

By the Committee on Law Enforcement & Public Safety and  
 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           creating s. 322.275, F.S.; providing for the  
 10          authority of the court to authorize  
 11          reinstatement of permanently revoked driver  
 12          license; amending s. 322.28, F.S.; revising  
 13          language with respect to the period of  
 14          suspension or revocation; conforming current  
 15          language to the act; creating s. 322.283, F.S.;  
 16          providing for the commencement of the period of  
 17          suspension or revocation for incarcerated  
 18          offenders; providing for notification to the  
 19          Department of Highway Safety and Motor  
 20          Vehicles; creating s. 322.341, F.S.; providing  
 21          penalties for driving while a license is  
 22          permanently revoked; providing an effective  
 23          date.

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

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

29           322.26 Mandatory revocation of license by  
 30 department.--The department shall forthwith revoke the license  
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1 or driving privilege of any person upon receiving a record of  
2 such person's conviction of any of the following offenses:

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

6 (b) Manslaughter resulting from the operation of a  
7 motor vehicle, vehicular homicide, or a violation of s.  
8 322.34(6) involving death. For such cases, the revocation of  
9 the driver's license or driving privilege shall be permanent,  
10 except as provided in s. 322.271(4).

11 Section 2. Paragraph (b) of subsection (1) and  
12 subsection (4) of section 322.271, Florida Statutes, are  
13 amended to read:

14 322.271 Authority to modify revocation, cancellation,  
15 or suspension order.--

16 (1)

17 (b) A person whose driving privilege has been revoked  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

26 (4)(a) If expressly authorized by the court pursuant  
27 to s. 322.275 ~~Notwithstanding the provisions of s.~~  
28 ~~322.28(2)(e)~~, a person whose driving privilege has been  
29 permanently revoked because he or she has been convicted four  
30 times of violating s. 316.193 or former s. 316.1931 or because  
31 he or she has been convicted of DUI manslaughter in violation

1 of s. 316.193 may, upon the expiration of 5 years after the  
2 date of such revocation or the expiration of 5 years after the  
3 termination of any term of incarceration under s. 316.193 or  
4 former s. 316.1931, whichever date is later, petition the  
5 department for reinstatement of his or her driving privilege.

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

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

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

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

16 d.4. Has completed a DUI program licensed by the  
17 department.

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

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

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

1 evaluation, education, referral into treatment, and other  
2 activities required by the department.

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

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

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

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

1 hearing. No person may petition the department for  
2 reinstatement of his or her driver's license or driving  
3 privilege during any time such person has a formal charge for  
4 violation of s. 322.341 pending before a court.

5 Section 3. Section 322.275, Florida Statutes, is  
6 created to read:

7 322.275 Authority of the court to authorize  
8 reinstatement of permanently revoked driver's license.--

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

16 (a) Any violation of s. 316.193, former s. 316.1931,  
17 or former s. 860.01;

18 (b) Three or more violations of s. 322.34(2) or s.  
19 322.34(5), driving a motor vehicle while his or her driver's  
20 license or driving privilege has been suspended, canceled, or  
21 revoked;

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

25 (d) Reckless driving;

26 (e) Vehicular homicide; or

27 (f) Manslaughter resulting from the operation of a  
28 motor vehicle.

29  
30 For purposes of this subsection, a violation of any federal  
31 law, or law of another state, or law of the District of

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

5 (2) For a fourth or subsequent conviction for a  
6 violation of s. 316.193 or former s. 316.1931, when three or  
7 more of the previous convictions have not occurred within the  
8 preceding 5 years, the court may, in its discretion, authorize  
9 a defendant to petition the department for reinstatement of  
10 his or her driver's license or driving privilege if, at the  
11 time of sentencing, the court finds that the defendant does  
12 not pose a significant risk to public safety.

13 (3) Notwithstanding the provisions of subsection (1)  
14 or subsection (2), the court may not authorize reinstatement  
15 of a driver's license which has been permanently revoked for  
16 any offense provided in s. 322.28(2)(f)2. if at the time such  
17 offense was committed the defendant was a habitual traffic  
18 offender as defined under s. 322.264.

19 Section 4. Paragraph (e) of subsection (2) and  
20 paragraph (a) of subsection (5) of section 322.28, Florida  
21 Statutes, are amended, and paragraph (f) is added to  
22 subsection (2) of said 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~~

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 (f)1. 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 2. The court shall permanently revoke the driver's  
24 license or driving privilege of a person who has been  
25 convicted of manslaughter resulting from the operation of a  
26 motor vehicle, DUI manslaughter in violation of s. 316.193,  
27 vehicular homicide, or a violation of s. 322.34(6) involving  
28 death. If the court has not permanently revoked such driver's  
29 license or driving privilege within 30 days after imposing  
30 sentence, the department shall permanently revoke the driver's  
31 license or driving privilege pursuant to this paragraph. No

1 driver's license or driving privilege may be issued or granted  
2 to any such person, unless expressly authorized by the court  
3 pursuant to s. 322.275.

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

17 Section 5. Section 322.283, Florida Statutes, is  
18 created to read:

19 322.283 Commencement of period of suspension or  
20 revocation for incarcerated offenders.--

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



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

20           Section 6. Section 322.341, Florida Statutes, is  
21 created to read:

22           322.341 Driving while license permanently  
23 revoked.--Any person whose driver's license or driving  
24 privilege has been permanently revoked pursuant to s. 322.26  
25 or s. 322.28, and who drives a motor vehicle upon the highways  
26 of this state, is guilty of a felony of the third degree,  
27 punishable as provided in s. 775.082, s. 775.083, or s.  
28 775.084. Any person convicted under this section shall be  
29 sentenced to a minimum term of imprisonment of 2 years.

30           Section 7. This act shall take effect July 1, 1999.  
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