

By the Committee on Transportation; and Senator Wise

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1 A bill to be entitled

2 An act relating to driving privileges for persons
3 convicted of driving under the influence; amending s.
4 316.193, F.S.; requiring that a court order the mandatory
5 placement for a specified period, at the convicted
6 person's sole expense, of an ignition interlock device
7 approved by the Department of Highway Safety and Motor
8 Vehicles upon all vehicles that are individually or
9 jointly leased or owned and routinely operated by any
10 person convicted for a fourth or subsequent offense of
11 driving under the influence if the convicted person
12 obtains a restricted license or permit, regardless of
13 whether the conviction was for a misdemeanor or felony;
14 amending s. 322.21, F.S.; requiring any person who has an
15 ignition interlock device installed to pay a service fee
16 of \$15 to the Department of Highway Safety and Motor
17 vehicles; requiring the department to deposit the service
18 fee into the DUI Programs Coordination Trust Fund;
19 amending s. 322.28, F.S.; providing that a driver's
20 license or driving privilege may be granted under certain
21 circumstances to a person convicted a fourth time for
22 driving under the influence or a conviction for DUI
23 manslaughter; amending s. 322.271, F.S.; providing
24 conditions under which a person convicted of a fourth or
25 subsequent DUI may petition the department for
26 reinstatement of his or her driving privilege on a
27 restricted basis; requiring that the department impose
28 certain requirements upon such persons; providing for the
29 cancellation of such person's driving privilege upon his

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30 or her failure to adhere to such requirements; requiring
31 that a person convicted of DUI manslaughter seeking
32 reinstatement of his or her driving privilege demonstrate
33 to a court within a specified period after the filing of
34 his or her petition for reinstatement that he or she has
35 abstained from consuming alcohol for 5 years as
36 demonstrated by a specified period of continuous alcohol
37 monitoring as reported to the licensed DUI program
38 supervising the petitioner; defining the term "continuous
39 alcohol monitoring"; amending s. 322.2715, F.S.; requiring
40 that an ignition interlock device be installed for a
41 specified period on any vehicle that is individually or
42 jointly leased or owned and routinely operated by an
43 individual convicted of a fourth or subsequent offense of
44 driving under the influence; amending s. 322.16, F.S.;
45 correcting cross-references to conform to changes made by
46 the act; providing that any person operating a motor
47 vehicle in violation of an ignition interlock restriction
48 commits an offense of the same degree and punishable in
49 the same manner as provided by state law regarding driving
50 or being in actual physical control of a vehicle while his
51 or her license is suspended or revoked; providing an
52 effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Paragraph (b) of subsection (2) of section
57 316.193, Florida Statutes, is amended to read:

58 316.193 Driving under the influence; penalties.--

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59 (2)

60 (b)1. Any person who is convicted of a third violation of
61 this section for an offense that occurs within 10 years after a
62 prior conviction for a violation of this section commits a felony
63 of the third degree, punishable as provided in s. 775.082, s.
64 775.083, or s. 775.084. In addition, the court shall order the
65 mandatory placement for a period of not less than 2 years, at the
66 convicted person's sole expense, of an ignition interlock device
67 approved by the department in accordance with s. 316.1938 upon
68 all vehicles that are individually or jointly leased or owned and
69 routinely operated by the convicted person, when the convicted
70 person qualifies for a permanent or restricted license. The
71 installation of such device may not occur before July 1, 2003.

72 2. Any person who is convicted of a third violation of this
73 section for an offense that occurs more than 10 years after the
74 date of a prior conviction for a violation of this section shall
75 be punished by a fine of not less than \$1,000 or more than \$2,500
76 and by imprisonment for not more than 12 months. In addition, the
77 court shall order the mandatory placement for a period of at
78 least 2 years, at the convicted person's sole expense, of an
79 ignition interlock device approved by the department in
80 accordance with s. 316.1938 upon all vehicles that are
81 individually or jointly leased or owned and routinely operated by
82 the convicted person, when the convicted person qualifies for a
83 permanent or restricted license. The installation of such device
84 may not occur before July 1, 2003.

85 3. Any person who is convicted of a fourth or subsequent
86 violation of this section, regardless of when any prior
87 conviction for a violation of this section occurred, commits a

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88 felony of the third degree, punishable as provided in s. 775.082,
89 s. 775.083, or s. 775.084. However, the fine imposed for such
90 fourth or subsequent violation may be not less than \$1,000.

91 4. The court shall order the mandatory placement for a
92 period of at least 10 years, at the convicted person's sole
93 expense, of an ignition interlock device approved by the
94 department in accordance with s. 316.1938 upon all vehicles that
95 are individually or jointly leased or owned and routinely
96 operated by any person convicted for a fourth or subsequent
97 offense if the convicted person obtains a restricted license or
98 permit regardless of whether the conviction was for a misdemeanor
99 or felony offense.

