

By the Committees on Fiscal Policy, Criminal Justice and  
Senator Rossin

309-1201-99

1                                   A bill to be entitled  
2           An act relating to driving or boating under the  
3           influence; amending s. 316.193, F.S.;  
4           increasing the penalty imposed for a fourth or  
5           subsequent conviction of driving under the  
6           influence; increasing the penalties imposed for  
7           driving under the influence and causing damage  
8           to property valued over a specified amount;  
9           increasing the penalties imposed for causing  
10          serious bodily injury while driving under the  
11          influence; providing that it is a first-degree  
12          felony to cause the death of another while  
13          driving under the influence; revising a  
14          blood-alcohol or breath-alcohol level; deleting  
15          provisions that impose an enhanced penalty if a  
16          person has caused the death of another while  
17          driving under the influence, knew or should  
18          have known that the accident occurred, and  
19          failed to give information and render aid;  
20          providing that previous convictions for boating  
21          under the influence are to be considered for  
22          purposes of penalties; amending s. 327.35,  
23          F.S.; revising the penalties for boating under  
24          the influence; amending s. 921.0022, F.S.;  
25          conforming the offense severity ranking chart  
26          to include the changes made by this act in  
27          felony degree for certain offenses relating to  
28          driving under the influence; revising a  
29          blood-alcohol or breath-alcohol level; deleting  
30          the ranking of driving under the influence  
31          manslaughter with a failure to render aid or

1           give information to conform with changes made  
2           by this act; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6           Section 1. Section 316.193, Florida Statutes, is  
7 amended to read:

8           316.193 Driving under the influence; penalties.--

9           (1) A person commits ~~is guilty of~~ the offense of  
10 driving under the influence and is subject to punishment as  
11 provided in subsection (2) if the person is driving or in  
12 actual physical control of a vehicle within this state and:

13           (a) The person is under the influence of alcoholic  
14 beverages, any chemical substance set forth in s. 877.111, or  
15 any substance controlled under chapter 893, when affected to  
16 the extent that the person's normal faculties are impaired;

17           (b) The person has a blood-alcohol level of 0.08 or  
18 more grams of alcohol per 100 milliliters of blood; or

19           (c) The person has a breath-alcohol level of 0.08 or  
20 more grams of alcohol per 210 liters of breath.

21           (2)(a) Except as provided in paragraph (b), subsection  
22 (3), or subsection (4), any person who is convicted of a  
23 violation of subsection (1) shall be punished:

24           1. By a fine of:

25           a. Not less than \$250 or more than \$500 for a first  
26 conviction.

27           b. Not less than \$500 or more than \$1,000 for a second  
28 conviction.

29           c. Not less than \$1,000 or more than \$2,500 for a  
30 third conviction; and

31           2. By imprisonment for:

1           a. Not more than 6 months for a first conviction.  
2           b. Not more than 9 months for a second conviction.  
3           c. Not more than 12 months for a third conviction.  
4           (b) Any person who is convicted of a fourth or  
5 subsequent violation of this section commits ~~is guilty of~~ a  
6 felony of the second ~~third~~ degree, punishable as provided in  
7 s. 775.082, s. 775.083, or s. 775.084; however, the fine  
8 imposed for such fourth or subsequent violation may be not  
9 less than \$1,000.  
10          (3) Any person:  
11           (a) Who is in violation of subsection (1);  
12           (b) Who operates a vehicle; and  
13           (c) Who, by reason of such operation, causes:  
14           1. Damage to the property or person of another valued  
15 at \$10,000 or less commits a misdemeanor of the first degree,  
16 punishable as provided in s. 775.082 or s. 775.083.  
17           2. Damage to the property of another valued in excess  
18 of \$10,000 commits a felony of the third degree, punishable as  
19 provided in s. 775.082, s. 775.083, or s. 775.084.  
20           ~~3.2.~~ Serious bodily injury to another, as defined in  
21 s. 316.1933, commits a felony of the second ~~third~~ degree,  
22 punishable as provided in s. 775.082, s. 775.083, or s.  
23 775.084.  
24           ~~4.3.~~ The death of any human being commits DUI  
25 manslaughter, ~~and commits:~~  
26           ~~a.~~ a felony of the first ~~second~~ degree, punishable as  
27 provided in s. 775.082, s. 775.083, or s. 775.084.  
28           ~~b.~~ A felony of the first degree, punishable as  
29 ~~provided in s. 775.082, s. 775.083, or s. 775.084, if:~~  
30           ~~(I) At the time of the accident, the person knew, or~~  
31 ~~should have known, that the accident occurred; and~~

1           ~~(II) The person failed to give information and render~~  
2 ~~aid as required by s. 316.062.~~

3           (4) Any person who is convicted of a violation of  
4 subsection (1) and who has a blood-alcohol level or  
5 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who  
6 is convicted of a violation of subsection (1) and who at the  
7 time of the offense was accompanied in the vehicle by a person  
8 under the age of 18 years, shall be punished:

9           (a) By a fine of:

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

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

14           3. Not less than \$2,000 or more than \$5,000 for a  
15 third conviction.

