

By Representative Clarke

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; providing a third
4 degree felony penalty for a third or subsequent
5 conviction for driving under the influence;
6 providing for a minimum term of imprisonment of
7 3 days for a first conviction for driving under
8 the influence; amending s. 921.0022, F.S.;
9 conforming provisions in the sentencing
10 guidelines; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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

16 316.193 Driving under the influence; penalties.--

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

20 1. By a fine of:

21 a. Not less than \$250 or more than \$500 for a first
22 conviction.

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

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

27 2. By imprisonment for:

28 a. Not less than 3 days nor ~~Not~~ more than 6 months for
29 a first conviction.

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

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

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

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

13 (a) By a fine of:

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

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

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

20 (b) By imprisonment for:

21 1. Not less than 3 days nor ~~Not~~ more than 9 months for
22 a first conviction.

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

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

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

30 Section 2. Paragraph (f) of subsection (3) of section
31 921.0022, Florida Statutes, is amended to read:

1	921.0022	Criminal Punishment Code; offense severity	
2	ranking chart.--		
3	(3)	OFFENSE SEVERITY RANKING CHART	
4			
5	Florida	Felony	
6	Statute	Degree	Description
7			
8			(f) LEVEL 6
9	316.027(1)(b)	2nd	Accident involving death, failure
10			to stop; leaving scene.
11	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
12			conviction.
13	775.0875(1)	3rd	Taking firearm from law
14			enforcement officer.
15	775.21(10)	3rd	Sexual predators; failure to
16			register; failure to renew
17			driver's license or
18			identification card.
19	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
20			without intent to kill.
21	784.021(1)(b)	3rd	Aggravated assault; intent to
22			commit felony.
23	784.041	3rd	Felony battery.
24	784.048(3)	3rd	Aggravated stalking; credible
25			threat.
26	784.048(5)	3rd	Aggravated stalking of person
27			under 16.
28	784.07(2)(c)	2nd	Aggravated assault on law
29			enforcement officer.
30	784.08(2)(b)	2nd	Aggravated assault on a person 65
31			years of age or older.

1	784.081(2)	2nd	Aggravated assault on specified
2			official or employee.
3	784.082(2)	2nd	Aggravated assault by detained
4			person on visitor or other
5			detainee.
6	784.083(2)	2nd	Aggravated assault on code
7			inspector.
8	787.02(2)	3rd	False imprisonment; restraining
9			with purpose other than those in
10			s. 787.01.
11	790.115(2)(d)	2nd	Discharging firearm or weapon on
12			school property.
13	790.161(2)	2nd	Make, possess, or throw
14			destructive device with intent to
15			do bodily harm or damage
16			property.
17	790.164(1)	2nd	False report of deadly explosive
18			or act of arson or violence to
19			state property.
20	790.19	2nd	Shooting or throwing deadly
21			missiles into dwellings, vessels,
22			or vehicles.
23	794.011(8)(a)	3rd	Solicitation of minor to
24			participate in sexual activity by
25			custodial adult.
26	794.05(1)	2nd	Unlawful sexual activity with
27			specified minor.
28	800.04(5)(d)	3rd	Lewd or lascivious molestation;
29			victim 12 years of age or older
30			but less than 16 years; offender
31			less than 18 years.

1	800.04(6)(b)	2nd	Lewd or lascivious conduct;
2			offender 18 years of age or
3			older.
4	806.031(2)	2nd	Arson resulting in great bodily
5			harm to firefighter or any other
6			person.
7	810.02(3)(c)	2nd	Burglary of occupied structure;
8			unarmed; no assault or battery.
9	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
10			but less than \$100,000, grand
11			theft in 2nd degree.
12	812.13(2)(c)	2nd	Robbery, no firearm or other
13			weapon (strong-arm robbery).
14	817.034(4)(a)1.	1st	Communications fraud, value
15			greater than \$50,000.
16	817.4821(5)	2nd	Possess cloning paraphernalia
17			with intent to create cloned
18			cellular telephones.
19	825.102(1)	3rd	Abuse of an elderly person or
20			disabled adult.
21	825.102(3)(c)	3rd	Neglect of an elderly person or
22			disabled adult.
23	825.1025(3)	3rd	Lewd or lascivious molestation of
24			an elderly person or disabled
25			adult.
26	825.103(2)(c)	3rd	Exploiting an elderly person or
27			disabled adult and property is
28			valued at less than \$20,000.
29	827.03(1)	3rd	Abuse of a child.
30	827.03(3)(c)	3rd	Neglect of a child.
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1	827.071(2)&(3)	2nd	Use or induce a child in a sexual
2			performance, or promote or direct
3			such performance.
4	836.05	2nd	Threats; extortion.
5	836.10	2nd	Written threats to kill or do
6			bodily injury.
7	843.12	3rd	Aids or assists person to escape.
8	847.0135(3)	3rd	Solicitation of a child, via a
9			computer service, to commit an
10			unlawful sex act.
11	914.23	2nd	Retaliation against a witness,
12			victim, or informant, with bodily
13			injury.
14	943.0435(9)	3rd	Sex offenders; failure to comply
15			with reporting requirements.
16	944.35(3)(a)2.	3rd	Committing malicious battery upon
17			or inflicting cruel or inhuman
18			treatment on an inmate or
19			offender on community
20			supervision, resulting in great
21			bodily harm.
22	944.40	2nd	Escapes.
23	944.46	3rd	Harboring, concealing, aiding
24			escaped prisoners.
25	944.47(1)(a)5.	2nd	Introduction of contraband
26			(firearm, weapon, or explosive)
27			into correctional facility.
28	951.22(1)	3rd	Intoxicating drug, firearm, or
29			weapon introduced into county
30			facility.
31	Section 3. This act shall take effect October 1, 2001.		

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HOUSE SUMMARY

Provides a third degree felony penalty for a third or subsequent penalty for driving under the influence and provides for a minimum term of imprisonment of 3 days for a first conviction for driving under the influence. See bill for details.