

Florida  
**TaxWatch**

*center for*  
**Smart  
Justice**

# BRIEFING

## Revising Driving While License Suspended Laws in Florida

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## THE TAXWATCH TAKE

*Smart Justice reforms seek to improve the criminal justice system through programs and policies which have been proven to conserve tax dollars, enhance public safety and reduce recidivism. The most prudent reforms include those involving nonviolent offenders imprisoned for offenses which can be resolved effectively through lesser sanctions, primarily those short of imprisonment in a state facility.*

*In FY 2012-13, 2,094,974 individuals had their license suspended or revoked, showing that the suspension of driving privileges is an extremely common occurrence in Florida. The state should remove the felony sanctions for driving while license suspended, which would align Florida with penalties in similar states, reduce prison populations, and save taxpayer money.*

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## BACKGROUND

*Florida Statute 322.34 makes Driving While License Suspended (DWLS) a misdemeanor offense in most cases. DWLS convictions typically result in monetary penalties and incarceration. A first offense can result in up to 60 days in jail, subsequent offenses carry a penalty of a year in jail and \$1,000 fine.*

The punishment is upgraded to a felony offense in four instances:

- when a Habitual Traffic Offender is driving on a revoked license
- an individual DWLS causes injury or death
- a second DWLS offense while operating a commercial vehicle
- a third DWLS offense

The felony upgrade is not applied in the four exceptions above if the underlying grounds for license suspension is the failure to pay a civil fine or debt, provided the individual has never committed a forcible felony.

A forcible felony is defined in *Florida Statute 776.08* as any type of crime which involved the threat or application of physical force against another. There is no time limitation for those with a forcible felony in their background.

## FLORIDA STATISTICS

A March 2008 OPPAGA Study<sup>1</sup> provides detailed statistics regarding DWLS offenses.

Among the findings:

- The suspension of driving privileges is a very common event in Florida. In 2006-07, more than 1.8 million licenses were suspended.<sup>2</sup> In 2006, law enforcement officers issued 227,245 citations for DWLS, and another 170,006 for driving without a license, or with an expired license.
- While a statistically small number of DWLS offenders go to prison, the number has increased disproportionately to other offenses. In 2006-07, 1,019 DWLS offenders were charged with a felony and sentenced to prison.
- In November 2007, there were 1,662 felons in prison for DWLS.

## STATE COMPARISON

The majority of states do not upgrade DWLS to felony classification. In Texas, for example, Section 521.457 of the Texas Transportation Code makes DWLS a Class B misdemeanor (up to 6 months in jail and \$500 fine).

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<sup>1</sup> "Several Alternatives Could be Used to Reduce Increasing Imprisonment of Persons Driving with Suspended Licenses." OPPAGA 08-12.

<sup>2</sup> Updating this information with DMV 2012-2013 Performance Report data reveals 2,094,974 suspensions and revocations, cancellations and disqualifications of driving privileges.

If prior DWLS offenses were committed, the violation becomes a Class A misdemeanor (up to 1 year in jail and \$4,000 fine). Similarly, DWLS is always classified as a misdemeanor in California.

## COST BENEFIT

The Florida Department of Corrections (DOC) has reported that the cost to incarcerate a felon in state prison is \$17,973 per year.<sup>3</sup> Assuming 1,000 individuals are convicted of DWLS felony offenses each year and serve a year in prison, nearly \$18 million can be saved annually. Additionally, the prison experience often creates negative behavioral consequences for those imprisoned, and makes it far more difficult for these individuals to successfully re-enter society and resume their employment and relationships once released. If the “crime college” prison experience leads to additional crimes upon release, then the cost to taxpayers for placing a DWLS offender in state prison is even greater.

To add perspective on the potential savings gained through small changes in statewide prison population, in November 2013, the DOC requested \$59 million to open nine shuttered facilities as result of a Criminal Justice Estimating Conference forecast predicting that prison admissions will grow by 1,000 in 2014.<sup>4</sup>

If felony penalties for DWLS were removed, it could reduce prison population admissions by 1,000 or more, remove anticipated overcrowding concerns, and save taxpayers the \$59 million that has been requested by DOC.

## CONCLUSION

The time has come to remove felony sanctions for DWLS offenses in Florida. Realigning DWLS penalties by removing felony sanctions does not represent a softer approach to driving violations.

Rather, it is a recognition of the fact that driving privilege suspensions are commonplace in Florida, and misdemeanor sanctions for those driving on suspended licenses are an adequate response to the behavior being criminalized.

Revising sanctions would align Florida criminal penalties with other states, reduce prison populations, neutralize the need to re-open closed prison facilities, and would not adversely impact public safety. Individuals convicted of DWLS will continue to face monetary penalties and jail terms of up to one year, and offenders who commit DWLS coupled with other felony crimes will still go to prison for those felonies.

This reform will simply seek to filter out those going to state prison solely for a DWLS offense. Immediate cost savings will likely be at least \$18 million per year, and could be as much as \$59 million in 2014 if this minor change removes the need to re-open shuttered prison facilities.

Finally, keeping DWLS offenders out of the state prison system will help avoid the escalation of misconduct and recidivism which frequently follows those who serve time in prison.

## RECOMMENDATION

In FY 2012-13, 2,094,974 individuals had their license suspended or revoked, showing that the suspension of driving privileges is an extremely common occurrence in Florida. The state should remove the felony sanctions for driving while license suspended, which would align Florida with penalties in similar states, reduce prison populations, and save taxpayer money.

<sup>3</sup> Florida Department of Corrections. “Quick Facts” As of 12.01.2013

<sup>4</sup> Bosquet, Steve. “Florida wants to reopen prisons to house more inmates.” Tampa Bay Times. 08.31.2013

