

By Senator Smith

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1 A bill to be entitled
2 An act relating to penalties for violation of traffic
3 laws; amending s. 318.14, F.S.; providing for a person
4 charged with a noncriminal traffic infraction to make
5 periodic payments to pay civil penalties and fees;
6 directing the clerks of court to establish a system to
7 accept such periodic payments; requiring the system to
8 provide for adjustment of payments under certain
9 circumstances; providing that the designated official
10 hearing the case of a traffic law violation may
11 withhold adjudication and that such action is not a
12 conviction; amending s. 318.15, F.S.; providing for
13 suspension of a driver's license for failure to enter
14 into or make payments under a penalty payment plan;
15 providing for reinstatement of the suspended license;
16 amending s. 322.01, F.S.; providing that a judicial
17 determination to withhold adjudication for a violation
18 of specified provisions for driver licenses and
19 identification cards is not a conviction; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 318.14, Florida Statutes, is amended to
25 read:

26 318.14 Noncriminal traffic infractions; exception;
27 procedures.—

28 (1) Except as provided in ss. 318.17 and 320.07(3)(c), any
29 person cited for a violation of chapter 316, s. 320.0605, s.

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30 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.16(2) or
31 (3), s. 322.161(5), s. 322.19, or s. 1006.66(3) is charged with
32 a noncriminal infraction and must be cited for such an
33 infraction and cited to appear before an official. If another
34 person dies as a result of the noncriminal infraction, the
35 person cited may be required to perform 120 community service
36 hours under s. 316.027(4), in addition to any other penalties.

37 (2) Except as provided in s. 316.1001(2), any person cited
38 for an infraction under this section must sign and accept a
39 citation indicating a promise to appear. The officer may
40 indicate on the traffic citation the time and location of the
41 scheduled hearing and must indicate the applicable civil penalty
42 established in s. 318.18.

43 (3) Any person who willfully refuses to accept and sign a
44 summons is guilty of a misdemeanor of the second degree.

45 (4) (a) Except as provided in subsection (12), any person
46 charged with a noncriminal infraction under this section who
47 does not elect to appear shall, within 30 days after the date of
48 issuance of the citation:

49 1. Pay the civil penalty and delinquent fee, if applicable,
50 either by mail or in person; or

51 2. Enter into a payment plan with the clerk of the court to
52 pay the civil penalty and delinquent fee, if applicable, ~~within~~
53 ~~30 days after the date of issuance of the citation.~~

54 (b) If the person cited follows the procedures in paragraph
55 (a) above procedure, he or she shall be deemed to have admitted
56 the infraction and to have waived his or her right to a hearing
57 on the issue of commission of the infraction. Such admission
58 shall not be used as evidence in any other proceedings. Any

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59 person who is cited for a violation of s. 320.0605 or s.
60 322.15(1), or subject to a penalty under s. 320.07(3)(a) or (b)
61 or s. 322.065, and who makes an election under this subsection
62 shall submit proof of compliance with the applicable section to
63 the clerk of the court. For the purposes of this subsection,
64 proof of compliance consists of a valid driver's license or a
65 valid registration certificate.

66 (5) Any person electing to appear before the designated
67 official or who is required so to appear shall be deemed to have
68 waived his or her right to the civil penalty provisions of s.
69 318.18. The official, after a hearing, shall make a
70 determination as to whether an infraction has been committed. If
71 the commission of an infraction has been proven, the official
72 may impose a civil penalty not to exceed \$500, except that in
73 cases involving unlawful speed in a school zone or involving
74 unlawful speed in a construction zone, the civil penalty may not
75 exceed \$1,000; or require attendance at a driver improvement
76 school, or both. If the person is required to appear before the
77 designated official pursuant to s. 318.19(1) and is found to
78 have committed the infraction, the designated official shall
79 impose a civil penalty of \$1,000 in addition to any other
80 penalties and the person's driver's license shall be suspended
81 for 6 months. If the person is required to appear before the
82 designated official pursuant to s. 318.19(2) and is found to
83 have committed the infraction, the designated official shall
84 impose a civil penalty of \$500 in addition to any other
85 penalties and the person's driver's license shall be suspended
86 for 3 months. After a hearing under this subsection, the
87 designated official may withhold adjudication and such action is

