

By Senator Gaetz

4-1693-07

1 A bill to be entitled
2 An act relating to driving without a valid
3 license; creating the "Deputy Michael Callin,
4 Michael Haligowski, and Deputy Ryan C. Seguin
5 Memorial Traffic Safety Act"; amending s.
6 318.14, F.S.; authorizing the court to withhold
7 adjudication of certain violations related to
8 driving without a valid license if the person
9 cited meets certain conditions; providing that
10 the withholding of adjudication is not a
11 conviction under certain circumstances;
12 amending s. 322.03, F.S.; requiring a written
13 judgment signed by the judge and recorded by
14 the clerk for cases involving a violation of
15 requirements to possess a valid driver license;
16 requiring defendant's fingerprints and a
17 certificate to be affixed to the written
18 judgment of conviction; providing for content
19 of the certificate; requiring the defendant's
20 social security number to be affixed to the
21 written judgment of conviction or the reason
22 for its absence to be indicated; providing that
23 the written judgment constitutes prima facie
24 evidence that the fingerprints are the
25 defendant's fingerprints; amending s. 322.251,
26 F.S.; requiring impoundment and immobilization
27 information to be included with notice to a
28 person whose driver license or driving
29 privilege is being canceled, suspended,
30 revoked, or disqualified; amending s. 322.34,
31 F.S.; providing for application of certain

1 penalty provisions to a person who does not
2 have a valid driver license or whose driver
3 license or driving privilege has been
4 disqualified; revising penalties for driving
5 without a valid license or knowingly driving
6 while driver license or driving privilege is
7 canceled, suspended, revoked, or disqualified
8 for specified alcohol-related or drug-related
9 convictions or refusal to submit to certain
10 testing; revising provisions for satisfaction
11 of the element of knowledge; requiring a
12 cancellation, suspension, revocation, or
13 disqualification by the department or a uniform
14 traffic citation to contain a provision
15 notifying the person that his or her driver
16 license or driving privilege has been canceled,
17 suspended, revoked, or disqualified; requiring
18 impoundment and immobilization information to
19 be included with notice to a person whose
20 driver license or driving privilege has been
21 canceled, suspended, revoked, or disqualified;
22 revising penalty provisions for a habitual
23 offender driving while his or her license is
24 revoked; providing that a person who causes the
25 death of or serious bodily injury to another
26 person by careless or negligent operation of a
27 motor vehicle while his or her license or
28 driving privilege is canceled, suspended,
29 revoked, or disqualified commits a felony of
30 the third degree; requiring a written judgment
31 signed by the judge and recorded by the clerk

1 for cases involving a violation of requirements
2 to possess a valid driver license; requiring
3 defendant's fingerprints and a certificate to
4 be affixed to the written judgment of
5 conviction; providing for content of the
6 certificate; requiring the defendant's social
7 security number to be affixed to the written
8 judgment of conviction or the reason for its
9 absence to be indicated; providing that the
10 written judgment constitutes prima facie
11 evidence that the fingerprints are the
12 defendant's fingerprints; amending s. 322.34,
13 F.S.; requiring a law enforcement officer who
14 determines that a motor vehicle is being driven
15 by or under the actual physical control of a
16 person whose driver license or driving
17 privilege is canceled, suspended, revoked, or
18 disqualified to impound or immobilize the motor
19 vehicle; providing for notice to the driver;
20 providing for impoundment and immobilization of
21 the motor vehicle by the department; providing
22 for the department to commence impoundment or
23 immobilization at the scene where the motor
24 vehicle was immobilized; providing procedures;
25 providing for release of the motor vehicle;
26 requiring department records to contain
27 impoundment and immobilization information;
28 providing for payment of costs; providing for
29 certain fees and distribution of moneys
30 collected; requiring the department to
31 authorize release of the motor vehicle upon

