

By Representatives Pickens and Clarke

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending ss. 316.193 and 921.0022, F.S.;
4 providing a minimum term of imprisonment for
5 any person convicted of driving under the
6 influence; providing a third degree felony
7 penalty for a third conviction of driving under
8 the influence within 10 years after the first
9 of two or more convictions; providing a minimum
10 fine and minimum mandatory term of
11 imprisonment; revising the Criminal Punishment
12 Code offense severity ranking chart to conform;
13 providing a third degree felony penalty for a
14 fourth or subsequent conviction of driving
15 under the influence within 10 years after the
16 first of three or more convictions; providing a
17 minimum fine and minimum mandatory term of
18 imprisonment; including the offense within the
19 Criminal Punishment Code offense severity
20 ranking chart; providing a third degree felony
21 penalty for driving under the influence with a
22 canceled, suspended, or revoked license;
23 providing a minimum fine and minimum mandatory
24 term of imprisonment; including the offense
25 within the Criminal Punishment Code offense
26 severity ranking chart; providing a third
27 degree felony penalty for driving under the
28 influence with a license restricted solely to
29 business or employment purposes; providing a
30 minimum fine and minimum mandatory term of
31 imprisonment; including the offense within the

1 Criminal Punishment Code offense severity
2 ranking chart; requiring a specified portion of
3 fines imposed pursuant to a conviction for
4 driving under the influence with a
5 blood-alcohol level or a breath-alcohol level
6 of 0.20 or higher to be remitted to county
7 correctional facilities; providing an effective
8 date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsections (2) and (4) of section 316.193,
13 Florida Statutes, are amended to read:

14 316.193 Driving under the influence; penalties.--

15 (2)(a) Except as provided in ~~paragraphs~~ ~~paragraph~~ (b),
16 ~~(c), (d), and (e),~~ subsection (3), or subsection (4), any

17 person who is convicted of a violation of subsection (1) shall
18 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.

24 c. Not less than \$1,000 or more than \$2,500 for a
25 third conviction, other than a third conviction as specified
26 in paragraph (b); and

27 2. By imprisonment for:

28 a. Not less than 48 hours nor more than 6 months for a
29 first conviction.

30 b. Not less than 48 hours nor more than 9 months for a
31 second conviction.

1 c. Not less than 48 hours nor more than 12 months for
2 a third conviction, other than a third conviction as specified
3 in paragraph (b).

4 (b) Any person who is convicted of a third ~~fourth~~ or
5 subsequent violation of this section within 10 years after the
6 first of two or more convictions for a violation of this
7 section is guilty of a felony of the third degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084; however,
9 the minimum penalty ~~fine imposed~~ for such third ~~fourth~~ or
10 subsequent violation shall ~~may~~ be a fine of not less than
11 \$1,000 and a minimum mandatory term of imprisonment of 30
12 days.

13 (c) Any person who is convicted of a fourth or
14 subsequent violation of this section within 10 years after the
15 first of three or more convictions for a violation of this
16 section is guilty of a felony of the third degree, punishable
17 as provided in s. 775.082, s. 775.083, or s. 775.084; however,
18 the minimum penalty for such ~~fourth or subsequent violation~~
19 shall be a fine of not less than \$1,000 and a minimum
20 mandatory term of imprisonment of 30 days.

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

30 (e) Any person who is convicted of a violation of this
31 section who at the time of the offense was operating a motor

1 vehicle with a license for driving privileges restricted
2 solely to business or employment purposes is guilty of a
3 felony of the third degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084; however, the minimum
5 penalty for such violation shall be a fine of not less than
6 \$1,000 and a minimum mandatory term of imprisonment of 30
7 days.

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

14 (a) By a fine of:

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

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

19 3. Not less than \$2,000 ~~or more than \$5,000~~ for a
20 third or subsequent conviction.

21
22 One hundred dollars of each fine imposed under this paragraph
23 shall be remitted to the county correctional facility in which
24 the offender convicted of a violation of this subsection
25 serves his or her term of imprisonment.

26 (b) By imprisonment for:

27 1. Not less than 48 hours nor more than 9 months for a
28 first conviction.

29 2. Not less than 48 hours nor more than 12 months for
30 a second conviction.

