

Bill No. SB 2468

Barcode 210516

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Smith) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. This act may be cited as "Jillian's Law."

Section 2. Subsections (1) and (3) of section 316.193,

Florida Statutes, are amended to read:

316.193 Driving under the influence; penalties.--

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

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

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

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

3 (3) Any person:

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

5 (b) Who operates a vehicle; and

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

8 1. Damage to the property or person of another commits
9 a misdemeanor of the first degree, punishable as provided in
10 s. 775.082 or s. 775.083.

11 2. Serious bodily injury to another, as defined in s.
12 316.1933, commits a felony of the third degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

24

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

30

31 For purposes of this subsection, the definition of the term

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1 "unborn quick child" shall be determined in accordance with
2 the definition of viable fetus as set forth in s. 782.071.

3 Section 3. Section 782.071, Florida Statutes, is
4 amended to read:

5 782.071 Vehicular homicide.--"Vehicular homicide" is
6 the killing of a human being, or the killing of a viable fetus
7 by any injury to the mother, caused by the operation of a
8 motor vehicle by another in a reckless manner likely to cause
9 the death of, or great bodily harm to, another.

10 (1) Vehicular homicide is:

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

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

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

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

19
20 This paragraph does not require that the person knew that the
21 accident resulted in injury or death.

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

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

29 (4)(3) A right of action for civil damages shall exist
30 under s. 768.19, under all circumstances, for all deaths
31 described in this section.

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1 ~~(5)(4)~~ In addition to any other punishment, the court
2 may order the person to serve 120 community service hours in a
3 trauma center or hospital that regularly receives victims of
4 vehicle accidents, under the supervision of a registered
5 nurse, an emergency room physician, or an emergency medical
6 technician pursuant to a voluntary community service program
7 operated by the trauma center or hospital.

8 Section 4. This act shall take effect July 1, 2006.

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11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete everything before the enacting clause

14

15 and insert:

16

 A bill to be entitled

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 An act relating to driving under the influence;

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 providing a short title; amending s. 316.193,

19

 F.S.; providing that, if a person drives under

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 the influence of alcohol or a specified

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 chemical or controlled substance and causes

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 damage to property or person, serious bodily

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 injury, or death to another human being or

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 unborn quick child, a rebuttable presumption is

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 created that the person caused or contributed

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 to causing damage to property or person,

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 serious bodily injury, or death to another

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 human being or unborn quick child; amending s.

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 782.071, F.S.; providing that, if a person

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 drives under the influence of alcohol or a

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 specified chemical or controlled substance, a

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1 rebuttable presumption is created that the
2 person operated a motor vehicle in a reckless
3 manner likely to cause death or great bodily
4 harm to another human being; providing an
5 effective date.

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