

1 A bill to be entitled

2 An act relating to driving without a valid license;  
3 creating the "Deputy Michael Callin, Michael Haligowski,  
4 and Deputy Ryan C. Seguin Memorial Traffic Safety Act";  
5 amending s. 318.14, F.S.; authorizing the court to  
6 withhold adjudication of certain violations related to  
7 driving without a valid license if the person cited meets  
8 certain conditions; providing that the withholding of  
9 adjudication is not a conviction under certain  
10 circumstances; amending s. 322.03, F.S.; requiring a  
11 written judgment signed by the judge and recorded by the  
12 clerk for cases involving a violation of requirements to  
13 possess a valid driver license; requiring defendant's  
14 fingerprints and a certificate to be affixed to the  
15 written judgment of conviction; providing for content of  
16 the certificate; requiring the defendant's social security  
17 number to be affixed to the written judgment of conviction  
18 or the reason for its absence to be indicated; providing  
19 that the written judgment constitutes prima facie evidence  
20 that the fingerprints are the defendant's fingerprints;  
21 amending s. 322.17, F.S.; providing for issuance of a  
22 replacement driver license upon notification of a change  
23 in the licensee's address; removing the fee for a change  
24 of address; amending s. 322.251, F.S.; requiring  
25 impoundment and immobilization information to be included  
26 with notice to a person whose driver license or driving  
27 privilege is being canceled, suspended, revoked, or  
28 disqualified; requiring the Department of Highway Safety

29 and Motor Vehicles to make driver license status  
30 information available to the public through the Internet  
31 and a telephone hotline; requiring the department to  
32 certify the date of availability of the information upon  
33 request by certain persons; amending s. 322.34, F.S.;  
34 providing for application of certain penalty provisions to  
35 a person who does not have a valid driver license or whose  
36 driver license or driving privilege has been disqualified;  
37 revising penalties for driving without a valid license or  
38 knowingly driving while driver license or driving  
39 privilege is canceled, suspended, revoked, or disqualified  
40 for specified alcohol-related or drug-related convictions  
41 or refusal to submit to certain testing; revising  
42 provisions for satisfaction of the element of knowledge;  
43 requiring a cancellation, suspension, revocation, or  
44 disqualification by the department or a uniform traffic  
45 citation to contain a provision notifying the person that  
46 his or her driver license or driving privilege has been  
47 canceled, suspended, revoked, or disqualified; requiring  
48 impoundment and immobilization information to be included  
49 with notice to a person whose driver license or driving  
50 privilege has been canceled, suspended, revoked, or  
51 disqualified; revising penalty provisions for a habitual  
52 offender driving while his or her license is revoked;  
53 providing that a person who causes the death of or serious  
54 bodily injury to another person by careless or negligent  
55 operation of a motor vehicle while his or her license or  
56 driving privilege is canceled, suspended, revoked, or

57 | disqualified commits a felony of the third degree;  
58 | requiring a written judgment signed by the judge and  
59 | recorded by the clerk for cases involving a violation of  
60 | requirements to possess a valid driver license; requiring  
61 | defendant's fingerprints and a certificate to be affixed  
62 | to the written judgment of conviction; providing for  
63 | content of the certificate; requiring the defendant's  
64 | social security number to be affixed to the written  
65 | judgment of conviction or the reason for its absence to be  
66 | indicated; providing that the written judgment constitutes  
67 | prima facie evidence that the fingerprints are the  
68 | defendant's fingerprints; amending s. 322.34, F.S. ;  
69 | requiring a law enforcement officer who determines that a  
70 | motor vehicle is being driven by or under the actual  
71 | physical control of a person whose driver license or  
72 | driving privilege is canceled, suspended, revoked, or  
73 | disqualified to impound or immobilize the motor vehicle;  
74 | providing for notice to the driver; providing for  
75 | impoundment and immobilization of the motor vehicle by the  
76 | department; providing for notice to registered owners of  
77 | the motor vehicle and lienholders; providing for the  
78 | department to commence impoundment or immobilization at  
79 | the scene where the motor vehicle was immobilized;  
80 | providing procedures; providing for release of the motor  
81 | vehicle; requiring department records to contain  
82 | impoundment and immobilization information; providing for  
83 | payment of costs; providing for certain fees and  
84 | distribution of moneys collected; requiring the department