100 Section 2. Subsection (8) of section 322.21, Florida
101 Statutes, is amended to read:

102 322.21 License fees; procedure for handling and collecting
103 fees.--

104 (8) Any person who applies for reinstatement following the
105 suspension or revocation of the person's driver's license shall
106 pay a service fee of \$35 following a suspension, and \$60
107 following a revocation, which is in addition to the fee for a
108 license. Any person who applies for reinstatement of a commercial
109 driver's license following the disqualification of the person's
110 privilege to operate a commercial motor vehicle shall pay a
111 service fee of \$60, which is in addition to the fee for a
112 license. Any person who has an ignition interlock device
113 installed pursuant to this chapter or chapter 316 shall pay a
114 service fee of \$15. The department shall collect all of these
115 fees at the time of reinstatement. The department shall issue
116 proper receipts for such fees and shall promptly transmit all

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117 funds received by it as follows:

118 (a) Of the \$35 fee received from a licensee for
119 reinstatement following a suspension, the department shall
120 deposit \$15 in the General Revenue Fund and \$20 in the Highway
121 Safety Operating Trust Fund.

122 (b) Of the \$60 fee received from a licensee for
123 reinstatement following a revocation or disqualification, the
124 department shall deposit \$35 in the General Revenue Fund and \$25
125 in the Highway Safety Operating Trust Fund.

126 (c) Of the \$15 fee received from the licensee who has an
127 ignition interlock device installed, the department shall deposit
128 the \$15 fee into the DUI Programs Coordination Trust Fund.

129

130 If the revocation or suspension of the driver's license was for a
131 violation of s. 316.193, or for refusal to submit to a lawful
132 breath, blood, or urine test, an additional fee of \$115 must be
133 charged. However, only one \$115 fee may be collected from one
134 person convicted of violations arising out of the same incident.
135 The department shall collect the \$115 fee and deposit the fee
136 into the Highway Safety Operating Trust Fund at the time of
137 reinstatement of the person's driver's license, but the fee may
138 not be collected if the suspension or revocation is overturned.
139 If the revocation or suspension of the driver's license was for a
140 conviction for a violation of s. 817.234(8) or (9) or s. 817.505,
141 an additional fee of \$180 is imposed for each offense. The
142 department shall collect and deposit the additional fee into the
143 Highway Safety Operating Trust Fund at the time of reinstatement
144 of the person's driver's license.

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145 Section 3. Paragraph (e) of subsection (2) of section
146 322.28, Florida Statutes, is amended to read:

147 322.28 Period of suspension or revocation.--

148 (2) In a prosecution for a violation of s. 316.193 or
149 former s. 316.1931, the following provisions apply:

150 (e) The court shall permanently revoke the driver's license
151 or driving privilege of a person who has been convicted four
152 times for violation of s. 316.193 or former s. 316.1931 or a
153 combination of such sections. The court shall permanently revoke
154 the driver's license or driving privilege of any person who has
155 been convicted of DUI manslaughter in violation of s. 316.193. If
156 the court has not permanently revoked such driver's license or
157 driving privilege within 30 days after imposing sentence, the
158 department shall permanently revoke the driver's license or
159 driving privilege pursuant to this paragraph. No driver's license
160 or driving privilege may be issued or granted to any such person
161 except as described in s. 322.271. This paragraph applies only if
162 at least one of the convictions for violation of s. 316.193 or
163 former s. 316.1931 was for a violation that occurred after July
164 1, 1982. For the purposes of this paragraph, a conviction for
165 violation of former s. 316.028, former s. 316.1931, or former s.
166 860.01 is also considered a conviction for violation of s.
167 316.193. Also, a conviction of driving under the influence,
168 driving while intoxicated, driving with an unlawful blood-alcohol
169 level, or any other similar alcohol-related or drug-related
170 traffic offense outside this state is considered a conviction for
171 the purposes of this paragraph.

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172 Section 4. Paragraph (b) of subsection (2) and paragraph
173 (a) of subsection (4) of section 322.271, Florida Statutes, are
174 amended to read:

175 322.271 Authority to modify revocation, cancellation, or
176 suspension order.--

177 (2)

178 (b)1. A person whose license has been revoked for a period
179 of 5 years or less pursuant to s. 322.28(2) (a) or (e) may, upon
180 the expiration of 12 months after the date the ~~said~~ revocation
181 was imposed, petition the department for reinstatement of his or
182 her driving privilege on a restricted basis. A person whose
183 license has been revoked for a period of more than 5 years under
184 s. 322.28(2) (a) may, upon the expiration of 24 months after the
185 date the revocation was imposed, petition the department for
186 reinstatement of his or her driving privilege on a restricted
187 basis.

