

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 814

SPONSOR: Criminal Justice Committee and Senator Rossin

SUBJECT: DUI/BUI

DATE: April 20, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u></u>
3.	<u></u>	<u></u>	<u>FP</u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

The Committee Substitute for Senate Bill 814 amends s. 316.193, F.S., by enhancing penalties for persons who drive while under the influence of alcohol or drugs. The CS implements the following revisions:

- ▶ Increases the penalty for a fourth or subsequent DUI violation from a third to a second degree felony;
- ▶ Creates a penalty for DUI resulting in property damage which exceeds \$10,000 in value as a third degree felony (property damage at \$10,000 or less would remain a first degree misdemeanor);
- ▶ Increases the penalty for causing serious bodily injury from a third to a second degree felony;
- ▶ Increases the penalty for DUI manslaughter from a second to a first degree felony, but also deletes the language that provides a first degree felony offense if the person knew or should have known that an accident occurred and failed to give information or render aid;
- ▶ Lowers the blood-alcohol and breath-alcohol level from 0.20 to 0.16 for the purposes of imposing enhanced penalties for DUI; and
- ▶ Provides that a previous conviction for purposes of violating s. 316.193, F.S., includes alcohol or drug related boating offenses.

The CS also makes these same changes for persons “boating under the influence” by amending s. 327.35, F.S., to conform with the changes made in the DUI statute, s. 316.193, F.S.

This CS substantially amends the following sections of the Florida Statutes: 316.193, 327.35, 322.28, 921.0022, and 947.146.

II. Present Situation:

Section 316.193, F.S., proscribes the offense of driving under the influence of alcohol or drugs to the extent normal faculties are impaired or driving with a blood or breath alcohol level of .08

percent or higher (DUI). Penalties for DUI vary according to the frequency of previous convictions, the offender's blood alcohol level when arrested, and whether serious injury or death results.

Generally, modified misdemeanor penalties apply when there has been no property damage or personal injury (commonly referred to as **"simple" DUI**) and when there have been less than four DUI convictions. For example, a **first-time offender** is subject to a **fine ranging from \$250 to \$500**, as well as being subject to **serving up to 6 months in county jail**. In addition, an offender is subject to probation for up to 1 year and 50 hours of community service. However, if the convicted offender's blood or breath alcohol level (BAL) is *.20 percent or higher*, or a passenger under 18 years of age is present in the vehicle, then the *penalty is enhanced to a fine ranging from \$500 to \$1,000 and imprisonment not exceeding 9 months in jail*.

A **second "simple" DUI** conviction carries a **fine ranging from \$500 to \$1,000 and possible imprisonment up to 9 months in jail**. However, if that conviction occurs within 5 years of a previous DUI conviction, then there is a mandatory imprisonment time of at least 10 days. At least 48 hours of this confinement must be consecutive. *Enhanced penalties* also apply when the offender's BAL is *.20 percent or higher*, or when a passenger under the age of 18 is present in the vehicle to include a *fine ranging from \$1,000 to \$2,000 and imprisonment not exceeding 12 months*.

A **third or subsequent DUI** conviction carries a **fine ranging from \$1,000 to \$2,500 and possible imprisonment up to 12 months in jail**. However, if that conviction occurs within 10 years of a previous DUI conviction, then there is a 30-day minimum mandatory imprisonment sentence. At least 48 hours of this confinement must be consecutive. *Enhanced penalties* also apply when the offender's BAL is *.20 percent or higher*, or when a passenger under the age of 18 is present in the vehicle to include a *fine ranging from \$2,000 to \$5,000 and imprisonment not exceeding 12 months*.

A **fourth or subsequent DUI** conviction results in a **third degree felony** penalty, which means a **minimum fine of \$1,000 but not exceeding \$5,000 and imprisonment up to 5 years**. This felony is ranked as a level 6 offense in s. 921.0022, F.S., which means the penalty ranges from a non-state prison sanction up to 5 years in prison.

A DUI offense involving property damage results in a first degree misdemeanor penalty, punishable by a fine not exceeding \$1,000 and/or imprisonment up to 1 year in jail. A DUI offense involving serious injury results in a third degree felony, punishable by a fine not exceeding \$5,000 and/or imprisonment up to 5 years. A DUI offense resulting in death is a second degree felony, punishable by a fine not exceeding \$10,000 and/or imprisonment up to 15 years.

In addition to these criminal penalties, a DUI conviction also results in driver's license revocation under s. 322.28, F.S., as follows: at least 180 days to 1 year for a first conviction; at least 5 years for a second conviction within 5 years of a prior conviction; and at least 10 years for a third conviction within 10 years from the first of three or more prior convictions.

Section 327.35, F.S., provides penalties for boating under the influence (BUI) that are analogous to those provided in the DUI statute.

III. Effect of Proposed Changes:

This CS amends s. 316.193, F.S., by enhancing penalties for persons who drive while under the influence of alcohol or drugs. The CS implements the following revisions:

- ▶ Increases the penalty for a fourth or subsequent DUI violation from a third to a second degree felony;
- ▶ Creates a penalty for DUI resulting in property damage which exceeds \$10,000 in value as a third degree felony (property damage at \$10,000 or less would remain a first degree misdemeanor);
- ▶ Increases the penalty for causing serious bodily injury from a third to a second degree felony;
- ▶ Increases the penalty for DUI manslaughter from a second to a first degree felony, but also deletes the language that provides a first degree felony offense if the person knew or should have known that an accident occurred and failed to give information or render aid;
- ▶ Lowers the blood-alcohol and breath-alcohol level from 0.20 to 0.16 for the purposes of imposing enhanced penalties for DUI; and
- ▶ Provides that a previous conviction for purposes of violating s. 316.193, F.S., includes alcohol or drug related boating offenses.

The CS also makes these same changes for persons “boating under the influence” by amending s. 327.35, F.S., to conform with the changes made in the DUI statute, s. 316.193, F.S.

Similarly, the CS makes conforming changes in s. 921.0022, F.S., which contains the offense severity ranking chart in the Criminal Punishment Code.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Highway Safety and Motor Vehicles will require modifications to the driver license software system costing approximately \$10,800.

According to the Criminal Justice Estimating Conference, this CS will have “indeterminate with minimal expected fiscal impact.”

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.