1 satisfaction of all requirements; prohibiting
2 operation of an immobilized motor vehicle;
3 providing for an immobilized motor vehicle that
4 is found being operated upon any street or
5 highway in this state before release from
6 immobilization to be seized and subject to
7 forfeit; authorizing the department to contract
8 with vendors; directing the department to
9 inform the person whose driver license or
10 driving privilege has been canceled, suspended,
11 revoked, or disqualified that any motor vehicle
12 driven by or under the actual physical control
13 of that person is subject to impoundment and
14 immobilization; authorizing the department to
15 adopt rules; providing penalties for knowingly
16 aiding a person whose driver license or driving
17 privilege is canceled, suspended, revoked, or
18 disqualified by providing a motor vehicle or
19 authorizing use of a motor vehicle; providing
20 for a rebuttable presumption of satisfaction of
21 the knowledge requirement; amending s. 322.341,
22 F.S.; revising penalty provisions for a person
23 who drives a motor vehicle when his or her
24 driver license has been permanently revoked;
25 amending s. 932.701, F.S.; revising the
26 definition of "contraband article" to include
27 certain seized motor vehicles for purposes of
28 the Florida Contraband Forfeiture Act;
29 directing the department to inform drivers
30 whose license or driving privilege has been
31 canceled, suspended, revoked, or disqualified

1 and the motoring public of the provisions for
2 impoundment and immobilization of motor
3 vehicles under this act; providing effective
4 dates.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. This act may be cited as the "Deputy
9 Michael Callin, Michael Haliowski, and Deputy Ryan C. Sequin
10 Memorial Traffic Safety Act."

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

13 318.14 Noncriminal traffic infractions; exception;
14 procedures.--

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

18 (b) If a person is cited for a violation of s.
19 322.34(2)(a) or (b) with a license that has been suspended
20 solely for failure to appear, failure to pay a civil penalty,
21 or failure to attend a driver improvement course pursuant to
22 s. 322.291 and such person provides to the court a valid or
23 reinstated driver's license and proper proof of maintenance of
24 security as required by s. 316.646, the court may withhold
25 adjudication pursuant to this subsection. If adjudication is
26 withheld for any person pursuant to this paragraph, such
27 action is not a conviction if adjudication has not been
28 withheld under this paragraph for a prior offense during the 3
29 years before the date of the cited offense.

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

1 322.03 Drivers must be licensed; penalties.--
2 (7)(a) Every judgment for a violation of subsection
3 (1), regardless of whether adjudication is withheld, shall be
4 in writing, signed by the judge, and recorded by the clerk of
5 the circuit court.
6 1. In open court and in the presence of the judge, the
7 judge shall cause the fingerprints of the defendant against
8 whom the judgment is rendered to be affixed beneath the
9 judge's signature to the written judgment of conviction.
10 Beneath the fingerprints shall be appended a certificate to
11 the following effect:
12
13 "I hereby certify that the above fingerprints are those of the
14 defendant, (name of defendant), and that they were placed
15 thereon by said defendant in my presence, in open court, this
16 the day of ..
17 (year)."
18 2. The certificate shall be signed by the judge, whose
19 signature shall be followed by the word "Judge."
20 3. At the time the defendant's fingerprints are taken,
21 the judge shall also cause the defendant's social security
22 number to be taken. The defendant's social security number
23 shall be affixed to every written judgment of conviction in
24 open court, in the presence of the judge, and at the time the
25 judgment is rendered. If the defendant is unable or unwilling
26 to provide his or her social security number, the reason for
27 its absence shall be indicated on the written judgment.
28 (b) Any such written judgment, or a certified copy
29 thereof, shall be admissible in evidence in the several courts
30 of this state as prima facie evidence that the fingerprints
31 appearing thereon and certified by the judge are the

1 fingerprints of the defendant against whom that judgment was
2 rendered.

3 Section 4. Subsection (1) of section 322.251, Florida
4 Statutes, is amended to read:

5 322.251 Notice of cancellation, suspension,
6 revocation, or disqualification of license.--

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

20 Notification of cancellation, suspension, revocation, or
21 disqualification given by the department under this section
22 shall also inform the person whose license or driving
23 privilege has been canceled, suspended, revoked, or
24 disqualified that any motor vehicle driven by or under the
25 actual physical control of that person while the license or
26 driving privilege is canceled, suspended, revoked, or
27 disqualified is subject to impoundment and immobilization
28 under s. 322.34; however, any failure by the department to
29 include the impoundment and immobilization information with
30 the notification or any failure by the person to receive that
31 information will not affect or stay the effective date or term

1 of the cancellation, suspension, revocation, or
2 disqualification of the licensee's driving privilege and will
3 not preclude, bar, or otherwise affect the impoundment or
4 immobilization of a motor vehicle under s. 322.34.

