



744338

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2011	.	
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	.	
	.	

The Committee on Criminal Justice (Margolis) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (22) is added to section 318.18,
Florida Statutes, to read:

318.18 Amount of penalties.—The penalties required for a
noncriminal disposition pursuant to s. 318.14 or a criminal
offense listed in s. 318.17 are as follows:

(22) For a person driving any motor vehicle upon the
highways of this state while the person's license or privilege
to drive is canceled, suspended, or revoked in violation of s.



744338

13 322.34(2), in addition to the fine under paragraph (3)(a), upon:

14 (a) A first conviction, \$250.

15 (b) A second conviction, \$500.

16 (c) A third or subsequent conviction, \$1,000.

17 Section 2. Subsection (22) is added to section 318.21,
18 Florida Statutes, to read:

19 318.21 Disposition of civil penalties by county courts.—All
20 civil penalties received by a county court pursuant to the
21 provisions of this chapter shall be distributed and paid monthly
22 as follows:

23 (22) Notwithstanding subsections (1) and (2), the proceeds
24 from the penalties imposed pursuant to s. 318.18(22) shall be
25 distributed as follows:

26 (a) For violations committed within a municipality, 40
27 percent shall be distributed to the municipality, 40 percent
28 shall be distributed to the county, and 20 percent shall be
29 distributed to the law enforcement agency that issued the
30 citation.

31 (b) For violations committed outside a municipality, 80
32 percent shall be distributed to the county and 20 percent shall
33 be distributed to the enforcement agency that issued the
34 citation.

35 Section 3. Section 322.34, Florida Statutes, is amended to
36 read:

37 322.34 Driving while license suspended ~~or~~ revoked,
38 ~~anceled, or disqualified.~~—

39 (1) ~~Except as provided in subsection (2),~~ Any person whose
40 driver's license or driving privilege has been ~~anceled,~~
41 suspended, ~~or~~ revoked, except a person whose driver's license or



744338

42 driving privilege has been suspended or revoked pursuant to s.
43 322.28 or a "habitual traffic offender" as defined in s.
44 322.264, who drives a vehicle upon the highways of this state
45 while such license or privilege is ~~canceled~~, suspended, or
46 revoked ~~commits is guilty of~~ a moving violation, punishable as
47 provided in chapter 318.

48 (2) Any person whose driver's license or driving privilege
49 has been ~~canceled~~, suspended, or revoked pursuant to s. 322.28,
50 or as a habitual traffic offender as provided by law, except
51 persons defined in s. 322.264, who, knowing of such
52 ~~cancellation~~, suspension, or revocation, drives any motor
53 vehicle upon the highways of this state while such license or
54 privilege is ~~canceled~~, suspended, or revoked, upon:

55 (a) A first conviction is guilty of a misdemeanor of the
56 second degree, punishable as provided in s. 775.082 or s.
57 775.083.

58 (b) A second conviction is guilty of a misdemeanor of the
59 first degree, punishable as provided in s. 775.082 or s.
60 775.083.

61 (c) A third or subsequent conviction is guilty of a felony
62 of the third degree, punishable as provided in s. 775.082, s.
63 775.083, or s. 775.084.

64
65 The element of knowledge is satisfied if the person has been
66 previously cited as provided in subsection (1); or the person
67 admits to knowledge of the ~~cancellation~~, suspension, or
68 revocation; or the person received notice as provided in
69 subsection (4). There shall be a rebuttable presumption that the
70 knowledge requirement is satisfied if a judgment or order as



744338

71 provided in subsection (4) appears in the department's records
72 for any case except for one involving a suspension by the
73 department for failure to pay a traffic fine or for a financial
74 responsibility violation.

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

78 (4) Any judgment or order rendered by a court or
79 adjudicatory body or any uniform traffic citation that ~~cancel~~,
80 suspends~~r~~ or revokes a person's driver's license must contain a
81 provision notifying the person that his or her driver's license
82 has been ~~cancel~~, suspended~~r~~ or revoked.

