

By the Committee on Criminal Justice; and Senator Campbell

307-2658-04

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A bill to be entitled

An act relating to vehicular homicide; amending s. 782.071, F.S.; providing that operating a motor vehicle without having slept within the preceding 24 hours of an episode that results in death does not create, without additional competent evidence, a presumption that the person operated the vehicle in a reckless manner for purposes of vehicular-homicide provisions; providing an effective date.

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

Section 1. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.--"Vehicular homicide" is the killing of a human being, or the killing of a viable fetus by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

(1) Vehicular homicide is:

(a) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

1. At the time of the accident, the person knew, or should have known, that the accident occurred; and

2. The person failed to give information and render aid as required by s. 316.062.

1 This paragraph does not require that the person knew that the
2 accident resulted in injury or death.

3 (2) For purposes of this section, a fetus is viable
4 when it becomes capable of meaningful life outside the womb
5 through standard medical measures.

6 (3) Operating a motor vehicle without having slept
7 within the preceding 24 hours of the episode that resulted in
8 death does not give rise to a presumption that the defendant
9 operated the vehicle in a reckless manner for other than a
10 lawful purpose, but may be considered with other competent
11 evidence in determining whether the defendant operated the
12 vehicle in a reckless manner.

13 ~~(4)(3)~~ A right of action for civil damages shall exist
14 under s. 768.19, under all circumstances, for all deaths
15 described in this section.

16 ~~(5)(4)~~ In addition to any other punishment, the court
17 may order the person to serve 120 community service hours in a
18 trauma center or hospital that regularly receives victims of
19 vehicle accidents, under the supervision of a registered
20 nurse, an emergency room physician, or an emergency medical
21 technician pursuant to a voluntary community service program
22 operated by the trauma center or hospital.

23 Section 2. This act shall take effect July 1, 2004.

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25 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
26 COMMITTEE SUBSTITUTE FOR
27 Senate Bill 1324

28 The CS deletes the rebuttable presumption created by the
29 original bill and substitutes a permissive inference of
30 recklessness that may be reached by proof that the defendant
31 had not slept within 24 hours of the episode that resulted in
death.