

By the Committee on Transportation and Senator Crist

306-2129-98

1 A bill to be entitled
2 An act relating to driver's license
3 revocations; amending s. 318.18, F.S.;
4 rescinding the fine for speeds exceeding the
5 limit by 1-5 m.p.h. and replacing the fine with
6 a warning; providing that fines for
7 construction zone speed violations shall be
8 doubled only under certain circumstances;
9 amending s. 320.07, F.S.; revising penalties
10 for expiration of registration; amending s.
11 322.26, F.S.; providing for permanent
12 revocation of a driver's license for murder
13 resulting from the operation of a motor
14 vehicle, DUI manslaughter where the conviction
15 represents a subsequent DUI-related conviction,
16 or four or more DUI violations; amending s.
17 322.271, F.S.; providing for petition for
18 reinstatement under certain circumstances;
19 amending s. 322.28, F.S.; revising provisions
20 with respect to the period of suspension or
21 revocation; conforming current provisions to
22 the act; creating s. 322.283, F.S.; providing
23 for the commencement of the period of
24 suspension or revocation for incarcerated
25 offenders; providing for notification to the
26 Department of Highway Safety and Motor
27 Vehicles; amending s. 322.34, F.S.; providing
28 that the element of knowledge with respect to
29 the suspension, revocation, cancellation, or
30 disqualification is satisfied when certain
31 notice is sent; creating s. 322.341, F.S.;

1 providing penalties for driving while a license
2 is permanently revoked; amending s. 627.733,
3 F.S.; deleting a provision for revoking the
4 driver's license of an owner or registrant of a
5 motor vehicle who does not provide required
6 security for that vehicle; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsection (3) of section 318.18, Florida
12 Statutes, is amended to read:

13 318.18 Amount of civil penalties.--The penalties
14 required for a noncriminal disposition pursuant to s. 318.14
15 are as follows:

16 (3)(a) Except as otherwise provided in this section,
17 \$60 for all moving violations not requiring a mandatory
18 appearance.

19 (b) For moving violations involving unlawful speed,
20 the fines are as follows:

For speed exceeding the limit by:	Fine:
23 <u>1-5 m.p.h.</u>	<u>Warning</u>
24 <u>6-9</u> 1-9 m.p.h.....	\$ 25
25 10-14 m.p.h.....	\$100
26 15-19 m.p.h.....	\$125
27 20-29 m.p.h.....	\$150
28 30 m.p.h. and above.....	\$250

29
30 (c) Notwithstanding paragraph (b),a person cited for
31 exceeding the speed limit by up to 5 m.p.h.in a legally

1 posted school zone will be fined \$50. A person exceeding the
2 speed limit in a school zone will be assessed a fine double
3 the amount listed in paragraph (b).

4 (d) A person cited for exceeding the speed limit in or
5 a posted construction zone will be assessed a fine double the
6 amount listed in paragraph (b). The fine shall be doubled for
7 construction zone violations only if construction personnel
8 are present or operating equipment on the road or immediately
9 adjacent to the road under construction.

10 (e)(d) If a violation of s. 316.1301 or s. 316.1303
11 results in an injury to the pedestrian or damage to the
12 property of the pedestrian, an additional fine of up to \$250
13 must be assessed. This amount must be distributed pursuant to
14 s. 318.21.

15 Section 2. Subsection (3) of section 320.07, Florida
16 Statutes, is amended to read:

17 320.07 Expiration of registration; annual renewal
18 required; penalties.--

19 (3) The operation of any motor vehicle without having
20 attached thereto a registration license plate and validation
21 stickers, or the use of any mobile home without having
22 attached thereto a mobile home sticker, for the current
23 registration period shall subject the owner thereof, if he or
24 she is present, or, if the owner is not present, the operator
25 thereof to the following penalty provisions:

26 (a) Any person whose motor vehicle or mobile home
27 registration has been expired for a period of 6 months or less
28 shall be subject to the penalty provided in s. 318.14.

29 (b) Any person whose motor vehicle or mobile home
30 registration has been expired for more than 6 months shall
31

1 upon a first offense be subject to the penalty provided in s.
2 318.14.

