

Bill No. SB 878

Barcode 200714

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Bennett) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. This act may be cited as the "Michael Haligowski and Deputy Ryan C. Seguin Memorial Traffic Safety Act."

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

318.14 Noncriminal traffic infractions; exception; procedures.--

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

(b) If a person is cited for a violation of s. 322.34(2)(a) or (b) with a license that has been suspended solely for failure to appear, failure to pay a civil penalty, or failure to attend a driver improvement course pursuant to

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1 s. 322.291 and such person provides to the court a valid or
 2 reinstated driver's license and proper proof of maintenance of
 3 security as required by s. 316.646, the court may withhold
 4 adjudication pursuant to this subsection. If adjudication has
 5 not been withheld pursuant to this subsection for the 3 years
 6 before the date of the offense cited for, the withholding of
 7 adjudication for the offense cited for pursuant to this
 8 subsection is not a conviction.

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

11 322.03 Drivers must be licensed; penalties.--

12 (7)(a) Every judgment for a violation of subsection
 13 (1), regardless of whether adjudication is withheld, shall be
 14 in writing, signed by the judge, and recorded by the clerk of
 15 the circuit court. The judge shall cause to be affixed to
 16 every such written judgment of conviction, in open court and
 17 in the presence of such judge, the fingerprints of the
 18 defendant against whom such judgment is rendered. Such
 19 fingerprints shall be affixed beneath the judge's signature to
 20 any such judgment. Beneath such fingerprints shall be appended
 21 a certificate to the following effect:

22
 23 "I hereby certify that the above and foregoing fingerprints
 24 are of the defendant, (name of defendant), and that they were
 25 placed thereon by said defendant in my presence, in open
 26 court, this the day of ..
 27 (year)."

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

30 (c) Any such written judgment, or a certified copy
 31 thereof, shall be admissible in evidence in the several courts

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1 of this state as prima facie evidence that the fingerprints
2 appearing thereon and certified by the judge as aforesaid are
3 the fingerprints of the defendant against whom such judgment
4 was rendered.

5 (d) At the time the defendant's fingerprints are
6 taken, the judge shall also cause the defendant's social
7 security number to be taken. The defendant's social security
8 number shall be affixed to every written judgment of
9 conviction in open court, in the presence of such judge, and
10 at the time the judgment is rendered. If the defendant is
11 unable or unwilling to provide his or her social security
12 number, the reason for its absence shall be indicated on the
13 written judgment.

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

17 322.16 License restrictions.--

18 (5) It is a misdemeanor of the second degree,
19 punishable as provided in s. 775.082 or s. 775.083, for any
20 person to operate a motor vehicle in any manner in violation
21 of the restrictions imposed in a license issued to him or her
22 except for a violation of paragraph (1)(d), subsection (2), ~~or~~
23 subsection (3), or subsection (7).

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

29 (b) A second or subsequent violation of paragraph (a)
30 is a felony of the third degree, punishable as provided in s.
31 775.082, s. 775.083, or s. 775.084. For a conviction of a

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1 violation under this paragraph, the court shall order a term
2 of incarceration of not less than 1 year.

3 (c) If the records of the department show that the
4 defendant has been previously convicted of an offense of
5 violation of an ignition interlock device restriction under
6 this subsection, that evidence is sufficient by itself to
7 establish that prior conviction; however, such evidence may be
8 contradicted or rebutted by other evidence. This presumption
9 may be considered along with any other evidence presented in
10 deciding whether the defendant has been previously convicted
11 of an offense of violation of an ignition interlock device
12 restriction.

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

15 322.251 Notice of cancellation, suspension,
16 revocation, or disqualification of license.--

17 (1) All orders of cancellation, suspension,
18 revocation, or disqualification issued under the provisions of
19 this chapter, chapter 318, chapter 324, or ss. 627.732-627.734
20 shall be given either by personal delivery thereof to the
21 licensee whose license is being canceled, suspended, revoked,
22 or disqualified or by deposit in the United States mail in an
23 envelope, first class, postage prepaid, addressed to the
24 licensee at his or her last known mailing address furnished to
25 the department. Such mailing by the department constitutes
26 notification, and any failure by the person to receive the
27 mailed order will not affect or stay the effective date or
28 term of the cancellation, suspension, revocation, or
29 disqualification of the licensee's driving privilege.

