

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 936

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Wright and others

SUBJECT: Recovery of Spaceflight Assets

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Caldwell</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<u>Favorable</u>
3.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 936 creates s. 331.502, F.S., which provides that a spaceflight entity retains ownership over a spaceflight asset until the entity expressly abandons ownership of the asset. Spaceflight assets include any item or part of an item that is used in spaceflight activities, including launch and reentry.

The bill prohibits a person from appropriating a spaceflight asset that he or she finds to his or her use. Instead, the person must report the asset's location to law enforcement. Then, the law enforcement agency must make a reasonable effort to identify the asset's owner and promptly notify the owner of any information relevant to recovering the asset.

If a law enforcement officer determines that exigent circumstances require that a spaceflight asset's owner enter private property to recover the asset, the officer may authorize the entry. Exigent circumstances include a situation in which failure to enter the property could result in immediate danger to public safety or destruction of the asset.

The bill provides that a person who finds a spaceflight asset and knowingly uses it or refuses to surrender it commits a first degree misdemeanor, punishable by imprisonment for up to 1 year and a fine not exceeding \$1,000. Moreover, the person must pay restitution to the owner.

The bill also amends s. 331.501, F.S., to update cross-references to federal law.

The bill may result in a positive fiscal impact on the private sector and a negative fiscal impact for the government sector. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2021.

II. Present Situation:

Spaceflight Assets in Florida

Florida has the second-highest number of aviation and aerospace establishments of any state. It is home to over 17,144 aerospace-related companies and more than 130,000 aerospace-related employees.¹ According to the Space Coast Office of Tourism, 31 launches took off from Cape Canaveral in 2020, and one U.S. Space Force official estimates there could be as many as 53 launches in 2021.²

Asset Recovery

In the past, officials have faced setbacks when attempting to recover spaceflight assets. Debris fell across eastern Texas and western Louisiana when the Space Shuttle Columbia tragically broke apart while re-entering the Earth's atmosphere in 2003.³ Within hours of the Columbia disaster, debris from the shuttle was listed for sale on eBay. Similarly, members of the public attempted to sell debris from the Challenger after it exploded off the coast of Cape Canaveral.⁴

As a result of the high number of space operations launching from and returning to the state, spaceflight assets often return to the land within or water surrounding the state. Private spaceflight entities place an emphasis on reusability, turning to technological advances to aid in rocket and spacecraft recovery.⁵ One company, for example, has tested mid-air recovery of a first-stage rocket, part of the company's plan to reuse the rocket.⁶

Lost or Abandoned Property

On Public Property

Chapter 705, F.S., relating to lost or abandoned property, provides specific procedures for reporting, disposing of, and ascertaining ownership of lost or abandoned property. The

¹ Space Florida, *Why Florida + Facts and Figures*, available at <https://www.spaceflorida.gov/> (last visited March 11, 2021).

² Steven Walker, *The sky's the limit: Space Coast expects another strong year of launches in 2021*, Orlando Sentinel (January 20, 2021), available at <http://www.orlandosentinel.com/space/os-bz-space-coast-launches-future-20210120-dhet5rilz5fnvoajklcwftbm2m-story.html> (last visited March 11, 2021).

³ Federal Bureau of Investigation, *Recovering the Space Shuttle Columbia*, (February 1, 2018) available at <https://www.fbi.gov/news/stories/15th-anniversary-of-space-shuttle-columbia-disaster> (last visited March 11, 2021).

⁴ Lee Dembart, *Columbia memorabilia up for bids on auction site*, International Herald Tribune (February 3, 2003), available at <https://www.nytimes.com/2003/02/03/news/columbia-memorabilia-up-for-bids-on-auction-site.html> (last visited March 11, 2021).

⁵ Irene Klotz, *Extra portion of SpaceX rocket recovered from launch, Musk says*, Reuters, Aerospace and Defense (March 31, 2017), available at <https://www.reuters.com/article/us-space-spacex-recovery/extra-portion-of-spacex-rocket-recovered-from-launch-musk-says-idUSKBN1722LD> (last visited March 11, 2021).