85 to authorize release of the motor vehicle upon  
86 satisfaction of all requirements; prohibiting operation of  
87 an immobilized motor vehicle; providing for an immobilized  
88 motor vehicle that is found being operated upon any street  
89 or highway in this state before release from  
90 immobilization to be seized and subject to forfeit;  
91 authorizing the department to contract with vendors;  
92 directing the department to inform the person whose driver  
93 license or driving privilege has been canceled, suspended,  
94 revoked, or disqualified that any motor vehicle driven by  
95 or under the actual physical control of that person is  
96 subject to impoundment and immobilization; requiring the  
97 department to make driver license status information  
98 available to the public through the Internet and a  
99 telephone hotline; authorizing the department to adopt  
100 rules; providing penalties for knowingly aiding a person  
101 whose driver license or driving privilege is canceled,  
102 suspended, revoked, or disqualified by providing a motor  
103 vehicle or authorizing use of a motor vehicle; providing  
104 for a rebuttable presumption of satisfaction of the  
105 knowledge requirement; amending s. 322.341, F.S.; revising  
106 penalty provisions for a person who drives a motor vehicle  
107 when his or her driver license has been permanently  
108 revoked; amending s. 932.701, F.S.; revising the  
109 definition of "contraband article" to include certain  
110 seized motor vehicles for purposes of the Florida  
111 Contraband Forfeiture Act; directing the department to  
112 inform drivers whose license or driving privilege has been

113 canceled, suspended, revoked, or disqualified and the  
 114 motoring public of the provisions for impoundment and  
 115 immobilization of motor vehicles under this act; providing  
 116 effective dates.

117

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

119

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

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

125 318.14 Noncriminal traffic infractions; exception;  
 126 procedures.--

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

130 (b) If a person is cited for a violation of s.  
 131 322.34(2)(a) or (b) with a license that has been suspended  
 132 solely for failure to appear, failure to pay a civil penalty, or  
 133 failure to attend a driver improvement course pursuant to s.  
 134 322.291 and such person provides to the court a valid or  
 135 reinstated driver's license and proper proof of maintenance of  
 136 security as required by s. 316.646, the court may withhold  
 137 adjudication pursuant to this subsection. If adjudication is  
 138 withheld for any person pursuant to this paragraph, such action  
 139 is not a conviction if adjudication has not been withheld under  
 140 this paragraph for a prior offense during the 3 years before the

HB 65

2007

141 date of the cited offense.

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

144 322.03 Drivers must be licensed; penalties.--

145 (7) (a) Every judgment for a violation of subsection (1),  
146 regardless of whether adjudication is withheld, shall be in  
147 writing, signed by the judge, and recorded by the clerk of the  
148 circuit court.

149 1. In open court and in the presence of the judge, the  
150 judge shall cause the fingerprints of the defendant against whom  
151 the judgment is rendered to be affixed beneath the judge's  
152 signature to the written judgment of conviction. Beneath the  
153 fingerprints shall be appended a certificate to the following  
154 effect:

155  
156 "I hereby certify that the above fingerprints are those of the  
157 defendant, (name of defendant), and that they were placed  
158 thereon by said defendant in my presence, in open court, this  
159 the .... day of ....., (year)."

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

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

169 be indicated on the written judgment.

170 (b) Any such written judgment, or a certified copy  
 171 thereof, shall be admissible in evidence in the several courts  
 172 of this state as prima facie evidence that the fingerprints  
 173 appearing thereon and certified by the judge are the  
 174 fingerprints of the defendant against whom that judgment was  
 175 rendered.

176 Section 4. Subsection (2) of section 322.17, Florida  
 177 Statutes, is amended to read:

178 322.17 Duplicate and replacement certificates.--

179 (2) Upon the surrender of the original license and the  
 180 payment of a \$10 replacement fee, the department shall issue a  
 181 replacement license to make a change in name, ~~address,~~ or  
 182 restrictions. Upon written request by the licensee and  
 183 notification of a change in address, ~~and the payment of a \$10~~  
 184 ~~fee,~~ the department shall issue a replacement license ~~an address~~  
 185 ~~sticker which shall be affixed to the back of the license by the~~  
 186 ~~licensee.~~ Nine dollars of the fee levied in this subsection  
 187 shall go to the Highway Safety Operating Trust Fund of the  
 188 department.

