

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Transportation & Highway
2 Safety Subcommittee
3 Representative Baxley offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

7 Section 1. Subsections (1) through (4) and paragraphs (b)
8 and (c) of subsection (6) of section 316.193, Florida Statutes,
9 are amended to read:

10 316.193 Driving under the influence; penalties.—

11 (1) A person commits ~~is guilty of~~ the offense of driving
12 under the influence and is subject to punishment as provided in
13 subsection (2) if the person is driving or in actual physical
14 control of a vehicle within this state and:

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

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

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

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

26 1. By a fine of:

27 a. At least ~~Not less than~~ \$500 but not ~~or~~ more than \$1,000
28 for a first conviction.

29 b. At least ~~Not less~~ than \$1,000 but not ~~or~~ more than
30 \$2,000 for a second conviction; and

31 2. By imprisonment for:

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

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

34 3. Except as provided in sub-sub-subparagraph (I), ~~For a~~
35 ~~second conviction,~~ by mandatory placement for the following a
36 ~~period of at least 1 year,~~ at the convicted person's sole
37 expense, of an ignition interlock device approved by the
38 department in accordance with s. 316.1938 upon all vehicles that
39 are individually or jointly leased or owned and routinely
40 operated by the convicted person, when the convicted person
41 qualifies for a permanent or restricted license:

42 a.(I). Except as provided in sub-sub-subparagraph (II),
43 the convicted person shall have the option of choosing either
44 the driver license or driving privilege revocation for the
45 period specified in s. 322.28(2)(a)1., or installation of an
46 ignition interlock device in accordance with s. 316.193(2)(a)3.,

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47 above, for at least 12 months for a first conviction. However,
48 the court in its sole discretion may revoke the convicted
49 person's driver license or driving privilege for the period
50 specified in s. 322.28(2)(a)1.;

51 (II) For a first conviction in which the convicted person
52 had a blood-alcohol level or breath-alcohol level of 0.15 or
53 higher, or the convicted person at the time of the offense was
54 accompanied in the vehicle by a person younger than 18 years of
55 age, for at least 18 months;

56 b.(I) Except as provided in sub-sub-subparagraph (II), for
57 a second conviction at least 24 months;

58 (II) For a second conviction in which the convicted person
59 had a blood-alcohol level or breath-alcohol level of 0.15 or
60 higher, or the convicted person at the time of the offense was
61 accompanied in the vehicle by a person younger than 18 years of
62 age, for at least 30 months;

63 c. For a third conviction, for at least 36 months.

64 4. Any period of required ignition interlock use under
65 sub-sub-paragraph 3a.(I). of subsection (2)(a) of this section
66 shall be reduced on a day for day basis for any period such
67 convicted person complies with the requirements of an ignition
68 interlock license as described in s. 322.271

69 ~~The installation of such device may not occur before July~~
70 ~~1, 2003.~~

71 (b)1. Any person who is convicted of a third violation of
72 this section for an offense that occurs within 10 years of after
73 a prior conviction for a violation of this section commits a
74 felony of the third degree, punishable as provided in s.

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75 775.082, s. 775.083, or s. 775.084. ~~In addition, the court shall~~
76 ~~order the mandatory placement for a period of not less than 2~~
77 ~~years, at the convicted person's sole expense, of an ignition~~
78 ~~interlock device approved by the department in accordance with~~
79 ~~s. 316.1938 upon all vehicles that are individually or jointly~~
80 ~~leased or owned and routinely operated by the convicted person,~~
81 ~~when the convicted person qualifies for a permanent or~~
82 ~~restricted license. The installation of such device may not~~
83 ~~occur before July 1, 2003.~~

