

1                   A bill to be entitled  
 2           An act relating to driving without a valid driver  
 3           license; amending s. 318.18, F.S.; providing an  
 4           additional fine for a violation of specified  
 5           provisions relating to driving with a canceled,  
 6           suspended, or revoked driver's license or driving  
 7           privilege; providing increased fine amounts for second  
 8           or subsequent violations; amending s. 318.21, F.S.;  
 9           providing for distribution of such fines collected;  
 10          amending s. 322.34, F.S.; revising penalties for  
 11          knowingly driving while the driver's license or  
 12          driving privilege is canceled, suspended, or revoked;  
 13          revising procedures for impoundment or immobilization  
 14          of the vehicle; providing an effective date.

15  
 16   Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1. Subsection (22) is added to section 318.18,  
 19   Florida Statutes, to read:

20           318.18 Amount of penalties.—The penalties required for a  
 21   noncriminal disposition pursuant to s. 318.14 or a criminal  
 22   offense listed in s. 318.17 are as follows:

23           (22) For a person knowingly driving any motor vehicle upon  
 24   the highways of this state while the person's driver's license  
 25   or privilege to drive is canceled, suspended, or revoked in  
 26   violation of s. 322.34(2), in addition to the fine under  
 27   paragraph (3) (a), upon:

28           (a) A first offense, \$100 before release of the vehicle

29 from immobilization or impoundment.

30 (b) A second offense, \$500 before release of the vehicle  
 31 from immobilization or impoundment.

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

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

36 318.21 Disposition of civil penalties by county courts.—  
 37 All civil penalties received by a county court pursuant to the  
 38 provisions of this chapter shall be distributed and paid monthly  
 39 as follows:

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

43 (a) For violations committed within a municipality, 40  
 44 percent shall be distributed to the municipality, 40 percent  
 45 shall be distributed to the county, and 20 percent shall be  
 46 distributed to the agency or company that towed and stored the  
 47 vehicle.

48 (b) For violations committed outside a municipality, 80  
 49 percent shall be distributed to the county and 20 percent shall  
 50 be distributed to the agency or company that towed and stored  
 51 the vehicle.

52 Section 3. Section 322.34, Florida Statutes, is amended to  
 53 read:

54 322.34 Driving while license suspended, revoked, canceled,  
 55 or disqualified.—

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

57 driver's license or driving privilege has been canceled,  
 58 suspended, or revoked, except a "habitual traffic offender" as  
 59 defined in s. 322.264, who drives a vehicle upon the highways of  
 60 this state while such license or privilege is canceled,  
 61 suspended, or revoked commits ~~is guilty of~~ a moving violation,  
 62 punishable as provided in chapter 318.

63 (2) Any person whose driver's license or driving privilege  
 64 has been canceled, suspended, or revoked as provided by law,  
 65 except a habitual traffic offender as persons defined in s.  
 66 322.264, who, knowing of such cancellation, suspension, or  
 67 revocation, drives any motor vehicle upon the highways of this  
 68 state while such license or privilege is canceled, suspended, or  
 69 revoked commits a moving violation, punishable as provided in  
 70 chapter 318, and the motor vehicle being driven at the time of  
 71 the offense shall be immediately immobilized or impounded.  
 72 ~~upon:~~

73 ~~(a) A first conviction is guilty of a misdemeanor of the~~  
 74 ~~second degree, punishable as provided in s. 775.082 or s.~~  
 75 ~~775.083.~~

76 ~~(b) A second conviction is guilty of a misdemeanor of the~~  
 77 ~~first degree, punishable as provided in s. 775.082 or s.~~  
 78 ~~775.083.~~

79 ~~(c) A third or subsequent conviction is guilty of a felony~~  
 80 ~~of the third degree, punishable as provided in s. 775.082, s.~~  
 81 ~~775.083, or s. 775.084.~~

82  
 83 The element of knowledge is satisfied if the person has been  
 84 previously cited as provided in subsection (1); or the person

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85 admits to knowledge of the cancellation, suspension, or  
86 revocation; or the person received notice as provided in  
87 subsection (4). There shall be a rebuttable presumption that the  
88 knowledge requirement is satisfied if a judgment or order as  
89 provided in subsection (4) appears in the department's records  
90 for any case except for one involving a suspension by the  
91 department for failure to pay a traffic fine or for a financial  
92 responsibility violation.

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

96 (4) Any judgment or order rendered by a court or  
97 adjudicatory body or any uniform traffic citation that cancels,  
98 suspends, or revokes a person's driver's license must contain a  
99 provision notifying the person that his or her driver's license  
100 has been canceled, suspended, or revoked.

101 (5) Any person whose driver's license has been revoked  
102 pursuant to s. 322.264 as a ~~habitual traffic offender~~ and who  
103 drives any motor vehicle upon the highways of this state while  
104 such license is revoked commits ~~is guilty of~~ a felony of the  
105 third degree, punishable as provided in s. 775.082, s. 775.083,  
106 or s. 775.084.

