



HB 1199

2003

1 A bill to be entitled

2 An act relating to driving under the influence; amending
3 s. 316.193, F.S.; removing references to ignition
4 interlock devices; decreasing the minimum blood-alcohol
5 level for certain offenses; providing penalties; repealing
6 ss. 316.1937 and 316.1938, F.S., relating to ignition
7 interlock devices; amending s. 316.655, F.S.; requiring
8 minimum periods of suspension of driving privileges for
9 certain offenses; amending s. 316.656, F.S.; prohibiting a
10 judge from accepting a plea to a lesser offense under
11 certain circumstances; amending s. 322.271, F.S.;
12 correcting a cross reference; creating s. 322.2715, F.S.;
13 authorizing the Department of Highway Safety and Motor
14 Vehicles to contract for certain commodities and services;
15 requiring the installation of ignition interlock devices
16 as a condition to certain licensure; requiring warning
17 labels; requiring the installation of ignition interlock
18 devices on certain vehicles for certain period of time;
19 providing for such time requirement to be determined by
20 the court, subject to certain minimums; requiring
21 notification by an offender to a probation officer when
22 installation of an ignition interlock device is required
23 as a condition of probation; providing penalties,
24 including a minimum mandatory sentence, for failure to
25 provide such notice; providing that certain actions with
26 respect to such devices or vehicles is unlawful and
27 prohibiting the lending or leasing of vehicles to persons
28 required to drive vehicles with ignition interlocking
29 devices if such vehicles do not have such devices;
30 providing penalties, including minimum mandatory penalties



HB 1199

2003

31 under certain circumstances; providing an exception;
 32 providing for severability; providing an effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
 35

36 Section 1. Section 316.193, Florida Statutes, is amended
 37 to read:

38 316.193 Driving under the influence; penalties.--

39 (1) A person is guilty of the offense of driving under the
 40 influence and is subject to punishment as provided in subsection
 41 (2) if the person is driving or in actual physical control of a
 42 vehicle within this state and:

43 (a) The person is under the influence of alcoholic
 44 beverages, any chemical substance set forth in s. 877.111, or
 45 any substance controlled under chapter 893, when affected to the
 46 extent that the person's normal faculties are impaired;

47 (b) The person has a blood-alcohol level of 0.08 or more
 48 grams of alcohol per 100 milliliters of blood; or

49 (c) The person has a breath-alcohol level of 0.08 or more
 50 grams of alcohol per 210 liters of breath.

51 (2)(a) Except as provided in paragraph (b), subsection
 52 (3), or subsection (4), any person who is convicted of a
 53 violation of subsection (1) shall be punished:

54 1. By a fine of:

55 a. Not less than \$250 or more than \$500 for a first
 56 conviction.

57 b. Not less than \$500 or more than \$1,000 for a second
 58 conviction; and

59 2. By imprisonment for:

60 a. Not more than 6 months for a first conviction.



HB 1199

2003

61 b. Not more than 9 months for a second conviction.

62 ~~3. For a second conviction, by mandatory placement for a~~
63 ~~period of at least 1 year, at the convicted person's sole~~
64 ~~expense, of an ignition interlock device approved by the~~
65 ~~department in accordance with s. 316.1938 upon all vehicles that~~
66 ~~are individually or jointly leased or owned and routinely~~
67 ~~operated by the convicted person, when the convicted person~~
68 ~~qualifies for a permanent or restricted license. The~~
69 ~~installation of such device may not occur before July 1, 2003.~~

70 (b)1. Any person who is convicted of a third violation of
71 this section for an offense that occurs within 10 years after a
72 prior conviction for a violation of this section commits a
73 felony of the third degree, punishable as provided in s.
74 775.082, s. 775.083, or s. 775.084. ~~In addition, the court shall~~
75 ~~order the mandatory placement for a period of not less than 2~~
76 ~~years, at the convicted person's sole expense, of an ignition~~
77 ~~interlock device approved by the department in accordance with~~
78 ~~s. 316.1938 upon all vehicles that are individually or jointly~~
79 ~~leased or owned and routinely operated by the convicted person,~~
80 ~~when the convicted person qualifies for a permanent or~~
81 ~~restricted license. The installation of such device may not~~
82 ~~occur before July 1, 2003.~~

