

By the Committee on Transportation; and Senator Gaetz

596-2198-07

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 relating 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's
16 license; requiring the defendant's fingerprints
17 and a certificate to be affixed to the written
18 judgment of conviction; providing the contents
19 of the certificate; providing that the written
20 judgment is prima facie evidence that the
21 fingerprints are the defendant's fingerprints;
22 amending s. 322.251, F.S.; requiring
23 impoundment and immobilization information to
24 be included with the notice to a person whose
25 driver's license or driving privilege is being
26 canceled, suspended, revoked, or disqualified;
27 amending s. 322.34, F.S.; providing for
28 application of certain penalty provisions to a
29 person who does not have a valid driver's
30 license or whose driver's license or driving
31 privilege has been disqualified; revising

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

1 a certificate to be affixed to the written
2 judgment of conviction; providing the content
3 of the certificate; providing that the written
4 judgment constitutes prima facie evidence that
5 the fingerprints are the defendant's
6 fingerprints; amending s. 322.34, F.S.;
7 requiring a law enforcement officer who
8 determines that a motor vehicle is being driven
9 by or under the actual physical control of a
10 person whose driver's license or driving
11 privilege is canceled, suspended, revoked, or
12 disqualified to impound or immobilize the motor
13 vehicle; providing for notice to the driver;
14 providing for impoundment and immobilization of
15 the motor vehicle by the Department of Highway
16 Safety and Motor Vehicles; requiring the
17 department to commence impoundment or
18 immobilization at the scene where the motor
19 vehicle was immobilized; providing procedures;
20 providing for release of the motor vehicle;
21 requiring department records to contain
22 impoundment and immobilization information;
23 providing for payment of costs; providing for
24 certain fees and distribution of moneys
25 collected; requiring the department to
26 authorize release of the motor vehicle upon
27 satisfaction of all requirements; prohibiting
28 operation of an immobilized motor vehicle;
29 providing for an immobilized motor vehicle that
30 is found being operated upon any street or
31 highway in this state before release from

1 immobilization to be seized and subject to
2 forfeiture; authorizing the department to
3 contract with vendors; requiring the department
4 to inform the person whose driver's license or
5 driving privilege has been canceled, suspended,
6 revoked, or disqualified that any motor vehicle
7 driven by or under the actual physical control
8 of that person is subject to impoundment and
9 immobilization; authorizing the department to
10 adopt rules; providing penalties for knowingly
11 aiding a person whose driver's license or
12 driving privilege is canceled, suspended,
13 revoked, or disqualified by providing a motor
14 vehicle or authorizing use of a motor vehicle;
15 providing for a rebuttable presumption of
16 satisfaction of the knowledge requirement;
17 amending s. 322.341, F.S.; revising the penalty
18 provisions for a person who drives a motor
19 vehicle when his or her driver's license has
20 been permanently revoked; requiring 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.

27
28 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. This act may be cited as the "Deputy
2 Michael Callin, Michael Haliowski, and Deputy Ryan C. Sequin
3 Memorial Traffic Safety Act."

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

6 318.14 Noncriminal traffic infractions; exception;
7 procedures.--

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

11 (b) If a person is cited for a violation of s.
12 322.34(2)(a) or (b), whose license has been suspended solely
13 for failure to appear, failure to pay a civil penalty, failure
14 to attend a driver improvement course pursuant to s. 322.291,
15 failure to pay child support, or failure to pay a judgment,
16 and the person provides the court with a valid or reinstated
17 driver's license and proper proof of maintenance of security
18 as required by s. 316.646, the court may withhold adjudication
19 under this subsection. If adjudication is withheld for any
20 person under this paragraph, such action is not a conviction
21 if adjudication has not been withheld under this paragraph for
22 a prior offense during the 3 years before the date of the
23 cited offense.

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

26 322.03 Drivers must be licensed; penalties.--

27 (7)(a) Every judgment for a violation of subsection
28 (1), regardless of whether adjudication is withheld, must be
29 in writing, signed by the judge, and recorded by the clerk of
30 the circuit court.

31

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

7
8 "I hereby certify that the above fingerprints
9 are those of the defendant, (name of
10 defendant), and that they were placed thereon
11 by the defendant in my presence, in open court,
12 this the day of, (year)."

