

**STORAGE NAME:** h3257.cp

**DATE:** February 3, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CRIME AND PUNISHMENT  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3257

**RELATING TO:** Driving Under the Influence

**SPONSOR(S):** Rep.'s Sindler, Casey, Feeney and others.

**COMPANION BILL(S):** SB 554

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) CRIME AND PUNISHMENT
  - (2) CRIMINAL JUSTICE APPROPRIATIONS
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

**The bill reclassifies a third Driving Under the Influence (D.U.I.) conviction as a felony,** punishable by up to 5-years in prison and a fine of not less than \$2,500. If the blood-alcohol content (BAL) is over .20, or the driver is accompanied by a minor, then the minimum fine is raised to \$3,500 for a third offense.

The bill has an effective date of October 1, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**D.U.I. In Florida**

Florida's D.U.I. penalties are designed to address four related types of criminal conduct. The penalties vary for each as follows:

- 1) **Simple D.U.I.** -- For a first offense with no property damage or injury involved, the maximum penalty is a \$500 fine and 6-months in jail.
- 2) **D.U.I. With Property Damage** -- In the event of an accident, the maximum penalty is a \$1,000 fine and 9-months in jail.
- 3) **D.U.I. With Serious Bodily Injury** -- In the event of an accident resulting in serious bodily injury to another, the offense is reclassified as a 3rd-degree felony (maximum \$5,000 fine & 5-years in prison).
- 4) **D.U.I. Manslaughter** -- In the event of an accident caused by the offender which results in a death, the offense is reclassified as a 2nd-degree felony (maximum \$10,000 fine & 15-years in prison).

**Reclassification for Simple D.U.I.**

Even Simple D.U.I., which results in no property damage or injury to others is reclassified depending on the number of times an offender has already been convicted. The penalties for Driving Under the Influence in Florida, for successive convictions, as found in Section 316.193, F.S., are as follows:

**DRIVING UNDER THE INFLUENCE**

	<b>Incarceration (maximum)</b>	<b>Incarceration Over .20 BAL*</b>	<b>Fine</b>	<b>Fine Over .20 BAL*</b>
<b>1st Offense</b>	6 months jail	9 months jail	\$250 - \$500	\$500 - \$1,000
<b>2nd Offense</b>	9 months jail	12 months jail	\$500 - \$1,000	\$1,000 - \$2,000
<b>3rd Offense</b>	12 months jail	12 months jail	\$1,000 - \$2,500	\$2,000 - \$5,000
<b>4th Offense (felony)</b>	5 years prison	5 years prison	\$5,000	\$5,000

\* **BAL** -- Blood Alcohol Content

B. EFFECT OF PROPOSED CHANGES:

Under current law, four D.U.I. convictions are required for felony status. Under the bill, an offender's third D.U.I. conviction (and all subsequent convictions) will be punished as a felony, as follows:

**DRIVING UNDER THE INFLUENCE (D.U.I.)**

	<b>Incarceration (maximum)</b>	<b>Incarceration Over .20 BAL*</b>	<b>Fine</b>	<b>Fine Over .20 BAL*</b>
<b>1st Offense</b>	6 months jail	9 months jail	\$250 - \$500	\$500 - \$1,000
<b>2nd Offense</b>	9 months jail	12 months jail	\$500 - \$1,000	\$1,000 - \$2,000
<b>3rd Offense (felony)**</b>	5 years prison	5 years prison	\$2,500 - \$7,000	\$3,500 - \$7,000
<b>4th Offense (felony)</b>	same	same	same	same

\* **BAL** -- Blood Alcohol Content

\*\* The new third-degree felony offense for a 3rd D.U.I. conviction will, also, be ranked as a Level Six offense in the Offense Severity Ranking Chart, the same as a fourth conviction under current law. See, s. 921.0022, F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 316.193

E. SECTION-BY-SECTION RESEARCH:

**Section 1:** Enhances the penalties for a third D.U.I. conviction.

**Section 2:** Incorporates the enhanced penalty by reference to the offense severity ranking chart (s. 921.0022, F.S.)

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

4. Total Revenues and Expenditures:

See, Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See, Fiscal Comments.

2. Direct Private Sector Benefits:

See, Fiscal Comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

See, Fiscal Comments.

D. FISCAL COMMENTS:

At publication of this report, the Criminal Justice Estimating Conference had not met on this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Because the bill is a criminal law, it is exempt from the provisions of Article VII, Section 18 of the Florida Constitution.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce anyone's revenue raising authority.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce the state tax shared with counties and municipalities.

**V. COMMENTS:**

**Reclassification of Other Offenses**

The law already makes a third conviction for driving while license suspended (D.W.L.S.) a felony. There is no reason why a third conviction for a more serious offense such as D.U.I. should not also be made a felony, as well. However, an offender who commits a 1st D.W.L.S. will often receive a withhold of adjudication which does not count as a conviction. Therefore, a person often has to plea to 3 D.W.L.S.'s before the fourth is charged as a felony. On the other hand, a judge is required to impose an adjudication of guilt for all D.U.I. sentences.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

N/A

**VII. SIGNATURES:**

**COMMITTEE ON CRIME AND PUNISHMENT:**

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