

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	24 Y, 0 N	Thompson	Hamon

SUMMARY ANALYSIS

Current law governing the collection, storage and disposition of lost or abandoned personal property located on public property requires the personal property be turned over to law enforcement. Law enforcement is then required to make a reasonable attempt to ascertain the rightful owner and give public notice before such property is sold, retained, donated or surrendered to the finder.

The bill exempts theme parks, entertainment complexes, zoos, museums, aquariums, public food service establishments, and public lodging establishments from the existing lost or abandoned property requirements. The bill creates an alternate disposal process for these types of facilities, if the facilities opt to participate. The alternative process would require these types of facilities to hold the property for at least 30 days. Any property not claimed within 30 days must be donated to a charitable institution.

The bill requires a charitable institution to make reasonable efforts to delete personal data from an 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

Chapter 705, F.S., governs the collection, storage and disposition of abandoned or lost tangible personal property located on public property. When a person finds lost or abandoned property they are required to report the finding to a law enforcement officer. The officer must allow the finder an opportunity to make a claim to recover the property if the rightful owner is not identified or located. If a claim is made, the title of the unclaimed property vests in the finder of the property after a 90-day custodial time period. If a claim is not made, the title of the unclaimed property may vest in the law enforcement officer or agency, so long as specified notice requirements are met. Failure to report a finding of lost or abandoned property to law enforcement is considered theft.¹

The collection, storage and disposition provisions do not apply to public-use airports, the State University System, or the Florida College System. Personal property that is lost or abandoned within these facilities is exempt from reporting requirements. These types of facilities are permitted to 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.²

Effect of Proposed Changes

The bill adds additional exceptions and an alternate disposal process to the law governing the collection, storage and disposition of abandoned or lost tangible personal property. These provisions are voluntary and contingent upon an election of compliance by the operator of the premises.

Specifically, the bill exempts the following premises if the operator elects to comply:

- theme parks or entertainment complexes, as defined in s. 509.013(9), F.S.;³
- zoos, museums, or aquariums;
- public food service establishments; and
- public lodging establishments.

The voluntary alternate disposal process for these premises provides that:

- the property must be delivered to the person controlling the premises.
- the person controlling the premises must take charge of the property and make a record of the date it was found.
- the property may be claimed by the owner within 30 days after it is found, or a longer period of time as deemed appropriate by the person controlling the premises.
- if the property remains unclaimed, the person controlling the premises is prohibited from selling the property and required to either dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or disposal as such institution deems appropriate.
- the rightful owner of the property is authorized to reclaim the property at any time before the disposal or donation of the property in accordance with these guidelines and the established policies and procedures of the facility operator.

¹ Ss. 705.102 and 705.103, F.S.

² See ss. 705.17 – 705.184, F.S.

³ S. 509.013(9), F.S., defines “theme park or entertainment complex” as 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.

The bill also provides that a charitable institution that accepts an electronic device,⁴ access to which is not secured by a password or other personal identification technology, is required to make a reasonable effort to delete all personal data from the device before its sale or disposal.

B. SECTION DIRECTORY:

Section 1 Amends s. 705.17, F.S.; relating to exceptions to the law governing the collection, storage and disposition of abandoned or lost tangible personal property.

Section 2 Creates s. 705.185, F.S.; relating to an alternate disposal process governing the collection, storage and disposition of abandoned or lost tangible personal property.

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.

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.

⁴ Section 815.03(9), F.S., defines “electronic device” as 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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES