

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: February 3, 1998 Revised: _____

Subject: Revocation of driver's licenses

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Caridi</u>	<u>Johnson</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute would commence the driver's license revocation periods, provided in s. 322.28, F.S., at the expiration of the defendant's incarceration.

Subsections (3) and (4) of s. 322.28, F.S., are repealed. These subsections extend the revocation or suspension period for driving while licenses are suspended or revoked by three months and extend the suspension period for failure to surrender a license to the department by a period identical to the original suspension period once the license is surrendered or expires.

Section 322.271(2)(a), F.S., is amended to limit denial of a driving privilege restricted to business and employment purposes to persons whose license is either revoked pursuant to s. 322.28, F.S., or suspended pursuant to s. 322.2615, F.S., and who have been convicted of a DUI under s. 316.193, F.S., two or more times within ten years. Section 322.271(2)(a), F.S., is also amended to limit the denial of a driving privilege restricted to business and employment purposes to persons whose license has been suspended two or more times within a ten year period for refusal to submit to a breath, urine or blood test for DUI pursuant to s. 322.2615, F.S.

This bill substantially amends sections 322.28, and 322.271, and repeals subsections (3) and (4) of section 322.28, of the Florida Statutes

II. Present Situation:

Section 322.28, F.S., sets time periods for driver's license suspensions and revocations. Such time periods generally commence on the date of conviction.

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- ▶ Section (1) directs the department, unless otherwise provided, not to suspend a license for more than one year, or upon revocation, not to grant a new license until one year has expired, with the exception of revocations for the offenses of driving under the influence of alcoholic, chemical, or controlled substances.
 - ▶ Section (2) sets court-imposed revocation periods for violations of DUI under s. 316.193, F.S. All revocation periods under this section commence upon the date of conviction.
 - ▶ Section (3) adds three months to the suspension period for driving with a suspended license under s. 322.34, F.S. This section also adds three months to the revocation period for driving with a revoked license.
 - ▶ Section (4) extends the suspension and revocation periods when a license has not been surrendered by a time identical in length with the original suspension or revocation period once the license is surrendered or expires.
 - ▶ Section (5) sets court-imposed revocation periods for convictions for DUI resulting in a death under s. 316.193(3), F.S., convictions of manslaughter resulting from the operation of a motor vehicle, and convictions of vehicular homicide. All revocation periods under this section commence upon the date of conviction.
 - ▶ Section (6) addresses stays of suspensions or revocations.
 - ▶ Section (7) sets suspension periods for violations of passing a school bus which displays a stop signal under s. 316.172(1), F.S.

Under s. 322.28, F.S., the revocation or suspension period generally runs from the date of conviction and is suspended through any incarceration time. A substantial amount of the revocation or suspension period may expire during the defendant's incarceration.

Criticized by the Auditor General for not implementing subsections (3) and (4) of s. 322.28, F.S., the department has indicated these subsections cannot be applied to all revocations and suspensions for the following reasons:

Subsection (3)

- ▶ The section attempts to place a defined extension on an indefinite or permanent revocation or suspension period. This section is therefore of no effect to persons in this category and only impacts persons with limited revocation or suspension periods.
- ▶ For persons with limited periods of revocation or suspension, the receipt of the records from the courts is often after the period of revocation or suspension has already expired. The department doubts the legality of implementing a back-dated suspension.

- ▶ Drug-related convictions already receive an extension under s. 322.055, F.S.

Subsection (4)

- ▶ Driver's licenses are often surrendered immediately and notification of that surrender to the department is often delayed, during which time persons could be subject to an extension for non-compliance.

Section 322.271(2), F.S., denies a driving privilege restricted to business and employment purposes to persons whose license is suspended or revoked and who have been convicted of DUI two or more times and to persons whose license has been suspended two or more times for refusal to submit to a breath, urine or blood test. Currently, the two or more DUI convictions or the two or more suspensions do not have to occur within any set time period for the driving privilege restricted to business and employment purposes to be denied. Subsection (b) of s. 322.271(2), F.S., however, allows a defendant whose license has been revoked 5 years or less for a first DUI conviction in 5 years pursuant to s. 322.28(2)(a)1., F.S., to petition the department for a restricted driving privilege after 12 months. A defendant whose license has been revoked more than 5 years for a second DUI conviction within 5 years pursuant to s. 322.28(2)(a)2. may petition the department after 24 months.

III. Effect of Proposed Changes:

The commencement of the revocation or suspension periods provided in s. 322.28, F.S., would move from the date of conviction to the date of the expiration of a defendant's incarceration, preventing the suspension or revocation period from running during incarceration.

Subsections (3) and (4) of s. 322.28, F.S., are repealed. As they are not implemented currently by the department, there will be no substantial change to the revocation or suspension procedure as applied.

The driving privilege restricted to business and employment purposes will be denied to persons with revoked or suspended licenses and two or more DUI convictions within 10 years or persons with suspended licenses for two or more refusals to submit to a breath, urine or blood test within 10 years.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Unknown

C. Government Sector Impact:

The department reports minimal fiscal impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
