

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1589 Driving Without a Valid Driver License

SPONSOR(S): Criminal Justice Subcommittee, Plakon

TIED BILLS: **IDEN./SIM. BILLS:** SB 1324

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|----------------------------------|------------------|---------|--|
| 1) Criminal Justice Subcommittee | 13 Y, 3 N, As CS | Butcher | Hall |
| 2) Judiciary Committee | 13 Y, 7 N | Butcher | Kramer |

SUMMARY ANALYSIS

In Florida, unless exempted, a person may not drive a motor vehicle upon a highway unless he or she has a valid driver license issued under chapter 322, F.S. Under s. 322.34(2), F.S., a person whose driver license or driving privilege has been canceled, suspended, or revoked, or who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in s. 322.01(42), F.S., who, knowing of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives a motor vehicle upon a highway in Florida, commits a:

- Second degree misdemeanor, upon a first conviction.
- First degree misdemeanor, upon a second or subsequent conviction, and must serve 10 days in jail for a third or subsequent specified conviction.
- Third degree felony, upon a third or subsequent conviction *if* the current or most recent offense of driving while license suspended or revoked (DWLS) relates to a specified driving offense.

A person who drives without ever having been issued a valid driver license commits an offense of no valid driver license (NVDL) under s. 322.03, F.S. A violation for NVDL is a second degree misdemeanor and, unlike the penalty for DWLS, does not increase upon a second or subsequent conviction.

CS/HB 1589 amends s. 322.03, F.S., to revise the criminal penalties applicable to an offense of NVDL. Under the bill, a person commits a:

- Second degree misdemeanor, upon a first conviction.
- First degree misdemeanor, upon a second conviction.
- First degree misdemeanor, and must serve 10 days in jail for a third or subsequent conviction.

The bill specifies that the penalties under s. 322.03, F.S., for a violation of NVDL, do not apply to a violation of 316.212, F.S., relating to the operation of golf carts.

The bill may have a positive indeterminate impact on jail beds by increasing the penalty for a second or subsequent offense of NVDL and requiring a person convicted of a third or subsequent offense to serve a minimum of 10 days in jail, which may increase jail admissions and terms of incarceration.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Requirements to Obtain a Driver License

In Florida, unless exempted, a person may not drive a motor vehicle¹ upon a highway² unless he or she has a valid driver license issued under chapter 322, F.S.³ Generally, to obtain a Florida driver license, a person must:

- Be at least 16 years of age;
- Complete a drug, alcohol, and traffic awareness course; and
- Pass a driving knowledge exam and driving skills test.^{4,5}

A person younger than 18 years of age must also hold a learner's permit for a specified period of time, not be convicted of traffic infractions, and complete a specified amount of driving experience.⁶

Operating a Vehicle without a Valid Driver License

Driving While License Suspended, Revoked, Canceled, or Disqualified

Under s. 322.34(2), F.S, a person whose driver license or driving privilege has been canceled, suspended, or revoked, or who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in s. 322.01(42), F.S.,⁷ who, knowing of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives a motor vehicle upon a highway in Florida, commits a:

- Second degree misdemeanor, upon a first conviction.⁸
- First degree misdemeanor,⁹ upon a second or subsequent conviction, and must serve 10 days in jail for a third or subsequent specified conviction.¹⁰
- Third degree felony,¹¹ upon a third or subsequent conviction if the current or most recent offense of driving while license suspended or revoked (DWLS) relates to a violation for:
 - Driving under the influence;
 - Refusal to submit to a urine, breath-alcohol, or blood alcohol test;
 - A traffic offense causing death or serious bodily injury; or
 - Fleeing or eluding.¹²

¹ "Motor vehicle" means any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and electric bicycles as defined in s. 316.003, F.S. S. 322.01(28), F.S.

² "Street or highway" means the entire width between the boundary lines of a way or place if any part of that way or place is open to public use for purposes of vehicular traffic. S. 322.01(40), F.S.

³ S. 322.03, F.S.

⁴ *How to Get Your Florida Driver's License*, <https://www.stateofflorida.com/drivers-license-steps/> (last visited Feb. 14, 2024).

⁵ See also *General Information*, FLHSMV, <https://www.flhsmv.gov/driver-licenses-id-cards/general-information/> (last visited Feb. 14, 2024).