83 2. Any person who is convicted of a third violation of
84 this section for an offense that occurs more than 10 years after
85 the date of a prior conviction for a violation of this section
86 shall be punished by a fine of not less than \$1,000 or more than
87 \$2,500 and by imprisonment for not more than 12 months. ~~In~~
88 ~~addition, the court shall order the mandatory placement for a~~
89 ~~period of at least 2 years, at the convicted person's sole~~
90 ~~expense, of an ignition interlock device approved by the~~



HB 1199

2003

91 ~~department in accordance with s. 316.1938 upon all vehicles that~~
92 ~~are individually or jointly leased or owned and routinely~~
93 ~~operated by the convicted person, when the convicted person~~
94 ~~qualifies for a permanent or restricted license. The~~
95 ~~installation of such device may not occur before July 1, 2003.~~

96 3. Any person who is convicted of a fourth or subsequent
97 violation of this section, regardless of when any prior
98 conviction for a violation of this section occurred, commits a
99 felony of the third degree, punishable as provided in s.
100 775.082, s. 775.083, or s. 775.084. However, the fine imposed
101 for such fourth or subsequent violation may be not less than
102 \$1,000.

103 (3) Any person:

104 (a) Who is in violation of subsection (1);

105 (b) Who operates a vehicle; and

106 (c) Who, by reason of such operation, causes or
107 contributes to causing:

108 1. Damage to the property or person of another commits a
109 misdemeanor of the first degree, punishable as provided in s.
110 775.082 or s. 775.083.

111 2. Serious bodily injury to another, as defined in s.
112 316.1933, commits a felony of the third degree, punishable as
113 provided in s. 775.082, s. 775.083, or s. 775.084.

114 3. The death of any human being commits DUI manslaughter,
115 and commits:

116 a. A felony of the second degree, punishable as provided
117 in s. 775.082, s. 775.083, or s. 775.084.

118 b. A felony of the first degree, punishable as provided in
119 s. 775.082, s. 775.083, or s. 775.084, if:



HB 1199

2003

120 (I) At the time of the crash, the person knew, or should
121 have known, that the crash occurred; and

122 (II) The person failed to give information and render aid
123 as required by s. 316.062.

124 (4) Any person who is convicted of a violation of
125 subsection (1) and who has a blood-alcohol level or breath-
126 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is
127 convicted of a violation of subsection (1) and who at the time
128 of the offense was accompanied in the vehicle by a person under
129 the age of 18 years, shall be punished:

130 (a) By a fine of:

131 1. Not less than \$500 or more than \$1,000 for a first
132 conviction.

133 2. Not less than \$1,000 or more than \$2,000 for a second
134 conviction.

135 3. Not less than \$2,000 for a third or subsequent
136 conviction.

137 (b) By imprisonment for:

138 1. Not more than 9 months for a first conviction.

139 2. Not more than 12 months for a second conviction.

140

141 For the purposes of this subsection, only the instant offense is
142 required to be a violation of subsection (1) by a person who has
143 a blood-alcohol level or breath-alcohol level of 0.16 ~~0.20~~ or
144 higher.