3 (c)~~(b)~~ Any person whose motor vehicle or mobile home
4 registration has been expired for more than 6 months shall
5 upon a second or subsequent offense be ~~is~~ guilty of a
6 misdemeanor of the second degree, punishable as provided in s.
7 775.082 or s. 775.083.

8 (d)~~(c)~~ However, no operator shall be charged with a
9 violation of this subsection if the operator can show,
10 pursuant to a valid lease agreement, that the vehicle had been
11 leased for a period of 30 days or less at the time of the
12 offense.

13 Section 3. Subsections (1) and (2) of section 322.26,
14 Florida Statutes, are amended to read:

15 322.26 Mandatory revocation of license by
16 department.--The department shall forthwith revoke the license
17 or driving privilege of any person upon receiving a record of
18 such person's conviction of any of the following offenses:

19 (1)(a) Murder resulting from the operation of a motor
20 vehicle, DUI manslaughter where the conviction represents a
21 subsequent DUI-related conviction, or a fourth violation of s.
22 316.193 or former s. 316.1931. For such cases, the revocation
23 of the driver's license or driving privilege shall be
24 permanent.

25 (b) Manslaughter resulting from the operation of a
26 motor vehicle.

27 (2) Driving a motor vehicle or being in actual
28 physical control thereof, or entering a plea of nolo
29 contendere, said plea being accepted by the court and said
30 court entering a fine or sentence to a charge of driving,
31 while under the influence of alcoholic beverages or a

1 substance controlled under chapter 893, or being in actual
2 physical control of a motor vehicle while under the influence
3 of alcoholic beverages or a substance controlled under chapter
4 893. In any case where DUI manslaughter occurs and the person
5 has no prior convictions for DUI-related offenses, the
6 revocation of the license or driving privilege shall be
7 permanent, except as provided for in s. 322.271(4).

8 Section 4. Paragraph (b) of subsection (1) and
9 subsection (4) of section 322.271, Florida Statutes, are
10 amended to read:

11 322.271 Authority to modify revocation, cancellation,
12 or suspension order.--

13 (1)

14 (b) A person whose driving privilege has been revoked
15 under s. 322.27(5) may, upon expiration of 12 months from the
16 date of such revocation, petition the department for
17 reinstatement ~~restoration~~ of his or her driving privilege.
18 Upon such petition and after investigation of the person's
19 qualification, fitness, and need to drive, the department
20 shall hold a hearing pursuant to chapter 120 to determine
21 whether the driving privilege shall be reinstated ~~restored~~ on
22 a restricted basis solely for business or employment purposes.

23 (4) Notwithstanding the provisions of s. 322.28(2)(e),
24 a person whose driving privilege has been permanently revoked
25 because he or she ~~has been convicted four times of violating~~
26 ~~s. 316.193 or former s. 316.1931 or because he or she~~ has been
27 convicted of DUI manslaughter in violation of s. 316.193 and
28 has no prior convictions for DUI-related offenses may, upon
29 the expiration of 5 years after the date of such revocation or
30 the expiration of 5 years after the termination of any term of
31 incarceration under s. 316.193 or former s. 316.1931,

1 whichever date is later, petition the department for
2 reinstatement of his or her driving privilege.

3 (a) Within 30 days after the receipt of such a
4 petition, the department shall afford the petitioner an
5 opportunity for a hearing. At the hearing, the petitioner
6 must demonstrate to the department that he or she:

7 1. Has not been arrested for a drug-related offense
8 during the 5 years preceding the filing of the petition;

9 2. Has not driven a motor vehicle without a license
10 for at least 5 years prior to the hearing;

11 3. Has been drug-free for at least 5 years prior to
12 the hearing; and

13 4. Has completed a DUI program licensed by the
14 department.

15 (b) At such hearing, the department shall determine
16 the petitioner's qualification, fitness, and need to drive.
17 Upon such determination, the department may, in its
18 discretion, reinstate the driver's license of the petitioner.
19 Such reinstatement must be made subject to the following
20 qualifications:

21 1. The license must be restricted for employment
22 purposes for not less than 1 year; and

23 2. Such person must be supervised by a DUI program
24 licensed by the department and report to the program for such
25 supervision and education at least four times a year or
26 additionally as required by the program for the remainder of
27 the revocation period. Such supervision shall include
28 evaluation, education, referral into treatment, and other
29 activities required by the department.

