

By Representatives Sindler, Casey, Feeney, Murman,
Betancourt, Fischer, Merchant, Saunders, Rojas, Melvin,
Safley, Littlefield and Wise

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; providing a third
4 degree felony penalty for a third or subsequent
5 conviction for driving under the influence;
6 increasing present fines and penalties to
7 conform; amending s. 921.0022, F.S.; conforming
8 provisions in the sentencing guidelines;
9 providing an effective date.

10

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

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13 Section 1. Subsections (2) and (4) of section 316.193,
14 Florida Statutes, are amended to read:

15 316.193 Driving under the influence; penalties.--

16 (2)(a) Except as provided in paragraph (b), subsection
17 (3), or subsection (4), any person who is convicted of a
18 violation of subsection (1) shall be punished:

19 1. By a fine of:

20 a. Not less than \$250 or more than \$500 for a first
21 conviction.

22 b. Not less than \$500 or more than \$1,000 for a second
23 conviction; and—

24 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
25 ~~third conviction; and~~

26 2. By imprisonment for:

27 a. Not more than 6 months for a first conviction.

28 b. Not more than 9 months for a second conviction.

29 ~~c. Not more than 12 months for a third conviction.~~

30 (b) Any person who is convicted of a third ~~fourth~~ or
31 subsequent violation of this section is guilty of a felony of

1 the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084; however, the fine imposed for such
3 third ~~fourth~~ or subsequent violation may be not less than
4 \$2,500~~\$1,000~~.

5 (4) Any person who is convicted of a violation of
6 subsection (1) and who has a blood-alcohol level or
7 breath-alcohol level of 0.20 or higher, or any person who is
8 convicted of a violation of subsection (1) and who at the time
9 of the offense was accompanied in the vehicle by a person
10 under the age of 18 years, shall be punished:

11 (a) By a fine of:

12 1. Not less than \$500 or more than \$1,000 for a first
13 conviction.

14 2. Not less than \$1,000 or more than \$2,000 for a
15 second conviction.

16 3. Not less than \$3,500~~\$2,000~~ or more than \$7,000
17 ~~\$5,000~~ for a third or subsequent conviction.

18 (b) By imprisonment for:

19 1. Not more than 9 months for a first conviction.

20 2. Not more than 12 months for a second conviction.

21 ~~3. Not more than 12 months for a third conviction.~~

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23 For the purposes of this subsection, any conviction for a
24 violation of s. 327.35, only the instant offense is required
25 to be a violation of subsection (1) by a person who has a
26 blood-alcohol level or breath-alcohol level of 0.20 or higher.

27 Section 2. Paragraph (f) of subsection (3) of section
28 921.0022, Florida Statutes, is amended to read:

29 921.0022 Criminal Punishment Code; offense severity
30 ranking chart.--

31 (3) OFFENSE SEVERITY RANKING CHART

1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	
	Florida	Fegony	
	Statute	Degree	Description
			(f) LEVEL 6
	316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent conviction.
	775.0875(1)	3rd	Taking firearm from law enforcement officer.
	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
	784.048(3)	3rd	Aggravated stalking; credible threat.
	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
	784.081(2)	2nd	Aggravated assault on specified official or employee.
	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.

1	790.161(2)	2nd	Make, possess, or throw
2			destructive device with intent to
3			do bodily harm or damage
4			property.
5	790.164(1)	2nd	False report of deadly explosive
6			or act of arson or violence to
7			state property.
8	790.19	2nd	Shooting or throwing deadly
9			missiles into dwellings, vessels,
10			or vehicles.
11	794.011(8)(a)	3rd	Solicitation of minor to
12			participate in sexual activity by
13			custodial adult.
14	794.05(1)	2nd	Unlawful sexual activity with
15			specified minor.
16	806.031(2)	2nd	Arson resulting in great bodily
17			harm to firefighter or any other
18			person.
19	810.02(3)(c)	2nd	Burglary of occupied structure;
20			unarmed; no assault or battery.
21	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
22			but less than \$100,000, grand
23			theft in 2nd degree.
24	812.13(2)(c)	2nd	Robbery, no firearm or other
25			weapon (strong-arm robbery).
26	817.034(4)(a)1.	1st	Communications fraud, value
27			greater than \$50,000.
28	817.4821(5)	2nd	Possess cloning paraphernalia
29			with intent to create cloned
30			cellular telephones.
31			

1	825.102(1)	3rd	Abuse of an elderly person or
2			disabled adult.
3	825.102(3)(c)	3rd	Neglect of an elderly person or
4			disabled adult.
5	825.1025(3)	3rd	Lewd or lascivious molestation of
6			an elderly person or disabled
7			adult.
8	825.103(2)(c)	3rd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$100 or more, but less
11			than \$20,000.
12	827.03(1)	3rd	Abuse of a child.
13	827.03(3)(c)	3rd	Neglect of a child.
14	827.071(2)&(3)	2nd	Use or induce a child in a sexual
15			performance, or promote or direct
16			such performance.
17	836.05	2nd	Threats; extortion.
18	836.10	2nd	Written threats to kill or do
19			bodily injury.
20	843.12	3rd	Aids or assists person to escape.
21	914.23	2nd	Retaliation against a witness,
22			victim, or informant, with bodily
23			injury.
24	944.35(3)(a)2.	3rd	Committing malicious battery upon
25			or inflicting cruel or inhuman
26			treatment on an inmate or
27			offender on community
28			supervision, resulting in great
29			bodily harm.
30	944.40	2nd	Escapes.
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1	944.46	3rd	Harboring, concealing, aiding
2			escaped prisoners.
3	944.47(1)(a)5.	2nd	Introduction of contraband
4			(firearm, weapon, or explosive)
5			into correctional facility.
6	951.22(1)	3rd	Intoxicating drug, firearm, or
7			weapon introduced into county
8			facility.
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10 Section 3. This act shall take effect October 1, 1998.

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12 HOUSE SUMMARY

13 Provides that it is a third degree felony for a third or
14 subsequent conviction of driving under the influence.
15 Current law makes it a third degree felony for a fourth
16 or subsequent conviction for driving under the influence.
17 Conforms other fines and penalty provisions to the act.
18 See bill for details.

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