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

1
2 For the purposes of this subsection, any conviction for a
3 violation of s. 327.35, only the instant offense is required
4 to be a violation of subsection (1) by a person who has a
5 blood-alcohol level or breath-alcohol level of 0.20 or higher.
6 Section 2. Paragraphs (f) and (g) of subsection (3) of
7 section 921.0022, Florida Statutes, are amended to read:
8 921.0022 Criminal Punishment Code; offense severity
9 ranking chart.--

10 (3) OFFENSE SEVERITY RANKING CHART

11	12 Florida	13 Felony	
14	Statute	Degree	Description
15			(f) LEVEL 6
16	316.027(1)(b)	2nd	Accident involving death, failure
17			to stop; leaving scene.
18	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
19			conviction <u>within 10-year period.</u>
20	<u>316.193(2)(d)</u>	<u>3rd</u>	<u>Felony DUI; driving with</u>
21			<u>suspended, canceled, or revoked</u>
22			<u>license.</u>
23	<u>316.193(2)(e)</u>	<u>3rd</u>	<u>Felony DUI; driving with license</u>
24			<u>restricted to business or</u>
25			<u>employment purposes.</u>
26	775.0875(1)	3rd	Taking firearm from law
27			enforcement officer.
28	775.21(10)	3rd	Sexual predators; failure to
29			register; failure to renew
30			driver's license or
31			identification card.