16           (b) By imprisonment for:

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

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

19           3. Not more than 12 months for a third conviction.

20  
21 For the purposes of this subsection, any conviction for a  
22 violation of s. 327.35, only the instant offense is required  
23 to be a violation of subsection (1) by a person who has a  
24 blood-alcohol level or breath-alcohol level of 0.16 ~~0.20~~ or  
25 higher.

26           (5) The court shall place any offender convicted of  
27 violating this section on monthly reporting probation and  
28 shall require attendance at a substance abuse course licensed  
29 by the department; and the agency conducting the course may  
30 refer the offender to an authorized service provider for  
31 substance abuse evaluation and treatment, in addition to any

1 sentence or fine imposed under this section. The offender  
2 shall assume reasonable costs for such education, evaluation,  
3 and treatment, with completion of all such education,  
4 evaluation, and treatment being a condition of reporting  
5 probation. Treatment resulting from a psychosocial evaluation  
6 may not be waived without a supporting psychosocial evaluation  
7 conducted by an agency appointed by the court and with access  
8 to the original evaluation. The offender shall bear the cost  
9 of this procedure. The term "substance abuse" means the abuse  
10 of alcohol or any substance named or described in Schedules I  
11 through V of s. 893.03. If an offender referred to treatment  
12 under this subsection fails to report for or complete such  
13 treatment or fails to complete the substance abuse education  
14 course, the DUI program shall notify the court and the  
15 department of the failure. Upon receipt of the notice, the  
16 department shall cancel the offender's driving privilege. The  
17 department shall reinstate the driving privilege when the  
18 offender completes the substance abuse education course or  
19 enters treatment required under this subsection. The  
20 organization that conducts the substance abuse education and  
21 evaluation may not provide required substance abuse treatment  
22 unless a waiver has been granted to that organization by the  
23 department. A waiver may be granted only if the department  
24 determines, in accordance with its rules, that the service  
25 provider that conducts the substance abuse education and  
26 evaluation is the most appropriate service provider and is  
27 licensed under chapter 397 or is exempt from such licensure.  
28 All DUI treatment programs providing treatment services on  
29 January 1, 1994, shall be allowed to continue to provide such  
30 services until the department determines whether a waiver  
31 should be granted. A statistical referral report shall be

1 submitted quarterly to the department by each organization  
2 authorized to provide services under this section.

3 (6) With respect to any person convicted of a  
4 violation of subsection (1), regardless of any penalty imposed  
5 pursuant to subsection (2), subsection (3), or subsection (4):

6 (a) For the first conviction, the court shall place  
7 the defendant on probation for a period not to exceed 1 year  
8 and, as a condition of such probation, shall order the  
9 defendant to participate in public service or a community work  
10 project for a minimum of 50 hours; or the court may order  
11 instead, that any defendant pay an additional fine of \$10 for  
12 each hour of public service or community work otherwise  
13 required, if, after consideration of the residence or location  
14 of the defendant at the time public service or community work  
15 is required, payment of the fine is in the best interests of  
16 the state. However, the total period of probation and  
17 incarceration may not exceed 1 year. The court must also, as a  
18 condition of probation, order the impoundment or  
19 immobilization of the vehicle that was operated by or in the  
20 actual control of the defendant or any one vehicle registered  
21 in the defendant's name at the time of impoundment or  
22 immobilization, for a period of 10 days or for the unexpired  
23 term of any lease or rental agreement that expires within 10  
24 days. The impoundment or immobilization must not occur  
25 concurrently with the incarceration of the defendant. The  
26 impoundment or immobilization order may be dismissed in  
27 accordance with paragraph (e), paragraph (f), or paragraph  
28 (g).