145 ~~(c) In addition to the penalties in paragraphs (a) and~~
146 ~~(b), the court shall order the mandatory placement, at the~~
147 ~~convicted person's sole expense, of an ignition interlock device~~
148 ~~approved by the department in accordance with s. 316.1938 upon~~
149 ~~all vehicles that are individually or jointly leased or owned~~



HB 1199

2003

150 ~~and routinely operated by the convicted person for up to 6~~
151 ~~months for the first offense and for at least 2 years for a~~
152 ~~second offense, when the convicted person qualifies for a~~
153 ~~permanent or restricted license. The installation of such device~~
154 ~~may not occur before July 1, 2003.~~

155 (5) The court shall place all offenders convicted of
156 violating this section on monthly reporting probation and shall
157 require completion of a substance abuse course conducted by a
158 DUI program licensed by the department under s. 322.292, which
159 must include a psychosocial evaluation of the offender. If the
160 DUI program refers the offender to an authorized substance abuse
161 treatment provider for substance abuse treatment, in addition to
162 any sentence or fine imposed under this section, completion of
163 all such education, evaluation, and treatment is a condition of
164 reporting probation. The offender shall assume reasonable costs
165 for such education, evaluation, and treatment. The referral to
166 treatment resulting from a psychosocial evaluation shall not be
167 waived without a supporting independent psychosocial evaluation
168 conducted by an authorized substance abuse treatment provider
169 appointed by the court, which shall have access to the DUI
170 program's psychosocial evaluation before the independent
171 psychosocial evaluation is conducted. The court shall review the
172 results and recommendations of both evaluations before
173 determining the request for waiver. The offender shall bear the
174 full cost of this procedure. The term "substance abuse" means
175 the abuse of alcohol or any substance named or described in
176 Schedules I through V of s. 893.03. If an offender referred to
177 treatment under this subsection fails to report for or complete
178 such treatment or fails to complete the DUI program substance
179 abuse education course and evaluation, the DUI program shall



HB 1199

2003

180 notify the court and the department of the failure. Upon receipt
181 of the notice, the department shall cancel the offender's
182 driving privilege, notwithstanding the terms of the court order
183 or any suspension or revocation of the driving privilege. The
184 department may temporarily reinstate the driving privilege on a
185 restricted basis upon verification from the DUI program that the
186 offender is currently participating in treatment and the DUI
187 education course and evaluation requirement has been completed.
188 If the DUI program notifies the department of the second failure
189 to complete treatment, the department shall reinstate the
190 driving privilege only after notice of completion of treatment
191 from the DUI program. The organization that conducts the
192 substance abuse education and evaluation may not provide
193 required substance abuse treatment unless a waiver has been
194 granted to that organization by the department. A waiver may be
195 granted only if the department determines, in accordance with
196 its rules, that the service provider that conducts the substance
197 abuse education and evaluation is the most appropriate service
198 provider and is licensed under chapter 397 or is exempt from
199 such licensure. A statistical referral report shall be submitted
200 quarterly to the department by each organization authorized to
201 provide services under this section.

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

205 (a) For the first conviction, the court shall place the
206 defendant on probation for a period not to exceed 1 year and, as
207 a condition of such probation, shall order the defendant to
208 participate in public service or a community work project for a
209 minimum of 50 hours; or the court may order instead, that any



HB 1199

2003

210 defendant pay an additional fine of \$10 for each hour of public
211 service or community work otherwise required, if, after
212 consideration of the residence or location of the defendant at
213 the time public service or community work is required, payment
214 of the fine is in the best interests of the state. However, the
215 total period of probation and incarceration may not exceed 1
216 year. The court must also, as a condition of probation, order
217 the impoundment or immobilization of the vehicle that was
218 operated by or in the actual control of the defendant or any one
219 vehicle registered in the defendant's name at the time of
220 impoundment or immobilization, for a period of 10 days or for
221 the unexpired term of any lease or rental agreement that expires
222 within 10 days. The impoundment or immobilization must not occur
223 concurrently with the incarceration of the defendant. The
224 impoundment or immobilization order may be dismissed in
225 accordance with paragraph (e), paragraph (f), paragraph (g), or
226 paragraph (h).

