



479846

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2011	.	
	.	
	.	
	.	

The Committee on Transportation (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (22) is added to section 318.18, Florida Statutes, to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(22) For a person driving any motor vehicle upon the highways of this state while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s.



479846

13 322.34(2), in addition to the fine under paragraph (3)(a), upon:

14 (a) A first offense, \$250 before release of the vehicle
15 from impoundment.

16 (b) A second offense, \$500 before release of the vehicle
17 from impoundment.

18 (c) A third or subsequent offense, \$1,000 before release of
19 the vehicle from impoundment.

20 Section 2. Subsection (22) is added to section 318.21,
21 Florida Statutes, to read:

22 318.21 Disposition of civil penalties by county courts.—All
23 civil penalties received by a county court pursuant to the
24 provisions of this chapter shall be distributed and paid monthly
25 as follows:

26 (22) Notwithstanding subsections (1) and (2), the proceeds
27 from the penalties imposed pursuant to s. 318.18(22) shall be
28 distributed as follows:

29 (a) For violations committed within a municipality, 40
30 percent shall be distributed to the municipality, 40 percent
31 shall be distributed to the county, and 20 percent shall be
32 distributed to the agency or company that towed and stored the
33 vehicle.

34 (b) For violations committed outside a municipality, 80
35 percent shall be distributed to the county and 20 percent shall
36 be distributed to the enforcement agency impounding the vehicle.

37 Section 3. Section 322.34, Florida Statutes, is amended to
38 read:

39 322.34 Driving while license suspended, revoked, canceled,
40 or disqualified.—

41 (1) ~~Except as provided in subsection (2),~~ Any person whose



479846

42 driver's license or driving privilege has been canceled,
43 suspended, or revoked, except a "habitual traffic offender" as
44 defined in s. 322.264, who drives a vehicle upon the highways of
45 this state while such license or privilege is canceled,
46 suspended, or revoked commits is guilty of a moving violation,
47 punishable as provided in chapter 318.

48 (2) Any person whose driver's license or driving privilege
49 has been canceled, suspended, or revoked as provided by law,
50 except a habitual traffic offender as persons defined in s.
51 322.264, who, ~~knowing of such cancellation, suspension, or~~
52 ~~revocation,~~ drives any motor vehicle upon the highways of this
53 state while such license or privilege is canceled, suspended, or
54 revoked commits a moving violation, punishable as provided in
55 chapter 318, and the motor vehicle being driven at the time of
56 the offense shall be immediately impounded. ~~upon:~~

57 ~~(a) A first conviction is guilty of a misdemeanor of the~~
58 ~~second degree, punishable as provided in s. 775.082 or s.~~
59 ~~775.083.~~

60 ~~(b) A second conviction is guilty of a misdemeanor of the~~
61 ~~first degree, punishable as provided in s. 775.082 or s.~~
62 ~~775.083.~~

63 ~~(c) A third or subsequent conviction is guilty of a felony~~
64 ~~of the third degree, punishable as provided in s. 775.082, s.~~
65 ~~775.083, or s. 775.084.~~

66
67 ~~The element of knowledge is satisfied if the person has been~~
68 ~~previously cited as provided in subsection (1); or the person~~
69 ~~admits to knowledge of the cancellation, suspension, or~~
70 ~~revocation; or the person received notice as provided in~~



479846

71 ~~subsection (4). There shall be a rebuttable presumption that the~~
72 ~~knowledge requirement is satisfied if a judgment or order as~~
73 ~~provided in subsection (4) appears in the department's records~~
74 ~~for any case except for one involving a suspension by the~~
75 ~~department for failure to pay a traffic fine or for a financial~~
76 ~~responsibility violation.~~

77 ~~(3) In any proceeding for a violation of this section, a~~
78 ~~court may consider evidence, other than that specified in~~
79 ~~subsection (2), that the person knowingly violated this section.~~

80 ~~(4) Any judgment or order rendered by a court or~~
81 ~~adjudicatory body or any uniform traffic citation that cancels,~~
82 ~~suspends, or revokes a person's driver's license must contain a~~
83 ~~provision notifying the person that his or her driver's license~~
84 ~~has been canceled, suspended, or revoked.~~

85 ~~(3)~~(5) Any person whose driver's license has been revoked
86 pursuant to s. 322.264 as a ~~(habitual traffic offender)~~ and who
87 drives any motor vehicle upon the highways of this state while
88 such license is revoked commits ~~is guilty of~~ a felony of the
89 third degree, punishable as provided in s. 775.082, s. 775.083,
90 or s. 775.084.

