

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

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (22) is added to section 318.18,
 18 Florida Statutes, to read:

19 318.18 Amount of penalties.—The penalties required for a
 20 noncriminal disposition pursuant to s. 318.14 or a criminal
 21 offense listed in s. 318.17 are as follows:

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

27 (a) A first offense, \$500 before release of the vehicle
 28 from immobilization or impoundment.

29 (b) A second offense, \$1,000 before release of the vehicle
 30 from immobilization or impoundment.

31 (c) A third or subsequent offense, \$1,500 before release
 32 of the vehicle from immobilization or impoundment.

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

35 318.21 Disposition of civil penalties by county courts.—
 36 All civil penalties received by a county court pursuant to the
 37 provisions of this chapter shall be distributed and paid monthly
 38 as follows:

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

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

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

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

53 322.34 Driving while license suspended, revoked, canceled,
 54 or disqualified.—

55 ~~(1) Except as provided in subsection (2), Any person whose~~
 56 ~~driver's license or driving privilege has been canceled,~~

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

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

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

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

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

81 |
 82 | The element of knowledge is satisfied if the person has been
 83 | previously cited as provided in subsection (1); or the person
 84 | admits to knowledge of the cancellation, suspension, or

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

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

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

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

106 | (6) Any person who operates a motor vehicle:

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

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

112 |

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

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

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

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

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

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

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

138 ~~3. Whether the suspension or revocation was made under s.~~
 139 ~~316.646 or s. 627.733, relating to failure to maintain required~~
 140 ~~security, or under s. 322.264, relating to habitual traffic~~

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141 ~~offenders.~~

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

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

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

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

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

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

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

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

195

196 If proof is not presented within 35 days after the impoundment

197 or immobilization, a lien shall be placed upon such vehicle
 198 pursuant to s. 713.78.

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

220 (9) (a) A motor vehicle that is driven by a person under
 221 the influence of alcohol or drugs in violation of s. 316.193 is
 222 subject to seizure and forfeiture under ss. 932.701-932.706 and
 223 is subject to liens for recovering, towing, or storing vehicles
 224 under s. 713.78 if, at the time of the offense, the person's

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225 driver's license is suspended, revoked, or canceled as a result
 226 of a prior conviction for driving under the influence.

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

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

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

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

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

252 3. Failing to comply with a civil penalty required in s.

253 318.15;

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

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

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

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

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

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

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

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

291 Section 4. This act shall take effect January 1, 2012.