30 Notification of cancellation, suspension, revocation, or
31 disqualification given by the department under this section

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1 shall also inform the person whose driver's license or driving
 2 privilege has been canceled, suspended, revoked, or
 3 disqualified that any motor vehicle driven by or under the
 4 actual physical control of that person while the license or
 5 driving privilege is canceled, suspended, revoked, or
 6 disqualified is subject to impoundment and immobilization
 7 under s. 322.34.

8 (6)(a) Whenever a cancellation, suspension,
 9 revocation, or disqualification occurs, the department shall
 10 enter the cancellation, suspension, revocation, or
 11 disqualification order on the licensee's driver file 20 days
 12 after the notice was actually placed in the mail. Any inquiry
 13 into the file after the 20-day period shall reveal that the
 14 license is canceled, suspended, revoked, or disqualified and
 15 whether the license has been received by the department.

16 (b)1. The department shall make available on its
 17 Internet website the means to determine the status of a
 18 person's driver's license by entering the driver's license
 19 number or name and date of birth of the licensee. The
 20 department shall also provide a toll-free telephone hotline to
 21 provide callers with the status of a person's driver's
 22 license. The information provided on the Internet website or
 23 via the telephone hotline under this subparagraph shall
 24 include the date and time it was first made available to the
 25 public.

26 2. Upon request from any law enforcement agency or
 27 officer of the court, the department shall certify the date
 28 and time the information was first made available to the
 29 public under subparagraph 1.

30 Section 6. Subsection (17) of section 322.2615,
 31 Florida Statutes, is created to read:

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1 322.2615 Suspension of license; right to review.--
2 (17) Before issuing a permanent or restricted driver's
3 license to a person suspended under this section for refusal
4 to submit to a blood, breath, or urine test, the department
5 shall require placement of a department-approved ignition
6 interlock device. If this is the first suspension for refusal
7 to submit to a blood, breath, or urine test, the ignition
8 interlock device shall be required for a period of six months
9 and in the case a second or subsequent suspension for refusal
10 to submit to a blood, breath, or urine test, the ignition
11 interlock shall be required for a period for a period of 1
12 year.

13 Section 7. Subsection (3) of section 322.271, Florida
14 Statutes, is amended to read:

15 322.271 Authority to modify revocation, cancellation,
16 or suspension order.--

17 (3) Upon such hearing, the department shall either
18 suspend, affirm, or modify its order and may restore to the
19 licensee the privilege of driving on a limited or restricted
20 basis for business or employment use only. If the department
21 suspends, affirms or modifies its order and restores the
22 licensee the privilege of driving on a limited or restricted
23 basis for business or employment use after upholding an
24 administrative suspension for refusal the licensee is required
25 to have an ignition interlock device installed for the time
26 periods listed in s. 322.2715(3). If a hearing is not held,
27 then the administrative suspension for refusal is upheld and
28 goes into effect the licensee is required to have an ignition
29 interlock device installed for the time periods listed in s.
30 322.2715(3).

31 Section 8. Section 322.2715, Florida Statutes, is

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1 amended to read:

2 322.2715 Ignition interlock device.--

3 (1) Before issuing a permanent or restricted driver's
 4 license under this chapter, the department shall require the
 5 placement of a department-approved ignition interlock device
 6 for any person convicted of committing an offense of driving
 7 under the influence or refusing to submit to breath, blood or
 8 urine test as specified in subsection (3), except that
 9 consideration may be given to those individuals having a
 10 documented medical condition that would prohibit the device
 11 from functioning normally. An interlock device shall be placed
 12 on all vehicles that are individually or jointly leased or
 13 owned and routinely operated by the convicted person.

14 (2) For purposes of this section, any conviction for a
 15 violation of s. 316.193, a previous conviction for a violation
 16 of former s. 316.1931, or a conviction outside this state for
 17 driving under the influence, driving while intoxicated,
 18 driving with an unlawful blood-alcohol level, or any other
 19 similar alcohol-related or drug-related traffic offense is a
 20 conviction of driving under the influence.

