

By the Committee on Criminal Justice and Senator Lee

307-2029-98

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A bill to be entitled
An act relating to DUI vehicle impoundment;
amending s. 316.193, F.S.; providing for
impoundment of vehicles during the period of
probation; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:
Section 1. Subsection (6) of section 316.193, Florida
Statutes, is amended to read:
316.193 Driving under the influence; penalties.--
(6) With respect to any person convicted of a
violation of subsection (1), regardless of any penalty imposed
pursuant to subsection (2), subsection (3), or subsection (4):
(a) For the first conviction, the court shall place
the defendant on probation for a period not to exceed 1 year
and, as a condition of such probation, shall order the
defendant to participate in public service or a community work
project for a minimum of 50 hours; or the court may order
instead, that any defendant pay an additional fine of \$10 for
each hour of public service or community work otherwise
required, if, after consideration of the residence or location
of the defendant at the time public service or community work
is required, payment of the fine is in the best interests of
the state. However, the total period of probation and
incarceration may not exceed 1 year.
(b) For the second conviction for an offense that
occurs within a period of 5 years after the date of a prior
conviction for violation of this section, the court shall
order imprisonment for not less than 10 days. At least 48
hours of confinement must be consecutive.

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

6 (d) In addition to the penalty imposed under paragraph
7 (a), paragraph (b), or paragraph (c), the court shall also
8 order the impoundment or immobilization of the vehicle that
9 was driven by, or in the actual physical control of, the
10 offender, unless the court finds that the family of the owner
11 of the vehicle has no other public or private means of
12 transportation. The period of impoundment or immobilization is
13 10 days, or, for the second conviction within 3 years, 30
14 days, or, for the third conviction within 5 years, 90 days and
15 shall may not be concurrent with probation if probation is
16 ordered. However, the period of impoundment or immobilization
17 may not be concurrent with ~~or~~ imprisonment. If the vehicle is
18 leased or rented, the period of impoundment or immobilization
19 may not extend beyond the expiration of the lease or rental
20 agreement. Within 7 business days after the date that the
21 court issues the order of impoundment or immobilization, the
22 clerk of the court shall send notice by certified mail, return
23 receipt requested, to the registered owner of the vehicle if
24 the registered owner is a person other than the offender and
25 to each person of record claiming a lien against the vehicle.
26 All costs and fees for the impoundment or immobilization,
27 including the cost of notification, must be paid by the owner
28 of the vehicle or, if the vehicle is leased or rented, by the
29 person leasing or renting the vehicle. All sections of s.
30 713.78 shall apply.The person who owns a vehicle that is
31 impounded or immobilized under this paragraph, or a person who

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

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

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

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

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

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 Senate Bill 604

23 Provides that s. 713.78, F.S., relating to liens for
24 recovering, towing, or storing vehicles applies to impoundment
25 or immobilization under s. 316.193, F.S.
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