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

191 322.251 Notice of cancellation, suspension, revocation, or  
 192 disqualification of license.--

193 (1) All orders of cancellation, suspension, revocation, or  
 194 disqualification issued under the provisions of this chapter,  
 195 chapter 318, chapter 324, or ss. 627.732-627.734 shall be given  
 196 either by personal delivery thereof to the licensee whose

HB 65

2007

197 license is being canceled, suspended, revoked, or disqualified  
198 or by deposit in the United States mail in an envelope, first  
199 class, postage prepaid, addressed to the licensee at his or her  
200 last known mailing address furnished to the department. Such  
201 mailing by the department constitutes notification, and any  
202 failure by the person to receive the mailed order will not  
203 affect or stay the effective date or term of the cancellation,  
204 suspension, revocation, or disqualification of the licensee's  
205 driving privilege. Notification of cancellation, suspension,  
206 revocation, or disqualification given by the department under  
207 this section shall also inform the person whose license or  
208 driving privilege has been canceled, suspended, revoked, or  
209 disqualified that any motor vehicle driven by or under the  
210 actual physical control of that person while the license or  
211 driving privilege is canceled, suspended, revoked, or  
212 disqualified is subject to impoundment and immobilization under  
213 s. 322.34; however, any failure by the department to include the  
214 impoundment and immobilization information with the notification  
215 or any failure by the person to receive that information will  
216 not affect or stay the effective date or term of the  
217 cancellation, suspension, revocation, or disqualification of the  
218 licensee's driving privilege and will not preclude, bar, or  
219 otherwise affect the impoundment or immobilization of a motor  
220 vehicle under s. 322.34.

221 (6) (a) Whenever a cancellation, suspension, revocation, or  
222 disqualification occurs, the department shall enter the  
223 cancellation, suspension, revocation, or disqualification order  
224 on the licensee's driver file 20 days after the notice was



225 actually placed in the mail. Any inquiry into the file after the  
 226 20-day period shall reveal that the license is canceled,  
 227 suspended, revoked, or disqualified and whether the license has  
 228 been received by the department.

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

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

243 Section 6. Effective October 1, 2007, subsections (1),  
 244 (2), (4), (5), and (6) of section 322.34, Florida Statutes, are  
 245 amended, and subsection (10) is added to that section, to read:

246 322.34 Driving while license suspended, revoked, canceled,  
 247 or disqualified.--

248 (1) Except as provided in subsection (2) and s. 322.341,  
 249 any person whose driver's license or driving privilege has been  
 250 canceled, suspended, ~~or~~ revoked, or disqualified, except a  
 251 "habitual traffic offender" as defined in s. 322.264, who drives  
 252 a vehicle upon the highways of this state while such license or

HB 65

2007

253 privilege is canceled, suspended, ~~or~~ revoked, or disqualified  
254 commits is guilty of a moving violation, punishable as provided  
255 in chapter 318.

256 (2) Except as provided in s. 322.341, any person whose  
257 driver's license or driving privilege has been canceled,  
258 suspended, ~~or~~ revoked, or disqualified as provided by law,  
259 except persons defined in s. 322.264, who, knowing of such  
260 cancellation, suspension, ~~or~~ revocation, or disqualification,  
261 drives any motor vehicle upon the highways of this state while  
262 such license or privilege is canceled, suspended, ~~or~~ revoked, or  
263 disqualified, or any person who drives any motor vehicle upon  
264 the highways of this state without having a valid driver's  
265 license as required under s. 322.03, upon:

266 (a) A first conviction is guilty of a misdemeanor of the  
267 second degree, punishable as provided in s. 775.082 or s.  
268 775.083, except that any person whose driver's license or  
269 driving privilege was canceled, suspended, revoked, or  
270 disqualified under s. 322.2615 relating to unlawful blood-  
271 alcohol level or breath-alcohol level or for refusal to submit  
272 to a breath, urine, or blood test authorized by s. 316.1932, s.  
273 322.28(2)(a) for a violation of s. 316.193 or s. 316.1931  
274 prohibiting driving under the influence, s. 316.655(2) for an  
275 alcohol-related or drug-related conviction, or s. 316.1939 for  
276 refusal to submit to testing is guilty of a misdemeanor of the  
277 first degree, punishable as provided in s. 775.082 or s.  
278 775.083, and the court must order imprisonment for not less than  
279 30 days.