107 (6) Any person who operates a motor vehicle:

108 (a) Without having a driver's license as required under s.  
109 322.03; or

110 (b) While his or her driver's license or driving privilege  
111 is canceled, suspended, or revoked pursuant to s. 316.655, s.  
112 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

113  
 114 and who by careless or negligent operation of the motor vehicle  
 115 causes the death of or serious bodily injury to another human  
 116 being commits ~~is guilty of~~ a felony of the third degree,  
 117 punishable as provided in s. 775.082 or s. 775.083.

118 (7) Any person whose driver's license or driving privilege  
 119 has been canceled, suspended, revoked, or disqualified and who  
 120 drives a commercial motor vehicle on the highways of this state  
 121 while such license or privilege is canceled, suspended, revoked,  
 122 or disqualified, upon:

123 (a) A first conviction is guilty of a misdemeanor of the  
 124 first degree, punishable as provided in s. 775.082 or s.  
 125 775.083.

126 (b) A second or subsequent conviction is guilty of a  
 127 felony of the third degree, punishable as provided in s.  
 128 775.082, s. 775.083, or s. 775.084.

129 (8) (a) Upon issuing a citation to ~~the arrest of~~ a person  
 130 for a violation of subsection (2), knowingly ~~the offense of~~  
 131 driving while the person's driver's license or driving privilege  
 132 is suspended or revoked, the law enforcement ~~arresting~~ officer  
 133 shall immediately impound or immobilize the vehicle. ~~determine:~~

134 1. ~~Whether the person's driver's license is suspended or~~  
 135 ~~revoked.~~

136 2. ~~Whether the person's driver's license has remained~~  
 137 ~~suspended or revoked since a conviction for the offense of~~  
 138 ~~driving with a suspended or revoked license.~~

139 3. ~~Whether the suspension or revocation was made under s.~~  
 140 ~~316.646 or s. 627.733, relating to failure to maintain required~~

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141 ~~security, or under s. 322.264, relating to habitual traffic~~  
142 ~~offenders.~~

143 ~~4. Whether the driver is the registered owner or coowner~~  
144 ~~of the vehicle.~~

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

148 ~~(b)(e)~~ Within 7 business days after the date the vehicle  
149 is impounded or immobilized ~~arresting agency impounds or~~  
150 ~~immobilizes the vehicle~~, either the law enforcement ~~arresting~~  
151 agency or the towing service, whichever is in possession of the  
152 vehicle, shall send notice by certified mail to any coregistered  
153 owners of the vehicle other than the person who was cited  
154 ~~arrested~~ and to each person of record claiming a lien against  
155 the vehicle. All costs and fees for the impoundment or  
156 immobilization, including the cost of notification, must be paid  
157 by the owner of the vehicle or, if the vehicle is leased, by the  
158 person leasing the vehicle.

159 ~~(c)(d)~~ Either the law enforcement ~~arresting~~ agency or the  
160 towing service, whichever is in possession of the vehicle, shall  
161 determine whether any vehicle impounded or immobilized under  
162 this section has been leased or rented or if there are any  
163 persons of record with a lien upon the vehicle. Either the law  
164 enforcement ~~arresting~~ agency or the towing service, whichever is  
165 in possession of the vehicle, shall notify by express courier  
166 service with receipt or certified mail within 7 business days  
167 after the date of the immobilization or impoundment of the  
168 vehicle, the registered owner and all persons having a recorded

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169 | lien against the vehicle that the vehicle has been impounded or  
170 | immobilized. A lessor, rental car company, or lienholder may  
171 | then obtain the vehicle, upon payment of any lawful towing or  
172 | storage charges. If the vehicle is a rental vehicle subject to a  
173 | written contract, the charges may be separately charged to the  
174 | renter, in addition to the rental rate, along with other  
175 | separate fees, charges, and recoupments disclosed on the rental  
176 | agreement. If the storage facility fails to provide timely  
177 | notice to a lessor, rental car company, or lienholder as  
178 | required by this paragraph, the storage facility shall be  
179 | responsible for payment of any towing or storage charges  
180 | necessary to release the vehicle to a lessor, rental car  
181 | company, or lienholder that accrue after the notice period,  
182 | which charges may then be assessed against the driver of the  
183 | vehicle if the vehicle was lawfully impounded or immobilized.

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

188 | 1. The person retrieving the vehicle ~~owner~~ presents to the  
189 | law enforcement agency proof of a valid driver's license, proof  
190 | of ownership of the vehicle or written consent by the owner  
191 | authorizing release to the person, and proof of insurance to the  
192 | ~~arresting agency; or~~

193 | 2. The owner presents to the law enforcement agency proof  
194 | of sale of the vehicle to the arresting agency and the buyer  
195 | presents proof of insurance to the ~~arresting~~ agency.