5 Section 5. Effective October 1, 2007, subsections (1),
6 (2), (4), (5), and (6) of section 322.34, Florida Statutes,
7 are amended, and subsection (10) is added to that section, to
8 read:

9 322.34 Driving while license suspended, revoked,
10 canceled, or disqualified.--

11 (1) Except as provided in subsection (2) and s.
12 322.341, any person whose driver's license or driving
13 privilege has been canceled, suspended, ~~or~~ revoked, or
14 disqualified, except a "habitual traffic offender" as defined
15 in s. 322.264, who drives a vehicle upon the highways of this
16 state while such license or privilege is canceled, suspended,
17 ~~or~~ revoked, or disqualified commits is guilty of a moving
18 violation, punishable as provided in chapter 318.

19 (2) Except as provided in s. 322.341, any person whose
20 driver's license or driving privilege has been canceled,
21 suspended, ~~or~~ revoked, or disqualified as provided by law,
22 except persons defined in s. 322.264, who, knowing of such
23 cancellation, suspension, ~~or~~ revocation, or disqualification,
24 drives any motor vehicle upon the highways of this state while
25 such license or privilege is canceled, suspended, ~~or~~ revoked,
26 or disqualified, or any person who drives any motor vehicle
27 upon the highways of this state without having a valid
28 driver's license as required under s. 322.03, upon:

29 (a) A first conviction is guilty of a misdemeanor of
30 the second degree, punishable as provided in s. 775.082 or s.
31 775.083, except that any person whose driver's license or

1 driving privilege was canceled, suspended, revoked, or
2 disqualified under s. 322.2615 relating to unlawful
3 blood-alcohol level or breath-alcohol level or for refusal to
4 submit to a breath, urine, or blood test authorized by s.
5 316.1932, s. 322.28(2)(a) for a violation of s. 316.193 or s.
6 316.1931 prohibiting driving under the influence, s.
7 316.655(2) for an alcohol-related or drug-related conviction,
8 or s. 316.1939 for refusal to submit to testing is guilty of a
9 misdemeanor of the first degree, punishable as provided in s.
10 775.082 or s. 775.083, and the court must order imprisonment
11 for not less than 30 days.

12 (b) A second conviction is guilty of a misdemeanor of
13 the first degree, punishable as provided in s. 775.082 or s.
14 775.083.

15 (c) A third or subsequent conviction is guilty of a
16 felony of the third degree, punishable as provided in s.
17 775.082, s. 775.083, or s. 775.084.

18
19 The element of knowledge is satisfied if the person has been
20 previously cited as provided in subsection (1); ~~or~~ the person
21 admits to knowledge of the cancellation, suspension, ~~or~~
22 revocation, or disqualification; or the person received notice
23 as provided in subsection (4). There shall be a rebuttable
24 presumption that the knowledge requirement is satisfied if a
25 judgment or order or a cancellation, suspension, revocation,
26 or disqualification by the department as provided in
27 subsection (4) appears in the department's records ~~for any~~
28 ~~case except for one involving a suspension by the department~~
29 ~~for failure to pay a traffic fine or for a financial~~
30 ~~responsibility violation.~~

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1 (4) Any judgment or order rendered by a court or
2 adjudicatory body, any cancellation, suspension, revocation,
3 or disqualification by the department, or any uniform traffic
4 citation that cancels, suspends, ~~or~~ revokes, or disqualifies a
5 person's driver's license must contain a provision notifying
6 the person that his or her driver's license has been canceled,
7 suspended, ~~or~~ revoked, or disqualified and must inform the
8 person that any motor vehicle driven by that person while the
9 license is canceled, suspended, revoked, or disqualified shall
10 be impounded or immobilized pursuant to this section.

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

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

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

21 (b) While his or her driver's license or driving
22 privilege is canceled, suspended, ~~or~~ revoked, or disqualified
23 ~~pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s.~~
24 ~~322.28(2) or (4),~~

25
26 and who by careless or negligent operation of the motor
27 vehicle causes the death of or serious bodily injury to
28 another human being, commits ~~is guilty of~~ a felony of the
29 third degree, punishable as provided in s. 775.082 or s.
30 775.083.