⁶ Jeff Foust, *Rocket Lab tests Electron stage recovery*, SPACENEWS (April 8, 2020), available at <https://spacenews.com/rocket-lab-tests-electron-stage-recovery/> (last visited March 11, 2021).

procedures outlined in s. 705.103, F.S., apply only to lost and abandoned property found on public property and, in some cases, places open to the public.⁷ Finders of lost or abandoned property and law enforcement are subject to procedures outlined in ch. 705, F.S., when attempting to ascertain the property's rightful owner. If the rightful owner does not come forward, the finder of the lost or abandoned property may claim the property so long as they follow the procedures outlined in ch. 705, F.S.

Any person who finds lost or abandoned property on public property has a duty to report the description and location of the property to a law enforcement officer.⁸ If the law enforcement officer taking a report cannot identify or locate the rightful owner of reported lost or abandoned property, the law enforcement officer must ascertain whether the person reporting the property wishes to make a claim to the property. If so, that person must pay the law enforcement agency a reasonable sum of money to cover the agency's costs for transportation, storage, and publication of notice. If the rightful owner of the property comes forward, this sum is reimbursed to the finder of the property by the rightful owner reclaiming the property.⁹

A law enforcement officer who ascertains that lost or abandoned property is present on public property has a duty to make a reasonable attempt to ascertain the rightful owner and take such property into custody if the property is of such a nature that it can easily be removed.¹⁰ If lost or abandoned property is of such a nature that it cannot be easily removed, the law enforcement officer places a notice on the item, which must comply with the requirements set forth in s. 705.103, F.S.¹¹ If the owner or any person interested in the lost or abandoned property has not removed the property within five days of the notice being posted, or shown reasonable cause as to why they have not done so, law enforcement:

- May retain any or all of the abandoned property for its own use or for use by the state or a local government, trade such property to another unit of local government or a state agency, donate the property to a charitable organization, sell the property, or notify the appropriate removal service.¹²
- Has a duty to take custody of the lost property, retain custody of such property for 90 days, and publish notice of the intended disposition of the property during the first 45 days of the 90-day timeline.¹³

The rightful owner of lost or abandoned property recovered from public property is liable to the law enforcement agency for costs of transportation and storage of such property and the law enforcement agency's cost for publication of notice. If the rightful owner does not pay such costs within 30 days of making a claim to the property, title to the property vests in the law enforcement agency.¹⁴

⁷ 93-30 Fla. Op. Att'y Gen. (1993).

⁸ Section 705.102(1), F.S.

⁹ Section 705.102(2), F.S.

¹⁰ Section 705.103(1), F.S.

¹¹ This notice shall be in substantially the same form as the template provided in s. 705.103, F.S., requiring that the property be removed within 5 days. Section 705.103(2), F.S.

¹² Section 705.103(2)(a), F.S.

¹³ Section 705.103(2)(b), F.S.

¹⁴ Section 705.103(7), F.S.

On Private Property

Lost or abandoned property found on private property is not covered by s. 705.103, F.S., and is subject to the principles of the common law of property.¹⁵ Under common law, both the rightful owner and the finder of lost property have a protectable and enforceable interest in the property. The finder of personal property may protect his or her interest in the property and may defend the property against all others, other than the true owner of the property.¹⁶

Section 78.01, F.S., provides for the right of replevin, whereby “[a]ny person whose personal property is wrongfully detained by any other person or officer may have a writ of replevin to recover said personal property and any damages sustained by reason of the wrongful taking or detention as herein provided.”

