

By Senator Campbell

32-1462-03

See HB 1199

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; removing references
4 to ignition interlock devices; decreasing the
5 minimum blood-alcohol level for certain
6 offenses; providing penalties; repealing ss.
7 316.1937 and 316.1938, F.S., relating to
8 ignition interlock devices; amending s.
9 316.655, F.S.; requiring minimum periods of
10 suspension of driving privileges for certain
11 offenses; amending s. 316.656, F.S.;
12 prohibiting a judge from accepting a plea to a
13 lesser offense under certain circumstances;
14 amending s. 322.271, F.S.; correcting a
15 cross-reference; creating s. 322.2715, F.S.;
16 authorizing the Department of Highway Safety
17 and Motor Vehicles to contract for certain
18 commodities and services; requiring the
19 installation of ignition interlock devices as a
20 condition to certain licensure; requiring
21 warning labels; requiring the installation of
22 ignition interlock devices on certain vehicles
23 for a certain period of time; providing for
24 such time requirement to be determined by the
25 court, subject to certain minimums; requiring
26 notification by an offender to a probation
27 officer when installation of an ignition
28 interlock device is required as a condition of
29 probation; providing penalties, including a
30 minimum mandatory sentence, for failure to
31 provide such notice; providing that certain

1 actions with respect to such devices or
2 vehicles is unlawful and prohibiting the
3 lending or leasing of vehicles to persons
4 required to drive vehicles with ignition
5 interlocking devices if such vehicles do not
6 have such devices; providing penalties,
7 including minimum mandatory penalties under
8 certain circumstances; providing an exception;
9 providing for severability; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 316.193, Florida Statutes, is
15 amended to read:

16 316.193 Driving under the influence; penalties.--

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

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

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

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

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

- 1 1. By a fine of:
- 2 a. Not less than \$250 or more than \$500 for a first
- 3 conviction.
- 4 b. Not less than \$500 or more than \$1,000 for a second
- 5 conviction; and
- 6 2. By imprisonment for:
- 7 a. Not more than 6 months for a first conviction.
- 8 b. Not more than 9 months for a second conviction.
- 9 ~~3. For a second conviction, by mandatory placement for~~
- 10 ~~a period of at least 1 year, at the convicted person's sole~~
- 11 ~~expense, of an ignition interlock device approved by the~~
- 12 ~~department in accordance with s. 316.1938 upon all vehicles~~
- 13 ~~that are individually or jointly leased or owned and routinely~~
- 14 ~~operated by the convicted person, when the convicted person~~
- 15 ~~qualifies for a permanent or restricted license. The~~
- 16 ~~installation of such device may not occur before July 1, 2003.~~
- 17 (b)1. Any person who is convicted of a third violation
- 18 of this section for an offense that occurs within 10 years
- 19 after a prior conviction for a violation of this section
- 20 commits a felony of the third degree, punishable as provided
- 21 in s. 775.082, s. 775.083, or s. 775.084. ~~In addition, the~~
- 22 ~~court shall order the mandatory placement for a period of not~~
- 23 ~~less than 2 years, at the convicted person's sole expense, of~~
- 24 ~~an ignition interlock device approved by the department in~~
- 25 ~~accordance with s. 316.1938 upon all vehicles that are~~
- 26 ~~individually or jointly leased or owned and routinely operated~~
- 27 ~~by the convicted person, when the convicted person qualifies~~
- 28 ~~for a permanent or restricted license. The installation of~~
- 29 ~~such device may not occur before July 1, 2003.~~
- 30 2. Any person who is convicted of a third violation of
- 31 this section for an offense that occurs more than 10 years

1 after the date of a prior conviction for a violation of this
2 section shall be punished by a fine of not less than \$1,000 or
3 more than \$2,500 and by imprisonment for not more than 12
4 months. ~~In addition, the court shall order the mandatory~~
5 ~~placement for a period of at least 2 years, at the convicted~~
6 ~~person's sole expense, of an ignition interlock device~~
7 ~~approved by the department in accordance with s. 316.1938 upon~~
8 ~~all vehicles that are individually or jointly leased or owned~~
9 ~~and routinely operated by the convicted person, when the~~
10 ~~convicted person qualifies for a permanent or restricted~~
11 ~~license. The installation of such device may not occur before~~
12 ~~July 1, 2003.~~

13 3. Any person who is convicted of a fourth or
14 subsequent violation of this section, regardless of when any
15 prior conviction for a violation of this section occurred,
16 commits a felony of the third degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084. However, the fine
18 imposed for such fourth or subsequent violation may be not
19 less than \$1,000.

