

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1199 w/CS Driving Under the Influence/Ignition Interlock Devices

SPONSOR(S): Simmons

TIED BILLS: **IDEN./SIM. BILLS:** SB 2612

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation</u>	<u>16 Y, 0 N</u>	<u>Garner</u>	<u>Miller</u>
2) <u>Public Safety & Crime Prevention</u>	<u>16 Y, 0 N w/CS</u>	<u>Kramer</u>	<u>De La Paz</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

An ignition interlock device is a breath alcohol analyzer which is designed to prevent a vehicle from starting if the operator's alcohol content is in excess of a certain level. During the 2002 session, legislation passed which requires the installation of ignition interlock devices on vehicles of certain offenders beginning July 1, 2003. CS/HB 1199 amends sections 316.1937 and 316.1938, F.S. to authorize the Department of Highway Safety and Motor Vehicles (DHSMV) to contract with a provider or providers to furnish the commodities and contractual services necessary for the implementation of the new ignition interlock device law.

The committee substitute requires the court to mandate proof of installation of the interlock device, monitoring by a licensed DUI program and periodic reporting to the department by the DUI program for verification of the operation of the device in the person's vehicle. The committee substitute also requires ignition interlock devices to prevent a motor vehicle from starting if the operator's breath alcohol level is higher than .025 grams of alcohol per 210 liters of breath - current law requires the device to prevent a vehicle from starting if the operator's blood alcohol level is in excess of 0.05 percent. The committee substitute also contains provisions relating to a DUI offender on a licensed supervision program and an offender who is on probation

The committee substitute has an effective date of July 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1199c.ps.doc

DATE: April 15, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Driving Under the Influence: A driving under the influence (DUI) conviction requires proof of the following elements¹:

That the person was driving or in actual physical control of a vehicle and either:

- The person’s breath or blood alcohol level at the time was .08% or greater or
- The person was under the influence of alcohol, a chemical substance or a controlled substance to the extent that their normal faculties were impaired.

First, second and certain third DUI convictions are punishable by a jail sentence and a fine as indicated below.² A third conviction within 10 years of the second, or a fourth or subsequent conviction for DUI is a third degree felony, punishable by up to five years in prison. The penalties for DUI and for DUI when the blood alcohol level of the driver was over .20 or when the driver was accompanied in the vehicle by a person under the age of 18 are:

	Maximum Incarceration	Incarceration Over .20 BAL or w/minor	Fine	Fine Over .20 BAL or w/minor
1st Offense	6 months jail	9 months jail	\$250-\$500	\$500-\$1,000
2nd Offense	9 months jail	12 months jail	\$500-\$1,000	\$1,000-\$2,000
3rd Offense more than 10 years after prior offense	12 months jail	12 months jail	\$1,000-\$2,500	\$2,000-\$5,000
3rd Offense within 10 years or prior offense	5 years prison	5 years prison	\$1,000-\$5,000	\$1,000-\$5,000
4th Offense (3rd degree felony)	5 years prison	5 years prison	\$1,000-\$5,000	\$1,000-\$5,000

¹ s. 316.193(1), F.S.

² s. 316.193(2), F.S.,

Further, there are mandatory jail sentences associated with certain repeat DUI offenses. For example, if a person is convicted of a second DUI that occurred within 5 years after the date of the prior conviction, he or she must serve a mandatory minimum of 10 days in jail.³ For a third or subsequent DUI conviction for an offense that occurs within 10 years after the date of a prior conviction, the person must serve at least 30 days in jail.⁴

Ignition Interlock Devices: In 1990, the legislature authorized a judge to order the installation of an ignition interlock device in the vehicle of an offender convicted of DUI.⁵ With an ignition interlock device, a vehicle will not start if the operator's blood alcohol level is in excess of .05 or as otherwise specified by a court. During the 2002 session⁶, section 316.193 was amended to require a judge to order the installation of an ignition interlock device in vehicles of certain DUI offenders.

Upon a second conviction for DUI, the judge must order the placement, for at least one year, of an ignition interlock device upon all vehicles individually or jointly leased or owned and routinely operated by the offender if the convicted person qualifies for a permanent or restricted license.⁷ Upon a third DUI conviction, the ignition interlock device must be installed for at least two years.⁸ The ignition interlock device must be of a type approved by the Department of Highway Safety & Motor Vehicles (DHSMV) and must be placed at the offender's sole expense. The installation of such a device may not occur before July 1, 2003.

