

1 A bill to be entitled
 2 An act relating to driving with a license that is
 3 canceled, suspended, or revoked; creating the "Saving
 4 Lives Through Safer Roadways Act"; amending s. 322.34,
 5 F.S.; requiring a law enforcement officer to impound or
 6 immobilize a motor vehicle upon the issuance of a citation
 7 to or arrest of a person for the offense of driving while
 8 the person's driver's license or driving privilege is
 9 canceled, suspended, or revoked; removing certain
 10 conditions for impoundment or immobilization of a vehicle;
 11 revising procedures and conditions for release of the
 12 vehicle; revising provisions to clarify applicability of
 13 penalties; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:
 16

17 Section 1. This act may be cited as the "Saving Lives
 18 Through Safer Roadways Act."

19 Section 2. Section 322.34, Florida Statutes, is amended to
 20 read:

21 322.34 Driving while license suspended, revoked, canceled,
 22 or disqualified.—

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

29 | punishable as provided in chapter 318.

30 | (2) Except as provided in subsection (10), any person
 31 | whose driver's license or driving privilege has been canceled,
 32 | suspended, or revoked as provided by law, except persons defined
 33 | in s. 322.264, who, knowing of such cancellation, suspension, or
 34 | revocation, drives any motor vehicle upon the highways of this
 35 | state while the ~~such~~ license or privilege is canceled,
 36 | suspended, or revoked, upon:

37 | (a) A first conviction is guilty of a misdemeanor of the
 38 | second degree, punishable as provided in s. 775.082 or s.
 39 | 775.083.

40 | (b) A second conviction is guilty of a misdemeanor of the
 41 | first degree, punishable as provided in s. 775.082 or s.
 42 | 775.083.

43 | (c) A third or subsequent conviction is guilty of a felony
 44 | of the third degree, punishable as provided in s. 775.082, s.
 45 | 775.083, or s. 775.084.

46 |
 47 | The element of knowledge is satisfied if the person has been
 48 | previously cited as provided in subsection (1); ~~or~~ the person
 49 | admits to knowledge of the cancellation, suspension, or
 50 | revocation; or the person received notice as provided in
 51 | subsection (4). There is ~~shall be~~ a rebuttable presumption that
 52 | the knowledge requirement is satisfied if a judgment or order as
 53 | provided in subsection (4) appears in the department's records
 54 | for any case except for one involving a suspension by the
 55 | department for failure to pay a traffic fine or for a financial
 56 | responsibility violation.

57 (3) In any proceeding for a violation of this section, a
 58 court may consider evidence, other than that specified in
 59 subsection (2), that the person knowingly violated this section.

60 (4) Any judgment or order rendered by a court or
 61 adjudicatory body or any uniform traffic citation that cancels,
 62 suspends, or revokes a person's driver's license must contain a
 63 provision notifying the person that his or her driver's license
 64 has been canceled, suspended, or revoked.

65 (5) Except as provided in subsection (10), any person
 66 whose driver's license has been revoked pursuant to s. 322.264
 67 (habitual offender) and who drives any motor vehicle upon the
 68 highways of this state while the ~~such~~ license is revoked commits
 69 ~~is guilty of~~ a felony of the third degree, punishable as
 70 provided in s. 775.082, s. 775.083, or s. 775.084.

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

72 (a) Without having a driver's license as required under s.
 73 322.03; or

74 (b) While his or her driver's license or driving privilege
 75 is canceled, suspended, or revoked pursuant to s. 316.655, s.
 76 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

77
 78 and who by careless or negligent operation of the motor vehicle
 79 causes the death of or serious bodily injury to another human
 80 being commits ~~is guilty of~~ a felony of the third degree,
 81 punishable as provided in s. 775.082 or s. 775.083.

82 (7) Any person whose driver's license or driving privilege
 83 has been canceled, suspended, revoked, or disqualified and who
 84 drives a commercial motor vehicle on the highways of this state

85 while ~~the such~~ license or privilege is canceled, suspended,
 86 revoked, or disqualified, upon:

87 (a) A first conviction is guilty of a misdemeanor of the
 88 first degree, punishable as provided in s. 775.082 or s.
 89 775.083.

90 (b) A second or subsequent conviction is guilty of a
 91 felony of the third degree, punishable as provided in s.
 92 775.082, s. 775.083, or s. 775.084.

