

By Representative Constantine

1 A bill to be entitled
2 An act relating to driver license revocations;
3 amending s. 322.26, F.S.; providing for
4 permanent revocation of a driver license for
5 murder resulting from the operation of a motor
6 vehicle and for vehicular homicide; amending s.
7 322.271, F.S.; providing for petition for
8 reinstatement under certain circumstances;
9 eliminates the ability to apply for
10 reinstatement if a person is convicted of 4 or
11 more DUI violations; creating s. 322.275, F.S.;
12 providing for the authority of the court to
13 authorize reinstatement of permanently revoked
14 driver license; amending s. 322.28, F.S.;
15 revising language with respect to the period of
16 suspension or revocation; conforming current
17 language to the act; creating s. 322.283, F.S.;
18 providing for the commencement of the period of
19 suspension or revocation for incarcerated
20 offenders; providing for notification to the
21 Department of Highway Safety and Motor
22 Vehicles; amending s. 322.34, F.S.; providing
23 that the element of knowledge with respect to
24 the suspension, revocation, cancellation, or
25 disqualification is satisfied when certain
26 notice is sent; creating s. 322.341, F.S.;
27 providing penalties for driving while a license
28 is permanently revoked; providing an effective
29 date.

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

1 Section 1. Subsection (1) of section 322.26, Florida
2 Statutes, is amended to read:

3 322.26 Mandatory revocation of license by
4 department.--The department shall forthwith revoke the license
5 or driving privilege of any person upon receiving a record of
6 such person's conviction of any of the following offenses:

7 (1)(a) Murder resulting from the operation of a motor
8 vehicle. For such cases, the revocation of the driver's
9 license or driving privilege shall be permanent.

10 (b) Manslaughter resulting from the operation of a
11 motor vehicle, vehicular homicide, or a violation of s.
12 322.34(6) involving death. For such cases, the revocation of
13 the driver's license or driving privilege shall be permanent,
14 except as provided in s. 322.271(4).

15 Section 2. Paragraph (b) of subsection (1) and
16 subsection (4) of section 322.271, Florida Statutes, are
17 amended to read:

18 322.271 Authority to modify revocation, cancellation,
19 or suspension order.--

20 (1)

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

30 (4)(a) If expressly authorized by the court pursuant
31 to s. 322.275 ~~Notwithstanding the provisions of s.~~

1 ~~322.28(2)(e)~~, a person whose driving privilege has been
2 permanently revoked ~~because he or she has been convicted four~~
3 ~~times of violating s. 316.193 or former s. 316.1931~~ or because
4 he or she has been convicted of DUI manslaughter in violation
5 of s. 316.193 may, upon the expiration of 5 years after the
6 date of such revocation or the expiration of 5 years after the
7 termination of any term of incarceration under s. 316.193 or
8 former s. 316.1931, whichever date is later, petition the
9 department for reinstatement of his or her driving privilege.

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

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

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

18 c.3. Has been drug-free for at least 5 years prior to
19 the hearing; and

20 d.4. Has completed a DUI program licensed by the
21 department.

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

28 a.1. The license must be restricted for employment
29 purposes for not less than 1 year; and

30 b.2. Such person must be supervised by a DUI program
31 licensed by the department and report to the program for such

1 supervision and education at least four times a year or
2 additionally as required by the program for the remainder of
3 the revocation period. Such supervision shall include
4 evaluation, education, referral into treatment, and other
5 activities required by the department.

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

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

15 ~~5.(e)~~ The department shall adopt rules regulating the
16 providing of services by DUI programs pursuant to this
17 section.

18 (b) If expressly authorized by the court pursuant to
19 s. 322.275, a person whose driving privilege has been
20 permanently revoked for manslaughter by operation of a motor
21 vehicle, vehicular homicide, or a violation of s. 322.34(6)
22 involving death may, upon expiration of 5 years from the date
23 of such revocation, petition the department for reinstatement
24 of his or her driving privilege. Upon such petition and after
25 investigation of the person's qualification, fitness, and need
26 to drive, the department shall hold a hearing pursuant to
27 chapter 120 to determine whether the driving privilege shall
28 be reinstated on a restricted basis solely for business or
29 employment purposes. Under no circumstances shall the driver's
30 license or driving privilege of any such person be reinstated
31 if the person has been convicted of a violation of s. 322.341,

1 regardless of whether adjudication has been withheld,
2 occurring within the 5 year revocation period. No person may
3 petition the department for reinstatement of his or her
4 driver's license or driving privilege during any time such
5 person has a formal charge for violation of s. 322.341 pending
6 before a court.