91 ~~(4)~~(6) Any person who operates a motor vehicle:

92 (a) Without having a driver's license as required under s.
93 322.03; or

94 (b) While his or her driver's license or driving privilege
95 is canceled, suspended, or revoked pursuant to s. 316.655, s.
96 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

97
98 and who by careless or negligent operation of the motor vehicle
99 causes the death of or serious bodily injury to another human



479846

100 being commits ~~is guilty of~~ a felony of the third degree,
101 punishable as provided in s. 775.082 or s. 775.083.

102 ~~(5)-(7)~~ Any person whose driver's license or driving
103 privilege has been canceled, suspended, revoked, or disqualified
104 and who drives a commercial motor vehicle on the highways of
105 this state while such license or privilege is canceled,
106 suspended, revoked, or disqualified, upon:

107 (a) A first conviction is guilty of a misdemeanor of the
108 first degree, punishable as provided in s. 775.082 or s.
109 775.083.

110 (b) A second or subsequent conviction is guilty of a felony
111 of the third degree, punishable as provided in s. 775.082, s.
112 775.083, or s. 775.084.

113 ~~(6)-(8)~~(a) Upon issuing a citation to ~~the arrest of~~ a person
114 for a violation of subsection (2), ~~the offense of~~ driving while
115 the person's driver's license or driving privilege is suspended
116 or revoked, the law enforcement ~~arresting~~ officer shall
117 immediately impound the vehicle. ~~determine:~~

118 ~~1. Whether the person's driver's license is suspended or~~
119 ~~revoked.~~

120 ~~2. Whether the person's driver's license has remained~~
121 ~~suspended or revoked since a conviction for the offense of~~
122 ~~driving with a suspended or revoked license.~~

123 ~~3. Whether the suspension or revocation was made under s.~~
124 ~~316.646 or s. 627.733, relating to failure to maintain required~~
125 ~~security, or under s. 322.264, relating to habitual traffic~~
126 ~~offenders.~~

127 ~~4. Whether the driver is the registered owner or coowner of~~
128 ~~the vehicle.~~



479846

129 ~~(b) If the arresting officer finds in the affirmative as to~~
130 ~~all of the criteria in paragraph (a), the officer shall~~
131 ~~immediately impound or immobilize the vehicle.~~

132 ~~(b)(e)~~ Within 7 business days after the date the vehicle is
133 impounded ~~arresting agency impounds or immobilizes the vehicle,~~
134 either the law enforcement ~~arresting~~ agency or the towing
135 service, whichever is in possession of the vehicle, shall send
136 notice pursuant to s. 713.78 ~~by certified mail~~ to any
137 ~~registered~~ owners of the vehicle other than the person who was
138 cited, to the traffic violations bureau, arrested and to each
139 person of record claiming a lien against the vehicle. All costs
140 and fees for the impoundment ~~or immobilization,~~ including the
141 cost of notification, must be paid by the owner of the vehicle
142 or, if the vehicle is leased, by the person leasing the vehicle.