20 (3) Any person:

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

22 (b) Who operates a vehicle; and

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

25 1. Damage to the property or person of another commits
26 a misdemeanor of the first degree, punishable as provided in
27 s. 775.082 or s. 775.083.

28 2. Serious bodily injury to another, as defined in s.
29 316.1933, commits a felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.

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1 3. The death of any human being commits DUI
2 manslaughter, and commits:

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

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

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

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

11 (4) Any person who is convicted of a violation of
12 subsection (1) and who has a blood-alcohol level or
13 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who
14 is convicted of a violation of subsection (1) and who at the
15 time of the offense was accompanied in the vehicle by a person
16 under the age of 18 years, shall be punished:

17 (a) By a fine of:

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

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

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

24 (b) By imprisonment for:

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

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

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28 For the purposes of this subsection, only the instant offense
29 is required to be a violation of subsection (1) by a person
30 who has a blood-alcohol level or breath-alcohol level of 0.16
31 ~~0.20~~ or higher.

1 ~~(c) In addition to the penalties in paragraphs (a) and~~
2 ~~(b), the court shall order the mandatory placement, at the~~
3 ~~convicted person's sole expense, of an ignition interlock~~
4 ~~device approved by the department in accordance with s.~~
5 ~~316.1938 upon all vehicles that are individually or jointly~~
6 ~~leased or owned and routinely operated by the convicted person~~
7 ~~for up to 6 months for the first offense and for at least 2~~
8 ~~years for a second offense, when the convicted person~~
9 ~~qualifies for a permanent or restricted license. The~~
10 ~~installation of such device may not occur before July 1, 2003.~~

11 (5) The court shall place all offenders convicted of
12 violating this section on monthly reporting probation and
13 shall require completion of a substance abuse course conducted
14 by a DUI program licensed by the department under s. 322.292,
15 which must include a psychosocial evaluation of the offender.
16 If the DUI program refers the offender to an authorized
17 substance abuse treatment provider for substance abuse
18 treatment, in addition to any sentence or fine imposed under
19 this section, completion of all such education, evaluation,
20 and treatment is a condition of reporting probation. The
21 offender shall assume reasonable costs for such education,
22 evaluation, and treatment. The referral to treatment resulting
23 from a psychosocial evaluation shall not be waived without a
24 supporting independent psychosocial evaluation conducted by an
25 authorized substance abuse treatment provider appointed by the
26 court, which shall have access to the DUI program's
27 psychosocial evaluation before the independent psychosocial
28 evaluation is conducted. The court shall review the results
29 and recommendations of both evaluations before determining the
30 request for waiver. The offender shall bear the full cost of
31 this procedure. The term "substance abuse" means the abuse of

1 alcohol or any substance named or described in Schedules I
2 through V of s. 893.03. If an offender referred to treatment
3 under this subsection fails to report for or complete such
4 treatment or fails to complete the DUI program substance abuse
5 education course and evaluation, the DUI program shall notify
6 the court and the department of the failure. Upon receipt of
7 the notice, the department shall cancel the offender's driving
8 privilege, notwithstanding the terms of the court order or any
9 suspension or revocation of the driving privilege. The
10 department may temporarily reinstate the driving privilege on
11 a restricted basis upon verification from the DUI program that
12 the offender is currently participating in treatment and the
13 DUI education course and evaluation requirement has been
14 completed. If the DUI program notifies the department of the
15 second failure to complete treatment, the department shall
16 reinstate the driving privilege only after notice of
17 completion of treatment from the DUI program. The organization
18 that conducts the substance abuse education and evaluation may
19 not provide required substance abuse treatment unless a waiver
20 has been granted to that organization by the department. A
21 waiver may be granted only if the department determines, in
22 accordance with its rules, that the service provider that
23 conducts the substance abuse education and evaluation is the
24 most appropriate service provider and is licensed under
25 chapter 397 or is exempt from such licensure. A statistical
26 referral report shall be submitted quarterly to the department
27 by each organization authorized to provide services under this
28 section.