30 (c) Such person must assume the reasonable costs of
31 supervision. If such person fails to comply with the required

1 supervision, the program shall report the failure to the
2 department, and the department shall cancel such person's
3 driving privilege.

4 (d) If, after reinstatement, such person is convicted
5 of an offense for which mandatory revocation of his or her
6 license is required, the department shall revoke his or her
7 driving privilege.

8 (e) The department shall adopt rules regulating the
9 providing of services by DUI programs pursuant to this
10 section.

11 Section 5. Paragraph (e) of subsection (2) of section
12 322.28, Florida Statutes, is amended, present subsections (3),
13 (4), (6), and (8) of that section are redesignated as
14 subsections (4), (5), (7), and (9), respectively, present
15 subsection (5) of that section is redesignated as subsection
16 (6) and amended, and a new subsection (3) is added to that
17 section, to read:

18 322.28 Period of suspension or revocation.--

19 (2) In a prosecution for a violation of s. 316.193 or
20 former s. 316.1931, the following provisions apply:

21 (e) The court shall permanently revoke the driver's
22 license or driving privilege of a person who has been
23 convicted four times for violation of s. 316.193 or former s.
24 316.1931 or a combination of such sections. The court shall
25 permanently revoke the driver's license or driving privilege
26 of any person who has been convicted of DUI manslaughter in
27 violation of s. 316.193. If the court has not permanently
28 revoked such driver's license or driving privilege within 30
29 days after imposing sentence, the department shall permanently
30 revoke the driver's license or driving privilege pursuant to
31 this paragraph. No driver's license or driving privilege may

1 be issued or granted to any such person. This paragraph
2 applies only if at least one of the convictions for violation
3 of s. 316.193 or former s. 316.1931 was for a violation that
4 occurred after July 1, 1982. For the purposes of this
5 paragraph, a conviction for violation of former s. 316.028,
6 former s. 316.1931, or former s. 860.01 is also considered a
7 conviction for violation of s. 316.193. Also, a conviction of
8 driving under the influence, driving while intoxicated,
9 driving with an unlawful blood-alcohol level, or any other
10 similar alcohol-related or drug-related traffic offense
11 outside this state is considered a conviction for the purposes
12 of this paragraph.

13 (3) The court shall permanently revoke the driver's
14 license or driving privilege of a person who has been
15 convicted of murder resulting from the operation of a motor
16 vehicle. No driver's license or driving privilege may be
17 issued or granted to any such person.

18 ~~(4)(3)~~ Upon the conviction of a person for a violation
19 of s. 322.34, the license or driving privilege, if suspended,
20 shall be suspended for 3 months in addition to the period of
21 suspension previously imposed and, if revoked, the time after
22 which a new license may be issued shall be delayed 3 months.

23 ~~(5)(4)~~ If, in any case arising under this section, a
24 licensee, after having been given notice of suspension or
25 revocation of his or her license in the manner provided in s.
26 322.251, fails to surrender to the department a license
27 theretofore suspended or revoked, as required by s. 322.29, or
28 fails otherwise to account for the license to the satisfaction
29 of the department, the period of suspension of the license, or
30 the period required to elapse after revocation before a new
31 license may be issued, shall be extended until, and shall not

1 expire until, a period has elapsed after the date of surrender
2 of the license, or after the date of expiration of the
3 license, whichever occurs first, which is identical in length
4 with the original period of suspension or revocation.

5 (6)(5)(a) Upon a conviction for a violation of s.
6 316.193(3)(c)2., involving serious bodily injury, a conviction
7 of manslaughter resulting from the operation of a motor
8 vehicle, or a conviction of vehicular homicide, the court
9 shall revoke the driver's license of the person convicted for
10 a minimum period of 3 years ~~if death to any other person~~
11 ~~resulted from the operation of a motor vehicle by such driver.~~
12 In the event that a conviction under s. 316.193(3)(c)2.,
13 involving serious bodily injury, is also a subsequent
14 conviction as described under paragraph (2)(a), the court
15 shall revoke the driver's license or driving privilege of the
16 person convicted for the period applicable as provided in
17 paragraph (2)(a) or paragraph (2)(e).

