

By the Committee on Transportation; and Senators Gaetz and Baker

596-04450-08

20081030c1

1 A bill to be entitled

2 An act relating to highway safety; creating the "Deputy
3 Michael Callin, Michael Haligowski, and Deputy Ryan C.
4 Seguin Memorial Traffic Safety Act"; amending s. 318.14,
5 F.S.; authorizing the court to withhold adjudication of
6 certain violations related to driving without a valid
7 license if the person cited meets certain conditions;
8 providing that the withholding of adjudication is not a
9 conviction under certain circumstances; amending s.
10 322.03, F.S.; requiring a written judgment signed by the
11 judge and recorded by the clerk for cases involving a
12 violation of requirements to possess a valid driver
13 license; amending s. 322.251, F.S.; requiring impoundment
14 and immobilization information to be included with notice
15 to a person whose driver license or driving privilege is
16 being canceled, suspended, revoked, or disqualified;
17 requiring the Department of Highway Safety and Motor
18 Vehicles to make driver license status information
19 available to the public through the Internet and a
20 telephone hotline; amending s. 322.34, F.S.; providing for
21 application of certain penalty provisions to a person who
22 does not have a valid driver license or whose driver
23 license or driving privilege has been disqualified;
24 revising penalties for driving without a valid license or
25 knowingly driving while driver license or driving
26 privilege is canceled, suspended, revoked, or disqualified
27 for specified alcohol-related or drug-related convictions
28 or refusal to submit to certain testing; revising
29 provisions for satisfaction of the element of knowledge;

596-04450-08

20081030c1

30 requiring a cancellation, suspension, revocation, or
31 disqualification by the department or a uniform traffic
32 citation to contain notice that the person's driver
33 license or driving privilege has been canceled, suspended,
34 revoked, or disqualified; requiring impoundment and
35 immobilization information to be included with notice to a
36 person whose driver license or driving privilege has been
37 canceled, suspended, revoked, or disqualified; revising
38 penalty provisions for a habitual offender driving while
39 his or her license is revoked; providing that a person who
40 causes the death of or serious bodily injury to another
41 person by careless or negligent operation of a motor
42 vehicle while his or her license or driving privilege is
43 canceled, suspended, revoked, or disqualified commits a
44 felony of the third degree; requiring a written judgment
45 signed by the judge and recorded by the clerk for cases
46 involving a violation of requirements to possess a valid
47 driver license; amending s. 322.34, F.S.; requiring a law
48 enforcement officer who determines that a motor vehicle is
49 being driven by or is under the actual physical control of
50 a person whose driver license or driving privilege is
51 canceled, suspended, revoked, or disqualified to impound
52 or immobilize the motor vehicle; providing for notice to
53 the driver; providing for impoundment and immobilization
54 of the motor vehicle by the department; providing for
55 notice to registered owners of the motor vehicle and
56 lienholders; providing for the department to commence
57 impoundment or immobilization at the scene where the motor
58 vehicle was immobilized; providing procedures; providing

596-04450-08

20081030c1

59 | for release of the motor vehicle; requiring department
60 | records to contain impoundment and immobilization
61 | information; providing for payment of costs; providing for
62 | certain fees and distribution of moneys collected;
63 | requiring the department to authorize release of the motor
64 | vehicle under certain circumstances; prohibiting operation
65 | of an immobilized motor vehicle; providing for an
66 | immobilized motor vehicle that is found being operated
67 | upon any street or highway in this state before release
68 | from immobilization to be seized and subject to forfeit;
69 | authorizing the department to contract with vendors;
70 | directing the department to inform the person whose driver
71 | license or driving privilege has been canceled, suspended,
72 | revoked, or disqualified that any motor vehicle driven by
73 | or under the actual physical control of that person is
74 | subject to impoundment and immobilization; requiring the
75 | department to make driver license status information
76 | available to the public through the Internet and a
77 | telephone hotline; authorizing the department to adopt
78 | rules; creating s. 322.3402, F.S.; authorizing the state
79 | attorney to establish a Drive Legal program for certain
80 | persons accused of a misdemeanor offense of driving while
81 | license suspended to divert the person from prosecution or
82 | offer a negotiated disposition; providing for exceptions
83 | to be made by the state attorney; providing for criteria
84 | for admission to the program; providing for program
85 | administration policies; requiring county courts and
86 | clerks of court to cooperate with the state attorney to
87 | consolidate an applicant's pending traffic matters and to

