

By the Committee on Transportation and Senator Dyer

306-1076-98

1 A bill to be entitled
2 An act relating to suspension or revocation of
3 driver's licenses; amending s. 322.28, F.S.;
4 deleting certain additional suspension periods
5 imposed for driving with a suspended license or
6 for failing to surrender a driver's license to
7 the Department of Highway Safety and Motor
8 Vehicles upon suspension or revocation;
9 providing suspension or revocation of driver's
10 licenses not to be concurrent with
11 imprisonment; amending s. 322.271, F.S.;
12 authorizing issuance of a driver's license for
13 business purposes to persons with two or more
14 DUI convictions 10 or more years apart;
15 providing an effective date.

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

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19 Section 1. Section 322.28, Florida Statutes, is
20 amended to read:

21 322.28 Period of suspension or revocation.--

22 (1) Unless otherwise provided by this section, the
23 department shall not suspend a license for a period of more
24 than 1 year and, upon revoking a license, in any case except
25 in a prosecution for the offense of driving a motor vehicle
26 while under the influence of alcoholic beverages, chemical
27 substances as set forth in s. 877.111, or controlled
28 substances, shall not in any event grant a new license until
29 the expiration of 1 year after such revocation.

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

1 (a) Upon conviction of the driver, the court, along
2 with imposing sentence, shall revoke the driver's license or
3 driving privilege of the person so convicted, effective on the
4 date of conviction, and shall prescribe the period of such
5 revocation in accordance with the following provisions:

6 1. Upon a first conviction for a violation of the
7 provisions of s. 316.193, except a violation resulting in
8 death, the driver's license or driving privilege shall be
9 revoked for not less than 180 days or more than 1 year.

10 2. Upon a second conviction within a period of 5 years
11 from the date of a prior conviction for a violation of the
12 provisions of s. 316.193 or former s. 316.1931 or a
13 combination of such sections, the driver's license or driving
14 privilege shall be revoked for not less than 5 years.

15 3. Upon a third conviction within a period of 10 years
16 from the date of conviction of the first of three or more
17 convictions for the violation of the provisions of s. 316.193
18 or former s. 316.1931 or a combination of such sections, the
19 driver's license or driving privilege shall be revoked for not
20 less than 10 years.

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22 For the purposes of this paragraph, a previous conviction
23 outside this state for driving under the influence, driving
24 while intoxicated, driving with an unlawful blood-alcohol
25 level, or any other alcohol-related or drug-related traffic
26 offense similar to the offense of driving under the influence
27 as proscribed by s. 316.193 will be considered a previous
28 conviction for violation of s. 316.193, and a conviction for
29 violation of former s. 316.028, former s. 316.1931, or former
30 s. 860.01 is considered a conviction for violation of s.
31 316.193.

1 (b) If the period of revocation was not specified by
2 the court at the time of imposing sentence or within 30 days
3 thereafter, and is not otherwise specified by law, the
4 department shall forthwith revoke the driver's license or
5 driving privilege for the maximum period applicable under
6 paragraph (a) for a first conviction and for the minimum
7 period applicable under paragraph (a) for any subsequent
8 convictions. The driver may, within 30 days after such
9 revocation by the department, petition the court for further
10 hearing on the period of revocation, and the court may reopen
11 the case and determine the period of revocation within the
12 limits specified in paragraph (a).

13 (c) The forfeiture of bail bond, not vacated within 20
14 days, in any prosecution for the offense of driving while
15 under the influence of alcoholic beverages, chemical
16 substances, or controlled substances to the extent of
17 depriving the defendant of his or her normal faculties shall
18 be deemed equivalent to a conviction for the purposes of this
19 paragraph, and the department shall forthwith revoke the
20 defendant's driver's license or driving privilege for the
21 maximum period applicable under paragraph (a) for a first
22 conviction and for the minimum period applicable under
23 paragraph (a) for a second or subsequent conviction; however,
24 if the defendant is later convicted of the charge, the period
25 of revocation imposed by the department for such conviction
26 shall not exceed the difference between the applicable maximum
27 for a first conviction or minimum for a second or subsequent
28 conviction and the revocation period under this subsection
29 that has actually elapsed; upon conviction of such charge, the
30 court may impose revocation for a period of time as specified
31 in paragraph (a). This paragraph does not apply if an

1 appropriate motion contesting the forfeiture is filed within
2 the 20-day period.

3 (d) When any driver's license or driving privilege has
4 been revoked pursuant to the provisions of this section, the
5 department shall not grant a new license, except upon
6 reexamination of the licensee after the expiration of the
7 period of revocation so prescribed. However, the court may,
8 in its sound discretion, issue an order of reinstatement on a
9 form furnished by the department which the person may take to
10 any driver's license examining office for reinstatement by the
11 department pursuant to s. 322.282.

12 (e) The court shall permanently revoke the driver's
13 license or driving privilege of a person who has been
14 convicted four times for violation of s. 316.193 or former s.
15 316.1931 or a combination of such sections. The court shall
16 permanently revoke the driver's license or driving privilege
17 of any person who has been convicted of DUI manslaughter in
18 violation of s. 316.193. If the court has not permanently
19 revoked such license or privilege within 30 days after
20 imposing sentence, the department shall permanently revoke the
21 license or privilege pursuant to this paragraph. No driver's
22 license or driving privilege may be issued or granted to any
23 such person. This paragraph applies only if at least one of
24 the convictions for violation of s. 316.193 or former s.
25 316.1931 was for a violation that occurred after July 1, 1982.
26 For the purposes of this paragraph, a conviction for violation
27 of former s. 316.028, former s. 316.1931, or former s. 860.01
28 is also considered a conviction for violation of s. 316.193.
29 Also, a conviction of driving under the influence, driving
30 while intoxicated, driving with an unlawful blood-alcohol
31 level, or any other similar alcohol-related or drug-related

1 traffic offense outside this state is considered a conviction
2 for the purposes of this paragraph.

