

Bill No. CS for SB 190, 1st Eng.

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Crist moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 5, between lines 21 and 22,

15

16 insert:

17 Section 5. Subsection (3) of section 318.18, Florida  
18 Statutes, is amended to read:

19 318.18 Amount of civil penalties.--The penalties  
20 required for a noncriminal disposition pursuant to s. 318.14  
21 are as follows:

22 (3)(a) Except as otherwise provided in this section,  
23 \$60 for all moving violations not requiring a mandatory  
24 appearance.

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

27		
28	For speed exceeding the limit by:	Fine:
29	<u>1-5 m.p.h.</u> .....	<u>Warning</u>
30	<u>6-9</u> <del>1-9</del> m.p.h.....	\$ 25
31	10-14 m.p.h.....	\$100

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1	15-19 m.p.h.....	\$125
2	20-29 m.p.h.....	\$150
3	30 m.p.h. and above.....	\$250

4

5           (c) Notwithstanding paragraph (b), a person cited for  
6 exceeding the speed limit by up to 5 m.p.h. in a legally  
7 posted school zone will be fined \$50. A person exceeding the  
8 speed limit in a school zone will be assessed a fine double  
9 the amount listed in paragraph (b).

10           (d) A person cited for exceeding the speed limit in or  
11 a posted construction zone will be assessed a fine double the  
12 amount listed in paragraph (b). The fine shall be doubled for  
13 construction zone violations only if construction personnel  
14 are present or operating equipment on the road or immediately  
15 adjacent to the road under construction.

16           ~~(e)(d)~~ If a violation of s. 316.1301 or s. 316.1303  
17 results in an injury to the pedestrian or damage to the  
18 property of the pedestrian, an additional fine of up to \$250  
19 must be assessed. This amount must be distributed pursuant to  
20 s. 318.21.

21           Section 6. Subsection (3) of section 320.07, Florida  
22 Statutes, is amended to read:

23           320.07 Expiration of registration; annual renewal  
24 required; penalties.--

25           (3) The operation of any motor vehicle without having  
26 attached thereto a registration license plate and validation  
27 stickers, or the use of any mobile home without having  
28 attached thereto a mobile home sticker, for the current  
29 registration period shall subject the owner thereof, if he or  
30 she is present, or, if the owner is not present, the operator  
31 thereof to the following penalty provisions:

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

4           **(b) Any person whose motor vehicle or mobile home**  
5 **registration has been expired for more than 6 months shall**  
6 **upon a first offense be subject to the penalty provided in s.**  
7 **318.14.**

8           ~~(c)~~ Any person whose motor vehicle or mobile home  
9 registration has been expired for more than 6 months shall  
10 upon a second or subsequent offense be ~~is~~ guilty of a  
11 misdemeanor of the second degree, punishable as provided in s.  
12 775.082 or s. 775.083.

13           ~~(d)~~ However, no operator shall be charged with a  
14 violation of this subsection if the operator can show,  
15 pursuant to a valid lease agreement, that the vehicle had been  
16 leased for a period of 30 days or less at the time of the  
17 offense.

18           Section 7. Subsections (1) and (2) of section 322.26,  
19 Florida Statutes, are amended to read:

20           322.26 Mandatory revocation of license by  
21 department.--The department shall forthwith revoke the license  
22 or driving privilege of any person upon receiving a record of  
23 such person's conviction of any of the following offenses:

24           (1)**(a) Murder resulting from the operation of a motor**  
25 **vehicle, DUI manslaughter where the conviction represents a**  
26 **subsequent DUI-related conviction, or a fourth violation of s.**  
27 **316.193 or former s. 316.1931. For such cases, the revocation**  
28 **of the driver's license or driving privilege shall be**  
29 **permanent.**

30           **(b) Manslaughter resulting from the operation of a**  
31 **motor vehicle.**

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1           (2) Driving a motor vehicle or being in actual  
2 physical control thereof, or entering a plea of nolo  
3 contendere, said plea being accepted by the court and said  
4 court entering a fine or sentence to a charge of driving,  
5 while under the influence of alcoholic beverages or a  
6 substance controlled under chapter 893, or being in actual  
7 physical control of a motor vehicle while under the influence  
8 of alcoholic beverages or a substance controlled under chapter  
9 893. In any case where DUI manslaughter occurs and the person  
10 has no prior convictions for DUI-related offenses, the  
11 revocation of the license or driving privilege shall be  
12 permanent, except as provided for in s. 322.271(4).

