

BILL

Redraft - D

YEAR

29 and Motor Vehicles to authorize release of the motor
 30 vehicle under certain circumstances; providing for an
 31 unclaimed motor vehicle to be sold at auction; requiring
 32 notice to the owners and lienholders of record; providing
 33 for discharge of liens; requiring public notice; providing
 34 for distribution of proceeds from such sale; prohibiting
 35 operation of an immobilized motor vehicle; providing for
 36 an immobilized motor vehicle that is found being operated
 37 upon any street or highway in this state before release
 38 from immobilization to be seized and subject to forfeit;
 39 authorizing the department to contract with vendors;
 40 directing the department to inform the person whose driver
 41 license or driving privilege has been canceled, suspended,
 42 revoked, or disqualified that any motor vehicle driven by
 43 or under the actual physical control of that person is
 44 subject to impoundment and immobilization; authorizing the
 45 Department of Highway Safety and Motor Vehicles to adopt
 46 rules; providing penalties for knowingly aiding a person
 47 whose driver license or driving privilege is canceled,
 48 suspended, revoked, or disqualified by providing a motor
 49 vehicle or authorizing use of a motor vehicle; directing
 50 the department to inform drivers whose license or driving
 51 privilege has been canceled, suspended, revoked, or
 52 disqualified and the motoring public of the provisions for
 53 impoundment and immobilization of motor vehicles under
 54 this act; providing effective dates.

55
 56 Be It Enacted by the Legislature of the State of Florida:

BILL

Redraft - D

YEAR

57

58 Section 1. This act may be cited as the "Deputy Michael
 59 Callin, Michael Haligowski, and Deputy Ryan C. Seguin Memorial
 60 Traffic Safety Act."

61 Section 2. Subsection (1) of section 322.251, Florida
 62 Statutes, is amended to read:

63 322.251 Notice of cancellation, suspension, revocation, or
 64 disqualification of license.--

65 (1) All orders of cancellation, suspension, revocation, or
 66 disqualification issued under the provisions of this chapter,
 67 chapter 318, chapter 324, or ss. 627.732-627.734 shall be given
 68 either by personal delivery thereof to the licensee whose
 69 license is being canceled, suspended, revoked, or disqualified
 70 or by deposit in the United States mail in an envelope, first
 71 class, postage prepaid, addressed to the licensee at his or her
 72 last known mailing address furnished to the department. Such
 73 mailing by the department constitutes notification, and any
 74 failure by the person to receive the mailed order will not
 75 affect or stay the effective date or term of the cancellation,
 76 suspension, revocation, or disqualification of the licensee's
 77 driving privilege. Notification of cancellation, suspension,
 78 revocation, or disqualification given by the department under
 79 this section shall also inform the person whose license or
 80 driving privilege is being canceled, suspended, revoked, or
 81 disqualified that any motor vehicle driven by or under the
 82 actual physical control of that person while the license or
 83 driving privilege is canceled, suspended, revoked, or
 84 disqualified is subject to impoundment and immobilization under

BILL

Redraft - D

YEAR

85 s. 322.34.

86 Section 3. Effective July 1, 2010, subsections (3), (4),
87 and (8) of section 322.34, Florida Statutes, are amended, and
88 subsection (11) is added to that section, to read:

89 322.34 Driving while license suspended, revoked, canceled,
90 or disqualified.--

91 (3) In any proceeding for a violation of this section, a
92 court may consider evidence, other than that specified in
93 subsection (2) or subsection (11), that the person knowingly
94 violated this section.

95 (4) Any judgment or order rendered by a court or
96 adjudicatory body that cancels, suspends, revokes, or
97 disqualifies a person's driver's license, ~~or~~ any uniform traffic
98 citation that cancels, suspends, ~~or~~ revokes, or disqualifies a
99 person's driver's license, and any notice of cancellation,
100 suspension, revocation, or disqualification of a person's
101 driver's license by the department must contain a provision
102 notifying the person that his or her driver's license is being
103 has been canceled, suspended, ~~or~~ revoked, or disqualified and
104 must inform the person that any motor vehicle driven by that
105 person while the license is canceled, suspended, revoked, or
106 disqualified shall be impounded or immobilized pursuant to this
107 section.