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

8 ~~(4) If, in any case arising under this section, a~~
9 ~~licensee, after having been given notice of suspension or~~
10 ~~revocation of his or her license in the manner provided in s.~~
11 ~~322.251, fails to surrender to the department a license~~
12 ~~theretofore suspended or revoked, as required by s. 322.29, or~~
13 ~~fails otherwise to account for the license to the satisfaction~~
14 ~~of the department, the period of suspension of the license, or~~
15 ~~the period required to elapse after revocation before a new~~
16 ~~license may be issued, shall be extended until, and shall not~~
17 ~~expire until, a period has elapsed after the date of surrender~~
18 ~~of the license, or after the date of expiration of the~~
19 ~~license, whichever occurs first, which is identical in length~~
20 ~~with the original period of suspension or revocation.~~

21 (3)(5)(a) Upon a conviction for a violation of s.
22 316.193(3), a conviction of manslaughter resulting from the
23 operation of a motor vehicle, or a conviction of vehicular
24 homicide, the court shall revoke the driver's license of the
25 person convicted for a minimum period of 3 years if death to
26 any other person resulted from the operation of a motor
27 vehicle by such driver.

28 (b) If the period of revocation was not specified by
29 the court at the time of imposing sentence or within 30 days
30 thereafter, the department shall revoke the driver's license
31 for the minimum period applicable under paragraph (a) or, for

1 a subsequent conviction, for the minimum period applicable
2 under paragraph (2)(a) or paragraph (2)(e).

3 (4)~~(6)~~ No administrative suspension of a driving
4 privilege under s. 322.2615 shall be stayed upon a request for
5 review of the departmental order that resulted in such
6 suspension and, except as provided in former s. 322.261, no
7 suspension or revocation of a driving privilege shall be
8 stayed upon an appeal of the conviction or order that resulted
9 therein.

10 (5)~~(7)~~ In a prosecution for a violation of s.
11 316.172(1), and upon a showing of the department's records
12 that the licensee has received a second conviction within a
13 period of 5 years from the date of a prior conviction of s.
14 316.172(1), the department shall, upon direction of the court,
15 suspend the driver's license of the person convicted for a
16 period of not less than 90 days nor more than 6 months.

17 (6) Any suspension or revocation under this section
18 must not be concurrent with imprisonment.

19 Section 2. Paragraph (a) of subsection (2) of section
20 322.271, Florida Statutes, is amended to read:

21 322.271 Authority to modify revocation, cancellation,
22 or suspension order.--

23 (2)(a) Upon such hearing, the person whose license has
24 been suspended, canceled, or revoked may show that such
25 suspension, cancellation, or revocation of his or her license
26 causes a serious hardship and precludes the person's carrying
27 out his or her normal business occupation, trade, or
28 employment and that the use of the person's license in the
29 normal course of his or her business is necessary to the
30 proper support of the person or his or her family. Except as
31 otherwise provided in this subsection, the department shall

1 require proof of the successful completion of an approved
2 driver training or substance abuse education course and may
3 require letters of recommendation from respected
4 businesspersons in the community, law enforcement officers, or
5 judicial officers in determining whether such person should be
6 permitted to operate a motor vehicle on a restricted basis for
7 business or employment use only and in determining whether
8 such person can be trusted to so operate a motor vehicle. If a
9 driver's license has been suspended under the point system or
10 pursuant to s. 322.2615, the department shall require proof of
11 enrollment in an approved driver training course or substance
12 abuse education course, and may require the letters of
13 recommendation described in this subsection to determine if
14 the driver should be reinstated on a restricted basis; if such
15 person fails to complete the approved course within 90 days
16 after reinstatement, the department shall cancel his or her
17 driver's license until the course is successfully completed.
18 The privilege of driving on a limited or restricted basis for
19 business or employment use shall not be granted to a person
20 who has been convicted of a violation of s. 316.193 until
21 completion of such education or training course. Except as
22 provided in paragraph (b), the privilege of driving on a
23 limited or restricted basis for business or employment use
24 shall not be granted to a person whose license is revoked
25 pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and
26 who has been convicted of a violation of s. 316.193 two or
27 more times within a 10-year period or whose license has been
28 suspended two or more times for refusal to submit to a test
29 pursuant to s. 322.2615 or former s. 322.261 within a 10-year
30 period.
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1 Section 3. This act shall take effect upon becoming a
2 law.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 SB 476

7 Provides that any revocation or suspension period of a
8 driver's license must not run concurrently with any
9 incarceration.

10 Repeals subsections (3) and (4) of section 322.28, F.S. These
11 sections attempt to extend the revocation and suspension
12 periods for driving with a revoked or suspended license or for
13 failure to surrender a driver's license.

14 Provides persons with a revoked license or suspended license
15 and two or more DUI convictions within 10 years shall be
16 denied a driving privilege restricted to business and
17 employment purposes. Persons with a suspended license who
18 refuse to submit to a test two or more times within 10 years
19 would also be denied a driving privilege restricted to
20 business and employment purposes only.
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