596-04450-08

20081030c1

88 assist indigent applicants obtain a valid Florida driver's
89 license by disposing of outstanding monetary obligations
90 by ordering public works or community service; amending s.
91 322.341, F.S.; revising penalty provisions for a person
92 who drives a motor vehicle when his or her driver license
93 has been permanently revoked; directing the department to
94 inform drivers whose license or driving privilege has been
95 canceled, suspended, revoked, or disqualified and the
96 motoring public of the provisions for impoundment and
97 immobilization of motor vehicles provided under the act;
98 providing effective dates.
99

100 Be It Enacted by the Legislature of the State of Florida:
101

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

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

107 318.14 Noncriminal traffic infractions; exception;
108 procedures.--

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

112 (b) If a person is cited for a violation of s.
113 322.34(2)(a)1. or 2. with a license that has been suspended
114 solely for failure to appear, failure to pay a civil penalty,
115 failure to attend a driver improvement course pursuant to s.
116 322.291, failure to pay child support, or failure to pay a

596-04450-08

20081030c1

117 judgment and such person provides to the court a valid or
118 reinstated driver's license and proper proof of maintenance of
119 security as required by s. 316.646, the court may withhold
120 adjudication pursuant to this subsection. If adjudication is
121 withheld for any person pursuant to this paragraph, such action
122 is not a conviction if adjudication has not been withheld under
123 this paragraph for a prior offense during the 3 years before the
124 date of the cited offense. This paragraph does not affect the
125 court's ability to grant a withhold of adjudication under any
126 other provision currently in effect in any provision of traffic
127 or criminal court rules.

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

130 322.03 Drivers must be licensed; penalties.--

131 (7) Every judgment for a violation of subsection (1),
132 regardless of whether adjudication is withheld, shall be in
133 writing, signed by the judge, and recorded by the clerk of the
134 circuit court.

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

137 322.251 Notice of cancellation, suspension, revocation, or
138 disqualification of license.--

139 (1) All orders of cancellation, suspension, revocation, or
140 disqualification issued under the provisions of this chapter,
141 chapter 318, chapter 324, or ss. 627.732-627.734 shall be given
142 either by personal delivery thereof to the licensee whose license
143 is being canceled, suspended, revoked, or disqualified or by
144 deposit in the United States mail in an envelope, first class,
145 postage prepaid, addressed to the licensee at his or her last

596-04450-08

20081030c1

146 known mailing address furnished to the department. Such mailing
147 by the department constitutes notification, and any failure by
148 the person to receive the mailed order will not affect or stay
149 the effective date or term of the cancellation, suspension,
150 revocation, or disqualification of the licensee's driving
151 privilege. Notification of cancellation, suspension, revocation,
152 or disqualification given by the department under this section
153 shall also inform the person whose license or driving privilege
154 has been canceled, suspended, revoked, or disqualified that any
155 motor vehicle driven by or under the actual physical control of
156 that person while the license or driving privilege is canceled,
157 suspended, revoked, or disqualified is subject to impoundment and
158 immobilization under s. 322.34; however, any failure by the
159 department to include the impoundment and immobilization
160 information with the notification or any failure by the person to
161 receive that information will not affect or stay the effective
162 date or term of the cancellation, suspension, revocation, or
163 disqualification of the licensee's driving privilege and will not
164 preclude, bar, or otherwise affect the impoundment or
165 immobilization of a motor vehicle under s. 322.34.

