

By Senator Braynon

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1 A bill to be entitled
2 An act relating to driver licenses and driving
3 privileges; creating the "Driver's Accountability
4 Act"; amending s. 318.18, F.S.; providing a criminal
5 and civil penalty payment alternative when a court
6 finds the violator has demonstrable financial
7 hardship; amending s. 322.34, F.S., relating to
8 driving while a license is suspended, revoked,
9 canceled, or disqualified; revising penalty
10 provisions; amending s. 322.245, F.S.; revising
11 provisions for the Department of Highway Safety and
12 Motor Vehicles to suspend the license of a person who
13 has failed to pay a financial obligation for a
14 criminal offense; amending ss. 921.0022 and 932.701,
15 F.S.; conforming cross-references; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. This act may be cited as the "Driver's
21 Accountability Act."

22 Section 2. Subsection (8) of section 318.18, Florida
23 Statutes, is amended to read:

24 318.18 Amount and payment of criminal and civil penalties.-
25 The penalties required for a noncriminal disposition pursuant to
26 s. 318.14 or a criminal offense listed in s. 318.17 are as
27 follows:

28 (8) (a) Any person who fails to comply with the court's
29 requirements or who fails to pay the civil penalties specified

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30 in this section within the 30-day period provided for in s.
31 318.14 must pay an additional civil penalty of \$16, \$6.50 of
32 which must be remitted to the Department of Revenue for deposit
33 in the General Revenue Fund, and \$9.50 of which must be remitted
34 to the Department of Revenue for deposit in the Highway Safety
35 Operating Trust Fund. Of this additional civil penalty of \$16,
36 \$4 is not revenue for purposes of s. 28.36 and may not be used
37 in establishing the budget of the clerk of the court under that
38 section or s. 28.35. The department shall contract with the
39 Florida Association of Court Clerks, Inc., to design, establish,
40 operate, upgrade, and maintain an automated statewide Uniform
41 Traffic Citation Accounting System to be operated by the clerks
42 of the court which shall include, but not be limited to, the
43 accounting for traffic infractions by type, a record of the
44 disposition of the citations, and an accounting system for the
45 fines assessed and the subsequent fine amounts paid to the
46 clerks of the court. On or before December 1, 2001, the clerks
47 of the court must provide the information required by this
48 chapter to be transmitted to the department by electronic
49 transmission pursuant to the contract.

50 (b)1.a. If a person has been ordered to pay a civil penalty
51 for a noncriminal traffic infraction and the person is unable to
52 comply with the court's order due to demonstrable financial
53 hardship, the court shall allow the person to satisfy the civil
54 penalty by participating in community service until the civil
55 penalty is paid.

56 b. If a person has been ordered to pay a criminal penalty,
57 including court costs, fines, or fees associated with a criminal
58 offense and the person is unable to comply with the court's

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59 order due to demonstrable financial hardship, the court shall
60 allow the person to satisfy the criminal penalty by
61 participating in community service until the penalty is paid. In
62 determining whether a person has the ability to pay the criminal
63 penalty, the court shall consider the financial resources of the
64 person, the present and potential future financial needs and
65 earning ability of the person and his or her dependents, and
66 such other factors which it deems appropriate. If the court
67 finds that the person has the inability to pay, the court shall
68 consider converting the outstanding penalty to community
69 service.

70 ~~c.b.~~ If a court orders a person to perform community
71 service, the person shall receive credit for the civil penalty
72 at the specified hourly credit rate per hour of community
73 service performed, and each hour of community service performed
74 shall reduce the civil penalty by that amount.

75 2.a. As used in this paragraph, the term "specified hourly
76 credit rate" means the wage rate that is specified in 29 U.S.C.
77 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,
78 that is then in effect, and that an employer subject to such
79 provision must pay per hour to each employee subject to such
80 provision.

81 b. However, if a person ordered to perform community
82 service has a trade or profession for which there is a community
83 service need, the specified hourly credit rate for each hour of
84 community service performed by that person shall be the average
85 prevailing wage rate for the trade or profession that the
86 community service agency needs.