280 (b) A second conviction is guilty of a misdemeanor of the

281 first degree, punishable as provided in s. 775.082 or s.  
 282 775.083.

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

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

298 (4) Any judgment or order rendered by a court or  
 299 adjudicatory body, any cancellation, suspension, revocation, or  
 300 disqualification by the department, or any uniform traffic  
 301 citation that cancels, suspends, ~~or~~ revokes, or disqualifies a  
 302 person's driver's license must contain a provision notifying the  
 303 person that his or her driver's license has been canceled,  
 304 suspended, ~~or~~ revoked, or disqualified and must inform the  
 305 person that any motor vehicle driven by that person while the  
 306 license is canceled, suspended, revoked, or disqualified shall  
 307 be impounded or immobilized pursuant to this section.

308 (5) Any person whose driver's license has been revoked

HB 65

2007

309 pursuant to s. 322.264 (habitual offender) and who drives any  
310 motor vehicle upon the highways of this state while such license  
311 is revoked commits ~~is guilty of~~ a felony of the third degree,  
312 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
313 and the court must order imprisonment for not less than 60 days.

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

315 (a) Without having a driver's license as required under s.  
316 322.03; or

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

320

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

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

329 1. In open court and in the presence of the judge, the  
330 judge shall cause the fingerprints of the defendant against whom  
331 the judgment is rendered to be affixed beneath the judge's  
332 signature to the written judgment of conviction. Beneath the  
333 fingerprints shall be appended a certificate to the following  
334 effect:

335

336 "I hereby certify that the above fingerprints are those of the

337 defendant, (name of defendant), and that they were placed  
338 thereon by said defendant in my presence, in open court, this  
339 the .... day of ....., (year)."

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

342 3. At the time the defendant's fingerprints are taken, the  
343 judge shall also cause the defendant's social security number to  
344 be taken. The defendant's social security number shall be  
345 affixed to every written judgment of conviction in open court,  
346 in the presence of the judge, and at the time the judgment is  
347 rendered. If the defendant is unable or unwilling to provide his  
348 or her social security number, the reason for its absence shall  
349 be indicated on the written judgment.

350 (b) Any such written judgment, or a certified copy  
351 thereof, shall be admissible in evidence in the several courts  
352 of this state as prima facie evidence that the fingerprints  
353 appearing thereon and certified by the judge are the  
354 fingerprints of the defendant against whom that judgment was  
355 rendered.

356 Section 7. Effective July 1, 2008, subsections (3) and (8)  
357 of section 322.34, Florida Statutes, as amended by this act, are  
358 amended, and subsection (11) is added to that section, to read:

359 322.34 Driving while license suspended, revoked, canceled,  
360 or disqualified.--

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

HB 65

2007

365           (8) (a) 1. If a law enforcement officer determines that a  
366 motor vehicle is being driven by or is under the actual physical  
367 control of a person whose driver's license or driving privilege  
368 is canceled, suspended, revoked, or disqualified, the officer  
369 shall immediately impound the motor vehicle or immobilize the  
370 motor vehicle by installing an immobilization device on the  
371 vehicle or removing the vehicle registration tag. The officer  
372 shall serve notice of the impoundment or immobilization upon the  
373 driver. The notice shall include the location where the motor  
374 vehicle is being held and information on the procedures to have  
375 the motor vehicle released from impoundment or immobilization by  
376 a department-approved vendor. If the law enforcement officer  
377 removes the vehicle registration tag, the tag shall be given to  
378 the department or the department's agent and held until the  
379 motor vehicle is released from impoundment or immobilization. A  
380 law enforcement officer who proceeds in good faith to immobilize  
381 or impound a vehicle under this section shall not be responsible  
382 for any towing, immobilizing, or impounding fees.