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

1 (a) For the first conviction, the court shall place
2 the defendant on probation for a period not to exceed 1 year
3 and, as a condition of such probation, shall order the
4 defendant to participate in public service or a community work
5 project for a minimum of 50 hours; or the court may order
6 instead, that any defendant pay an additional fine of \$10 for
7 each hour of public service or community work otherwise
8 required, if, after consideration of the residence or location
9 of the defendant at the time public service or community work
10 is required, payment of the fine is in the best interests of
11 the state. However, the total period of probation and
12 incarceration may not exceed 1 year. The court must also, as a
13 condition of probation, order the impoundment or
14 immobilization of the vehicle that was operated by or in the
15 actual control of the defendant or any one vehicle registered
16 in the defendant's name at the time of impoundment or
17 immobilization, for a period of 10 days or for the unexpired
18 term of any lease or rental agreement that expires within 10
19 days. The impoundment or immobilization must not occur
20 concurrently with the incarceration of the defendant. The
21 impoundment or immobilization order may be dismissed in
22 accordance with paragraph (e), paragraph (f), paragraph (g),
23 or paragraph (h).

24 (b) For the second conviction for an offense that
25 occurs within a period of 5 years after the date of a prior
26 conviction for violation of this section, the court shall
27 order imprisonment for not less than 10 days. The court must
28 also, as a condition of probation, order the impoundment or
29 immobilization of all vehicles owned by the defendant at the
30 time of impoundment or immobilization, for a period of 30 days
31 or for the unexpired term of any lease or rental agreement

1 that expires within 30 days. The impoundment or immobilization
2 must not occur concurrently with the incarceration of the
3 defendant and must occur concurrently with the driver's
4 license revocation imposed under s. 322.28(2)(a)2. The
5 impoundment or immobilization order may be dismissed in
6 accordance with paragraph (e), paragraph (f), paragraph (g),
7 or paragraph (h). At least 48 hours of confinement must be
8 consecutive.

9 (c) For the third or subsequent conviction for an
10 offense that occurs within a period of 10 years after the date
11 of a prior conviction for violation of this section, the court
12 shall order imprisonment for not less than 30 days. The court
13 must also, as a condition of probation, order the impoundment
14 or immobilization of all vehicles owned by the defendant at
15 the time of impoundment or immobilization, for a period of 90
16 days or for the unexpired term of any lease or rental
17 agreement that expires within 90 days. The impoundment or
18 immobilization must not occur concurrently with the
19 incarceration of the defendant and must occur concurrently
20 with the driver's license revocation imposed under s.
21 322.28(2)(a)3. The impoundment or immobilization order may be
22 dismissed in accordance with paragraph (e), paragraph (f),
23 paragraph (g), or paragraph (h). At least 48 hours of
24 confinement must be consecutive.

25 (d) The court must at the time of sentencing the
26 defendant issue an order for the impoundment or immobilization
27 of a vehicle. Within 7 business days after the date that the
28 court issues the order of impoundment or immobilization, the
29 clerk of the court must send notice by certified mail, return
30 receipt requested, to the registered owner of each vehicle, if
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1 the registered owner is a person other than the defendant, and
2 to each person of record claiming a lien against the vehicle.

3 (e) A person who owns but was not operating the
4 vehicle when the offense occurred may submit to the court a
5 police report indicating that the vehicle was stolen at the
6 time of the offense or documentation of having purchased the
7 vehicle after the offense was committed from an entity other
8 than the defendant or the defendant's agent. If the court
9 finds that the vehicle was stolen or that the sale was not
10 made to circumvent the order and allow the defendant continued
11 access to the vehicle, the order must be dismissed and the
12 owner of the vehicle will incur no costs. If the court denies
13 the request to dismiss the order of impoundment or
14 immobilization, the petitioner may request an evidentiary
15 hearing.

16 (f) A person who owns but was not operating the
17 vehicle when the offense occurred, and whose vehicle was
18 stolen or who purchased the vehicle after the offense was
19 committed directly from the defendant or the defendant's
20 agent, may request an evidentiary hearing to determine whether
21 the impoundment or immobilization should occur. If the court
22 finds that either the vehicle was stolen or the purchase was
23 made without knowledge of the offense, that the purchaser had
24 no relationship to the defendant other than through the
25 transaction, and that such purchase would not circumvent the
26 order and allow the defendant continued access to the vehicle,
27 the order must be dismissed and the owner of the vehicle will
28 incur no costs.

29 (g) The court shall also dismiss the order of
30 impoundment or immobilization of the vehicle if the court

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1 finds that the family of the owner of the vehicle has no other
2 private or public means of transportation.