227 (b) For the second conviction for an offense that occurs
228 within a period of 5 years after the date of a prior conviction
229 for violation of this section, the court shall order
230 imprisonment for not less than 10 days. The court must also, as
231 a condition of probation, order the impoundment or
232 immobilization of all vehicles owned by the defendant at the
233 time of impoundment or immobilization, for a period of 30 days
234 or for the unexpired term of any lease or rental agreement that
235 expires within 30 days. The impoundment or immobilization must
236 not occur concurrently with the incarceration of the defendant
237 and must occur concurrently with the driver's license revocation
238 imposed under s. 322.28(2)(a)2. The impoundment or
239 immobilization order may be dismissed in accordance with



HB 1199

2003

240 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).

241 At least 48 hours of confinement must be consecutive.

242 (c) For the third or subsequent conviction for an offense
 243 that occurs within a period of 10 years after the date of a
 244 prior conviction for violation of this section, the court shall
 245 order imprisonment for not less than 30 days. The court must
 246 also, as a condition of probation, order the impoundment or
 247 immobilization of all vehicles owned by the defendant at the
 248 time of impoundment or immobilization, for a period of 90 days
 249 or for the unexpired term of any lease or rental agreement that
 250 expires within 90 days. The impoundment or immobilization must
 251 not occur concurrently with the incarceration of the defendant
 252 and must occur concurrently with the driver's license revocation
 253 imposed under s. 322.28(2)(a)3. The impoundment or
 254 immobilization order may be dismissed in accordance with
 255 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
 256 At least 48 hours of confinement must be consecutive.

257 (d) The court must at the time of sentencing the defendant
 258 issue an order for the impoundment or immobilization of a
 259 vehicle. Within 7 business days after the date that the court
 260 issues the order of impoundment or immobilization, the clerk of
 261 the court must send notice by certified mail, return receipt
 262 requested, to the registered owner of each vehicle, if the
 263 registered owner is a person other than the defendant, and to
 264 each person of record claiming a lien against the vehicle.

265 (e) A person who owns but was not operating the vehicle
 266 when the offense occurred may submit to the court a police
 267 report indicating that the vehicle was stolen at the time of the
 268 offense or documentation of having purchased the vehicle after
 269 the offense was committed from an entity other than the



HB 1199

2003

270 defendant or the defendant's agent. If the court finds that the
271 vehicle was stolen or that the sale was not made to circumvent
272 the order and allow the defendant continued access to the
273 vehicle, the order must be dismissed and the owner of the
274 vehicle will incur no costs. If the court denies the request to
275 dismiss the order of impoundment or immobilization, the
276 petitioner may request an evidentiary hearing.

277 (f) A person who owns but was not operating the vehicle
278 when the offense occurred, and whose vehicle was stolen or who
279 purchased the vehicle after the offense was committed directly
280 from the defendant or the defendant's agent, may request an
281 evidentiary hearing to determine whether the impoundment or
282 immobilization should occur. If the court finds that either the
283 vehicle was stolen or the purchase was made without knowledge of
284 the offense, that the purchaser had no relationship to the
285 defendant other than through the transaction, and that such
286 purchase would not circumvent the order and allow the defendant
287 continued access to the vehicle, the order must be dismissed and
288 the owner of the vehicle will incur no costs.

289 (g) The court shall also dismiss the order of impoundment
290 or immobilization of the vehicle if the court finds that the
291 family of the owner of the vehicle has no other private or
292 public means of transportation.

293 (h) The court may also dismiss the order of impoundment or
294 immobilization of any vehicles that are owned by the defendant
295 but that are operated solely by the employees of the defendant
296 or any business owned by the defendant.

297 (i) All costs and fees for the impoundment or
298 immobilization, including the cost of notification, must be paid
299 by the owner of the vehicle or, if the vehicle is leased or



HB 1199

2003

300 rented, by the person leasing or renting the vehicle, unless the
301 impoundment or immobilization order is dismissed. All provisions
302 of s. 713.78 shall apply.

