

1 A bill to be entitled
 2 An act relating to driving under the influence; amending
 3 s. 316.193, F.S.; providing that, if a person drives under
 4 the influence of alcohol or a specified chemical or
 5 controlled substance and causes damage to property,
 6 serious bodily injury, or death to another human being or
 7 unborn quick child, a rebuttable presumption is created
 8 that the person caused or contributed to causing damage to
 9 property, serious bodily injury, or death to another human
 10 being or unborn quick child; amending s. 782.071, F.S.;
 11 providing that, if a person drives under the influence of
 12 alcohol or a specified chemical or controlled substance, a
 13 rebuttable presumption is created that the person operated
 14 a motor vehicle in a reckless manner likely to cause death
 15 or bodily injury to another human being; providing an
 16 effective date.

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

19
 20 Section 1. Subsections (1) and (3) of section 316.193,
 21 Florida Statutes, are amended to read:

22 316.193 Driving under the influence; penalties.--

23 (1) A person commits ~~is guilty of~~ the offense of driving
 24 under the influence and is subject to punishment as provided in
 25 subsection (2) if the person is driving or in actual physical
 26 control of a vehicle within this state and:

27 (a) The person is under the influence of alcoholic
 28 beverages, any chemical substance set forth in s. 877.111, or

29 | any substance controlled under chapter 893, when affected to the
 30 | extent that the person's normal faculties are impaired;

31 | (b) The person has a blood-alcohol level of 0.08 or more
 32 | grams of alcohol per 100 milliliters of blood; or

33 | (c) The person has a breath-alcohol level of 0.08 or more
 34 | grams of alcohol per 210 liters of breath.

35 | (3) Any person:

36 | (a) Who is in violation of subsection (1);

37 | (b) Who operates a vehicle; and

38 | (c) Who, by reason of such operation, causes or
 39 | contributes to causing:

40 | 1. Damage to the property or person of another commits a
 41 | misdemeanor of the first degree, punishable as provided in s.
 42 | 775.082 or s. 775.083.

43 | 2. Serious bodily injury to another, as defined in s.
 44 | 316.1933, commits a felony of the third degree, punishable as
 45 | provided in s. 775.082, s. 775.083, or s. 775.084.

46 | 3. The death of any human being or unborn quick child
 47 | commits DUI manslaughter, and commits:

48 | a. A felony of the second degree, punishable as provided
 49 | in s. 775.082, s. 775.083, or s. 775.084.

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

52 | (I) At the time of the crash, the person knew, or should
 53 | have known, that the crash occurred; and

54 | (II) The person failed to give information and render aid
 55 | as required by s. 316.062.

56 |

57 For purposes of this paragraph, any person who violates
 58 subsection (1) creates a rebuttable presumption that he or she
 59 caused or contributed to causing damage to property, serious
 60 bodily injury, or death to another human being or unborn quick
 61 child.

62
 63 For purposes of this subsection, the definition of the term
 64 "unborn quick child" shall be determined in accordance with the
 65 definition of viable fetus as set forth in s. 782.071.

66 Section 2. Section 782.071, Florida Statutes, is amended
 67 to read:

68 782.071 Vehicular homicide.--"Vehicular homicide" is the
 69 killing of a human being, or the killing of a viable fetus by
 70 any injury to the mother, caused by the operation of a motor
 71 vehicle by another in a reckless manner likely to cause the
 72 death of, or great bodily harm to, another.

73 (1) Vehicular homicide is:

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

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

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

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

82
 83 This paragraph does not require that the person knew that the
 84 accident resulted in injury or death.

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

88 (3) For purposes of this section, any person who violates
89 s. 316.193(1) creates a rebuttable presumption that he or she
90 operated a motor vehicle in a reckless manner likely to cause
91 death or bodily injury to a human being.

92 (4)~~(3)~~ A right of action for civil damages shall exist
93 under s. 768.19, under all circumstances, for all deaths
94 described in this section.

95 (5)~~(4)~~ In addition to any other punishment, the court may
96 order the person to serve 120 community service hours in a
97 trauma center or hospital that regularly receives victims of
98 vehicle accidents, under the supervision of a registered nurse,
99 an emergency room physician, or an emergency medical technician
100 pursuant to a voluntary community service program operated by
101 the trauma center or hospital.

102 Section 3. This act shall take effect July 1, 2006.