

1 A bill to be entitled

2 An act relating to unlawful operation of a motor vehicle;
3 creating the "Michael Haligowski Memorial Traffic Safety
4 Act"; amending s. 318.14, F.S.; authorizing the court to
5 withhold adjudication of certain violations related to
6 driving without a valid license if the person cited meets
7 certain conditions; providing circumstances when the
8 withholding of adjudication shall not be considered a
9 conviction; amending s. 322.03, F.S.; requiring a written
10 judgment signed by the judge and recorded by the clerk for
11 cases involving a violation of requirements to possess a
12 valid driver license; providing for content of the written
13 judgment; requiring fingerprints of the defendant and a
14 certificate to be affixed to the written judgment of
15 conviction; providing for content of the certificate;
16 providing that the written judgment shall be admissible as
17 prima facie evidence that the fingerprints appearing
18 thereon and certified by the judge are the fingerprints of
19 the defendant; requiring the defendant's social security
20 number to be affixed to the written judgment of conviction
21 or the reason for its absence to be indicated; amending s.
22 322.16, F.S.; prohibiting operation of a motor vehicle in
23 violation of an ignition interlock device restriction
24 imposed in the operator's driver license; providing
25 penalties; providing an enhanced penalty for second and
26 subsequent offenses; providing for an evidentiary
27 presumption of prior convictions of specified violations
28 of ignition interlock device restrictions; providing

29 applicability; amending s. 322.251, F.S.; requiring
30 certain information to be included with notice to a person
31 whose driver license or driving privilege is being
32 canceled, suspended, revoked, or disqualified; requiring
33 the Department of Highway Safety and Motor Vehicles to
34 make driver license status information available to the
35 public through the Internet and a phone system; requiring
36 the department to certify the availability of the
37 information upon request by certain persons; amending s.
38 322.34, F.S.; providing for application of certain penalty
39 provisions for driving without a valid license to a person
40 whose driver license or driving privilege has been
41 disqualified; revising penalties for driving without a
42 valid license or knowingly driving while driver license or
43 driving privilege is canceled, suspended, revoked, or
44 disqualified for specified alcohol-related or drug-related
45 convictions or refusal to submit to certain testing;
46 revising provisions for satisfaction of the element of
47 knowledge; requiring a cancellation, suspension,
48 revocation, or disqualification by the department or a
49 uniform traffic citation to contain a provision notifying
50 the person that his or her driver license or driving
51 privilege has been canceled, suspended, revoked, or
52 disqualified; requiring impoundment and immobilization
53 information to be included with notice to a person whose
54 driver license or driving privilege has been canceled,
55 suspended, revoked, or disqualified; revising penalty
56 provisions for a habitual offender driving while his or

57 her license is revoked; revising circumstances for
58 application of specified penalties for certain careless or
59 negligent driving offenses; requiring a written judgment
60 signed by the judge and recorded by the clerk for cases
61 involving a violation of requirements to possess a valid
62 driver license; providing for content of the written
63 judgment; requiring fingerprints of the defendant and a
64 certificate to be affixed to the written judgment of
65 conviction; providing for content of the certificate;
66 providing that the written judgment shall be admissible as
67 prima facie evidence that the fingerprints appearing
68 thereon and certified by the judge are the fingerprints of
69 the defendant; requiring the defendant's social security
70 number to be affixed to the written judgment of conviction
71 or the reason for its absence to be indicated; amending s.
72 322.34, F.S.; providing penalties for knowingly aiding a
73 person whose driver license or driving privilege is
74 canceled, suspended, revoked, or disqualified by providing
75 a motor vehicle or authorizing use of a motor vehicle;
76 providing for a rebuttable presumption of the knowledge
77 requirement; requiring an officer stopping a motor vehicle
78 being driven by or under the actual physical control of a
79 person whose driver license or driving privilege is
80 canceled, suspended, revoked, or disqualified to impound
81 or immobilize the motor vehicle; providing for notice to
82 the driver; providing for impoundment and immobilization
83 of the motor vehicle by the department; providing for
84 notice to registered owners of the motor vehicle and