21 (3) If the person is convicted of:

22 (a) A first offense of driving under the influence
 23 under s. 316.193 and has an unlawful blood-alcohol level or
 24 breath-alcohol level as specified in s. 316.193(4), or a
 25 refusal under s. 316.1939 or if a person is convicted of a
 26 violation of s. 316.193 and was at the time of the offense
 27 accompanied in the vehicle by a person younger than 18 years
 28 of age, the person shall have the ignition interlock device
 29 installed for 6 months for the first offense and for at least
 30 2 years for a second offense.

31 (b) A second offense of driving under the influence or

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1 a refusal under s. 316.1939, the ignition interlock device
2 shall be installed for a period of not less than 1 year.

3 (c) A third offense of driving under the influence or
4 a refusal under s. 316.1939 which occurs within 10 years after
5 a prior conviction for a violation of s. 316.193, the ignition
6 interlock device shall be installed for a period of not less
7 than 2 years.

8 (d) A third offense of driving under the influence or
9 a refusal under s. 316.1939 which occurs more than 10 years
10 after the date of a prior conviction, the ignition interlock
11 device shall be installed for a period of not less than 2
12 years.

13 (4) If the court fails to order the mandatory
14 placement of the ignition interlock device or fails to order
15 for the applicable period the mandatory placement of an
16 ignition interlock device under s. 316.193 or s. 316.1937 at
17 the time of imposing sentence or within 30 days thereafter,
18 the department shall immediately require that the ignition
19 interlock device be installed as provided in this section,
20 except that consideration may be given to those individuals
21 having a documented medical condition that would prohibit the
22 device from functioning normally. This subsection applies to
23 the reinstatement of the driving privilege following a
24 revocation, suspension, or cancellation that is based upon a
25 conviction for the offense of driving under the influence
26 which occurs on or after July 1, 2005.

27 Section 9. Effective October 1, 2006, subsections (1)
28 through (6) of section 322.34, Florida Statutes, are amended,
29 and subsection (10) is added to that section, to read:

30 322.34 Driving while license suspended, revoked,
31 canceled, or disqualified.--

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1 (1) Except as provided in subsection (2), any person
 2 whose driver's license or driving privilege has been canceled,
 3 suspended, ~~or~~ revoked, or disqualified, except a "habitual
 4 traffic offender" as defined in s. 322.264, who drives a
 5 vehicle upon the highways of this state while such license or
 6 privilege is canceled, suspended, ~~or~~ revoked, or disqualified
 7 commits ~~is guilty of~~ a moving violation, punishable as
 8 provided in chapter 318.

9 (2) Any person whose driver's license or driving
 10 privilege has been canceled, suspended, ~~or~~ revoked, or
 11 disqualified as provided by law, except persons defined in s.
 12 322.264, who, knowing of such cancellation, suspension, ~~or~~
 13 revocation, or disqualification, drives any motor vehicle upon
 14 the highways of this state while such license or privilege is
 15 canceled, suspended, ~~or~~ revoked, or disqualified, or any
 16 person who drives any motor vehicle upon the highways of this
 17 state without having a valid driver's license as required
 18 under s. 322.03, upon:

19 (a) A first conviction is guilty of a misdemeanor of
 20 the second degree, punishable as provided in s. 775.082 or s.
 21 775.083, except that any person whose driver's license or
 22 driving privilege was canceled, suspended, revoked, or
 23 disqualified under s. 322.2615, relating to unlawful
 24 blood-alcohol level or breath-alcohol level or for refusal to
 25 submit to a breath, urine, or blood test authorized by s.
 26 316.1932, s. 322.28(2)(a) for a violation of s. 316.193 or s.
 27 316.1931 prohibiting driving under the influence, s.
 28 316.655(2) for an alcohol-related or drug-related conviction,
 29 or s. 316.1939 for refusal to submit to testing, is guilty of
 30 a misdemeanor of the first degree, punishable as provided in
 31 s. 775.082 or s. 775.083, and the court must order

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1 imprisonment for not less than 30 days.

2 (b) A second conviction is guilty of a misdemeanor of
3 the first degree, punishable as provided in s. 775.082 or s.
4 775.083.

