

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: SB 716

SPONSOR: Senator Burt

SUBJECT: Driving Under the Influence

DATE: April 13, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Meyer	TR	Favorable
2.	_____	_____	CJ	_____
3.	_____	_____	APJ	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill revises the penalties for driving under the influence (DUI). Specifically, the bill enhances penalties for DUI by providing any person who is convicted of a third or subsequent DUI within 10 years after the first 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 bill 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 offender's 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 bill increases the penalty for a third or subsequent DUI conviction within 10 years from the date of the first conviction from a misdemeanor violation to a third degree felony. The bill 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.

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 bill would increase the penalty from a misdemeanor to a third-degree felony for a third DUI conviction that occurs within 10 years of the first 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:

This bill may generate additional revenues for local governments as a result of a result of the increased penalty for a third DUI conviction. The amount of additional revenue generated by this bill is indeterminate.

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.