84 2. Any person who is convicted of a third violation of
85 this section for an offense that occurs more than 10 years of
86 ~~after~~ the date of a prior conviction for a violation of this
87 section shall be punished by a fine of at least not less than
88 \$2,000 but not ~~or~~ more than \$5,000 and by imprisonment for not
89 more than 12 months. ~~In addition, the court shall order the~~
90 ~~mandatory placement for a period of at least 2 years, at the~~
91 ~~convicted person's sole expense, of an ignition interlock device~~
92 ~~approved by the department in accordance with s. 316.1938 upon~~
93 ~~all vehicles that are individually or jointly leased or owned~~
94 ~~and routinely operated by the convicted person, when the~~
95 ~~convicted person qualifies for a permanent or restricted~~
96 ~~license. The installation of such device may not occur before~~
97 ~~July 1, 2003.~~

98 3. Any person who is convicted of a fourth or subsequent
99 violation of this section, regardless of when any prior
100 conviction for a violation of this section occurred, commits a
101 felony of the third degree, punishable as provided in s.
102 775.082, s. 775.083, or s. 775.084. However, the fine imposed

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103 for such fourth or subsequent violation must ~~may~~ be at least ~~not~~
104 ~~less than~~ \$2,000.

105 (3) Any person:

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

107 (b) Who operates a vehicle; and

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

110 1. Damage to the property or person of another commits a
111 misdemeanor of the first degree, punishable as provided in s.
112 775.082 or s. 775.083.

113 2. Serious bodily injury to another, as defined in s.
114 316.1933, commits a felony of the third degree, punishable as
115 provided in s. 775.082, s. 775.083, or s. 775.084.

116 3. The death of any human being or unborn quick child
117 commits DUI manslaughter, and commits:

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

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

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

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

126
127 For purposes of this subsection, the definition of the term
128 "unborn quick child" shall be determined in accordance with the
129 definition of viable fetus as set forth in s. 782.071. A person

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130 who is convicted of DUI manslaughter shall be sentenced to a
131 mandatory minimum term of imprisonment of 4 years.

132 (4) Any person who is convicted of a violation of
133 subsection (1) and who has a blood-alcohol level or breath-
134 alcohol level of 0.15 or higher, or any person who is convicted
135 of a violation of subsection (1) and who at the time of the
136 offense was accompanied in the vehicle by a person under the age
137 of 18 years, shall be punished:

138 (a) By a fine of:

139 1. At least ~~Not less than~~ \$1,000 but not ~~or~~ more than
140 \$2,000 for a first conviction.

141 2. At least ~~Not less than~~ \$2,000 but not ~~or~~ more than
142 \$4,000 for a second conviction.

143 3. At least ~~Not less than~~ \$4,000 for a third or subsequent
144 conviction.

145 (b) By imprisonment for:

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

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

148
149 ~~For the purposes of this subsection, only the instant offense is~~
150 ~~required to be a violation of subsection (1) by a person who has~~
151 ~~a blood-alcohol level or breath-alcohol level of 0.15 or higher.~~

152 ~~(c) In addition to the penalties in paragraphs (a) and~~
153 ~~(b), the court shall order the mandatory placement, at the~~
154 ~~convicted person's sole expense, of an ignition interlock device~~
155 ~~approved by the department in accordance with s. 316.1938 upon~~
156 ~~all vehicles that are individually or jointly leased or owned~~
157 ~~and routinely operated by the convicted person for not less than~~

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158 ~~6 continuous months for the first offense and for not less than~~
159 ~~2 continuous years for a second offense, when the convicted~~
160 ~~person qualifies for a permanent or restricted license.~~

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

164 (b) For the second conviction for an offense that occurs
165 within a period of 5 years of ~~after~~ the date of a prior
166 conviction for violation of this section, the court shall order
167 imprisonment for at least ~~not less than~~ 10 days. The court must
168 also, as a condition of probation, order the impoundment or
169 immobilization of all vehicles owned by the defendant at the
170 time of impoundment or immobilization, for a period of 30 days
171 or for the unexpired term of any lease or rental agreement that
172 expires within 30 days. The impoundment or immobilization must
173 not occur concurrently with the incarceration of the defendant
174 and must occur concurrently with the driver's license revocation
175 imposed under s. 322.28(2)(a)2. The impoundment or
176 immobilization order may be dismissed in accordance with
177 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
178 At least 48 hours of confinement must be consecutive.