303 (j) The person who owns a vehicle that is impounded or
304 immobilized under this paragraph, or a person who has a lien of
305 record against such a vehicle and who has not requested a review
306 of the impoundment pursuant to paragraph (e), paragraph (f), or
307 paragraph (g), may, within 10 days after the date that person
308 has knowledge of the location of the vehicle, file a complaint
309 in the county in which the owner resides to determine whether
310 the vehicle was wrongfully taken or withheld from the owner or
311 lienholder. Upon the filing of a complaint, the owner or
312 lienholder may have the vehicle released by posting with the
313 court a bond or other adequate security equal to the amount of
314 the costs and fees for impoundment or immobilization, including
315 towing or storage, to ensure the payment of such costs and fees
316 if the owner or lienholder does not prevail. When the bond is
317 posted and the fee is paid as set forth in s. 28.24, the clerk
318 of the court shall issue a certificate releasing the vehicle. At
319 the time of release, after reasonable inspection, the owner or
320 lienholder must give a receipt to the towing or storage company
321 indicating any loss or damage to the vehicle or to the contents
322 of the vehicle.

323 (k) A defendant, in the court's discretion, may be
324 required to serve all or any portion of a term of imprisonment
325 to which the defendant has been sentenced pursuant to this
326 section in a residential alcoholism treatment program or a
327 residential drug abuse treatment program. Any time spent in such
328 a program must be credited by the court toward the term of
329 imprisonment.



HB 1199

2003

330
331 For the purposes of this section, any conviction for a violation
332 of s. 327.35; a previous conviction for the violation of former
333 s. 316.1931, former s. 860.01, or former s. 316.028; or a
334 previous conviction outside this state for driving under the
335 influence, driving while intoxicated, driving with an unlawful
336 blood-alcohol level, driving with an unlawful breath-alcohol
337 level, or any other similar alcohol-related or drug-related
338 traffic offense, is also considered a previous conviction for
339 violation of this section. However, in satisfaction of the fine
340 imposed pursuant to this section, the court may, upon a finding
341 that the defendant is financially unable to pay either all or
342 part of the fine, order that the defendant participate for a
343 specified additional period of time in public service or a
344 community work project in lieu of payment of that portion of the
345 fine which the court determines the defendant is unable to pay.
346 In determining such additional sentence, the court shall
347 consider the amount of the unpaid portion of the fine and the
348 reasonable value of the services to be ordered; however, the
349 court may not compute the reasonable value of services at a rate
350 less than the federal minimum wage at the time of sentencing.

351 (7) A conviction under this section does not bar any civil
352 suit for damages against the person so convicted.

353 (8) At the arraignment, or in conjunction with any notice
354 of arraignment provided by the clerk of the court, the clerk
355 shall provide any person charged with a violation of this
356 section with notice that upon conviction the court shall suspend
357 or revoke the offender's driver's license and that the offender
358 should make arrangements for transportation at any proceeding in
359 which the court may take such action. Failure to provide such



HB 1199

2003

360 notice does not affect the court's suspension or revocation of
 361 the offender's driver's license.

362 (9) A person who is arrested for a violation of this
 363 section may not be released from custody:

364 (a) Until the person is no longer under the influence of
 365 alcoholic beverages, any chemical substance set forth in s.
 366 877.111, or any substance controlled under chapter 893 and
 367 affected to the extent that his or her normal faculties are
 368 impaired;

369 (b) Until the person's blood-alcohol level or breath-
 370 alcohol level is less than 0.05; or

371 (c) Until 8 hours have elapsed from the time the person
 372 was arrested.

373 (10) The rulings of the Department of Highway Safety and
 374 Motor Vehicles under s. 322.2615 shall not be considered in any
 375 trial for a violation of this section. Testimony or evidence
 376 from the administrative proceedings or any written statement
 377 submitted by a person in his or her request for administrative
 378 review is inadmissible into evidence or for any other purpose in
 379 any criminal proceeding, unless timely disclosed in criminal
 380 discovery pursuant to Rule 3.220, Florida Rules of Criminal
 381 Procedure.

