

By the Committee on Transportation; and Senator Diaz de la Portilla

596-02881-11

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1 A bill to be entitled

2 An act relating to driving without a valid driver's
3 license; amending s. 318.18, F.S.; providing an
4 additional fine for a violation of specified
5 provisions relating to driving with a canceled,
6 suspended, or revoked driver's license or driving
7 privilege; providing increased fine amounts for second
8 or subsequent violations; amending s. 318.21, F.S.;
9 providing for distribution of such fines collected;
10 amending s. 322.34, F.S.; deleting a knowledge element
11 for conviction of the offense of driving while a
12 person's driver's license or driving privilege is
13 canceled, suspended, or revoked; requiring immediate
14 impoundment of the motor vehicle; conforming
15 provisions; revising penalties for knowingly driving
16 while the driver's license or driving privilege is
17 canceled, suspended, or revoked; revising procedures
18 for impoundment of the vehicle; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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

25 318.18 Amount of penalties.—The penalties required for a
26 noncriminal disposition pursuant to s. 318.14 or a criminal
27 offense listed in s. 318.17 are as follows:

28 (22) For a person driving any motor vehicle upon the
29 highways of this state while the person's license or privilege

596-02881-11

2011792c1

30 to drive is canceled, suspended, or revoked in violation of s.
31 322.34(2), in addition to the fine under paragraph (3)(a), upon:

32 (a) A first offense, \$250 before release of the vehicle
33 from impoundment.

34 (b) A second offense, \$500 before release of the vehicle
35 from impoundment.

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

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

40 318.21 Disposition of civil penalties by county courts.—All
41 civil penalties received by a county court pursuant to the
42 provisions of this chapter shall be distributed and paid monthly
43 as follows:

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

47 (a) For violations committed within a municipality, 40
48 percent shall be distributed to the municipality, 40 percent
49 shall be distributed to the county, and 20 percent shall be
50 distributed to the agency or company that towed and stored the
51 vehicle.

52 (b) For violations committed outside a municipality, 80
53 percent shall be distributed to the county and 20 percent shall
54 be distributed to the enforcement agency impounding the vehicle.

55 Section 3. Section 322.34, Florida Statutes, is amended to
56 read:

57 322.34 Driving while license suspended, revoked, canceled,
58 or disqualified.—

596-02881-11

2011792c1

59 (1) ~~Except as provided in subsection (2),~~ Any person whose
60 driver's license or driving privilege has been canceled,
61 suspended, or revoked, except a "habitual traffic offender" as
62 defined in s. 322.264, who drives a vehicle upon the highways of
63 this state while such license or privilege is canceled,
64 suspended, or revoked commits ~~is guilty of~~ a moving violation,
65 punishable as provided in chapter 318.

66 (2) Any person whose driver's license or driving privilege
67 has been canceled, suspended, or revoked as provided by law,
68 except a habitual traffic offender as persons defined in s.
69 322.264, who, ~~knowing of such cancellation, suspension, or~~
70 ~~revocation,~~ drives any motor vehicle upon the highways of this
71 state while such license or privilege is canceled, suspended, or
72 revoked commits a moving violation, punishable as provided in
73 chapter 318, and the motor vehicle being driven at the time of
74 the offense shall be immediately impounded. ~~, upon:~~

75 ~~(a) A first conviction is guilty of a misdemeanor of the~~
76 ~~second degree, punishable as provided in s. 775.082 or s.~~
77 ~~775.083.~~

78 ~~(b) A second conviction is guilty of a misdemeanor of the~~
79 ~~first degree, punishable as provided in s. 775.082 or s.~~
80 ~~775.083.~~

81 ~~(c) A third or subsequent conviction is guilty of a felony~~
82 ~~of the third degree, punishable as provided in s. 775.082, s.~~
83 ~~775.083, or s. 775.084.~~

84
85 ~~The element of knowledge is satisfied if the person has been~~
86 ~~previously cited as provided in subsection (1); or the person~~
87 ~~admits to knowledge of the cancellation, suspension, or~~