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85 | lienholders; authorizing the department to adopt rules
86 | providing for the department to commence impoundment or
87 | immobilization at the scene where the motor vehicle was
88 | stopped; providing procedures; providing for release of
89 | the motor vehicle; requiring department records to contain
90 | impoundment and immobilization information; providing for
91 | payment of costs; providing for certain fees for certain
92 | purposes; requiring the department to authorize release of
93 | the motor vehicle upon satisfaction of all requirements;
94 | providing for an impounded or immobilized motor vehicle
95 | that is found being operated upon any street or highway in
96 | this state during period of impoundment or immobilization
97 | to be seized and subject to forfeit; authorizing the
98 | department to contract with vendors; requiring the
99 | department to make driver license status information
100 | available to the public through the Internet and a phone
101 | system; authorizing the department to adopt rules;
102 | amending s. 322.341, F.S.; revising penalty provisions for
103 | a person who drives a motor vehicle when his or her driver
104 | license has been permanently revoked; directing the
105 | department to inform drivers whose license or driving
106 | privilege has been canceled, suspended, revoked, or
107 | disqualified and the motoring public of the provisions for
108 | impoundment and immobilization of motor vehicles under
109 | this act; providing effective dates.

110 |
111 | Be It Enacted by the Legislature of the State of Florida:
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113 Section 1. This act may be cited as the "Michael
 114 Haligowski Memorial Traffic Safety Act."

115 Section 2. Subsection (11) of section 318.14, Florida
 116 Statutes, is amended to read:

117 318.14 Noncriminal traffic infractions; exception;
 118 procedures.--

119 (11) (a) If adjudication is withheld for any person ~~charged~~
 120 ~~or cited under this section~~, pursuant to subsection (9) or
 121 subsection (10), such action is not a conviction.

122 (b) If a person is cited for a violation of s.
 123 322.34(2)(a) or (b) with a license that has been suspended
 124 solely for failure to appear, failure to pay a civil penalty, or
 125 failure to attend a driver improvement course pursuant to s.
 126 322.291 and such person provides to the court a valid or
 127 reinstated driver's license and proper proof of maintenance of
 128 security as required by s. 316.646, the court may withhold
 129 adjudication pursuant to this subsection. If adjudication has
 130 not been withheld pursuant to this subsection for the 3 years
 131 before the date of the offense cited for, the withholding of
 132 adjudication for the offense cited for pursuant to this
 133 subsection is not a conviction.

134 Section 3. Subsection (7) is added to section 322.03,
 135 Florida Statutes, to read:

136 322.03 Drivers must be licensed; penalties.--

137 (7)(a) Every judgment for a violation of subsection (1),
 138 regardless of whether adjudication is withheld, shall be in
 139 writing, signed by the judge, and recorded by the clerk of the
 140 circuit court. The judge shall cause to be affixed to every such

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141 written judgment of conviction, in open court and in the
142 presence of such judge, the fingerprints of the defendant
143 against whom such judgment is rendered. Such fingerprints shall
144 be affixed beneath the judge's signature to any such judgment.
145 Beneath such fingerprints shall be appended a certificate to the
146 following effect:

147
148 "I hereby certify that the above and foregoing fingerprints are
149 of the defendant, (name of defendant), and that they were placed
150 thereon by said defendant in my presence, in open court, this
151 the day of, (year)."

152 (b) Such certificate shall be signed by the judge, whose
153 signature thereto shall be followed by the word "Judge."

154 (c) Any such written judgment, or a certified copy
155 thereof, shall be admissible in evidence in the several courts
156 of this state as prima facie evidence that the fingerprints
157 appearing thereon and certified by the judge as aforesaid are
158 the fingerprints of the defendant against whom such judgment was
159 rendered.