382 ~~(11) The Department of Highway Safety and Motor Vehieles~~
 383 ~~is directed to adopt rules providing for the implementation of~~
 384 ~~the use of ignition interlock devices.~~

385 Section 2. Sections 316.1937 and 316.1938, Florida
 386 Statutes, are repealed.

387 Section 3. Section 316.655, Florida Statutes, is amended
 388 to read:

389 316.655 Penalties.--



HB 1199

2003

390 (1) A violation of any of the provisions of this chapter,
391 except those violations with a specific criminal charge, as
392 enumerated in s. 318.17, are infractions, as defined in s.
393 318.13(3). Except for violations of s. 316.302, infractions of
394 this chapter are punishable as provided in chapter 318. Any
395 person convicted of a violation of or otherwise found to be in
396 violation of s. 316.063, s. 316.3025, s. 316.516, s. 316.545, or
397 s. 316.550 shall be punished as specifically provided in that
398 section.

399 (2) Notwithstanding the provision of chapter 322, drivers
400 convicted of a violation of any offense prohibited by this
401 chapter or any other law of this state regulating motor vehicles
402 may have their driving privileges revoked or suspended by the
403 court if the court finds such revocation or suspension warranted
404 by the totality of the circumstances resulting in the conviction
405 and the need to provide for the maximum safety for all persons
406 who travel on or who are otherwise affected by the use of the
407 highways of the state, provided, however, that no period of
408 revocation or suspension may be less than that required by
409 chapter 322. In determining whether suspension or revocation is
410 appropriate, the court shall consider all pertinent factors,
411 including, but not limited to, such factors as the extent and
412 nature of the driver's violation of this chapter, the number of
413 persons killed or injured as the result of the driver's
414 violation of this chapter, and the extent of any property damage
415 resulting from the driver's violation of this chapter.

416 (3) Notwithstanding the provisions of chapter 322, the
417 court may require persons convicted of a violation of any
418 offense prohibited by this chapter or any other law of this
419 state to have installed a department-approved ignition interlock



HB 1199

2003

420 device upon all vehicles that are operated by the convicted
 421 person, at the convicted person's sole expense. The court, based
 422 upon the totality of the circumstances, shall determine the
 423 length of required installation and the need to provide for the
 424 maximum safety for all persons who travel on or who are
 425 otherwise affected by the use of the highways of the state.

426 Section 4. Paragraph (a) of subsection (2) of section
 427 316.656, Florida Statutes, is amended to read:

428 316.656 Mandatory adjudication; prohibition against
 429 accepting plea to lesser included offense.--

430 (2)(a) No trial judge may accept a plea of guilty to a
 431 lesser offense from a person charged under the provisions of
 432 this act who has been given a breath or blood test to determine
 433 blood or breath alcohol content, the results of which show a
 434 blood or breath alcohol content by weight of 0.16 ~~0.20~~ percent
 435 or more.

436 Section 5. Paragraph (d) of subsection (2) of section
 437 322.271, Florida Statutes, is amended to read:

438 322.271 Authority to modify revocation, cancellation, or
 439 suspension order.--

440 (2)

441 (d) The department, based upon review of the licensee's
 442 application for reinstatement, may require use of an ignition
 443 interlock device ~~pursuant to s. 316.1937.~~

444 Section 6. Section 322.2715, Florida Statutes, is created
 445 to read:

446 322.2715 Ignition interlock devices; certification;
 447 warning label; unlawful acts.--

448 (1) The Department of Highway Safety and Motor Vehicles is
 449 authorized to contract, in accordance with chapter 287, with a



HB 1199

2003

450 provider or providers to furnish all or some of the commodities
451 and contractual services required for the implementation of this
452 section. Said contract must contain provisions for the providing
453 of ignition interlock devices to the indigent.