1	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
2			without intent to kill.
3	784.021(1)(b)	3rd	Aggravated assault; intent to
4			commit felony.
5	784.041	3rd	Felony battery.
6	784.048(3)	3rd	Aggravated stalking; credible
7			threat.
8	784.048(5)	3rd	Aggravated stalking of person
9			under 16.
10	784.07(2)(c)	2nd	Aggravated assault on law
11			enforcement officer.
12	784.08(2)(b)	2nd	Aggravated assault on a person 65
13			years of age or older.
14	784.081(2)	2nd	Aggravated assault on specified
15			official or employee.
16	784.082(2)	2nd	Aggravated assault by detained
17			person on visitor or other
18			detainee.
19	784.083(2)	2nd	Aggravated assault on code
20			inspector.
21	787.02(2)	3rd	False imprisonment; restraining
22			with purpose other than those in
23			s. 787.01.
24	790.115(2)(d)	2nd	Discharging firearm or weapon on
25			school property.
26	790.161(2)	2nd	Make, possess, or throw
27			destructive device with intent to
28			do bodily harm or damage
29			property.
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1	790.164(1)	2nd	False report of deadly explosive
2			or act of arson or violence to
3			state property.
4	790.19	2nd	Shooting or throwing deadly
5			missiles into dwellings, vessels,
6			or vehicles.
7	794.011(8)(a)	3rd	Solicitation of minor to
8			participate in sexual activity by
9			custodial adult.
10	794.05(1)	2nd	Unlawful sexual activity with
11			specified minor.
12	800.04(5)(d)	3rd	Lewd or lascivious molestation;
13			victim 12 years of age or older
14			but less than 16 years; offender
15			less than 18 years.
16	800.04(6)(b)	2nd	Lewd or lascivious conduct;
17			offender 18 years of age or
18			older.
19	806.031(2)	2nd	Arson resulting in great bodily
20			harm to firefighter or any other
21			person.
22	810.02(3)(c)	2nd	Burglary of occupied structure;
23			unarmed; no assault or battery.
24	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
25			but less than \$100,000, grand
26			theft in 2nd degree.
27	812.13(2)(c)	2nd	Robbery, no firearm or other
28			weapon (strong-arm robbery).
29	817.034(4)(a)1.	1st	Communications fraud, value
30			greater than \$50,000.
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1	817.4821(5)	2nd	Possess cloning paraphernalia
2			with intent to create cloned
3			cellular telephones.
4	825.102(1)	3rd	Abuse of an elderly person or
5			disabled adult.
6	825.102(3)(c)	3rd	Neglect of an elderly person or
7			disabled adult.
8	825.1025(3)	3rd	Lewd or lascivious molestation of
9			an elderly person or disabled
10			adult.
11	825.103(2)(c)	3rd	Exploiting an elderly person or
12			disabled adult and property is
13			valued at less than \$20,000.
14	827.03(1)	3rd	Abuse of a child.
15	827.03(3)(c)	3rd	Neglect of a child.
16	827.071(2)&(3)	2nd	Use or induce a child in a sexual
17			performance, or promote or direct
18			such performance.
19	836.05	2nd	Threats; extortion.
20	836.10	2nd	Written threats to kill or do
21			bodily injury.
22	843.12	3rd	Aids or assists person to escape.
23	847.0135(3)	3rd	Solicitation of a child, via a
24			computer service, to commit an
25			unlawful sex act.
26	914.23	2nd	Retaliation against a witness,
27			victim, or informant, with bodily
28			injury.
29	943.0435(9)	3rd	Sex offenders; failure to comply
30			with reporting requirements.
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1	944.35(3)(a)2.	3rd	Committing malicious battery upon
2			or inflicting cruel or inhuman
3			treatment on an inmate or
4			offender on community
5			supervision, resulting in great
6			bodily harm.
7	944.40	2nd	Escapes.
8	944.46	3rd	Harboring, concealing, aiding
9			escaped prisoners.
10	944.47(1)(a)5.	2nd	Introduction of contraband
11			(firearm, weapon, or explosive)
12			into correctional facility.
13	951.22(1)	3rd	Intoxicating drug, firearm, or
14			weapon introduced into county
15			facility.
16			(g) LEVEL 7
17	<u>316.193(2)(c)</u>	<u>3rd</u>	<u>Felony DUI, 4th or subsequent</u>
18			<u>conviction within 10 years.</u>
19	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
20			injury.
21	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
22			bodily injury.
23	402.319(2)	2nd	Misrepresentation and negligence
24			or intentional act resulting in
25			great bodily harm, permanent
26			disfiguration, permanent
27			disability, or death.
28	409.920(2)	3rd	Medicaid provider fraud.
29	456.065(2)	3rd	Practicing a health care
30			profession without a license.
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1	456.065(2)	2nd	Practicing a health care
2			profession without a license
3			which results in serious bodily
4			injury.
5	458.327(1)	3rd	Practicing medicine without a
6			license.
7	459.013(1)	3rd	Practicing osteopathic medicine
8			without a license.
9	460.411(1)	3rd	Practicing chiropractic medicine
10			without a license.
11	461.012(1)	3rd	Practicing podiatric medicine
12			without a license.
13	462.17	3rd	Practicing naturopathy without a
14			license.
15	463.015(1)	3rd	Practicing optometry without a
16			license.
17	464.016(1)	3rd	Practicing nursing without a
18			license.
19	465.015(2)	3rd	Practicing pharmacy without a
20			license.
21	466.026(1)	3rd	Practicing dentistry or dental
22			hygiene without a license.
23	467.201	3rd	Practicing midwifery without a
24			license.
25	468.366	3rd	Delivering respiratory care
26			services without a license.
27	483.828(1)	3rd	Practicing as clinical laboratory
28			personnel without a license.
29	483.901(9)	3rd	Practicing medical physics
30			without a license.
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1	484.053	3rd	Dispensing hearing aids without a
2			license.
3	494.0018(2)	1st	Conviction of any violation of
4			ss. 494.001-494.0077 in which the
5			total money and property
6			unlawfully obtained exceeded
7			\$50,000 and there were five or
8			more victims.
9	560.123(8)(b)1.	3rd	Failure to report currency or
10			payment instruments exceeding
11			\$300 but less than \$20,000 by
12			money transmitter.
13	560.125(5)(a)	3rd	Money transmitter business by
14			unauthorized person, currency or
15			payment instruments exceeding
16			\$300 but less than \$20,000.
17	655.50(10)(b)1.	3rd	Failure to report financial
18			transactions exceeding \$300 but
19			less than \$20,000 by financial
20			institution.
21	782.051(3)	2nd	Attempted felony murder of a
22			person by a person other than the
23			perpetrator or the perpetrator of
24			an attempted felony.
25	782.07(1)	2nd	Killing of a human being by the
26			act, procurement, or culpable
27			negligence of another
28			(manslaughter).
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1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	784.083(1)	1st	Aggravated battery on code
28			inspector.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	790.166(3)	2nd	Possessing, selling, using, or
4			attempting to use a hoax weapon
5			of mass destruction.
6	796.03	2nd	Procuring any person under 16
7			years for prostitution.
8	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
9			victim less than 12 years of age;
10			offender less than 18 years.
11	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
12			victim 12 years of age or older
13			but less than 16 years; offender
14			18 years or older.
15	806.01(2)	2nd	Maliciously damage structure by
16			fire or explosive.
17	810.02(3)(a)	2nd	Burglary of occupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(d)	2nd	Burglary of occupied conveyance;
22			unarmed; no assault or battery.
23	812.014(2)(a)	1st	Property stolen, valued at
24			\$100,000 or more; property stolen
25			while causing other property
26			damage; 1st degree grand theft.
27	812.019(2)	1st	Stolen property; initiates,
28			organizes, plans, etc., the theft
29			of property and traffics in
30			stolen property.
31	812.131(2)(a)	2nd	Robbery by sudden snatching.