3 (h) The court may also dismiss the order of
4 impoundment or immobilization of any vehicles that are owned
5 by the defendant but that are operated solely by the employees
6 of the defendant or any business owned by the defendant.

7 (i) All costs and fees for the impoundment or
8 immobilization, including the cost of notification, must be
9 paid by the owner of the vehicle or, if the vehicle is leased
10 or rented, by the person leasing or renting the vehicle,
11 unless the impoundment or immobilization order is dismissed.
12 All provisions of s. 713.78 shall apply.

13 (j) The person who owns a vehicle that is impounded or
14 immobilized under this paragraph, or a person who has a lien
15 of record against such a vehicle and who has not requested a
16 review of the impoundment pursuant to paragraph (e), paragraph
17 (f), or paragraph (g), may, within 10 days after the date that
18 person has knowledge of the location of the vehicle, file a
19 complaint in the county in which the owner resides to
20 determine whether the vehicle was wrongfully taken or withheld
21 from the owner or lienholder. Upon the filing of a complaint,
22 the owner or lienholder may have the vehicle released by
23 posting with the court a bond or other adequate security equal
24 to the amount of the costs and fees for impoundment or
25 immobilization, including towing or storage, to ensure the
26 payment of such costs and fees if the owner or lienholder does
27 not prevail. When the bond is posted and the fee is paid as
28 set forth in s. 28.24, the clerk of the court shall issue a
29 certificate releasing the vehicle. At the time of release,
30 after reasonable inspection, the owner or lienholder must give
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1 a receipt to the towing or storage company indicating any loss
2 or damage to the vehicle or to the contents of the vehicle.

3 (k) A defendant, in the court's discretion, may be
4 required to serve all or any portion of a term of imprisonment
5 to which the defendant has been sentenced pursuant to this
6 section in a residential alcoholism treatment program or a
7 residential drug abuse treatment program. Any time spent in
8 such a program must be credited by the court toward the term
9 of imprisonment.

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11 For the purposes of this section, any conviction for a
12 violation of s. 327.35; a previous conviction for the
13 violation of former s. 316.1931, former s. 860.01, or former
14 s. 316.028; or a previous conviction outside this state for
15 driving under the influence, driving while intoxicated,
16 driving with an unlawful blood-alcohol level, driving with an
17 unlawful breath-alcohol level, or any other similar
18 alcohol-related or drug-related traffic offense, is also
19 considered a previous conviction for violation of this
20 section. However, in satisfaction of the fine imposed pursuant
21 to this section, the court may, upon a finding that the
22 defendant is financially unable to pay either all or part of
23 the fine, order that the defendant participate for a specified
24 additional period of time in public service or a community
25 work project in lieu of payment of that portion of the fine
26 which the court determines the defendant is unable to pay. In
27 determining such additional sentence, the court shall consider
28 the amount of the unpaid portion of the fine and the
29 reasonable value of the services to be ordered; however, the
30 court may not compute the reasonable value of services at a

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1 rate less than the federal minimum wage at the time of
2 sentencing.

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

5 (8) At the arraignment, or in conjunction with any
6 notice of arraignment provided by the clerk of the court, the
7 clerk shall provide any person charged with a violation of
8 this section with notice that upon conviction the court shall
9 suspend or revoke the offender's driver's license and that the
10 offender should make arrangements for transportation at any
11 proceeding in which the court may take such action. Failure to
12 provide such notice does not affect the court's suspension or
13 revocation of the offender's driver's license.

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

16 (a) Until the person is no longer under the influence
17 of alcoholic beverages, any chemical substance set forth in s.
18 877.111, or any substance controlled under chapter 893 and
19 affected to the extent that his or her normal faculties are
20 impaired;

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

23 (c) Until 8 hours have elapsed from the time the
24 person was arrested.

25 (10) The rulings of the Department of Highway Safety
26 and Motor Vehicles under s. 322.2615 shall not be considered
27 in any trial for a violation of this section. Testimony or
28 evidence from the administrative proceedings or any written
29 statement submitted by a person in his or her request for
30 administrative review is inadmissible into evidence or for any
31 other purpose in any criminal proceeding, unless timely

1 disclosed in criminal discovery pursuant to Rule 3.220,
2 Florida Rules of Criminal Procedure.