179 (c) For the third or subsequent conviction for an offense
180 that occurs within a period of 10 years of ~~after~~ the date of a
181 prior conviction for violation of this section, the court shall
182 order imprisonment for not less than 30 days. The court must
183 also, as a condition of probation, order the impoundment or
184 immobilization of all vehicles owned by the defendant at the
185 time of impoundment or immobilization, for a period of 90 days

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186 or for the unexpired term of any lease or rental agreement that
187 expires within 90 days. The impoundment or immobilization must
188 not occur concurrently with the incarceration of the defendant
189 and must occur concurrently with the driver's license revocation
190 imposed under s. 322.28(2)(a)3. The impoundment or
191 immobilization order may be dismissed in accordance with
192 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
193 At least 48 hours of confinement must be consecutive.
194

195 For the purposes of this section, any conviction for a violation
196 of s. 327.35; a previous conviction for the violation of former
197 s. 316.1931, former s. 860.01, or former s. 316.028; or a
198 previous conviction outside this state for driving under the
199 influence, driving while intoxicated, driving with an unlawful
200 blood-alcohol level, driving with an unlawful breath-alcohol
201 level, or any other similar alcohol-related or drug-related
202 traffic offense, is also considered a previous conviction for
203 violation of this section. However, in satisfaction of the fine
204 imposed pursuant to this section, the court may, upon a finding
205 that the defendant is financially unable to pay either all or
206 part of the fine, order that the defendant participate for a
207 specified additional period of time in public service or a
208 community work project in lieu of payment of that portion of the
209 fine which the court determines the defendant is unable to pay.
210 In determining such additional sentence, the court shall
211 consider the amount of the unpaid portion of the fine and the
212 reasonable value of the services to be ordered; however, the

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213 court may not compute the reasonable value of services at a rate
214 less than the federal minimum wage at the time of sentencing.

215 Section 2. Section 316.1937, Florida Statutes, is amended
216 to read:

217 316.1937 Ignition interlock devices, requiring; unlawful
218 acts.—

219 (1) In addition to any other authorized penalties, the
220 court may require that any person who is convicted of driving
221 under the influence in violation of s. 316.193 shall not operate
222 a motor vehicle unless that vehicle is equipped with a
223 functioning ignition interlock device certified by the
224 department as provided in s. 316.1938, and installed in such a
225 manner that the vehicle will not start if the operator's blood
226 alcohol level is in excess of 0.025 ~~0.05~~ percent or as otherwise
227 specified by the court. The court in its sole discretion may
228 require the use of an approved ignition interlock device for any
229 ~~a period of not less than 6 continuous months, if the person is~~
230 ~~permitted to operate a motor vehicle, whether or not the~~
231 ~~privilege to operate a motor vehicle is restricted, as~~
232 ~~determined by the court. The court, however, shall order~~
233 ~~placement of an ignition interlock device in those circumstances~~
234 in excess of the minimums required by s. 316.193(2).

235 (6) (a) It is unlawful to tamper with, or to circumvent the
236 operation of, an a court-ordered ignition interlock device for
237 the purpose of providing the person so restricted with an
238 operable motor vehicle.

239 (d) It is unlawful to knowingly lease or lend a motor
240 vehicle to a person who has had his or her driving privilege

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241 restricted as provided in this section, unless the vehicle is
242 equipped with a functioning, certified ignition interlock
243 device. Any person whose driving privilege ~~is restricted under a~~
244 ~~condition of probation requiring an~~ requires the person to
245 operate only vehicles equipped with an approved, functioning
246 ignition interlock device shall notify any other person who
247 leases or loans a motor vehicle to him or her of such driving
248 restriction.