160 (d) At the time the defendant's fingerprints are taken,
161 the judge shall also cause the defendant's social security
162 number to be taken. The defendant's social security number shall
163 be affixed to every written judgment of conviction in open
164 court, in the presence of such judge, and at the time the
165 judgment is rendered. If the defendant is unable or unwilling to
166 provide his or her social security number, the reason for its
167 absence shall be indicated on the written judgment.

168 Section 4. Effective October 1, 2006, subsection (5) of
 169 section 322.16, Florida Statutes, is amended, and subsection (7)
 170 is added to that section, to read:

171 322.16 License restrictions.--

172 (5) It is a misdemeanor of the second degree, punishable
 173 as provided in s. 775.082 or s. 775.083, for any person to
 174 operate a motor vehicle in any manner in violation of the
 175 restrictions imposed in a license issued to him or her except
 176 for a violation of paragraph (1)(d), subsection (2), ~~or~~
 177 subsection (3), or subsection (7).

178 (7)(a) A person who operates a motor vehicle in any manner
 179 in violation of an ignition interlock device restriction imposed
 180 in a license issued to him or her commits a misdemeanor of the
 181 first degree, punishable as provided in s. 775.082 or s.
 182 775.083.

183 (b) A second or subsequent violation of paragraph (a) is a
 184 felony of the third degree, punishable as provided in s.
 185 775.082, s. 775.083, or s. 775.084. For a conviction of a
 186 violation under this paragraph, the court shall order a term of
 187 incarceration of not less than 1 year.

188 (c) If the records of the department show that the
 189 defendant has been previously convicted of an offense of
 190 violation of an ignition interlock device restriction under this
 191 subsection, that evidence is sufficient by itself to establish
 192 that prior conviction; however, such evidence may be
 193 contradicted or rebutted by other evidence. This presumption may
 194 be considered along with any other evidence presented in
 195 deciding whether the defendant has been previously convicted of

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196 an offense of violation of an ignition interlock device
197 restriction.

198 Section 5. Subsections (1) and (6) of section 322.251,
199 Florida Statutes, are amended to read:

200 322.251 Notice of cancellation, suspension, revocation, or
201 disqualification of license.--

202 (1) All orders of cancellation, suspension, revocation, or
203 disqualification issued under the provisions of this chapter,
204 chapter 318, chapter 324, or ss. 627.732-627.734 shall be given
205 either by personal delivery thereof to the licensee whose
206 license is being canceled, suspended, revoked, or disqualified
207 or by deposit in the United States mail in an envelope, first
208 class, postage prepaid, addressed to the licensee at his or her
209 last known mailing address furnished to the department. Such
210 mailing by the department constitutes notification, and any
211 failure by the person to receive the mailed order will not
212 affect or stay the effective date or term of the cancellation,
213 suspension, revocation, or disqualification of the licensee's
214 driving privilege. Notification of cancellation, suspension,
215 revocation, or disqualification given by the department under
216 this section shall also inform the person whose driver's license
217 or driving privilege has been canceled, suspended, revoked, or
218 disqualified that any motor vehicle driven by or under the
219 actual physical control of that person while the license or
220 driving privilege is canceled, suspended, revoked, or
221 disqualified is subject to impoundment and immobilization under
222 s. 322.34.

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223 (6) (a) Whenever a cancellation, suspension, revocation, or
 224 disqualification occurs, the department shall enter the
 225 cancellation, suspension, revocation, or disqualification order
 226 on the licensee's driver file 20 days after the notice was
 227 actually placed in the mail. Any inquiry into the file after the
 228 20-day period shall reveal that the license is canceled,
 229 suspended, revoked, or disqualified and whether the license has
 230 been received by the department.

231 (b)1. The department shall make available on its Internet
 232 website the means to determine the status of a person's driver's
 233 license by entering the driver's license number or name and date
 234 of birth of the licensee. The department shall also provide a
 235 toll-free telephone hotline to provide callers with the status
 236 of a person's driver's license. The information provided on the
 237 Internet website or via the telephone hotline under this
 238 subparagraph shall include the date and time it was first made
 239 available to the public.