18 (b) If the period of revocation was not specified by
19 the court at the time of imposing sentence or within 30 days
20 thereafter, the department shall revoke the driver's license
21 for the minimum period applicable under paragraph (a) or, for
22 a subsequent conviction, for the minimum period applicable
23 under paragraph (2)(a) or paragraph (2)(e).

24 (7)(6) No administrative suspension of a driving
25 privilege under s. 322.2615 shall be stayed upon a request for
26 review of the departmental order that resulted in such
27 suspension and, except as provided in former s. 322.261, no
28 suspension or revocation of a driving privilege shall be
29 stayed upon an appeal of the conviction or order that resulted
30 therein.

31

1 ~~(8)(7)~~ In a prosecution for a violation of s.
2 316.172(1), and upon a showing of the department's records
3 that the licensee has received a second conviction within a
4 period of 5 years from the date of a prior conviction of s.
5 316.172(1), the department shall, upon direction of the court,
6 suspend the driver's license of the person convicted for a
7 period of not less than 90 days nor more than 6 months.

8 Section 6. Section 322.283, Florida Statutes, is
9 created to read:

10 322.283 Commencement of period of suspension or
11 revocation for incarcerated offenders.--

12 (1) When the court in a criminal traffic case orders
13 the defendant to serve a term of incarceration or imprisonment
14 and also suspends or revokes the defendant's driver's license
15 as a result of the offense, the period of suspension or
16 revocation shall commence upon the defendant's release from
17 incarceration. For purposes of calculating the defendant's
18 eligibility for reinstatement of his or her driver's license
19 or driving privilege under this section, the date of the
20 defendant's release from incarceration shall be deemed the
21 date the suspension or revocation period was imposed.

22 (2) For defendants convicted of a criminal traffic
23 offense and sentenced to imprisonment with the Department of
24 Corrections, the Department of Corrections shall notify the
25 Department of Highway Safety and Motor Vehicles of the date of
26 the defendant's release from prison or other state
27 correctional facility. For defendants convicted of a criminal
28 traffic offense and sentenced to incarceration within the
29 jurisdictional county jail or other correctional facility
30 operated by the jurisdictional county, the sheriff of the
31 jurisdictional county wherein the defendant is incarcerated

1 shall notify the Department of Highway Safety and Motor
2 Vehicles of the date of the defendant's release from the
3 county jail or other correctional facility. The notification
4 of a defendant's release from incarceration shall be on a form
5 approved by the Department of Highway Safety and Motor
6 Vehicles. This subsection applies only to those defendants who
7 have had their driver's license or driving privilege suspended
8 or revoked as a result of the offense for which they are
9 incarcerated or imprisoned.

10 Section 7. Subsection (2) of section 322.34, Florida
11 Statutes, is amended to read:

12 322.34 Driving while license suspended, revoked,
13 canceled, or disqualified.--

14 (2) Any person whose driver's license or driving
15 privilege has been canceled, suspended, or revoked as provided
16 by law, except persons defined in s. 322.264, who, knowing of
17 such cancellation, suspension, or revocation, drives any motor
18 vehicle upon the highways of this state while such license or
19 privilege is canceled, suspended, or revoked, upon:

20 (a) A first conviction is guilty of a misdemeanor of
21 the second degree, punishable as provided in s. 775.082 or s.
22 775.083.

23 (b) A second conviction is guilty of a misdemeanor of
24 the first degree, punishable as provided in s. 775.082 or s.
25 775.083.

26 (c) A third or subsequent conviction is guilty of a
27 felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29

30 The element of knowledge is satisfied if the person has been
31 previously cited as provided in subsection (1); or the person

1 admits to knowledge of the cancellation, suspension, or
2 revocation; or the person received notice as provided in
3 subsection (4). There shall be a rebuttable presumption that
4 the knowledge requirement is satisfied if a judgment or order
5 as provided in subsection (4) appears in the department's
6 records for any case except for one involving a suspension by
7 the department for failure to pay a traffic fine or for a
8 financial responsibility violation.

9 Section 8. Section 322.341, Florida Statutes, is
10 created to read:

11 322.341 Driving while license permanently
12 revoked.--Any person whose driver's license or driving
13 privilege has been permanently revoked pursuant to s. 322.26
14 or s. 322.28 and who drives a motor vehicle upon the highways
15 of this state is guilty of a felony of the third degree,
16 punishable as provided in s. 775.082, s. 775.083, or s.
17 775.084. Any person convicted under this section shall be
18 sentenced to a minimum term of imprisonment of 2 years.