3 ~~(11) The Department of Highway Safety and Motor~~
4 ~~Vehicles is directed to adopt rules providing for the~~
5 ~~implementation of the use of ignition interlock devices.~~

6 Section 2. Sections 316.1937 and 316.1938, Florida
7 Statutes, are repealed.

8 Section 3. Section 316.655, Florida Statutes, is
9 amended to read:

10 316.655 Penalties.--

11 (1) A violation of any of the provisions of this
12 chapter, except those violations with a specific criminal
13 charge, as enumerated in s. 318.17, are infractions, as
14 defined in s. 318.13(3). Except for violations of s. 316.302,
15 infractions of this chapter are punishable as provided in
16 chapter 318. Any person convicted of a violation of or
17 otherwise found to be in violation of s. 316.063, s. 316.3025,
18 s. 316.516, s. 316.545, or s. 316.550 shall be punished as
19 specifically provided in that section.

20 (2) Notwithstanding the provision of chapter 322,
21 drivers convicted of a violation of any offense prohibited by
22 this chapter or any other law of this state regulating motor
23 vehicles may have their driving privileges revoked or
24 suspended by the court if the court finds such revocation or
25 suspension warranted by the totality of the circumstances
26 resulting in the conviction and the need to provide for the
27 maximum safety for all persons who travel on or who are
28 otherwise affected by the use of the highways of the state;
29 however, no period of revocation or suspension may be less
30 than that required by chapter 322. In determining whether
31 suspension or revocation is appropriate, the court shall

1 consider all pertinent factors, including, but not limited to,
2 such factors as the extent and nature of the driver's
3 violation of this chapter, the number of persons killed or
4 injured as the result of the driver's violation of this
5 chapter, and the extent of any property damage resulting from
6 the driver's violation of this chapter.

7 (3) Notwithstanding the provisions of chapter 322, the
8 court may require persons convicted of a violation of any
9 offense prohibited by this chapter or any other law of this
10 state to have installed a department-approved ignition
11 interlock device upon all vehicles that are operated by the
12 convicted person, at the convicted person's sole expense. The
13 court, based upon the totality of the circumstances, shall
14 determine the length of required installation and the need to
15 provide for the maximum safety for all persons who travel on
16 or who are otherwise affected by the use of the highways of
17 the state.

18 Section 4. Paragraph (a) of subsection (2) of section
19 316.656, Florida Statutes, is amended to read:

20 316.656 Mandatory adjudication; prohibition against
21 accepting plea to lesser included offense.--

22 (2)(a) No trial judge may accept a plea of guilty to a
23 lesser offense from a person charged under the provisions of
24 this act who has been given a breath or blood test to
25 determine blood or breath alcohol content, the results of
26 which show a blood or breath alcohol content by weight of 0.16
27 ~~0.20~~ percent or more.

28 Section 5. Paragraph (d) of subsection (2) of section
29 322.271, Florida Statutes, is amended to read:

30 322.271 Authority to modify revocation, cancellation,
31 or suspension order.--

1 (2)

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

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

7 322.2715 Ignition interlock devices; certification;
8 warning label; unlawful acts.--

9 (1) The Department of Highway Safety and Motor
10 Vehicles is authorized to contract, in accordance with chapter
11 287, with a provider or providers to furnish all or some of
12 the commodities and contractual services required for the
13 implementation of this section. Said contract must contain
14 provisions for the providing of ignition interlock devices to
15 the indigent.

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

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

25 (4)(a) Prior to issuing a permanent or restricted
26 license under this chapter, the department shall require the
27 placement of a department-approved ignition interlock device,
28 for any person convicted of committing any DUI, upon all
29 vehicles that are operated by the convicted person, at the
30 convicted person's sole expense.

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1 (b) For the purposes of this section, any conviction
2 for a violation of s. 316.193 or s. 316.1939; a previous
3 conviction for the violation of former s. 316.1931, former s.
4 860.01, or former s. 316.028; or a previous conviction outside
5 this state for driving under the influence, driving while
6 intoxicated, driving with an unlawful blood-alcohol level,
7 driving with an unlawful breath-alcohol level, or any other
8 similar alcohol-related or drug-related traffic offense is
9 considered a conviction of DUI.

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

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

14 2. A first offense of DUI and at the time of the
15 offense was:

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

20 b. The person had a blood-alcohol level or
21 breath-alcohol level of twice that prohibited by s.
22 316.193(1), the ignition interlock device shall be required
23 for a period of not less than 6 months or more than 2 years.