383           2. A law enforcement officer impounding or immobilizing a  
384 motor vehicle under subparagraph 1. shall notify the department  
385 or the department's agent within 24 hours to effect impoundment  
386 or immobilization under this paragraph. The department or the  
387 department's agent shall remove and impound or immobilize the  
388 motor vehicle at another location. The motor vehicle may be  
389 immobilized by installation of an immobilization device on the  
390 vehicle or removal of the vehicle registration tag; however, the  
391 impounding company shall not release the motor vehicle for  
392 immobilization at another location without proof that the

393 immobilization vendor is approved by the department. The motor  
394 vehicle shall remain in impound or immobilized until the owner  
395 or lessee receives authorization from the department for release  
396 of the motor vehicle under the provisions of this subsection.  
397 The department is authorized to adopt by rule procedures for  
398 removal and immobilization of the motor vehicle by a department-  
399 approved vendor from the location where the motor vehicle was  
400 impounded or immobilized by the law enforcement officer under  
401 subparagraph 1.

402 3. A motor vehicle impounded or immobilized under this  
403 paragraph that, according to the records of the department, is  
404 owned or leased by the person who was driving or in actual  
405 physical control of the motor vehicle when it was stopped and  
406 impounded or immobilized under subparagraph 1. shall remain  
407 impounded or immobilized until the person's license and driving  
408 privilege are reinstated and payment of the fees imposed under  
409 paragraph (c) and all costs of towing, impoundment,  
410 immobilization, and storage has been made. If department records  
411 show a different owner or lessee, the motor vehicle shall be  
412 released to that owner or lessee or the owner's or lessee's  
413 agent upon payment of the fees imposed under paragraph (c) and  
414 all costs of towing, impoundment, immobilization, and storage.  
415 The department's records shall reflect that the motor vehicle is  
416 immobilized or impounded.

417 (b) Within 7 business days after the date the law  
418 enforcement agency or the department impounds or immobilizes the  
419 motor vehicle under this subsection, the department shall send  
420 notice of the impoundment or immobilization by certified mail,

421 return receipt requested, to any registered owners or coowners  
422 of the motor vehicle other than the driver and to each person of  
423 record claiming a lien against the motor vehicle. The notice  
424 shall include the location where the motor vehicle is being held  
425 and information on the procedures to have the motor vehicle  
426 released from impoundment or immobilization by a department-  
427 approved vendor. All costs and fees for the impoundment or  
428 immobilization, including the cost of notification, must be paid  
429 by the owner of the motor vehicle or, if the motor vehicle is  
430 leased, by the person leasing the motor vehicle.

431 (c)1. The department shall collect a \$30 processing fee  
432 from the owner or lessee prior to release of any motor vehicle  
433 immobilized or impounded under this subsection. Moneys collected  
434 under this subparagraph shall be forwarded to the Department of  
435 Revenue for deposit into the State Transportation Trust Fund  
436 created under s. 206.46 to be used to carry out public transit  
437 responsibilities of the Department of Transportation under s.  
438 341.041.

439 2. The department shall charge a reasonable fee, not to  
440 exceed \$6, to the owner or lessee of the motor vehicle to cover  
441 the operational costs of the program and the cost of  
442 immobilizing or impounding the motor vehicle. Fees collected  
443 under this subparagraph shall be deposited in the Operating  
444 Trust Fund of the Department of Highway Safety and Motor  
445 Vehicles.

446 (d) Upon satisfaction of all of the requirements under  
447 this subsection for release of the motor vehicle, the department  
448 shall authorize release of the motor vehicle to the owner or



HB 65

2007

449 lessee.

450 (e) A motor vehicle immobilized under this subsection may  
451 not be operated in this state until released from immobilization  
452 by the department or the department's agent. A motor vehicle  
453 immobilized under this subsection that is found being operated  
454 upon any street or highway in this state before being released  
455 by the department or the department's agent shall be seized and  
456 removed from the street or highway and may be forfeited pursuant  
457 to ss. 932.701-932.704.