13
14 2. The certificate must be signed by the judge, whose
15 signature must be followed by the word "Judge."

16 (b) Any written judgment, or a certified copy thereof,
17 is admissible in evidence in the courts of this state as prima
18 facie evidence that the fingerprints appearing thereon and
19 certified by the judge are the fingerprints of the defendant
20 against whom that judgment was rendered.

21 Section 4. Subsections (1) and (6) of section 322.251,
22 Florida Statutes, are amended to read:

23 322.251 Notice of cancellation, suspension,
24 revocation, or disqualification of license.--

25 (1) All orders of cancellation, suspension,
26 revocation, or disqualification issued under the provisions of
27 this chapter, chapter 318, chapter 324, or ss. 627.732-627.734
28 shall be given either by personal delivery thereof to the
29 licensee whose license is being canceled, suspended, revoked,
30 or disqualified or by deposit in the United States mail in an
31 envelope, first class, postage prepaid, addressed to the

1 | licensee at his or her last known mailing address furnished to
2 | the department. Such mailing by the department constitutes
3 | notification, and any failure by the person to receive the
4 | mailed order will not affect or stay the effective date or
5 | term of the cancellation, suspension, revocation, or
6 | disqualification of the licensee's driving privilege.
7 | Notification of cancellation, suspension, revocation, or
8 | disqualification given by the department under this section
9 | must also inform the person whose license or driving privilege
10 | has been canceled, suspended, revoked, or disqualified that
11 | any motor vehicle driven by or under the actual physical
12 | control of that person while the license or driving privilege
13 | is canceled, suspended, revoked, or disqualified is subject to
14 | impoundment and immobilization under s. 322.34. However, any
15 | failure by the department to include the impoundment and
16 | immobilization information with the notification or any
17 | failure by the person to receive that information does not
18 | affect or stay the effective date or term of the cancellation,
19 | suspension, revocation, or disqualification of the licensee's
20 | driving privilege and does not preclude, bar, or otherwise
21 | affect the impoundment or immobilization of a motor vehicle
22 | under s. 322.34.

23 | (6)(a) Whenever a cancellation, suspension,
24 | revocation, or disqualification occurs, the department shall
25 | enter the cancellation, suspension, revocation, or
26 | disqualification order on the licensee's driver file 20 days
27 | after the notice was actually placed in the mail. Any inquiry
28 | into the file after the 20-day period shall reveal that the
29 | license is canceled, suspended, revoked, or disqualified and
30 | whether the license has been received by the department.
31 |

1 **(b)1.** The department shall make available on its
2 Internet website the means to determine the status of a
3 person's driver's license by entering the person's driver's
4 license number. The department shall also provide an automated
5 telephone hotline to provide callers with the status of a
6 person's driver's license. The information provided on the
7 Internet website or by the telephone hotline under this
8 subparagraph shall include the date and time that information
9 was first made available to the public.

10 **2.** Upon request from any law enforcement agency or
11 officer of the court, the department shall certify the date
12 and time the information was first made available to the
13 public under subparagraph 1.

14 Section 5. Subsections (1), (2), (4), (5), and (6) of
15 section 322.34, Florida Statutes, are amended, and subsection
16 (10) is added to that section, to read:

17 322.34 Driving while license suspended, revoked,
18 canceled, or disqualified.--

19 (1) Except as provided in subsection (2) and s.
20 322.341, any person whose driver's license or driving
21 privilege has been canceled, suspended, ~~or~~ revoked, or
22 disqualified, except a "habitual traffic offender" as defined
23 in s. 322.264, who drives a vehicle upon the highways of this
24 state while such license or privilege is canceled, suspended,
25 ~~or~~ revoked, or disqualified commits is guilty of a moving
26 violation, punishable as provided in chapter 318.