240 2. Upon request from any law enforcement agency or officer
 241 of the court, the department shall certify the date and time the
 242 information was first made available to the public under
 243 subparagraph 1.

244 Section 6. Effective October 1, 2006, subsections (1)
 245 through (6) of section 322.34, Florida Statutes, are amended,
 246 and subsection (10) is added to that section, to read:

247 322.34 Driving while license suspended, revoked, canceled,
 248 or disqualified.--

249 (1) Except as provided in subsection (2), any person whose
 250 driver's license or driving privilege has been canceled,

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251 suspended, ~~or~~ revoked, or disqualified, except a "habitual
 252 traffic offender" as defined in s. 322.264, who drives a vehicle
 253 upon the highways of this state while such license or privilege
 254 is canceled, suspended, ~~or~~ revoked, or disqualified ~~commits is~~
 255 ~~guilty~~ of a moving violation, punishable as provided in chapter
 256 318.

257 (2) Any person whose driver's license or driving privilege
 258 has been canceled, suspended, ~~or~~ revoked, or disqualified as
 259 provided by law, except persons defined in s. 322.264, who,
 260 knowing of such cancellation, suspension, ~~or~~ revocation, or
 261 disqualification, drives any motor vehicle upon the highways of
 262 this state while such license or privilege is canceled,
 263 suspended, ~~or~~ revoked, or disqualified, or any person who drives
 264 any motor vehicle upon the highways of this state without having
 265 a valid driver's license as required under s. 322.03, upon:

266 (a) A first conviction is guilty of a misdemeanor of the
 267 second degree, punishable as provided in s. 775.082 or s.
 268 775.083, except that any person whose driver's license or
 269 driving privilege was canceled, suspended, revoked, or
 270 disqualified under s. 322.2615, relating to unlawful blood-
 271 alcohol level or breath-alcohol level or for refusal to submit
 272 to a breath, urine, or blood test authorized by s. 316.1932, s.
 273 322.28(2)(a) for a violation of s. 316.193 or s. 316.1931
 274 prohibiting driving under the influence, s. 316.655(2) for an
 275 alcohol-related or drug-related conviction, or s. 316.1939 for
 276 refusal to submit to testing, is guilty of a misdemeanor of the
 277 first degree, punishable as provided in s. 775.082 or s.

278 775.083, and the court must order imprisonment for not less than
 279 30 days.

280 (b) A second conviction is guilty of a misdemeanor of the
 281 first degree, punishable as provided in s. 775.082 or s.
 282 775.083.

283 (c) A third or subsequent conviction is guilty of a felony
 284 of the third degree, punishable as provided in s. 775.082, s.
 285 775.083, or s. 775.084.

286
 287 The element of knowledge is satisfied if the person has been
 288 previously cited as provided in subsection (1); ~~or~~ the person
 289 admits to knowledge of the cancellation, suspension, ~~or~~
 290 revocation, or disqualification; or the person received notice
 291 as provided in subsection (4). There shall be a rebuttable
 292 presumption that the knowledge requirement is satisfied if a
 293 judgment or order or cancellation, suspension, revocation, or
 294 disqualification by the department as provided in subsection (4)
 295 appears in the department's records ~~for any case except for one~~
 296 ~~involving a suspension by the department for failure to pay a~~
 297 ~~traffic fine or for a financial responsibility violation.~~

298 (3) In any proceeding for a violation of this section, a
 299 court may consider evidence, other than that specified in
 300 subsection (2) or subsection (8), that the person knowingly
 301 violated this section.