Further, the placement of an ignition interlock device for up to six months is required for a first DUI offense and for up to two years for a second DUI offense where the person had a blood alcohol level in excess of .20.⁹

An offender is required to periodically report to DHSMV in order to verify operation of the device.¹⁰ As part of the 2002 chapter law, DHSMV was directed to adopt rules providing for the implementation of the use of ignition interlock devices.¹¹

Effect of Proposed Changes

Interlock Devices: CS/HB 1199 amends sections 316.1937 and 316.1938 to authorize DHSMV to contract with a provider or providers to furnish the commodities and contractual services necessary for the implementation of the new ignition interlock device law. The committee substitute requires a court to mandate proof of installation of the interlock device, monitoring by a licensed DUI program and periodic reporting to the department by the DUI program for verification of the operation of the device in the person's vehicle. The committee substitute also requires ignition interlock devices to prevent a motor vehicle from starting if the operator's breath alcohol level is higher than .025 grams of alcohol per 210 liters of breath - current law requires the device to prevent a vehicle from starting if the operator's blood alcohol level is in excess of 0.05 percent.

The committee substitute provides that if the convicted person has the driver's license revoked for violating an abstinence requirement of a licensed supervision program the device will be placed for 1

³ s. 316.193(6)(b), F.S.

⁴ s. 316.193(6)(c), F.S.

⁵ Ch. 90-253, Laws of Florida.

⁶ Ch. 2002-263, Laws of Florida; passed as CS/CS/HB 1057, 3rd Eng by Rep. Simmons. This chapter law also contained provisions making a third conviction for DUI or BUI which occurred within ten years of a prior conviction a third degree felony. [Previously, a fourth DUI or BUI conviction was a third degree felony]. The chapter law also made the refusal to submit to a breath or blood alcohol test a first degree misdemeanor if the offender's license had previously been suspended for a refusal to submit.

⁷ s. 316.193(2)(a)3., F.S.

⁸ s. 316.193(2)(b)1 and 2., F.S.

⁹ s. 316.193(4)(c)

¹⁰ s. 316.1937(2)(e), F.S.

¹¹ s. 316.193(11), F.S.

year of a 5-year revocation period, or 2 years of a 10-year revocation period if the person operates under a restricted license. The revocation period will begin anew upon the installation of the device.

The committee substitute requires probation orders to contain conditions, where applicable, requiring placement of ignition interlock devices effective upon the convicted person obtaining a restricted license, and requires the person to notify his or her probation officer within 72 hours of imposition of the condition.

C. SECTION DIRECTORY:

Section 1. Amending s. 316.1937, F.S.; establishes that ignition interlock device should be installed in a manner to prevent a vehicle from starting if offender has .025 breath alcohol level rather than a .05 blood alcohol level; requires monitoring by a licenses DUI program of the person required to have an ignition interlock device; requires installation of interlock device on certain vehicles if offender fails abstinence requirement of supervision program; requires the placement of ignition interlock device as a condition of licensure for certain probationers.

Section 2. Amending s. 316.1938, F.S.; authorizes DHSMV to contract with provider of commodities and contractual services for implementation of ignition interlock device provision.

Section 3. Providing effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the bill results in increased use of interlock devices, providers of commodities and contractual services necessary for implementation of the new interlock device law may realize an economic benefit.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Original bill: As originally filed, HB 1199 deleted all current language relating to ignition interlock devices from chapter. 316, F.S., (Uniform Traffic Control), and enacted new provisions relating to the devices in chapter. 322, F.S., (Driver's Licensing). The bill also provided as follows:

- Authorized a court to require the installation of an ignition interlock device upon a conviction for any traffic or criminal offense.
- Authorized the Department of Highway Safety and Motor Vehicles to contract with equipment and service providers to implement the new ignition interlock device law;
- Amended the conditions and terms requiring the installation of ignition interlock devices;
- Required use of an ignition interlock device to be a condition of probation for convicted persons who enter probation under an existing ignition interlock device requirement;
- Increased the severity of penalties associated with offenses relating to with circumvention of ignition interlock devices.
- Changed the blood or breath-alcohol level threshold for enhanced penalties from .20 or higher to .16 or higher.

Committee on Public Safety & Crime Prevention: The Committee on Public Safety & Crime Prevention adopted a strike-all amendment which substantially altered the provisions of the bill. The committee reported this bill favorably with a committee substitute, the substance of which is reflected in this analysis.