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

16           322.271 Authority to modify revocation, cancellation,  
17 or suspension order.--

18           (1)

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

28           (4) Notwithstanding the provisions of s. 322.28(2)(e),  
29 a person whose driving privilege has been permanently revoked  
30 because he or she ~~has been convicted four times of violating~~  
31 ~~s. 316.193 or former s. 316.1931 or because he or she has been~~

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1 convicted of DUI manslaughter in violation of s. 316.193 and  
2 has no prior convictions for DUI-related offenses may, upon  
3 the expiration of 5 years after the date of such revocation or  
4 the expiration of 5 years after the termination of any term of  
5 incarceration under s. 316.193 or former s. 316.1931,  
6 whichever date is later, petition the department for  
7 reinstatement of his or her driving privilege.

8 (a) Within 30 days after the receipt of such a  
9 petition, the department shall afford the petitioner an  
10 opportunity for a hearing. At the hearing, the petitioner  
11 must demonstrate to the department that he or she:

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

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

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

18 4. Has completed a DUI program licensed by the  
19 department.

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

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

28 2. Such person must be supervised by a DUI program  
29 licensed by the department and report to the program for such  
30 supervision and education at least four times a year or  
31 additionally as required by the program for the remainder of

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1 the revocation period. Such supervision shall include  
2 evaluation, education, referral into treatment, and other  
3 activities required by the department.

4 (c) Such person must assume the reasonable costs of  
5 supervision. If such person fails to comply with the required  
6 supervision, the program shall report the failure to the  
7 department, and the department shall cancel such person's  
8 driving privilege.

9 (d) If, after reinstatement, such person is convicted  
10 of an offense for which mandatory revocation of his or her  
11 license is required, the department shall revoke his or her  
12 driving privilege.

13 (e) The department shall adopt rules regulating the  
14 providing of services by DUI programs pursuant to this  
15 section.

16 Section 9. Paragraph (e) of subsection (2) of section  
17 322.28, Florida Statutes, is amended, present subsections (3),  
18 (4), (6), and (8) of that section are redesignated as  
19 subsections (4), (5), (7), and (9), respectively, present  
20 subsection (5) of that section is redesignated as subsection  
21 (6) and amended, and a new subsection (3) is added to that  
22 section, to read:

23 322.28 Period of suspension or revocation.--

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

26 (e) The court shall permanently revoke the driver's  
27 license or driving privilege of a person who has been  
28 convicted four times for violation of s. 316.193 or former s.  
29 316.1931 or a combination of such sections. The court shall  
30 permanently revoke the driver's license or driving privilege  
31 of any person who has been convicted of DUI manslaughter in

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1 violation of s. 316.193. If the court has not permanently  
2 revoked such driver's license or driving privilege within 30  
3 days after imposing sentence, the department shall permanently  
4 revoke the driver's license or driving privilege pursuant to  
5 this paragraph. No driver's license or driving privilege may  
6 be issued or granted to any such person. This paragraph  
7 applies only if at least one of the convictions for violation  
8 of s. 316.193 or former s. 316.1931 was for a violation that  
9 occurred after July 1, 1982. For the purposes of this  
10 paragraph, a conviction for violation of former s. 316.028,  
11 former s. 316.1931, or former s. 860.01 is also considered a  
12 conviction for violation of s. 316.193. Also, a conviction of  
13 driving under the influence, driving while intoxicated,  
14 driving with an unlawful blood-alcohol level, or any other  
15 similar alcohol-related or drug-related traffic offense  
16 outside this state is considered a conviction for the purposes  
17 of this paragraph.

18 (3) The court shall permanently revoke the driver's  
19 license or driving privilege of a person who has been  
20 convicted of murder resulting from the operation of a motor  
21 vehicle. No driver's license or driving privilege may be  
22 issued or granted to any such person.

23 (4)~~(3)~~ Upon the conviction of a person for a violation  
24 of s. 322.34, the license or driving privilege, if suspended,  
25 shall be suspended for 3 months in addition to the period of  
26 suspension previously imposed and, if revoked, the time after  
27 which a new license may be issued shall be delayed 3 months.

28 (5)~~(4)~~ If, in any case arising under this section, a  
29 licensee, after having been given notice of suspension or  
30 revocation of his or her license in the manner provided in s.  
31 322.251, fails to surrender to the department a license

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1 theretofore suspended or revoked, as required by s. 322.29, or  
2 fails otherwise to account for the license to the satisfaction  
3 of the department, the period of suspension of the license, or  
4 the period required to elapse after revocation before a new  
5 license may be issued, shall be extended until, and shall not  
6 expire until, a period has elapsed after the date of surrender  
7 of the license, or after the date of expiration of the  
8 license, whichever occurs first, which is identical in length  
9 with the original period of suspension or revocation.