93 (8) (a) Upon the issuance of a citation to or arrest of a
 94 person for the offense of driving while the person's driver's
 95 license or driving privilege is canceled, suspended, or revoked,
 96 the law enforcement arresting officer shall ~~determine:~~

97 ~~1. Whether the person's driver's license is suspended or~~
 98 ~~revoked.~~

99 ~~2. Whether the person's driver's license has remained~~
 100 ~~suspended or revoked since a conviction for the offense of~~
 101 ~~driving with a suspended or revoked license.~~

102 ~~3. Whether the suspension or revocation was made under s.~~
 103 ~~316.646 or s. 627.733, relating to failure to maintain required~~
 104 ~~security, or under s. 322.264, relating to habitual traffic~~
 105 ~~offenders.~~

106 ~~4. Whether the driver is the registered owner or coowner~~
 107 ~~of the vehicle.~~

108 ~~(b) If the arresting officer finds in the affirmative as~~
 109 ~~to all of the criteria in paragraph (a), the officer shall~~
 110 ~~immediately impound or immobilize the vehicle pursuant to the~~
 111 ~~law enforcement agency's impoundment or immobilization~~
 112 ~~procedures or contract with a towing service.~~

113 (b)~~(e)~~ Within 10 ~~7~~ business days after the date the
114 officer ~~arresting agency~~ impounds or immobilizes the vehicle,
115 either the law enforcement ~~arresting~~ agency or the towing
116 service, whichever is in possession of the vehicle, shall send
117 notice by certified mail to all registered ~~any coregistered~~
118 owners of the vehicle other than the person who was cited or
119 arrested and to each person of record claiming a lien against
120 the vehicle. All costs and fees for the impoundment or
121 immobilization, including the cost of notification, must be paid
122 by the owner of the vehicle or, if the vehicle is leased, by the
123 person leasing the vehicle.

124 (c)~~(d)~~ Either the law enforcement ~~arresting~~ agency or the
125 towing service, whichever is in possession of the vehicle, shall
126 determine whether any vehicle impounded or immobilized under
127 this section has been leased or rented or if there are any
128 persons of record with a lien upon the vehicle. Either the law
129 enforcement ~~arresting~~ agency or the towing service, whichever is
130 in possession of the vehicle, shall notify, by ~~express courier~~
131 ~~service with receipt or~~ certified mail within 10 ~~7~~ business days
132 after the date of the immobilization or impoundment of the
133 vehicle, the registered owner and all persons having a recorded
134 lien against the vehicle that the vehicle has been impounded or
135 immobilized. A lessor, rental car company, or lienholder may
136 then obtain the vehicle, upon payment of any lawful towing or
137 storage charges. If the vehicle is a rental vehicle subject to a
138 written contract, the charges may be separately charged to the
139 renter, in addition to the rental rate, along with other
140 separate fees, charges, and recouplements disclosed on the rental

141 agreement. If the storage facility fails to provide timely
142 notice to a lessor, rental car company, or lienholder as
143 required by this paragraph, the storage facility shall be
144 responsible for payment of any towing or storage charges
145 necessary to release the vehicle to a lessor, rental car
146 company, or lienholder that accrue after the notice period,
147 which charges may then be assessed against the driver of the
148 vehicle if the vehicle was lawfully impounded or immobilized.

149 (d)~~(e)~~ Except as provided in paragraph (c) ~~(d)~~, the
150 vehicle shall remain impounded or immobilized ~~for any period~~
151 ~~imposed by the court~~ until:

152 1. The owner presents to the law enforcement agency proof
153 of a valid driver's license, ownership of the vehicle, and
154 insurance ~~to the arresting agency~~; or

155 2. The owner presents to the law enforcement agency proof
156 of sale of the vehicle ~~to the arresting agency~~ and the buyer
157 presents to the law enforcement agency proof of a valid driver's
158 license, ownership of the vehicle, and insurance ~~to the~~
159 ~~arresting agency~~.

160
161 If proof is not presented within 35 days after the impoundment
162 or immobilization, a lien shall be placed upon such vehicle
163 pursuant to s. 713.78.

164 (e)~~(f)~~ The owner of a vehicle that is impounded or
165 immobilized under this subsection may, within 10 days after the
166 date the owner has knowledge of the location of the vehicle,
167 file a complaint in the county in which the owner resides to
168 determine whether the vehicle was wrongfully taken or withheld.