87 3.a. The community service agency supervising the person

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88 shall record the number of hours of community service completed
89 and the date the community service hours were completed. The
90 community service agency shall submit the data to the clerk of
91 court on the letterhead of the community service agency, which
92 must also bear the notarized signature of the person designated
93 to represent the community service agency.

94 b. When the number of community service hours completed by
95 the person equals the amount of the civil penalty, the clerk of
96 court shall certify this fact to the court. Thereafter, the
97 clerk of court shall record in the case file that the civil
98 penalty has been paid in full.

99 4. As used in this paragraph, the term:

100 a. "Community service" means uncompensated labor for a
101 community service agency.

102 b. "Community service agency" means a not-for-profit
103 corporation, community organization, charitable organization,
104 public officer, the state or any political subdivision of the
105 state, or any other body the purpose of which is to improve the
106 quality of life or social welfare of the community and which
107 agrees to accept community service from persons unable to pay
108 civil penalties for noncriminal traffic infractions.

109 (c) If the noncriminal infraction has caused or resulted in
110 the death of another, the person who committed the infraction
111 may perform 120 community service hours under s. 316.027(4), in
112 addition to any other penalties.

113 Section 3. Section 322.34, Florida Statutes, is amended to
114 read:

115 322.34 Driving while license suspended, revoked, canceled,
116 or disqualified.-

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117 (1) ~~Except as provided in subsection (2),~~ Any person whose
118 driver ~~driver's~~ license or driving privilege has been canceled
119 ~~or,~~ suspended, ~~or revoked, except a "habitual traffic offender"~~
120 ~~as defined in s. 322.264,~~ who drives a vehicle on ~~upon~~ the
121 highways of this state while such license or privilege is
122 canceled ~~or,~~ suspended commits, ~~or revoked is guilty of~~ a moving
123 violation, except as provided in subsection (2), punishable as
124 provided in chapter 318.

125 (2) (a) Any person whose license has been suspended for
126 failing to pay child support as provided in s. 322.245 or s.
127 61.13016 who, knowing of such suspension, drives any motor
128 vehicle on the highways of this state while such license or
129 privilege is suspended, upon:

130 1. A first conviction is guilty of a misdemeanor of the
131 second degree, punishable as provided in s. 775.082 or s.
132 775.083.

133 2. A second or subsequent conviction is guilty of a
134 misdemeanor of the first degree, punishable as provided in s.
135 775.082 or s. 775.083.

136 (b) Any person whose driver ~~driver's~~ license or driving
137 privilege has been suspended under s. 322.2615 or ~~canceled,~~
138 ~~suspended,~~ ~~or~~ revoked as provided by law, except persons defined
139 as habitual traffic offenders in s. 322.264, who, knowing of
140 such ~~cancellation,~~ suspension, ~~or~~ revocation, drives any motor
141 vehicle on ~~upon~~ the highways of this state while such license or
142 privilege is ~~canceled,~~ suspended, ~~or~~ revoked, upon:

143 1. (a) A first conviction is guilty of a misdemeanor of the
144 second degree, punishable as provided in s. 775.082 or s.
145 775.083.

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146 ~~2.(b)~~ A second conviction is guilty of a misdemeanor of the
147 first degree, punishable as provided in s. 775.082 or s.
148 775.083.

149 ~~3.(e)~~ A third or subsequent conviction is guilty of a
150 felony of the third degree, punishable as provided in s.
151 775.082, s. 775.083, or s. 775.084.

152 (3) A person whose driver license or driving privilege has
153 been revoked as a habitual traffic offender pursuant to s.
154 322.264(1)(d) who, knowing of such revocation, drives any motor
155 vehicle on the highways of this state while such license or
156 privilege is revoked, upon:

157 (a) A first conviction, is guilty of a misdemeanor of the
158 second degree, punishable as provided in s. 775.082 or s.
159 775.083.

160 (b) A second conviction, is guilty of a misdemeanor of the
161 first degree, punishable as provided in s. 775.082 or s.
162 775.083.

163 (c) A third or subsequent conviction, is guilty of:

164 1. A misdemeanor of the first degree, punishable as
165 provided in s.775.082 or s.775.083, if the person's designation
166 as a habitual traffic offender is based only on the offenses of
167 driving while a license is suspended or canceled under s.
168 322.34(1); or

169 2. A felony of the third degree, punishable as provided in
170 s. 775.082, s. 775.083, or s. 775.084, if the person's
171 designation as a habitual traffic offender is based on any
172 offense of driving while a license is suspended or revoked under
173 subsection (2).