5 (c) A third or subsequent conviction is guilty of a
6 felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8
9 The element of knowledge is satisfied if the person has been
10 previously cited as provided in subsection (1); ~~or~~ the person
11 admits to knowledge of the cancellation, suspension, ~~or~~
12 revocation, or disqualification; or the person received notice
13 as provided in subsection (4). There shall be a rebuttable
14 presumption that the knowledge requirement is satisfied if a
15 judgment or order or cancellation, suspension, revocation, or
16 disqualification by the department as provided in subsection
17 (4) appears in the department's records ~~for any case except~~
18 ~~for one involving a suspension by the department for failure~~
19 ~~to pay a traffic fine or for a financial responsibility~~
20 ~~violation .~~

21 (3) In any proceeding for a violation of this section,
22 a court may consider evidence, other than that specified in
23 subsection (2) or subsection (8), that the person knowingly
24 violated this section.

25 (4) Any judgment or order rendered by a court or
26 adjudicatory body, any cancellation, suspension, revocation,
27 or disqualification by the department, or any uniform traffic
28 citation that cancels, suspends, ~~or~~ revokes, or disqualifies a
29 person's driver's license must contain a provision notifying
30 the person that his or her driver's license has been canceled,
31 suspended, ~~or~~ revoked, or disqualified and must inform the

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1 person that any motor vehicle driven by that person while the
2 license is canceled, suspended, revoked, or disqualified shall
3 be impounded or immobilized pursuant to this section.

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

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

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

14 (b) While his or her driver's license or driving
15 privilege is canceled, suspended, ~~or~~ revoked, or disqualified
16 pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s.
17 322.28(2) or (4),

18
19 and who by careless or negligent operation of the motor
20 vehicle causes the death of or serious bodily injury to
21 another human being, commits ~~is guilty of~~ a felony of the
22 third degree, punishable as provided in s. 775.082 or s.
23 775.083.

24 (10)(a) Every judgment, regardless of whether
25 adjudication is withheld, with respect to any offense governed
26 by the provisions of this section shall be in writing, signed
27 by the judge, and recorded by the clerk of the circuit court.
28 The judge shall cause to be affixed to every such written
29 judgment of conviction, in open court and in the presence of
30 such judge, the fingerprints of the defendant against whom
31 such judgment is rendered. Such fingerprints shall be affixed

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1 beneath the judge's signature to any such judgment. Beneath
2 such fingerprints shall be appended a certificate to the
3 following effect:

4
5 "I hereby certify that the above and foregoing fingerprints
6 are of the defendant, (name of defendant), and that they were
7 placed thereon by said defendant in my presence, in open
8 court, this the day of ..,
9 (year)."

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

12 (c) Any such written judgment, or a certified copy
13 thereof, shall be admissible in evidence in the several courts
14 of this state as prima facie evidence that the fingerprints
15 appearing thereon and certified by the judge as aforesaid are
16 the fingerprints of the defendant against whom such judgment
17 was rendered.

18 (d) At the time the defendant's fingerprints are
19 taken, the judge shall also cause the defendant's social
20 security number to be taken. The defendant's social security
21 number shall be affixed to every written judgment in open
22 court, in the presence of such judge, and at the time the
23 judgment is rendered. If the defendant is unable or unwilling
24 to provide his or her social security number, the reason for
25 its absence shall be indicated on the written judgment.

26 Section 10. Effective July 1, 2007, subsection (8) of
27 section 322.34, Florida Statutes, as amended by this act, is
28 renumbered as subsection (9) and amended, subsections (9) and
29 (10) are renumbered as subsections (10) and (11),
30 respectively, and a new subsection (8) is added to that
31 section, to read:

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1 322.34 Driving while license suspended, revoked,
2 canceled, or disqualified.--

3 (8) Any owner or lessee of a motor vehicle who
4 knowingly allows, permits, or authorizes a person whose
5 driver's license or driving privilege has been canceled,
6 suspended, revoked, or disqualified to drive the motor vehicle
7 upon the streets or highways of this state or knowingly gives,
8 leases, lends, or otherwise provides the motor vehicle to a
9 person whose driver's license or driving privilege has been
10 canceled, suspended, revoked, or disqualified while such
11 license or privilege is canceled, suspended, revoked, or
12 disqualified commits a misdemeanor of the second degree,
13 punishable as provided in s. 775.082 or s. 775.083. The
14 element of knowledge is satisfied if the owner or lessee has
15 been previously charged under this subsection for aiding the
16 same person; the owner admits to knowledge of the
17 cancellation, suspension, revocation, or disqualification of
18 the driver's license or driving privilege of the driver; or
19 the owner received notice as provided in subsection (9)
20 relating to the same driver. There shall be a rebuttable
21 presumption that the knowledge requirement is satisfied if the
22 cancellation, suspension, revocation, or disqualification
23 appears in the department's records and that information is
24 available to the public through the department's Internet
25 website or a toll-free telephone hotline.