29 (b) For the second conviction for an offense that  
30 occurs within a period of 5 years after the date of a prior  
31 conviction for violation of this section, the court shall

1 order imprisonment for not less than 10 days. The court must  
2 also, as a condition of probation, order the impoundment or  
3 immobilization of the vehicle that was operated by or in the  
4 actual control of the defendant or any one vehicle registered  
5 in the defendant's name at the time of impoundment or  
6 immobilization, for a period of 30 days or for the unexpired  
7 term of any lease or rental agreement that expires within 30  
8 days. The impoundment or immobilization must not occur  
9 concurrently with the incarceration of the defendant. The  
10 impoundment or immobilization order may be dismissed in  
11 accordance with paragraph (e), paragraph (f), or paragraph  
12 (g). At least 48 hours of confinement must be consecutive.

13 (c) For the third or subsequent conviction for an  
14 offense that occurs within a period of 10 years after the date  
15 of a prior conviction for violation of this section, the court  
16 shall order imprisonment for not less than 30 days. The court  
17 must also, as a condition of probation, order the impoundment  
18 or immobilization of the vehicle that was operated by or in  
19 the actual control of the defendant or any one vehicle  
20 registered in the defendant's name at the time of impoundment  
21 or immobilization, for a period of 90 days or for the  
22 unexpired term of any lease or rental agreement that expires  
23 within 90 days. The impoundment or immobilization must not  
24 occur concurrently with the incarceration of the defendant.  
25 The impoundment or immobilization order may be dismissed in  
26 accordance with paragraph (e), paragraph (f), or paragraph  
27 (g). At least 48 hours of confinement must be consecutive.

28 (d) The court must at the time of sentencing the  
29 defendant issue an order for the impoundment or immobilization  
30 of a vehicle. Within 7 business days after the date that the  
31 court issues the order of impoundment or immobilization, and

1 once again 30 business days before the actual impoundment or  
2 immobilization of the vehicle, the clerk of the court must  
3 send notice by certified mail, return receipt requested, to  
4 the registered owner of each vehicle, if the registered owner  
5 is a person other than the defendant, and to each person of  
6 record claiming a lien against the vehicle.

7 (e) A person who owns but was not operating the  
8 vehicle when the offense occurred may submit to the court a  
9 police report indicating that the vehicle was stolen at the  
10 time of the offense or documentation of having purchased the  
11 vehicle after the offense was committed from an entity other  
12 than the defendant or the defendant's agent. If the court  
13 finds that the vehicle was stolen or that the sale was not  
14 made to circumvent the order and allow the defendant continued  
15 access to the vehicle, the order must be dismissed and the  
16 owner of the vehicle will incur no costs. If the court denies  
17 the request to dismiss the order of impoundment or  
18 immobilization, the petitioner may request an evidentiary  
19 hearing.

20 (f) A person who owns but was not operating the  
21 vehicle when the offense occurred, and whose vehicle was  
22 stolen or who purchased the vehicle after the offense was  
23 committed directly from the defendant or the defendant's  
24 agent, may request an evidentiary hearing to determine whether  
25 the impoundment or immobilization should occur. If the court  
26 finds that either the vehicle was stolen or the purchase was  
27 made without knowledge of the offense, that the purchaser had  
28 no relationship to the defendant other than through the  
29 transaction, and that such purchase would not circumvent the  
30 order and allow the defendant continued access to the vehicle,  
31



1 the order must be dismissed and the owner of the vehicle will  
2 incur no costs.

3 (g) The court shall also dismiss the order of  
4 impoundment or immobilization of the vehicle if the court  
5 finds that the family of the owner of the vehicle has no other  
6 private means of transportation.

7 (h) All costs and fees for the impoundment or  
8 immobilization, including the cost of notification, must be  
9 paid by the owner of the vehicle or, if the vehicle is leased  
10 or rented, by the person leasing or renting the vehicle,  
11 unless the impoundment or immobilization order is dismissed.  
12 All provisions of s. 713.78 shall apply.

13 (i) The person who owns a vehicle that is impounded or  
14 immobilized under this paragraph, or a person who has a lien  
15 of record against such a vehicle and who has not requested a  
16 review of the impoundment pursuant to paragraph (e), paragraph  
17 (f), or paragraph (g), may, within 10 days after the date that  
18 person has knowledge of the location of the vehicle, file a  
19 complaint in the county in which the owner resides to  
20 determine whether the vehicle was wrongfully taken or withheld  
21 from the owner or lienholder. Upon the filing of a complaint,  
22 the owner or lienholder may have the vehicle released by  
23 posting with the court a bond or other adequate security equal  
24 to the amount of the costs and fees for impoundment or  
25 immobilization, including towing or storage, to ensure the  
26 payment of such costs and fees if the owner or lienholder does  
27 not prevail. When the bond is posted and the fee is paid as  
28 set forth in s. 28.24, the clerk of the court shall issue a  
29 certificate releasing the vehicle. At the time of release,  
30 after reasonable inspection, the owner or lienholder must give  
31

1 a receipt to the towing or storage company indicating any loss  
2 or damage to the vehicle or to the contents of the vehicle.