174 (4) Any person whose driver license or driving privilege

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175 has been revoked as a habitual traffic offender pursuant to s.
176 322.264 for violations other than a violation of s.
177 322.264(1)(d), who knowing of such revocation, drives any motor
178 vehicle on the highways of this state while such license or
179 privilege is revoked commits a felony of the third degree,
180 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

181 (5) Any person whose driver license or driving privilege
182 has been revoked as a habitual traffic offender under s. 322.264
183 that has a prior forcible felony conviction as defined in s.
184 776.08 who, knowing of such revocation, drives any motor vehicle
185 on the highways of this state while such license or privilege is
186 revoked commits a felony of the third degree, punishable as
187 provided in s. 775.082, s. 775.083, or s. 775.084.

188 (6) The element of knowledge is satisfied if the person has
189 been previously cited as provided in subsections (2), (3), and
190 (4) ~~subsection (1)~~; or the person admits to knowledge of the
191 cancellation, suspension, or revocation; or the person received
192 notice as provided in subsection (8) ~~(4)~~. There shall be a
193 rebuttable presumption that the knowledge requirement is
194 satisfied if a judgment or order as provided in subsection (8)
195 ~~(4)~~ appears in the department's records for any case except for
196 one involving a suspension by the department for failure to pay
197 a traffic fine or for a financial responsibility violation.

198 (7) ~~(3)~~ In any proceeding for a violation of this section, a
199 court may consider evidence, other than that specified in
200 subsection (2), that the person knowingly violated this section.

201 (8) ~~(4)~~ Any judgment or order rendered by a court or
202 adjudicatory body or any uniform traffic citation that cancels,
203 suspends, or revokes a person's driver ~~driver's~~ license must

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204 contain a provision notifying the person that his or her driver
205 ~~driver's~~ license has been canceled, suspended, or revoked.

206 ~~(5) Any person whose driver's license has been revoked~~
207 ~~pursuant to s. 322.264 (habitual offender) and who drives any~~
208 ~~motor vehicle upon the highways of this state while such license~~
209 ~~is revoked is guilty of a felony of the third degree, punishable~~
210 ~~as provided in s. 775.082, s. 775.083, or s. 775.084.~~

211 (9)~~(6)~~ Any person who operates a motor vehicle:

212 (a) Without having a driver ~~driver's~~ license as required
213 under s. 322.03; or

214 (b) While his or her driver ~~driver's~~ license or driving
215 privilege is canceled, suspended, or revoked pursuant to s.
216 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),
217 and who by careless or negligent operation of the motor vehicle
218 causes the death of or serious bodily injury to another human
219 being commits ~~is guilty of~~ a felony of the third degree,
220 punishable as provided in s. 775.082 or s. 775.083.

221 (10)~~(7)~~ Any person whose driver ~~driver's~~ license or driving
222 privilege has been canceled, suspended, revoked, or disqualified
223 and who drives a commercial motor vehicle on the highways of
224 this state while such license or privilege is canceled,
225 suspended, revoked, or disqualified, upon:

226 (a) A first conviction is guilty of a misdemeanor of the
227 first degree, punishable as provided in s. 775.082 or s.
228 775.083.

229 (b) A second or subsequent conviction is guilty of a felony
230 of the third degree, punishable as provided in s. 775.082, s.
231 775.083, or s. 775.084.

232 (11)~~(8)~~(a) Upon the arrest of a person for the offense of

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233 driving while the person's driver ~~driver's~~ license or driving
234 privilege is suspended or revoked, the arresting officer shall
235 determine:

236 1. Whether the person's driver ~~driver's~~ license is
237 suspended or revoked.

238 2. Whether the person's driver ~~driver's~~ license has
239 remained suspended or revoked since a conviction for the offense
240 of driving with a suspended or revoked license.

241 3. Whether the suspension or revocation was made under s.
242 316.646 or s. 627.733, relating to failure to maintain required
243 security, or under s. 322.264, relating to habitual traffic
244 offenders.