454 (2) The ignition interlock devices, when installed in a
455 vehicle, shall prevent the vehicle from starting if the
456 operator's breath alcohol level is in excess of 0.025 grams of
457 alcohol per 210 liters of breath.

458 (3) A warning label shall be affixed to each ignition
459 interlock device upon installation. The label shall contain a
460 warning that any person tampering with, circumventing, or
461 otherwise misusing the device is guilty of a violation of law
462 and may be subject to civil and criminal liability.

463 (4)(a) Prior to issuing a permanent or restricted license
464 under this chapter, the department shall require the placement
465 of a department-approved ignition interlock device, for any
466 person convicted of committing any DUI, upon all vehicles that
467 are operated by the convicted person, at the convicted person's
468 sole expense.

469 (b) For the purposes of this section, any conviction for a
470 violation of s. 316.193 or s. 316.1939; a previous conviction
471 for the violation of former s. 316.1931, former s. 860.01, or
472 former s. 316.028; or a previous conviction outside this state
473 for driving under the influence, driving while intoxicated,
474 driving with an unlawful blood-alcohol level, driving with an
475 unlawful breath-alcohol level, or any other similar alcohol-
476 related or drug-related traffic offense is considered a
477 conviction of DUI.

478 (c) If the person has been convicted of:



HB 1199

2003

479 1. A first offense of DUI, the court may require the use
480 of an approved ignition interlock device for a period of not
481 less than 6 months or more than 2 years.

482 2. A first offense of DUI and at the time of the offense
483 was:

484 a. Accompanied in the vehicle by a person under the age of
485 18 years, the ignition interlock device shall be required for a
486 period of not less than 6 months or more than 2 years.

487 b. The person had a blood-alcohol level or breath-alcohol
488 level of twice that prohibited by s. 316.193(1), the ignition
489 interlock device shall be required for a period of not less than
490 6 months or more than 2 years.

491 3. A second offense of DUI, the ignition interlock device
492 shall be required for a period of not less than 1 year or more
493 than 2 years.

494 4. A third or subsequent offense of DUI, the ignition
495 interlock device shall be required for a period of 2 years.

496 5. DUI manslaughter with no previous DUI convictions, the
497 ignition interlock device shall be required for a period of not
498 less than 1 year or more than 2 years.

499 6. DUI and the offender is accepted into a supervision
500 program conducted by a licensed DUI program and fails the
501 abstinence requirement of the program, the supervision program
502 shall continue and an ignition interlock device shall be
503 required for 1 year of a 5-year license revocation period
504 required by s. 322.28(2)(a) and for 2 years of a 10-year license
505 revocation period required by s. 322.28(2)(a), and the time
506 period of the original license suspension shall be extended such
507 that the period of suspension shall be deemed to begin on the
508 date the ignition interlock device is installed. If such DUI



HB 1199

2003

509 offender fails the abstinence requirement of the supervision
 510 program a second time, the offender's restricted license shall
 511 be revoked for the remaining revocation period.

512 (5) The requirement to place an ignition interlock device
 513 in a convicted person's vehicles shall be recorded on the
 514 person's license and in the department's records.

515 (a) If, while required to place ignition interlock devices
 516 in his or her vehicle, the convicted person is on any type of
 517 probation, the probation order shall contain a condition
 518 requiring the placement of an ignition interlock device, as
 519 required by this section, effective upon the convicted person's
 520 obtaining a license under s. 322.271. The convicted person shall
 521 notify his or her probation officer of said condition within 72
 522 hours after imposition of said condition.

523 (b) A convicted person who violates the notice requirement
 524 of paragraph (a) commits a misdemeanor of the first degree,
 525 punishable as provided in s. 775.082 or s. 775.083, and shall be
 526 sentenced to and required to serve a minimum term of
 527 incarceration of not less than 10 days.

528 (6) The department shall require proof of installation of
 529 the ignition interlock device, shall require monitoring by a
 530 licensed DUI program of the person required to have an ignition
 531 interlock device, and shall require periodic reporting to the
 532 department by the licensed DUI program for verification of the
 533 operation of the device in the convicted person's vehicle.