249 (7) Notwithstanding the provisions of this section, if a
250 person is required to operate a motor vehicle in the course and
251 scope of his or her employment and if the vehicle is owned or
252 leased by the employer, the person may operate that vehicle
253 without installation of an approved ignition interlock device if
254 the department has received notification from the employer in a
255 form acceptable to the department that the employer has been
256 notified of the ~~such~~ driving privilege restriction before the
257 restricted person operates the vehicle and if proof of that
258 notification is with the vehicle. This employment exemption does
259 not apply, however, if the business entity which owns or leases
260 the vehicle is owned or controlled by the person whose driving
261 privilege has been restricted.

262 (8) In addition to the penalties provided in this section,
263 a violation of this section is a noncriminal traffic infraction,
264 punishable as a nonmoving violation as provided in chapter 318.

265 Section 3. Paragraph (b) of subsection (1) and subsection
266 (10) of section 322.2615, Florida Statutes, is amended to read:
267 322.2615 Suspension of license; right to review.—

268 (1)

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269 (b) The suspension under paragraph (a) shall be pursuant
270 to, and the notice of suspension shall inform the driver of, the
271 following:

272 1.a. The driver refused to submit to a lawful breath,
273 blood, or urine test and his or her driving privilege is
274 suspended for a period of 1 year for a first refusal or for a
275 period of 18 months if his or her driving privilege has been
276 previously suspended as a result of a refusal to submit to such
277 a test; or

278 b. The driver was driving or in actual physical control of
279 a motor vehicle and had an unlawful blood-alcohol level or
280 breath-alcohol level of 0.08 or higher and his or her driving
281 privilege is suspended for a period of 6 months for a first
282 offense or for a period of 1 year if his or her driving
283 privilege has been previously suspended under this section.

284 2. The suspension period shall commence on the date of
285 issuance of the notice of suspension.

286 3. The driver may request a formal or informal review of
287 the suspension by the department within 10 days after the date
288 of issuance of the notice of suspension.

289 4. If the driver applies within 10 days after the date of
290 issuance of the notice of suspension for ignition interlock
291 restricted driving privileges to be issued under either
292 subparagraph (a), subparagraph (b), or subparagraph (C) of
293 subsection (10) of this section, the driver waives his or her
294 right to a formal or an informal review of the suspension.

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295 ~~5.4.~~ The temporary permit issued at the time of suspension
296 expires at midnight of the 10th day following the date of
297 issuance of the notice of suspension.

298 ~~65.~~ The driver may submit to the department any materials
299 relevant to the suspension.

300 (10) A person whose driver's license is suspended under
301 subsection (1) or subsection (3) may apply for issuance of an
302 ignition interlock license or a license for business or
303 employment purposes only if the person is otherwise eligible for
304 the driving privilege pursuant to s. 322.271. Any period a
305 person complies with the provisions of his or her ignition
306 interlock license during a suspension or revocation under this
307 section, will reduce on a day for day basis any mandatory
308 ignition interlock device requirement arising from the same
309 incident. However, a person who has a previous conviction for a
310 violation of s. 316.193 may only apply for a license for
311 business or employment purposes only if eligible pursuant to s.
312 322.271, and may not apply for an ignition interlock license.

313 (a) If the suspension of the driver's license of the
314 person for failure to submit to a breath, urine, or blood test
315 is sustained, the person is not eligible to receive an ignition
316 interlock.

317 (b) If the suspension of the driver's license of the
318 person for failure to submit to a breath, urine, or blood test
319 is sustained, the person is not eligible to receive a license
320 for business or employment purposes only, pursuant to s.
321 322.271, until 90 days have elapsed after the expiration of the
322 last temporary permit issued. If the driver is not issued a 10-

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323 day permit pursuant to this section or s. 322.64 because he or
324 she is ineligible for the permit and the suspension for failure
325 to submit to a breath, urine, or blood test is not invalidated
326 by the department, the driver is not eligible to receive a
327 business or employment license pursuant to s. 322.271 until 90
328 days have elapsed from the date of the suspension.