26 (9)(8)(a)1. If a law enforcement officer determines
27 that a motor vehicle is being driven by or is under the actual
28 physical control of a person whose driver's license or driving
29 privilege is canceled, suspended, revoked, or disqualified,
30 the officer shall immediately impound or immobilize the motor
31 vehicle. The officer shall serve notice of the impoundment or

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1 immobilization upon the driver. The notice shall include the
 2 location where the motor vehicle is being held and information
 3 on the procedures to have the motor vehicle released from
 4 impoundment or immobilization by a department-approved vendor.

5 2. A law enforcement officer arresting a driver whose
 6 license or driving privilege is suspended shall notify the
 7 department or the department's agent within 24 hours to effect
 8 impoundment or immobilization under this paragraph. The
 9 department or the department's agent shall remove and
 10 immobilize the motor vehicle at another location. The
 11 impounding company shall not release the motor vehicle for
 12 immobilization at another location without proof that the
 13 immobilization vendor is approved by the department. The motor
 14 vehicle shall remain in impound or immobilized until the owner
 15 or lessee receives authorization from the department for
 16 release of the motor vehicle under the provisions of this
 17 subsection. The department is authorized to adopt by rule
 18 procedures for removal and immobilization of the motor vehicle
 19 by a department-approved vendor from the location where the
 20 motor vehicle was stopped by the law enforcement officer.

21 3. A motor vehicle impounded or immobilized under this
 22 paragraph that, according to the records of the department, is
 23 owned or leased by the person who was driving or in actual
 24 physical control of the motor vehicle when it was stopped and
 25 impounded under subparagraph 1. shall remain impounded or
 26 immobilized until the person's license and driving privilege
 27 are reinstated and payment of the fees imposed under paragraph
 28 (b) and all costs of towing, impoundment, immobilization, and
 29 storage has been made. If department records show a different
 30 owner or lessee, then the motor vehicle shall be released to
 31 that owner or lessee or the owner's or lessee's agent upon

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1 payment of the fees imposed under paragraph (c) and all costs
2 of towing, impoundment, immobilization, and storage. The
3 department's records shall reflect that the motor vehicle is
4 immobilized or impounded.

5 (b) Within 7 business days after the date the law
6 enforcement agency or the department impounds or immobilizes
7 the motor vehicle under this subsection, the department shall
8 send notice of the impoundment or immobilization by certified
9 mail, return receipt requested, to any registered owners or
10 coowners of the motor vehicle other than the driver and to
11 each person of record claiming a lien against the motor
12 vehicle. The notice shall include the location where the motor
13 vehicle is being held and information on the procedures to
14 have the motor vehicle released from impoundment or
15 immobilization by a department-approved vendor. All costs and
16 fees for the impoundment or immobilization, including the cost
17 of notification, must be paid by the owner of the motor
18 vehicle or, if the motor vehicle is leased, by the person
19 leasing the motor vehicle.

20 (c)1. The department shall collect a \$30 processing
21 fee from the owner or lessee prior to release of any motor
22 vehicle immobilized or impounded under this subsection. Moneys
23 collected under this subparagraph shall be forwarded to the
24 Department of Revenue for deposit into the State
25 Transportation Trust Fund created under s. 206.46 to be used
26 to carry out public transit responsibilities of the Department
27 of Transportation under s. 341.041.

28 2. The department shall charge a reasonable fee to the
29 owner or lessee of the motor vehicle to cover the operational
30 costs of the program and the cost of immobilizing or
31 impounding the motor vehicle. Fees collected under this

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1 subparagraph shall be deposited in the Department of Highway
2 Safety and Motor Vehicles Operating Trust Fund.