19 Section 9. Subsections (6) and (7) of section 627.733,
20 Florida Statutes, are amended to read:

21 627.733 Required security.--

22 (6) The Department of Highway Safety and Motor
23 Vehicles shall suspend, after due notice and an opportunity to
24 be heard, the registration ~~and driver's license~~ of any owner
25 or registrant of a motor vehicle with respect to which
26 security is required under this section and s. 324.022:

27 (a) Upon its records showing that the owner or
28 registrant of such motor vehicle did not have in full force
29 and effect when required security complying with the terms of
30 this section; or
31

1 (b) Upon notification by the insurer to the Department
2 of Highway Safety and Motor Vehicles, in a form approved by
3 the department, of cancellation or termination of the required
4 security.

5 (7)(a) Any operator or owner whose ~~driver's license or~~
6 registration has been suspended pursuant to this section or s.
7 316.646 may effect its reinstatement upon compliance with the
8 requirements of this section and upon payment to the
9 Department of Highway Safety and Motor Vehicles of a
10 nonrefundable reinstatement fee of \$150 for the first
11 reinstatement. Such reinstatement fee shall be \$250 for the
12 second reinstatement and \$500 for each subsequent
13 reinstatement during the 3 years following the first
14 reinstatement. Any person reinstating her or his insurance
15 under this subsection must also secure noncancelable coverage
16 as described in s. 627.7275(2) and present to the appropriate
17 person proof that the coverage is in force on a form
18 promulgated by the Department of Highway Safety and Motor
19 Vehicles, such proof to be maintained for 2 years. If the
20 person does not have a second reinstatement within 3 years
21 after her or his initial reinstatement, the reinstatement fee
22 shall be \$150 for the first reinstatement after that 3-year
23 period. ~~In the event that a person's license and registration~~
24 ~~are suspended pursuant to this section or s. 316.646, only one~~
25 ~~reinstatement fee shall be paid to reinstate the license and~~
26 ~~the registration.~~ All fees shall be collected by the
27 Department of Highway Safety and Motor Vehicles at the time of
28 reinstatement. The Department of Highway Safety and Motor
29 Vehicles shall issue proper receipts for such fees and shall
30 promptly deposit those fees in the Highway Safety Operating
31 Trust Fund. One-third of the fee collected under this

1 subsection shall be distributed from the Highway Safety
2 Operating Trust Fund to the local government entity or state
3 agency which employed the law enforcement officer or the
4 recovery agent who seizes a license plate pursuant to s.
5 324.201 or to s. 324.202. Such funds may be used by the local
6 government entity or state agency for any authorized purpose.

7 (b) One-third of the fee collected for the seizure of
8 a license plate by a recovery agent shall be paid to the
9 recovery agent, and the balance shall remain in the Highway
10 Safety Operating Trust Fund and be distributed pursuant to s.
11 321.245.

12 Section 10. This act shall take effect July 1, 1999.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 SB 1218

17 The CS provides that other than in a school zone persons
18 exceeding the posted speed limit by 1-5 miles per hour would
19 receive a warning rather than a \$25 citation. The CS also
specifies certain conditions under which fines for speed
violations in construction zones may be doubled.

20 The CS provides that any person whose motor vehicle or mobile
21 home registration has been expired for more than 6 months will
22 upon the first offense be cited with a noncriminal traffic
infraction. A second offense is punishable as a second degree
misdemeanor.

23 The CS provides for the permanent revocation of driving
24 privileges for persons convicted of murder resulting from the
25 operation of a motor vehicle, DUI manslaughter where the
26 conviction represents a subsequent DUI-related conviction, or
27 4 or more DUI-related violations. The CS revises the element
28 of knowledge for purposes of driving with a suspended,
revoked, cancelled, or disqualified license to provide that
there a rebuttable presumption that the knowledge requirement
is satisfied if a judgment or order appears on the
Department's driving records. Exceptions include failure to
pay traffic fine and financial responsibility violations.

29 The CS eliminates the Department's authority to suspend the
30 driver's license of a motor vehicle owner not complying with
31 the security requirements provided for in sections 324.022 and
627.733, F.S.