

By the Committee on Criminal Justice and Senators Burt, Sullivan and Silver

307-1950-01

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; increasing the
4 penalty for a third conviction of driving under
5 the influence to a third-degree felony if
6 committed within a specified period following a
7 prior conviction; increasing the penalty for a
8 fourth or subsequent violation of driving under
9 the influence to a third-degree felony
10 regardless of when any prior conviction
11 occurred; amending s. 921.0022, F.S., relating
12 to the offense severity ranking chart of the
13 Criminal Punishment Code; conforming provisions
14 to changes made by the act; providing an
15 effective date.

17 Be It Enacted by the Legislature of the State of Florida:

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

- 21 316.193 Driving under the influence; penalties.--
22 (2)(a) Except as provided in paragraph (b), subsection
23 (3), or subsection (4), any person who is convicted of a
24 violation of subsection (1) shall be punished:
25 1. By a fine of:
26 a. Not less than \$250 or more than \$500 for a first
27 conviction.
28 b. Not less than \$500 or more than \$1,000 for a second
29 conviction; and—
30 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
31 ~~third conviction; and~~

- 1 2. By imprisonment for:
- 2 a. Not more than 6 months for a first conviction.
- 3 b. Not more than 9 months for a second conviction.
- 4 c. ~~Not more than 12 months for a third conviction.~~
- 5 (b)1. Any person who is convicted of a third ~~fourth~~ or
- 6 ~~subsequent~~ violation of this section within 10 years after any
- 7 prior conviction for a violation of this section commits is
- 8 ~~guilty of~~ a felony of the third degree, punishable as provided
- 9 in s. 775.082, s. 775.083, or s. 775.084.†
- 10 2. Any person who is convicted of a fourth or
- 11 subsequent violation of this section, regardless of when any
- 12 prior conviction for a violation of this section occurred,
- 13 commits a felony of the third degree, punishable as provided
- 14 in s. 775.082, s. 775.083, or s. 775.084.
- 15
- 16 However, the fine imposed for a third ~~such fourth~~ or
- 17 subsequent violation may be not less than \$1,000.
- 18 (4) Any person who is convicted of a violation of
- 19 subsection (1) and who has a blood-alcohol level or
- 20 breath-alcohol level of 0.20 or higher, or any person who is
- 21 convicted of a violation of subsection (1) and who at the time
- 22 of the offense was accompanied in the vehicle by a person
- 23 under the age of 18 years, shall be punished:
- 24 (a) By a fine of:
- 25 1. Not less than \$500 or more than \$1,000 for a first
- 26 conviction.
- 27 2. Not less than \$1,000 or more than \$2,000 for a
- 28 second conviction.
- 29 3. Not less than \$2,000 ~~or more than \$5,000~~ for a
- 30 third or subsequent conviction.
- 31 (b) By imprisonment for:

- 1 1. Not more than 9 months for a first conviction.
2 2. Not more than 12 months for a second conviction.
3 3. ~~Not more than 12 months for 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 Section 2. Paragraph (f) of subsection (3) of section
10 921.0022, Florida Statutes, is amended to read:

11 921.0022 Criminal Punishment Code; offense severity
12 ranking chart.--

13 (3) OFFENSE SEVERITY RANKING CHART

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15 Florida	Felony	
16 Statute	Degree	Description
		(f) LEVEL 6
20 316.027(1)(b)	2nd	Accident involving death, failure 21 to stop; leaving scene.
22 316.193(2)(b)	3rd	Felony DUI, 4th or subsequent 23 conviction.
24 775.0875(1)	3rd	Taking firearm from law 25 enforcement officer.
26 775.21(10)	3rd	Sexual predators; failure to 27 register; failure to renew 28 driver's license or 29 identification card.
30 784.021(1)(a)	3rd	Aggravated assault; deadly weapon 31 without intent to kill.

1	784.021(1)(b)	3rd	Aggravated assault; intent to
2			commit felony.
3	784.041	3rd	Felony battery.
4	784.048(3)	3rd	Aggravated stalking; credible
5			threat.
6	784.048(5)	3rd	Aggravated stalking of person
7			under 16.
8	784.07(2)(c)	2nd	Aggravated assault on law
9			enforcement officer.
10	784.08(2)(b)	2nd	Aggravated assault on a person 65
11			years of age or older.
12	784.081(2)	2nd	Aggravated assault on specified
13			official or employee.
14	784.082(2)	2nd	Aggravated assault by detained
15			person on visitor or other
16			detainee.
17	784.083(2)	2nd	Aggravated assault on code
18			inspector.
19	787.02(2)	3rd	False imprisonment; restraining
20			with purpose other than those in
21			s. 787.01.
22	790.115(2)(d)	2nd	Discharging firearm or weapon on
23			school property.
24	790.161(2)	2nd	Make, possess, or throw
25			destructive device with intent to
26			do bodily harm or damage
27			property.
28	790.164(1)	2nd	False report of deadly explosive
29			or act of arson or violence to
30			state property.
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1	790.19	2nd	Shooting or throwing deadly
2			missiles into dwellings, vessels,
3			or vehicles.
4	794.011(8)(a)	3rd	Solicitation of minor to
5			participate in sexual activity by
6			custodial adult.
7	794.05(1)	2nd	Unlawful sexual activity with
8			specified minor.
9	800.04(5)(d)	3rd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			less than 18 years.
13	800.04(6)(b)	2nd	Lewd or lascivious conduct;
14			offender 18 years of age or
15			older.
16	806.031(2)	2nd	Arson resulting in great bodily
17			harm to firefighter or any other
18			person.
19	810.02(3)(c)	2nd	Burglary of occupied structure;
20			unarmed; no assault or battery.
21	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
22			but less than \$100,000, grand
23			theft in 2nd degree.
24	812.13(2)(c)	2nd	Robbery, no firearm or other
25			weapon (strong-arm robbery).
26	817.034(4)(a)1.	1st	Communications fraud, value
27			greater than \$50,000.
28	817.4821(5)	2nd	Possess cloning paraphernalia
29			with intent to create cloned
30			cellular telephones.
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1	825.102(1)	3rd	Abuse of an elderly person or
2			disabled adult.
3	825.102(3)(c)	3rd	Neglect of an elderly person or
4			disabled adult.
5	825.1025(3)	3rd	Lewd or lascivious molestation of
6			an elderly person or disabled
7			adult.
8	825.103(2)(c)	3rd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at less than \$20,000.
11	827.03(1)	3rd	Abuse of a child.
12	827.03(3)(c)	3rd	Neglect of a child.
13	827.071(2)&(3)	2nd	Use or induce a child in a sexual
14			performance, or promote or direct
15			such performance.
16	836.05	2nd	Threats; extortion.
17	836.10	2nd	Written threats to kill or do
18			bodily injury.
19	843.12	3rd	Aids or assists person to escape.
20	847.0135(3)	3rd	Solicitation of a child, via a
21			computer service, to commit an
22			unlawful sex act.
23	914.23	2nd	Retaliation against a witness,
24			victim, or informant, with bodily
25			injury.
26	943.0435(9)	3rd	Sex offenders; failure to comply
27			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 Section 3. This act shall take effect October 1, 2001.

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 Senate Bill 716

21 Ensures that a fourth or subsequent DUI offender, regardless
22 of when a prior DUI occurs, commits a third degree felony
(retains current law).
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