83 (5) The motor vehicle being driven at the time of the
84 offense in subsection (2) shall be immediately impounded if the
85 driver is the registered owner of the vehicle, and the vehicle
86 may not be released from impoundment before the impoundment
87 surcharges is paid. The impoundment surcharge for:

88 (a) A first offense, is \$250 before release of the vehicle
89 from impoundment.

90 (b) A second offense, is \$500 before release of the vehicle
91 from impoundment.

92 (c) A third or subsequent offense, is \$1,000 before release
93 of the vehicle from impoundment.

94
95 The proceeds from impoundment surcharges shall be distributed as
96 civil penalties pursuant to s. 318.21(22). Any impoundment
97 surcharges collected under this subsection shall be credited
98 toward the civil penalty amount assessed pursuant to s.
99 318.18(22).



744338

100 (6)~~(5)~~ Any person whose driver's license has been revoked
101 pursuant to s. 322.264, except for a violation of s.
102 322.264(1)(d), as a ~~(habitual traffic offender)~~ and who drives
103 any motor vehicle upon the highways of this state while such
104 license is revoked commits ~~is guilty of~~ a felony of the third
105 degree, punishable as provided in s. 775.082, s. 775.083, or s.
106 775.084.

107 (7)~~(6)~~ Any person who operates a motor vehicle:

108 (a) Without having a driver's license as required under s.
109 322.03; or

110 (b) While his or her driver's license or driving privilege
111 is canceled, suspended, or revoked pursuant to s. 316.655, s.
112 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

113
114 and who by careless or negligent operation of the motor vehicle
115 causes the death of or serious bodily injury to another human
116 being commits ~~is guilty of~~ a felony of the third degree,
117 punishable as provided in s. 775.082 or s. 775.083.

118 (8)~~(7)~~ Any person whose driver's license or driving
119 privilege has been canceled, suspended, revoked, or disqualified
120 and who drives a commercial motor vehicle on the highways of
121 this state while such license or privilege is canceled,
122 suspended, revoked, or disqualified, upon:

123 (a) A first conviction is guilty of a misdemeanor of the
124 first degree, punishable as provided in s. 775.082 or s.
125 775.083.

126 (b) A second or subsequent conviction is guilty of a felony
127 of the third degree, punishable as provided in s. 775.082, s.
128 775.083, or s. 775.084.



744338

129 ~~(9)-(8)~~(a) Upon issuing a citation to the arrest of a person
130 for a violation of subsection (2), the offense of driving while
131 the person's driver's license or driving privilege is suspended
132 or revoked, the law enforcement arresting officer shall
133 immediately impound the vehicle if the driver is the registered
134 owner of the vehicle. ~~determine:~~

135 1. ~~Whether the person's driver's license is suspended or~~
136 ~~revoked.~~

137 2. ~~Whether the person's driver's license has remained~~
138 ~~suspended or revoked since a conviction for the offense of~~
139 ~~driving with a suspended or revoked license.~~

140 3. ~~Whether the suspension or revocation was made under s.~~
141 ~~316.646 or s. 627.733, relating to failure to maintain required~~
142 ~~security, or under s. 322.264, relating to habitual traffic~~
143 ~~offenders.~~

144 4. ~~Whether the driver is the registered owner or coowner of~~
145 ~~the vehicle.~~

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

149 ~~(b)-(c)~~ Within 7 business days after the date the vehicle is
150 impounded ~~arresting agency impounds or immobilizes the vehicle,~~
151 ~~either the~~ law enforcement arresting agency or the towing
152 service, whichever is in possession of the vehicle, shall send
153 notice pursuant to s. 713.78 ~~by certified mail~~ to any
154 ~~co~~registered owners of the vehicle other than the person who was
155 cited, to the traffic violations bureau, arrested and to each
156 person of record claiming a lien against the vehicle. All costs
157 and fees for the impoundment ~~or immobilization~~, including the



744338

158 cost of notification, must be paid by the owner of the vehicle
159 or, if the vehicle is leased, by the person leasing the vehicle.