3 (d) Upon satisfaction of all of the requirements under
4 this subsection for release of the motor vehicle, the
5 department shall authorize release of the motor vehicle to the
6 owner or lessee.

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

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

14 (g) Notification of cancellation, suspension,
15 revocation, or disqualification given by the department under
16 s. 322.251 shall also inform the person whose driver's license
17 or driving privilege has been canceled, suspended, revoked, or
18 disqualified that any motor vehicle driven by or under the
19 actual physical control of that person while the license or
20 driving privilege is canceled, suspended, revoked, or
21 disqualified is subject to impoundment under this subsection;
22 however, failure to receive such notification shall not
23 preclude, bar, or otherwise affect the impoundment of a motor
24 vehicle under this subsection.

25 (h) The department shall make available on its
26 Internet website the means to determine the status of a
27 person's driver's license by entering the driver license
28 number or name and date of birth of the licensee. The
29 department shall also provide a toll-free telephone hotline to
30 provide callers with the status of a person's driver's
31 license.

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1 (i) The department may adopt rules pursuant to ss.
2 120.536(1) and 120.54 to implement the provisions of this
3 subsection. Upon the arrest of a person for the offense of
4 driving while the person's driver's license or driving
5 privilege is suspended or revoked, the arresting officer shall
6 determine:

7 1. ~~Whether the person's driver's license is suspended~~
8 ~~or revoked.~~

9 2. ~~Whether the person's driver's license has remained~~
10 ~~suspended or revoked since a conviction for the offense of~~
11 ~~driving with a suspended or revoked license.~~

12 3. ~~Whether the suspension or revocation was made under~~
13 ~~s. 316.646 or s. 627.733, relating to failure to maintain~~
14 ~~required security, or under s. 322.264, relating to habitual~~
15 ~~traffic offenders.~~

16 4. ~~Whether the driver is the registered owner or~~
17 ~~coowner of the vehicle.~~

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

21 (c) ~~Within 7 business days after the date the~~
22 ~~arresting agency impounds or immobilizes the vehicle, either~~
23 ~~the arresting agency or the towing service, whichever is in~~
24 ~~possession of the vehicle, shall send notice by certified~~
25 ~~mail, return receipt requested, to any coregistered owners of~~
26 ~~the vehicle other than the person arrested and to each person~~
27 ~~of record claiming a lien against the vehicle. All costs and~~
28 ~~fees for the impoundment or immobilization, including the cost~~
29 ~~of notification, must be paid by the owner of the vehicle or,~~
30 ~~if the vehicle is leased, by the person leasing the vehicle.~~

31 (d) ~~Either the arresting agency or the towing service,~~

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1 ~~whichever is in possession of the vehicle, shall determine~~
2 ~~whether any vehicle impounded or immobilized under this~~
3 ~~section has been leased or rented or if there are any persons~~
4 ~~of record with a lien upon the vehicle. Either the arresting~~
5 ~~agency or the towing service, whichever is in possession of~~
6 ~~the vehicle, shall notify by express courier service with~~
7 ~~receipt or certified mail, return receipt requested, within 7~~
8 ~~business days after the date of the immobilization or~~
9 ~~impoundment of the vehicle, the registered owner and all~~
10 ~~persons having a recorded lien against the vehicle that the~~
11 ~~vehicle has been impounded or immobilized. A lessor, rental~~
12 ~~car company, or lienholder may then obtain the vehicle, upon~~
13 ~~payment of any lawful towing or storage charges. If the~~
14 ~~vehicle is a rental vehicle subject to a written contract, the~~
15 ~~charges may be separately charged to the renter, in addition~~
16 ~~to the rental rate, along with other separate fees, charges,~~
17 ~~and recoupments disclosed on the rental agreement. If the~~
18 ~~storage facility fails to provide timely notice to a lessor,~~
19 ~~rental car company, or lienholder as required by this~~
20 ~~paragraph, the storage facility shall be responsible for~~
21 ~~payment of any towing or storage charges necessary to release~~
22 ~~the vehicle to a lessor, rental car company, or lienholder~~
23 ~~that accrue after the notice period, which charges may then be~~
24 ~~assessed against the driver of the vehicle if the vehicle was~~
25 ~~lawfully impounded or immobilized.~~