Absent any statutory obligation to follow specific procedures to ascertain the rightful owner, a person who finds personal property on private property has few obligations under the common law. Further, Florida provides no statutory obligation for local law enforcement to participate in the removal, transportation, or storage of personal property found on private property, leaving the decision to engage in such matters up to municipalities and local law enforcement agencies.¹⁷

Theft

A person who unlawfully appropriates lost or abandoned property for his or her own use or refuses to deliver such property when required to do so commits theft.¹⁸ A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.¹⁹

Section 812.014, F.S., defines theft offenses and generally categorizes the offense level based on the value of the property stolen. Whether a theft is a misdemeanor or a felony may also depend on the offender’s prior history of theft convictions or the type of property stolen. In terms of severity, the two main categories of theft are grand theft and petit theft.²⁰

Grand Theft

Grand theft is a felony of the first, second, or third degree, depending on the value of the item stolen.²¹ The value range for each felony degree and the corresponding penalties are set forth in this chart:

¹⁵ 93-30 Fla. Op. Att’y Gen. (1993).

¹⁶ 76-101 Fla. Op. Att’y Gen. (1976).

¹⁷ 93-30 Fla. Op. Att’y Gen. (1993).

¹⁸ Section 705.102(4), F.S.

¹⁹ Section 812.014(1), F.S.

²⁰ Section 812.014(2) and (3), F.S.

²¹ Section 812.014(2), F.S. The felony degree of grand theft can also be determined by other circumstances, such as the nature of the item or the circumstances of the theft.

Degrees of Grand Theft		
First Degree	\$100,000 or more ²²	Imprisonment for up to 30 years and a fine of up to \$10,000 ²³
Second Degree	\$20,000 or more, but less than \$100,000 ²⁴	Imprisonment for up to 15 years and a fine of up to \$10,000 ²⁵
Third Degree	\$750 or more, but less than \$20,000 ²⁶	Imprisonment for up to 5 years and a fine of up to \$5,000 ²⁷

In some cases, the penalties may be more severe than those set forth in the above chart, such as in the case of a “habitual offender.”²⁸

Petit Theft

Petit theft is a misdemeanor of the first²⁹ or second degree,³⁰ depending on the value of the item stolen or the number of prior offenses.³¹ A theft of an item valued at \$100 or more, but less than \$750, is first degree misdemeanor petit theft.³² A person commits a second degree misdemeanor petit theft when he or she commits a theft that does not meet the criteria of any of the other degrees of theft set forth in statute.³³

Section 331.501, F.S., Federal Law References

Section 331.501, F.S., provides an exemption from liability for a spaceflight entity³⁴ conducting launch or reentry services from the death or injury of a spaceflight participant³⁵ resulting from the risks inherent with space travel. Subsequent to the creation of s. 331.501, F.S., in 2008, the federal law which the statute references was amended to exclude a “government astronaut” from the definition of “space flight participant,” and moved from 49 U.S.C. s. 70102 to 51 U.S.C. s. 50902.³⁶

²² Section 812.014(2)(a), F.S.

²³ Sections 775.082(3)(b) and 775.083(1)(b), F.S.

²⁴ Section 812.014(2)(b), F.S.

²⁵ Sections 775.082(3)(d) and 775.083(1)(b), F.S.

²⁶ Section 812.014(2)(c), F.S.

²⁷ Section 775.082(3)(e) and 775.083(1)(c), F.S.

²⁸ See s. 775.084, F.S.

²⁹ A first degree misdemeanor is punishable by imprisonment for up to 1 year and a fine of up to \$1,000. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

³⁰ A second degree misdemeanor is punishable by imprisonment for up to 60 days and a fine of up to \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

³¹ See s. 812.014(2)(e) and (3)(a), F.S.

³² Section 812.014(2)(e), F.S.

³³ Section 812.014(3)(a), F.S.

³⁴ “Spaceflight entity” means any public or private entity holding a U.S. Federal Aviation Administration (FAA) launch, reentry, operator, or launch site license for spaceflight activities. The term also includes any manufacturer or supplier of components, services, or vehicles that have been reviewed by the FAA as part of issuing such a license, permit, or authorization. Section 331.501(1)(c), F.S.

³⁵ “Spaceflight participant” means an individual who is not crew or a government astronaut carried within a launch vehicle or reentry vehicle. 51 U.S.C. 50902(20).

