

By Representative Valdes

1 A bill to be entitled
2 An act relating to DUI vehicle impoundment;
3 amending s. 316.193, F.S.; providing for the
4 impoundment of motor vehicles during the period
5 of probation for certain DUI convictions;
6 providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Paragraph (d) of subsection (6) of section
11 316.193, Florida Statutes, is amended to read:

12 316.193 Driving under the influence; penalties.--

13 (6) With respect to any person convicted of a
14 violation of subsection (1), regardless of any penalty imposed
15 pursuant to subsection (2), subsection (3), or subsection (4):

16 (a) For the first conviction, the court shall place
17 the defendant on probation for a period not to exceed 1 year
18 and, as a condition of such probation, shall order the
19 defendant to participate in public service or a community work
20 project for a minimum of 50 hours; or the court may order
21 instead, that any defendant pay an additional fine of \$10 for
22 each hour of public service or community work otherwise
23 required, if, after consideration of the residence or location
24 of the defendant at the time public service or community work
25 is required, payment of the fine is in the best interests of
26 the state. However, the total period of probation and
27 incarceration may not exceed 1 year.

28 (b) For the second conviction for an offense that
29 occurs within a period of 5 years after the date of a prior
30 conviction for violation of this section, the court shall

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1 order imprisonment for not less than 10 days. At least 48
2 hours of confinement must be consecutive.

3 (c) For the third or subsequent conviction for an
4 offense that occurs within a period of 10 years after the date
5 of a prior conviction for violation of this section, the court
6 shall order imprisonment for not less than 30 days. At least
7 48 hours of confinement must be consecutive.

8 (d) In addition to the penalty imposed under paragraph
9 (a), paragraph (b), or paragraph (c), the court shall also
10 order the impoundment or immobilization of the vehicle that
11 was driven by, or in the actual physical control of, the
12 offender, unless the court finds that the family of the owner
13 of the vehicle has no other public or private means of
14 transportation. The period of impoundment or immobilization is
15 10 days, or, for the second conviction within 3 years, 30
16 days, or, for the third conviction within 5 years, 90 days and
17 shall may not be concurrent with probation if probation is
18 ordered or imprisonment. However, the period of impoundment or
19 immobilization may not be concurrent with imprisonment. If the
20 vehicle is leased or rented, the period of impoundment or
21 immobilization may not extend beyond the expiration of the
22 lease or rental agreement. Within 7 business days after the
23 date that the court issues the order of impoundment or
24 immobilization, the clerk of the court shall send notice by
25 certified mail, return receipt requested, to the registered
26 owner of the vehicle if the registered owner is a person other
27 than the offender and to each person of record claiming a lien
28 against the vehicle. All costs and fees for the impoundment or
29 immobilization, including the cost of notification, must be
30 paid by the owner of the vehicle or, if the vehicle is leased
31 or rented, by the person leasing or renting the vehicle. The

1 person who owns a vehicle that is impounded or immobilized
2 under this paragraph, or a person who has a lien of record
3 against such a vehicle, may, within 10 days after the date
4 that person has knowledge of the location of the vehicle, file
5 a complaint in the county in which the owner resides to
6 determine whether the vehicle was wrongfully taken or withheld
7 from the owner or lienholder. Upon the filing of a complaint,
8 the owner or lienholder may have the vehicle released by
9 posting with the court a bond or other adequate security equal
10 to the amount of the costs and fees for impoundment or
11 immobilization, including towing or storage, to ensure the
12 payment of such costs and fees if the owner or lienholder does
13 not prevail. When the bond is posted and the fee is paid as
14 set forth in s. 28.24, the clerk of the court shall issue a
15 certificate releasing the vehicle. At the time of release,
16 after reasonable inspection, the owner or lienholder must give
17 a receipt to the towing or storage company indicating any loss
18 or damage to the vehicle or to the contents of the vehicle.

19 (e) A defendant, in the court's discretion, may be
20 required to serve all or any portion of a term of imprisonment
21 to which the defendant has been sentenced pursuant to this
22 section in a residential alcoholism treatment program or a
23 residential drug abuse treatment program. Any time spent in
24 such a program must be credited by the court toward the term
25 of imprisonment.

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27 For the purposes of this section, any conviction for a
28 violation of s. 327.35; a previous conviction for the
29 violation of former s. 316.1931, former s. 860.01, or former
30 s. 316.028; or a previous conviction outside this state for
31 driving under the influence, driving while intoxicated,

1 driving with an unlawful blood-alcohol level, driving with an
2 unlawful breath-alcohol level, or any other similar
3 alcohol-related or drug-related traffic offense, is also
4 considered a previous conviction for violation of this
5 section. However, in satisfaction of the fine imposed pursuant
6 to this section, the court may, upon a finding that the
7 defendant is financially unable to pay either all or part of
8 the fine, order that the defendant participate for a specified
9 additional period of time in public service or a community
10 work project in lieu of payment of that portion of the fine
11 which the court determines the defendant is unable to pay. In
12 determining such additional sentence, the court shall consider
13 the amount of the unpaid portion of the fine and the
14 reasonable value of the services to be ordered; however, the
15 court may not compute the reasonable value of services at a
16 rate less than the federal minimum wage at the time of
17 sentencing.

18 Section 2. This act shall take effect upon becoming a
19 law.

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21 HOUSE SUMMARY

22 Provides for the impoundment or immobilization of a motor
23 vehicle with respect to described DUI convictions during
24 the period of probation. See bill for details.
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