

1984

## Session Law 84-359

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1984	Session Law No. 84-359	LOF Cite West, 1984, No. 7, p. 664	#pp 1
Prime Bill# HB 360	Sponsor Com Brc	Comp./Sim. Bills CS/CS/SB 469 (sub. for)	
JLMC Hist. Leg. Cites	Senate pp.#s 1984/pp. 102-103	House pp.#s 1984/pp. 121-122	#pp
Committee of Ref.	Senate JUDICIARY - (CRIMINAL (SB 469))	House CRIMINAL JUSTICE	Previous versions?

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H	HCMJ	84	Bill File HB 360	S. 19/305	
S	SJCR	84	Bill File CS/SB 469 L 31	S. 15/305	
S	STRN	84	Bill File CS/CS/SB 469	S. 15/305	

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp
HJ 294		5/3/84 Amends					
HJ 329		5/8/84 Amends					

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite
H		HCMJ <del>4/4/84</del> subcom.	4/9/84	7	414, 512
S		SJCR	4/17/84	2	225 301
S		STRN	5/18/84	2	625/301

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

# Florida Legislature

## History of Legislation 1984 Regular Session

RE: Ch. 84-359  
HB 360 (Passed)  
CS/SB 469 (Similar)



prepared by:

### Joint Legislative Management Committee

Legislative Information Division  
Capitol Building, Room 826 — 488-4371

07/10/84 16 32

HISTORY OF HOUSE BILLS

PAGE 121

02/17/84 HOUSE On Committee agenda-- Subcomm, Nat Resources, 212 HOB, 8 30am, 03/06

04/03/84 HOUSE Introduced, referred to Natural Resources -HJ 00039; Subreferred to Subcommittee on Environmental Quality

06/01/84 HOUSE Died in Committee on Natural Resources

H 0358 GENERAL BILL by Bell and others (Compare CS/S 0626)  
Health Facilities Authorities Law; reinstates provisions specifying tax-exempt status of health facility projects & bonds issued under said law, specifies status of homes for aged with respect to ad valorem tax exemption. Reenacts & amends 154 233. Effective Date Upon becoming law

01/25/84 HOUSE Prefiled

02/09/84 HOUSE Referred to Finance & Taxation, Appropriations

02/17/84 HOUSE On Committee agenda-- Subcomm, Finance & Tax, 21 HOB, 1 30 pm, 03/07/84

03/09/84 HOUSE On Committee agenda-- Finance & Tax, 21 HOB, 1:30 pm, 03/14/84

04/03/84 HOUSE Introduced, referred to Finance & Taxation, Appropriations -HJ 00039; On Committee agenda-- Finance & Tax, 21 HOB, 3 30 pm, 04/03/84

04/04/84 HOUSE Comm. Report, Favorable by Finance & Taxation -HJ 00121, Now in Appropriations

05/02/84 HOUSE Withdrawn from Appropriations -HJ 00286; Placed on Calendar

05/18/84 HOUSE Placed on Special Order Calendar

05/23/84 HOUSE Placed on Consent Calendar

05/22/84 HOUSE Read second time; Amendments adopted, Iden./Sim Senate Bill substituted, Laid on table under Rule, Iden./Sim /Compare Bill passed, refer to CS/SB 628 (Ch 84-138) -HJ 00531

H 0359 GENERAL BILL by Bell and others (Similar S 0281)  
Senior Management Service System; authorizes Administration Dept. to contract with persons to conduct executive searches to recruit applicants for Senior Management Service under certain conditions. Amends 110 403 Effective Date 05/28/84

01/25/84 HOUSE Prefiled

02/09/84 HOUSE Referred to Retirement, Personnel & Collective Bargaining, Appropriations

02/17/84 HOUSE On Committee agenda-- Subcomm., Retirement, 317 C, 1:00 pm, 03/07/84

03/09/84 HOUSE On Committee agenda, pending subcommittee action-- Retirement, 03/14/84, CANCELLED

04/03/84 HOUSE Introduced, referred to Retirement, Personnel & Collective Bargaining, Appropriations -HJ 00039, On Committee agenda-- Retirement, 317 C, 3 30 pm, 04/03/84

04/04/84 HOUSE Comm Report Favorable by Retirement, Personnel & Collective Bargaining -HJ 00122; Now in Appropriations

04/16/84 HOUSE Withdrawn from Appropriations -HJ 00212. Placed on Calendar

04/26/84 HOUSE Placed on Special Order Calendar

05/08/84 HOUSE Read second time; Amendment adopted -HJ 00331

05/09/84 HOUSE Read third time; Passed as amended, YEAS 108 NAYS 0 -HJ 00344

05/11/84 SENATE In Messages

05/15/84 SENATE Received, referred to Personnel, Retirement and Collective Bargaining, Appropriations -SJ 00261

05/17/84 SENATE Withdrawn from Personnel, Retirement and Collective Bargaining, Appropriations, Substituted for SB 281, Passed, YEAS 32 NAYS 0 -SJ 00319, Immediately certified -SJ 00326

05/17/84 Ordered enrolled

05/22/84 HOUSE Signed by Officers and presented to Governor -HJ 00533

05/28/84 Approved by Governor Chapter No. 84-48 -HJ 00915

H 0360 GENERAL BILL by Combee, Evans-Jones and others (Similar CS/S 0469, Compare H 0316, H 0479, H 0485, H 0535, H 0789, S 0239, S 0289, S 0380, S 0851, S 1064, Eng/S 1073)

CONTINUED ON NEXT PAGE

07/10/84 16.32

HISTORY OF HOUSE BILLS

PAGE 122

Driving Under the Influence; specifies DUI crime elements, provides out-of-state convictions count as previous convictions, provides for community service in lieu of fine, provides for driver's license suspension of persons charged with certain offenses, etc. Amends Chs 316, 322, 320, 318, 562 Effective Date 10/01/84