27 (2) Except as provided in s. 322.341, any person whose
28 driver's license or driving privilege has been canceled,
29 suspended, ~~or~~ revoked, or disqualified as provided by law,
30 except persons defined in s. 322.264, who, knowing of such
31 cancellation, suspension, ~~or~~ revocation, or disqualification,

1 drives any motor vehicle upon the highways of this state while
2 such license or privilege is canceled, suspended, ~~or~~ revoked,
3 or disqualified, or any person who drives any motor vehicle
4 upon the highways of this state without having a valid
5 driver's license as required under s. 322.03, upon:

6 (a) A first conviction commits ~~is guilty of~~ a
7 misdemeanor of the second degree, punishable as provided in s.
8 775.082 or s. 775.083, except that any person whose driver's
9 license or driving privilege was canceled, suspended, revoked,
10 or disqualified under s. 322.2615 relating to unlawful
11 blood-alcohol level or breath-alcohol level or for refusal to
12 submit to a breath, urine, or blood test authorized by s.
13 316.1932, s. 322.28(2)(a) for a violation of s. 316.193 or s.
14 316.1931 prohibiting driving under the influence, s.
15 316.655(2) for an alcohol-related or drug-related conviction,
16 or s. 316.1939 for refusal to submit to testing commits a
17 misdemeanor of the first degree, punishable as provided in s.
18 775.082 or s. 775.083.

19 (b) A second conviction commits ~~is guilty of~~ a
20 misdemeanor of the first degree, punishable as provided in s.
21 775.082 or s. 775.083.

22 (c) A third or subsequent conviction commits ~~is guilty~~
23 ~~of~~ a felony of the third degree, punishable as provided in s.
24 775.082, s. 775.083, or s. 775.084.

25
26 If any person whose driver's license or driving privilege was
27 canceled, suspended, revoked, or disqualified under s.
28 322.2615 relating to unlawful blood-alcohol level or
29 breath-alcohol level or for refusal to submit to a breath,
30 urine, or blood test authorized by s. 316.1932, s.
31 322.28(2)(a) for a violation of s. 316.193 or s. 316.1931

1 prohibiting driving under the influence, s. 316.655(2) for an
2 alcohol-related or drug-related conviction, or s. 316.1939 for
3 refusal to submit to testing is convicted of an offense under
4 this subsection, the court must order imprisonment for not
5 less than 30 days. The element of knowledge is satisfied if
6 the person has been previously cited as provided in subsection
7 (1); or the person admits to knowledge of the cancellation,
8 suspension, ~~or~~ revocation, or disqualification; or the person
9 received notice as provided in subsection (4). There shall be
10 a rebuttable presumption that the knowledge requirement is
11 satisfied if a judgment or order or a cancellation,
12 suspension, revocation, or disqualification by the department
13 as provided in subsection (4) appears in the department's
14 records ~~for any case except for one involving a suspension by~~
15 ~~the department for failure to pay a traffic fine or for a~~
16 ~~financial responsibility violation.~~

17 (4) Any judgment or order rendered by a court or
18 adjudicatory body, any cancellation, suspension, revocation,
19 or disqualification by the department, or any uniform traffic
20 citation that cancels, suspends, ~~or~~ revokes, or disqualifies a
21 person's driver's license must contain a provision notifying
22 the person that his or her driver's license has been canceled,
23 suspended, ~~or~~ revoked, or disqualified and must inform the
24 person that any motor vehicle driven by that person while the
25 license is canceled, suspended, revoked, or disqualified shall
26 be impounded or immobilized under this section.

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

1 s. 775.084, and the court must order imprisonment for not less
2 than 60 days.

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

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

6 (b) While his or her driver's license or driving
7 privilege is canceled, suspended, ~~or~~ revoked, or disqualified
8 pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s.
9 322.28(2) or (4),

10
11 and who by careless or negligent operation of the motor
12 vehicle causes the death of or serious bodily injury to
13 another human being commits is guilty of a felony of the third
14 degree, punishable as provided in s. 775.082 or s. 775.083.

15 (10)(a) With respect to any offense governed by this
16 section, regardless of whether adjudication is withheld, every
17 judgment must be in writing, signed by the judge, and recorded
18 by the clerk of the circuit court.

19 1. In open court and in the presence of the judge, the
20 judge shall cause the fingerprints of the defendant against
21 whom the judgment is rendered to be affixed beneath the
22 judge's signature to the written judgment of conviction.
23 Beneath the fingerprints shall be appended a certificate to
24 the following effect:

25
26 "I hereby certify that the above
27 fingerprints are those of the defendant, (name
28 of defendant), and that they were placed
29 thereon by the defendant in my presence, in
30 open court, this the day of, (year)."
31

1 2. The certificate must be signed by the judge, whose
2 signature must be followed by the word "Judge."

