

**28.12 OPERATING A MOTOR VEHICLE CARELESSLY OR NEGLIGENTLY
CAUSING [SERIOUS BODILY INJURY] [DEATH] [WITHOUT HAVING A
DRIVER LICENSE] [WHILE DRIVER LICENSE CANCELED, SUSPENDED, OR
REVOKED FOR SPECIFIED REASON]**

§ 322.34(6)(a) or (b), Fla. Stat.

To prove the crime of Operating a Motor Vehicle Carelessly or Negligently Causing [Serious Bodily Injury] [Death] [Without Having a Driver License] [While Driver License Suspended, Revoked, Canceled for Specified Reason], the State must prove the following four elements beyond a reasonable doubt:

- 1. (Defendant) operated a motor vehicle in a careless or negligent manner.**
- 2. Give 2a or 2b or both as applicable.**
 - a. At the time, [his] [her] [driver license] [driving privilege] was [suspended] [revoked] [canceled] pursuant to Florida Statute [316.655] [322.26(8)] [322.27(2)] [322.28(2)] [322.28(4)].**
 - b. At the time, [he] [she] did not have a driver license.**

Give 3a or 3b or both as applicable.

- 3. At the time, (defendant) knew**
 - a. [his] [her]] [driver license] [driving privilege] was [suspended] [revoked] [canceled].**
 - b. [he] [she] did not have a driver license.**
- 4. As a result of the careless or negligent operation, (defendant) caused [the death of (victim)] [serious bodily injury to (victim)].**

§ 322.01, Fla. Stat. Some of these terms (such as “vehicle” and “electric bicycle”) have their own statutory definitions, which should be given if necessary.

“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].

§ 316.1925, Fla. Stat.

“Careless” means failing to operate a motor vehicle in a careful and prudent manner having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person.

“Negligent” means the failure to use reasonable care under the circumstances.

§ 322.01, Fla. Stat.

“Suspended” means the privilege to drive a motor vehicle has been temporarily withdrawn.

“Revoked” means the privilege to drive a motor vehicle has been terminated.

“Canceled” means that a driver license has been declared void and terminated.

Lesser Included Offenses

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CATEGORY ONE	CATEGORY TWO	FLA. STAT	INS. NO.
Driving While License Suspended, Revoked or Canceled with Knowledge if 322.34(6)(b) is charged.		322.34(2)	28.11
	No Valid Driver License	322.03	28.9

Comments

Although the statute does not explicitly require knowledge of the invalidity of the license, the Supreme Court of Florida has recognized such a requirement. See *State v. Smith*, 638 So. 2d 509 (Fla. 1994). See also *Waites v. State*, 702 So. 2d 1373 (4th DCA 1997).

A person driving a moped upon a highway requires a driver license. *Soto v. State*, 711 So. 2d 1275 (Fla. 4th DCA 1998).

This instruction was adopted in 2013 [131 So. 3d 720] and amended on April 1, 2020, and on October 2, 2020.