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

29 ~~1. The owner presents proof of insurance to the~~
30 ~~arresting agency; or~~

31 ~~2. The owner presents proof of sale of the vehicle to~~

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1 ~~the arresting agency and the buyer presents proof of insurance~~
2 ~~to the arresting agency.~~

3
4 ~~If proof is not presented within 35 days after the impoundment~~
5 ~~or immobilization, a lien shall be placed upon such vehicle~~
6 ~~pursuant to s. 713.78.~~

7 ~~(f) The owner of a vehicle that is impounded or~~
8 ~~immobilized under this subsection may, within 10 days after~~
9 ~~the date the owner has knowledge of the location of the~~
10 ~~vehicle, file a complaint in the county in which the owner~~
11 ~~resides to determine whether the vehicle was wrongfully taken~~
12 ~~or withheld. Upon the filing of a complaint, the owner may~~
13 ~~have the vehicle released by posting with the court a bond or~~
14 ~~other adequate security equal to the amount of the costs and~~
15 ~~fees for impoundment or immobilization, including towing or~~
16 ~~storage, to ensure the payment of such costs and fees if the~~
17 ~~owner does not prevail. When the vehicle owner does not~~
18 ~~prevail on a complaint that the vehicle was wrongfully taken~~
19 ~~or withheld, he or she must pay the accrued charges for the~~
20 ~~immobilization or impoundment, including any towing and~~
21 ~~storage charges assessed against the vehicle. When the bond is~~
22 ~~posted and the fee is paid as set forth in s. 28.24, the clerk~~
23 ~~of the court shall issue a certificate releasing the vehicle.~~
24 ~~At the time of release, after reasonable inspection, the owner~~
25 ~~must give a receipt to the towing or storage company~~
26 ~~indicating any loss or damage to the vehicle or to the~~
27 ~~contents of the vehicle.~~

28 Section 11. Effective October 1, 2006, section
29 322.341, Florida Statutes, is amended to read:

30 322.341 Driving while license permanently
31 revoked.--Any person whose driver's license or driving

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1 privilege has been permanently revoked pursuant to s. 322.26
 2 or s. 322.28 and who drives a motor vehicle upon the highways
 3 of this state ~~commitsis guilty of~~ a felony of the third
 4 degree, punishable as provided in s. 775.082, s. 775.083, or
 5 s. 775.084, and the court must order imprisonment for not less
 6 than 90 days.

7 Section 12. The Department of Highway Safety and Motor
 8 Vehicles shall inform the motoring public of the changes to s.
 9 322.34, Florida Statutes, made by this act relating to
 10 impoundment or immobilization of a motor vehicle being driven
 11 by a person whose driver license is canceled, suspended,
 12 revoked, or disqualified and shall provide such information in
 13 newly printed driver's license educational materials after
 14 July 1, 2006, and in public service announcements produced in
 15 cooperation with the Florida Highway Patrol.

16 Section 13. During the period from July 1, 2006, to
 17 July 1, 2007, the Department of Highway Safety and Motor
 18 Vehicles shall notify by mail persons whose driver license or
 19 driving privilege has been canceled, suspended, revoked, or
 20 disqualified of the changes to s. 322.34, Florida Statutes,
 21 made by this act relating to impoundment or immobilization of
 22 a motor vehicle being driven by such person; however, failure
 23 to receive such notification shall not preclude, bar, or
 24 otherwise affect the impoundment or immobilization of a motor
 25 vehicle under s. 322.34, Florida Statutes.

26 Section 14. Except as otherwise expressly provided in
 27 this act, this act shall take effect July 1, 2006.

30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 Delete everything before the enacting clause

2

3 and insert:

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

31 prohibiting operation of a motor vehicle in

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1 violation of an ignition interlock device
2 restriction imposed in the operator's driver
3 license; providing penalties; providing an
4 enhanced penalty for second and subsequent
5 offenses; providing for an evidentiary
6 presumption of prior convictions of specified
7 violations of ignition interlock device
8 restrictions; providing applicability; amending
9 s. 322.251, F.S.; requiring certain information
10 to be included with notice to a person whose
11 driver license or driving privilege is being
12 canceled, suspended, revoked, or disqualified;
13 requiring the Department of Highway Safety and
14 Motor Vehicles to make driver license status
15 information available to the public through the
16 Internet and a phone system; requiring the
17 department to certify the availability of the
18 information upon request by certain persons;
19 amending s. 322.2615, F.S.; requiring the
20 placement of a department-approved ignition
21 interlock device under certain circumstances;
22 amending s. 322.271, F.S.; requiring a licensee
23 to have an ignition interlock device installed
24 under certain circumstances after upholding an
25 administrative suspension; amending s.
26 322.2715, F.S.; requiring the installation of
27 an ignition interlock device for specified time
28 periods for refusal to submit to testing under
29 s. 316.1939, F.S.; amending s. 322.34, F.S.;

30 providing for application of certain penalty
31 provisions for driving without a valid license

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1 to a person whose driver license or driving
2 privilege has been disqualified; revising
3 penalties for driving without a valid license
4 or knowingly driving while driver license or
5 driving privilege is canceled, suspended,
6 revoked, or disqualified for specified
7 alcohol-related or drug-related convictions or
8 refusal to submit to certain testing; revising
9 provisions for satisfaction of the element of
10 knowledge; requiring a cancellation,
11 suspension, revocation, or disqualification by
12 the department or a uniform traffic citation to
13 contain a provision notifying the person that
14 his or her driver license or driving privilege
15 has been canceled, suspended, revoked, or
16 disqualified; requiring impoundment and
17 immobilization information to be included with
18 notice to a person whose driver license or
19 driving privilege has been canceled, suspended,
20 revoked, or disqualified; revising penalty
21 provisions for a habitual offender driving
22 while his or her license is revoked; revising
23 circumstances for application of specified
24 penalties for certain careless or negligent
25 driving offenses; requiring a written judgment
26 signed by the judge and recorded by the clerk
27 for cases involving a violation of requirements
28 to possess a valid driver license; providing
29 for content of the written judgment; requiring
30 fingerprints of the defendant and a certificate
31 to be affixed to the written judgment of

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1 conviction; providing for content of the
2 certificate; providing that the written
3 judgment shall be admissible as prima facie
4 evidence that the fingerprints appearing
5 thereon and certified by the judge are the
6 fingerprints of the defendant; requiring the
7 defendant's social security number to be
8 affixed to the written judgment of conviction
9 or the reason for its absence to be indicated;
10 amending s. 322.34, F.S.; providing penalties
11 for knowingly aiding a person whose driver
12 license or driving privilege is canceled,
13 suspended, revoked, or disqualified by
14 providing a motor vehicle or authorizing use of
15 a motor vehicle; providing for a rebuttable
16 presumption of the knowledge requirement;
17 requiring an officer stopping a motor vehicle
18 being driven by or under the actual physical
19 control of a person whose driver license or
20 driving privilege is canceled, suspended,
21 revoked, or disqualified to impound or
22 immobilize the motor vehicle; providing for
23 notice to the driver; providing for impoundment
24 and immobilization of the motor vehicle by the
25 department; providing for notice to registered
26 owners of the motor vehicle and lienholders;
27 authorizing the department to adopt rules
28 providing for the department to commence
29 impoundment or immobilization at the scene
30 where the motor vehicle was stopped; providing
31 procedures; providing for release of the motor

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1 vehicle; requiring department records to
2 contain impoundment and immobilization
3 information; providing for payment of costs;
4 providing for certain fees for certain
5 purposes; requiring the department to authorize
6 release of the motor vehicle upon satisfaction
7 of all requirements; providing for an impounded
8 or immobilized motor vehicle that is found
9 being operated upon any street or highway in
10 this state during period of impoundment or
11 immobilization to be seized and subject to
12 forfeit; authorizing the department to contract
13 with vendors; requiring the department to make
14 driver license status information available to
15 the public through the Internet and a phone
16 system; authorizing the department to adopt
17 rules; amending s. 322.341, F.S.; revising
18 penalty provisions for a person who drives a
19 motor vehicle when his or her driver license
20 has been permanently revoked; directing the
21 department to inform drivers whose license or
22 driving privilege has been canceled, suspended,
23 revoked, or disqualified and the motoring
24 public of the provisions for impoundment and
25 immobilization of motor vehicles under this
26 act; providing effective dates.

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31