

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.1939, F.S.; providing for suspension
4 of a driver license for a first-time refusal of a
5 chemical or physical test of a person's breath, blood,
6 or urine; providing additional sanctions for such
7 refusals; providing that such refusal by a person who
8 has previously had a license suspension for such a
9 refusal is a misdemeanor; providing for mandatory
10 ignition interlock devices for persons convicted of
11 such offenses; providing that a court may not suspend,
12 defer, or withhold adjudication of guilt or the
13 imposition of a sentence or penalty for specified
14 offenses; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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

20 316.1939 Refusal to submit to testing; penalties.—

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

26 (a) Who the arresting law enforcement officer had probable

27 | cause to believe was driving or in actual physical control of a
 28 | motor vehicle in this state while under the influence of
 29 | alcoholic beverages, chemical substances, or controlled
 30 | substances;

31 | (b) Who was placed under lawful arrest for a violation of
 32 | s. 316.193 unless such test was requested pursuant to s.
 33 | 316.1932(1)(c);

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

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

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

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

47 | 2. By 6 months' probation; and

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

50 | (2)(a) A person who has refused to submit to a chemical or
 51 | physical test of his or her breath, blood, or urine, as
 52 | described in s. 316.1932, and whose driving privilege was

53 previously suspended for a prior refusal to submit to a lawful
54 test of his or her breath, urine, or blood, commits a
55 misdemeanor of the first degree and is subject to punishment as
56 provided in s. 775.082 or s. 775.083.

57 (b) The court shall impose mandatory placement, for a
58 period of at least 1 year at the convicted person's sole
59 expense, of an ignition interlock device approved by the
60 department in accordance with s. 316.1938 upon all vehicles that
61 are individually or jointly leased or owned and routinely
62 operated by the convicted person, when the convicted person
63 qualifies for a permanent or restricted license.

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

67 (3)-(2) The disposition of any administrative proceeding
68 that relates to the suspension of a person's driving privilege
69 does not affect a criminal action under this section.

70 (4)-(3) The disposition of a criminal action under this
71 section does not affect any administrative proceeding that
72 relates to the suspension of a person's driving privilege. The
73 department's records showing that a person's license has been
74 previously suspended for a prior refusal to submit to a lawful
75 test of his or her breath, urine, or blood shall be admissible
76 and shall create a rebuttable presumption of such suspension.

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