

**STORAGE NAME:** h1423a.tr

**DATE:** April 10, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
ANALYSIS**

**BILL #:** HB 1423

**RELATING TO:** DUI/Boating Under the Influence

**SPONSOR(S):** Representative Jacobs

**TIED BILL(S):**

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

- (1) TRANSPORTATION YEAS 9 NAYS 1
  - (2) JUDICIARY
  - (3) CRIME & PUNISHMENT
  - (4) FINANCE & TAXATION
  - (5) CRIMINAL JUSTICE APPROPRIATIONS
- 

**I. SUMMARY:**

The bill increases the penalties for violations of driving under the influence (DUI) or boating under the influence (BUI).

The bill amends both the DUI and BUI statutes to:

- Increase the penalty for a fourth or subsequent DUI violation from a third to a second degree felony;
- Create a penalty for DUI resulting in property damage valued at \$10,000 or less as a first degree misdemeanor, and a penalty for property damage which exceeds \$10,000 in value as a third degree felony;
- Increase the penalty for causing serious bodily injury from a third to a second degree felony;
- Increase the penalty for DUI manslaughter from a second to a first degree felony;
- Remove the provision of law for DUI manslaughter relating to a person who withholds knowledge of a crash and a person who fails to render aid at the scene of a crash;
- Decrease the blood-alcohol and breath-alcohol level from 0.20 to 0.16 for DUI while accompanied by a person under the age of 18 years; and
- Provide for the court to consider former convictions of BUI for the penalties.

The bill amends the Offense Severity Ranking Chart of the Criminal Punishment Code to show the amended DUI and BUI penalties.

The bill also provides other technical changes to conform cross-references.

The bill has an effective date of October 1, 2000.

The bill could have some indeterminate fiscal impact to the criminal justice system. See Fiscal Comments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

**Section 1:** Section 316.193, F.S. provides penalties for any person driving under the influence (DUI). This section stipulates a minimum blood-alcohol and breath-alcohol level to be considered a violation of DUI. Penalties for DUI include increasing fines and imprisonment terms for each subsequent offense. A fourth or subsequent conviction of DUI, however, is punished as a third degree felony.

The section also provides penalties for any person who causes damage to property, serious bodily injury, or the death of another human being as a result of DUI. Penalties include:

- A first degree misdemeanor for damage to property or a person;
- A third degree felony for causing serious bodily injury; and
- A second degree felony for DUI manslaughter or, a first degree felony if the offender should have known of the crash or failed to render information or aid.

Any person who drives under the influence and is accompanied by a person under the age of 18 years with a blood-alcohol or breath-alcohol level of 0.20 or higher is punished with increasingly higher fines and imprisonment terms for each subsequent conviction.

**Section 2:** Section 327.35, F.S. provides penalties for boating under the influence. The penalties provided in this section are analogous to those provided in the DUI section of s. 316.193, F.S.

**Section 3:** Section 921.0022, F.S. provides a chart which ranks the severity of each offense provided in the Florida Statutes. Felony DUI is a Level 6 offense and DUI manslaughter is a Level 8 offense.

**Section 4:** Section 322.28, F.S. provides for periods of suspension or revocation of a person's driver's license for various offenses. For a violation of s. 316.193, F.S. which results in serious bodily injury or DUI manslaughter the period of revocation of the driver license is for a minimum of three years.

**Section 5:** Section 947.146, F.S. provides for the state correctional system to release inmates guilty of certain violations when it is about to exceed 99 percent of its total capacity. Inmates guilty of DUI manslaughter, however, are ineligible for control release.

C. EFFECT OF PROPOSED CHANGES:

The bill provides for stricter penalties for DUI and BUI offenses. The bill amends ss. 316.193, 327.35, 921.0022, 322.28, and 947.146, F.S. See Section-By-Section analysis.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends s. 316.193, F.S. to provide stricter penalties for any person who drives under the influence. The revisions of this section include:

- Increasing the penalty for a fourth or subsequent DUI violation from a third to a second degree felony;
- Creating a penalty for DUI resulting in property damage valued at \$10,000 or less as a first degree misdemeanor;
- Creating a penalty for property damage which exceeds \$10,000 in value as a third degree felony;
- Increasing the penalty for causing serious bodily injury from a third to a second degree felony;
- Increasing the penalty for DUI manslaughter from a second to a first degree felony;
- Deleting the language which provides a first degree felony offense for any person who knew or should have known that an accident occurred; and if the person failed to give information or render aid;
- Decreasing the blood-alcohol and breath-alcohol level from 0.20 to 0.16 for driving under the influence while accompanied by a person under the age of 18 years; and
- Providing for former convictions of boating under the influence to be considered for penalties.

**Section 2:** Amends s. 327.35, F.S. to provide stricter penalties for any person boating under the influence. The revisions of this section are analogous to those in Section 1.

**Section 3:** Amends s. 921.0022, F.S. to provide for felony changes to the "Offense Severity Ranking Chart" in relation to the amended ss. 316.193 and 327.35, F.S. Shown in Section 1.

**Section 4:** Amends s. 322.28, F.S. to provide technical changes to cross-references in relation to the amended s. 316.193, F.S.

**Section 5:** Amends s. 947.146, F.S. to provide technical changes to cross-references in relation to the amended s. 316.193, F.S.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The department will require modifications to the driver license software system costing approximately \$10,800.

This bill may have an indeterminate fiscal impact on the criminal justice system due to changes in sentencing guidelines for the DUI and BUI convictions. The cost is unknown due to the uncertainty of the number of DUI and BUI offenses that would be effected.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

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B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

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Jennifer L. Sexton-Bartelme

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John R. Johnston