596-02881-11

2011792c1

88 ~~revocation; or the person received notice as provided in~~
89 ~~subsection (4). There shall be a rebuttable presumption that the~~
90 ~~knowledge requirement is satisfied if a judgment or order as~~
91 ~~provided in subsection (4) appears in the department's records~~
92 ~~for any case except for one involving a suspension by the~~
93 ~~department for failure to pay a traffic fine or for a financial~~
94 ~~responsibility violation.~~

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

98 ~~(4) Any judgment or order rendered by a court or~~
99 ~~adjudicatory body or any uniform traffic citation that cancels,~~
100 ~~suspends, or revokes a person's driver's license must contain a~~
101 ~~provision notifying the person that his or her driver's license~~
102 ~~has been canceled, suspended, or revoked.~~

103 ~~(3)~~(5) Any person whose driver's license has been revoked
104 pursuant to s. 322.264 as a ~~(habitual traffic offender)~~ and who
105 drives any motor vehicle upon the highways of this state while
106 such license is revoked commits ~~is guilty of~~ a felony of the
107 third degree, punishable as provided in s. 775.082, s. 775.083,
108 or s. 775.084.

109 ~~(4)~~(6) Any person who operates a motor vehicle:

110 (a) Without having a driver's license as required under s.
111 322.03; or

112 (b) While his or her driver's license or driving privilege
113 is canceled, suspended, or revoked pursuant to s. 316.655, s.
114 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

115
116 and who by careless or negligent operation of the motor vehicle

596-02881-11

2011792c1

117 causes the death of or serious bodily injury to another human
 118 being commits ~~is guilty of~~ a felony of the third degree,
 119 punishable as provided in s. 775.082 or s. 775.083.

120 ~~(5)-(7)~~ Any person whose driver's license or driving
 121 privilege has been canceled, suspended, revoked, or disqualified
 122 and who drives a commercial motor vehicle on the highways of
 123 this state while such license or privilege is canceled,
 124 suspended, revoked, or disqualified, upon:

125 (a) A first conviction is guilty of a misdemeanor of the
 126 first degree, punishable as provided in s. 775.082 or s.
 127 775.083.

128 (b) A second or subsequent conviction is guilty of a felony
 129 of the third degree, punishable as provided in s. 775.082, s.
 130 775.083, or s. 775.084.

131 ~~(6)-(8)~~ (a) Upon issuing a citation to the arrest of a person
 132 for a violation of subsection (2), ~~the offense of~~ driving while
 133 the person's driver's license or driving privilege is suspended
 134 or revoked, the law enforcement arresting officer shall
 135 immediately impound the vehicle. ~~determine:~~

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

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

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

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

596-02881-11

2011792c1

146 ~~the vehicle.~~

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

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

161 (c) ~~(d)~~ Either the law enforcement ~~arresting~~ agency or the
162 towing service, whichever is in possession of the vehicle, shall
163 determine whether any vehicle impounded ~~or immobilized~~ under
164 this section has been leased or rented or if there are any
165 persons of record with a lien upon the vehicle. Either the law
166 enforcement ~~arresting~~ agency or the towing service, whichever is
167 in possession of the vehicle, shall send notice pursuant to s.
168 713.78 ~~notify by express courier service with receipt or~~
169 ~~certified mail~~ within 7 business days after the date of the
170 ~~immobilization or~~ impoundment of the vehicle, to the registered
171 owner and all persons having a recorded lien against the vehicle
172 that the vehicle has been impounded ~~or immobilized~~. A lessor,
173 rental car company, or lienholder may then obtain the vehicle,
174 upon payment of any lawful towing or storage charges. If the

596-02881-11

2011792c1

175 vehicle is a rental vehicle subject to a written contract, the
176 charges may be separately charged to the renter, in addition to
177 the rental rate, along with other separate fees, charges, and
178 recoupments disclosed on the rental agreement. If the storage
179 facility fails to provide timely notice to a lessor, rental car
180 company, or lienholder as required by this paragraph, the
181 storage facility shall be responsible for payment of any towing
182 or storage charges necessary to release the vehicle to a lessor,
183 rental car company, or lienholder that accrue after the notice
184 period, which charges may then be assessed against the driver of
185 the vehicle if the vehicle was lawfully impounded ~~or~~
186 immobilized.