01/25/84 HOUSE Prefiled

02/09/84 HOUSE Referred to Criminal Justice

02/22/84 HOUSE Subreferred to Subcommittee on Criminal Code

03/09/84 HOUSE On Committee agenda-- Subcomm, Criminal Just 03/12/74, CANCELLED

04/03/84 HOUSE Introduced, referred to Criminal Justice -HJ 00039; Subreferred to Subcommittee on Criminal Code, On Committee agenda-- Subcomm, Criminal Justice, 314 HOB, 3.30pm, 04/04

04/13/84 HOUSE Comm Report Favorable with amend placed on Calendar by Criminal Justice -HJ 00207

04/19/84 HOUSE Placed on Special Order Calendar

05/03/84 HOUSE Read second time; Amendments adopted -HJ 00294

05/08/84 HOUSE Read third time -HJ 00326, Amendments adopted, Pending roll call -HJ 00329

05/21/84 HOUSE Amendments adopted, Passed as amended, YEAS 109 NAYS 1 -HJ 00499

05/22/84 SENATE In Messages

05/24/84 SENATE Received, referred to Judiciary-Criminal, Appropriations -SJ 00405

06/01/84 SENATE Withdrawn from Judiciary-Criminal, Appropriations; Substituted for CS/CS/SB 469 -SJ 00718; Passed as amended, YEAS 36 NAYS 0 -SJ 00725

06/01/84 HOUSE In Messages; Concurred, Passed as further amended, YEAS 107 NAYS 0 -HJ 01126

06/01/84 Ordered engrossed, then enrolled

06/14/84 HOUSE Signed by Officers and presented to Governor

06/29/84 Approved by Governor Chapter No 84-359

H 0361 GENERAL BILL by Liberti  
Liability of Political Subdivisions, authorizes incorporated cities & towns to purchase liability insurance, provides liability restrictions for political subdivisions & provides exceptions, authorizes insurance coverage in excess of liability limits, etc Amends 286.28, 768.28 Effective Date: Upon becoming law

01/25/84 HOUSE Prefiled

02/09/84 HOUSE Referred to Judiciary, Appropriations

04/03/84 HOUSE Introduced, referred to Judiciary, Appropriations -HJ 00039

06/01/84 HOUSE Died in Committee on Judiciary

H 0362 GENERAL BILL by Liberti (Identical S 0103)  
Public Utilities, prohibits consideration by Public Service Commission of certain requests for rate changes by public utilities within specified time after certain public hearings on rate changes Amends 366 06 Effective Date: 10/01/84

01/25/84 HOUSE Prefiled

02/09/84 HOUSE Referred to Regulated Industries & Licensing

02/15/84 HOUSE Subreferred to Subcommittee on Public Utilities

04/03/84 HOUSE Introduced, referred to Regulated Industries & Licensing -HJ 00039, Subreferred to Subcommittee on Public Utilities

06/01/84 HOUSE Died in Committee on Regulated Industries & Licensing

H 0363 GENERAL BILL by Liberti (Identical S 0642, Compare CS/S 0399)  
Building Construction Standards, provides for establishment of program to certify certain building code administration & building inspection personnel; provides for examination & fees, creates Building Inspector Certification Trust Fund; provides penalty, etc Creates 553 781. Effective Date 07/01/84.

01/25/84 HOUSE Prefiled

02/09/84 HOUSE Referred to Regulatory Reform, Finance & Taxation, Appropriations

02/15/84 HOUSE Subreferred to Subcommittee on Department of

CONTINUED ON NEXT PAGE

07/10/84 16 32

HISTORY OF SENATE BILLS

PAGE 161

04/03/84 Consumer Affairs, Commerce -SJ 00042  
 04/11/84 SENATE On Committee agenda-- ECCA, 04/11/84, Temporarily postponed  
 04/13/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 04/26/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 05/09/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 05/21/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 06/01/84 SENATE Died in Committee on Economic, Community and Consumer Affairs

S 0465 GENERAL BILL by Jennings and others (Similar H 1167, Compare Eng/H 0747, S 0488, S 0945)  
Building Standards, specifies minimum electrical standards & state minimum bldg codes, specifies thermal efficiency standards, changes name of Fla Model Energy Efficiency Code for Bldg Construction, exempts certain buildings from accessibility requirements, etc Amends Ch 553 Effective Date 10/01/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Economic, Community and Consumer Affairs  
 04/03/84 SENATE Introduced, referred to Economic, Community and Consumer Affairs -SJ 00042  
 04/09/84 SENATE On Committee agenda-- ECCA, 04/11/84, 9 00 am, Rm. H  
 04/11/84 SENATE Comm Report, Favorable, placed on Calendar by Economic, Community and Consumer Affairs -SJ 00120  
 05/30/84 SENATE Placed on Consent Calendar, Passed as amended; YEAS 35 NAYS 0 -SJ 00548  
 05/30/84 HOUSE In Messages  
 05/31/84 HOUSE Received, placed on Calendar -HJ 00922  
 06/01/84 HOUSE Read second time, Amendments adopted; Read third time, Passed as amended, YEAS 113 NAYS 0 -HJ 01163  
 06/01/84 SENATE In Messages, Concurred, Passed as amended, YEAS 35 NAYS 0  
 06/01/84 Ordered engrossed, then enrolled -SJ 00939  
 06/14/84 SENATE Signed by Officers and presented to Governor  
 06/19/84 Approved by Governor Chapter No. 84-273

