

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

11 The Committee on Crime Prevention, Corrections & Safety
12 offered the following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

18 Section 1. Subsections (2) and (4) and paragraph (c)
19 of subsection (6) of section 316.193, Florida Statute, are
20 amended to read:

21 316.193 Driving under the influence; penalties.--

22 (2)(a) Except as provided in paragraphs ~~paragraph~~ (b),
23 (c), (d) and (e), subsection (3), or subsection (4), any
24 person who is convicted of a violation of subsection (1) shall
25 be punished:

26 1. By a fine of:

27 a. Not less than \$250 or more than \$500 for a first
28 conviction.

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

31 c. Not less than \$1,000 or more than \$2,500 for a

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1 third conviction, other than for a third conviction for an
2 offense occurring within a period of 10 years after the date
3 of a prior conviction as specified in paragraph (c); and

4 2. By imprisonment for:

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

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

7 c. Not more than 12 months for a third conviction,
8 other than for a third conviction for an offense occurring
9 within a period of 10 years after the date of a prior
10 conviction as specified in paragraph (c).

11 (b) Any person who is convicted of a fourth or
12 subsequent violation of this section is guilty of a felony of
13 the third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084; however, the minimum penalty fine
15 imposed for such fourth or subsequent violation shall may be a
16 fine of not less than \$1,000 and a minimum mandatory term of
17 imprisonment of 30 days.

18 (c) Any person who is convicted of a third violation
19 of this section for a offense occurring within a period of 10
20 years after the date of a prior conviction of this section is
21 guilty of a felony of the third degree, punishable as provided
22 in s. 775.082, 775.083 or 775.084 and as further provided in
23 subsection (6)(c).

24 (d) Any person who is convicted of a violation of this
25 section who at the time of the offense was operating a motor
26 vehicle while his or her license or privilege was canceled,
27 suspended, or revoked pursuant to this section, s. 322.2615 or
28 s. 322.28 is guilty of a felony of the third degree,
29 punishable as provided in s. 775.082, s. 775.083, or s.
30 775.084; however, the minimum penalty for such violation shall
31 be a fine of not less than \$1,000 and a minimum mandatory term

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1 of imprisonment of 30 days.

2 (e) Any person who is convicted of a violation of this
3 section who at the time of the offense was operating a motor
4 vehicle with a license for driving privileges restricted
5 solely to business or employment purposes is guilty of a
6 felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084; however, the minimum
8 penalty for such violation shall be a fine of not less than
9 \$1,000 and a minimum mandatory term of imprisonment of 30
10 days.

11 (4) Any person who is convicted of a violation of
12 subsection (1) and who has a blood-alcohol level or
13 breath-alcohol level of 0.20 or higher, or any person who is
14 convicted of a violation of subsection (1) and who at the time
15 of the offense was accompanied in the vehicle by a person
16 under the age of 18 years, shall be punished:

17 (a) By a fine of:

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

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

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

24 One hundred dollars of each fine imposed under this paragraph
25 shall be remitted to the county correctional facility in which
26 the offender convicted of a violation of this subsection
27 serves his or her term of imprisonment.

28 (b) By imprisonment for:

29 1. Not less than 48 hours nor more than 9 months for a
30 first conviction.

31 2. Not less than 48 hours nor more than 12 months for

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1 a second conviction.

2 3. Not less than 48 hours nor more than 12 months for
3 a third conviction.

4
5 For the purposes of this subsection, any conviction for a
6 violation of s. 327.35, only the instant offense is required
7 to be a violation of subsection (1) by a person who has a
8 blood-alcohol level or breath-alcohol level of 0.20 or higher.

9 (6)(c) For the third or subsequent conviction for an
10 offense that occurs within a period of 10 years after the date
11 of a prior conviction for violation of this section, the court
12 shall order imprisonment for not less than 30 days. The court
13 must also, as a condition of probation, order the impoundment
14 or immobilization of all vehicles owned by the defendant at
15 the time of impoundment or immobilization, for a period of 90
16 days or for the unexpired term of any lease or rental
17 agreement that expires within 90 days. The impoundment or
18 immobilization must not occur concurrently with the
19 incarceration of the defendant and must occur concurrently
20 with the driver's license revocation imposed under s.
21 322.28(2)(a)3. The impoundment or immobilization order may be
22 dismissed in accordance with paragraph (e), paragraph (f),
23 paragraph (g), or paragraph (h). At least 48 hours of
24 confinement must be consecutive.

25 Section 2. Paragraph (f) of subsection (3) of section
26 921.0022, Florida Statutes, is amended to read:

27 921.0022 Criminal Punishment Code; offense severity
28 ranking chart.--

29 (3) OFFENSE SEVERITY RANKING CHART
30
31

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1	Florida	Felony	
2	Statute	Degree	Description
3			
4			(f) LEVEL 6
5	316.027(1)(b)	2nd	Accident involving death, failure
6			to stop; leaving scene.
7	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
8			conviction.
9	<u>316.193(2)(c)</u>	<u>3rd</u>	<u>Felony DUI, 3rd or subsequent</u>
10			<u>conviction within 10-year period.</u>
11	<u>316.193(2)(d)</u>	<u>3rd</u>	<u>Felony DUI; driving with</u>
12			<u>suspended, canceled, or revoked</u>
13			<u>license.</u>
14	<u>316.193(2)(e)</u>	<u>3rd</u>	<u>Felony DUI; driving with license</u>
15			<u>restricted to business or</u>
16			<u>employment purposes.</u>
17	775.0875(1)	3rd	Taking firearm from law
18			enforcement officer.
19	775.21(10)	3rd	Sexual predators; failure to
20			register; failure to renew
21			driver's license or
22			identification card.
23	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
24			without intent to kill.
25	784.021(1)(b)	3rd	Aggravated assault; intent to
26			commit felony.
27	784.041	3rd	Felony battery.
28	784.048(3)	3rd	Aggravated stalking; credible
29			threat.
30	784.048(5)	3rd	Aggravated stalking of person
31			under 16.

