

ENROLLED  
CS/HB 795

2010 Legislature

1                                   A bill to be entitled  
2           An act relating to penalties for violations 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           providing for certain persons cited for specified offenses  
7           to provide proof of compliance to a designated official;  
8           providing alternative citation disposition procedures for  
9           the offense of operating a motor vehicle with a license  
10          that has been suspended for failure to pay certain  
11          financial obligations or to comply with specified  
12          education requirements; amending s. 318.15, F.S.;  
13          providing for suspension of a driver's license for failure  
14          to enter into or comply with the terms of a penalty  
15          payment plan; providing for reinstatement of the suspended  
16          license; amending s. 322.331, F.S.; providing for the  
17          removal of a habitual traffic offender designation upon  
18          proof of compliance with statutory provisions by certain  
19          offenders; amending s. 322.34, F.S.; providing alternative  
20          citation disposition procedures for the offense of  
21          knowingly operating a motor vehicle with a license that  
22          has been suspended for failure to pay certain financial  
23          obligations or failure to comply with specified education  
24          requirements; providing that adjudication shall be  
25          withheld under the alternative disposition and that such  
26          withholding of adjudication is not a conviction; providing  
27          an effective date.

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

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31 Section 1. Subsection (4) and paragraph (a) of subsection  
32 (10) of section 318.14, Florida Statutes, are amended to read:

33 318.14 Noncriminal traffic infractions; exception;  
34 procedures.—

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

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

41 2. Enter into a payment plan in accordance with s. 28.246  
42 with the clerk of the court to pay the civil penalty and  
43 delinquent fee, if applicable, within 30 days after the date of  
44 issuance of the citation.

45 (b) If the person cited follows the procedures in  
46 paragraph (a) above procedure, he or she shall be deemed to have  
47 admitted the infraction and to have waived his or her right to a  
48 hearing on the issue of commission of the infraction. Such  
49 admission shall not be used as evidence in any other  
50 proceedings. Any person who is cited for a violation of s.  
51 320.0605 or s. 322.15(1), or subject to a penalty under s.  
52 320.07(3) (a) or (b) or s. 322.065, and who makes an election  
53 under this subsection shall submit proof of compliance with the  
54 applicable section to the clerk of the court. For the purposes  
55 of this subsection, proof of compliance consists of a valid  
56 driver's license or a valid registration certificate.

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57 (10) (a) Any person who does not hold a commercial driver's  
58 license and who is cited for an offense listed under this  
59 subsection may, in lieu of payment of fine or court appearance,  
60 elect to enter a plea of nolo contendere and provide proof of  
61 compliance to the clerk of the court, designated official, or  
62 authorized operator of a traffic violations bureau. In such  
63 case, adjudication shall be withheld; however, no election shall  
64 be made under this subsection if such person has made an  
65 election under this subsection in the 12 months preceding  
66 election hereunder. No person may make more than three elections  
67 under this subsection. This subsection applies to the following  
68 offenses:

69 1. Operating a motor vehicle without a valid driver's  
70 license in violation of the provisions of s. 322.03, s. 322.065,  
71 or s. 322.15(1), or operating a motor vehicle with a license  
72 that ~~which~~ has been suspended for failure to appear, failure to  
73 pay civil penalty, or failure to attend a driver improvement  
74 course pursuant to s. 322.291.

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

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

78 4. Operating a motor vehicle with a license that has been  
79 suspended under s. 61.13016 or s. 322.245 for failure to pay  
80 child support or for failure to pay any other financial  
81 obligation as provided in s. 322.245; however, this subsection  
82 does not apply if the license has been suspended pursuant to s.  
83 322.245(1).

84 5. Operating a motor vehicle with a license that has been

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85 suspended under s. 322.091 for failure to meet school attendance  
86 requirements.

87 Section 2. Section 318.15, Florida Statutes, is amended to  
88 read:

89 318.15 Failure to comply with civil penalty or to appear;  
90 penalty.—

91 (1)(a) If a person fails to comply with the civil  
92 penalties provided in s. 318.18 within the time period specified  
93 in s. 318.14(4), fails to enter into or comply with the terms of  
94 a penalty payment plan with the clerk of the court in accordance  
95 with ss. 318.14 and 28.246, fails to attend driver improvement  
96 school, or fails to appear at a scheduled hearing, the clerk of  
97 the court shall notify the Division of Driver Licenses of the  
98 Department of Highway Safety and Motor Vehicles of such failure  
99 within 10 days after such failure. Upon receipt of such notice,  
100 the department shall immediately issue an order suspending the  
101 driver's license and privilege to drive of such person effective  
102 20 days after the date the order of suspension is mailed in  
103 accordance with s. 322.251(1), (2), and (6). Any such suspension  
104 of the driving privilege which has not been reinstated,  
105 including a similar suspension imposed outside Florida, shall  
106 remain on the records of the department for a period of 7 years  
107 from the date imposed and shall be removed from the records  
108 after the expiration of 7 years from the date it is imposed.