S 0466 GENERAL BILL by Jennings (Similar H 0430, Compare CS/H 0801, S 0947)  
Credit Union Guaranty Act, deletes provision authorizing Fla Credit Union Guaranty Corporation, Inc, to refund amount not to exceed 90% of member's investment; provides that annual & special assessments be considered payment by member credit union into the loss reserve, etc Amends 657 258 Effective Date 05/31/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Commerce  
 04/03/84 SENATE Introduced, referred to Commerce -SJ 00042  
 04/13/84 SENATE On Committee agenda-- Commerce, 04/17/84, 9 00 am, Rm A  
 04/16/84 SENATE Extension of time granted Committee Commerce  
 04/17/84 SENATE Comm Report Favorable, placed on Calendar by Commerce -SJ 00149  
 05/01/84 SENATE Placed on Special Order Calendar, Passed; YEAS 35 NAYS 0 -SJ 00198  
 05/02/84 HOUSE In Messages  
 05/03/84 HOUSE Received, placed on Calendar -HJ 00291  
 05/07/84 HOUSE Placed on Special Order Calendar  
 05/14/84 HOUSE Substituted for HB 430, Read second time -HJ 00403  
 05/16/84 HOUSE Read third time, Passed, YEAS 112 NAYS 0 -HJ 00423  
 05/18/84 Ordered enrolled -SJ 00349  
 05/24/84 SENATE Signed by Officers and presented to Governor -SJ 00432  
 05/31/84 Approved by Governor Chapter No 84-74 -SJ 00598

S 0467 GENERAL BILL by Vogt (Compare CS/H 0447, H 0642, CS/H 0880, CS/S 0399)  
Building Construction Standards, provides that enforcing agency may issue certain building permits to licensed building contractor, within scope of his license, as well as to a licensed general contractor,  
 CONTINUED ON NEXT PAGE

07/10/84 16 32

HISTORY OF SENATE BILLS

PAGE 162

defines such contractor's responsibility re permitted project Amends 553 79 Effective Date Upon becoming law  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Economic, Community and Consumer Affairs  
 04/03/84 SENATE Introduced, referred to Economic, Community and Consumer Affairs -SJ 00042  
 04/13/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs, On Committee agenda-- ECCA, 04/17/84, 9.00 am, Rm H  
 04/17/84 SENATE Comm Report, Favorable, placed on Calendar by Economic, Community and Consumer Affairs -SJ 00149  
 04/25/84 SENATE Placed on Special Order Calendar, Iden /Sim House Bill substituted; Laid on table under Rule, Iden./Sim /Compare Bill passed, refer to CS/HB 447 (Ch 84-24) & CS/SB 399 (Ch 84-365) -SJ 00177

S 0468 GENERAL BILL by Jennings (Identical H 1061)  
Workers' Compensation, requires Senate confirmation for appointment of workers' compensation deputy commissioners Amends 440 45 Effective Date, 10/01/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Executive Business, Rules and Calendar  
 04/03/84 SENATE Introduced, referred to Executive Business, Rules and Calendar -SJ 00042  
 04/09/84,SENATE On Committee agenda-- Executive Business, 04/11/84, 9 00 am, Rm. F  
 04/11/84 SENATE Comm Report: Favorable by Executive Business; Now in Rules and Calendar -SJ 00102  
 04/20/84 SENATE Extension of time granted Committee Rules and Calendar  
 04/25/84 SENATE Withdrawn from Rules and Calendar -SJ 00178, Placed on Calendar  
 05/02/84 SENATE Placed on Special Order Calendar; Passed, YEAS 40 NAYS 0 -SJ 00214  
 05/08/84 HOUSE In Messages  
 05/09/84 HOUSE Received, referred to Judiciary -HJ 00338  
 05/22/84 HOUSE On Committee agenda-- Judiciary, 413 C, 1 00 pm, 05/23/84  
 05/24/84 HOUSE Comm. Report Favorable with amend, placed on Calendar by Judiciary -HJ 00663  
 06/01/84 HOUSE Died on Calendar

S 0469 GENERAL BILL/CS by Transportation, Judiciary-Criminal, Jenne, Dunn, Langley, Rehm and others (Similar Eng/H 0360, Compare H 0316, H 0367, H 0479, H 0485, H 0535, S 0239, S 0289, S 0380, S 0698, S 1084)  
(CS/CS) Driving Under the Influence, specifies elements of DUI crime, provides out-of-state convictions count as previous convictions, provides for community service in lieu of fine; increases penalties for causing certain injuries, etc Amends Chs 316, 322, 901. Effective Date, 10/01/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Judiciary-Criminal, Transportation, Appropriations  
 04/03/84 SENATE Introduced, referred to Judiciary-Criminal, Transportation, Appropriations -SJ 00042  
 04/13/84 SENATE On Committee agenda-- Judiciary-Criminal, 04/17/84, 9:00 am, Rm C  
 04/16/84 SENATE Extension of time granted Committee Judiciary-Criminal  
 04/17/84 SENATE CS combines this bill and 698,239&380; Comm. Report CS by Judiciary-Criminal -SJ 00150, CS read first time 04/20/84 -SJ 00155  
 04/18/84 SENATE Now in Transportation -SJ 00150  
 04/27/84 SENATE Extension of time granted Committee Transportation  
 05/10/84 SENATE Extension of time granted Committee Transportation  
 05/16/84 SENATE On Committee agenda-- Transportation, 05/18/84, 9 00 am, Rm C  
 05/18/84 SENATE Comm Report CS/CS by Transportation -SJ 00340, CS read first time 05/23/84 -SJ 00341  
 05/22/84 SENATE Now in Judiciary-Civil -SJ 00340  
 05/23/84 SENATE Withdrawn from Judiciary-Civil -SJ 00388, Now in  
 CONTINUED ON NEXT PAGE

05/23/84 Appropriations  
 05/24/84 SENATE On Committee agenda-- Appropriations, 05/24/84, 1 30 pm, Not heard -SJ 00406  
 05/30/84 SENATE Withdrawn from Appropriations -SJ 00571, Placed on Calendar  
 06/01/84 SENATE Placed on Consent Calendar, Iden /Sim House Bill substituted -SJ 00718, Laid on table under Rule, Iden /Sim /Compare Bill passed, refer to HB 360 (Ch 84-359) -SJ 00725