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

460 (g) Notification of cancellation, suspension, revocation,  
461 or disqualification given by the department under s. 322.251  
462 shall also inform the person whose driver's license or driving  
463 privilege has been canceled, suspended, revoked, or disqualified  
464 that any motor vehicle driven by or under the actual physical  
465 control of that person while the license or driving privilege is  
466 canceled, suspended, revoked, or disqualified is subject to  
467 impoundment and immobilization under this subsection; however,  
468 failure to receive the information shall not preclude, bar, or  
469 otherwise affect the impoundment or immobilization of a motor  
470 vehicle under this subsection.

471 (h) The department shall make available on its Internet  
472 website the means to determine the status of a person's driver's  
473 license by entering the driver's license number or name and date  
474 of birth of the licensee. The department shall also provide a  
475 telephone hotline to provide callers with the status of a  
476 person's driver's license.

477        (i) The department may adopt rules pursuant to ss.  
478        120.536(1) and 120.54 to implement the provisions of this  
479        subsection. ~~Upon the arrest of a person for the offense of~~  
480        ~~driving while the person's driver's license or driving privilege~~  
481        ~~is suspended or revoked, the arresting officer shall determine:~~  
482               ~~1. Whether the person's driver's license is suspended or~~  
483        ~~revoked.~~  
484               ~~2. Whether the person's driver's license has remained~~  
485        ~~suspended or revoked since a conviction for the offense of~~  
486        ~~driving with a suspended or revoked license.~~  
487               ~~3. Whether the suspension or revocation was made under s.~~  
488        ~~316.646 or s. 627.733, relating to failure to maintain required~~  
489        ~~security, or under s. 322.264, relating to habitual traffic~~  
490        ~~offenders.~~  
491               ~~4. Whether the driver is the registered owner or coowner~~  
492        ~~of the vehicle.~~  
493               ~~(b) If the arresting officer finds in the affirmative as~~  
494        ~~to all of the criteria in paragraph (a), the officer shall~~  
495        ~~immediately impound or immobilize the vehicle.~~  
496               ~~(c) Within 7 business days after the date the arresting~~  
497        ~~agency impounds or immobilizes the vehicle, either the arresting~~  
498        ~~agency or the towing service, whichever is in possession of the~~  
499        ~~vehicle, shall send notice by certified mail, return receipt~~  
500        ~~requested, to any coregistered owners of the vehicle other than~~  
501        ~~the person arrested and to each person of record claiming a lien~~  
502        ~~against the vehicle. All costs and fees for the impoundment or~~  
503        ~~immobilization, including the cost of notification, must be paid~~  
504        ~~by the owner of the vehicle or, if the vehicle is leased, by the~~

HB 65

2007

505 ~~person leasing the vehicle.~~

506 ~~(d) Either the arresting agency or the towing service,~~  
507 ~~whichever is in possession of the vehicle, shall determine~~  
508 ~~whether any vehicle impounded or immobilized under this section~~  
509 ~~has been leased or rented or if there are any persons of record~~  
510 ~~with a lien upon the vehicle. Either the arresting agency or the~~  
511 ~~towing service, whichever is in possession of the vehicle, shall~~  
512 ~~notify by express courier service with receipt or certified~~  
513 ~~mail, return receipt requested, within 7 business days after the~~  
514 ~~date of the immobilization or impoundment of the vehicle, the~~  
515 ~~registered owner and all persons having a recorded lien against~~  
516 ~~the vehicle that the vehicle has been impounded or immobilized.~~  
517 ~~A lessor, rental car company, or lienholder may then obtain the~~  
518 ~~vehicle, upon payment of any lawful towing or storage charges.~~  
519 ~~If the vehicle is a rental vehicle subject to a written~~  
520 ~~contract, the charges may be separately charged to the renter,~~  
521 ~~in addition to the rental rate, along with other separate fees,~~  
522 ~~charges, and recoupments disclosed on the rental agreement. If~~  
523 ~~the storage facility fails to provide timely notice to a lessor,~~  
524 ~~rental car company, or lienholder as required by this paragraph,~~  
525 ~~the storage facility shall be responsible for payment of any~~  
526 ~~towing or storage charges necessary to release the vehicle to a~~  
527 ~~lessor, rental car company, or lienholder that accrue after the~~  
528 ~~notice period, which charges may then be assessed against the~~  
529 ~~driver of the vehicle if the vehicle was lawfully impounded or~~  
530 ~~immobilized.~~