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197 If proof is not presented within 35 days after the impoundment  
198 or immobilization, a lien shall be placed upon such vehicle  
199 pursuant to s. 713.78.

200 (e)~~(f)~~ The owner of a vehicle that is impounded or  
201 immobilized under this subsection may, within 10 days after the  
202 date the owner has knowledge of the location of the vehicle,  
203 file a complaint in the county in which the owner resides to  
204 determine whether the vehicle was wrongfully taken or withheld.  
205 Upon the filing of a complaint, the owner or lienholder may have  
206 the vehicle released by posting with the court a bond or other  
207 adequate security equal to the amount of the costs and fees for  
208 impoundment or immobilization, including towing or storage, to  
209 ensure the payment of such costs and fees if the owner or  
210 lienholder does not prevail. When the vehicle owner or  
211 lienholder does not prevail on a complaint that the vehicle was  
212 wrongfully taken or withheld, he or she must pay the accrued  
213 charges for the immobilization or impoundment, including any  
214 towing and storage charges assessed against the vehicle. When  
215 the bond is posted and the fee is paid as set forth in s. 28.24,  
216 the clerk of the court shall issue a certificate releasing the  
217 vehicle. At the time of release, after reasonable inspection,  
218 the owner must give a receipt to the towing or storage company  
219 indicating any loss or damage to the vehicle or to the contents  
220 of the vehicle.

221 (9) (a) A motor vehicle that is driven by a person under  
222 the influence of alcohol or drugs in violation of s. 316.193 is  
223 subject to seizure and forfeiture under ss. 932.701-932.706 and  
224 is subject to liens for recovering, towing, or storing vehicles

225 | under s. 713.78 if, at the time of the offense, the person's  
 226 | driver's license is suspended, revoked, or canceled as a result  
 227 | of a prior conviction for driving under the influence.

228 |         (b) The law enforcement officer shall notify the  
 229 | Department of Highway Safety and Motor Vehicles of any  
 230 | impoundment or seizure for violation of paragraph (a) in  
 231 | accordance with procedures established by the department.

232 |         (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when  
 233 | the seizing agency obtains a final judgment granting forfeiture  
 234 | of the motor vehicle under this section, 30 percent of the net  
 235 | proceeds from the sale of the motor vehicle shall be retained by  
 236 | the seizing law enforcement agency and 70 percent shall be  
 237 | deposited in the General Revenue Fund for use by regional  
 238 | workforce boards in providing transportation services for  
 239 | participants of the welfare transition program. In a forfeiture  
 240 | proceeding under this section, the court may consider the extent  
 241 | that the family of the owner has other public or private means  
 242 | of transportation.

243 |         (10)(a) Notwithstanding any other provision of this  
 244 | section, if a person does not have a prior forcible felony  
 245 | conviction as defined in s. 776.08, the procedures ~~penalties~~  
 246 | provided in paragraph (b) apply if a person's driver's license  
 247 | or driving privilege is canceled, suspended, or revoked for:

248 |             1. Failing to pay child support as provided in s. 322.245  
 249 | or s. 61.13016;

250 |             2. Failing to pay any other financial obligation as  
 251 | provided in s. 322.245 other than those specified in s.  
 252 | 322.245(1);

253 3. Failing to comply with a civil penalty required in s.  
254 318.15;

255 4. Failing to maintain vehicular financial responsibility  
256 as required by chapter 324;

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

259 6. Having been designated a habitual traffic offender  
260 under s. 322.264(1)(d) as a result of suspensions of his or her  
261 driver's license or driver privilege for any underlying  
262 violation listed in subparagraphs 1.-5.

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

268 ~~2. Upon a second or subsequent conviction for the same  
269 offense of knowingly driving while his or her license is  
270 suspended, revoked, or canceled for any of the underlying  
271 violations listed in subparagraphs (a)1.-6., a person commits a  
272 misdemeanor of the first degree, punishable as provided in s.  
273 775.082 or s. 775.083.~~

274 (b)(11)(a) A person who does not hold a commercial  
275 driver's license and who is cited for an offense of knowingly  
276 driving while his or her license is suspended, revoked, or  
277 canceled for any of the underlying violations listed in  
278 paragraph ~~(10)~~(a) may, in lieu of payment of fine or court  
279 appearance, elect to enter a plea of nolo contendere and provide  
280 proof of compliance to the clerk of the court, designated

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281 official, or authorized operator of a traffic violations bureau.  
282 In such case, adjudication shall be withheld and the clerk of  
283 the court, designated official, or authorized operator of a  
284 traffic violations bureau shall issue a certificate releasing  
285 the vehicle upon payment of the cost of towing and storing the  
286 vehicle. However, no election shall be made under this  
287 subsection if such person has made an election under this  
288 subsection during the preceding 12 months. A person may not make  
289 more than three elections under this subsection.

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

292 Section 4. This act shall take effect January 1, 2013.