109 (b) However, a person who elects to attend driver  
110 improvement school and has paid the civil penalty as provided in  
111 s. 318.14(9), but who subsequently fails to attend the driver  
112 improvement school within the time specified by the court shall

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113 | be deemed to have admitted the infraction and shall be  
114 | adjudicated guilty. In such a case in which there was an 18-  
115 | percent reduction pursuant to s. 318.14(9) as it existed before  
116 | February 1, 2009, the person must pay the clerk of the court  
117 | that amount and a processing fee of up to \$18, after which no  
118 | additional penalties, court costs, or surcharges shall be  
119 | imposed for the violation. In all other such cases, the person  
120 | must pay the clerk a processing fee of up to \$18, after which no  
121 | additional penalties, court costs, or surcharges shall be  
122 | imposed for the violation. The clerk of the court shall notify  
123 | the department of the person's failure to attend driver  
124 | improvement school and points shall be assessed pursuant to s.  
125 | 322.27.

126 |       (2) After the suspension of a person's driver's license  
127 | and privilege to drive under subsection (1), the license and  
128 | privilege may not be reinstated until the person complies with  
129 | the terms of a periodic payment plan or a revised payment plan  
130 | with the clerk of the court pursuant to ss. 318.14 and 28.246 or  
131 | with all obligations and penalties imposed under s. 318.18 and  
132 | presents to a driver license office a certificate of compliance  
133 | issued by the court, together with a nonrefundable service  
134 | charge of \$60 imposed under s. 322.29, or presents a certificate  
135 | of compliance and pays the service charge to the clerk of the  
136 | court or a driver licensing agent authorized under s. 322.135  
137 | clearing such suspension. Of the charge collected, \$22.50 shall  
138 | be remitted to the Department of Revenue to be deposited into  
139 | the Highway Safety Operating Trust Fund. Such person must also  
140 | be in compliance with requirements of chapter 322 before

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141 reinstatement.

142 Section 3. Section 322.331, Florida Statutes, is amended  
143 to read:

144 322.331 Habitual traffic offenders; restoration of  
145 license.—

146 (1) At the expiration of 5 years from the date of license  
147 revocation, a person whose license has been revoked under s.  
148 322.27(5) may petition the department for restoration of driving  
149 privileges. Upon such petition and after investigation of the  
150 person's qualification and fitness to drive, the department  
151 shall hold an administrative hearing to determine whether  
152 driving privileges shall be restored either on an unrestricted  
153 basis or on a restricted basis solely for business or employment  
154 purposes.

155 (2) If a person whose license has been revoked under s.  
156 322.27(5) as a result of a third violation of driving a motor  
157 vehicle while his or her license is suspended or revoked which  
158 occurred prior to July 1, 2010, provides proof of compliance as  
159 allowed by s. 318.14(10) (a) prior to July 1, 2011, the clerk of  
160 court shall submit an amended disposition to remove the habitual  
161 traffic offender designation.

162 Section 4. Subsection (11) is added to section 322.34,  
163 Florida Statutes, to read:

164 322.34 Driving while license suspended, revoked, canceled,  
165 or disqualified.—

166 (10) (a) Notwithstanding any other provision of this  
167 section, if a person does not have a prior forcible felony  
168 conviction as defined in s. 776.08, the penalties provided in

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169 paragraph (b) apply if a person's driver's license or driving  
 170 privilege is canceled, suspended, or revoked for:

171 1. Failing to pay child support as provided in s. 322.245  
 172 or s. 61.13016;

173 2. Failing to pay any other financial obligation as  
 174 provided in s. 322.245 other than those specified in s.  
 175 322.245(1);

176 3. Failing to comply with a civil penalty required in s.  
 177 318.15;

178 4. Failing to maintain vehicular financial responsibility  
 179 as required by chapter 324;

180 5. Failing to comply with attendance or other requirements  
 181 for minors as set forth in s. 322.091; or

182 6. Having been designated a habitual traffic offender  
 183 under s. 322.264(1)(d) as a result of suspensions of his or her  
 184 driver's license or driver privilege for any underlying  
 185 violation listed in subparagraphs 1.-5.

186 (b)1. Upon a first conviction for knowingly driving while  
 187 his or her license is suspended, revoked, or canceled for any of  
 188 the underlying violations listed in subparagraphs (a)1.-6., a  
 189 person commits a misdemeanor of the second degree, punishable as  
 190 provided in s. 775.082 or s. 775.083.

191 2. Upon a second or subsequent conviction for the same  
 192 offense of knowingly driving while his or her license is  
 193 suspended, revoked, or canceled for any of the underlying  
 194 violations listed in subparagraphs (a)1.-6., a person commits a  
 195 misdemeanor of the first degree, punishable as provided in s.  
 196 775.082 or s. 775.083.

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197        (11) (a) Any person who does not hold a commercial driver's  
198 license and who is cited for an offense of knowingly driving  
199 while his or her license is suspended, revoked, or canceled for  
200 any of the underlying violations listed in paragraph (10) (a)  
201 may, in lieu of payment of fine or court appearance, elect to  
202 enter a plea of nolo contendere and provide proof of compliance  
203 to the clerk of the court, designated official, or authorized  
204 operator of a traffic violations bureau. In such case,  
205 adjudication shall be withheld; however, no election shall be  
206 made under this subsection if such person has made an election  
207 under this subsection in the preceding 12 months. No person may  
208 make more than three elections under this subsection.

209        (b) If adjudication is withheld under paragraph (a), such  
210 action is not a conviction.

211        Section 5. This act shall take effect October 1, 2010.