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1 (10)(a) With respect to any offense governed by the
2 provisions of this section, regardless of whether adjudication
3 is withheld, every judgment shall be in writing, signed by the
4 judge, and recorded by the clerk of the circuit court.

5 1. In open court and in the presence of the judge, the
6 judge shall cause the fingerprints of the defendant against
7 whom the judgment is rendered to be affixed beneath the
8 judge's signature to the written judgment of conviction.
9 Beneath the fingerprints shall be appended a certificate to
10 the following effect:

11
12 "I hereby certify that the above fingerprints are those of the
13 defendant, (name of defendant), and that they were placed
14 thereon by said defendant in my presence, in open court, this
15 the day of ..
16 (year)."

17 2. The certificate shall be signed by the judge, whose
18 signature shall be followed by the word "Judge."

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

27 (b) Any such written judgment, or a certified copy
28 thereof, shall be admissible in evidence in the several courts
29 of this state as prima facie evidence that the fingerprints
30 appearing thereon and certified by the judge are the
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1 fingerprints of the defendant against whom that judgment was
2 rendered.

3 Section 6. Effective July 1, 2008, subsections (3) and
4 (8) of section 322.34, Florida Statutes, as amended by this
5 act, are amended, and subsection (11) is added to that
6 section, to read:

7 322.34 Driving while license suspended, revoked,
8 canceled, or disqualified.--

9 (3) In any proceeding for a violation of this section,
10 a court may consider evidence, other than that specified in
11 subsection (2) or subsection (11), that the person knowingly
12 violated this section.

13 (8)(a)1. If a law enforcement officer determines that
14 a motor vehicle is being driven by or is under the actual
15 physical control of a person whose driver's license or driving
16 privilege is canceled, suspended, revoked, or disqualified,
17 the officer shall immediately impound the motor vehicle or
18 immobilize the motor vehicle by installing an immobilization
19 device on the vehicle. The officer shall serve notice of the
20 impoundment or immobilization upon the driver. The notice
21 shall include the location where the motor vehicle is being
22 held and information on the procedures to have the motor
23 vehicle released from impoundment or immobilization by a
24 department-approved vendor. A law enforcement officer who
25 proceeds in good faith to immobilize or impound a vehicle
26 under this section shall not be responsible for any towing,
27 immobilizing, or impounding fees. A law enforcement officer
28 may leave the scene of the impoundment without completing the
29 impoundment process if the officer is ordered elsewhere by his
30 superior officer or an emergency elsewhere arises, or due to
31 other exigent circumstances.

1 2. A law enforcement officer impounding or
2 immobilizing a motor vehicle under subparagraph 1. shall
3 notify the department or the department's agent within 24
4 hours to effect impoundment or immobilization under this
5 paragraph. The department or the department's agent shall
6 remove and impound or immobilize the motor vehicle at another
7 location. The motor vehicle may be immobilized by installation
8 of an immobilization device on the vehicle; however, the
9 impounding company shall not release the motor vehicle for
10 immobilization at another location without proof that the
11 immobilization vendor is approved by the department. The motor
12 vehicle shall remain in impound or immobilized until the owner
13 or lessee receives authorization from the department for
14 release of the motor vehicle under the provisions of this
15 subsection. The department is authorized to adopt by rule
16 procedures for removal and immobilization of the motor vehicle
17 by a department-approved vendor from the location where the
18 motor vehicle was impounded or immobilized by the law
19 enforcement officer under subparagraph 1.

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

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

4 (b)1. The department shall collect a \$30 processing
5 fee from the owner or lessee prior to release of any motor
6 vehicle immobilized or impounded under this subsection. Moneys
7 collected under this subparagraph shall be forwarded to the
8 Department of Revenue for deposit into the State
9 Transportation Trust Fund created under s. 206.46 to be used
10 to carry out public transit responsibilities of the Department
11 of Transportation under s. 341.041.

12 2. The department shall charge a reasonable fee, not
13 to exceed \$6, to the owner or lessee of the motor vehicle to
14 cover the operational costs of the program and the cost of
15 immobilizing or impounding the motor vehicle. Fees collected
16 under this subparagraph shall be deposited in the Operating
17 Trust Fund of the Department of Highway Safety and Motor
18 Vehicles.

