

STORAGE NAME: h0923a.leps
DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 923

RELATING TO: Brain and Spinal Cord Injuries

SPONSOR(S): Representative(s) Casey, Morroni and Others

STATUTE(S) AFFECTED: Sections 316.192 and 327.35, F.S.

COMPANION BILL(S): SB 388 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 6 NAYS 0
- (2) FINANCE & TAXATION
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT
- (4)
- (5)

I. SUMMARY:

This bill amends ss. 316.193(6), F.S., by assessing an increase in the additional fine imposed upon conviction for driving under the influence. The total amount of this additional fine is increased from \$100 to \$135. The bill further provides that out of this fine, \$25 shall be deposited in the Emergency Medical Services Trust Fund, \$50 in the Criminal Justice Standards and Training Trust Fund, and \$60 in the Brain and Spinal Cord Injury Rehabilitation Trust Fund. The \$35 increase in the total fine is reflected in the increase in the amount deposited in the Brain and Spinal Cord Injury Rehabilitation Fund, raising that amount from \$25 to \$60. The amounts going into the Emergency Medical Services Trust Fund and the Criminal Justice Standards and Training Trust Fund remain the same.

The bill also amends section 327.35, F. S., which pertains to penalties imposed upon conviction for *boating* under the influence. Currently, this statutory provision does not contain any additional fine comparable to that for *driving* under the influence. The bill creates subsection (9) which imposes a new additional fine to be imposed upon conviction for *boating* under the influence. The amount of this new additional fine is \$60. After 5 percent is deducted by the clerk of court for administrative costs, the remainder is paid monthly into the Brain and Spinal Cord Injury Rehabilitation Trust Fund. No portion of this fine is remitted to either the Emergency Medical Services Trust Fund or the Criminal Justice Standards and Training Trust Fund.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 316.193, F.S., deals with driving under the influence of alcoholic beverages, chemical substances, or controlled substances, and the penalties that may be imposed include a term of imprisonment, community service, impoundment or immobilization of the car, mandatory attendance in a treatment program, and fines.

Section 316.193, F.S., provides that the penalty for driving under the influence is: for a first conviction, a fine of not less than \$250 or more than \$500, and a term of imprisonment of not more than 6 months; a second conviction is punishable by a fine of not less than \$500 or more than \$1,000, and a term of imprisonment of not more than 9 months; a third conviction is punishable by a fine of not less than \$1,000 or more than \$2,500, and a term of imprisonment of not more than 12 months; and a fourth or subsequent conviction is guilty of a felony of the third degree and may be sentenced as a habitual felony offender punishable by up to 10 years imprisonment and a fine no less than \$1,000.

Further, the offender is required to enroll in and pay for a substance abuse course. The substance abuse course costs approximately \$170 for the Level 1 course (first offense), and approximately \$250 for a Level 2 course (second offense).

In addition to these fines, under s. 316.193, F.S., the sum of \$100 is added to any fine imposed pursuant to this section. This money is apportioned in the following manner: one quarter is deposited in the Emergency Medical Services Trust Fund, one half is deposited in the Administrative Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Local Law Enforcement Assistance for use in conducting the statewide criminal analysis laboratory system, and one quarter is deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 413.613, F.S. If the court finds that the defendant is financially unable to pay either all or part of the fine, the court may order the defendant to participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine the court determines that the defendant is unable to pay. In determining this additional sentence, the court must consider the amount of the unpaid portion of the fine and the reasonable value of the services ordered. Such services must be valued at least equal with the federal minimum wage at the time of sentencing.

Section 327.35, F.S., deals with the operation of a vessel while under the influence of alcoholic beverages, chemical substances, or controlled substances, and the penalties that may be imposed, including term of imprisonment, community service, mandatory attendance in a treatment program, and fines. Currently under s. 327.35, F.S., there are no additional monies attached to the fines which are imposed.

B. EFFECT OF PROPOSED CHANGES:

This bill changes the \$100 fine which is added to any fine imposed pursuant to s. 316.193, F.S., and the manner in which the fines collected are distributed. The bill changes this additional fine to \$135, of which \$25 is to be deposited in the Emergency Medical Services Trust Fund, \$50 is deposited in the Administrative Trust Fund of the

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Department of Law Enforcement Assistance for use in conducting the statewide criminal analysis laboratory system, and \$60 is to be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund for the purpose of providing the cost of care for brain or spinal cord injuries as a payor of last resort to Florida residents that suffer from brain and spinal cord injuries.

Section 327.35, F.S., is amended to create a similar fine as it is applied to operation of a vessel while under the influence of alcoholic beverages, chemical substances, or controlled substances. Under this bill, any person convicted of operating a vessel under the influence will, in addition to the fine set forth in the statute, be assessed an additional \$60 fine. All the monies collected through these fines will be paid monthly into the Brain and Spinal Cord Injury Rehabilitation Trust Fund, after 5 percent is deducted by the clerk of the court for administrative costs.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill requires that the clerks of court collect the fines imposed, from which the clerks deduct 5 percent in administrative fees.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Increases the additional fine imposed upon conviction for driving under the influence from \$100 to \$135, with the additional revenues deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

Section 2: Imposes a new additional fine of \$60 upon conviction for boating under the influence, with the revenues deposited monthly into the Brain and Spinal Cord Injury Rehabilitation Trust Fund, after 5 percent is deducted by the clerk of court for administrative costs.

Section 3: Provides for an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The additional fines could generate \$2,700,000 for the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

According to the Department of Highway Safety and Motor Vehicles (FY 1996), there were approximately 77,290 Driving Under the Influence (DUI) convictions. The increase of \$35 per conviction would generate \$2,705,150.00 in additional revenue for the Brain and Spinal Cord Injury Rehabilitative Trust Fund.

According to information provided by the Florida Marine Patrol and the Game and Fresh Water Fish Commission, the creation of an additional \$60 fine for boating under the influence would generate approximately \$18,720.00. This is based on the issuance of 312 BUI citations for FY 1996.

Collectively, these two sources of additional revenue would generate approximately \$2,723,870.00 for the Brain and Spinal Cord Injury Rehabilitative Trust Fund.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

None.

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On April 15, 1997, the Committee on Law Enforcement and Public Safety authorized an amendment which provides for a \$500 civil penalty for a person who is arrested for boating under the influence and refuses to submit to a breath or urine test.

VII. **SIGNATURES:**

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

Legislative Research Director:

Kurt E. Ahrendt

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