143 ~~(c)(d)~~ Either the law enforcement ~~arresting~~ agency or the
144 towing service, whichever is in possession of the vehicle, shall
145 determine whether any vehicle impounded ~~or immobilized~~ under
146 this section has been leased or rented or if there are any
147 persons of record with a lien upon the vehicle. Either the law
148 enforcement ~~arresting~~ agency or the towing service, whichever is
149 in possession of the vehicle, shall send notice pursuant to s.
150 713.78 ~~notify by express courier service with receipt or~~
151 ~~certified mail~~ within 7 business days after the date of the
152 ~~immobilization or~~ impoundment of the vehicle, to the registered
153 owner and all persons having a recorded lien against the vehicle
154 that the vehicle has been impounded ~~or immobilized~~. A lessor,
155 rental car company, or lienholder may then obtain the vehicle,
156 upon payment of any lawful towing or storage charges. If the
157 vehicle is a rental vehicle subject to a written contract, the



479846

158 charges may be separately charged to the renter, in addition to
159 the rental rate, along with other separate fees, charges, and
160 recoupments disclosed on the rental agreement. If the storage
161 facility fails to provide timely notice to a lessor, rental car
162 company, or lienholder as required by this paragraph, the
163 storage facility shall be responsible for payment of any towing
164 or storage charges necessary to release the vehicle to a lessor,
165 rental car company, or lienholder that accrue after the notice
166 period, which charges may then be assessed against the driver of
167 the vehicle if the vehicle was lawfully impounded ~~or~~
168 ~~immobilized~~.

169 (d) ~~(e)~~ Except as provided in paragraph (c) ~~(d)~~, the vehicle
170 shall remain impounded ~~or immobilized for any period imposed by~~
171 ~~the court~~ until payment of the applicable amount required under
172 s. 318.18 and:

173 1. The person retrieving the vehicle ~~owner~~ presents to the
174 law enforcement agency proof of a valid driver's license, proof
175 of ownership of the vehicle or written consent by the owner
176 authorizing release to the person, and proof of insurance to the
177 ~~arresting agency; or~~

178 2. The owner presents to the law enforcement agency proof
179 of sale of the vehicle ~~to the arresting agency~~ and the buyer
180 presents proof of insurance to the ~~arresting~~ agency.

181
182 If proof is not presented within 35 days after the impoundment
183 ~~or immobilization~~, a lien shall be placed upon such vehicle
184 pursuant to s. 713.78.

185 (e) ~~(f)~~ The owner of a vehicle that is impounded ~~or~~
186 ~~immobilized~~ under this subsection may, within 10 days after the



479846

187 date the owner has knowledge of the location of the vehicle,
188 file a complaint in the county in which the owner resides to
189 determine whether the vehicle was wrongfully taken or withheld.
190 Upon the filing of a complaint, the owner or lienholder may have
191 the vehicle released by posting with the court a bond or other
192 adequate security equal to the amount of the costs and fees for
193 impoundment ~~or immobilization~~, including towing or storage, to
194 ensure the payment of such costs and fees if the owner or
195 lienholder does not prevail. When the vehicle owner or
196 lienholder does not prevail on a complaint that the vehicle was
197 wrongfully taken or withheld, he or she must pay the accrued
198 charges for the ~~immobilization~~ ~~or~~ impoundment, including any
199 towing and storage charges assessed against the vehicle. When
200 the bond is posted and the fee is paid as set forth in s. 28.24,
201 the clerk of the court shall issue a certificate releasing the
202 vehicle. At the time of release, after reasonable inspection,
203 the owner must give a receipt to the towing or storage company
204 indicating any loss or damage to the vehicle or to the contents
205 of the vehicle.

206 (7) ~~(9)~~ (a) A motor vehicle that is driven by a person under
207 the influence of alcohol or drugs in violation of s. 316.193 is
208 subject to seizure and forfeiture under ss. 932.701-932.706 and
209 is subject to liens for recovering, towing, or storing vehicles
210 under s. 713.78 if, at the time of the offense, the person's
211 driver's license is suspended, revoked, or canceled as a result
212 of a prior conviction for driving under the influence.

213 (b) The law enforcement officer shall notify the Department
214 of Highway Safety and Motor Vehicles of any impoundment or
215 seizure for violation of paragraph (a) in accordance with



479846

216 procedures established by the department.

217 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when
218 the seizing agency obtains a final judgment granting forfeiture
219 of the motor vehicle under this section, 30 percent of the net
220 proceeds from the sale of the motor vehicle shall be retained by
221 the seizing law enforcement agency and 70 percent shall be
222 deposited in the General Revenue Fund for use by regional
223 workforce boards in providing transportation services for
224 participants of the welfare transition program. In a forfeiture
225 proceeding under this section, the court may consider the extent
226 that the family of the owner has other public or private means
227 of transportation.