19 (c) Upon satisfaction of all of the requirements under
20 this subsection for release of the motor vehicle, the
21 department shall authorize release of the motor vehicle to the
22 owner or lessee.

23 (d) A motor vehicle immobilized under this subsection
24 may not be operated in this state until released from
25 immobilization by the department or the department's agent. A
26 motor vehicle immobilized under this subsection that is found
27 being operated upon any street or highway in this state before
28 being released by the department or the department's agent
29 shall be seized and removed from the street or highway and may
30 be forfeited pursuant to ss. 932.701-932.704.

31

1 (e) The department may contract with vendors to carry
2 out the provisions of this subsection.

3 (f) Notification of cancellation, suspension,
4 revocation, or disqualification given by the department under
5 s. 322.251 shall also inform the person whose driver's license
6 or driving privilege has been canceled, suspended, revoked, or
7 disqualified that any motor vehicle driven by or under the
8 actual physical control of that person while the license or
9 driving privilege is canceled, suspended, revoked, or
10 disqualified is subject to impoundment and immobilization
11 under this subsection; however, failure to receive the
12 information shall not preclude, bar, or otherwise affect the
13 impoundment or immobilization of a motor vehicle under this
14 subsection.

15 (g) The department may adopt rules pursuant to ss.
16 120.536(1) and 120.54 to implement the provisions of this
17 subsection. Upon the arrest of a person for the offense of
18 driving while the person's driver's license or driving
19 privilege is suspended or revoked, the arresting officer shall
20 determine:

21 1. ~~Whether the person's driver's license is suspended~~
22 ~~or revoked.~~

23 2. ~~Whether the person's driver's license has remained~~
24 ~~suspended or revoked since a conviction for the offense of~~
25 ~~driving with a suspended or revoked license.~~

26 3. ~~Whether the suspension or revocation was made under~~
27 ~~s. 316.646 or s. 627.733, relating to failure to maintain~~
28 ~~required security, or under s. 322.264, relating to habitual~~
29 ~~traffic offenders.~~

30 4. ~~Whether the driver is the registered owner or~~
31 ~~coowner of the vehicle.~~

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

4 ~~(c) Within 7 business days after the date the~~
5 ~~arresting agency impounds or immobilizes the vehicle, either~~
6 ~~the arresting agency or the towing service, whichever is in~~
7 ~~possession of the vehicle, shall send notice by certified~~
8 ~~mail, return receipt requested, to any coregistered owners of~~
9 ~~the vehicle other than the person arrested and to each person~~
10 ~~of record claiming a lien against the vehicle. All costs and~~
11 ~~fees for the impoundment or immobilization, including the cost~~
12 ~~of notification, must be paid by the owner of the vehicle or,~~
13 ~~if the vehicle is leased, by the person leasing the vehicle.~~

14 ~~(d) Either the arresting agency or the towing service,~~
15 ~~whichever is in possession of the vehicle, shall determine~~
16 ~~whether any vehicle impounded or immobilized under this~~
17 ~~section has been leased or rented or if there are any persons~~
18 ~~of record with a lien upon the vehicle. Either the arresting~~
19 ~~agency or the towing service, whichever is in possession of~~
20 ~~the vehicle, shall notify by express courier service with~~
21 ~~receipt or certified mail, return receipt requested, within 7~~
22 ~~business days after the date of the immobilization or~~
23 ~~impoundment of the vehicle, the registered owner and all~~
24 ~~persons having a recorded lien against the vehicle that the~~
25 ~~vehicle has been impounded or immobilized. A lessor, rental~~
26 ~~car company, or lienholder may then obtain the vehicle, upon~~
27 ~~payment of any lawful towing or storage charges. If the~~
28 ~~vehicle is a rental vehicle subject to a written contract, the~~
29 ~~charges may be separately charged to the renter, in addition~~
30 ~~to the rental rate, along with other separate fees, charges,~~
31 ~~and recoupments disclosed on the rental agreement. If the~~

1 ~~storage facility fails to provide timely notice to a lessor,~~
2 ~~rental car company, or lienholder as required by this~~
3 ~~paragraph, the storage facility shall be responsible for~~
4 ~~payment of any towing or storage charges necessary to release~~
5 ~~the vehicle to a lessor, rental car company, or lienholder~~
6 ~~that accrue after the notice period, which charges may then be~~
7 ~~assessed against the driver of the vehicle if the vehicle was~~
8 ~~lawfully impounded or immobilized.~~