166 (6) (a) Whenever a cancellation, suspension, revocation, or
167 disqualification occurs, the department shall enter the
168 cancellation, suspension, revocation, or disqualification order
169 on the licensee's driver file 20 days after the notice was
170 actually placed in the mail. Any inquiry into the file after the
171 20-day period shall reveal that the license is canceled,
172 suspended, revoked, or disqualified and whether the license has
173 been received by the department.

174 (b) The department shall make available on its Internet

596-04450-08

20081030c1

175 website the means to determine the status of a person's driver's
176 license by entering the driver's license number. The department
177 shall also provide an automated telephone hotline to provide
178 callers with the status of a person's driver's license.

179 Section 5. Effective October 1, 2008, subsections (1), (2),
180 (4), (5), and (6) of section 322.34, Florida Statutes, are
181 amended, and subsection (10) is added to that section, to read:

182 322.34 Driving while license suspended, revoked, canceled,
183 or disqualified.--

184 (1) Except as provided in subsection (2) and s. 322.341,
185 any person whose driver's license or driving privilege has been
186 canceled, suspended, ~~or~~ revoked, or disqualified, except a
187 "habitual traffic offender" as defined in s. 322.264, who drives
188 a vehicle upon the highways of this state while such license or
189 privilege is canceled, suspended, ~~or~~ revoked, or disqualified
190 commits is guilty of a moving violation, punishable as provided
191 in chapter 318.

192 (2) (a) Except as provided in s. 322.341, any person whose
193 driver's license or driving privilege has been canceled,
194 suspended, ~~or~~ revoked, or disqualified as provided by law, except
195 persons defined in s. 322.264, who, knowing of such cancellation,
196 suspension, ~~or~~ revocation, or disqualification, drives any motor
197 vehicle upon the highways of this state while such license or
198 privilege is canceled, suspended, ~~or~~ revoked, or disqualified, or
199 any person who drives any motor vehicle upon the highways of this
200 state without having a valid driver's license as required under
201 s. 322.03, upon:

202 1.(a) A first conviction is guilty of a misdemeanor of the
203 second degree, punishable as provided in s. 775.082 or s.

596-04450-08

20081030c1

204 775.083, except that any person whose driver's license or driving
205 privilege was canceled, suspended, revoked, or disqualified under
206 s. 322.2615 relating to unlawful blood-alcohol level or breath-
207 alcohol level or for refusal to submit to a breath, urine, or
208 blood test authorized by s. 316.1932, s. 322.28(2)(a) for a
209 violation of s. 316.193 or s. 316.1931 prohibiting driving under
210 the influence, s. 316.655(2) for an alcohol-related or drug-
211 related conviction, or s. 316.1939 for refusal to submit to
212 testing is guilty of a misdemeanor of the first degree,
213 punishable as provided in s. 775.082 or s. 775.083.

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

216 3.-(e) A third or subsequent conviction is guilty of a
217 felony of the third degree, punishable as provided in s. 775.082,
218 s. 775.083, or s. 775.084.

219 (b) If any person whose driver's license or driving
220 privilege was canceled, suspended, revoked, or disqualified under
221 s. 322.2615 relating to unlawful blood-alcohol level or breath-
222 alcohol level or for refusal to submit to a breath, urine, or
223 blood test authorized by s. 316.1932, s. 322.28(2)(a) for a
224 violation of s. 316.193 or s. 316.1931 prohibiting driving under
225 the influence, s. 316.655(2) for an alcohol-related or drug-
226 related conviction, or s. 316.1939 for refusal to submit to
227 testing is convicted under this subsection, the court must order
228 imprisonment for not less than 30 days or a probationary period
229 of not less than 90 days requiring the same level of supervision
230 as community control with electronic monitoring as described in
231 chapter 948 and the use of a continuous alcohol monitor device.