108 (8) (a) 1. If a law enforcement officer determines that a
109 motor vehicle is being driven by or is under the actual physical
110 control of a person whose driver's license or driving privilege
111 is canceled, suspended, revoked, or disqualified, the officer
112 shall immediately impound the motor vehicle, immobilize the

BILL

Redraft - D

YEAR

113 motor vehicle by installing an immobilization device on the
 114 motor vehicle, or immobilize the motor vehicle by removing the
 115 registration license plate. The officer shall serve notice of
 116 the impoundment or immobilization upon the driver. The notice
 117 shall include the location where the motor vehicle is being held
 118 and information on the procedures to have the motor vehicle
 119 released from impoundment or immobilization by a department-
 120 approved vendor. A law enforcement agency or officer who
 121 proceeds in good faith to immobilize or impound a vehicle under
 122 this section shall not be responsible for any towing,
 123 immobilizing, or impounding fees. A law enforcement officer may
 124 immobilize the motor vehicle by removing the registration
 125 license plate and leave the scene of the impoundment or
 126 immobilization without completing the impoundment or
 127 immobilization process if the officer is ordered elsewhere by
 128 his or her superior officer or an emergency elsewhere or other
 129 exigent circumstance compels the officer to leave.

130 2. If the officer determines the driver's license is
 131 suspended for a failure to pay traffic infractions and the
 132 driver has not previously been warned of immobilization or
 133 impoundment, the officer shall provide a warning and shall not
 134 impound or immobilize the motor vehicle. The agency issuing the
 135 warning shall transmit the individual offender's name to the
 136 department, which shall provide notice to the driver pursuant to
 137 paragraph (i).

138 3. A law enforcement officer impounding or immobilizing a
 139 motor vehicle under subparagraph 1. shall notify the department
 140 or the department's agent within 24 hours to effect impoundment

BILL

Redraft - D

YEAR

141 or immobilization under this paragraph. If the officer removed
 142 the registration license plate, the plate shall be delivered to
 143 the department or the department's agent. The department or the
 144 department's agent shall remove and impound or immobilize the
 145 motor vehicle at another location; however, the impounding
 146 company shall not release the motor vehicle for immobilization
 147 at another location without proof that the immobilization vendor
 148 is approved by the department. The department is authorized to
 149 adopt by rule procedures for removal and immobilization of the
 150 motor vehicle by a department-approved vendor from the location
 151 where the motor vehicle was impounded or immobilized by the law
 152 enforcement officer under subparagraph 1.

153 (b)1. A motor vehicle impounded or immobilized under
 154 paragraph (a) that, according to the records of the department,
 155 is owned or leased by the person who was driving or in actual
 156 physical control of the motor vehicle when it was stopped and
 157 impounded or immobilized under paragraph (a) shall remain
 158 impounded or immobilized until the owner or lessee receives
 159 authorization from the department for release of the motor
 160 vehicle under paragraph (e).

161 a. If department records show the driver's license
 162 cancellation, suspension, revocation, or disqualification is not
 163 based on any criminal conviction, the motor vehicle may be
 164 immobilized by removal of the registration license plate and the
 165 motor vehicle may be removed to another location.

166 b. If department records show the driver's license
 167 cancellation, suspension, revocation, or disqualification is
 168 based on any criminal conviction, the motor vehicle must be

BILL

Redraft - D

YEAR

169 removed to an impound lot or immobilized by installing an
 170 immobilization device and removed to another location.

171 c. If department records show the driver is designated a
 172 habitual traffic offender under s. 322.264 whose license has
 173 been revoked under s. 322.27(5) and whose driving privilege has
 174 not been restored, the motor vehicle must be removed to an
 175 impound lot or immobilized by installing an immobilization
 176 device and removed to another location.

177 2. If department records show the motor vehicle is owned
 178 or leased by a person other than the driver and:

179 a. It is the first time that motor vehicle has been
 180 impounded or immobilized under this subsection, the department
 181 shall issue a warning, and the motor vehicle shall be released,
 182 to the owner or lessee or the owner's or lessee's agent.

183 b. It is a second or subsequent impoundment or
 184 immobilization of the motor vehicle under this subsection, the
 185 motor vehicle shall be released to the owner or lessee or the
 186 owner's or lessee's agent upon payment of the fees imposed under
 187 paragraph (d) and all costs of towing, impoundment,
 188 immobilization, and storage.