245 4. Whether the driver is the registered owner or coowner of
246 the vehicle.

247 (b) If the arresting officer finds in the affirmative as to
248 all of the criteria in paragraph (a), the officer shall
249 immediately impound or immobilize the vehicle.

250 (c) Within 7 business days after the date the arresting
251 agency impounds or immobilizes the vehicle, either the arresting
252 agency or the towing service, whichever is in possession of the
253 vehicle, shall send notice by certified mail to any coregistered
254 owners of the vehicle other than the person arrested and to each
255 person of record claiming a lien against the vehicle. All costs
256 and fees for the impoundment or immobilization, including the
257 cost of notification, must be paid by the owner of the vehicle
258 or, if the vehicle is leased, by the person leasing the vehicle.

259 (d) Either the arresting agency or the towing service,
260 whichever is in possession of the vehicle, shall determine
261 whether any vehicle impounded or immobilized under this section

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262 has been leased or rented or if there are any persons of record
263 with a lien upon the vehicle. Either the arresting agency or the
264 towing service, whichever is in possession of the vehicle, shall
265 notify by express courier service with receipt or certified mail
266 within 7 business days after the date of the immobilization or
267 impoundment of the vehicle, the registered owner and all persons
268 having a recorded lien against the vehicle that the vehicle has
269 been impounded or immobilized. A lessor, rental car company, or
270 lienholder may then obtain the vehicle, upon payment of any
271 lawful towing or storage charges. If the vehicle is a rental
272 vehicle subject to a written contract, the charges may be
273 separately charged to the renter, in addition to the rental
274 rate, along with other separate fees, charges, and recoupments
275 disclosed on the rental agreement. If the storage facility fails
276 to provide timely notice to a lessor, rental car company, or
277 lienholder as required by this paragraph, the storage facility
278 shall be responsible for payment of any towing or storage
279 charges necessary to release the vehicle to a lessor, rental car
280 company, or lienholder that accrue after the notice period,
281 which charges may then be assessed against the driver of the
282 vehicle if the vehicle was lawfully impounded or immobilized.

283 (e) Except as provided in paragraph (d), the vehicle shall
284 remain impounded or immobilized for any period imposed by the
285 court until:

286 1. The owner presents proof of insurance to the arresting
287 agency; or

288 2. The owner presents proof of sale of the vehicle to the
289 arresting agency and the buyer presents proof of insurance to
290 the arresting agency.

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

294 (f) The owner of a vehicle that is impounded or immobilized
295 under this subsection may, within 10 days after the date the
296 owner has knowledge of the location of the vehicle, file a
297 complaint in the county in which the owner resides to determine
298 whether the vehicle was wrongfully taken or withheld. Upon the
299 filing of a complaint, the owner or lienholder may have the
300 vehicle released by posting with the court a bond or other
301 adequate security equal to the amount of the costs and fees for
302 impoundment or immobilization, including towing or storage, to
303 ensure the payment of such costs and fees if the owner or
304 lienholder does not prevail. When the vehicle owner or
305 lienholder does not prevail on a complaint that the vehicle was
306 wrongfully taken or withheld, he or she must pay the accrued
307 charges for the immobilization or impoundment, including any
308 towing and storage charges assessed against the vehicle. When
309 the bond is posted and the fee is paid as set forth in s. 28.24,
310 the clerk of the court shall issue a certificate releasing the
311 vehicle. At the time of release, after reasonable inspection,
312 the owner must give a receipt to the towing or storage company
313 indicating any loss or damage to the vehicle or to the contents
314 of the vehicle.

315 (12)~~(9)~~(a) A motor vehicle that is driven by a person under
316 the influence of alcohol or drugs in violation of s. 316.193 is
317 subject to seizure and forfeiture under ss. 932.701-932.706 and
318 is subject to liens for recovering, towing, or storing vehicles
319 under s. 713.78 if, at the time of the offense, the person's

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

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

326 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when
327 the seizing agency obtains a final judgment granting forfeiture
328 of the motor vehicle under this section, 30 percent of the net
329 proceeds from the sale of the motor vehicle shall be retained by
330 the seizing law enforcement agency and 70 percent shall be
331 deposited in the General Revenue Fund for use by regional
332 workforce boards in providing transportation services for
333 participants of the welfare transition program. In a forfeiture
334 proceeding under this section, the court may consider the extent
335 that the family of the owner has other public or private means
336 of transportation.