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

12 ~~1. The owner presents proof of insurance to the~~
13 ~~arresting agency; or~~

14 ~~2. The owner presents proof of sale of the vehicle to~~
15 ~~the arresting agency and the buyer presents proof of insurance~~
16 ~~to the arresting agency.~~

17
18 ~~If proof is not presented within 35 days after the impoundment~~
19 ~~or immobilization, a lien shall be placed upon such vehicle~~
20 ~~pursuant to s. 713.78.~~

21 ~~(f) The owner of a vehicle that is impounded or~~
22 ~~immobilized under this subsection may, within 10 days after~~
23 ~~the date the owner has knowledge of the location of the~~
24 ~~vehicle, file a complaint in the county in which the owner~~
25 ~~resides to determine whether the vehicle was wrongfully taken~~
26 ~~or withheld. Upon the filing of a complaint, the owner may~~
27 ~~have the vehicle released by posting with the court a bond or~~
28 ~~other adequate security equal to the amount of the costs and~~
29 ~~fees for impoundment or immobilization, including towing or~~
30 ~~storage, to ensure the payment of such costs and fees if the~~
31 ~~owner does not prevail. When the vehicle owner does not~~

1 ~~prevail on a complaint that the vehicle was wrongfully taken~~
2 ~~or withheld, he or she must pay the accrued charges for the~~
3 ~~immobilization or impoundment, including any towing and~~
4 ~~storage charges assessed against the vehicle. When the bond is~~
5 ~~posted and the fee is paid as set forth in s. 28.24, the clerk~~
6 ~~of the court shall issue a certificate releasing the vehicle.~~
7 ~~At the time of release, after reasonable inspection, the owner~~
8 ~~must give a receipt to the towing or storage company~~
9 ~~indicating any loss or damage to the vehicle or to the~~
10 ~~contents of the vehicle.~~

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

1 information is available to the public through the
2 department's Internet website or a telephone hotline.

3 Section 7. Effective October 1, 2007, section 322.341,
4 Florida Statutes, is amended to read:

5 322.341 Driving while license permanently
6 revoked.--Any person whose driver's license or driving
7 privilege has been permanently revoked pursuant to s. 322.26
8 or s. 322.28 and who drives a motor vehicle upon the highways
9 of this state commits is guilty of a felony of the third
10 degree, punishable as provided in s. 775.082, s. 775.083, or
11 s. 775.084, and the court must order imprisonment for not less
12 than 90 days.

13 Section 8. Effective July 1, 2008, paragraph (a) of
14 subsection (2) of section 932.701, Florida Statutes, is
15 amended to read:

16 932.701 Short title; definitions.--

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

18 (a) "Contraband article" means:

19 1. Any controlled substance as defined in chapter 893
20 or any substance, device, paraphernalia, or currency or other
21 means of exchange that was used, was attempted to be used, or
22 was intended to be used in violation of any provision of
23 chapter 893, if the totality of the facts presented by the
24 state is clearly sufficient to meet the state's burden of
25 establishing probable cause to believe that a nexus exists
26 between the article seized and the narcotics activity, whether
27 or not the use of the contraband article can be traced to a
28 specific narcotics transaction.

29 2. Any gambling paraphernalia, lottery tickets, money,
30 currency, or other means of exchange which was used, was
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1 attempted, or intended to be used in violation of the gambling
2 laws of the state.

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

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

9 5. Any personal property, including, but not limited
10 to, any vessel, aircraft, item, object, tool, substance,
11 device, weapon, machine, vehicle of any kind, money,
12 securities, books, records, research, negotiable instruments,
13 or currency, which was used or was attempted to be used as an
14 instrumentality in the commission of, or in aiding or abetting
15 in the commission of, any felony, whether or not comprising an
16 element of the felony, or which is acquired by proceeds
17 obtained as a result of a violation of the Florida Contraband
18 Forfeiture Act.

19 6. Any real property, including any right, title,
20 leasehold, or other interest in the whole of any lot or tract
21 of land, which was used, is being used, or was attempted to be
22 used as an instrumentality in the commission of, or in aiding
23 or abetting in the commission of, any felony, or which is
24 acquired by proceeds obtained as a result of a violation of
25 the Florida Contraband Forfeiture Act.