189 3. The department's records shall reflect that the motor
 190 vehicle is immobilized or impounded.

191 (c) Within 7 business days after the date the law
 192 enforcement agency or the department impounds or immobilizes the
 193 motor vehicle under this subsection, the department shall send
 194 notice of the impoundment or immobilization by certified mail,
 195 return receipt requested, to any registered owners or coowners
 196 of the motor vehicle other than the driver and to each person of

BILL

Redraft - D

YEAR

197 record claiming a lien against the motor vehicle. The notice
 198 shall include the location where the motor vehicle is being held
 199 and information on the procedures to have the motor vehicle
 200 released from impoundment or immobilization by a department-
 201 approved vendor. Except as provided in sub-subparagraph (b)2.a.,
 202 all costs and fees for the impoundment or immobilization,
 203 including the cost of notification, must be paid by the owner or
 204 lessee of the motor vehicle.

205 (d)1. The department shall collect a \$35 processing fee
 206 from the owner or lessee prior to release of any motor vehicle
 207 immobilized or impounded under this subsection. Five dollars of
 208 the fee shall be distributed to the law enforcement agency that
 209 initiated the impoundment or immobilization. The remaining \$30
 210 shall be forwarded to the Department of Revenue, which shall:

211 a. Deposit \$10 of the fee into the State Transportation
 212 Trust Fund created under s. 206.46 to be used to carry out
 213 public transit responsibilities of the Department of
 214 Transportation under s. 341.041.

215 b. Remit \$5 of the fee to the Florida Law Enforcement
 216 Memorial Fund of the Florida State Lodge of the Fraternal Order
 217 of Police to be used to provide funds for the Law Enforcement
 218 Memorial Monument on the grounds of the Florida Capitol and to
 219 provide support to surviving colleagues and families of officers
 220 who have lost their lives serving the citizens of the state.

221 c. Remit \$5 of the fee to the Department of Highway Safety
 222 and Motor Vehicles for public service announcements warning
 223 motorists that any motor vehicle driven by a person whose
 224 license has been canceled, suspended, revoked, or disqualified

BILL

Redraft - D

YEAR

225 is subject to impoundment or immobilization.
 226 d. Remit \$10 of the fee to the state courts system for
 227 deposit into the Operating Trust Fund created under s. 25.3844.
 228 2. The department shall charge a reasonable fee, not to
 229 exceed \$6, to the owner or lessee of the motor vehicle to cover
 230 the operational costs related to immobilizing or impounding the
 231 motor vehicle. Fees collected under this subparagraph shall be
 232 deposited in the Highway Safety Operating Trust Fund of the
 233 Department of Highway Safety and Motor Vehicles.
 234 3. Notwithstanding any other law to the contrary, that
 235 portion of any outstanding fine or fee collected as a result of
 236 enforcement under this subsection which is not previously
 237 encumbered or otherwise allocated by law or which is allocated
 238 to the General Revenue Fund shall not be deposited into the
 239 General Revenue Fund but shall be remitted by the Department of
 240 Revenue to the state courts system for deposit into the
 241 Operating Trust Fund created under s. 25.3844. For purposes of
 242 carrying out this subparagraph, the Department of Revenue, in
 243 consultation with the clerks of court, is authorized to develop
 244 by rule methods to identify those fines and fees collected from
 245 a driver whose motor vehicle has been impounded or immobilized
 246 under this subsection.
 247 4. Fees required under this paragraph for release of a
 248 motor vehicle, as well as fines and fees required for
 249 reinstatement of a person's license and privilege to drive, may
 250 be satisfied by community service pursuant to s. 318.18(8) as
 251 authorized by the court.
 252 (e) A motor vehicle impounded or immobilized pursuant to

BILL

Redraft - D

YEAR

253 subparagraph (b)1. shall remain impounded or immobilized until
 254 the department authorizes its release. The department must
 255 authorize release of the motor vehicle to the owner or lessee or
 256 the owner's or lessee's agent upon payment of the fees imposed
 257 under paragraph (d); payment of all costs of towing,
 258 impoundment, immobilization, and storage; and satisfaction of
 259 one of the following conditions:

260 1. The license and driving privilege of the driver are
 261 reinstated;

262 2. The clerk of court verifies that all outstanding
 263 traffic fines and related fees and costs owed by the driver have
 264 been satisfied;

265 3. The motor vehicle has been sold and the title of the
 266 motor vehicle has been transferred; or

267 4. The driver submits to the department a statement that
 268 the family of the driver living in the same household has no
 269 other private or public means of transportation and at least one
 270 household member has a valid driver's license that is not
 271 canceled, suspended, revoked, or disqualified, which statement
 272 is verified by the department using department records.