1	812.133(2)(b)	1st	Carjacking; no firearm, deadly
2			weapon, or other weapon.
3	825.102(3)(b)	2nd	Neglecting an elderly person or
4			disabled adult causing great
5			bodily harm, disability, or
6			disfigurement.
7	825.1025(2)	2nd	Lewd or lascivious battery upon
8			an elderly person or disabled
9			adult.
10	825.103(2)(b)	2nd	Exploiting an elderly person or
11			disabled adult and property is
12			valued at \$20,000 or more, but
13			less than \$100,000.
14	827.03(3)(b)	2nd	Neglect of a child causing great
15			bodily harm, disability, or
16			disfigurement.
17	827.04(3)	3rd	Impregnation of a child under 16
18			years of age by person 21 years
19			of age or older.
20	837.05(2)	3rd	Giving false information about
21			alleged capital felony to a law
22			enforcement officer.
23	872.06	2nd	Abuse of a dead human body.
24	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
25			cocaine (or other drug prohibited
26			under s. 893.03(1)(a), (1)(b),
27			(1)(d), (2)(a), (2)(b), or
28			(2)(c)4.) within 1,000 feet of a
29			child care facility or school.
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1	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4., within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 50 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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1	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
2			than 14 grams, less than 28
3			grams.
4	893.135		
5	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
6			grams or more, less than 14
7			grams.
8	893.135		
9	(1)(h)1.a.	1st	Trafficking in
10			gamma-hydroxybutyric acid (GHB),
11			1 kilogram or more, less than 5
12			kilograms.
13	893.135		
14	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
15			kilogram or more, less than 5
16			kilograms.
17	893.135		
18	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
19			10 grams or more, less than 200
20			grams.
21	896.101(5)(a)	3rd	Money laundering, financial
22			transactions exceeding \$300 but
23			less than \$20,000.
24	896.104(4)(a)1.	3rd	Structuring transactions to evade
25			reporting or registration
26			requirements, financial
27			transactions exceeding \$300 but
28			less than \$20,000.
29	Section 3. This act shall take effect October 1, 2001.		
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HOUSE SUMMARY

Provides a minimum term of imprisonment of 48 hours for any person convicted of driving under the influence.

Provides a third degree felony penalty for a third conviction of driving under the influence within 10 years after the first of two or more convictions and provides a minimum fine of \$1,000 and minimum mandatory term of imprisonment of 30 days. Classifies the offense within the Criminal Punishment Code offense severity ranking chart as a level 6 offense. Provides a third degree felony penalty for a fourth or subsequent conviction of driving under the influence within 10 years after the first of three or more convictions and provides a minimum fine of \$1,000 and a minimum mandatory term of imprisonment of 30 days. Includes the offense within the offense severity ranking chart as a level 7 offense. Provides a third degree felony penalty for driving under the influence with a canceled, suspended, or revoked license and provides a minimum fine of \$1,000 and a minimum mandatory term of imprisonment of 30 days. Includes the offense within the offense severity ranking chart as a level 6 offense. Provides a third degree felony penalty for driving under the influence with a license restricted solely to business or employment purposes and provides a minimum fine of \$1,000 and a minimum mandatory term of imprisonment of 30 days. Includes the offense within the offense severity ranking chart as a level 6 offense.

Requires \$100 of the fine imposed pursuant to a conviction for driving under the influence with a blood-alcohol level or a breath-alcohol level of 0.20 or higher to be remitted to county correctional facilities.