302 (4) Any judgment or order rendered by a court or
 303 adjudicatory body, any cancellation, suspension, revocation, or
 304 disqualification by the department, or any uniform traffic
 305 citation that cancels, suspends, ~~or~~ revokes, or disqualifies a

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306 person's driver's license must contain a provision notifying the
 307 person that his or her driver's license has been canceled,
 308 suspended, ~~or revoked,~~ or disqualified and must inform the
 309 person that any motor vehicle driven by that person while the
 310 license is canceled, suspended, revoked, or disqualified shall
 311 be impounded or immobilized pursuant to this section.

312 (5) Any person whose driver's license has been revoked
 313 pursuant to s. 322.264 (habitual offender) and who drives any
 314 motor vehicle upon the highways of this state while such license
 315 is revoked commits ~~is guilty of~~ a felony of the third degree,
 316 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 317 and the court must order imprisonment for not less than 60 days.

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

319 (a) Without having a driver's license as required under s.
 320 322.03; or

321 (b) While his or her driver's license or driving privilege
 322 is canceled, suspended, ~~or revoked,~~ or disqualified ~~pursuant to~~
 323 ~~s. 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),~~
 324

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

329 (10)(a) Every judgment, regardless of whether adjudication
 330 is withheld, with respect to any offense governed by the
 331 provisions of this section shall be in writing, signed by the
 332 judge, and recorded by the clerk of the circuit court. The judge
 333 shall cause to be affixed to every such written judgment of

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334 conviction, in open court and in the presence of such judge, the
335 fingerprints of the defendant against whom such judgment is
336 rendered. Such fingerprints shall be affixed beneath the judge's
337 signature to any such judgment. Beneath such fingerprints shall
338 be appended a certificate to the following effect:

339
340 "I hereby certify that the above and foregoing fingerprints are
341 of the defendant, (name of defendant), and that they were placed
342 thereon by said defendant in my presence, in open court, this
343 the day of, (year)."

344 (b) Such certificate shall be signed by the judge, whose
345 signature thereto shall be followed by the word "Judge."

346 (c) Any such written judgment, or a certified copy
347 thereof, shall be admissible in evidence in the several courts
348 of this state as prima facie evidence that the fingerprints
349 appearing thereon and certified by the judge as aforesaid are
350 the fingerprints of the defendant against whom such judgment was
351 rendered.

352 (d) At the time the defendant's fingerprints are taken,
353 the judge shall also cause the defendant's social security
354 number to be taken. The defendant's social security number shall
355 be affixed to every written judgment in open court, in the
356 presence of such judge, and at the time the judgment is
357 rendered. If the defendant is unable or unwilling to provide his
358 or her social security number, the reason for its absence shall
359 be indicated on the written judgment.

360 Section 7. Effective July 1, 2007, subsection (8) of
361 section 322.34, Florida Statutes, as amended by this act, is

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362 renumbered as subsection (9) and amended, subsections (9) and
363 (10) are renumbered as subsections (10) and (11), respectively,
364 and a new subsection (8) is added to that section, to read:

365 322.34 Driving while license suspended, revoked, canceled,
366 or disqualified.--

367 (8) Any owner or lessee of a motor vehicle who knowingly
368 allows, permits, or authorizes a person whose driver's license
369 or driving privilege has been canceled, suspended, revoked, or
370 disqualified to drive the motor vehicle upon the streets or
371 highways of this state or knowingly gives, leases, lends, or
372 otherwise provides the motor vehicle to a person whose driver's
373 license or driving privilege has been canceled, suspended,
374 revoked, or disqualified while such license or privilege is
375 canceled, suspended, revoked, or disqualified commits a
376 misdemeanor of the second degree, punishable as provided in s.
377 775.082 or s. 775.083. The element of knowledge is satisfied if
378 the owner or lessee has been previously charged under this
379 subsection for aiding the same person; the owner admits to
380 knowledge of the cancellation, suspension, revocation, or
381 disqualification of the driver's license or driving privilege of
382 the driver; or the owner received notice as provided in
383 subsection (9) relating to the same driver. There shall be a
384 rebuttable presumption that the knowledge requirement is
385 satisfied if the cancellation, suspension, revocation, or
386 disqualification appears in the department's records and that
387 information is available to the public through the department's
388 Internet website or a toll-free telephone hotline.

