

By Senator Simmons

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1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.1939, F.S.; providing penalties for a
4 first-time refusal of a chemical or physical test of a
5 person's breath, blood, or urine; providing that a
6 subsequent refusal by a person who has previously had
7 a license suspension for a prior refusal is a
8 misdemeanor of the first degree; requiring the court
9 to impose certain mandatory ignition interlock devices
10 on the vehicles of convicted persons for a specified
11 time under certain circumstances; prohibiting a court
12 from suspending, deferring, or withholding
13 adjudication of guilt or the imposition of a sentence
14 or penalty for specified offenses; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 316.1939, Florida Statutes, is amended
20 to read:

21 316.1939 Refusal to submit to testing; penalties.—

22 (1) Any person who has refused to submit to a chemical or
23 physical test of his or her breath, blood, or urine, as
24 described in s. 316.1932, ~~and whose driving privilege was~~
25 ~~previously suspended for a prior refusal to submit to a lawful~~
26 ~~test of his or her breath, urine, or blood,~~ and:

27 (a) Who the arresting law enforcement officer had probable
28 cause to believe was driving or in actual physical control of a
29 motor vehicle in this state while under the influence of
30 alcoholic beverages, chemical substances, or controlled
31 substances;

32 (b) Who was placed under lawful arrest for a violation of

10-00909-16

20161244__

33 s. 316.193 unless such test was requested pursuant to s.
34 316.1932(1)(c);

35 (c) Who was informed that, if he or she refused to submit
36 to such test, his or her privilege to operate a motor vehicle
37 would be suspended for a period of 1 year or, in the case of a
38 second or subsequent refusal, for a period of 18 months;

39 (d) Who was informed that a refusal to submit to a lawful
40 test of his or her breath, urine, or blood, ~~if his or her~~
41 ~~driving privilege has been previously suspended for a prior~~
42 ~~refusal to submit to a lawful test of his or her breath, urine,~~
43 ~~or blood,~~ is subject to penalties a misdemeanor; and

44 (e) Who, after having been so informed, refused to submit
45 to any such test when requested to do so by a law enforcement
46 officer or correctional officer shall be punished:

47 1. By a fine of at least \$500 but not more than \$1,000;

48 2. By probation for 6 months; and

49 3. By having 4 points assessed against his or her driver
50 license.

51 (2)(a) A person who has refused to submit to a chemical or
52 physical test of his or her breath, blood, or urine, as
53 described in s. 316.1932, and whose driving privilege was
54 previously suspended for a prior refusal to submit to a lawful
55 test of his or her breath, urine, or blood, commits a
56 misdemeanor of the first degree and is subject to punishment as
57 provided in s. 775.082 or s. 775.083.

58 (b) The court shall impose mandatory placement, for a
59 period of at least 1 year at the convicted person's sole
60 expense, of an ignition interlock device approved by the
61 department in accordance with s. 316.1938 upon all vehicles that

10-00909-16

20161244__

62 are individually or jointly leased or owned and routinely
63 operated by the convicted person, when the convicted person
64 qualifies for a permanent or restricted license.

65 (c) A court may not suspend, defer, or withhold
66 adjudication of guilt or the imposition of a sentence or penalty
67 for an offense under paragraph (a).

68 (3)~~(2)~~ The disposition of any administrative proceeding
69 that relates to the suspension of a person's driving privilege
70 does not affect an offense ~~a criminal action~~ under this section.

71 (4)~~(3)~~ The disposition of an offense ~~a criminal action~~
72 under this section does not affect any administrative proceeding
73 that relates to the suspension of a person's driving privilege.
74 The department's records showing that a person's license has
75 been previously suspended for a prior refusal to submit to a
76 lawful test of his or her breath, urine, or blood shall be
77 admissible and shall create a rebuttable presumption of such
78 suspension.

79 Section 2. This act shall take effect October 1, 2016.