273 (f) Any motor vehicle impounded pursuant to this
 274 subsection that remains unclaimed for more than 180 days may be
 275 sold by the department unless the owner shows reasonable efforts
 276 are being made to claim the motor vehicle or shows reasonable
 277 cause for failure to do so. The sale shall be at public auction
 278 for cash. The certificate of title issued under this paragraph
 279 shall be discharged of all liens unless otherwise provided by
 280 court order. Notice of the sale shall be given to the person in

BILL

Redraft - D

YEAR

281 whose name the motor vehicle is registered and to all persons
 282 claiming a lien on the motor vehicle as shown on the records of
 283 the department or of the corresponding agency in any other
 284 state. The notice shall be sent by certified mail, return
 285 receipt requested, not less than 15 days before the date of the
 286 sale. After diligent search and inquiry, if the name and address
 287 of the registered owner or the owner of the recorded lien cannot
 288 be ascertained, the requirements for mailing notice to that
 289 person may be disregarded. In addition to the notice by mail,
 290 public notice of the time and place of the sale shall be made by
 291 publishing a notice thereof one time, at least 10 days prior to
 292 the date of the sale, in a newspaper of general circulation in
 293 the county in which the sale is to be held.

294 1. In the following order of priority, proceeds of the
 295 sale shall be used for payment of:

296 a. The costs of the sale, including payment of the cost of
 297 mailing and publication of notice.

298 b. The costs of towing, impoundment, immobilization, and
 299 storage.

300 c. The fees imposed under subparagraphs (d)1. and 2. in
 301 that order of priority.

302 d. Any valid claim made by any lienholder of record.

303 e. Any outstanding traffic-related fines or fees owed by
 304 the motor vehicle owner.

305 2. Proceeds remaining after distribution under
 306 subparagraph 1. shall be remitted to the owner of the motor
 307 vehicle.

308 (g) A motor vehicle immobilized under this subsection may

BILL

Redraft - D

YEAR

309 not be operated in this state until released from immobilization
 310 by the department or the department's agent. A motor vehicle
 311 immobilized under this subsection that is found being operated
 312 upon any street or highway in this state before being released
 313 by the department or the department's agent shall be seized and
 314 removed from the street or highway and may be forfeited pursuant
 315 to ss. 932.701-932.704.

316 (h) The department may contract with vendors to carry out
 317 the provisions of this subsection.

318 (i) Notification of cancellation, suspension, revocation,
 319 or disqualification given by the department under s. 322.251
 320 shall also inform the person whose driver's license or driving
 321 privilege is being canceled, suspended, revoked, or disqualified
 322 that any motor vehicle driven by or under the actual physical
 323 control of that person while the license or driving privilege is
 324 canceled, suspended, revoked, or disqualified is subject to
 325 impoundment and immobilization under this subsection.

326 (j) The department may adopt rules pursuant to ss.
 327 120.536(1) and 120.54 to implement the provisions of this
 328 subsection. Upon the arrest of a person for the offense of
 329 driving while the person's driver's license or driving privilege
 330 is suspended or revoked, the arresting officer shall determine:

331 1. Whether the person's driver's license is suspended or
 332 revoked.

333 2. Whether the person's driver's license has remained
 334 suspended or revoked since a conviction for the offense of
 335 driving with a suspended or revoked license.

336 3. Whether the suspension or revocation was made under s.