3 (j) A defendant, in the court's discretion, may be  
4 required to serve all or any portion of a term of imprisonment  
5 to which the defendant has been sentenced pursuant to this  
6 section in a residential alcoholism treatment program or a  
7 residential drug abuse treatment program. Any time spent in  
8 such a program must be credited by the court toward the term  
9 of imprisonment.

10

11 For the purposes of this section, any conviction for a  
12 violation of s. 327.35; a previous conviction for the  
13 violation of former s. 316.1931, former s. 327.351, former s.  
14 860.01, or former s. 316.028; or a previous conviction outside  
15 this state for driving or boating under the influence, driving  
16 or boating while intoxicated, driving or boating with an  
17 unlawful blood-alcohol level, driving or boating with an  
18 unlawful breath-alcohol level, or any other similar  
19 alcohol-related or drug-related traffic or boating offense, is  
20 also considered a previous conviction for violation of this  
21 section. However, in satisfaction of the fine imposed pursuant  
22 to this section, the court may, upon a finding that the  
23 defendant is financially unable to pay either all or part of  
24 the fine, order that the defendant participate for a specified  
25 additional period of time in public service or a community  
26 work project in lieu of payment of that portion of the fine  
27 which the court determines the defendant is unable to pay. In  
28 determining such additional sentence, the court shall consider  
29 the amount of the unpaid portion of the fine and the  
30 reasonable value of the services to be ordered; however, the  
31 court may not compute the reasonable value of services at a

1 rate less than the federal minimum wage at the time of  
2 sentencing.

3 (7) A conviction under this section does not bar any  
4 civil suit for damages against the person so convicted.

5 (8) At the arraignment, or in conjunction with any  
6 notice of arraignment provided by the clerk of the court, the  
7 clerk shall provide any person charged with a violation of  
8 this section with notice that upon conviction the court shall  
9 suspend or revoke the offender's driver's license and that the  
10 offender should make arrangements for transportation at any  
11 proceeding in which the court may take such action. Failure  
12 to provide such notice does not affect the court's suspension  
13 or revocation of the offender's driver's license.

14 (9) A person who is arrested for a violation of this  
15 section may not be released from custody:

16 (a) Until the person is no longer under the influence  
17 of alcoholic beverages, any chemical substance set forth in s.  
18 877.111, or any substance controlled under chapter 893 and  
19 affected to the extent that his or her normal faculties are  
20 impaired;

21 (b) Until the person's blood-alcohol level or  
22 breath-alcohol level is less than 0.05; or

23 (c) Until 8 hours have elapsed from the time the  
24 person was arrested.

25 (10) The rulings of the Department of Highway Safety  
26 and Motor Vehicles under s. 322.2615 shall not be considered  
27 in any trial for a violation of this section. Testimony or  
28 evidence from the administrative proceedings or any written  
29 statement submitted by a person in his or her request for  
30 administrative review is inadmissible into evidence or for any  
31 other purpose in any criminal proceeding, unless timely

1 disclosed in criminal discovery pursuant to Rule 3.220,  
2 Florida Rules of Criminal Procedure.

3 Section 2. Subsections (1), (2), (3), and (4) of  
4 section 327.35, Florida Statutes, 1998 Supplement, are amended  
5 to read:

6 327.35 Boating under the influence; penalties;  
7 "designated drivers".--

8 (1) A person commits ~~is guilty of~~ the offense of  
9 boating under the influence and is subject to punishment as  
10 provided in subsection (2) if the person is operating a vessel  
11 within this state and:

12 (a) The person is under the influence of alcoholic  
13 beverages, any chemical substance set forth in s. 877.111, or  
14 any substance controlled under chapter 893, when affected to  
15 the extent that the person's normal faculties are impaired;

16 (b) The person has a blood-alcohol level of 0.08 or  
17 more grams of alcohol per 100 milliliters of blood; or

18 (c) The person has a breath-alcohol level of 0.08 or  
19 more grams of alcohol per 210 liters of breath.

20 (2)(a) Except as provided in paragraph (b), subsection  
21 (3), or subsection (4), any person who is convicted of a  
22 violation of subsection (1) shall be punished:

23 1. By a fine of:

24 a. Not less than \$250 or more than \$500 for a first  
25 conviction.

26 b. Not less than \$500 or more than \$1,000 for a second  
27 conviction.