S 0470 GENERAL BILL/CS by Commerce, Vogt (Similar H 0824)  
Boiler Safety Act, creates said act, provides for regulation of boiler safety by Insurance Dept , provides for rules, requires new & existing boilers to comply with specified standards, provides for chief inspector, deputy inspectors, & special inspectors, requires inspection certificates, etc. Effective Date: 10/01/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Commerce, Appropriations  
 04/03/84 SENATE Introduced, referred to Commerce, Appropriations -SJ 00042  
 04/16/84 SENATE Extension of time granted Committee Commerce  
 04/19/84 SENATE On Committee agenda-- Commerce, 04/24/84, 2 00 pm, Rm A  
 04/24/84 SENATE Comm Report. CS by Commerce -SJ 00180, CS read first time 04/27/84 -SJ 00187  
 04/26/84 SENATE Now in Appropriations -SJ 00180  
 05/04/84 SENATE Extension of time granted Committee Appropriations  
 05/17/84 SENATE Extension of time granted Committee Appropriations  
 05/30/84 SENATE Extension of time granted Committee Appropriations  
 06/01/84 SENATE Died in Committee on Appropriations

S 0471 GENERAL BILL by Vogt  
Building Sciences, authorizes creation of Fla Consultative Council of National Institute of Building Science as a nongovernmental nonprofit corporation, provides powers & duties, provides for gubernatorial appointment of one member; requires reports Effective Date Upon becoming law  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Economic, Community and Consumer Affairs, Governmental Operations  
 04/03/84 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Governmental Operations -SJ 00042  
 04/13/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 04/26/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 05/09/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs  
 05/14/84 SENATE On Committee agenda-- ECCA, 05/16/84, 2 00 pm, Rm H  
 05/16/84 SENATE Comm Report Favorable by Economic, Community and Consumer Affairs -SJ 00328  
 05/18/84 SENATE Now in Governmental Operations -SJ 00328  
 06/01/84 SENATE Died in Committee on Governmental Operations

S 0472 GENERAL BILL by Hill (Compare CS/H 0803, Eng/S 0777)  
Parl-Mutuel Wagering; provides for certain unclaimed ticket moneys to be paid to certain associations Amends 550 263 Effective Date Upon becoming law  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Commerce, Appropriations  
 04/03/84 SENATE Introduced, referred to Commerce, Appropriations -SJ 00042  
 04/16/84 SENATE Extension of time granted Committee Commerce  
 04/30/84 SENATE Extension of time granted Committee Commerce  
 05/11/84 SENATE Extension of time granted Committee Commerce  
 05/16/84 SENATE On Committee agenda-- Commerce, Temporarily postponed  
 05/24/84 SENATE Extension of time granted Committee Commerce  
 06/01/84 SENATE Died in Committee, Iden /Sim /Compare Bill passed, refer to SB 777 (Ch 84-282)

S 0473 GENERAL BILL by Hill (Similar H 0816)  
Telephone Company Regulation, excludes certain entities from meaning of "telephone company" Amends 364 02 Effective Date: 10/01/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Commerce  
 04/03/84 SENATE Introduced, referred to Commerce -SJ 00042, On Committee agenda-- Commerce, 04/04/84, 9 00 am, Rm A  
 04/04/84 SENATE Comm Report Favorable, placed on Calendar by Commerce -SJ 00086  
 04/18/84 SENATE Placed on Special Order Calendar: Passed; YEAS 38 NAYS 0 -SJ 00147  
 04/25/84 HOUSE In Messages  
 05/02/84 HOUSE Received, placed on Calendar -HJ 00278  
 05/10/84 HOUSE Placed on Special Order Calendar  
 05/17/84 HOUSE Substituted for HB 816, Read second time, Amendment adopted -HJ 00458  
 05/18/84 HOUSE Read third time; Amendment reconsidered, substitute amendment adopted, Passed as amended; YEAS 95 NAYS 0 -HJ 00471; Immediately certified  
 05/18/84 SENATE In Messages  
 05/23/84 SENATE Concurred; Passed as amended; YEAS 31 NAYS 0  
 05/23/84 Ordered engrossed, then enrolled -SJ 00347  
 05/30/84 SENATE Signed by Officers and presented to Governor -SJ 00596  
 06/15/84 Became Law without Governor's Signature Chapter No 84-215

S 0474 GENERAL BILL by Hill (Similar H 0721, Compare H 0314, H 0864, S 0066)  
Name Designations, designates S.R 123 in Okaloosa Co as "Roger J Clary Highway", designates certain parts of Water Conservation Area 3-B of SFWMD as Francis B. Taylor Wildlife Management Area; names certain overpass in Seminole Co the Sidney O Chase, Jr Overpass, etc Effective Date 05/31/84  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Natural Resources and Conservation  
 04/03/84 SENATE Introduced, referred to Natural Resources and Conservation -SJ 00042  
 04/10/84 SENATE On Committee agenda-- Natural Res & Cons 04/12/84, 9 30 am, Rm. H  
 04/12/84 SENATE Comm. Report. Favorable, placed on Calendar by Natural Resources and Conservation -SJ 00120  
 04/25/84 SENATE Placed on Special Order Calendar; Passed as amended; YEAS 37 NAYS 0 -SJ 00176  
 05/01/84 HOUSE In Messages  
 05/02/84 HOUSE Received, placed on Calendar -HJ 00280  
 05/03/84 HOUSE Placed on Special Order Calendar  
 05/09/84 HOUSE Substituted for HB 721; Read second time -HJ 00350  
 05/10/84 HOUSE Read third time; Amendments adopted, Passed as amended, YEAS 95 NAYS 6 -HJ 00362  
 05/14/84 SENATE In Messages  
 05/16/84 SENATE Concurred -SJ 00281, Passed as amended; YEAS 31 NAYS 0  
 05/16/84 Ordered engrossed, then enrolled -SJ 00282  
 05/24/84 SENATE Signed by Officers and presented to Governor -SJ 00432  
 05/31/84 Approved by Governor Chapter No 84-378 -SJ 00598