169 Upon the filing of a complaint, the owner or lienholder may have
170 the vehicle released by posting with the court a bond or other
171 adequate security equal to the amount of the costs and fees for
172 impoundment or immobilization, including towing or storage, to
173 ensure the payment of such costs and fees if the owner or
174 lienholder does not prevail. When the vehicle owner or
175 lienholder does not prevail on a complaint that the vehicle was
176 wrongfully taken or withheld, he or she must pay the accrued
177 charges for the immobilization or impoundment, including any
178 towing and storage charges assessed against the vehicle. When
179 the bond is posted and the fee is paid as set forth in s. 28.24,
180 the clerk of the court shall issue a certificate releasing the
181 vehicle. At the time of release, after reasonable inspection,
182 the owner must give a receipt to the towing or storage company
183 indicating any loss or damage to the vehicle or to the contents
184 of the vehicle.

185 (9) (a) A motor vehicle that is driven by a person under
186 the influence of alcohol or drugs in violation of s. 316.193 is
187 subject to seizure and forfeiture under ss. 932.701-932.706 and
188 is subject to liens for recovering, towing, or storing vehicles
189 under s. 713.78 if, at the time of the offense, the person's
190 driver's license is suspended, revoked, or canceled as a result
191 of a prior conviction for driving under the influence.

192 (b) The law enforcement officer shall notify the
193 Department of Highway Safety and Motor Vehicles of any
194 impoundment or seizure for violation of paragraph (a) in
195 accordance with procedures established by the department.

196 (c) Notwithstanding s. 932.703(1) (c) or s. 932.7055, when

197 the seizing agency obtains a final judgment granting forfeiture
 198 of the motor vehicle under this section, 30 percent of the net
 199 proceeds from the sale of the motor vehicle shall be retained by
 200 the seizing law enforcement agency and 70 percent shall be
 201 deposited in the General Revenue Fund for use by regional
 202 workforce boards in providing transportation services for
 203 participants of the welfare transition program. In a forfeiture
 204 proceeding under this section, the court may consider the extent
 205 that the family of the owner has other public or private means
 206 of transportation.

207 (10) (a) Notwithstanding any other provision of this
 208 section, if a person does not have a prior forcible felony
 209 conviction as defined in s. 776.08, the penalties provided in
 210 paragraph (b) apply if a person's driver's license or driving
 211 privilege is canceled, suspended, or revoked for:

212 1. Failing to pay child support as provided in s. 322.245
 213 or s. 61.13016;

214 2. Failing to pay any other financial obligation as
 215 provided in s. 322.245 other than those specified in s.
 216 322.245(1);

217 3. Failing to comply with a civil penalty required in s.
 218 318.15;

219 4. Failing to maintain vehicular financial responsibility
 220 as required by chapter 324;

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

223 6. Having been designated a habitual traffic offender
 224 under s. 322.264(1) (d) as a result of suspensions of his or her

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225 driver's license or driver privilege for any underlying
226 violation listed in subparagraphs 1.-5.

227 (b)1. Upon a first conviction for knowingly driving while
228 his or her license is suspended, revoked, or canceled for any of
229 the underlying violations listed in subparagraphs (a)1.-6., a
230 person is guilty of ~~commits~~ a misdemeanor of the second degree,
231 punishable as provided in s. 775.082 or s. 775.083.

232 2. Upon a second or subsequent conviction for the same
233 offense of knowingly driving while his or her license is
234 suspended, revoked, or canceled for any of the underlying
235 violations listed in subparagraphs (a)1.-6., a person is guilty
236 of ~~commits~~ a misdemeanor of the first degree, punishable as
237 provided in s. 775.082 or s. 775.083.

238 (c) ~~(11)(a)~~ A person who does not hold a commercial
239 driver's license and who is cited for an offense of knowingly
240 driving while his or her license is suspended, revoked, or
241 canceled for any of the underlying violations listed in
242 paragraph ~~(10)~~ (a) may, in lieu of payment of fine or court
243 appearance, elect to enter a plea of nolo contendere and provide
244 proof of compliance to the clerk of the court, designated
245 official, or authorized operator of a traffic violations bureau.
246 In such case, adjudication shall be withheld. However, no
247 election shall be made under this paragraph ~~subsection~~ if such
248 person has made an election under this paragraph ~~subsection~~
249 during the preceding 12 months. A person may not make more than
250 three elections under this paragraph ~~subsection~~.

251 ~~(b)~~ If adjudication is withheld under this paragraph ~~(a)~~,
252 such action is not a conviction.

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Section 3. This act shall take effect January 1, 2012.