329 (c) ~~(b)~~ If the suspension of the driver ~~driver's~~ license of
330 the person relating to unlawful blood-alcohol level or breath-
331 alcohol level of 0.08 or higher is sustained, the person is ~~not~~
332 eligible to receive an ignition interlock ~~a license for business~~
333 ~~or employment purposes only~~ pursuant to s. 322.271 ~~until 30 days~~
334 ~~have elapsed after~~ upon the effective date of the notice of
335 suspension or upon the expiration of the last temporary permit
336 issued. If the driver is not issued a 10-day permit pursuant to
337 this section or s. 322.64 because he or she is ineligible for
338 the permit and the suspension relating to unlawful blood-alcohol
339 level or breath-alcohol level of 0.08 or higher is not
340 invalidated by the department, the driver is ~~not~~ eligible to
341 receive an ignition interlock ~~a business or employment~~ license
342 pursuant to s. 322.271 ~~until 30 days have elapsed from the~~ upon
343 the effective date of the suspension. Any period a person
344 complies with the provisions of his or her ignition interlock
345 license during a suspension or revocation under this section,
346 will reduce on a day for day basis any mandatory ignition
347 interlock device requirement arising from the same incident.

348 Section 4. Section 322.271, Florida Statutes, is amended
349 to read:

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350 322.271 Authority to modify revocation, cancellation, or
351 suspension order.—

352 (1) (a) Upon the suspension, cancellation, or revocation of
353 the driver ~~driver's~~ license of any person as authorized or
354 required in this chapter, except a person whose license is
355 revoked as a habitual traffic offender under s. 322.27(5) or a
356 person who is ineligible to be granted the privilege of driving
357 on a limited or restricted basis under subsection (2), the
358 department shall immediately notify the licensee and, upon his
359 or her request, shall afford him or her an opportunity for a
360 hearing pursuant to chapter 120, as early as practicable within
361 not more than 30 days after receipt of such request, in the
362 county wherein the licensee resides, unless the department and
363 the licensee agree that such hearing may be held in some other
364 county.

365 (b) A person whose driving privilege has been revoked
366 under s. 322.27(5) may, upon expiration of 12 months from the
367 date of such revocation, petition the department for
368 reinstatement of his or her driving privilege. Upon such
369 petition and after investigation of the person's qualification,
370 fitness, and need to drive, the department shall hold a hearing
371 pursuant to chapter 120 to determine whether the driving
372 privilege shall be reinstated on a restricted basis solely for
373 business or employment purposes.

374 (c) For the purposes of this section, the term:

375 1. "A driving privilege restricted to business purposes
376 only" means a driving privilege that is limited to any driving
377 necessary to maintain livelihood, including driving to and from

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378 work, necessary on-the-job driving, driving for educational
379 purposes, and driving for church and for medical purposes.

380 2. "A driving privilege restricted to employment purposes
381 only" means a driving privilege that is limited to driving to
382 and from work and any necessary on-the-job driving required by
383 an employer or occupation.

384 3. "An Ignition interlock license" requires that the
385 person operate only a motor vehicle equipped with a functioning
386 ignition interlock device certified by the department in
387 accordance with s. 316.1938. A person who has a previous
388 conviction for a violation of s. 316.193 is not eligible to
389 receive an ignition interlock license.

390
391 Driving for any purpose other than as provided by this paragraph
392 is not permitted by a person whose driving privilege has been
393 restricted to employment or business purposes. In addition, a
394 person whose driving privilege is restricted to employment or
395 business purposes remains subject to any restriction that
396 applied to the type of license which the person held at the time
397 of the order of suspension, cancellation, or revocation. Any
398 driving privilege, including a driving privilege restricted to
399 business purposes or employment purposes only in accordance with
400 this section, that is extended to a person who has a previous
401 arrest for a violation of s. 316.193 or s. 316.1938, must be in
402 conjunction with mandatory installation of a functioning
403 ignition interlock device certified by the department in
404 accordance with s. 316.1938.