28 c. Not less than \$1,000 or more than \$2,500 for a  
29 third conviction; and

30 2. By imprisonment for:

31 a. Not more than 6 months for a first conviction.

1           b. Not more than 9 months for a second conviction.

2           c. Not more than 12 months for a third conviction.

3           (b) Any person who is convicted of a fourth or  
4 subsequent violation of this section commits ~~is guilty~~ of a  
5 felony of the second ~~third~~ degree, punishable as provided in  
6 s. 775.082, s. 775.083, or s. 775.084; however, the fine  
7 imposed for such fourth or subsequent violation may not be  
8 less than \$1,000.

9           (3) Any person:

10           (a) Who is in violation of subsection (1);

11           (b) Who operates a vessel; and

12           (c) Who, by reason of such operation, causes:

13           1. Damage to the property or person of another valued  
14 at \$10,000 or less commits a misdemeanor of the first degree,  
15 punishable as provided in s. 775.082 or s. 775.083.

16           2. Damage to the property of another valued in excess  
17 of \$10,000 commits a felony of the third degree, punishable as  
18 provided in s. 775.082, s. 775.083, or s. 775.084.

19           ~~3.2.~~ Serious bodily injury to another, as defined in  
20 s. 316.1933, commits a felony of the second ~~third~~ degree,  
21 punishable as provided in s. 775.082, s. 775.083, or s.  
22 775.084.

23           ~~4.3.~~ The death of any human being commits BUI  
24 manslaughter, ~~and commits:~~

25           ~~a.~~ a felony of the first ~~second~~ degree, punishable as  
26 provided in s. 775.082, s. 775.083, or s. 775.084.

27           ~~b.~~ ~~A felony of the first degree, punishable as~~  
28 ~~provided in s. 775.082, s. 775.083, or s. 775.084, if:~~

29           ~~(I) At the time of the accident, the person knew, or~~  
30 ~~should have known, that the accident occurred; and~~

31

1           ~~(II) The person failed to give information and render~~  
2 ~~aid as required by s. 316.062.~~

3  
4 This sub-subparagraph does not require that the person knew  
5 that the accident resulted in injury or death.

6           (4) Any person who is convicted of a violation of  
7 subsection (1) and who has a blood-alcohol level or  
8 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who  
9 is convicted of a violation of subsection (1) and who at the  
10 time of the offense was accompanied in the vessel by a person  
11 under the age of 18 years, shall be punished:

12           (a) By a fine of:

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

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

17           3. Not less than \$2,000 or more than \$5,000 for a  
18 third conviction.

19           (b) By imprisonment for:

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

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

22           3. Not more than 12 months for a third conviction.

23  
24 For the purposes of this subsection, only the instant offense  
25 is required to be a violation of subsection (1) by a person  
26 who has a blood-alcohol level or breath-alcohol level of 0.16  
27 ~~0.20~~ or higher.

28           Section 3. Paragraphs (f), (g), (h), and (i) of  
29 subsection (3) of section 921.0022, Florida Statutes, 1998  
30 Supplement, are amended to read:

31



1	784.08(2)(b)	2nd	Aggravated assault on a person 65
2			years of age or older.
3	784.081(2)	2nd	Aggravated assault on specified
4			official or employee.
5	784.082(2)	2nd	Aggravated assault by detained
6			person on visitor or other
7			detainee.
8	784.083(2)	2nd	Aggravated assault on code
9			inspector.
10	787.02(2)	3rd	False imprisonment; restraining
11			with purpose other than those in
12			s. 787.01.
13	790.115(2)(d)	2nd	Discharging firearm or weapon on
14			school property.
15	790.161(2)	2nd	Make, possess, or throw
16			destructive device with intent to
17			do bodily harm or damage
18			property.
19	790.164(1)	2nd	False report of deadly explosive
20			or act of arson or violence to
21			state property.
22	790.19	2nd	Shooting or throwing deadly
23			missiles into dwellings, vessels,
24			or vehicles.
25	794.011(8)(a)	3rd	Solicitation of minor to
26			participate in sexual activity by
27			custodial adult.
28	794.05(1)	2nd	Unlawful sexual activity with
29			specified minor.
30			
31			



1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.13(2)(c)	2nd	Robbery, no firearm or other
10			weapon (strong-arm robbery).
11	817.034(4)(a)1.	1st	Communications fraud, value
12			greater than \$50,000.
13	817.4821(5)	2nd	Possess cloning paraphernalia
14			with intent to create cloned
15			cellular telephones.
16	825.102(1)	3rd	Abuse of an elderly person or
17			disabled adult.
18	825.102(3)(c)	3rd	Neglect of an elderly person or
19			disabled adult.
20	825.1025(3)	3rd	Lewd or lascivious molestation of
21			an elderly person or disabled
22			adult.
23	825.103(2)(c)	3rd	Exploiting an elderly person or
24			disabled adult and property is
25			valued at less than \$20,000.
26	827.03(1)	3rd	Abuse of a child.
27	827.03(3)(c)	3rd	Neglect of a child.
28	827.071(2)&(3)	2nd	Use or induce a child in a sexual
29			performance, or promote or direct
30			such performance.
31	836.05	2nd	Threats; extortion.