S 0475 JOINT RESOLUTION by Langley (Identical H 0881)  
Alcoholic Beverages, constitutional amendment to prohibit sale or delivery of alcoholic beverages to, or possession by, any person under 21 years of age; permits exemption, by general law, of certain identified persons, etc Creates s 15, Art X  
 03/07/84 SENATE Prefiled  
 03/26/84 SENATE Referred to Judiciary-Civil, Rules and Calendar  
 04/03/84 SENATE Introduced, referred to Judiciary-Civil, Rules and Calendar -SJ 00042  
 04/13/84 SENATE Extension of time granted Committee Judiciary-Civil  
 04/27/84 SENATE Extension of time granted Committee Judiciary-Civil  
 05/11/84 SENATE Extension of time granted Committee Judiciary-Civil  
 05/25/84 SENATE Extension of time granted Committee Judiciary-Civil  
 06/01/84 SENATE Died in Committee on Judiciary-Civil

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# Bill Analysis



## FLORIDA HOUSE OF REPRESENTATIVES

H. Len Moffitt, Speaker Steve Pajcic, Speaker pro tempore  
Committee on Criminal Justice

Elvin L. Martinez  
Chairman

Harold W. Speer  
Vice Chairman

HB 360 by Rep. Combee  
relating to driving under  
the influence while intoxicated

DATE: March 2, 1984

REVISED: April 12, 1984

OTHER COMMITTEES OF REFERENCE:  
None

REVISED: \_\_\_\_\_

SENATE BILL: \_\_\_\_\_

I. SUMMARY

A. PRESENT SITUATION:

Section 316.193, Florida Statutes, contains the penalty provisions for DUI and DWI cases. For first time offenders, the court must impose the following sentences:

- 1) A fine of \$250 to \$500.
- 2) Imprisonment up to 6 months.
- 3) Required attendance at substance abuse course and payment of costs incurred.
- 4) Probation for up to one year.
- 5) Required participation in public service or a community work project for at least 50 hours.

B. EFFECT OF PROPOSED CHANGES:

The bill would allow the court in its discretion, to permit satisfaction of the fine imposed on a financially indigent defendant through additional public service or community work, calculated to the minimum wage.

For example, an indigent defendant unable to pay a \$500 fine could be ordered by the court to perform an additional 149 hours of public or community service.

Page 2

II. FISCAL IMPACT

None apparent

III. COMMENTS

There appears to be a current problem in the penalty provisions of the DUI and DWI statutes in sentencing a defendant to pay a fine when he is financially unable to do so. Constitutional problems arise when indigent defendants are ordered to jail for failure to pay fines. Several judges throughout the State have called within the last year seeking assistance on the proper way to proceed with the imposition of fines upon indigent defendants. This bill would provide an alternative method of sentencing in the element of fines. It should be pointed out that the court could initially order the payment of the fine, place the defendant on probation, and then order additional public or community service if he finds the defendant has a continuing inability to pay the fine.

IV. AMENDMENTS

The amendment, adopted originally in subcommittee, eliminates the requirement that additional public service or community work be computed at the federal minimum wage.

The amendment would allow the court to set the value of such work, permitting consideration of variation in the services provided.

Staff Director:

  
J. Thomas Wright

Copy to Sponsor: March 2, 1984



of revenues which they are legally and morally entitled to, resulting in higher prices for these services to the approximately 13 million subscribers who are paying for these services". This research estimates that the amount of pay television theft was approximately \$371 million in 1981. This figure includes approximately \$297 million for cable theft, \$11.9 million for satellite earth station theft, \$11.9 million for Multipoint Distribution Service (MDS) theft, and \$25 million for Subscription Television (STV) theft. This research also suggested that there are other indirect costs associated with the theft of television services related to auditing and other security measures, employee turnover, lost revenue to movie distributors and artists, and losses in goodwill with paying subscribers.

The provisions of this bill could result in an increase in prosecutions for this offense with an indirect impact on other components of the criminal justice system.

III. COMMENTS

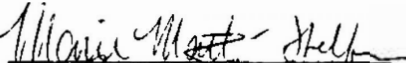
None

IV. AMENDMENTS

Prepared by:

  
Richard Whitaker

Fiscal Impact by:

  
Marie Mattox-Shelfer

Staff Director:

  
J. Thomas Wright

Copy to Sponsor: March 2, 1984

FINAL UPDATE: July 5, 1984

REVISED: April 17, 1984

BILL NO. CS/SB 469, 698, 239, 380

DATE: April 13, 1984

Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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NOTE: This analysis reflects the nature of the bill as it left the Committee on Judiciary-Criminal. Any further changes to the bill are not included in this analysis. See the "Comments" section for the final procedural action taken by the Legislature.

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<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Duqger</u> <i>DP</i>	<u>Liepshutz</u>	1. <u>JCR</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>TR</u>	_____
3. _____	_____	3. <u>AP</u>	_____

SUBJECT:

Highway Safety

BILL NO. AND SPONSOR:

CS/SB 469, 698, 239, 380 by  
Senators Jenne, Weinstein,  
Langley, Dunn, Rehm,  
Castor and Fox

I. SUMMARY:

A. Present Situation:

Chapter 316, Florida Statutes, which provides for highway safety, contains provisions relating to driving a vehicle under the influence of alcohol or drugs: driving under the influence (DUI), driving with an unlawful blood alcohol level (DUBAL), and driving while intoxicated (DWI). Several of these provisions will be discussed as follows:

Section 316.193 makes it a crime for anyone to drive or be in physical control of a vehicle when he is under the influence of alcohol or drugs, or when his blood alcohol level is .10% or higher. In construing this section, some confusion exists in the courts as to whether it creates two separate offenses (DUI and DUBAL) or whether it creates one offense (DUI), which is provable two different ways (DUI or DUBAL). Also, the Second District Court of Appeal held that a defendant charged with DUI was entitled to a jury trial, but a defendant charged with DWI or DUBAL was not because s. 316.193(4) specifically provides for a jury trial for DUI, but not for DWI or DUBAL. Caverly v. State, 436 So.2d 191 (Fla. 2nd DCA 1983).

