

CHAPTER 2010-107

Committee Substitute for House Bill No. 795

An act relating to penalties for violations of traffic laws; amending s. 318.14, F.S.; providing for a person charged with a noncriminal traffic infraction to make periodic payments to pay civil penalties and fees; providing for certain persons cited for specified offenses to provide proof of compliance to a designated official; providing alternative citation disposition procedures for the offense of operating a motor vehicle with a license that has been suspended for failure to pay certain financial obligations or to comply with specified education requirements; amending s. 318.15, F.S.; providing for suspension of a driver's license for failure to enter into or comply with the terms of a penalty payment plan; providing for reinstatement of the suspended license; amending s. 322.331, F.S.; providing for the removal of a habitual traffic offender designation upon proof of compliance with statutory provisions by certain offenders; amending s. 322.34, F.S.; providing alternative citation disposition procedures for the offense of knowingly operating a motor vehicle with a license that has been suspended for failure to pay certain financial obligations or failure to comply with specified education requirements; providing that adjudication shall be withheld under the alternative disposition and that such withholding of adjudication is not a conviction; providing an effective date.

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

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

318.14 Noncriminal traffic infractions; exception; procedures.—

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

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

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

(b) If the person cited follows the procedures in paragraph (a) above procedure, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. Any person who is cited for a violation of s. 320.0605 or s. 322.15(1), or subject to a penalty under s. 320.07(3)(a) or (b) or s. 322.065, and who makes an election under this subsection shall submit proof of compliance

with the applicable section to the clerk of the court. For the purposes of this subsection, proof of compliance consists of a valid driver's license or a valid registration certificate.

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

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

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

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

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

5. Operating a motor vehicle with a license that has been suspended under s. 322.091 for failure to meet school attendance requirements.

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

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

(1)(a) If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to enter into or comply with the terms of a penalty payment plan with the clerk of the court in accordance with ss. 318.14 and 28.246, fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of such failure within 10 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver's license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed in accordance with s. 322.251(1), (2), and (6). Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside

Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed.

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

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

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

322.331 Habitual traffic offenders; restoration of license.—

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

(2) If a person whose license has been revoked under s. 322.27(5) as a result of a third violation of driving a motor vehicle while his or her license is suspended or revoked which occurred prior to July 1, 2010, provides proof of compliance as allowed by s. 318.14(10)(a) prior to July 1, 2011, the clerk of

court shall submit an amended disposition to remove the habitual traffic offender designation.

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

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

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

1. Failing to pay child support as provided in s. 322.245 or s. 61.13016;
2. Failing to pay any other financial obligation as provided in s. 322.245 other than those specified in s. 322.245(1);
3. Failing to comply with a civil penalty required in s. 318.15;
4. Failing to maintain vehicular financial responsibility as required by chapter 324;
5. Failing to comply with attendance or other requirements for minors as set forth in s. 322.091; or
6. Having been designated a habitual traffic offender under s. 322.264(1)(d) as a result of suspensions of his or her driver's license or driver privilege for any underlying violation listed in subparagraphs 1.-5.

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

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

(11)(a) Any person who does not hold a commercial driver's license and who is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed in paragraph (10)(a) may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made under this subsection if such person has made an election

under this subsection in the preceding 12 months. No person may make more than three elections under this subsection.

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

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

Approved by the Governor May 26, 2010.

Filed in Office Secretary of State May 26, 2010.