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

342 ~~1. Failing to pay child support as provided in s. 322.245~~
343 ~~or s. 61.13016;~~

344 ~~2. Failing to pay any other financial obligation as~~
345 ~~provided in s. 322.245 other than those specified in s.~~
346 ~~322.245(1);~~

347 ~~3. Failing to comply with a civil penalty required in s.~~
348 ~~318.15;~~

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349 ~~4. Failing to maintain vehicular financial responsibility~~
350 ~~as required by chapter 324;~~

351 ~~5. Failing to comply with attendance or other requirements~~
352 ~~for minors as set forth in s. 322.091; or~~

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

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

362 ~~2. Upon a second or subsequent conviction for the same~~
363 ~~offense of knowingly driving while his or her license is~~
364 ~~suspended, revoked, or canceled for any of the underlying~~
365 ~~violations listed in subparagraphs (a)1.-6., a person commits a~~
366 ~~misdemeanor of the first degree, punishable as provided in s.~~
367 ~~775.082 or s. 775.083.~~

368 ~~(13)(11)(a)~~ (a) A person who does not hold a commercial driver
369 ~~driver's~~ license and who is cited for an offense of knowingly
370 driving while his or her license is suspended, revoked, or
371 canceled ~~for any of the underlying violations listed in~~
372 ~~paragraph (10)(a)~~ may, in lieu of payment of fine or court
373 appearance, elect to enter a plea of nolo contendere and provide
374 proof of compliance to the clerk of the court, designated
375 official, or authorized operator of a traffic violations bureau.
376 In such case, adjudication shall be withheld. However, no
377 election shall be made under this subsection if such person has

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378 made an election under this subsection during the preceding 12
379 months. A person may not make more than three elections under
380 this subsection.

381 (b) If adjudication is withheld under paragraph (a), such
382 action is not a conviction.

383 Section 4. Subsection (5) of section 322.245, Florida
384 Statutes, is amended to read:

385 322.245 Suspension of license upon failure of person
386 charged with specified offense under chapter 316, chapter 320,
387 or this chapter to comply with directives ordered by traffic
388 court or upon failure to pay child support in non-IV-D cases as
389 provided in chapter 61 or failure to pay any financial
390 obligation in any other criminal case.-

391 (5) (a) When the department receives notice from a clerk of
392 the court that a person licensed to operate a motor vehicle in
393 this state under the provisions of this chapter has willfully
394 failed to pay financial obligations for any criminal offense
395 other than those specified in subsection (1), in full or in part
396 under a payment plan pursuant to s. 28.246(4) after a finding by
397 the court that the person has the ability to pay, the department
398 shall suspend the license of the person named in the notice.

399 (b) The department must reinstate the driving privilege
400 when the clerk of the court provides an affidavit to the
401 department stating that:

402 1. The person has satisfied the financial obligation in
403 full or made all of the payments currently due under a payment
404 plan;

405 2. The person has entered into a written agreement for
406 payment of the financial obligation if not presently enrolled in

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407 a payment plan; or

408 3. The ~~A~~ court has entered an order granting relief to the
 409 person ordering the reinstatement of the license.

410 (c) The department shall not be held liable for any license
 411 suspension resulting from the discharge of its duties under this
 412 section.

413 Section 5. Paragraph (e) of subsection (3) of section
 414 921.0022, Florida Statutes, is amended to read:

415 921.0022 Criminal Punishment Code; offense severity ranking
 416 chart.—

417 (3) OFFENSE SEVERITY RANKING CHART

418 (e) LEVEL 5

419

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
<u>322.34(9)</u> 322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.367(4)	3rd	Willful molestation of a commercial

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harvester's spiny lobster trap, line,
or buoy.

425

379.3671(2)(c)3. 3rd Willful molestation, possession, or
removal of a commercial harvester's
trap contents or trap gear by another
harvester.

426

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing
HIV positive.