531 ~~(e) Except as provided in paragraph (d), the vehicle shall~~  
532 ~~remain impounded or immobilized for any period imposed by the~~

HB 65

2007

533 ~~court until:~~

534 ~~1. The owner presents proof of insurance to the arresting~~  
535 ~~agency, or~~

536 ~~2. The owner presents proof of sale of the vehicle to the~~  
537 ~~arresting agency and the buyer presents proof of insurance to~~  
538 ~~the arresting agency.~~

539

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

543 ~~(f) The owner of a vehicle that is impounded or~~  
544 ~~immobilized under this subsection may, within 10 days after the~~  
545 ~~date the owner has knowledge of the location of the vehicle,~~  
546 ~~file a complaint in the county in which the owner resides to~~  
547 ~~determine whether the vehicle was wrongfully taken or withheld.~~  
548 ~~Upon the filing of a complaint, the owner may have the vehicle~~  
549 ~~released by posting with the court a bond or other adequate~~  
550 ~~security equal to the amount of the costs and fees for~~  
551 ~~impoundment or immobilization, including towing or storage, to~~  
552 ~~ensure the payment of such costs and fees if the owner does not~~  
553 ~~prevail. When the vehicle owner does not prevail on a complaint~~  
554 ~~that the vehicle was wrongfully taken or withheld, he or she~~  
555 ~~must pay the accrued charges for the immobilization or~~  
556 ~~impoundment, including any towing and storage charges assessed~~  
557 ~~against the vehicle. When the bond is posted and the fee is paid~~  
558 ~~as set forth in s. 28.24, the clerk of the court shall issue a~~  
559 ~~certificate releasing the vehicle. At the time of release, after~~  
560 ~~reasonable inspection, the owner must give a receipt to the~~

HB 65

2007

561 ~~towing or storage company indicating any loss or damage to the~~  
562 ~~vehicle or to the contents of the vehicle.~~

563 (11) Any owner or lessee of a motor vehicle who knowingly  
564 allows, permits, or authorizes a person whose driver's license  
565 or driving privilege has been canceled, suspended, revoked, or  
566 disqualified to drive the motor vehicle upon the streets or  
567 highways of this state or knowingly gives, leases, lends, or  
568 otherwise provides the motor vehicle to a person whose driver's  
569 license or driving privilege has been canceled, suspended,  
570 revoked, or disqualified while such license or privilege is  
571 canceled, suspended, revoked, or disqualified commits a  
572 misdemeanor of the second degree, punishable as provided in s.  
573 775.082 or s. 775.083. The element of knowledge is satisfied if  
574 the owner or lessee has been previously charged under this  
575 subsection for providing a motor vehicle to the same person; the  
576 owner admits to knowledge of the cancellation, suspension,  
577 revocation, or disqualification of the driver's license or  
578 driving privilege of the driver; or the owner received notice as  
579 provided in subsection (8) relating to the same driver. There  
580 shall be a rebuttable presumption that the knowledge requirement  
581 is satisfied if the cancellation, suspension, revocation, or  
582 disqualification appears in the department's records and that  
583 information is available to the public through the department's  
584 Internet website or a telephone hotline.

585 Section 8. Effective October 1, 2007, section 322.341,  
586 Florida Statutes, is amended to read:

587 322.341 Driving while license permanently revoked.--Any  
588 person whose driver's license or driving privilege has been

HB 65

2007

589 permanently revoked pursuant to s. 322.26 or s. 322.28 and who  
590 drives a motor vehicle upon the highways of this state commits  
591 ~~is guilty of~~ a felony of the third degree, punishable as  
592 provided in s. 775.082, s. 775.083, or s. 775.084, and the court  
593 must order imprisonment for not less than 90 days.