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405 (2) At such hearing, the person whose license has
406 been suspended, canceled, or revoked may show that such
407 suspension, cancellation, or revocation causes a serious
408 hardship and precludes the person from carrying out his or her
409 normal business occupation, trade, or employment and that the
410 use of the person's license in the normal course of his or her
411 business is necessary to the proper support of the person or his
412 or her family.

413 (c) A person whose license has been revoked for a period
414 of 5 years or less pursuant to s. 322.28(2)(a) may, 6 ~~12~~ months
415 after the date the revocation was imposed, petition the
416 department for reinstatement of his or her driving privilege on
417 a restricted basis. A person whose license has been revoked for
418 more than 5 years under s. 322.28(2)(a) may, 12 ~~24~~ months after
419 the date the revocation was imposed, petition the department for
420 reinstatement of his or her driving privilege on a restricted
421 basis. Reinstatement under this subsection is restricted to
422 business or employment purposes only. In addition, the
423 department shall require such persons upon reinstatement to have
424 not driven and to have been drug free for at least 12 months
425 immediately before the reinstatement, to be supervised by a DUI
426 program licensed by the department, and to report to the program
427 at least three times a year as required by the program for the
428 duration of the revocation period for supervision. Such
429 supervision includes evaluation, education, referral into
430 treatment, and other activities required by the department. Such
431 persons shall assume reasonable costs of supervision. If the
432 person fails to comply with the required supervision, the

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433 program shall report the failure to the department, and the
434 department shall cancel the person's driving privilege. This
435 paragraph does not apply to any person whose driving privilege
436 has been permanently revoked.

437 Section 5. Paragraph (a) of subsection (2) of section
438 322.28, Florida Statutes, is amended to read:

439 322.28 Period of suspension or revocation.—

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

442 (a) Upon conviction of the driver, the court, along with
443 imposing sentence, shall revoke the driver's license or driving
444 privilege of the person so convicted, effective on the date of
445 conviction, and shall prescribe the period of such revocation in
446 accordance with the following provisions:

447 1. Upon a first conviction for a violation of ~~the~~
448 ~~provisions of~~ s. 316.193, except for a violation resulting in
449 death, and except as provided under s. 316.193(2)(a)3.(I)., the
450 driver ~~driver's~~ license or driving privilege shall be revoked
451 for at least ~~not less than~~ 180 days but not ~~or~~ more than 1 year.

452 2. Upon a second conviction for an offense that occurs
453 within a period of 5 years of ~~after~~ the date of a prior
454 conviction for a violation of the provisions of s. 316.193 or
455 former s. 316.1931 or a combination of such sections, the
456 driver's license or driving privilege shall be revoked for not
457 less than 5 years.

458 3. Upon a third conviction for an offense that occurs
459 within a period of 10 years of ~~after~~ the date of a prior
460 conviction for the violation of the provisions of s. 316.193 or

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461 former s. 316.1931 or a combination of such sections, the
462 driver's license or driving privilege shall be revoked for not
463 less than 10 years.

464
465 For the purposes of this paragraph, a previous conviction
466 outside this state for driving under the influence, driving
467 while intoxicated, driving with an unlawful blood-alcohol level,
468 or any other alcohol-related or drug-related traffic offense
469 similar to the offense of driving under the influence as
470 proscribed by s. 316.193 will be considered a previous
471 conviction for violation of s. 316.193, and a conviction for
472 violation of former s. 316.028, former s. 316.1931, or former s.
473 860.01 is considered a conviction for violation of s. 316.193.

474 Section 6. This act shall take effect October 1, 2013.

475
476 -----

477 **T I T L E A M E N D M E N T**

478 Remove everything before the enacting clause and insert:

479 A bill to be entitled

480 An act relating to ... providing an effective date.