

By Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to driving without a valid driver's
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 license or
25 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, \$500 before release of the vehicle
29 from immobilization or impoundment.

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

32 (c) A third or subsequent offense, \$1,500 before release of
33 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.—All
37 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

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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
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

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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,

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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 felony
127 of the third degree, punishable as provided in s. 775.082, s.
128 775.083, 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~~
141 ~~security, or under s. 322.264, relating to habitual traffic~~
142 ~~offenders.~~

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

145 ~~(b) If the arresting officer finds in the affirmative as to~~

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146 ~~all of the criteria in paragraph (a), the officer shall~~
147 ~~immediately impound or immobilize the vehicle.~~

148 (b) ~~(c)~~ Within 7 business days after the date the vehicle is
149 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
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

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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 vehicle
185 shall remain impounded or immobilized ~~for any period imposed by~~
186 ~~the court~~ until payment of the applicable amount required under
187 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.

196
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

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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 the
222 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 Department
229 of Highway Safety and Motor Vehicles of any impoundment or
230 seizure for violation of paragraph (a) in accordance with
231 procedures established by the department.

232 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when

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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 under
260 s. 322.264(1) (d) as a result of suspensions of his or her
261 driver's license or driver privilege for any underlying

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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 driver's
275 license and who is cited for an offense of knowingly driving
276 while his or her license is suspended, revoked, or canceled for
277 any of the underlying violations listed in paragraph ~~(10)~~(a)
278 may, in lieu of payment of fine or court appearance, elect to
279 enter a plea of nolo contendere and provide proof of compliance
280 to the clerk of the court, designated official, or authorized
281 operator of a traffic violations bureau. In such case,
282 adjudication shall be withheld and the clerk of the court,
283 designated official, or authorized operator of a traffic
284 violations bureau shall issue a certificate releasing the
285 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) ~~(a)~~,

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291 such action is not a conviction.

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