BILL

Redraft - D

YEAR

337 | ~~316.646 or s. 627.733, relating to failure to maintain required~~
 338 | ~~security, or under s. 322.264, relating to habitual traffic~~
 339 | ~~offenders.~~

340 | ~~4. Whether the driver is the registered owner or coowner~~
 341 | ~~of the vehicle.~~

342 | ~~(b) If the arresting officer finds in the affirmative as~~
 343 | ~~to all of the criteria in paragraph (a), the officer shall~~
 344 | ~~immediately impound or immobilize the vehicle.~~

345 | ~~(c) Within 7 business days after the date the arresting~~
 346 | ~~agency impounds or immobilizes the vehicle, either the arresting~~
 347 | ~~agency or the towing service, whichever is in possession of the~~
 348 | ~~vehicle, shall send notice by certified mail, return receipt~~
 349 | ~~requested, to any coregistered owners of the vehicle other than~~
 350 | ~~the person arrested and to each person of record claiming a lien~~
 351 | ~~against the vehicle. All costs and fees for the impoundment or~~
 352 | ~~immobilization, including the cost of notification, must be paid~~
 353 | ~~by the owner of the vehicle or, if the vehicle is leased, by the~~
 354 | ~~person leasing the vehicle.~~

355 | ~~(d) Either the arresting agency or the towing service,~~
 356 | ~~whichever is in possession of the vehicle, shall determine~~
 357 | ~~whether any vehicle impounded or immobilized under this section~~
 358 | ~~has been leased or rented or if there are any persons of record~~
 359 | ~~with a lien upon the vehicle. Either the arresting agency or the~~
 360 | ~~towing service, whichever is in possession of the vehicle, shall~~
 361 | ~~notify by express courier service with receipt or certified~~
 362 | ~~mail, return receipt requested, within 7 business days after the~~
 363 | ~~date of the immobilization or impoundment of the vehicle, the~~
 364 | ~~registered owner and all persons having a recorded lien against~~

BILL

Redraft - D

YEAR

365 ~~the vehicle that the vehicle has been impounded or immobilized.~~
 366 ~~A lessor, rental car company, or lienholder may then obtain the~~
 367 ~~vehicle, upon payment of any lawful towing or storage charges.~~
 368 ~~If the vehicle is a rental vehicle subject to a written~~
 369 ~~contract, the charges may be separately charged to the renter,~~
 370 ~~in addition to the rental rate, along with other separate fees,~~
 371 ~~charges, and recoupments disclosed on the rental agreement. If~~
 372 ~~the storage facility fails to provide timely notice to a lessor,~~
 373 ~~rental car company, or lienholder as required by this paragraph,~~
 374 ~~the storage facility shall be responsible for payment of any~~
 375 ~~towing or storage charges necessary to release the vehicle to a~~
 376 ~~lessor, rental car company, or lienholder that accrue after the~~
 377 ~~notice period, which charges may then be assessed against the~~
 378 ~~driver of the vehicle if the vehicle was lawfully impounded or~~
 379 ~~immobilized.~~

380 ~~(e) Except as provided in paragraph (d), the vehicle shall~~
 381 ~~remain impounded or immobilized for any period imposed by the~~
 382 ~~court until:~~

383 ~~1. The owner presents proof of insurance to the arresting~~
 384 ~~agency; or~~

385 ~~2. The owner presents proof of sale of the vehicle to the~~
 386 ~~arresting agency and the buyer presents proof of insurance to~~
 387 ~~the arresting agency.~~

388
 389 ~~If proof is not presented within 35 days after the impoundment~~
 390 ~~or immobilization, a lien shall be placed upon such vehicle~~
 391 ~~pursuant to s. 713.78.~~

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

BILL

Redraft - D

YEAR

393 | ~~immobilized under this subsection may, within 10 days after the~~
 394 | ~~date the owner has knowledge of the location of the vehicle,~~
 395 | ~~file a complaint in the county in which the owner resides to~~
 396 | ~~determine whether the vehicle was wrongfully taken or withheld.~~
 397 | ~~Upon the filing of a complaint, the owner may have the vehicle~~
 398 | ~~released by posting with the court a bond or other adequate~~
 399 | ~~security equal to the amount of the costs and fees for~~
 400 | ~~impoundment or immobilization, including towing or storage, to~~
 401 | ~~ensure the payment of such costs and fees if the owner does not~~
 402 | ~~prevail. When the vehicle owner does not prevail on a complaint~~
 403 | ~~that the vehicle was wrongfully taken or withheld, he or she~~
 404 | ~~must pay the accrued charges for the immobilization or~~
 405 | ~~impoundment, including any towing and storage charges assessed~~
 406 | ~~against the vehicle. When the bond is posted and the fee is paid~~
 407 | ~~as set forth in s. 28.24, the clerk of the court shall issue a~~
 408 | ~~certificate releasing the vehicle. At the time of release, after~~
 409 | ~~reasonable inspection, the owner must give a receipt to the~~
 410 | ~~towing or storage company indicating any loss or damage to the~~
 411 | ~~vehicle or to the contents of the vehicle.~~