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88 not a conviction. If the official determines that no infraction
89 has been committed, no costs or penalties shall be imposed and
90 any costs or penalties that have been paid shall be returned.
91 Moneys received from the mandatory civil penalties imposed
92 pursuant to this subsection upon persons required to appear
93 before a designated official pursuant to s. 318.19(1) or (2)
94 shall be remitted to the Department of Revenue and deposited
95 into the Department of Health Administrative Trust Fund to
96 provide financial support to certified trauma centers to assure
97 the availability and accessibility of trauma services throughout
98 the state. Funds deposited into the Administrative Trust Fund
99 under this section shall be allocated as follows:

100 (a) Fifty percent shall be allocated equally among all
101 Level I, Level II, and pediatric trauma centers in recognition
102 of readiness costs for maintaining trauma services.

103 (b) Fifty percent shall be allocated among Level I, Level
104 II, and pediatric trauma centers based on each center's relative
105 volume of trauma cases as reported in the Department of Health
106 Trauma Registry.

107 (6) The commission of a charged infraction at a hearing
108 under this chapter must be proved beyond a reasonable doubt.

109 (7) (a) The official having jurisdiction over the infraction
110 shall certify to the department within 10 days after payment of
111 the civil penalty that the defendant has admitted to the
112 infraction. If the charge results in a hearing, the official
113 having jurisdiction shall certify to the department the final
114 disposition within 10 days after the hearing. All dispositions
115 returned to the county requiring a correction shall be
116 resubmitted to the department within 10 days after the

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117 notification of the error.

118 (b) If the official having jurisdiction over the traffic
119 infraction submits the final disposition to the department more
120 than 180 days after the final hearing or after payment of the
121 civil penalty, the department may modify any resulting
122 suspension or revocation action to begin as if the citation were
123 reported in a timely manner.

124 (8) When a report of a determination or admission of an
125 infraction is received by the department, it shall proceed to
126 enter the proper number of points on the licensee's driving
127 record in accordance with s. 322.27.

128 (9) Any person who does not hold a commercial driver's
129 license and who is cited for an infraction under this section
130 other than a violation of s. 316.183(2), s. 316.187, or s.
131 316.189 when the driver exceeds the posted limit by 30 miles per
132 hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065,
133 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court
134 appearance, elect to attend in the location of his or her choice
135 within this state a basic driver improvement course approved by
136 the Department of Highway Safety and Motor Vehicles. In such a
137 case, adjudication must be withheld and points, as provided by
138 s. 322.27, may not be assessed. However, a person may not make
139 an election under this subsection if the person has made an
140 election under this subsection in the preceding 12 months. A
141 person may make no more than five elections within 10 years
142 under this subsection. The requirement for community service
143 under s. 318.18(8) is not waived by a plea of nolo contendere or
144 by the withholding of adjudication of guilt by a court. If a
145 person makes an election to attend a basic driver improvement

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146 course under this subsection, 18 percent of the civil penalty
147 imposed under s. 318.18(3) shall be deposited in the State
148 Courts Revenue Trust Fund; however, that portion is not revenue
149 for purposes of s. 28.36 and may not be used in establishing the
150 budget of the clerk of the court under that section or s. 28.35.

151 (10) (a) Any person who does not hold a commercial driver's
152 license and who is cited for an offense listed under this
153 subsection may, in lieu of payment of fine or court appearance,
154 elect to enter a plea of nolo contendere and provide proof of
155 compliance to the clerk of the court or authorized operator of a
156 traffic violations bureau. In such case, adjudication shall be
157 withheld; however, no election shall be made under this
158 subsection if such person has made an election under this
159 subsection in the 12 months preceding election hereunder. No
160 person may make more than three elections under this subsection.
161 This subsection applies to the following offenses:

162 1. Operating a motor vehicle without a valid driver's
163 license in violation of the provisions of s. 322.03, s. 322.065,
164 or s. 322.15(1), or operating a motor vehicle with a license
165 which has been suspended for failure to appear, failure to pay
166 civil penalty, or failure to attend a driver improvement course
167 pursuant to s. 322.291.