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1	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
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3	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
4			
5	784.081(2)	2nd	Aggravated assault on specified official or employee.
6			
7	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
8			
9			
10	784.083(2)	2nd	Aggravated assault on code inspector.
11			
12	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
13			
14			
15	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
16			
17	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
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21	790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.
22			
23			
24	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
25			
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27	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
28			
29			
30	794.05(1)	2nd	Unlawful sexual activity with specified minor.
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1	800.04(5)(d)	3rd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			less than 18 years.
5	800.04(6)(b)	2nd	Lewd or lascivious conduct;
6			offender 18 years of age or
7			older.
8	806.031(2)	2nd	Arson resulting in great bodily
9			harm to firefighter or any other
10			person.
11	810.02(3)(c)	2nd	Burglary of occupied structure;
12			unarmed; no assault or battery.
13	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
14			but less than \$100,000, grand
15			theft in 2nd degree.
16	812.13(2)(c)	2nd	Robbery, no firearm or other
17			weapon (strong-arm robbery).
18	817.034(4)(a)1.	1st	Communications fraud, value
19			greater than \$50,000.
20	817.4821(5)	2nd	Possess cloning paraphernalia
21			with intent to create cloned
22			cellular telephones.
23	825.102(1)	3rd	Abuse of an elderly person or
24			disabled adult.
25	825.102(3)(c)	3rd	Neglect of an elderly person or
26			disabled adult.
27	825.1025(3)	3rd	Lewd or lascivious molestation of
28			an elderly person or disabled
29			adult.
30	825.103(2)(c)	3rd	Exploiting an elderly person or
31			disabled adult and property is

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1			valued at less than \$20,000.
2	827.03(1)	3rd	Abuse of a child.
3	827.03(3)(c)	3rd	Neglect of a child.
4	827.071(2)&(3)	2nd	Use or induce a child in a sexual
5			performance, or promote or direct
6			such performance.
7	836.05	2nd	Threats; extortion.
8	836.10	2nd	Written threats to kill or do
9			bodily injury.
10	843.12	3rd	Aids or assists person to escape.
11	847.0135(3)	3rd	Solicitation of a child, via a
12			computer service, to commit an
13			unlawful sex act.
14	914.23	2nd	Retaliation against a witness,
15			victim, or informant, with bodily
16			injury.
17	943.0435(9)	3rd	Sex offenders; failure to comply
18			with reporting requirements.
19	944.35(3)(a)2.	3rd	Committing malicious battery upon
20			or inflicting cruel or inhuman
21			treatment on an inmate or
22			offender on community
23			supervision, resulting in great
24			bodily harm.
25	944.40	2nd	Escapes.
26	944.46	3rd	Harboring, concealing, aiding
27			escaped prisoners.
28	944.47(1)(a)5.	2nd	Introduction of contraband
29			(firearm, weapon, or explosive)
30			into correctional facility.
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1 951.22(1) 3rd Intoxicating drug, firearm, or
2 weapon introduced into county
3 facility.

4 Section 3. This act shall take effect October 1, 2001.

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 On page 1, line 2,
10 remove from the title of the bill: the entire title

11 and insert in lieu thereof:

12 An act relating to driving under the influence;
13 amending ss. 316.193 and 921.0022, F.S.; providing a minimum
14 fine and minimum mandatory term of imprisonment for a fourth
15 conviction for driving under the influence; providing a third
16 degree felony penalty for a third or subsequent conviction of
17 driving under the influence within 10 years after a prior
18 conviction; providing a minimum mandatory term of
19 imprisonment; including the offense within the Criminal
20 Punishment Code offense severity ranking chart; providing a
21 third degree felony penalty for driving under the influence
22 with canceled, suspended, or revoked license; providing a
23 minimum fine and minimum mandatory term of imprisonment;
24 including the offense within the Criminal Punishment Code
25 offense severity ranking chart; providing a third degree
26 felony penalty for driving under the influence with a license
27 restricted solely to business or employment purposes;
28 providing a minimum fine and minimum mandatory term of
29 imprisonment; including the offense within the Criminal
30 Punishment Code offense severity ranking chart; providing a
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1 minimum term of imprisonment for any person convicted of
2 driving under the influence with a blood-alcohol level or a
3 breath-alcohol level of .20 or higher; requiring a specified
4 portion of fines imposed pursuant to a conviction for driving
5 under the influence with a blood-alcohol level or a
6 breath-alcohol level of 0.20 or higher to be remitted to
7 county correctional facilities; providing an effective date.
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