232 (c) The element of knowledge is satisfied if the person has

596-04450-08

20081030c1

233 | been previously cited as provided in subsection (1); ~~or~~ the
234 | person admits to knowledge of the cancellation, suspension, ~~or~~
235 | revocation, or disqualification; or the person received notice as
236 | provided in subsection (4). There shall be a rebuttable
237 | presumption that the knowledge requirement is satisfied if a
238 | judgment or order or a cancellation, suspension, revocation, or
239 | disqualification by the department as provided in subsection (4)
240 | appears in the department's records ~~for any case except for one~~
241 | ~~involving a suspension by the department for failure to pay a~~
242 | ~~traffic fine or for a financial responsibility violation.~~

243 | (4) Any judgment or order rendered by a court or
244 | adjudicatory body, any cancellation, suspension, revocation, or
245 | disqualification by the department, or any uniform traffic
246 | citation that cancels, suspends, ~~or~~ revokes, or disqualifies a
247 | person's driver's license must contain a provision notifying the
248 | person that his or her driver's license has been canceled,
249 | suspended, ~~or~~ revoked, or disqualified and must inform the person
250 | that any motor vehicle driven by that person while the license is
251 | canceled, suspended, revoked, or disqualified shall be impounded
252 | or immobilized pursuant to this section.

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

259 | (6) Any person who operates a motor vehicle:

260 | (a) Without having a driver's license as required under s.
261 | 322.03; or

596-04450-08

20081030c1

262 (b) While his or her driver's license or driving privilege
263 is canceled, suspended, ~~or~~ revoked, or disqualified pursuant to
264 ~~s. 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),~~
265
266 and who by careless or negligent operation of the motor vehicle
267 causes the death of or serious bodily injury to another human
268 being, commits ~~is guilty of~~ a felony of the third degree,
269 punishable as provided in s. 775.082 or s. 775.083.

270 (10) With respect to any offense governed by this section,
271 regardless of whether adjudication is withheld, every judgment
272 shall be in writing, signed by the judge, and recorded by the
273 clerk of the circuit court.

274 Section 6. Effective July 1, 2009, subsections (3) and (8)
275 of section 322.34, Florida Statutes, as amended by this act, are
276 amended to read:

277 322.34 Driving while license suspended, revoked, canceled,
278 or disqualified.--

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

283 (8)(a)1. If a law enforcement officer determines that a
284 motor vehicle is being driven by or is under the actual physical
285 control of a person whose driver's license or driving privilege
286 is canceled, suspended, revoked, or disqualified, the officer
287 shall immediately impound the motor vehicle or immobilize the
288 motor vehicle by installing an immobilization device on the
289 vehicle. The officer shall serve notice of the impoundment or
290 immobilization upon the driver. The notice shall include the

596-04450-08

20081030c1

291 location where the motor vehicle is being held and information on
292 the procedures to have the motor vehicle released from
293 impoundment or immobilization by a department-approved vendor. A
294 law enforcement agency or officer who proceeds in good faith to
295 immobilize or impound a vehicle under this section shall not be
296 responsible for any towing, immobilizing, or impounding fees. A
297 law enforcement officer may leave the scene of the impoundment
298 without completing the impoundment process if the officer is
299 ordered elsewhere by his superior officer or an emergency
300 elsewhere arises, or due to other exigent circumstances.

301 2. A law enforcement officer impounding or immobilizing a
302 motor vehicle under subparagraph 1. shall notify the department
303 or the department's agent within 24 hours to effect impoundment
304 or immobilization under this paragraph. The department or the
305 department's agent shall remove and impound or immobilize the
306 motor vehicle at another location. The motor vehicle may be
307 immobilized by installation of an immobilization device on the
308 vehicle; however, the impounding company shall not release the
309 motor vehicle for immobilization at another location without
310 proof that the immobilization vendor is approved by the
311 department. The motor vehicle shall remain in impound or
312 immobilized until the owner or lessee receives authorization from
313 the department for release of the motor vehicle under the
314 provisions of this subsection. The department is authorized to
315 adopt by rule procedures for removal and immobilization of the
316 motor vehicle by a department-approved vendor from the location
317 where the motor vehicle was impounded or immobilized by the law
318 enforcement officer under subparagraph 1.

