

STORAGE NAME: h3913a.cp
DATE: March 25, 1998

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

BILL #: HB 3913

RELATING TO: Vehicle Impoundment

SPONSOR(S): Rep. Valdes

COMPANION BILL(S): SB 604 (similar)

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

- (1) CRIME AND PUNISHMENT YEAS 8 NAYS 0
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Section 316.193, F.S., is Florida's driving under the influence (D.U.I.) statute. Subsection (6) provides the penalties to be imposed in the event of a 1st, 2nd or 3rd conviction occurring within certain periods of time. Subsection (6)(d) authorizes the immobilization, or impoundment, of the offender's vehicle for 10 days for a first offense, for 30 days for a second offense, and for 90 days for a third offense. The law further provides that the immobilization, or impoundment, may not occur during any period of probation or imprisonment.

The bill authorizes immobilization, or impoundment, of a D.U.I. offender's vehicle during probation, but prohibits immobilization during a sentence of imprisonment.

The bill's effective date is "upon becoming law."

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Immobilization For D.U.I. Offenders

Section 316.193(6), F.S., requires every D.U.I. offender's vehicle to be impounded or immobilized by a restraining device, as follows:

(d) ... The period of impoundment or immobilization is 10 days, or, for the second conviction within 3 years, 30 days, or, for the third conviction within 5 years, 90 days and **may not be concurrent with probation or imprisonment.**

Consequently, a D.U.I. offender must complete his period of probation before his vehicle may be immobilized. This requirement contravenes the purpose of the statute because, once the offender's period of probation expires, the court no longer has jurisdiction to impose the sanction of immobilization.

Immobilization means to restrain the vehicle from moving by attaching a locking device to one of its wheels.

B. EFFECT OF PROPOSED CHANGES:

Immobilization May Occur During Probation

The bill amends subsection (6)(d) to authorize immobilization, or impoundment, while an offender is on probation, yet prohibits immobilization from occurring while an offender may be imprisoned. Naturally, if the offender were imprisoned when immobilization were executed, he would not actually suffer from the sanction.

Effective Date

The bill's effective date is "upon becoming law."

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.

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(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, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Authorizes immobilization of D.U.I. offender's vehicles while the offender serves a period of probation.

Section 2: Provides an effective date.

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:

The Criminal Justice Estimating Conference has not met to consider the bill, but offers a tentative estimate of **no fiscal impact**.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill is exempt from the provisions of Article VII, Section 18 because it concerns a criminal statute.

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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill was passed by the Committee On Crime and Punishment on March 25, 1998. There were two amendments. The first amendment added the word "jail" to imprisonment to ensure immobilization would not occur during a jail sentence, nor during a prison sentence. The second amendment provided that all provisions of s. 713.78, F.S., (Liens for recovering, towing or storing vehicles) would apply.

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

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