168 2. Operating a motor vehicle without a valid registration
169 in violation of s. 320.0605, s. 320.07, or s. 320.131.

170 3. Operating a motor vehicle in violation of s. 316.646.

171 (b) Any person cited for an offense listed in this
172 subsection shall present proof of compliance prior to the
173 scheduled court appearance date. For the purposes of this
174 subsection, proof of compliance shall consist of a valid,

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175 renewed, or reinstated driver's license or registration
176 certificate and proper proof of maintenance of security as
177 required by s. 316.646. Notwithstanding waiver of fine, any
178 person establishing proof of compliance shall be assessed court
179 costs of \$25, except that a person charged with violation of s.
180 316.646(1)-(3) may be assessed court costs of \$8. One dollar of
181 such costs shall be remitted to the Department of Revenue for
182 deposit into the Child Welfare Training Trust Fund of the
183 Department of Children and Family Services. One dollar of such
184 costs shall be distributed to the Department of Juvenile Justice
185 for deposit into the Juvenile Justice Training Trust Fund.
186 Fourteen dollars of such costs shall be distributed to the
187 municipality and \$9 shall be deposited by the clerk of the court
188 into the fine and forfeiture fund established pursuant to s.
189 142.01, if the offense was committed within the municipality. If
190 the offense was committed in an unincorporated area of a county
191 or if the citation was for a violation of s. 316.646(1)-(3), the
192 entire amount shall be deposited by the clerk of the court into
193 the fine and forfeiture fund established pursuant to s. 142.01,
194 except for the moneys to be deposited into the Child Welfare
195 Training Trust Fund and the Juvenile Justice Training Trust
196 Fund. This subsection shall not be construed to authorize the
197 operation of a vehicle without a valid driver's license, without
198 a valid vehicle tag and registration, or without the maintenance
199 of required security.

200 (11) If adjudication is withheld for any person charged or
201 cited under this section, such action is not a conviction.

202 (12) Any person cited for a violation of s. 316.1001 may,
203 in lieu of making an election as set forth in subsection (4) or

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204 s. 318.18(7), elect to pay a fine of \$25, or such other amount
205 as imposed by the governmental entity owning the applicable toll
206 facility, plus the amount of the unpaid toll that is shown on
207 the traffic citation directly to the governmental entity that
208 issued the citation, or on whose behalf the citation was issued,
209 within 30 days after the date of issuance of the citation. Any
210 person cited for a violation of s. 316.1001 who does not elect
211 to pay the fine imposed by the governmental entity owning the
212 applicable toll facility plus the amount of the unpaid toll that
213 is shown on the traffic citation directly to the governmental
214 entity that issued the citation, or on whose behalf the citation
215 was issued, as described in this subsection shall have an
216 additional 45 days after the date of the issuance of the
217 citation in which to request a court hearing or to pay the civil
218 penalty and delinquent fee, if applicable, as provided in s.
219 318.18(7), either by mail or in person, in accordance with
220 subsection (4).

221 (13) (a) A person cited for a violation of s. 316.1926
222 shall, in addition to any other requirements provided in this
223 section, pay a fine of \$1,000. This fine is in lieu of the fine
224 required under s. 318.18(3)(b), if the person was cited for
225 violation of s. 316.1926(2).

226 (b) A person cited for a second violation of s. 316.1926
227 shall, in addition to any other requirements provided in this
228 section, pay a fine of \$2,500. This fine is in lieu of the fine
229 required under s. 318.18(3)(b), if the person was cited for
230 violation of s. 316.1926(2). In addition, the court shall revoke
231 the person's authorization and privilege to operate a motor
232 vehicle for a period of 1 year and order the person to surrender

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233 his or her driver's license.

234 (c) A person cited for a third violation of s. 316.1926
235 commits a felony of the third degree, punishable as provided in
236 s. 775.082, s. 775.083, or s. 775.084. Upon conviction, the
237 court shall impose a fine of \$5,000, revoke the person's
238 authorization and privilege to operate a motor vehicle for a
239 period of 10 years, and order the person to surrender his or her
240 driver's license.

