

HB 1193

2006  
CS

## CHAMBER ACTION

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1 The Criminal Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

21  
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Subsections (1) and (3) of section 316.193,  
25 Florida Statutes, are amended to read:

26 316.193 Driving under the influence; penalties.--

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

31 (a) The person is under the influence of alcoholic  
32 beverages, any chemical substance set forth in s. 877.111, or  
33 any substance controlled under chapter 893, when affected to the  
34 extent that the person's normal faculties are impaired;

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

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

39 (3) Any person:

40 (a) Who is in violation of subsection (1);

41 (b) Who operates a vehicle; and

42 (c) Who, by reason of such operation, causes or  
43 contributes to causing:

44 1. Damage to the property or person of another commits a  
45 misdemeanor of the first degree, punishable as provided in s.  
46 775.082 or s. 775.083.

47 2. Serious bodily injury to another, as defined in s.  
48 316.1933, commits a felony of the third degree, punishable as  
49 provided in s. 775.082, s. 775.083, or s. 775.084.

50 3. The death of any human being or unborn quick child  
51 commits DUI manslaughter, and commits:

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

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

56 (I) At the time of the crash, the person knew, or should  
57 have known, that the crash occurred; and

58 (II) The person failed to give information and render aid  
59 as required by s. 316.062.

60

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

66

67 For purposes of this subsection, the definition of the term  
68 "unborn quick child" shall be determined in accordance with the  
69 definition of viable fetus as set forth in s. 782.071.

70 Section 2. Section 782.071, Florida Statutes, is amended  
71 to read:

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

77 (1) Vehicular homicide is:

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

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

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

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

86

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

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

92 (3) For purposes of this section, any person who violates  
93 s. 316.193(1) creates a rebuttable presumption that he or she  
94 operated a motor vehicle in a reckless manner likely to cause  
95 death or great bodily harm to a human being.

96 (4)~~(3)~~ A right of action for civil damages shall exist  
97 under s. 768.19, under all circumstances, for all deaths  
98 described in this section.

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

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