160 (c)~~(d)~~ ~~Either~~ The law enforcement ~~arresting~~ agency or the
161 towing service, whichever is in possession of the vehicle, shall
162 determine whether any vehicle impounded ~~or immobilized~~ under
163 this section has been leased or rented or if there are any
164 persons of record with a lien upon the vehicle. ~~Either~~ The law
165 enforcement ~~arresting~~ agency or the towing service, whichever is
166 in possession of the vehicle, shall send notice pursuant to s.
167 713.78 ~~notify by express courier service with receipt or~~
168 ~~certified mail~~ within 7 business days after the date of the
169 ~~immobilization or~~ impoundment of the vehicle, to the registered
170 owner and all persons having a recorded lien against the vehicle
171 that the vehicle has been impounded ~~or immobilized~~. A lessor,
172 rental car company, or lienholder may ~~then~~ obtain the vehicle,
173 upon payment of any lawful towing or storage charges. If the
174 vehicle is a rental vehicle subject to a written contract, the
175 charges may be separately charged to the renter, in addition to
176 the rental rate, along with other separate fees, charges, and
177 recoupments disclosed on the rental agreement. If the storage
178 facility fails to provide timely notice to a lessor, rental car
179 company, or lienholder as required by this paragraph, the
180 storage facility shall be responsible for payment of any towing
181 or storage charges necessary to release the vehicle to a lessor,
182 rental car company, or lienholder that accrue after the notice
183 period, which charges may then be assessed against the driver of
184 the vehicle if the vehicle was lawfully impounded ~~or~~
185 ~~immobilized~~.

186 (d)~~(e)~~ Except as provided in paragraph (c) ~~(d)~~, the vehicle



744338

187 shall remain impounded ~~or immobilized for any period imposed by~~
188 ~~the court~~ until payment of the applicable impoundment surcharge
189 required under s. 318.18 and:

190 1. The person retrieving the vehicle ~~owner~~ presents to the
191 law enforcement agency proof of a valid driver's license, proof
192 of ownership of the vehicle or written consent by the owner
193 authorizing release to the person, and proof of insurance to the
194 ~~arresting agency;~~ or

195 2. The owner presents to the law enforcement agency proof
196 of sale of the vehicle ~~to the arresting agency~~ and the buyer
197 presents proof of insurance to the ~~arresting~~ agency.

198
199 If proof is not presented within 35 days after the impoundment
200 ~~or immobilization~~, a lien shall be placed upon such vehicle
201 pursuant to s. 713.78.

202 (e) ~~(f)~~ The owner of a vehicle that is impounded ~~or~~
203 ~~immobilized~~ under this subsection may, within 10 days after the
204 date the owner has knowledge of the location of the vehicle,
205 file a complaint in the county in which the owner resides to
206 determine whether the vehicle was wrongfully taken or withheld.
207 Upon the filing of a complaint, the owner or lienholder may have
208 the vehicle released by posting with the court a bond or other
209 adequate security equal to the amount of the costs and fees for
210 impoundment ~~or immobilization~~, including towing or storage, to
211 ensure the payment of such costs and fees if the owner or
212 lienholder does not prevail. When the vehicle owner or
213 lienholder does not prevail on a complaint that the vehicle was
214 wrongfully taken or withheld, he or she must pay the accrued
215 charges for the ~~immobilization or~~ impoundment, including any



744338

216 towing and storage charges assessed against the vehicle. When
217 the bond is posted and the fee is paid as set forth in s. 28.24,
218 the clerk of the court shall issue a certificate releasing the
219 vehicle. At the time of release, after reasonable inspection,
220 the owner must give a receipt to the towing or storage company
221 indicating any loss or damage to the vehicle or to the contents
222 of the vehicle.

223 (f) Notwithstanding any other provision of this section,
224 the court shall order the release of the vehicle from
225 impoundment if the court finds undue hardship to a family
226 relying upon use of the vehicle without any other means of
227 private transportation.

228 (7)-(9)(a) A motor vehicle that is driven by a person under
229 the influence of alcohol or drugs in violation of s. 316.193 is
230 subject to seizure and forfeiture under ss. 932.701-932.706 and
231 is subject to liens for recovering, towing, or storing vehicles
232 under s. 713.78 if, at the time of the offense, the person's
233 driver's license is suspended, revoked, or canceled as a result
234 of a prior conviction for driving under the influence.