1	836.10	2nd	Written threats to kill or do
2			bodily injury.
3	843.12	3rd	Aids or assists person to escape.
4	847.0135(3)	3rd	Solicitation of a child, via a
5			computer service, to commit an
6			unlawful sex act.
7	914.23	2nd	Retaliation against a witness,
8			victim, or informant, with bodily
9			injury.
10	943.0435(6)	3rd	Sex offenders; failure to comply
11			with reporting requirements.
12	944.35(3)(a)2.	3rd	Committing malicious battery upon
13			or inflicting cruel or inhuman
14			treatment on an inmate or
15			offender on community
16			supervision, resulting in great
17			bodily harm.
18	944.40	2nd	Escapes.
19	944.46	3rd	Harboring, concealing, aiding
20			escaped prisoners.
21	944.47(1)(a)5.	2nd	Introduction of contraband
22			(firearm, weapon, or explosive)
23			into correctional facility.
24	951.22(1)	3rd	Intoxicating drug, firearm, or
25			weapon introduced into county
26			facility.
27			(g) LEVEL 7
28	<u>316.193(3)(c)3.</u>		
29	<del>316.193(3)(c)2.</del>	<u>2nd</u> <del>3rd</del>	DUI resulting in serious bodily
30			injury.
31			

1	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
2			bodily injury.
3	409.920(2)	3rd	Medicaid provider fraud.
4	494.0018(2)	1st	Conviction of any violation of
5			ss. 494.001-494.0077 in which the
6			total money and property
7			unlawfully obtained exceeded
8			\$50,000 and there were five or
9			more victims.
10	782.051(3)	2nd	Attempted felony murder of a
11			person by a person other than the
12			perpetrator or the perpetrator of
13			an attempted felony.
14	782.07(1)	2nd	Killing of a human being by the
15			act, procurement, or culpable
16			negligence of another
17			(manslaughter).
18	782.071	3rd	Killing of human being or viable
19			fetus by the operation of a motor
20			vehicle in a reckless manner
21			(vehicular homicide).
22	782.072	3rd	Killing of a human being by the
23			operation of a vessel in a
24			reckless manner (vessel
25			homicide).
26	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
27			causing great bodily harm or
28			disfigurement.
29	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
30			weapon.
31			

1	784.045(1)(b)	2nd	Aggravated battery; perpetrator
2			aware victim pregnant.
3	784.048(4)	3rd	Aggravated stalking; violation of
4			injunction or court order.
5	784.07(2)(d)	1st	Aggravated battery on law
6			enforcement officer.
7	784.08(2)(a)	1st	Aggravated battery on a person 65
8			years of age or older.
9	784.081(1)	1st	Aggravated battery on specified
10			official or employee.
11	784.082(1)	1st	Aggravated battery by detained
12			person on visitor or other
13			detainee.
14	784.083(1)	1st	Aggravated battery on code
15			inspector.
16	790.07(4)	1st	Specified weapons violation
17			subsequent to previous conviction
18			of s. 790.07(1) or (2).
19	790.16(1)	1st	Discharge of a machine gun under
20			specified circumstances.
21	796.03	2nd	Procuring any person under 16
22			years for prostitution.
23	800.04	2nd	Handle, fondle, or assault child
24			under 16 years in lewd,
25			lascivious, or indecent manner.
26	806.01(2)	2nd	Maliciously damage structure by
27			fire or explosive.
28	810.02(3)(a)	2nd	Burglary of occupied dwelling;
29			unarmed; no assault or battery.
30	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
31			unarmed; no assault or battery.

