removed within 5 days or it will be removed and disposed of at the expense of the owner. Disposition options include agency retention, trade to another agency, donation to a charitable organization, sale, or removal by a refuse removal service. S. 705.103(2), F.S.

<sup>8</sup> S. 705.103(2), F.S.

<sup>9</sup> S. 705.102(4), F.S.

<sup>10</sup> These procedures are set forth in ss. 705.101-705.106, F.S.

<sup>11</sup> Ss. 705.17 and 705.18, F.S.

<sup>12</sup> Ss. 705.17 – 705.184, F.S.

<sup>13</sup> "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity, which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually. S. 509.013(9), F.S.

- Public lodging establishments.<sup>15</sup>

Any person who finds lost or abandoned personal property on the premises of an exempt facility participating in the voluntary alternative disposal process must deliver the property to the facility owner or operator. The facility owner or operator must take charge of the property and make a record of the date it was found. If the property owner does not claim the property within 30 days after it was found, or a longer period if deemed appropriate by the facility owner or operator, the facility owner or operator must dispose of the property or donate it to a charitable institution. The rightful owner of the property may reclaim the property at any time before disposal or donation.

The bill also provides that a charitable institution that accepts an electronic device,<sup>16</sup> access to which is not secured by a password or other personal identification technology, must make a reasonable effort to delete all personal data from the device before its sale or disposal.

The bill is effective on July 1, 2019.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 705.17, F.S., relating to exceptions.

**Section 2:** Creates s. 705.185, F.S., relating to disposal of personal property lost or abandoned on the premises of certain facilities.

**Section 3:** Provides an effective date of July 1, 2019.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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<sup>14</sup> “Public Food Service Establishment” means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. S. 509.013(5)(a), F.S.

<sup>15</sup> “Public Lodging Establishment” includes transient and non-transient public lodging establishments. “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month. “Nontransient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or one calendar month. S. 509.013(4), F.S.

<sup>16</sup> “Electronic device” means a device or a portion of a device that is designed for and capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data, including, but not limited to, a cellular telephone, tablet, or other portable device designed for and capable of communicating with or across a computer network and that is actually used for such purpose. S. 815.03(9), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A charitable institution is required to make reasonable efforts to delete personal data from an electronic device prior to its sale or disposition. This may create an insignificant negative fiscal impact to those institutions that choose to sell the device, which may be offset by the proceeds from the sale of the device. This provision only applies to electronic devices that are not secured by password or other technology.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**