

By Representative Betancourt

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;
6 amending s. 921.0022, F.S.; conforming a cross
7 reference; providing an effective date.

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

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

13 316.193 Driving under the influence; penalties.--

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

17 1. By a fine of:

18 a. Not less than \$250 or more than \$500 for a first
19 conviction.

20 b. Not less than \$500 or more than \$1,000 for a second
21 conviction; and—

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

24 2. By imprisonment for:

25 a. Not more than 6 months for a first conviction.

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

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

28 (b) Any person who is convicted of a third ~~fourth~~ or
29 subsequent violation of this section within 10 years after the
30 first of three or more convictions for a violation of this
31 section is guilty of a felony of the third degree, punishable

1 as provided in s. 775.082, s. 775.083, or s. 775.084; however,
2 the fine imposed for such third ~~fourth~~ or subsequent violation
3 may be not less than \$1,000.

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

10 (a) By a fine of:

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

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

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

17 (b) By imprisonment for:

18 1. Not more than 9 months for a first conviction.

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

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

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

26 Section 2. Paragraph (f) of subsection (3) of section
27 921.0022, Florida Statutes, is amended to read:

28 921.0022 Criminal Punishment Code; offense severity
29 ranking chart.--

30 (3) OFFENSE SEVERITY RANKING CHART

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1	Florida	Felony	
2	Statute	Degree	Description
3			
4			(f) LEVEL 6
5	316.027(1)(b)	2nd	Accident involving death, failure
6			to stop; leaving scene.
7	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
8			conviction.
9	775.0875(1)	3rd	Taking firearm from law
10			enforcement officer.
11	775.21(10)	3rd	Sexual predators; failure to
12			register; failure to renew
13			driver's license or
14			identification card.
15	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
16			without intent to kill.
17	784.021(1)(b)	3rd	Aggravated assault; intent to
18			commit felony.
19	784.041	3rd	Felony battery.
20	784.048(3)	3rd	Aggravated stalking; credible
21			threat.
22	784.048(5)	3rd	Aggravated stalking of person
23			under 16.
24	784.07(2)(c)	2nd	Aggravated assault on law
25			enforcement officer.
26	784.074(1)(b)	2nd	Aggravated assault on sexually
27			violent predators facility staff.
28	784.08(2)(b)	2nd	Aggravated assault on a person 65
29			years of age or older.
30	784.081(2)	2nd	Aggravated assault on specified
31			official or employee.

1	784.082(2)	2nd	Aggravated assault by detained
2			person on visitor or other
3			detainee.
4	784.083(2)	2nd	Aggravated assault on code
5			inspector.
6	787.02(2)	3rd	False imprisonment; restraining
7			with purpose other than those in
8			s. 787.01.
9	790.115(2)(d)	2nd	Discharging firearm or weapon on
10			school property.
11	790.161(2)	2nd	Make, possess, or throw
12			destructive device with intent to
13			do bodily harm or damage
14			property.
15	790.164(1)	2nd	False report of deadly explosive
16			or act of arson or violence to
17			state property.
18	790.19	2nd	Shooting or throwing deadly
19			missiles into dwellings, vessels,
20			or vehicles.
21	794.011(8)(a)	3rd	Solicitation of minor to
22			participate in sexual activity by
23			custodial adult.
24	794.05(1)	2nd	Unlawful sexual activity with
25			specified minor.
26	800.04(5)(d)	3rd	Lewd or lascivious molestation;
27			victim 12 years of age or older
28			but less than 16 years; offender
29			less than 18 years.
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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)1.	2nd	Property stolen \$20,000 or more,
10			but less than \$100,000, grand
11			theft in 2nd degree.
12	812.014(2)(b)2.	2nd	Property stolen cargo valued at
13			less than \$50,000, grand theft in
14			2nd degree.
15	812.015(9)	2nd	Retail theft; property stolen
16			\$300 or more; second or
17			subsequent conviction.
18	812.13(2)(c)	2nd	Robbery, no firearm or other
19			weapon (strong-arm robbery).
20	817.034(4)(a)1.	1st	Communications fraud, value
21			greater than \$50,000.
22	817.4821(5)	2nd	Possess cloning paraphernalia
23			with intent to create cloned
24			cellular telephones.
25	825.102(1)	3rd	Abuse of an elderly person or
26			disabled adult.
27	825.102(3)(c)	3rd	Neglect of an elderly person or
28			disabled adult.
29	825.1025(3)	3rd	Lewd or lascivious molestation of
30			an elderly person or disabled
31			adult.

1	825.103(2)(c)	3rd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at less than \$20,000.
4	827.03(1)	3rd	Abuse of a child.
5	827.03(3)(c)	3rd	Neglect of a child.
6	827.071(2)&(3)	2nd	Use or induce a child in a sexual
7			performance, or promote or direct
8			such performance.
9	836.05	2nd	Threats; extortion.
10	836.10	2nd	Written threats to kill or do
11			bodily injury.
12	843.12	3rd	Aids or assists person to escape.
13	847.0135(3)	3rd	Solicitation of a child, via a
14			computer service, to commit an
15			unlawful sex act.
16	914.23	2nd	Retaliation against a witness,
17			victim, or informant, with bodily
18			injury.
19	943.0435(9)	3rd	Sex offenders; failure to comply
20			with reporting requirements.
21	944.35(3)(a)2.	3rd	Committing malicious battery upon
22			or inflicting cruel or inhuman
23			treatment on an inmate or
24			offender on community
25			supervision, resulting in great
26			bodily harm.
27	944.40	2nd	Escapes.
28	944.46	3rd	Harboring, concealing, aiding
29			escaped prisoners.
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1 944.47(1)(a)5. 2nd Introduction of contraband
2 (firearm, weapon, or explosive)
3 into correctional facility.
4 951.22(1) 3rd Intoxicating drug, firearm, or
5 weapon introduced into county
6 facility.

7 Section 3. This act shall take effect October 1, 2002.

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10 HOUSE SUMMARY

11 Increases the penalty for a third conviction of driving
12 under the influence to a third degree felony.
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