

By Representative Betancourt

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; providing a
4 third-degree-felony penalty for a third or
5 subsequent conviction for driving under the
6 influence; increasing present fines and
7 penalties to conform; amending s. 921.0022,
8 F.S.; conforming provisions in the sentencing
9 guidelines; providing an effective date.
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11 Be It Enacted by the Legislature of the State of Florida:
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13 Section 1. Subsections (2) and (4) of section 316.193,
14 Florida Statutes, 1998 Supplement, are amended to read:
15 316.193 Driving under the influence; penalties.--
16 (2)(a) Except as provided in paragraph (b), subsection
17 (3), or subsection (4), any person who is convicted of a
18 violation of subsection (1) shall be punished:
19 1. By a fine of:
20 a. Not less than \$250 or more than \$500 for a first
21 conviction.
22 b. Not less than \$500 or more than \$1,000 for a second
23 conviction; and-.
24 c. ~~Not less than \$1,000 or more than \$2,500 for a~~
25 ~~third conviction; and~~
26 2. By imprisonment for:
27 a. Not more than 6 months for a first conviction.
28 b. Not more than 9 months for a second conviction.
29 c. ~~Not more than 12 months for a third conviction.~~
30 (b) Any person who is convicted of a third ~~fourth~~ or
31 subsequent violation of this section is guilty of a felony of

1 the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084; however, the fine imposed for such
3 third ~~fourth~~ or subsequent violation may be not less than
4 \$2,500~~\$1,000~~.

5 (4) Any person who is convicted of a violation of
6 subsection (1) and who has a blood-alcohol level or
7 breath-alcohol level of 0.20 or higher, or any person who is
8 convicted of a violation of subsection (1) and who at the time
9 of the offense was accompanied in the vehicle by a person
10 under the age of 18 years, shall be punished:

11 (a) By a fine of:

12 1. Not less than \$500 or more than \$1,000 for a first
13 conviction.

14 2. Not less than \$1,000 or more than \$2,000 for a
15 second conviction.

16 3. Not less than \$3,500~~\$2,000~~ or more than \$7,000
17 ~~\$5,000~~ for a third or subsequent conviction.

18 (b) By imprisonment for:

19 1. Not more than 9 months for a first conviction.

20 2. Not more than 12 months for a second conviction.

21 ~~3. Not more than 12 months for a third conviction.~~

22
23 For the purposes of this subsection, any conviction for a
24 violation of s. 327.35, only the instant offense is required
25 to be a violation of subsection (1) by a person who has a
26 blood-alcohol level or breath-alcohol level of 0.20 or higher.

27 Section 2. Paragraph (f) of subsection (3) of section
28 921.0022, Florida Statutes, 1998 Supplement, is amended to
29 read:

30 921.0022 Criminal Punishment Code; offense severity
31 ranking chart.--

1	(3) OFFENSE SEVERITY RANKING CHART		
2			
3	Florida	Felony	
4	Statute	Degree	Description
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6			(f) LEVEL 6
7	316.027(1)(b)	2nd	Accident involving death, failure
8			to stop; leaving scene.
9	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
10			conviction.
11	775.0875(1)	3rd	Taking firearm from law
12			enforcement officer.
13	775.21(9)	3rd	Sexual predators; failure to
14			register; failure to renew
15			driver's license or
16			identification card.
17	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
18			without intent to kill.
19	784.021(1)(b)	3rd	Aggravated assault; intent to
20			commit felony.
21	784.041	3rd	Felony battery.
22	784.048(3)	3rd	Aggravated stalking; credible
23			threat.
24	784.048(5)	3rd	Aggravated stalking of person
25			under 16.
26	784.07(2)(c)	2nd	Aggravated assault on law
27			enforcement officer.
28	784.08(2)(b)	2nd	Aggravated assault on a person 65
29			years of age or older.
30	784.081(2)	2nd	Aggravated assault on specified
31			official or employee.

1	784.082(2)	2nd	Aggravated assault by detained
2			person on visitor or other
3			detainee.
4	784.083(2)	2nd	Aggravated assault on code
5			inspector.
6	787.02(2)	3rd	False imprisonment; restraining
7			with purpose other than those in
8			s. 787.01.
9	790.115(2)(d)	2nd	Discharging firearm or weapon on
10			school property.
11	790.161(2)	2nd	Make, possess, or throw
12			destructive device with intent to
13			do bodily harm or damage
14			property.
15	790.164(1)	2nd	False report of deadly explosive
16			or act of arson or violence to
17			state property.
18	790.19	2nd	Shooting or throwing deadly
19			missiles into dwellings, vessels,
20			or vehicles.
21	794.011(8)(a)	3rd	Solicitation of minor to
22			participate in sexual activity by
23			custodial adult.
24	794.05(1)	2nd	Unlawful sexual activity with
25			specified minor.
26	806.031(2)	2nd	Arson resulting in great bodily
27			harm to firefighter or any other
28			person.
29	810.02(3)(c)	2nd	Burglary of occupied structure;
30			unarmed; no assault or battery.
31			

1	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
2			but less than \$100,000, grand
3			theft in 2nd degree.
4	812.13(2)(c)	2nd	Robbery, no firearm or other
5			weapon (strong-arm robbery).
6	817.034(4)(a)1.	1st	Communications fraud, value
7			greater than \$50,000.
8	817.4821(5)	2nd	Possess cloning paraphernalia
9			with intent to create cloned
10			cellular telephones.
11	825.102(1)	3rd	Abuse of an elderly person or
12			disabled adult.
13	825.102(3)(c)	3rd	Neglect of an elderly person or
14			disabled adult.
15	825.1025(3)	3rd	Lewd or lascivious molestation of
16			an elderly person or disabled
17			adult.
18	825.103(2)(c)	3rd	Exploiting an elderly person or
19			disabled adult and property is
20			valued at less than \$20,000.
21	827.03(1)	3rd	Abuse of a child.
22	827.03(3)(c)	3rd	Neglect of a child.
23	827.071(2)&(3)	2nd	Use or induce a child in a sexual
24			performance, or promote or direct
25			such performance.
26	836.05	2nd	Threats; extortion.
27	836.10	2nd	Written threats to kill or do
28			bodily injury.
29	843.12	3rd	Aids or assists person to escape.
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1	847.0135(3)	3rd	Solicitation of a child, via a
2			computer service, to commit an
3			unlawful sex act.
4	914.23	2nd	Retaliation against a witness,
5			victim, or informant, with bodily
6			injury.
7	943.0435(6)	3rd	Sex offenders; failure to comply
8			with reporting requirements.
9	944.35(3)(a)2.	3rd	Committing malicious battery upon
10			or inflicting cruel or inhuman
11			treatment on an inmate or
12			offender on community
13			supervision, resulting in great
14			bodily harm.
15	944.40	2nd	Escapes.
16	944.46	3rd	Harboring, concealing, aiding
17			escaped prisoners.
18	944.47(1)(a)5.	2nd	Introduction of contraband
19			(firearm, weapon, or explosive)
20			into correctional facility.
21	951.22(1)	3rd	Intoxicating drug, firearm, or
22			weapon introduced into county
23			facility.

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25 Section 3. This act shall take effect October 1, 1999.
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LEGISLATIVE SUMMARY

Provides for a third-degree-felony penalty for a third or subsequent conviction of driving under the influence. Current law prescribes a third-degree-felony penalty for a fourth or subsequent conviction for driving under the influence. Conforms other fines and penalty provisions to the act. See bill for details.