

By Senator McKay

26-659-98

1 A bill to be entitled
2 An act relating to driving under the influence
3 of alcohol or drugs; providing that a motor
4 vehicle is contraband and subject to forfeiture
5 under the Florida Contraband Forfeiture Act if
6 the motor vehicle is driven by a person under
7 the influence of alcohol or drugs and the
8 person's license is suspended as a result of a
9 prior conviction for driving under the
10 influence; providing for a law enforcement
11 officer to impound the motor vehicle upon
12 probable cause; requiring that notification be
13 sent to the Department of Highway Safety and
14 Motor Vehicles; requiring that notice of the
15 impoundment be sent to the owner of the motor
16 vehicle under certain circumstances;
17 authorizing the seizing agency to retain a
18 specified percentage of the proceeds of the
19 sale of a forfeited motor vehicle following a
20 final judgment; providing for a specified
21 percentage of the proceeds of the sale of a
22 forfeited motor vehicle to be deposited into
23 the General Revenue Fund and used to provide
24 transportation services for participants of the
25 WAGES program; providing an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Seizure, impoundment, and forfeiture of a
30 motor vehicle used while driving under the influence when
31 driver's license is suspended.--

1 (1) A motor vehicle that is driven by a person under
2 the influence of alcohol or drugs in violation of section
3 316.193, Florida Statutes, is declared to be contraband and is
4 subject to seizure and forfeiture under sections
5 932.701-932.704, Florida Statutes, if, at the time of the
6 offense, the person's driver's license is suspended, revoked,
7 or canceled as a result of a prior conviction for driving
8 under the influence.

9 (2)(a) If the arresting law enforcement officer has
10 probable cause to believe that a motor vehicle is contraband
11 and subject to forfeiture as provided in subsection (1), the
12 law enforcement officer shall seize and impound the vehicle.
13 Probable cause may be based on the officer's personal
14 knowledge, reliable information conveyed by another law
15 enforcement officer, records of the Department of Highway
16 Safety and Motor Vehicles, or any other reliable source. The
17 law enforcement officer shall notify the Department of Highway
18 Safety and Motor Vehicles of the impoundment in accordance
19 with procedures established by the department.

20 (b) A notice of impoundment must be sent to the owner
21 of the vehicle if the owner is not operating the vehicle or
22 present in the vehicle at the time of the offense. The notice
23 must be sent by certified mail, return receipt requested, to
24 the most recent address contained in the records of the
25 Department of Highway Safety and Motor Vehicles. The notice
26 must inform the owner of the vehicle that the vehicle has been
27 impounded and is subject to forfeiture under the Florida
28 Contraband Forfeiture Act, state the reason for the
29 impoundment, and state that the owner of the vehicle is
30 entitled to a hearing as provided in section 932.703, Florida
31 Statutes.

1 (3)(a) Notwithstanding section 932.703(1)(c) or
2 section 932.7055, Florida Statutes, when the seizing agency
3 obtains a final judgment granting forfeiture of the motor
4 vehicle, 30 percent of the proceeds accrued from the sale of
5 the motor vehicle shall be retained by the seizing law
6 enforcement agency and 70 percent shall be deposited into the
7 General Revenue Fund for use by the Department of Children and
8 Family Services and the Department of Labor and Employment
9 Security in providing transportation services for participants
10 of the WAGES program.

11 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Authorizes a law enforcement officer to seize and impound a motor vehicle if the law enforcement officer has probable cause to believe that the motor vehicle is driven by a person under the influence of alcohol or drugs and, at the time of the offense, the person's license is suspended as a result of a prior conviction for driving under the influence. Provides for forfeiture of the motor vehicle under the Florida Contraband Forfeiture Act. Requires that notice of impoundment be sent to the owner of the motor vehicle if the owner is not in the vehicle at the time of seizure. Authorizes the seizing law enforcement agency to retain 30 percent of the proceeds of the sale of a forfeited vehicle following a final judgment. Provides that 70 percent of the proceeds of the sale of a forfeited vehicle be deposited into the General Revenue Fund and used to provide transportation services for participants of the WAGES program.