412 | (11) Any owner or lessee of a motor vehicle who knowingly
 413 | allows, permits, or authorizes a person whose driver's license
 414 | or driving privilege has been canceled, suspended, revoked, or
 415 | disqualified to drive the motor vehicle upon the streets or
 416 | highways of this state or knowingly gives, leases, lends, or
 417 | otherwise provides the motor vehicle to a person whose driver's
 418 | license or driving privilege has been canceled, suspended,
 419 | revoked, or disqualified, while such license or privilege is
 420 | canceled, suspended, revoked, or disqualified commits a

BILL

Redraft - D

YEAR

421 misdemeanor of the second degree, punishable as provided in s.
 422 775.082 or s. 775.083. The element of knowledge is satisfied if
 423 the owner or lessee has been previously charged under this
 424 subsection for providing a motor vehicle to the same person; the
 425 owner admits to knowledge of the cancellation, suspension,
 426 revocation, or disqualification of the driver's license or
 427 driving privilege of the driver; or the owner received notice as
 428 provided in subsection (8) relating to the same driver.

429 Section 4. The Department of Highway Safety and Motor
 430 Vehicles shall inform the motoring public of the changes to s.
 431 322.34, Florida Statutes, made by this act relating to
 432 impoundment or immobilization of a motor vehicle being driven by
 433 a person whose driver license is canceled, suspended, revoked,
 434 or disqualified and shall provide such information in newly
 435 printed driver license educational materials after July 1, 2009,
 436 and in public service announcements produced in cooperation with
 437 the Florida Highway Patrol.

438 Section 5. During the period from July 1, 2009, to July 1,
 439 2010, the Department of Highway Safety and Motor Vehicles shall
 440 notify by mail persons whose driver license or driving privilege
 441 has been canceled, suspended, revoked, or disqualified of the
 442 changes to s. 322.34, Florida Statutes, made by this act
 443 relating to impoundment or immobilization of a motor vehicle
 444 being driven by such person; however, failure to receive such
 445 notification shall not preclude, bar, or otherwise affect the
 446 impoundment or immobilization of a motor vehicle under s.
 447 322.34, Florida Statutes.

448 Section 6. Except as otherwise expressly provided in this

BILL

Redraft - D

YEAR

449 | act, this act shall take effect July 1, 2009.

RECEIVED
By the Clerk for the record.

Subj: **letter, "Pay Raise Deserved"**
Date: 12/2/2008 8:38:26 P.M. Eastern Standard Time
From: Arigerman
To: HeraldEd@MiamiHerald.com

DEC 09 2008

Item _____
Exhibit _____
Meeting _____

From Alan W. Rigerman 17910 NW 84 Ave- Miami, FL 33015
305 5581305, 305 775 3572

I must agree with William Schoppaul of Homestead who voted for the pay raise for the members of the Miami-Dade County Commission. I did likewise, however with some reservations. Unlike the gentleman, I do not believe the no votes, which were the in the majority, were cast by "uninformed voters." Rather they were cast by voters that have been aware of scandal after scandal, some of which might be called "crime" in the business world and so much more, commissioners working for organizations earning five and hugh six figure salaries, that come before the commission on a regular basis. Commissioners have lobbied for failed projects, costing taxpayers. I have decided it is just not fair to Commissioners Natacha Seijas, Katy Sorensen, and, perhaps, several others who has never had any taint attached to their activities. It's time for two things: a real salary and voters in the districts of commissioners who personally profit from their "public service" to vote them out of office.

Thanks for Consideration

Tis the season to save your money! Get the new AOL Holiday Toolbar for money saving offers and gift ideas.

Non-Agda
Item
12/9/08, BFC