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

239 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when
240 the seizing agency obtains a final judgment granting forfeiture
241 of the motor vehicle under this section, 30 percent of the net
242 proceeds from the sale of the motor vehicle shall be retained by
243 the seizing law enforcement agency and 70 percent shall be
244 deposited in the General Revenue Fund for use by regional



744338

245 workforce boards in providing transportation services for
246 participants of the welfare transition program. In a forfeiture
247 proceeding under this section, the court may consider the extent
248 that the family of the owner has other public or private means
249 of transportation.

250 ~~(8)-(10)~~(a) Notwithstanding any other provision of this
251 section, if a person does not have a prior forcible felony
252 conviction as defined in s. 776.08, the procedures ~~penalties~~
253 provided in paragraph (b) apply if a person's driver's license
254 or driving privilege is canceled, suspended, or revoked for:

255 1. Failing to pay child support as provided in s. 322.245
256 or s. 61.13016;

257 2. Failing to pay any other financial obligation as
258 provided in s. 322.245 other than those specified in s.
259 322.245(1);

260 3. Failing to comply with a civil penalty required in s.
261 318.15;

262 4. Failing to maintain vehicular financial responsibility
263 as required by chapter 324;

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

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

270 ~~(b)1. Upon a first conviction for knowingly driving while~~
271 ~~his or her license is suspended, revoked, or canceled for any of~~
272 ~~the underlying violations listed in subparagraphs (a)1.-6., a~~
273 ~~person commits a misdemeanor of the second degree, punishable as~~



744338

274 ~~provided in s. 775.082 or s. 775.083.~~

275 ~~2. Upon a second or subsequent conviction for the same~~
276 ~~offense of knowingly driving while his or her license is~~
277 ~~suspended, revoked, or canceled for any of the underlying~~
278 ~~violations listed in subparagraphs (a)1.-6., a person commits a~~
279 ~~misdemeanor of the first degree, punishable as provided in s.~~
280 ~~775.082 or s. 775.083.~~

281 ~~(b)(11)(a)~~ A person who does not hold a commercial driver's
282 license and who is cited for an offense of knowingly driving
283 while his or her license is suspended, revoked, or canceled for
284 any of the underlying violations listed in paragraph ~~(10)~~(a)
285 may, in lieu of payment of fine or court appearance, elect to
286 enter a plea of nolo contendere and provide proof of compliance
287 to the clerk of the court, designated official, or authorized
288 operator of a traffic violations bureau. In such case,
289 adjudication shall be withheld and the clerk of the court,
290 designated official, or authorized operator of a traffic
291 violations bureau shall issue a certificate releasing the
292 vehicle upon payment of the cost of towing and storing the
293 vehicle. However, no election shall be made under this
294 subsection if such person has made an election under this
295 subsection during the preceding 12 months. A person may not make
296 more than three elections under this subsection.

297 ~~(c)(b)~~ If adjudication is withheld under paragraph ~~(b)~~ ~~(a)~~,
298 such action is not a conviction.

299 Section 4. This act shall take effect July 1, 2011.

300

301 ===== T I T L E A M E N D M E N T =====

302 And the title is amended as follows:



744338

303 Delete everything before the enacting clause
304 and insert:

305 A bill to be entitled
306 An act relating to driving without a valid driver's
307 license; amending s. 318.18, F.S.; providing an
308 additional fine for a violation of specified
309 provisions relating to driving with a canceled,
310 suspended, or revoked driver's license or driving
311 privilege; providing increased fine amounts for second
312 or subsequent violations; amending s. 318.21, F.S.;
313 providing for distribution of such fines collected;
314 amending s. 322.34, F.S.; revising provisions relating
315 to a conviction of the offense of driving while a
316 person's driver's license or driving privilege is
317 canceled, suspended, or revoked; requiring immediate
318 impoundment of the motor vehicle; conforming
319 provisions; revising penalties for knowingly driving
320 while the driver's license or driving privilege is
321 canceled, suspended, or revoked; revising procedures
322 for impoundment of the vehicle; providing an effective
323 date.