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

3 8. Any motor vehicle offered for sale in violation of
4 s. 320.28.

5 9. Any motor vehicle used during the course of
6 committing an offense in violation of s. 322.34(8)(d) or
7 (9)(a).

8 10. Any photograph, film, or other recorded image,
9 including an image recorded on videotape, a compact disc,
10 digital tape, or fixed disk, that is recorded in violation of
11 s. 810.145 and is possessed for the purpose of amusement,
12 entertainment, sexual arousal, gratification, or profit, or
13 for the purpose of degrading or abusing another person.

14 11. Any real property, including any right, title,
15 leasehold, or other interest in the whole of any lot or tract
16 of land, which is acquired by proceeds obtained as a result of
17 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
18 property, including, but not limited to, equipment, money,
19 securities, books, records, research, negotiable instruments,
20 or currency; or any vessel, aircraft, item, object, tool,
21 substance, device, weapon, machine, or vehicle of any kind in
22 the possession of or belonging to any person which is acquired
23 by proceeds obtained as a result of Medicaid fraud under s.
24 409.920 or s. 409.9201.

25 Section 9. The Department of Highway Safety and Motor
26 Vehicles shall inform the motoring public of the changes to s.
27 322.34, Florida Statutes, made by this act relating to
28 impoundment or immobilization of a motor vehicle being driven
29 by a person whose driver license is canceled, suspended,
30 revoked, or disqualified and shall provide such information in
31 newly printed driver license educational materials after July

1 1, 2007, and in public service announcements produced in
2 cooperation with the Florida Highway Patrol.

3 Section 10. During the period from July 1, 2007, to
4 July 1, 2008, the Department of Highway Safety and Motor
5 Vehicles shall notify by mail persons whose driver license or
6 driving privilege has been canceled, suspended, revoked, or
7 disqualified of the changes to s. 322.34, Florida Statutes,
8 made by this act relating to impoundment or immobilization of
9 a motor vehicle being driven by such person; however, failure
10 to receive such notification shall not preclude, bar, or
11 otherwise affect the impoundment or immobilization of a motor
12 vehicle under s. 322.34, Florida Statutes.

13 Section 11. Except as otherwise expressly provided in
14 this act, this act shall take effect July 1, 2007.

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SENATE SUMMARY

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3 Authorizes the court to withhold adjudication of certain
4 violations related to driving without a valid license.
5 Provides that the withholding of adjudication is not a
6 conviction under certain circumstances. Requires a
7 written judgment signed by the judge and recorded by the
8 clerk for cases involving a violation of requirements to
9 possess a valid driver license. Requires the defendant's
10 fingerprints and a certificate to be affixed to the
11 written judgment of conviction. Requires impoundment and
12 immobilization information to be included with notice to
13 a person whose driver license or driving privilege is
14 being canceled, suspended, revoked, or disqualified.
15 Revises penalties for driving without a valid license or
16 knowingly driving with a canceled, suspended, or revoked
17 license. Requires impoundment and immobilization
18 information to be included with notice to a person whose
19 driver license or driving privilege has been canceled,
20 suspended, revoked, or disqualified. Revises penalty
21 provisions for a habitual offender driving while his or
22 her license is revoked. Requires the defendant's social
23 security number to be affixed to the written judgment of
24 conviction or the reason for its absence to be indicated.
25 Requires a law enforcement officer who determines that a
26 motor vehicle is being driven by or under the actual
27 physical control of a person whose driver license or
28 driving privilege is canceled, suspended, revoked, or
29 disqualified to impound or immobilize the motor vehicle.
30 Provides for release of the motor vehicle. Requires
31 department records to contain impoundment and
immobilization information. Provides for certain fees and
distribution of moneys collected. Requires the department
to authorize release of the motor vehicle upon
satisfaction of all requirements. Prohibits operation of
an immobilized motor vehicle and requires such a vehicle
to be seized and subject to forfeit. Provides penalties
for knowingly aiding a person whose driver license or
driving privilege is canceled, suspended, revoked, or
disqualified by providing a motor vehicle or authorizing
use of a motor vehicle. Revises penalty provisions for a
person who drives a motor vehicle when his or her driver
license has been permanently revoked.