³⁶ FAA Reauthorization Act of 2018, Pub. L. No. 115-254 (October 5, 2018); 51 U.S.C. 50902(20).

III. Effect of Proposed Changes:

The bill creates s. 331.502, F.S., which contains definitions, policies, and procedures related to spaceflight assets. The bill defines a spaceflight asset as “any item, or any part of an item, owned by a spaceflight entity which is used in spaceflight activities, including crewed and uncrewed spacecraft, satellites, launch vehicles, parachutes and other landing aids, and any ancillary equipment that was attached to the launch vehicle during launch, orbit, reentry, or recovery.”

The bill provides that a spaceflight entity retains ownership over a spaceflight asset until the entity expressly abandons ownership of the asset.

Under the bill, any person who finds an item reasonably identifiable as a spaceflight asset is required to report the description and location of the asset to a law enforcement agency with jurisdiction over that location, regardless of whether the asset is found on public or private property. The bill requires any law enforcement agency that receives a report of a spaceflight asset to make a reasonable effort to identify the owner of the asset and promptly notify the owner of any information relevant to the recovery of the asset.

The bill provides that a law enforcement officer may authorize the owner of a spaceflight asset to enter private property to recover the asset when exigent circumstances³⁷ exist to justify the entry, including when failure to timely recover the asset may result in:

- An immediate danger to public safety; or
- Damage to or destruction of the spaceflight asset.

The bill creates the crime of misappropriation of a spaceflight asset, a misdemeanor of the first degree. Under this provision, a person commits misappropriation of a spaceflight asset if he or she knowingly appropriates an item reasonably identifiable as a spaceflight asset to his or her own use or to the use of any other person not entitled to the asset, or refuses to surrender a spaceflight asset to a law enforcement officer or the owner of the asset upon demand.

The bill requires a court to order any person convicted of misappropriation of a spaceflight asset to pay full restitution to the owner of the asset if, as a result of the misappropriation, the asset is damaged or cannot be recovered.

The bill updates cross-references in s. 331.501, F.S., to the United States Code defining the terms “participant” and “spaceflight activities,” which moved from 49 U.S.C. s. 70102 to 51 U.S.C. s. 50902. Although the bill does not make substantive changes to s. 331.501, F.S., by updating the definition of “participant” the bill excludes the potential death or injury suffered by a government astronaut from the immunity protections enjoyed by a spaceflight entity.

The bill is effective July 1, 2021.

³⁷ The exigent circumstances doctrine is primarily used to overcome a warrant requirement and allow law enforcement onto or into private property in emergency or dangerous situation. *See Riggs v. State*, 918 So. 2d 274, 278 (Fla. 2005).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact as the bill helps safeguard expensive spaceflight assets from theft, including theft of proprietary technology and intellectual property that could be discovered by examining a spaceflight asset.

C. Government Sector Impact:

The bill may have a positive indeterminate (i.e. unquantifiable increase) jail bed impact on municipalities and county law enforcement agencies because it creates a new misdemeanor offense.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 331.501 of the Florida Statutes.

This bill creates section 331.502 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military and Veterans Affairs, Space, and Domestic Security on March 1, 2021:

The committee substitute:

- Protects all “spaceflight assets,” instead of protecting only a space vehicle and its parts;
- Defines spaceflight asset to include anything involved in the launch, orbit, or reentry of a spacecraft;
- Provides that the owner of a spaceflight asset retains ownership over the asset until the entity expressly abandons it;
- Removes the bill’s authorization for law enforcement to require a person who finds a spaceflight asset to bring it to the owner or to the law enforcement agency;
- Creates the crime of “misappropriation of a spaceflight asset,” a first degree misdemeanor;
- Describes misappropriation of a spaceflight asset as appropriating a spaceflight asset to that person’s use or the use of another, or as the refusal to surrender the asset to a law enforcement officer or the asset’s owner upon command; and
- Requires a court to order a person guilty of misappropriation of a spaceflight asset to pay restitution to the asset’s owner for any damage the person caused.

B. Amendments:

None.