Section 316.193 imposes mandatory fines, in addition to other penalties, on a person convicted of drunk driving (DUI, DWI, or DUBAL). In practice, many judges as a condition of probation, allow installment payments of these fines if the offender is unable to pay. Community service hours, however, can not be imposed as a condition of probation in lieu of payment of the mandatory fines. State v. Muoio, 438 So.2d 160 (Fla. 2nd DCA 1983).

A previous out of state conviction for any alcohol or drug related offense substantially similar to Florida's does not

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presently constitute a previous conviction for purposes of being counted as a violation of Florida's DUI, DUBAL, or DWI laws.

It is unlawful for any person to drive, be in physical control of a vehicle, or operate a vehicle "over the highways, streets, or thoroughfares of Florida" while intoxicated or under the influence of drugs to the extent that he is deprived of full possession of his normal faculties (DWI). Currently, this language does not appear to cover parking lots or private property.

A person who causes property damage or personal injury to another short of death, as a result of driving intoxicated or drugged, is guilty of a first degree misdemeanor. However, section 316.1931 makes no distinction between bodily injury which is serious and that which is less serious for purposes of punishment. On the other hand, if death occurs as a result of such driving, that person is guilty of manslaughter, a second degree felony.

Section 316.193 and s. 316.1931 prohibit DUI and DWI while under the influence of alcohol, controlled substances, or chemical substances, but there is no statutory authority for testing for chemical substances. Furthermore, urine tests do not test for impairment, but rather test for the presence of drugs.

Only doctors, registered nurses, licensed clinical laboratory technologists or technicians, or certified paramedics, at the request of a law enforcement officer, may withdraw blood to determine the presence of alcohol or drugs. These people are protected from liability if they properly withdraw the blood. Licensed practical nurses are not authorized to do so. A few appellate courts have held the blood tests are inadmissible as evidence if the law enforcement officer did not request such tests to be administered or if the test was administered by a hospital intern. Campbell v. State, 423 So.2d 488 (Fla. 1st DCA 1982), State v. Roose, 9 FLW 623 (Fla. 3rd DCA 1984). Although a person must be arrested before the breath or urine test is administered, the Florida Supreme Court held that no arrest is necessary prior to administering a blood test. State v. Mitchell, 245 So.2d 618 (Fla. 1971).

Section 396.112 provides for the confidentiality of records relating to alcohol treatment but it is unclear how far this privilege extends when it concerns release of hospital records in connection with a DUI or DWI violation.

According to a traffic court rule, the prosecutor is responsible for completing a traffic citation, but in felony cases, there is no such rule or statute providing who is responsible for completing such citation.

Currently s. 322.271 requires proof of completion of an approved driver's training course for all persons whose license has been suspended, including suspension under the point system, before such persons can be eligible for a "hardship license" (restricted to business use only). A person who has been convicted two or more times of DUI, DUBAL, or DWI is not eligible for a "hardship license" under this provision. Section 322.282 appears to be in conflict with the above provision because it authorizes certain offenders to be eligible for such license if they have had no other DUI, DUBAL, or DWI convictions within the past 10 years.

Section 322.28 does not state expressly that permanent revocation of a driver's license will occur upon four convictions of DUI or DWI, but the practical effect of the statute is that it provides for the permanent deprivation of a license or driving privilege if such convictions occur.

There is no statutory authority for the modification of a revocation or suspension of a driving privilege upon the filing of an appeal or upon the rendering of an order that stays the imposition of penalties. Furthermore, the policy of the Department of Highway Safety and Motor Vehicles (HSMV) does not provide for staying the revocation or suspension pending an appeal.

A law enforcement officer may not currently make a warrantless arrest for DUI or DWI unless the violation occurs in his presence. An exception exists if that officer makes an investigation at the scene of a traffic accident and based upon his personal investigation, the officer has reasonable and probable grounds to believe the person has committed such offenses.

B. Effect of Proposed Changes:

CS/SB 469, 698, 239, and 380 would revise various provisions relating to DUI and DWI, with major changes occurring as follows:

1. The bill would clarify that s. 316.193 speaks only to the offense of DUI, and not to both DUI and DUBAL as two separate offenses, by providing that DUBAL is an element of DUI; therefore, DUI would be one offense which would be provable two different ways, either by proving driving under the influence or by proving an unlawful blood alcohol level (.10% or higher). Also, the bill would make it clear that a person convicted of DUI (which would now include DUBAL as an element) or DWI would be entitled to a jury trial.
2. A previous out of state conviction for any alcohol or drug related offense substantially similar to Florida's would now constitute a previous conviction for purposes of being counted as a violation of Florida's DUI or DWI laws.
3. It would change the current drunk driving law by allowing judges to impose community service hours in lieu of the mandatory fines if the defendant was indigent.
4. The current language in the DWI section which makes it unlawful to operate a vehicle "over highways, streets, or thoroughfares" of Florida would be changed to "within" to cover areas subject to public traffic, but not currently covered by the existing language.
5. The bill would make it a third degree felony for anyone to cause great bodily harm, permanent disfigurement, or permanent disability to another as a result of driving intoxicated or drugged.
6. The catch-line in s. 316.1932 would be changed to "tests for alcohol, chemical or controlled substances," rather than "tests for impairment or intoxication" which would now cover urine tests, as well as providing the statutory authority for chemical substance testing.