427

440.10(1)(g) 2nd Failure to obtain workers' compensation
coverage.

428

440.105(5) 2nd Unlawful solicitation for the purpose
of making workers' compensation claims.

429

440.381(2) 2nd Submission of false, misleading, or
incomplete information with the purpose
of avoiding or reducing workers'
compensation premiums.

430

624.401(4)(b)2. 2nd Transacting insurance without a
certificate or authority; premium
collected \$20,000 or more but less than
\$100,000.

431

626.902(1)(c) 2nd Representing an unauthorized insurer;
repeat offender.

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432

790.01(2) 3rd Carrying a concealed firearm.

433

790.162 2nd Threat to throw or discharge destructive device.

434

790.163(1) 2nd False report of deadly explosive or weapon of mass destruction.

435

790.221(1) 2nd Possession of short-barreled shotgun or machine gun.

436

790.23 2nd Felons in possession of firearms, ammunition, or electronic weapons or devices.

437

800.04(6)(c) 3rd Lewd or lascivious conduct; offender less than 18 years.

438

800.04(7)(b) 2nd Lewd or lascivious exhibition; offender 18 years or older.

439

806.111(1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

440

812.0145(2)(b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

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441

812.015 (8) 3rd Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

442

812.019 (1) 2nd Stolen property; dealing in or trafficking in.

443

812.131 (2) (b) 3rd Robbery by sudden snatching.

444

812.16 (2) 3rd Owning, operating, or conducting a chop shop.

445

817.034 (4) (a) 2. 2nd Communications fraud, value \$20,000 to \$50,000.

446

817.234 (11) (b) 2nd Insurance fraud; property value \$20,000 or more but less than \$100,000.

447

817.2341 (1), 3rd Filing false financial statements, (2) (a) & (3) (a) making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

448

817.568 (2) (b) 2nd Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud,

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\$5,000 or more or use of personal
 identification information of 10 or
 more individuals.

449

817.625 (2) (b) 2nd Second or subsequent fraudulent use of
 scanning device or reencoder.

450

825.1025 (4) 3rd Lewd or lascivious exhibition in the
 presence of an elderly person or
 disabled adult.

451

827.071 (4) 2nd Possess with intent to promote any
 photographic material, motion picture,
 etc., which includes sexual conduct by
 a child.

452

827.071 (5) 3rd Possess, control, or intentionally view
 any photographic material, motion
 picture, etc., which includes sexual
 conduct by a child.

453

839.13 (2) (b) 2nd Falsifying records of an individual in
 the care and custody of a state agency
 involving great bodily harm or death.

454

843.01 3rd Resist officer with violence to person;
 resist arrest with violence.

455

847.0135 (5) (b) 2nd Lewd or lascivious exhibition using

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computer; offender 18 years or older.

456

847.0137
(2) & (3)

3rd

Transmission of pornography by
electronic device or equipment.

457

847.0138
(2) & (3)

3rd

Transmission of material harmful to
minors to a minor by electronic device
or equipment.

458

874.05(2)

2nd

Encouraging or recruiting another to
join a criminal gang; second or
subsequent offense.

459

893.13(1)(a)1.

2nd

Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs).

460

893.13(1)(c)2.

2nd

Sell, manufacture, or deliver cannabis
(or other s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9., (3), or
(4) drugs) within 1,000 feet of a child
care facility, school, or state,
county, or municipal park or publicly
owned recreational facility or
community center.

461

893.13(1)(d)1.

1st

Sell, manufacture, or deliver cocaine

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(or other s. 893.03(1) (a), (1) (b),
 (1) (d), (2) (a), (2) (b), or (2) (c) 4.
 drugs) within 1,000 feet of university.

462

893.13(1) (e) 2. 2nd Sell, manufacture, or deliver cannabis
 or other drug prohibited under s.
 893.03(1) (c), (2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or (4) within
 1,000 feet of property used for
 religious services or a specified
 business site.

463

893.13(1) (f) 1. 1st Sell, manufacture, or deliver cocaine
 (or other s. 893.03(1) (a), (1) (b),
 (1) (d), or (2) (a), (2) (b), or (2) (c) 4.
 drugs) within 1,000 feet of public
 housing facility.

