

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 716

SPONSOR: Criminal Justice Committee and Senator Burt

SUBJECT: Driving Under the Influence

DATE: April 24, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS revises the penalties for driving under the influence (DUI). Specifically, the CS enhances penalties for DUI by providing any person who is convicted of a third DUI within 10 years after any prior DUI conviction is guilty of a third degree felony punishable by a fine ranging from \$1,000 to \$5,000, and a term of imprisonment not to exceed 5 years.

This CS substantially amends section 316.193 of the Florida Statutes.

II. Present Situation:

Section 316.193, F.S., proscribes driving under the influence of alcohol or drugs to the extent normal faculties are impaired or driving with a blood or breath alcohol level of .08 percent or higher. Penalties for DUI vary according to the frequency of previous convictions, the offenders blood alcohol level (BAL) when arrested, and whether serious injury or death results.

Generally, modified misdemeanor penalties apply when there has been no property damage or personal injury and when there has been less than four DUI convictions. For example, a first-time offender is subject to a fine ranging from \$250 to \$500, as well as being subject to serving up to 6 months in county jail. He must also be on probation for up to 1 year and participate in 50 hours of community service. However, if the convicted offender's BAL is .20 percent or higher, or a passenger under 18 years of age is present in the vehicle, the penalty is enhanced to a fine ranging from \$500 to \$1,000 and imprisonment not exceeding 9 months in jail.

A second DUI conviction carries a fine ranging from \$500 to \$1,000 and imprisonment for a period of up to 9 months. However, if that conviction occurs within 5 years of a previous DUI conviction, there is a mandatory imprisonment period of at least 10 days. At least 48 hours of

this confinement must be consecutive. Enhanced penalties also apply when the offender's BAL is .20 percent or higher, or when a passenger under the age of 18 is present in the vehicle to include a fine ranging from \$1,000 to \$2,000, and imprisonment not exceeding 12 months.

A third or subsequent DUI conviction carries a fine ranging from \$1,000 to \$2,500 and possible imprisonment up to 12 months. However, if that conviction occurs within 10 years of a previous DUI conviction, there is a 30-day minimum mandatory imprisonment period. At least 48 hours of this confinement must be consecutive. Enhanced penalties also apply when the offender's BAL is .20 percent or higher, or when a passenger under the age of 18 is present in the vehicle to include a fine ranging from \$2,000 to \$5,000 and imprisonment not exceeding 12 months.

A fourth or subsequent DUI conviction results in a third degree felony penalty, which is punishable by a minimum fine of \$1,000 but not exceeding \$5,000, and a term of imprisonment not to exceed 5 years.

III. Effect of Proposed Changes:

This CS increases the penalty for a third DUI conviction occurring within 10 years after any prior DUI conviction from a misdemeanor violation to a third degree felony. A fourth or subsequent DUI conviction would remain a third degree felony. The CS makes conforming changes related to third or subsequent DUI convictions involving a blood- or breath-alcohol level of .20 or higher or accompaniment by a person under 18 years of age. It also conforms the Criminal Punishment Code offense severity ranking chart to changes made by the CS.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This CS would increase the penalty from a misdemeanor to a third-degree felony for a third DUI conviction that occurs within 10 years of a prior DUI conviction. Violators would be

subject to a fine ranging from \$1,000 to \$5,000, and a term of imprisonment not to exceed 5 years.

C. Government Sector Impact:

The Criminal Justice Estimating Conference reviewed SB 716 on April 23, 2001 and found the following impact:

Fiscal Year	Projected Additional Cumulative Prison Beds Required Under SB 716	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2001-2002	26	26	\$246,389	\$1,699,500	\$1,945,889	\$1,945,889
2002-2003	66	40	\$886,052	\$811,239	\$1,697,291	\$3,643,180
2003-2004	97	31	\$1,596,748	\$798,510	\$2,395,258	\$6,038,438
2004-2005	127	30	\$2,235,968	\$271,230	\$2,507,198	\$8,545,636
2005-2006	137	10	\$2,695,704	\$194,215	\$2,889,919	\$11,435,555
Total	137	137	\$7,660,861	\$3,774,694	\$11,435,555	\$11,435,555

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