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389 (9)-(8)(a)1. If a law enforcement officer determines that a
390 motor vehicle is being driven by or is under the actual physical
391 control of a person whose driver's license or driving privilege
392 is canceled, suspended, revoked, or disqualified, the officer
393 shall immediately impound or immobilize the motor vehicle. The
394 officer shall serve notice of the impoundment or immobilization
395 upon the driver. The notice shall include the location where the
396 motor vehicle is being held and information on the procedures to
397 have the motor vehicle released from impoundment or
398 immobilization by a department-approved vendor.

399 2. A law enforcement officer arresting a driver whose
400 license or driving privilege is suspended shall notify the
401 department or the department's agent within 24 hours to effect
402 impoundment or immobilization under this paragraph. The
403 department or the department's agent shall remove and immobilize
404 the motor vehicle at another location. The impounding company
405 shall not release the motor vehicle for immobilization at
406 another location without proof that the immobilization vendor is
407 approved by the department. The motor vehicle shall remain in
408 impound or immobilized until the owner or lessee receives
409 authorization from the department for release of the motor
410 vehicle under the provisions of this subsection. The department
411 is authorized to adopt by rule procedures for removal and
412 immobilization of the motor vehicle by a department-approved
413 vendor from the location where the motor vehicle was stopped by
414 the law enforcement officer.

415 3. A motor vehicle impounded or immobilized under this
416 paragraph that, according to the records of the department, is

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417 owned or leased by the person who was driving or in actual
418 physical control of the motor vehicle when it was stopped and
419 impounded under subparagraph 1. shall remain impounded or
420 immobilized until the person's license and driving privilege are
421 reinstated and payment of the fees imposed under paragraph (b)
422 and all costs of towing, impoundment, immobilization, and
423 storage has been made. If department records show a different
424 owner or lessee, then the motor vehicle shall be released to
425 that owner or lessee or the owner's or lessee's agent upon
426 payment of the fees imposed under paragraph (c) and all costs of
427 towing, impoundment, immobilization, and storage. The
428 department's records shall reflect that the motor vehicle is
429 immobilized or impounded.

430 (b) Within 7 business days after the date the law
431 enforcement agency or the department impounds or immobilizes the
432 motor vehicle under this subsection, the department shall send
433 notice of the impoundment or immobilization by certified mail,
434 return receipt requested, to any registered owners or coowners
435 of the motor vehicle other than the driver and to each person of
436 record claiming a lien against the motor vehicle. The notice
437 shall include the location where the motor vehicle is being held
438 and information on the procedures to have the motor vehicle
439 released from impoundment or immobilization by a department-
440 approved vendor. All costs and fees for the impoundment or
441 immobilization, including the cost of notification, must be paid
442 by the owner of the motor vehicle or, if the motor vehicle is
443 leased, by the person leasing the motor vehicle.

444 (c)1. The department shall collect a \$30 processing fee
445 from the owner or lessee prior to release of any motor vehicle
446 immobilized or impounded under this subsection. Moneys collected
447 under this subparagraph shall be forwarded to the Department of
448 Revenue for deposit into the State Transportation Trust Fund
449 created under s. 206.46 to be used to carry out public transit
450 responsibilities of the Department of Transportation under s.
451 341.041.

452 2. The department shall charge a reasonable fee to the
453 owner or lessee of the motor vehicle to cover the operational
454 costs of the program and the cost of immobilizing or impounding
455 the motor vehicle. Fees collected under this subparagraph shall
456 be deposited in the Department of Highway Safety and Motor
457 Vehicles Operating Trust Fund.

458 (d) Upon satisfaction of all of the requirements under
459 this subsection for release of the motor vehicle, the department
460 shall authorize release of the motor vehicle to the owner or
461 lessee.