464

893.13(4) (b) 2nd Deliver to minor cannabis (or other s.
 893.03(1) (c), (2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or (4) drugs).

465

893.1351(1) 3rd Ownership, lease, or rental for
 trafficking in or manufacturing of
 controlled substance.

466

467 Section 6. Paragraph (a) of subsection (2) of section

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468 932.701, Florida Statutes, is amended to read:

469 932.701 Short title; definitions.—

470 (2) As used in the Florida Contraband Forfeiture Act:

471 (a) "Contraband article" means:

472 1. Any controlled substance as defined in chapter 893 or
473 any substance, device, paraphernalia, or currency or other means
474 of exchange that was used, was attempted to be used, or was
475 intended to be used in violation of any provision of chapter
476 893, if the totality of the facts presented by the state is
477 clearly sufficient to meet the state's burden of establishing
478 probable cause to believe that a nexus exists between the
479 article seized and the narcotics activity, whether or not the
480 use of the contraband article can be traced to a specific
481 narcotics transaction.

482 2. Any gambling paraphernalia, lottery tickets, money,
483 currency, or other means of exchange which was used, was
484 attempted, or intended to be used in violation of the gambling
485 laws of the state.

486 3. Any equipment, liquid or solid, which was being used, is
487 being used, was attempted to be used, or intended to be used in
488 violation of the beverage or tobacco laws of the state.

489 4. Any motor fuel upon which the motor fuel tax has not
490 been paid as required by law.

491 5. Any personal property, including, but not limited to,
492 any vessel, aircraft, item, object, tool, substance, device,
493 weapon, machine, vehicle of any kind, money, securities, books,
494 records, research, negotiable instruments, or currency, which
495 was used or was attempted to be used as an instrumentality in
496 the commission of, or in aiding or abetting in the commission

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497 of, any felony, whether or not comprising an element of the
498 felony, or which is acquired by proceeds obtained as a result of
499 a violation of the Florida Contraband Forfeiture Act.

500 6. Any real property, including any right, title,
501 leasehold, or other interest in the whole of any lot or tract of
502 land, which was used, is being used, or was attempted to be used
503 as an instrumentality in the commission of, or in aiding or
504 abetting in the commission of, any felony, or which is acquired
505 by proceeds obtained as a result of a violation of the Florida
506 Contraband Forfeiture Act.

507 7. Any personal property, including, but not limited to,
508 equipment, money, securities, books, records, research,
509 negotiable instruments, currency, or any vessel, aircraft, item,
510 object, tool, substance, device, weapon, machine, or vehicle of
511 any kind in the possession of or belonging to any person who
512 takes aquaculture products in violation of s. 812.014(2)(c).

513 8. Any motor vehicle offered for sale in violation of s.
514 320.28.

515 9. Any motor vehicle used during the course of committing
516 an offense in violation of s. 322.34(12)(a) ~~322.34(9)(a)~~.

517 10. Any photograph, film, or other recorded image,
518 including an image recorded on videotape, a compact disc,
519 digital tape, or fixed disk, that is recorded in violation of s.
520 810.145 and is possessed for the purpose of amusement,
521 entertainment, sexual arousal, gratification, or profit, or for
522 the purpose of degrading or abusing another person.

523 11. Any real property, including any right, title,
524 leasehold, or other interest in the whole of any lot or tract of
525 land, which is acquired by proceeds obtained as a result of

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526 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
527 property, including, but not limited to, equipment, money,
528 securities, books, records, research, negotiable instruments, or
529 currency; or any vessel, aircraft, item, object, tool,
530 substance, device, weapon, machine, or vehicle of any kind in
531 the possession of or belonging to any person which is acquired
532 by proceeds obtained as a result of Medicaid fraud under s.
533 409.920 or s. 409.9201.

534 12. Any personal property, including, but not limited to,
535 any vehicle, item, object, tool, device, weapon, machine, money,
536 security, book, or record, that is used or attempted to be used
537 as an instrumentality in the commission of, or in aiding and
538 abetting in the commission of, a person's third or subsequent
539 violation of s. 509.144, whether or not comprising an element of
540 the offense.

541 Section 7. This act shall take effect July 1, 2013.