319 3. A motor vehicle impounded or immobilized under this

596-04450-08

20081030c1

320 paragraph that, according to the records of the department, is
321 owned or leased by the person who was driving or in actual
322 physical control of the motor vehicle when it was stopped and
323 impounded or immobilized under subparagraph 1. shall remain
324 impounded or immobilized until the person's license and driving
325 privilege are reinstated and payment of the fees imposed under
326 paragraph (c) and all costs of towing, impoundment,
327 immobilization, and storage has been made. If department records
328 show a different owner or lessee, and that owner or lessee did
329 not know that the person was driving in violation of s. 322.34,
330 the motor vehicle shall be released to that owner or lessee or
331 the owner's or lessee's agent without payment of the fees imposed
332 under paragraph (c) and without payment of costs of towing,
333 impoundment, immobilization, and storage. The department's
334 records shall reflect that the motor vehicle is immobilized or
335 impounded.

336 (b) Within 7 business days after the date the law
337 enforcement agency or the department impounds or immobilizes the
338 motor vehicle under this subsection, the department shall send
339 notice of the impoundment or immobilization by certified mail,
340 return receipt requested, to any registered owners or coowners of
341 the motor vehicle other than the driver and to each person of
342 record claiming a lien against the motor vehicle. The notice
343 shall include the location where the motor vehicle is being held
344 and information on the procedures to have the motor vehicle
345 released from impoundment or immobilization by a department-
346 approved vendor. All costs and fees for the impoundment or
347 immobilization, including the cost of notification, must be paid
348 by the owner of the motor vehicle or, if the motor vehicle is

596-04450-08

20081030c1

349 leased, by the person leasing the motor vehicle.

350 (c)1. The department shall collect a \$30 processing fee
351 from the owner or lessee prior to release of any motor vehicle
352 immobilized or impounded under this subsection. Moneys collected
353 under this subparagraph shall be forwarded to the Department of
354 Revenue, which shall deposit \$28 of the fee into the State
355 Transportation Trust Fund created under s. 206.46 to be used to
356 carry out public transit responsibilities of the Department of
357 Transportation under s. 341.041. The Department of Revenue shall
358 remit the remaining \$2 to the Florida Law Enforcement Memorial
359 Fund of the Florida State Lodge of the Fraternal Order of Police
360 to be used to carry out the purposes of that fund in this state.

361 2. The department shall charge a reasonable fee, not to
362 exceed \$6, to the owner or lessee of the motor vehicle to cover
363 the operational costs of the program and the cost of immobilizing
364 or impounding the motor vehicle. Fees collected under this
365 subparagraph shall be deposited in the Highway Safety Operating
366 Trust Fund of the Department of Highway Safety and Motor
367 Vehicles.

368 (d) The department shall authorize release of the motor
369 vehicle to the owner or lessee:

370 1. Upon satisfaction of all of the requirements under this
371 subsection for release of the motor vehicle; or

372 2. Upon request by the owner or lessee and a statement that
373 the family of the owner or lessee living in the same household
374 has no other private or public means of transportation and at
375 least one household member has a valid driver's license that is
376 not canceled, suspended, revoked, or disqualified. The department
377 shall verify the statement using department records prior to

596-04450-08

20081030c1

378 authorization of release.

379 (e) A motor vehicle immobilized under this subsection may
380 not be operated in this state until released from immobilization
381 by the department or the department's agent. A motor vehicle
382 immobilized under this subsection that is found being operated
383 upon any street or highway in this state before being released by
384 the department or the department's agent shall be seized and
385 removed from the street or highway and may be forfeited pursuant
386 to ss. 932.701-932.704.