7 Section 3. Section 322.275, Florida Statutes, is
8 created to read:

9 322.275 Authority of the court to authorize
10 reinstatement of permanently revoked driver's license.--

11 (1) For any offense provided in s. 322.28(2)(f)2., the
12 court may authorize a defendant to petition the department for
13 reinstatement of his or her driver's license or driving
14 privilege if, at the time of sentencing, the court finds that
15 the defendant has no previous convictions, regardless of
16 whether adjudication has been withheld, for any of the
17 following:

18 (a) Any violation of s. 316.193, former s. 316.1931,
19 or former s. 860.01;

20 (b) Three or more violations of s. 322.34(2) or s.
21 322.34(5), driving a motor vehicle while his or her driver's
22 license or driving privilege has been suspended, canceled, or
23 revoked;

24 (c) Any violation of s. 322.34(6), driving a motor
25 vehicle while his or her driver's license or driving privilege
26 has been suspended, canceled, or revoked, causing death;

27 (d) Reckless driving;

28 (e) Vehicular homicide; or

29 (f) Manslaughter resulting from the operation of a
30 motor vehicle.

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1 For purposes of this subsection, a violation of any federal
2 law, or law of another state, or law of the District of
3 Columbia, or law of any territory of the United States,
4 similar in statutory prohibition as those offenses provided in
5 this subsection, shall be counted to the same extent as a
6 violation under Florida law.

7 (2) Notwithstanding the provisions of subsection (1),
8 the court may not authorize reinstatement of a driver's
9 license which has been permanently revoked for any offense
10 provided in s. 322.28(2)(f)2. if the defendant has been
11 designated as a habitual traffic offender pursuant to s.
12 322.264.

13 Section 4. Paragraph (e) of subsection (2) and
14 paragraph (a) of subsection (5) of section 322.28, Florida
15 Statutes, are amended, and paragraph (f) is added to
16 subsection (2) of said section, to read:

17 322.28 Period of suspension or revocation.--

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

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

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

12 (f)1. The court shall permanently revoke the driver's
13 license or driving privilege of a person who has been
14 convicted of murder resulting from the operation of a motor
15 vehicle. No driver's license or driving privilege may be
16 issued or granted to any such person.

17 2. The court shall permanently revoke the driver's
18 license or driving privilege of a person who has been
19 convicted of manslaughter resulting from the operation of a
20 motor vehicle, DUI manslaughter in violation of s. 316.193,
21 vehicular homicide, or a violation of s. 322.34(6) involving
22 death. If the court has not permanently revoked such driver's
23 license or driving privilege within 30 days after imposing
24 sentence, the department shall permanently revoke the driver's
25 license or driving privilege pursuant to this paragraph. No
26 driver's license or driving privilege may be issued or granted
27 to any such person, unless expressly authorized by the court
28 pursuant to s. 322.275.

29 (5)(a) Upon a conviction for a violation of s.
30 316.193(3)(c)2., involving serious bodily injury, ~~a conviction~~
31 ~~of manslaughter resulting from the operation of a motor~~

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

11 Section 5. Section 322.283, Florida Statutes, is
12 created to read:

13 322.283 Commencement of period of suspension or
14 revocation for incarcerated offenders.--

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

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 shall only apply to those defendants
11 who have had their driver's license or driving privilege
12 suspended or revoked as a result of the offense for which they
13 are incarcerated or imprisoned.

14 Section 6. 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.

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1 (c) A third or subsequent conviction is guilty of a
2 felony of the third degree, punishable as provided in s.
3 775.082, s. 775.083, or s. 775.084.

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5 The element of knowledge is satisfied if the person has been
6 previously cited as provided in subsection (1); or the person
7 admits to knowledge of the cancellation, suspension, or
8 revocation; or the person received notice as provided in
9 subsection (4); or notice was sent to the person pursuant to
10 s. 322.251.

11 Section 7. Section 322.341, Florida Statutes, is
12 created to read:

13 322.341 Driving while license permanently
14 revoked.--Any person whose driver's license or driving
15 privilege has been permanently revoked pursuant to s. 322.26
16 or s. 322.28, and who drives a motor vehicle upon the highways
17 of this state, is guilty of a felony of the third degree,
18 punishable as provided in s. 775.082, s. 775.083, or s.
19 775.084. Any person convicted under this section shall be
20 sentenced to a minimum term of imprisonment of 2 years.

21 Section 8. This act shall take effect October 1 of the
22 year in which enacted.

502-164A-98

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HOUSE SUMMARY

Provides that murder resulting from the operation of a motor vehicle, vehicular homicide, or a violation of s. 322.34(6), F.S., (causing the death or serious bodily injury of another while operating a motor vehicle without a license or while a license is canceled, suspended, or revoked), shall result in the permanent revocation of a person's driver license or driving privilege. Provides for the petition to the Department of Highway Safety and Motor Vehicles for reinstatement after 5 years under described circumstances. Provides for the authority of the court to authorize reinstatement of permanently revoked driver licenses. Provides for permanent revocation without the ability to appeal for reinstatement of a drivers license for 4 or more convictions of s. 316.193 or former s. 316.1931. Provides for the commencement of the period of suspension or revocation of a driver license for described incarcerated offenders. Provides penalties for driving while a license is permanently revoked. See bill for details.