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

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

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

1 6. DUI and the offender is accepted into a supervision
2 program conducted by a licensed DUI program and fails the
3 abstinence requirement of the program, the supervision program
4 shall continue and an ignition interlock device shall be
5 required for 1 year of a 5-year license revocation period
6 required by s. 322.28(2)(a) and for 2 years of a 10-year
7 license revocation period required by s. 322.28(2)(a), and the
8 time period of the original license suspension shall be
9 extended such that the period of suspension shall be deemed to
10 begin on the date the ignition interlock device is installed.
11 If such DUI offender fails the abstinence requirement of the
12 supervision program a second time, the offender's restricted
13 license shall be revoked for the remaining revocation period.

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

17 (a) If, while required to place ignition interlock
18 devices in his or her vehicle, the convicted person is on any
19 type of probation, the probation order shall contain a
20 condition requiring the placement of an ignition interlock
21 device, as required by this section, effective upon the
22 convicted person's obtaining a license under s. 322.271. The
23 convicted person shall notify his or her probation officer of
24 said condition within 72 hours after imposition of said
25 condition.

26 (b) A convicted person who violates the notice
27 requirement of paragraph (a) commits a misdemeanor of the
28 first degree, punishable as provided in s. 775.082 or s.
29 775.083, and shall be sentenced to and required to serve a
30 minimum term of incarceration of not less than 10 days.

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1 (6) The department shall require proof of installation
2 of the ignition interlock device, shall require monitoring by
3 a licensed DUI program of the person required to have an
4 ignition interlock device, and shall require periodic
5 reporting to the department by the licensed DUI program for
6 verification of the operation of the device in the convicted
7 person's vehicle.

8 (7) It is unlawful:

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

11 (b) For any person whose driving privilege is
12 restricted pursuant to this section to request or solicit any
13 other person to blow into an ignition interlock device or to
14 start a motor vehicle equipped with the device for the purpose
15 of providing the person so restricted with an operable motor
16 vehicle.

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

21 (d) To knowingly lease or lend a motor vehicle to a
22 person who has had his or her driving privilege restricted as
23 provided in this section, unless the vehicle is equipped with
24 a functioning, approved ignition interlock device. Any person
25 whose driving privilege requires the placement of an ignition
26 interlock device shall notify any other person who leases or
27 lends a motor vehicle to him or her of such driving
28 restriction. Failure to provide such notification shall also
29 constitute a violation of this subsection.

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1 (e) For any person required to install an ignition
2 interlock device to operate a motor vehicle without an
3 ignition interlock device.

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

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

13 (c) Upon conviction of a separate violation of
14 subsection (7) during the same period of required use of an
15 ignition interlock device, the department shall revoke the
16 person's driving privilege for 5 years from the date of
17 conviction.

18 (d) Any person convicted of a violation of subsection
19 (7) who does not have a driver's license shall, in addition to
20 any other penalty provided by law, pay a fine of not less than
21 \$250 for each such violation. In the event that the person is
22 unable to pay any such fine, the fine shall become a lien
23 against the motor vehicle used in violation of subsection (7)
24 and payment shall be made pursuant to s. 316.3025(4).

25 (9)(a) Notwithstanding the provisions of this section,
26 if a person is required to operate a motor vehicle in the
27 course and scope of his or her employment and if the vehicle
28 is owned by the employer, the person may operate that vehicle
29 without installation of an approved ignition interlock device
30 if the employer has been notified of such driving privilege
31

1 restriction and proof of that notification is with the
2 vehicle.

3 (b) The provisions of paragraph (a) do not apply if
4 the business entity that owns the vehicle is owned or
5 controlled by the person whose driving privilege has been
6 restricted.

7 (10) The department is authorized to adopt rules to
8 implement this section.

9 (11) Except with respect to hearings to be conducted
10 by the court, hearings pursuant to this section shall be
11 conducted pursuant to and in accordance with s. 322.271 and
12 reviewed pursuant to s. 322.31.

13 Section 7. Severability.--If any provision of this act
14 is held invalid, the invalidity shall not affect other
15 provisions of the act and to this end the provisions herein
16 are declared severable.

17 Section 8. Paragraph (a) of subsection (2) of section
18 316.656, Florida Statutes, is amended to read:

19 316.656 Mandatory adjudication; prohibition against
20 accepting plea to lesser included offense.--

21 (2)(a) No trial judge may accept a plea of guilty to a
22 lesser offense from a person charged under the provisions of
23 this act who has been given a breath or blood test to
24 determine blood or breath alcohol content, the results of
25 which show a blood or breath alcohol content by weight of 0.16
26 ~~0.20~~ percent or more.

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