1	810.02(3)(d)	2nd	Burglary of occupied conveyance;
2			unarmed; no assault or battery.
3	812.014(2)(a)	1st	Property stolen, valued at
4			\$100,000 or more; property stolen
5			while causing other property
6			damage; 1st degree grand theft.
7	812.019(2)	1st	Stolen property; initiates,
8			organizes, plans, etc., the theft
9			of property and traffics in
10			stolen property.
11	812.133(2)(b)	1st	Carjacking; no firearm, deadly
12			weapon, or other weapon.
13	825.102(3)(b)	2nd	Neglecting an elderly person or
14			disabled adult causing great
15			bodily harm, disability, or
16			disfigurement.
17	825.1025(2)	2nd	Lewd or lascivious battery upon
18			an elderly person or disabled
19			adult.
20	825.103(2)(b)	2nd	Exploiting an elderly person or
21			disabled adult and property is
22			valued at \$20,000 or more, but
23			less than \$100,000.
24	827.03(3)(b)	2nd	Neglect of a child causing great
25			bodily harm, disability, or
26			disfigurement.
27	827.04(4)	3rd	Impregnation of a child under 16
28			years of age by person 21 years
29			of age or older.
30			
31			

1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), or (2)(b)) within
9			1,000 feet of a child care
10			facility or school.
11	893.13(1)(e)	1st	Sell, manufacture, or deliver
12			cocaine or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), or (2)(b), within
15			1,000 feet of property used for
16			religious services or a specified
17			business site.
18	893.13(4)(a)	1st	Deliver to minor cocaine (or
19			other s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), or (2)(b) drugs).
21	893.135(1)(a)1.	1st	Trafficking in cannabis, more
22			than 50 lbs., less than 2,000
23			lbs.
24	893.135		
25	(1)(b)1.a.	1st	Trafficking in cocaine, more than
26			28 grams, less than 200 grams.
27	893.135		
28	(1)(c)1.a.	1st	Trafficking in illegal drugs,
29			more than 4 grams, less than 14
30			grams.
31			

1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15			(h) LEVEL 8
16	<u>316.193</u>		
17	<u>(3)(c)4.</u>		
18	<del>316.193</del>		
19	<del>(3)(c)3.a.</del>	<u>1st</u> <del>2nd</del>	DUI manslaughter.
20	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
21	777.03(2)(a)	1st	Accessory after the fact, capital
22			felony.
23	782.04(4)	2nd	Killing of human without design
24			when engaged in act or attempt of
25			any felony other than arson,
26			sexual battery, robbery,
27			burglary, kidnapping, aircraft
28			piracy, or unlawfully discharging
29			bomb.
30			
31			

1	782.051(2)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony not
4			enumerated in s. 782.04(3).
5	782.071(2)	2nd	Committing vehicular homicide and
6			failing to render aid or give
7			information.
8	782.072(2)	2nd	Committing vessel homicide and
9			failing to render aid or give
10			information.
11	790.161(3)	1st	Discharging a destructive device
12			which results in bodily harm or
13			property damage.
14	794.011(5)	2nd	Sexual battery, victim 12 years
15			or over, offender does not use
16			physical force likely to cause
17			serious injury.
18	806.01(1)	1st	Maliciously damage dwelling or
19			structure by fire or explosive,
20			believing person in structure.
21	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
22	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
23			or dangerous weapon.
24	810.02(2)(c)	1st	Burglary of a dwelling or
25			structure causing structural
26			damage or \$1,000 or more property
27			damage.
28	812.13(2)(b)	1st	Robbery with a weapon.
29	812.135(2)	1st	Home-invasion robbery.
30	825.102(2)	2nd	Aggravated abuse of an elderly
31			person or disabled adult.



1	825.103(2)(a)	1st	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$100,000 or more.
4	827.03(2)	2nd	Aggravated child abuse.
5	837.02(2)	2nd	Perjury in official proceedings
6			relating to prosecution of a
7			capital felony.
8	837.021(2)	2nd	Making contradictory statements
9			in official proceedings relating
10			to prosecution of a capital
11			felony.
12	860.121(2)(c)	1st	Shooting at or throwing any
13			object in path of railroad
14			vehicle resulting in great bodily
15			harm.
16	860.16	1st	Aircraft piracy.
17	893.13(1)(b)	1st	Sell or deliver in excess of 10
18			grams of any substance specified
19			in s. 893.03(1)(a) or (b).
20	893.13(2)(b)	1st	Purchase in excess of 10 grams of
21			any substance specified in s.
22			893.03(1)(a) or (b).
23	893.13(6)(c)	1st	Possess in excess of 10 grams of
24			any substance specified in s.
25			893.03(1)(a) or (b).
26	893.135(1)(a)2.	1st	Trafficking in cannabis, more
27			than 2,000 lbs., less than 10,000
28			lbs.
29	893.135		
30	(1)(b)1.b.	1st	Trafficking in cocaine, more than
31			200 grams, less than 400 grams.