3 (b) Any such written judgment, or a certified copy
4 thereof, is admissible in evidence in the courts of this state
5 as prima facie evidence that the fingerprints appearing
6 thereon and certified by the judge are the fingerprints of the
7 defendant against whom that judgment was rendered.

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

12 322.34 Driving while license suspended, revoked,
13 canceled, or disqualified.--

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

18 (8)(a) 1. If a law enforcement officer determines
19 that a motor vehicle is being driven by or is under the actual
20 physical control of a person whose driver's license or driving
21 privilege is canceled, suspended, revoked, or disqualified,
22 the officer shall immediately impound the motor vehicle or
23 immobilize the motor vehicle by installing an immobilization
24 device on the vehicle. The officer shall serve notice of the
25 impoundment or immobilization upon the driver. The notice must
26 include the location where the motor vehicle is being held and
27 information concerning the procedures to follow in order to
28 have the motor vehicle released from impoundment or
29 immobilization by a department-approved vendor. A law
30 enforcement agency or officer who proceeds in good faith to
31 immobilize or impound a vehicle under this subsection is not

1 responsible for any towing, immobilizing, or impounding fees.
2 A law enforcement officer may leave the scene of the
3 impoundment without completing the impoundment process if the
4 officer is ordered elsewhere by his or her superior officer or
5 an emergency elsewhere arises, or due to other exigent
6 circumstances.

7 2. A law enforcement officer impounding or
8 immobilizing a motor vehicle under subparagraph 1. shall
9 notify the department or the department's agent within 24
10 hours to effect impoundment or immobilization under this
11 paragraph. The department or the department's agent shall
12 remove and impound or immobilize the motor vehicle at another
13 location. The motor vehicle may be immobilized by installation
14 of an immobilization device on the vehicle; however, the
15 impounding company may not release the motor vehicle for
16 immobilization at another location without proof that the
17 immobilization vendor is approved by the department. The motor
18 vehicle shall remain impounded or immobilized until the owner
19 or lessee receives authorization from the department for
20 release of the motor vehicle under this subsection. The
21 department may adopt by rule procedures for removing and
22 immobilizing a motor vehicle by a department-approved vendor
23 from the location where the motor vehicle was impounded or
24 immobilized by the law enforcement officer under subparagraph
25 1.

26 3. A motor vehicle impounded or immobilized under this
27 paragraph which, according to the records of the department,
28 is owned or leased by the person who was driving or in actual
29 physical control of the motor vehicle when it was stopped and
30 impounded or immobilized under subparagraph 1. shall remain
31 impounded or immobilized until the person's license and

1 driving privilege are reinstated and payment of the fees
2 imposed under paragraph (c) and all costs of towing,
3 impoundment, immobilization, and storage has been paid. If
4 department records show a different owner or lessee, the motor
5 vehicle shall be released to that owner or lessee or the
6 owner's or lessee's agent upon payment of the fees imposed
7 under paragraph (c) and all costs of towing, impoundment,
8 immobilization, and storage. The department's records shall
9 reflect that the motor vehicle is immobilized or impounded.

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

26 (c)1. The department shall collect a processing fee of
27 \$30 from the owner or lessee before releasing a motor vehicle
28 that is immobilized or impounded under this subsection. Moneys
29 collected under this subparagraph shall be forwarded to the
30 Department of Revenue for deposit into the State
31 Transportation Trust Fund created under s. 206.46 to be used

1 to carry out public transit responsibilities of the Department
2 of Transportation under s. 341.041.

3 2. The department shall charge a reasonable fee, not
4 to exceed \$6, to the owner or lessee of the motor vehicle to
5 cover the operational costs of the program and the cost of
6 immobilizing or impounding the motor vehicle. Fees collected
7 under this subparagraph shall be deposited into the Operating
8 Trust Fund of the Department of Highway Safety and Motor
9 Vehicles.

10 (d) Upon satisfaction of all of the requirements under
11 this subsection for release of the motor vehicle, the
12 department shall authorize the release of the motor vehicle to
13 the owner or lessee.