187 (d) ~~(e)~~ Except as provided in paragraph (c) ~~(d)~~, the vehicle
188 shall remain impounded ~~or immobilized for any period imposed by~~
189 ~~the court~~ until payment of the applicable amount required under
190 s. 318.18 and:

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

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

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

203 (e) ~~(f)~~ The owner of a vehicle that is impounded ~~or~~

596-02881-11

2011792c1

204 ~~immobilized~~ under this subsection may, within 10 days after the
205 date the owner has knowledge of the location of the vehicle,
206 file a complaint in the county in which the owner resides to
207 determine whether the vehicle was wrongfully taken or withheld.
208 Upon the filing of a complaint, the owner or lienholder may have
209 the vehicle released by posting with the court a bond or other
210 adequate security equal to the amount of the costs and fees for
211 impoundment ~~or immobilization~~, including towing or storage, to
212 ensure the payment of such costs and fees if the owner or
213 lienholder does not prevail. When the vehicle owner or
214 lienholder does not prevail on a complaint that the vehicle was
215 wrongfully taken or withheld, he or she must pay the accrued
216 charges for the ~~immobilization~~ ~~or~~ impoundment, including any
217 towing and storage charges assessed against the vehicle. When
218 the bond is posted and the fee is paid as set forth in s. 28.24,
219 the clerk of the court shall issue a certificate releasing the
220 vehicle. At the time of release, after reasonable inspection,
221 the owner must give a receipt to the towing or storage company
222 indicating any loss or damage to the vehicle or to the contents
223 of the vehicle.

224 (7) ~~(9)~~ (a) A motor vehicle that is driven by a person under
225 the influence of alcohol or drugs in violation of s. 316.193 is
226 subject to seizure and forfeiture under ss. 932.701-932.706 and
227 is subject to liens for recovering, towing, or storing vehicles
228 under s. 713.78 if, at the time of the offense, the person's
229 driver's license is suspended, revoked, or canceled as a result
230 of a prior conviction for driving under the influence.

231 (b) The law enforcement officer shall notify the Department
232 of Highway Safety and Motor Vehicles of any impoundment or

596-02881-11

2011792c1

233 seizure for violation of paragraph (a) in accordance with
234 procedures established by the department.

235 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when
236 the seizing agency obtains a final judgment granting forfeiture
237 of the motor vehicle under this section, 30 percent of the net
238 proceeds from the sale of the motor vehicle shall be retained by
239 the seizing law enforcement agency and 70 percent shall be
240 deposited in the General Revenue Fund for use by regional
241 workforce boards in providing transportation services for
242 participants of the welfare transition program. In a forfeiture
243 proceeding under this section, the court may consider the extent
244 that the family of the owner has other public or private means
245 of transportation.

246 (8)~~(10)~~(a) Notwithstanding any other provision of this
247 section, if a person does not have a prior forcible felony
248 conviction as defined in s. 776.08, the procedures ~~penalties~~
249 provided in paragraph (b) apply if a person's driver's license
250 or driving privilege is canceled, suspended, or revoked for:

251 1. Failing to pay child support as provided in s. 322.245
252 or s. 61.13016;

253 2. Failing to pay any other financial obligation as
254 provided in s. 322.245 other than those specified in s.
255 322.245(1);

256 3. Failing to comply with a civil penalty required in s.
257 318.15;

258 4. Failing to maintain vehicular financial responsibility
259 as required by chapter 324;

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

596-02881-11

2011792c1

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

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

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

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

596-02881-11

2011792c1

291 subsection during the preceding 12 months. A person may not make
292 more than three elections under this subsection.

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

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