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

389 (g) Notification of cancellation, suspension, revocation,
390 or disqualification given by the department under s. 322.251
391 shall also inform the person whose driver's license or driving
392 privilege has been canceled, suspended, revoked, or disqualified
393 that any motor vehicle driven by or under the actual physical
394 control of that person while the license or driving privilege is
395 canceled, suspended, revoked, or disqualified is subject to
396 impoundment and immobilization under this subsection; however,
397 failure to receive the information shall not preclude, bar, or
398 otherwise affect the impoundment or immobilization of a motor
399 vehicle under this subsection.

400 (h) The department shall make available on its Internet
401 website the means to determine the status of a person's driver's
402 license by entering the driver's license number. The department
403 shall also provide an automated telephone hotline to provide
404 callers with the status of a person's driver's license.

405 (i) The department may adopt rules pursuant to ss.
406 120.536(1) and 120.54 to implement the provisions of this

596-04450-08

20081030c1

407 ~~subsection. Upon the arrest of a person for the offense of~~
408 ~~driving while the person's driver's license or driving privilege~~
409 ~~is suspended or revoked, the arresting officer shall determine:~~

410 ~~1. Whether the person's driver's license is suspended or~~
411 ~~revoked.~~

412 ~~2. Whether the person's driver's license has remained~~
413 ~~suspended or revoked since a conviction for the offense of~~
414 ~~driving with a suspended or revoked license.~~

415 ~~3. Whether the suspension or revocation was made under s.~~
416 ~~316.646 or s. 627.733, relating to failure to maintain required~~
417 ~~security, or under s. 322.264, relating to habitual traffic~~
418 ~~offenders.~~

419 ~~4. Whether the driver is the registered owner or coowner of~~
420 ~~the vehicle.~~

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

424 ~~(c) Within 7 business days after the date the arresting~~
425 ~~agency impounds or immobilizes the vehicle, either the arresting~~
426 ~~agency or the towing service, whichever is in possession of the~~
427 ~~vehicle, shall send notice by certified mail, return receipt~~
428 ~~requested, to any coregistered owners of the vehicle other than~~
429 ~~the person arrested and to each person of record claiming a lien~~
430 ~~against the vehicle. All costs and fees for the impoundment or~~
431 ~~immobilization, including the cost of notification, must be paid~~
432 ~~by the owner of the vehicle or, if the vehicle is leased, by the~~
433 ~~person leasing the vehicle.~~

434 ~~(d) Either the arresting agency or the towing service,~~
435 ~~whichever is in possession of the vehicle, shall determine~~

596-04450-08

20081030c1

436 ~~whether any vehicle impounded or immobilized under this section~~
437 ~~has been leased or rented or if there are any persons of record~~
438 ~~with a lien upon the vehicle. Either the arresting agency or the~~
439 ~~towing service, whichever is in possession of the vehicle, shall~~
440 ~~notify by express courier service with receipt or certified mail,~~
441 ~~return receipt requested, within 7 business days after the date~~
442 ~~of the immobilization or impoundment of the vehicle, the~~
443 ~~registered owner and all persons having a recorded lien against~~
444 ~~the vehicle that the vehicle has been impounded or immobilized. A~~
445 ~~lessor, rental car company, or lienholder may then obtain the~~
446 ~~vehicle, upon payment of any lawful towing or storage charges. If~~
447 ~~the vehicle is a rental vehicle subject to a written contract,~~
448 ~~the charges may be separately charged to the renter, in addition~~
449 ~~to the rental rate, along with other separate fees, charges, and~~
450 ~~recoupments disclosed on the rental agreement. If the storage~~
451 ~~facility fails to provide timely notice to a lessor, rental car~~
452 ~~company, or lienholder as required by this paragraph, the storage~~
453 ~~facility shall be responsible for payment of any towing or~~
454 ~~storage charges necessary to release the vehicle to a lessor,~~
455 ~~rental car company, or lienholder that accrue after the notice~~
456 ~~period, which charges may then be assessed against the driver of~~
457 ~~the vehicle if the vehicle was lawfully impounded or immobilized.~~