14 (e) A motor vehicle immobilized under this subsection
15 may not be operated in this state until released from
16 immobilization by the department or the department's agent. A
17 motor vehicle immobilized under this subsection which is found
18 being operated upon any street or highway in this state before
19 being released by the department or the department's agent
20 shall be seized and removed from the street or highway and may
21 be forfeited under ss. 932.701-932.704.

22 (f) The department may contract with vendors to carry
23 out this subsection.

24 (g) Notification of cancellation, suspension,
25 revocation, or disqualification given by the department under
26 s. 322.251 shall also inform the person whose driver's license
27 or driving privilege has been canceled, suspended, revoked, or
28 disqualified that any motor vehicle driven by or under the
29 actual physical control of that person while the license or
30 driving privilege is canceled, suspended, revoked, or
31 disqualified is subject to impoundment and immobilization

1 under this subsection; however, failure to receive the
2 information does not preclude, bar, or otherwise affect the
3 impoundment or immobilization of a motor vehicle under this
4 subsection.

5 (h) The department shall make available on its
6 Internet website the methods to use to determine the status of
7 a person's driver's license by entering the driver's license
8 number. The department shall also provide an automated
9 telephone hotline to provide callers with the status of a
10 person's driver's license.

11 (i) The department may adopt rules pursuant to ss.
12 120.536(1) and 120.54 to administer this subsection. ~~Upon the~~
13 ~~arrest of a person for the offense of driving while the~~
14 ~~person's driver's license or driving privilege is suspended or~~
15 ~~revoked, the arresting officer shall determine:~~

16 1. ~~Whether the person's driver's license is suspended~~
17 ~~or revoked.~~

18 2. ~~Whether the person's driver's license has remained~~
19 ~~suspended or revoked since a conviction for the offense of~~
20 ~~driving with a suspended or revoked license.~~

21 3. ~~Whether the suspension or revocation was made under~~
22 ~~s. 316.646 or s. 627.733, relating to failure to maintain~~
23 ~~required security, or under s. 322.264, relating to habitual~~
24 ~~traffic offenders.~~

25 4. ~~Whether the driver is the registered owner or~~
26 ~~coowner of the vehicle.~~

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

30 ~~(c) Within 7 business days after the date the~~
31 ~~arresting agency impounds or immobilizes the vehicle, either~~

1 ~~the arresting agency or the towing service, whichever is in~~
2 ~~possession of the vehicle, shall send notice by certified~~
3 ~~mail, return receipt requested, to any coregistered owners of~~
4 ~~the vehicle other than the person arrested and to each person~~
5 ~~of record claiming a lien against the vehicle. All costs and~~
6 ~~fees for the impoundment or immobilization, including the cost~~
7 ~~of notification, must be paid by the owner of the vehicle or,~~
8 ~~if the vehicle is leased, by the person leasing the vehicle.~~

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

1 ~~that accrue after the notice period, which charges may then be~~
2 ~~assessed against the driver of the vehicle if the vehicle was~~
3 ~~lawfully impounded or immobilized.~~

4 ~~(c) Except as provided in paragraph (d), the vehicle~~
5 ~~shall remain impounded or immobilized for any period imposed~~
6 ~~by the court until:~~

7 ~~1. The owner presents proof of insurance to the~~
8 ~~arresting agency; or~~

9 ~~2. The owner presents proof of sale of the vehicle to~~
10 ~~the arresting agency and the buyer presents proof of insurance~~
11 ~~to the arresting agency.~~

12
13 ~~If proof is not presented within 35 days after the impoundment~~
14 ~~or immobilization, a lien shall be placed upon such vehicle~~
15 ~~pursuant to s. 713.78.~~