594 Section 9. Effective July 1, 2008, paragraph (a) of  
595 subsection (2) of section 932.701, Florida Statutes, is amended  
596 to read:

597 932.701 Short title; definitions.--

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

599 (a) "Contraband article" means:

600 1. Any controlled substance as defined in chapter 893 or  
601 any substance, device, paraphernalia, or currency or other means  
602 of exchange that was used, was attempted to be used, or was  
603 intended to be used in violation of any provision of chapter  
604 893, if the totality of the facts presented by the state is  
605 clearly sufficient to meet the state's burden of establishing  
606 probable cause to believe that a nexus exists between the  
607 article seized and the narcotics activity, whether or not the  
608 use of the contraband article can be traced to a specific  
609 narcotics transaction.

610 2. Any gambling paraphernalia, lottery tickets, money,  
611 currency, or other means of exchange which was used, was  
612 attempted, or intended to be used in violation of the gambling  
613 laws of the state.

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

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

619 5. Any personal property, including, but not limited to,  
620 any vessel, aircraft, item, object, tool, substance, device,  
621 weapon, machine, vehicle of any kind, money, securities, books,  
622 records, research, negotiable instruments, or currency, which  
623 was used or was attempted to be used as an instrumentality in  
624 the commission of, or in aiding or abetting in the commission  
625 of, any felony, whether or not comprising an element of the  
626 felony, or which is acquired by proceeds obtained as a result of  
627 a violation of the Florida Contraband Forfeiture Act.

628 6. Any real property, including any right, title,  
629 leasehold, or other interest in the whole of any lot or tract of  
630 land, which was used, is being used, or was attempted to be used  
631 as an instrumentality in the commission of, or in aiding or  
632 abetting in the commission of, any felony, or which is acquired  
633 by proceeds obtained as a result of a violation of the Florida  
634 Contraband Forfeiture Act.

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

641 8. Any motor vehicle offered for sale in violation of s.  
642 320.28.

643 9. Any motor vehicle used during the course of committing  
644 an offense in violation of s. 322.34 (8)(e) or (9)(a).

645 10. Any photograph, film, or other recorded image,  
646 including an image recorded on videotape, a compact disc,  
647 digital tape, or fixed disk, that is recorded in violation of s.  
648 810.145 and is possessed for the purpose of amusement,  
649 entertainment, sexual arousal, gratification, or profit, or for  
650 the purpose of degrading or abusing another person.

651 11. Any real property, including any right, title,  
652 leasehold, or other interest in the whole of any lot or tract of  
653 land, which is acquired by proceeds obtained as a result of  
654 Medicaid fraud under s. 409.920 or s. 409.9201; any personal  
655 property, including, but not limited to, equipment, money,  
656 securities, books, records, research, negotiable instruments, or  
657 currency; or any vessel, aircraft, item, object, tool,  
658 substance, device, weapon, machine, or vehicle of any kind in  
659 the possession of or belonging to any person which is acquired  
660 by proceeds obtained as a result of Medicaid fraud under s.  
661 409.920 or s. 409.9201.

662 Section 10. The Department of Highway Safety and Motor  
663 Vehicles shall inform the motoring public of the changes to s.  
664 322.34, Florida Statutes, made by this act relating to  
665 impoundment or immobilization of a motor vehicle being driven by  
666 a person whose driver license is canceled, suspended, revoked,  
667 or disqualified and shall provide such information in newly  
668 printed driver license educational materials after July 1, 2007,  
669 and in public service announcements produced in cooperation with  
670 the Florida Highway Patrol.

671 Section 11. During the period from July 1, 2007, to July  
672 1, 2008, the Department of Highway Safety and Motor Vehicles



HB 65

2007

673 shall notify by mail persons whose driver license or driving  
674 privilege has been canceled, suspended, revoked, or disqualified  
675 of the changes to s. 322.34, Florida Statutes, made by this act  
676 relating to impoundment or immobilization of a motor vehicle  
677 being driven by such person; however, failure to receive such  
678 notification shall not preclude, bar, or otherwise affect the  
679 impoundment or immobilization of a motor vehicle under s.  
680 322.34, Florida Statutes.

681 Section 12. Except as otherwise expressly provided in this  
682 act, this act shall take effect July 1, 2007.