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

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

29 (7)(6) No administrative suspension of a driving  
30 privilege under s. 322.2615 shall be stayed upon a request for  
31 review of the departmental order that resulted in such



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1 suspension and, except as provided in former s. 322.261, no  
2 suspension or revocation of a driving privilege shall be  
3 stayed upon an appeal of the conviction or order that resulted  
4 therein.

5 (8)(7) In a prosecution for a violation of s.  
6 316.172(1), and upon a showing of the department's records  
7 that the licensee has received a second conviction within a  
8 period of 5 years from the date of a prior conviction of s.  
9 316.172(1), the department shall, upon direction of the court,  
10 suspend the driver's license of the person convicted for a  
11 period of not less than 90 days nor more than 6 months.

12 Section 10. Section 322.283, Florida Statutes, is  
13 created to read:

14 322.283 Commencement of period of suspension or  
15 revocation for incarcerated offenders.--

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

26 (2) For defendants convicted of a criminal traffic  
27 offense and sentenced to imprisonment with the Department of  
28 Corrections, the Department of Corrections shall notify the  
29 Department of Highway Safety and Motor Vehicles of the date of  
30 the defendant's release from prison or other state  
31 correctional facility. For defendants convicted of a criminal

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

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

16 322.34 Driving while license suspended, revoked,  
17 canceled, or disqualified.--

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

24 (a) A first conviction is guilty of a misdemeanor of  
25 the second degree, punishable as provided in s. 775.082 or s.  
26 775.083.

27 (b) A second conviction is guilty of a misdemeanor of  
28 the first degree, punishable as provided in s. 775.082 or s.  
29 775.083.

30 (c) A third or subsequent conviction is guilty of a  
31 felony of the third degree, punishable as provided in s.

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1 775.082, s. 775.083, or s. 775.084.

2

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

13 Section 12. Section 322.341, Florida Statutes, is  
14 created to read:

15 322.341 Driving while license permanently  
16 revoked.--Any person whose driver's license or driving  
17 privilege has been permanently revoked pursuant to s. 322.26  
18 or s. 322.28 and who drives a motor vehicle upon the highways  
19 of this state is guilty of a felony of the third degree,  
20 punishable as provided in s. 775.082, s. 775.083, or s.  
21 775.084.

22 Section 13. Effective July 1, 2000, subsections (6)  
23 and (7) of section 627.733, Florida Statutes, are amended to  
24 read:

25 627.733 Required security.--

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

31 (a) Upon its records showing that the owner or

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1 registrant of such motor vehicle did not have in full force  
2 and effect when required security complying with the terms of  
3 this section; or

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

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

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2 promptly deposit those fees in the Highway Safety Operating  
3 Trust Fund. One-third of the fee collected under this  
  
5 Operating Trust Fund to the local government entity or state  
6 agency which employed the law enforcement officer or the  
  
8 324.201 or to s. 324.202. Such funds may be used by the local  
9 government entity or state agency for any authorized purpose.

11 a license plate by a recovery agent shall be paid to the  
12 recovery agent, and the balance shall remain in the Highway

14 321.245.  
15

17  
18

20 And the title is amended as follows:

21       On page 1, line 19, delete the words "providing an

23  
24 and insert:

26       for speeds exceeding the limit by 1-5 m.p.h.  
27       and replacing the fine with a warning;

29       speed violations shall be doubled only under  
30       certain circumstances; amending s. 320.07,

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1 registration; amending s. 322.26, F.S.;

2 providing for permanent revocation of a

3 driver's license for murder resulting from the

4 operation of a motor vehicle, DUI manslaughter

5 where the conviction represents a subsequent

6 DUI-related conviction, or four or more DUI

7 violations; amending s. 322.271, F.S.;

8 providing for petition for reinstatement under

9 certain circumstances; amending s. 322.28,

10 F.S.; revising provisions with respect to the

11 period of suspension or revocation; conforming

12 current provisions to the act; creating s.

13 322.283, F.S.; providing for the commencement

14 of the period of suspension or revocation for

15 incarcerated offenders; providing for

16 notification to the Department of Highway

17 Safety and Motor Vehicles; amending s. 322.34,

18 F.S.; providing that the element of knowledge

19 with respect to the suspension, revocation,

20 cancellation, or disqualification is satisfied

21 when certain notice is sent; creating s.

22 322.341, F.S.; providing penalties for driving

23 while a license is permanently revoked;

24 amending s. 627.733, F.S.; deleting a provision

25 for revoking the driver's license of an owner

26 or registrant of a motor vehicle who does not

27 provide required security for that vehicle;

28 providing effective dates.

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30  
31