16 ~~(f) The owner of a vehicle that is impounded or~~
17 ~~immobilized under this subsection may, within 10 days after~~
18 ~~the date the owner has knowledge of the location of the~~
19 ~~vehicle, file a complaint in the county in which the owner~~
20 ~~resides to determine whether the vehicle was wrongfully taken~~
21 ~~or withheld. Upon the filing of a complaint, the owner may~~
22 ~~have the vehicle released by posting with the court a bond or~~
23 ~~other adequate security equal to the amount of the costs and~~
24 ~~fees for impoundment or immobilization, including towing or~~
25 ~~storage, to ensure the payment of such costs and fees if the~~
26 ~~owner does not prevail. When the vehicle owner does not~~
27 ~~prevail on a complaint that the vehicle was wrongfully taken~~
28 ~~or withheld, he or she must pay the accrued charges for the~~
29 ~~immobilization or impoundment, including any towing and~~
30 ~~storage charges assessed against the vehicle. When the bond is~~
31 ~~posted and the fee is paid as set forth in s. 28.24, the clerk~~

1 ~~of the court shall issue a certificate releasing the vehicle.~~
2 ~~At the time of release, after reasonable inspection, the owner~~
3 ~~must give a receipt to the towing or storage company~~
4 ~~indicating any loss or damage to the vehicle or to the~~
5 ~~contents of the vehicle.~~

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

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

1 322.341 Driving while license permanently
2 revoked.--Any person whose driver's license or driving
3 privilege has been permanently revoked pursuant to s. 322.26
4 or s. 322.28 and who drives a motor vehicle upon the highways
5 of this state ~~commits is guilty of~~ a felony of the third
6 degree, punishable as provided in s. 775.082, s. 775.083, or
7 s. 775.084, and the court must order imprisonment for not less
8 than 90 days.

9 Section 8. The Department of Highway Safety and Motor
10 Vehicles shall inform the motoring public of the changes to s.
11 322.34, Florida Statutes, made by this act relating to
12 impoundment or immobilization of a motor vehicle being driven
13 by a person whose driver license is canceled, suspended,
14 revoked, or disqualified and shall provide such information in
15 newly printed driver license educational materials after July
16 1, 2007, and in public service announcements produced in
17 cooperation with the Florida Highway Patrol.

18 Section 9. During the period from July 1, 2007, to
19 July 1, 2008, the Department of Highway Safety and Motor
20 Vehicles must notify by mail persons whose driver license or
21 driving privilege has been canceled, suspended, revoked, or
22 disqualified of the changes to s. 322.34, Florida Statutes,
23 made by this act relating to impoundment or immobilization of
24 a motor vehicle being driven by such person; however, failure
25 to receive such notification does not preclude, bar, or
26 otherwise affect the impoundment or immobilization of a motor
27 vehicle under s. 322.34, Florida Statutes.

28 Section 10. Except as otherwise expressly provided in
29 this act, this act shall take effect July 1, 2007.
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31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2104

4 The committee substitute (CS):

- 5 * Includes child support suspensions for failure to pay
6 judgments to the provision allowing withholds of
7 adjudication that will not count as convictions.
- 8 * Deletes the requirement in the CS that the defendant's
9 social security number be placed on the judgments for
10 violations involving driving without a valid driver's
11 license.
- 12 * Requires the Department of Highway Safety and Motor
13 Vehicles (Department) to make available on its internet
14 website the means to determine the status of a persons
15 driver's license by entering the persons driver's license
16 number. The Department must also provide an automated
17 hotline to provide callers with the status of a persons
18 driver's license. The provided information must include
19 the date and time the information was first made
20 available to the public. Upon request from any law
21 enforcement agency or officer of the court, the
22 Department must certify the date and time the information
23 was first made available to the public.
- 24 * Provides if a persons driver's license is canceled,
25 suspended, revoked, or disqualified due to a refusal to
26 submit to a blood, breath, or urine test, sobriety test,
27 or for DUI or other drug related offense, then the
28 violation of s. 322.34(2), F.S., for a first, second or
29 third conviction, the court must order a minimum of 30
30 days incarceration.
- 31 * Requires the Department within seven days after the
impoundment or immobilization of the motor vehicle to
send notice by certified mail to any registered owner or
co-owner other than the driver and to each person of
record claiming a lien against the motor vehicle. The
notice must include the location of where the motor
vehicle is being held and procedures to have the motor
vehicle released. All costs and fees for the impoundment
and immobilization, including the cost of notification,
must be paid by the owner of the motor vehicle, or if the
vehicle is leased by the person leasing the vehicle.
- * Removes s. 932.701, F.S., relating to the Florida
Contraband Forfeiture Act.