241 (14) The clerks of the court shall establish a system for
242 accepting periodic payments of civil penalties and applicable
243 fees and charges associated with the disposition of traffic
244 infraction citations. The payment plan shall provide for the
245 adjustment of payments, without penalty, due to changes in the
246 ability of the payor to make the payments.

247 Section 2. Section 318.15, Florida Statutes, is amended to
248 read:

249 318.15 Failure to comply with civil penalty or to appear;
250 penalty.-

251 (1) (a) If a person fails to comply with the civil penalties
252 provided in s. 318.18 within the time period specified in s.
253 318.14(4), fails to enter into a penalty payment plan with the
254 clerk of the court or fails to make payments for 8 consecutive
255 weeks under that plan, fails to attend driver improvement
256 school, or fails to appear at a scheduled hearing, the clerk of
257 the court shall notify the Division of Driver Licenses of the
258 Department of Highway Safety and Motor Vehicles of such failure
259 within 10 days after such failure. Upon receipt of such notice,
260 the department shall immediately issue an order suspending the
261 driver's license and privilege to drive of such person effective

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262 20 days after the date the order of suspension is mailed in
263 accordance with s. 322.251(1), (2), and (6). Any such suspension
264 of the driving privilege which has not been reinstated,
265 including a similar suspension imposed outside Florida, shall
266 remain on the records of the department for a period of 7 years
267 from the date imposed and shall be removed from the records
268 after the expiration of 7 years from the date it is imposed.

269 (b) However, a person who elects to attend driver
270 improvement school and has paid the civil penalty as provided in
271 s. 318.14(9), but who subsequently fails to attend the driver
272 improvement school within the time specified by the court shall
273 be deemed to have admitted the infraction and shall be
274 adjudicated guilty. In such a case in which there was an 18-
275 percent reduction pursuant to s. 318.14(9) as it existed before
276 February 1, 2009, the person must pay the clerk of the court
277 that amount and a processing fee of up to \$18, after which no
278 additional penalties, court costs, or surcharges shall be
279 imposed for the violation. In all other such cases, the person
280 must pay the clerk a processing fee of up to \$18, after which no
281 additional penalties, court costs, or surcharges shall be
282 imposed for the violation. The clerk of the court shall notify
283 the department of the person's failure to attend driver
284 improvement school and points shall be assessed pursuant to s.
285 322.27.

286 (2) After the suspension of a person's driver's license and
287 privilege to drive under subsection (1), the license and
288 privilege may not be reinstated until the person complies with
289 the terms of a periodic payment plan or a revised payment plan
290 with the clerk of the court pursuant to s. 318.14 or with all

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291 obligations and penalties imposed under s. 318.18 and presents
292 to a driver license office a certificate of compliance issued by
293 the court, together with a nonrefundable service charge of \$60
294 imposed under s. 322.29, or presents a certificate of compliance
295 and pays the service charge to the clerk of the court or a
296 driver licensing agent authorized under s. 322.135 clearing such
297 suspension. Of the charge collected, \$22.50 shall be remitted to
298 the Department of Revenue to be deposited into the Highway
299 Safety Operating Trust Fund. Such person must also be in
300 compliance with requirements of chapter 322 before
301 reinstatement.

302 Section 3. Subsection (11) of section 322.01, Florida
303 Statutes, is amended to read:

304 322.01 Definitions.—As used in this chapter:

305 (11) (a) "Conviction" means a conviction of an offense
306 relating to the operation of motor vehicles on highways which is
307 a violation of this chapter or any other such law of this state
308 or any other state, including an admission or determination of a
309 noncriminal traffic infraction pursuant to s. 318.14, or a
310 judicial disposition of an offense committed under any federal
311 law substantially conforming to the aforesaid state statutory
312 provisions.

313 (b) Notwithstanding any other provisions of this chapter,
314 the definition of "conviction" provided in 49 C.F.R. part 383.5
315 applies to offenses committed in a commercial motor vehicle or
316 by a person holding a commercial driver's license.

317 (c) Except as otherwise specifically provided in this
318 chapter, a judicial determination to withhold adjudication for a
319 violation under this chapter is not a conviction.

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Section 4. This act shall take effect July 1, 2010.