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

461 ~~1. The owner presents proof of insurance to the arresting~~
462 ~~agency; or~~

463 ~~2. The owner presents proof of sale of the vehicle to the~~
464 ~~arresting agency and the buyer presents proof of insurance to the~~

596-04450-08

20081030c1

465 ~~arresting agency.~~

466

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

470 ~~(f) The owner of a vehicle that is impounded or immobilized~~
471 ~~under this subsection may, within 10 days after the date the~~
472 ~~owner has knowledge of the location of the vehicle, file a~~
473 ~~complaint in the county in which the owner resides to determine~~
474 ~~whether the vehicle was wrongfully taken or withheld. Upon the~~
475 ~~filing of a complaint, the owner may have the vehicle released by~~
476 ~~posting with the court a bond or other adequate security equal to~~
477 ~~the amount of the costs and fees for impoundment or~~
478 ~~immobilization, including towing or storage, to ensure the~~
479 ~~payment of such costs and fees if the owner does not prevail.~~
480 ~~When the vehicle owner does not prevail on a complaint that the~~
481 ~~vehicle was wrongfully taken or withheld, he or she must pay the~~
482 ~~accrued charges for the immobilization or impoundment, including~~
483 ~~any towing and storage charges assessed against the vehicle. When~~
484 ~~the bond is posted and the fee is paid as set forth in s. 28.24,~~
485 ~~the clerk of the court shall issue a certificate releasing the~~
486 ~~vehicle. At the time of release, after reasonable inspection, the~~
487 ~~owner must give a receipt to the towing or storage company~~
488 ~~indicating any loss or damage to the vehicle or to the contents~~
489 ~~of the vehicle.~~

490 Section 7. Section 322.3402, Florida Statutes, is created
491 to read:

492 322.3402 State attorney Drive Legal program.--

493 (1) The state attorney may establish a Drive Legal program

596-04450-08

20081030c1

494 for a person accused of a violation of the misdemeanor offense of
495 driving while license suspended if the person's license was
496 suspended at the time of the offense for failure to pay a
497 penalty, failure to appear, failure to complete a driver
498 improvement program, failure to pay child support, or failure to
499 satisfy financial responsibility requirements, insurance
500 requirements, or judgments. The program may divert the person
501 from prosecution or offer a negotiated disposition to an offense
502 other than the one charged. The program may be established within
503 the state attorney's office or through an independent contractor.
504 The use of such a diversion program shall not affect the
505 authority of the state attorney to prosecute any person for any
506 such violation. Exceptions to any program criteria, policies, or
507 procedures shall be made solely at the discretion of the state
508 attorney.

509 (2) In establishing the criteria for admission to the
510 program, for the effective administration of the program, and for
511 the protection of the public, the state attorney may exclude any
512 applicant, including, but not limited to, an applicant:

513 (a) Who has been previously or is currently classified as a
514 habitual traffic offender.

515 (b) Whose license has been previously or is currently
516 permanently suspended or revoked.

517 (c) Who has any convictions or suspensions on his or her
518 license for the offense of DUI or a violation of chapter 893.

519 (d) Who has been adjudicated or has had adjudication of
520 guilt withheld for a felony driving or traffic offense in this
521 state or any other jurisdiction.

522 (e) Who is deemed at fault by a law enforcement officer in

596-04450-08

20081030c1

523 a traffic crash in the instant offense.

524 (f) Who is charged with another misdemeanor or felony
525 violation emanating out of the instant offense.

