

1 A bill to be entitled
2 An act relating to penalties for driving under the
3 influence; amending s. 316.193, F.S.; providing for
4 mandatory placement of an ignition interlock device on all
5 vehicles owned and operated by a person convicted of four
6 or more DUIs if the person obtains a restricted license or
7 permit; increasing the amount of a fine that may be
8 imposed under certain conditions; providing for
9 distribution of the additional funds; amending s. 322.271,
10 F.S.; providing a petition and license-reinstatement
11 process for those persons whose license has been
12 permanently revoked for multiple DUI convictions;
13 providing timeframes and criteria for the petition and
14 reinstatement process; requiring quarterly review of
15 reinstated drivers by a licensed DUI program; requiring
16 the reinstated license to be restricted for employment-
17 only purposes for at least 1 year; requiring an ignition
18 interlock device for reinstated drivers; requiring
19 reinstated drivers to assume the costs of supervision;
20 providing for revocation of driving privilege after
21 reinstatement under certain circumstances; amending s.
22 322.2715, F.S.; requiring an ignition interlock device for
23 a 5-year period for persons convicted of four or more
24 DUIs; amending s. 322.28, F.S.; providing an exception to
25 permanent license revocation for persons approved through
26 the petition and license-reinstatement process; providing
27 an effective date.
28

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

30

31 Section 1. Paragraph (b) of subsection (2) and paragraph
32 (a) of subsection (6) of section 316.193, Florida Statutes, are
33 amended to read:

34 316.193 Driving under the influence; penalties.--

35 (2)

36 (b)1. Any person who is convicted of a third violation of
37 this section for an offense that occurs within 10 years after a
38 prior conviction for a violation of this section commits a
39 felony of the third degree, punishable as provided in s.
40 775.082, s. 775.083, or s. 775.084. In addition, the court shall
41 order the mandatory placement for a period of not less than 2
42 years, at the convicted person's sole expense, of an ignition
43 interlock device approved by the department in accordance with
44 s. 316.1938 upon all vehicles that are individually or jointly
45 leased or owned and routinely operated by the convicted person,
46 when the convicted person qualifies for a permanent or
47 restricted license. The installation of such device may not
48 occur before July 1, 2003.

49 2. Any person who is convicted of a third violation of
50 this section for an offense that occurs more than 10 years after
51 the date of a prior conviction for a violation of this section
52 shall be punished by a fine of not less than \$2,000 or more than
53 \$5,000 and by imprisonment for not more than 12 months. In
54 addition, the court shall order the mandatory placement for a
55 period of at least 2 years, at the convicted person's sole
56 expense, of an ignition interlock device approved by the

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

62 3. Any person who is convicted of a fourth or subsequent
63 violation of this section, regardless of when any prior
64 conviction for a violation of this section occurred, commits a
65 felony of the third degree, punishable as provided in s.
66 775.082, s. 775.083, or s. 775.084. However, the fine imposed
67 for such fourth or subsequent violation may be not less than
68 \$2,000.

69 4. The court shall order the mandatory placement for a
70 period of at least 5 years, at the convicted person's sole
71 expense, of an ignition interlock device approved by the
72 department in accordance with s. 316.1938 upon all vehicles that
73 are individually or jointly leased or owned and routinely
74 operated by any person convicted of a fourth or subsequent
75 violation of this section, if the convicted person obtains a
76 restricted license or permit. This requirement applies
77 regardless of whether the conviction was for a misdemeanor or
78 felony offense.

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

82 (a) For the first conviction, the court shall place the
83 defendant on probation for a period not to exceed 1 year and, as
84 a condition of such probation, shall order the defendant to

85 participate in public service or a community work project for a
86 minimum of 50 hours; or the court may order instead, that any
87 defendant pay an additional fine of \$50 ~~\$10~~ for each hour of
88 public service or community work otherwise required, if, after
89 consideration of the residence or location of the defendant at
90 the time public service or community work is required, payment
91 of the fine is in the best interests of the state. Of each \$50
92 collected pursuant to this paragraph, \$30 shall be deposited in
93 the State Courts Revenue Trust Fund, \$5 shall be deposited in
94 the State Attorneys Revenue Trust Fund, and \$5 shall be
95 deposited in the Public Defenders Revenue Trust Fund. However,
96 the total period of probation and incarceration may not exceed 1
97 year. The court must also, as a condition of probation, order
98 the impoundment or immobilization of the vehicle that was
99 operated by or in the actual control of the defendant or any one
100 vehicle registered in the defendant's name at the time of
101 impoundment or immobilization, for a period of 10 days or for
102 the unexpired term of any lease or rental agreement that expires
103 within 10 days. The impoundment or immobilization must not occur
104 concurrently with the incarceration of the defendant. The
105 impoundment or immobilization order may be dismissed in
106 accordance with paragraph (e), paragraph (f), paragraph (g), or
107 paragraph (h).