7. Licensed practical nurses would be authorized to withdraw blood to determine the presence of alcohol or drugs. Furthermore, all persons authorized to withdraw blood would not incur any liability unless acting with malicious purpose, which would be a higher standard than is now presently required. The bill would also provide that the law enforcement officer's failure to request such person to withdraw blood would not affect the admissibility of the test. Finally, the bill would clarify the Florida Supreme Court holding in Mitchell with regard to implied consent suspensions by specifying that only in the case of a breath or urine test was arrest necessary prior to administering the test.
8. The alcohol treatment record confidentiality in s. 396.112 would not extend to the release of records upon request of the court, the attorneys, or the law enforcement officer in connection with an alleged violation of DUI or DWI.
9. The bill would now provide that the prosecutor direct the arresting officer, or himself if there is no such officer, to complete the traffic citation in a criminal traffic offense.
10. Persons whose licenses had been suspended under the point system would be eligible for a "hardship license" upon proof of enrollment, rather than completion, of an approved driver's training course. The bill would also conform s. 322.282 with s. 322.271 (both sections provide conflicting conditions for driver's license reinstatement) by deleting the language which allows a repeat offender to be eligible for a "hardship license" if he has not had any DUI or DWI convictions within the past 10 years.
11. The bill would expressly state that permanent revocation of a driver's license or driving privilege of certain people convicted of DUI or DWI would now be possible, which is in effect what is occurring currently.
12. The bill would expressly prohibit the staying of a revocation or suspension of a driving privilege pending an appeal.
13. Finally, the bill would permit a law enforcement officer to make a warrantless arrest for a DUI or DWI violation not committed in his presence if he reasonably believed that one of these violations had been or was being committed.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public;

The public at large would be benefited by the provision allowing community service in lieu of the mandatory fines because if a drunk driver is indigent and therefore can not pay his fine, rather than getting nothing from the offender, the community would at least be getting the benefit of the offender's public service work which is unquantifiable.

B. Government:

It would appear that the fiscal impact of the bill's provision allowing community service in lieu of the mandatory fines will be minimal. Since the bill would change current practice only as it relates to community service hours in lieu of mandatory drunk driving fines for the indigent offender, it would seem

FINAL UPDATE: July 5, 1984

REVISED: April 17, 1984

BILL NO. CS/SB 469, 698, 239, 380

DATE: April 13, 1984

Page 5

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that the fiscal impact on the counties' fine and forfeiture trust funds would be minimal since the indigent offenders are not currently able to pay these mandatory fines. However, the potential exists for a greater fiscal impact if judges start imposing community service hours for indigents rather than first attempting to collect the mandatory drunk driving fines by an installment payment plan which some courts are using now.

There appears to be a significant fiscal impact because of the provision creating a third degree felony offense for causing serious injury while DWI. Based on the number of vehicular accidents involving drunk driving violations which caused serious injuries in 1983, the Department of Corrections estimates that there could be approximately 3,800 violations of the newly created third degree felony offense annually. The Department feels it would receive about 102 offenders sentenced to community control for about 18 months, 2,004 offenders sentenced to probation for 12 months, and 672 offenders sentenced to state prison who would serve about half of an 18 month sentence. Therefore, the Department estimates that the total fiscal impact for the first year would be about \$22,981,553 and about \$4,700,000 for the second and third years.

III. COMMENTS:

Final Update: On June 1, 1984, HB 360 was substituted for CS/CS/SB 469, 698, 239, and 380. HB 360 became law on June 29, 1984. Chapter 84-359, Laws of Florida.

IV. AMENDMENTS:

None.

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"H.C. 360"

June 1, 1984

M E M O R A N D U M

TO: Senator W. D. Childers  
FROM: Judiciary-Criminal Staff  
RE: CS/CS/SB 469 (HB 360)

Drunk drivers who seriously injure someone will now be guilty of a third degree felony instead of a misdemeanor offense if they have prior drunk driving convictions, are driving with a suspended license, or are habitual traffic offenders. The combination of a conviction of vehicular homicide and a prior conviction of drunk driving will result in permanent revocation.

The out-of-state convictions of drunk drivers will now count as prior convictions for the purpose of imposing more severe penalties. The bill makes certain that drunk drivers will no longer be able to stay their license revocations while they appeal their convictions.

Juveniles who use fraudulent identification to purchase alcohol are more likely to be subjected to community service and license suspension.

Medical personnel are encouraged to withdraw blood for alcohol or drug testing purposes by virtue of the protections from liability accorded them under the bill. Blood withdrawn for medical treatment purposes will now be admissible against the defendant even though the tests are not requested by the law enforcement officer.

Hospitals will be able to release test results without running afoul of existing confidentiality provisions.

The bill clarifies that persons charged with any drunk driving offense are entitled to trial by jury. Community service can be substituted for fines when offenders are financially unable to pay.

Senator W. D. Childers

Page 2

June 1, 1984

Offenders who have lost their license permanently as a result of 4 drunk driving convictions will be eligible to get their license reinstated after 10 years without a serious conviction, provided they qualify following a DHSMV hearing. Any serious conviction after reinstatement will result in unconditional permanent revocation.

The offenses of failing to notify DHSMV of a change of address and driving a vehicle with a license that has expired within the past 12 months are decriminalized. Mandatory court appearances will not be necessary for excessive speeding although an additional \$2.00 for each mile in excess of 25 miles over the lawful speed limit will be imposed. Similarly, no mandatory court appearances will be necessary if an accident involving property damage under \$2,000 is caused by a noncriminal traffic offense.



HB 360 (1984)

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The out-of-state convictions of drunk drivers will now count as prior convictions for the purpose of imposing more severe penalties. The bill makes certain that drunk drivers will no longer be able to stay their license revocations while they appeal their convictions.