526 (g) Who has previously applied to, and successfully or
527 unsuccessfully completed, the program or a comparable program in
528 another jurisdiction.

529 (h) Who has a significant prior criminal history.

530 (3) Policies for the administration of the program should
531 include provisions requiring the applicant to:

532 (a) Apply to the program within a specified period of time.

533 (b) Knowingly and intelligently waive his or her rights to
534 speedy trial and discovery.

535 (c) Take all necessary steps to obtain a valid Florida
536 driver's license, including paying or satisfying all outstanding
537 citations, fines, court costs and fees, child support payments,
538 and judgments, within a specified period of time.

539 (d) Attend an appropriate educational program.

540 (e) Obtain and maintain for a specified period of time
541 valid motor vehicle insurance for all vehicles owned and operated
542 by the applicant.

543 (f) Correct all previously cited equipment violations for
544 all vehicles owned and operated by the applicant.

545 (g) Complete any driving schools required by the Department
546 of Highway Safety and Motor Vehicles or the program.

547 (h) Pay a reasonable application fee to cover the costs of
548 the program.

549 (4) Policies for the administration of the program should
550 include provisions that would make the applicant no longer
551 eligible for successful completion of the program, including, but

596-04450-08

20081030c1

552 | not limited to:

553 | (a) Any arrest or charge for any criminal offense or any
554 | traffic offense that is a moving violation.

555 | (b) Any failure to continue to make good faith efforts to
556 | comply with the requirements set forth in subsection (3).

557 | (5) For the effective administration of the state
558 | attorney's program, the county courts and the clerks of court
559 | shall cooperate with the state attorney to facilitate the
560 | consolidation of all of an applicant's pending traffic matters
561 | before one judge of the county court. Additionally, in order to
562 | assist indigent applicants obtain a valid Florida driver's
563 | license, all such parties shall develop a process for the
564 | disposition of pending outstanding monetary obligations by
565 | ordering public works or community service as provided by law.

566 | Section 8. Effective October 1, 2008, section 322.341,
567 | Florida Statutes, is amended to read:

568 | 322.341 Driving while license permanently revoked.--Any
569 | person whose driver's license or driving privilege has been
570 | permanently revoked pursuant to s. 322.26 or s. 322.28 and who
571 | drives a motor vehicle upon the highways of this state commits ~~is~~
572 | guilty of a felony of the third degree, punishable as provided in
573 | s. 775.082, s. 775.083, or s. 775.084, and the court must order:

574 | (1) Imprisonment for not less than 90 days; or

575 | (2) Imprisonment for not less than 30 days followed by a
576 | minimum of 180 days of community control with electronic
577 | monitoring as provided for in chapter 948 and the use of a
578 | continuous alcohol monitor device.

579 | Section 9. The Department of Highway Safety and Motor
580 | Vehicles shall inform the motoring public of the changes to s.

596-04450-08

20081030c1

581 322.34, Florida Statutes, made by this act relating to
582 impoundment or immobilization of a motor vehicle being driven by
583 a person whose driver license is canceled, suspended, revoked, or
584 disqualified and shall provide such information in newly printed
585 driver license educational materials after July 1, 2008, and in
586 public service announcements produced in cooperation with the
587 Florida Highway Patrol.

588 Section 10. During the period from July 1, 2008, to July 1,
589 2009, the Department of Highway Safety and Motor Vehicles shall
590 notify by mail persons whose driver license or driving privilege
591 has been canceled, suspended, revoked, or disqualified of the
592 changes to s. 322.34, Florida Statutes, made by this act relating
593 to impoundment or immobilization of a motor vehicle being driven
594 by such person; however, failure to receive such notification
595 shall not preclude, bar, or otherwise affect the impoundment or
596 immobilization of a motor vehicle under s. 322.34, Florida
597 Statutes.

598 Section 11. Except as otherwise expressly provided in this
599 act, this act shall take effect July 1, 2008.