228 ~~(8)-(10)~~(a) Notwithstanding any other provision of this
229 section, if a person does not have a prior forcible felony
230 conviction as defined in s. 776.08, the procedures ~~penalties~~
231 provided in paragraph (b) apply if a person's driver's license
232 or driving privilege is canceled, suspended, or revoked for:

233 1. Failing to pay child support as provided in s. 322.245
234 or s. 61.13016;

235 2. Failing to pay any other financial obligation as
236 provided in s. 322.245 other than those specified in s.
237 322.245(1);

238 3. Failing to comply with a civil penalty required in s.
239 318.15;

240 4. Failing to maintain vehicular financial responsibility
241 as required by chapter 324;

242 5. Failing to comply with attendance or other requirements
243 for minors as set forth in s. 322.091; or

244 6. Having been designated a habitual traffic offender under



479846

245 s. 322.264(1)(d) as a result of suspensions of his or her
246 driver's license or driver privilege for any underlying
247 violation listed in subparagraphs 1.-5.

248 ~~(b)1. Upon a first conviction for knowingly driving while~~
249 ~~his or her license is suspended, revoked, or canceled for any of~~
250 ~~the underlying violations listed in subparagraphs (a)1.-6., a~~
251 ~~person commits a misdemeanor of the second degree, punishable as~~
252 ~~provided in s. 775.082 or s. 775.083.~~

253 ~~2. Upon a second or subsequent conviction for the same~~
254 ~~offense of knowingly driving while his or her license is~~
255 ~~suspended, revoked, or canceled for any of the underlying~~
256 ~~violations listed in subparagraphs (a)1.-6., a person commits a~~
257 ~~misdemeanor of the first degree, punishable as provided in s.~~
258 ~~775.082 or s. 775.083.~~

259 (b)(11)(a) A person who does not hold a commercial driver's
260 license and who is cited for an offense of knowingly driving
261 while his or her license is suspended, revoked, or canceled for
262 any of the underlying violations listed in paragraph ~~(10)~~(a)
263 may, in lieu of payment of fine or court appearance, elect to
264 enter a plea of nolo contendere and provide proof of compliance
265 to the clerk of the court, designated official, or authorized
266 operator of a traffic violations bureau. In such case,
267 adjudication shall be withheld and the clerk of the court,
268 designated official, or authorized operator of a traffic
269 violations bureau shall issue a certificate releasing the
270 vehicle upon payment of the cost of towing and storing the
271 vehicle. However, no election shall be made under this
272 subsection if such person has made an election under this
273 subsection during the preceding 12 months. A person may not make



479846

274 more than three elections under this subsection.

275 (c) ~~(b)~~ If adjudication is withheld under paragraph (b) ~~(a)~~,
276 such action is not a conviction.

277 Section 4. This act shall take effect July 1, 2011.

278

279 ===== T I T L E A M E N D M E N T =====

280 And the title is amended as follows:

281 Delete everything before the enacting clause
282 and insert:

283 A bill to be entitled
284 An act relating to driving without a valid driver's
285 license; amending s. 318.18, F.S.; providing an
286 additional fine for a violation of specified
287 provisions relating to driving with a canceled,
288 suspended, or revoked driver's license or driving
289 privilege; providing increased fine amounts for second
290 or subsequent violations; amending s. 318.21, F.S.;
291 providing for distribution of such fines collected;
292 amending s. 322.34, F.S.; deleting a knowledge element
293 for conviction of the offense of driving while a
294 person's driver's license or driving privilege is
295 canceled, suspended, or revoked; requiring immediate
296 impoundment of the motor vehicle; conforming
297 provisions; revising penalties for knowingly driving
298 while the driver's license or driving privilege is
299 canceled, suspended, or revoked; revising procedures
300 for impoundment of the vehicle; providing an effective
301 date.