⁶ *Supra* note 4.

⁷ "Suspension or revocation equivalent status" is a designation for a person who does not have a driver license or driving privilege but would qualify for suspension or revocation of his or her driver license or driving privilege if licensed. The department may designate a person as having suspension or revocation equivalent status in the same manner as it is authorized to suspend or revoke a driver license or driving privilege by law.

⁸ S. 322.34(2)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine, as provided in s. 775.082 and s. 775.083, F.S.

⁹ A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine, as provided in s. 775.082 and s. 775.083, F.S.

¹⁰ S. 322.34(2)(b), F.S.

¹¹ A third degree felony is punishable by up to five years in prison and a \$5,000 fine, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

¹² S. 322.34(2)(c), F.S. A person whose third or subsequent DWLS qualifies as a third degree felony under s. 322.34(2)(c), F.S., is not subject to the minimum mandatory period of 10 days in jail that applies to a third or subsequent DWLS under s. 322.34(2)(b), F.S.

No Valid Driver License

A person who drives without ever having been issued a valid driver license commits an offense of no valid driver license (NVDL) under s. 322.03, F.S. A violation of NVDL is a second degree misdemeanor¹³ and, unlike the penalty for DWLS, does not increase upon a second or subsequent conviction.

Habitual Traffic Offender Designation

Under s. 322.264, F.S., a “habitual traffic offender” (HTO) is any person whose record, as maintained by the Department of Highway Safety and Motor Vehicles, shows that he or she has accumulated three or more convictions within five years, arising out of separate acts, of any one or more of the following offenses:

- Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;
- Driving under the influence offenses under ss. 316.193, former 316.1931, or former 860.01, F.S.;
- Any felony in the commission of which a motor vehicle is used;
- DWLS;
- Failing to stop and render aid as required in the event of a motor vehicle crash resulting in the death of or personal injury to another person;
- Driving a commercial motor vehicle while his or her privilege is disqualified; or
- Fifteen convictions for moving traffic offenses for which points may be assessed as set forth in s. 322.27, F.S.

A person who drives a motor vehicle upon a highway in Florida while designated as an HTO commits a third degree felony.¹⁴ Unlike DWLS convictions, a person does not qualify for HTO status based on NVDL convictions.¹⁵

Effect of Proposed Changes

CS/HB 1589 amends s. 322.03, F.S., to revise the criminal penalties applicable to an offense of NVDL. Under the bill, a person commits a:

- Second degree misdemeanor, upon a first conviction.
- First degree misdemeanor, upon a second conviction.
- First degree misdemeanor, and must serve 10 days in jail for a third or subsequent conviction.

The bill specifies that the penalties under s. 322.03, F.S., for a violation of NVDL, do not apply to a violation of 316.212, F.S., relating to the operation of golf carts.¹⁶

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 322.03, F.S., relating to drivers must be licensed; penalties.

Section 2: Amends s. 322.15, F.S., relating to license to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.

Section 3: Amends s. 322.291, F.S., relating to driver improvement schools or DUI programs; required in certain suspension and revocation cases.

¹³ S. 322.29, F.S.

¹⁴ S. 322.34(5), F.S.

¹⁵ NVDL is a criminal violation for which no points are assessed. See FLHSMV (revised July 1, 2023), https://www.flhsmv.gov/pdf/courts/utc/appendix_c.pdf (last visited Feb. 14, 2024).

¹⁶ A golf cart is a type of motor vehicle as defined in s. 320.01, F.S. Under s. 316.212(7), F.S., a golf cart may be operated on public roads or streets by a certain person not possessing a valid driver license, including a person: a) who is under 18 years of age and possesses a valid learner’s driver license or valid driver license; or b) who is 18 years of age or older who possesses a valid form of government-issued photographic identification. A person who violates s. 316.212, F.S., commits a noncriminal traffic infraction, punishable pursuant to chapter 318 as a nonmoving violation.

Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a positive indeterminate impact on jail beds by increasing the penalty for a second or subsequent offense of NVDL and requiring a person convicted of a third or subsequent offense of NVDL to serve 10 days in jail, which may increase jail admissions and terms of incarceration.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 30, 2024, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment made a technical change to clarify the provision

making the penalties under s. 322.03, F.S., inapplicable to a violation of s. 316.212, F.S., relating to the operation of golf carts.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.