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Medical personnel are encouraged to withdraw blood for alcohol or drug testing purposes by virtue of the protections from liability accorded them under the bill. Blood withdrawn for medical treatment purposes will now be admissible against the defendant even though the tests are not requested by the law enforcement officer.

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OFFICE OF GENERAL COUNSEL  
[DEPT OF HIGHWAY SAFETY  
AND MOTOR VEHICLES]

June 20, 1984

TO: Robert A. Butterworth  
Executive Director

VIA: Paul A. Rowell  
General Counsel

FROM: R. W. Evans  
Assistant General Counsel

SUBJECT: House Bill 360: DUI Legislation

This bill, which passed both houses of the Legislature on June 1, 1984, is primarily technical in nature, although it does provide for several substantive changes in the law. This legislation clarifies the provisions of s. 316.193, F.S., to read that one offense, driving under the influence, is prohibited by this statute. This offense of DUI may be proved by impairment of normal faculties or by an unlawful blood alcohol level (.10 or higher)

The effect of this change will be to eliminate the inconsistency seen throughout the state on charges, convictions, and right to jury trial for a violation of s. 316.193. Under the new law, each incident of drunk driving is subject to one charge under s. 316.193, and potentially one conviction. In addition, each offender is guaranteed the right to jury trial for a violation of s. 316.193 or s. 316.1931, F.S.

The bill also provides that the court, in addition to this Department, may consider out-of-state convictions for the purpose of imposing enhanced penalties or license suspensions or revocations upon conviction for a violation of s. 316.193 or s. 316.1931. An indigent defendant will be able to perform community service to satisfy payment of a fine imposed for conviction of DUI.

The bill also creates a third degree felony offense that may be charged if an intoxicated driver causes serious bodily injury and such driver at the time of the offense:

1. Had a suspended or revoked driver license;
2. Was a habitual traffic offender; or

5,18/1341 / "HB 360"

3. Had been previously convicted of a violation of s. 316.1931(2) (which also punishes damage to person or property by an intoxicated driver, and DWI manslaughter)

The bill prohibits a violation of s. 316.1931 within this state (conforming to s. 316.193).

The new law authorizes testing for chemical substances, such as model glue. Licensed practical nurses are authorized to withdraw blood for alcohol or drug testing. Blood withdrawn for medical purposes without the request of a law enforcement officer may be admitted into evidence. Medical personnel assisting a law enforcement officer by withdrawing blood for testing are protected from civil or criminal liability if the withdrawal or analysis conducted pursuant to accepted medical standards, regardless of whether or not the subject resisted administration of the test. Medical facilities may be able to release test results without conflict with existing confidentiality provisions in the Florida Statutes.

If no uniform traffic citation has been issued with respect to a criminal traffic offense or an offense that requires mandatory revocation upon conviction, the prosecutor shall direct the arresting officer to prepare a citation. In the absence of an arresting officer, the prosecutor will prepare the citation. The bill defines an arresting officer as the officer who took into custody or apprehended the offender.

The bill clarifies the provisions of the habitual traffic offender law. Also, a driver whose license is suspended for points may be eligible for a hardship license upon proof of enrollment in an approved driver training course. A driver whose license has been permanently revoked for four convictions of s. 316.193 or s. 316.1931 may petition the Department for complete restoration of his driving privilege if the driver has not been convicted in the past ten years of an offense for which mandatory revocation of the driver license is required or of a violation of s. 322.34, F.S., (driving with a suspended or revoked license). However, if a driver's license is permanently revoked for conviction of manslaughter or vehicular homicide and

a separate conviction of DUI, such person shall not be eligible under these provisions for restoration of his driving privilege.

The law further provides that a driver's license shall be permanently revoked upon conviction of vehicular homicide and a separate conviction for a violation of s. 316.193 or s. 316.1931. No suspension or revocation of a driving privilege shall be stayed upon an appeal of a conviction, court order, or Departmental order that resulted in the suspension or revocation.

The offenses of failing to notify this Department of a change of address (s. 322.19) and driving a vehicle with a license that has expired (within the past twelve months) (s. 322.15(3)) are decriminalized; they now constitute infractions. Mandatory court appearances are not required for excessive speed; however, an additional two dollars for each mile in excess of 25 miles per hour over the lawful speed limit will be imposed. Also, no mandatory court appearance is required if an accident involving property damage of \$2,000 or less is caused by a non-criminal traffic offense the threshold was formerly \$750.

The bill amends s. 316.655, F.S., to provide that a driver charged with a criminal traffic offense as specified in s. 316.655(4) or charged with a misdemeanor offense under Ch. 320 or Ch. 322, F.S., fails to comply with all the directives of the court within the time required by the court, the clerk of the traffic court shall mail to the driver a notice advising the driver that if he does not comply within 30 days after the date of the notice and pay a \$10 delinquency fee to the clerk, the driver's license will be suspended. The notice shall be mailed no later than five (5) days after the failure to comply. The delinquency fees may be retained by the clerk's office to defray operating costs.

If the driver fails to comply within the 30 day period, the clerk shall notify this Department of the failure within five days. receipt of the notice, this Department shall immediately suspend the driver's license (D-6 suspension). The license may not be reinstated until the driver complies with all court directives imposed upon him, including payment of the

delinquency fee, and until the driver presents certification of compliance to a driver license office, and further complies with the requirements of Ch. 322.

Juveniles who use fraudulent identification such as a driver license to unlawfully purchase alcoholic beverages may be required by the court to perform community service for up to 40 hours. The court may also suspend the juvenile's driver license or driving privilege for a period of not more than one year.

If you have any questions with regard to the provisions of this bill or legislative intent, please do not hesitate to contact this office.

RWE/drb

cc: Colonel B. R. Burkett  
C. W. Keith  
Suzanne Printy