534 (7) It is unlawful:

535 (a) To tamper with, or to circumvent the operation of, an
 536 ignition interlock device.

537 (b) For any person whose driving privilege is restricted
 538 pursuant to this section to request or solicit any other person



HB 1199

2003

539 to blow into an ignition interlock device or to start a motor
540 vehicle equipped with the device for the purpose of providing
541 the person so restricted with an operable motor vehicle.

542 (c) To blow into an ignition interlock device or to start
543 a motor vehicle equipped with the device for the purpose of
544 providing an operable motor vehicle to a person whose driving
545 privilege is restricted pursuant to this section.

546 (d) To knowingly lease or lend a motor vehicle to a person
547 who has had his or her driving privilege restricted as provided
548 in this section, unless the vehicle is equipped with a
549 functioning, approved ignition interlock device. Any person
550 whose driving privilege requires the placement of an ignition
551 interlock device shall notify any other person who leases or
552 lends a motor vehicle to him or her of such driving restriction.
553 Failure to provide such notification shall also constitute a
554 violation of this subsection.

555 (e) For any person required to install an ignition
556 interlock device to operate a motor vehicle without an ignition
557 interlock device.

558 (8)(a) Any person who violates subsection (7) commits a
559 misdemeanor of the first degree, punishable as provided in s.
560 775.082 or s. 775.083, and shall be sentenced to and required to
561 serve a minimum term of incarceration of not less than 10 days.

562 (b) In addition to any other provision of law, upon
563 conviction of a violation of subsection (7) the department shall
564 revoke the person's driving privilege for 1 year from the date
565 of conviction.

566 (c) Upon conviction of a separate violation of subsection
567 (7) during the same period of required use of an ignition



HB 1199

2003

568 interlock device, the department shall revoke the person's
569 driving privilege for 5 years from the date of conviction.

570 (d) Any person convicted of a violation of subsection (7)
571 who does not have a driver's license shall, in addition to any
572 other penalty provided by law, pay a fine of not less than \$250
573 for each such violation. In the event that the person is unable
574 to pay any such fine, the fine shall become a lien against the
575 motor vehicle used in violation of subsection (7) and payment
576 shall be made pursuant to s. 316.3025(4).

577 (9)(a) Notwithstanding the provisions of this section, if
578 a person is required to operate a motor vehicle in the course
579 and scope of his or her employment and if the vehicle is owned
580 by the employer, the person may operate that vehicle without
581 installation of an approved ignition interlock device, if the
582 employer has been notified of such driving privilege restriction
583 and proof of that notification is with the vehicle.

584 (b) The provisions of paragraph (a) do not apply if the
585 business entity which owns the vehicle is owned or controlled by
586 the person whose driving privilege has been restricted.

587 (10) The department is authorized to adopt rules to
588 implement this section.

589 (11) Except with respect to hearings to be conducted by
590 the court, hearings pursuant to this section shall be conducted
591 pursuant to and in accordance with s. 322.271 and reviewed
592 pursuant to s. 322.31.

593 Section 7. Severability.--If any provision of this act is
594 held invalid, the invalidity shall not affect other provisions
595 of the act and to this end the provisions herein are declared
596 severable.



HB 1199

2003

597 Section 8. Paragraph (a) of subsection (2) of section
598 316.656, Florida Statutes, is amended to read:

599 316.656 Mandatory adjudication; prohibition against
600 accepting plea to lesser included offense.--

601 (2)(a) No trial judge may accept a plea of guilty to a
602 lesser offense from a person charged under the provisions of
603 this act who has been given a breath or blood test to determine
604 blood or breath alcohol content, the results of which show a
605 blood or breath alcohol content by weight of 0.16 ~~0.20~~ percent
606 or more.

607 Section 9. This act shall take effect October 1, 2003.