108
109 For the purposes of this section, any conviction for a violation
110 of s. 327.35; a previous conviction for the violation of former
111 s. 316.1931, former s. 860.01, or former s. 316.028; or a
112 previous conviction outside this state for driving under the

113 | influence, driving while intoxicated, driving with an unlawful
 114 | blood-alcohol level, driving with an unlawful breath-alcohol
 115 | level, or any other similar alcohol-related or drug-related
 116 | traffic offense, is also considered a previous conviction for
 117 | violation of this section. However, in satisfaction of the fine
 118 | imposed pursuant to this section, the court may, upon a finding
 119 | that the defendant is financially unable to pay either all or
 120 | part of the fine, order that the defendant participate for a
 121 | specified additional period of time in public service or a
 122 | community work project in lieu of payment of that portion of the
 123 | fine which the court determines the defendant is unable to pay.
 124 | In determining such additional sentence, the court shall
 125 | consider the amount of the unpaid portion of the fine and the
 126 | reasonable value of the services to be ordered; however, the
 127 | court may not compute the reasonable value of services at a rate
 128 | less than the federal minimum wage at the time of sentencing.

129 | Section 2. Subsection (6) is added to section 322.271,
 130 | Florida Statutes, to read:

131 | 322.271 Authority to modify revocation, cancellation, or
 132 | suspension order.--

133 | (6) A person whose driving privilege has been permanently
 134 | revoked because he or she has been convicted of DUI four times
 135 | may, upon the expiration of 10 years after the date of such
 136 | revocation or the expiration of 10 years after the termination
 137 | of any term of incarceration under s. 316.193 or former s.
 138 | 316.1931, whichever date is later, petition the department for
 139 | reinstatement of his or her driving privilege. For each
 140 | additional conviction of DUI the period of time before the

141 eligibility for application under this subsection is extended by
142 5 years.

143 (a) Within 30 days after the receipt of such a petition,
144 the department shall afford the petitioner an opportunity for a
145 hearing. At the hearing, the petitioner must demonstrate to the
146 department that he or she:

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

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

151 3. Has been drug-free for at least 5 years prior to the
152 hearing; and

153 4. Has completed a DUI program licensed by the department.

154 (b) At such hearing, the department shall determine the
155 petitioner's qualification, fitness, and need to drive. Upon
156 such determination, the department may, in its discretion,
157 reinstate the driver's license of the petitioner. Such
158 reinstatement must be made subject to the following
159 qualifications:

160 1. The license must be restricted for employment purposes
161 for not less than 1 year.

162 2. Such person must be supervised by a DUI program
163 licensed by the department and report to the program for such
164 supervision and education at least four times a year or
165 additionally as required by the program. Such supervision shall
166 include evaluation, education, referral into treatment, and
167 other activities required by the department.

168 3. Such person must comply with the ignition interlock
169 provisions required in s. 322.2715.

170 (c) Such person must assume the reasonable costs of
171 supervision. If such person fails to comply with the required
172 supervision, the program shall report the failure to the
173 department, and the department shall cancel such person's
174 driving privilege.

175 (d) If, after reinstatement, such person is convicted of
176 an offense for which mandatory revocation of his or her license
177 is required, the department shall revoke his or her driving
178 privilege.

179 Section 3. Paragraph (e) is added to subsection (3) of
180 section 322.2715, Florida Statutes, to read:

181 322.2715 Ignition interlock device.--

182 (3) If the person is convicted of:

183 (e) A fourth or subsequent offense of driving under the
184 influence, the ignition interlock device shall be installed for
185 a period of not less than 5 years.

186 Section 4. Paragraph (e) of subsection (2) of section
187 322.28, Florida Statutes, is amended to read:

188 322.28 Period of suspension or revocation.--

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

191 (e) The court shall permanently revoke the driver's
192 license or driving privilege of a person who has been convicted
193 four times for violation of s. 316.193 or former s. 316.1931 or
194 a combination of such sections. The court shall permanently
195 revoke the driver's license or driving privilege of any person

CS/CS/HB 165

2009

196 | who has been convicted of DUI manslaughter in violation of s.
197 | 316.193. If the court has not permanently revoked such driver's
198 | license or driving privilege within 30 days after imposing
199 | sentence, the department shall permanently revoke the driver's
200 | license or driving privilege pursuant to this paragraph. No
201 | driver's license or driving privilege may be issued or granted
202 | to any such person except as provided in s. 322.271. This
203 | paragraph applies only if at least one of the convictions for
204 | violation of s. 316.193 or former s. 316.1931 was for a
205 | violation that occurred after July 1, 1982. For the purposes of
206 | this paragraph, a conviction for violation of former s. 316.028,
207 | former s. 316.1931, or former s. 860.01 is also considered a
208 | conviction for violation of s. 316.193. Also, a conviction of
209 | driving under the influence, driving while intoxicated, driving
210 | with an unlawful blood-alcohol level, or any other similar
211 | alcohol-related or drug-related traffic offense outside this
212 | state is considered a conviction for the purposes of this
213 | paragraph.

214 | Section 5. This act shall take effect July 1, 2009.