188 2. A person whose license has been revoked pursuant to s.
189 322.28(2) (a) or (e) for a fourth or subsequent conviction for a
190 violation of the provisions of s. 316.193, former s. 316.1931, or
191 a combination of those sections, may, upon the expiration of 5
192 years after the date on which the revocation was imposed,
193 petition the department for reinstatement of his or her driving
194 privilege on a restricted basis. Reinstatement of the driving
195 privilege pursuant to this subparagraph shall be restricted to
196 business or employment purposes only. The department shall
197 require the person to remain abstinent from alcohol and other
198 drugs through the petition and approval process as demonstrated
199 by continuous alcohol monitoring for not less than 180 days as
200 reported to the DUI program licensed by the department through

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201 which the petitioner applied for supervision services. In
202 addition, the department shall require that the person refrain
203 from driving and abstain from the use of alcohol or other drugs
204 during the 12 months immediately preceding reinstatement, be
205 supervised by a DUI program licensed by the department, and
206 report to the program for supervision at least three times a year
207 as required by the program for the duration of the revocation
208 period. The supervision shall include evaluation, education,
209 referral into treatment, and other activities required by the
210 department. The person seeking reinstatement shall assume
211 reasonable costs of supervision. If the person fails to comply
212 with the required supervision, the program shall report the
213 failure to the department and the department shall cancel such
214 person's driving privilege. The cancellation shall remain in
215 effect until the person has complied with the supervision
216 requirements.

217
218 Reinstatement of the driving privilege pursuant to this
219 subsection shall be restricted to business or employment purposes
220 only. In addition, the department shall require such persons upon
221 reinstatement to have not driven in violation of their
222 revocations, ~~and~~ to have been drug free for at least 12 months
223 immediately prior to such reinstatement, to be supervised by a
224 DUI program licensed by the department, and to report to the
225 program at least three times a year as required by the program
226 for the duration of the revocation period for supervision. Such
227 supervision shall include evaluation, education, referral into
228 treatment, and other activities required by the department. Such
229 persons shall assume reasonable costs of supervision. If such

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230 | person fails to comply with the required supervision, the program
231 | shall report the failure to the department, and the department
232 | shall cancel such person's driving privilege. ~~This paragraph does~~
233 | ~~not apply to any person whose driving privilege has been~~
234 | ~~permanently revoked.~~

235 | (4) Notwithstanding the provisions of s. 322.28(2)(e), a
236 | person whose driving privilege has been permanently revoked
237 | because he or she has been convicted of DUI manslaughter in
238 | violation of s. 316.193 and has no prior convictions for DUI-
239 | related offenses may, upon the expiration of 5 years after the
240 | date of such revocation or the expiration of 5 years after the
241 | termination of any term of incarceration under s. 316.193 or
242 | former s. 316.1931, whichever date is later, petition the
243 | department for reinstatement of his or her driving privilege.

244 | (a) Within 30 days after the receipt of such a petition,
245 | the department shall afford the petitioner an opportunity for a
246 | hearing. At the hearing, the petitioner must demonstrate to the
247 | department that he or she:

248 | 1. Has not been arrested for a drug-related offense during
249 | the 5 years preceding the filing of the petition;

250 | 2. Has not driven a motor vehicle without a license for at
251 | least 5 years prior to the hearing;

252 | 3. Has been drug-free for at least 5 years prior to the
253 | hearing; ~~and~~

254 | 4. Has abstained from consuming alcohol for 5 years as
255 | demonstrated by a period of not less than 180 days of continuous
256 | alcohol monitoring as reported to the licensed DUI program
257 | supervising the petitioner. For purposes of this subparagraph,
258 | the term "continuous alcohol monitoring" means automatically

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259 testing breath, blood, or transdermal alcohol concentration
260 levels at least once every hour and detecting any attempts to
261 tamper with or obstruct the testing process, regardless of the
262 location of the person who is being monitored, and regularly
263 transmitting the data to a licensed DUI supervision program
264 provider; and

265 5. Has completed a DUI program licensed by the department.

266 Section 5. Paragraph (e) is added to subsection (3) of
267 section 322.2715, Florida Statutes, to read:

268 322.2715 Ignition interlock device.--

269 (3) If the person is convicted of:

270 (e) A fourth or subsequent offense of driving under the
271 influence, the ignition interlock device shall be installed for a
272 period of not less than 10 years.

273 Section 6. Subsection (5) of section 322.16, Florida
274 Statutes, is amended, and subsection (7) is added to that
275 section, to read:

276 322.16 License restrictions.--

277 (5) It is a misdemeanor of the second degree, punishable as
278 provided in s. 775.082 or s. 775.083, for any person to operate a
279 motor vehicle in any manner in violation of the restrictions
280 imposed in a license issued to him or her except as described in
281 subsections (6) and (7) for a violation of paragraph (1)(d),
282 subsection (2), or subsection (3).

283 (7) Any person operating a motor vehicle in violation of an
284 ignition interlock restriction commits an offense of the same
285 degree and punishable in the same manner as described in s.
286 322.341.

287 Section 7. This act shall take effect October 1, 2008.