462 (e) If a motor vehicle impounded or immobilized under
463 paragraph (a) is found being operated upon any street or highway
464 in this state during the impoundment or immobilization period,
465 it shall be seized and removed from the street or highway and
466 may be forfeited pursuant to ss. 932.701-932.704.

467 (f) The department may contract with vendors to carry out
468 the provisions of this subsection.

469 (g) Notification of cancellation, suspension, revocation,
470 or disqualification given by the department under s. 322.251
471 shall also inform the person whose driver's license or driving

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472 privilege has been canceled, suspended, revoked, or disqualified
473 that any motor vehicle driven by or under the actual physical
474 control of that person while the license or driving privilege is
475 canceled, suspended, revoked, or disqualified is subject to
476 impoundment under this subsection; however, failure to receive
477 such notification shall not preclude, bar, or otherwise affect
478 the impoundment of a motor vehicle under this subsection.

479 (h) The department shall make available on its Internet
480 website the means to determine the status of a person's driver's
481 license by entering the driver license number or name and date
482 of birth of the licensee. The department shall also provide a
483 toll-free telephone hotline to provide callers with the status
484 of a person's driver's license.

485 (i) The department may adopt rules pursuant to ss.
486 120.536(1) and 120.54 to implement the provisions of this
487 subsection. Upon the arrest of a person for the offense of
488 driving while the person's driver's license or driving privilege
489 is suspended or revoked, the arresting officer shall determine:

490 1. Whether the person's driver's license is suspended or
491 revoked.

492 2. Whether the person's driver's license has remained
493 suspended or revoked since a conviction for the offense of
494 driving with a suspended or revoked license.

495 3. Whether the suspension or revocation was made under s.
496 316.646 or s. 627.733, relating to failure to maintain required
497 security, or under s. 322.264, relating to habitual traffic
498 offenders.

499 ~~4. Whether the driver is the registered owner or coowner~~
500 ~~of the vehicle.~~

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

504 ~~(c) Within 7 business days after the date the arresting~~
505 ~~agency impounds or immobilizes the vehicle, either the arresting~~
506 ~~agency or the towing service, whichever is in possession of the~~
507 ~~vehicle, shall send notice by certified mail, return receipt~~
508 ~~requested, to any coregistered owners of the vehicle other than~~
509 ~~the person arrested and to each person of record claiming a lien~~
510 ~~against the vehicle. All costs and fees for the impoundment or~~
511 ~~immobilization, including the cost of notification, must be paid~~
512 ~~by the owner of the vehicle or, if the vehicle is leased, by the~~
513 ~~person leasing the vehicle.~~

514 ~~(d) Either the arresting agency or the towing service,~~
515 ~~whichever is in possession of the vehicle, shall determine~~
516 ~~whether any vehicle impounded or immobilized under this section~~
517 ~~has been leased or rented or if there are any persons of record~~
518 ~~with a lien upon the vehicle. Either the arresting agency or the~~
519 ~~towing service, whichever is in possession of the vehicle, shall~~
520 ~~notify by express courier service with receipt or certified~~
521 ~~mail, return receipt requested, within 7 business days after the~~
522 ~~date of the immobilization or impoundment of the vehicle, the~~
523 ~~registered owner and all persons having a recorded lien against~~
524 ~~the vehicle that the vehicle has been impounded or immobilized.~~
525 ~~A lessor, rental car company, or lienholder may then obtain the~~
526 ~~vehicle, upon payment of any lawful towing or storage charges.~~

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527 ~~If the vehicle is a rental vehicle subject to a written~~
528 ~~contract, the charges may be separately charged to the renter,~~
529 ~~in addition to the rental rate, along with other separate fees,~~
530 ~~charges, and recouplements disclosed on the rental agreement. If~~
531 ~~the storage facility fails to provide timely notice to a lessor,~~
532 ~~rental car company, or lienholder as required by this paragraph,~~
533 ~~the storage facility shall be responsible for payment of any~~
534 ~~towing or storage charges necessary to release the vehicle to a~~
535 ~~lessor, rental car company, or lienholder that accrue after the~~
536 ~~notice period, which charges may then be assessed against the~~
537 ~~driver of the vehicle if the vehicle was lawfully impounded or~~
538 ~~immobilized.~~