1	893.135		
2	(1)(c)1.b.	1st	Trafficking in illegal drugs,
3			more than 14 grams, less than 28
4			grams.
5	893.135		
6	(1)(d)1.b.	1st	Trafficking in phencyclidine,
7			more than 200 grams, less than
8			400 grams.
9	893.135		
10	(1)(e)1.b.	1st	Trafficking in methaqualone, more
11			than 5 kilograms, less than 25
12			kilograms.
13	893.135		
14	(1)(f)1.b.	1st	Trafficking in amphetamine, more
15			than 28 grams, less than 200
16			grams.
17	893.135		
18	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
19			grams or more, less than 28
20			grams.
21	895.03(1)	1st	Use or invest proceeds derived
22			from pattern of racketeering
23			activity.
24	895.03(2)	1st	Acquire or maintain through
25			racketeering activity any
26			interest in or control of any
27			enterprise or real property.
28	895.03(3)	1st	Conduct or participate in any
29			enterprise through pattern of
30			racketeering activity.
31			(i) LEVEL 9

1	<del>316.193</del>		
2	<del>(3)(c)3.b.</del>	1st	<del>DUI manslaughter; failing to</del>
3			<del>render aid or give information.</del>
4	782.04(1)	1st	Attempt, conspire, or solicit to
5			commit premeditated murder.
6	782.04(3)	1st,PBL	Accomplice to murder in
7			connection with arson, sexual
8			battery, robbery, burglary, and
9			other specified felonies.
10	782.051(1)	1st	Attempted felony murder while
11			perpetrating or attempting to
12			perpetrate a felony enumerated in
13			s. 782.04(3).
14	782.07(2)	1st	Aggravated manslaughter of an
15			elderly person or disabled adult.
16	782.07(3)	1st	Aggravated manslaughter of a
17			child.
18	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
19			reward or as a shield or hostage.
20	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
21			or facilitate commission of any
22			felony.
23	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
24			interfere with performance of any
25			governmental or political
26			function.
27	787.02(3)(a)	1st	False imprisonment; child under
28			age 13; perpetrator also commits
29			child abuse, sexual battery,
30			lewd, or lascivious act, etc.
31			

1	790.161	1st	Attempted capital destructive
2			device offense.
3	794.011(2)	1st	Attempted sexual battery; victim
4			less than 12 years of age.
5	794.011(2)	Life	Sexual battery; offender younger
6			than 18 years and commits sexual
7			battery on a person less than 12
8			years.
9	794.011(4)	1st	Sexual battery; victim 12 years
10			or older, certain circumstances.
11	794.011(8)(b)	1st	Sexual battery; engage in sexual
12			conduct with minor 12 to 18 years
13			by person in familial or
14			custodial authority.
15	812.13(2)(a)	1st,PBL	Robbery with firearm or other
16			deadly weapon.
17	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
18			deadly weapon.
19	847.0145(1)	1st	Selling, or otherwise
20			transferring custody or control,
21			of a minor.
22	847.0145(2)	1st	Purchasing, or otherwise
23			obtaining custody or control, of
24			a minor.
25	859.01	1st	Poisoning food, drink, medicine,
26			or water with intent to kill or
27			injure another person.
28	893.135	1st	Attempted capital trafficking
29			offense.
30	893.135(1)(a)3.	1st	Trafficking in cannabis, more
31			than 10,000 lbs.

1 893.135  
2 (1)(b)1.c. 1st Trafficking in cocaine, more than  
3 400 grams, less than 150  
4 kilograms.  
5 893.135  
6 (1)(c)1.c. 1st Trafficking in illegal drugs,  
7 more than 28 grams, less than 30  
8 kilograms.  
9 893.135  
10 (1)(d)1.c. 1st Trafficking in phencyclidine,  
11 more than 400 grams.  
12 893.135  
13 (1)(e)1.c. 1st Trafficking in methaqualone, more  
14 than 25 kilograms.  
15 893.135  
16 (1)(f)1.c. 1st Trafficking in amphetamine, more  
17 than 200 grams.

18 Section 4. This act shall take effect October 1, 1999.

19  
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 COMMITTEE SUBSTITUTE FOR  
22 CS for SB 94

23 Lowers the blood-alcohol level threshold for enhanced  
24 penalties for Driving Under the Influence (DUI) and Boating  
25 Under the Influence (BUI) from .20 (grams of alcohol per 210  
26 liters of breath) to .16.

27 Applies the provisions in the Committee Substitute pertaining  
28 to Driving Under the Influence to Boating Under the Influence.  
29  
30  
31