

By the Committee on Criminal Justice and Senator Laurent

307-1866-00

1 A bill to be entitled
2 An act relating to operating vehicles and
3 vessels under the influence; amending s.
4 316.193, F.S.; providing that a previous
5 conviction for purposes of violating this
6 section includes alcohol or drug related
7 boating offenses; providing for an additional
8 period of probation where the court orders
9 restitution with respect to driving under the
10 influence; amending s. 948.15, F.S., relating
11 to probation services for defendants found
12 guilty of misdemeanors involving the use of
13 alcohol; conforming provisions to changes made
14 by the act; providing an effective date.

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

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18 Section 1. Paragraph (a) of subsection (6) of section
19 316.193, Florida Statutes, is amended to read:

20 316.193 Driving under the influence; penalties.--

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

24 (a) For the first conviction, the court shall place
25 the defendant on probation for a period not to exceed 1 year
26 and, as a condition of such probation, shall order the
27 defendant to participate in public service or a community work
28 project for a minimum of 50 hours; or the court may order
29 instead, that any defendant pay an additional fine of \$10 for
30 each hour of public service or community work otherwise
31 required, if, after consideration of the residence or location

1 of the defendant at the time public service or community work
2 is required, payment of the fine is in the best interests of
3 the state. However, the total period of probation and
4 incarceration may not exceed 1 year unless restitution is
5 ordered. If restitution is ordered, the defendant may be
6 placed on probation, with or without incarceration as a
7 condition thereof, for a period not to exceed 5 years.
8 However, if after 1 year the defendant has completed payment
9 of the restitution, fine, and court costs and is otherwise in
10 compliance with the terms of probation, the probation shall
11 terminate.The court must also, as a condition of probation,
12 order the impoundment or immobilization of the vehicle that
13 was operated by or in the actual control of the defendant or
14 any one vehicle registered in the defendant's name at the time
15 of impoundment or immobilization, for a period of 10 days or
16 for the unexpired term of any lease or rental agreement that
17 expires within 10 days. The impoundment or immobilization must
18 not occur concurrently with the incarceration of the
19 defendant. The impoundment or immobilization order may be
20 dismissed in accordance with paragraph (e), paragraph (f), or
21 paragraph (g).

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23 For the purposes of this section, any conviction for a
24 violation of s. 327.35; a previous conviction for the
25 violation of former s. 316.1931, former s. 327.351, former s.
26 860.01, or former s. 316.028; or a previous conviction outside
27 this state for driving or boating under the influence, driving
28 or boating while intoxicated, driving or boating with an
29 unlawful blood-alcohol level, driving or boating with an
30 unlawful breath-alcohol level, or any other similar
31 alcohol-related or drug-related traffic or boating offense, is

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

15 Section 2. Subsection (1) of section 948.15, Florida
16 Statutes, is amended to read:

17 948.15 Misdemeanor probation services.--

18 (1) Defendants found guilty of misdemeanors who are
19 placed on probation shall be under supervision not to exceed 6
20 months unless otherwise specified by the court. In relation
21 to any misdemeanor offense ~~other than a felony~~ in which the
22 use of alcohol is a significant factor, the period of
23 probation may be up to 1 year, except as provided in s.
24 316.193(6).

25 Section 3. This act shall take effect July 1, 2000.

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27 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
28 COMMITTEE SUBSTITUTE FOR
29 Senate Bill 196

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30 Provides that a previous conviction for purposes of violating
31 s. 316.193, F.S., would include alcohol or drug related
boating offenses.