539 ~~(e) Except as provided in paragraph (d), the vehicle shall~~
540 ~~remain impounded or immobilized for any period imposed by the~~
541 ~~court until:~~

542 ~~1. The owner presents proof of insurance to the arresting~~
543 ~~agency; or~~

544 ~~2. The owner presents proof of sale of the vehicle to the~~
545 ~~arresting agency and the buyer presents proof of insurance to~~
546 ~~the arresting agency.~~

547
548 ~~If proof is not presented within 35 days after the impoundment~~
549 ~~or immobilization, a lien shall be placed upon such vehicle~~
550 ~~pursuant to s. 713.78.~~

551 ~~(f) The owner of a vehicle that is impounded or~~
552 ~~immobilized under this subsection may, within 10 days after the~~
553 ~~date the owner has knowledge of the location of the vehicle,~~
554 ~~file a complaint in the county in which the owner resides to~~

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555 ~~determine whether the vehicle was wrongfully taken or withheld.~~
556 ~~Upon the filing of a complaint, the owner may have the vehicle~~
557 ~~released by posting with the court a bond or other adequate~~
558 ~~security equal to the amount of the costs and fees for~~
559 ~~impoundment or immobilization, including towing or storage, to~~
560 ~~ensure the payment of such costs and fees if the owner does not~~
561 ~~prevail. When the vehicle owner does not prevail on a complaint~~
562 ~~that the vehicle was wrongfully taken or withheld, he or she~~
563 ~~must pay the accrued charges for the immobilization or~~
564 ~~impoundment, including any towing and storage charges assessed~~
565 ~~against the vehicle. When the bond is posted and the fee is paid~~
566 ~~as set forth in s. 28.24, the clerk of the court shall issue a~~
567 ~~certificate releasing the vehicle. At the time of release, after~~
568 ~~reasonable inspection, the owner must give a receipt to the~~
569 ~~towing or storage company indicating any loss or damage to the~~
570 ~~vehicle or to the contents of the vehicle.~~

571 Section 8. Effective October 1, 2006, section 322.341,
572 Florida Statutes, is amended to read:

573 322.341 Driving while license permanently revoked.--Any
574 person whose driver's license or driving privilege has been
575 permanently revoked pursuant to s. 322.26 or s. 322.28 and who
576 drives a motor vehicle upon the highways of this state commits
577 is guilty of a felony of the third degree, punishable as
578 provided in s. 775.082, s. 775.083, or s. 775.084, and the court
579 must order imprisonment for not less than 90 days.

580 Section 9. The Department of Highway Safety and Motor
581 Vehicles shall inform the motoring public of the changes to s.
582 322.34, Florida Statutes, made by this act relating to

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583 impoundment or immobilization of a motor vehicle being driven by
584 a person whose driver license is canceled, suspended, revoked,
585 or disqualified and shall provide such information in newly
586 printed driver's license educational materials after July 1,
587 2006, and in public service announcements produced in
588 cooperation with the Florida Highway Patrol.

589 Section 10. During the period from July 1, 2006, to July
590 1, 2007, the Department of Highway Safety and Motor Vehicles
591 shall notify by mail persons whose driver license or driving
592 privilege has been canceled, suspended, revoked, or disqualified
593 of the changes to s. 322.34, Florida Statutes, made by this act
594 relating to impoundment or immobilization of a motor vehicle
595 being driven by such person; however, failure to receive such
596 notification shall not preclude, bar, or otherwise affect the
597 impoundment or immobilization of a motor vehicle under s.
598 322.34, Florida Statutes.

599 Section 11. Except as otherwise expressly provided in this
600 act, this act shall take effect July 1, 2006.