



265394

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
05/01/2017	.	
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The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Between lines 287 and 288

insert:

Section 2. Subsection (2) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.-

(2)

(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of



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11 subsection (1) shall be punished:

12 1. By a fine of:

13 a. Not less than \$500 or more than \$1,000 for a first
14 conviction.

15 b. Not less than \$1,000 or more than \$2,000 for a second
16 conviction; and

17 2. By imprisonment for:

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

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

20 3. For a second conviction, by mandatory placement for a
21 period of at least 1 year, at the convicted person's sole
22 expense, of an ignition interlock device approved by the
23 department in accordance with s. 316.1938 upon all vehicles that
24 are individually or jointly leased or owned and routinely
25 operated by the convicted person, when the convicted person
26 qualifies for a permanent or restricted license. The
27 installation of such device may not occur before July 1, 2003.

28 (b)1. Any person who is convicted of a third violation of
29 this section for an offense that occurs within 10 years after a
30 prior conviction for a violation of this section commits a
31 felony of the third degree, punishable as provided in s.
32 775.082, s. 775.083, or s. 775.084. In addition, the court shall
33 order the mandatory placement for a period of not less than 2
34 years, at the convicted person's sole expense, of an ignition
35 interlock device approved by the department in accordance with
36 s. 316.1938 upon all vehicles that are individually or jointly
37 leased or owned and routinely operated by the convicted person,
38 when the convicted person qualifies for a permanent or
39 restricted license. The installation of such device may not



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40 occur before July 1, 2003.

41 2. Any person who is convicted of a third violation of this
42 section for an offense that occurs more than 10 years after the
43 date of a prior conviction for a violation of this section shall
44 be punished by a fine of not less than \$2,000 or more than
45 \$5,000 and by imprisonment for not more than 12 months. In
46 addition, the court shall order the mandatory placement for a
47 period of at least 2 years, at the convicted person's sole
48 expense, of an ignition interlock device approved by the
49 department in accordance with s. 316.1938 upon all vehicles that
50 are individually or jointly leased or owned and routinely
51 operated by the convicted person, when the convicted person
52 qualifies for a permanent or restricted license. The
53 installation of such device may not occur before July 1, 2003.

54 3. Any person who is convicted of a fourth or subsequent
55 violation of this section, regardless of when any prior
56 conviction for a violation of this section occurred, commits a
57 felony of the third degree, punishable as provided in s.
58 775.082, s. 775.083, or s. 775.084. However, the fine imposed
59 for such fourth or subsequent violation may be not less than
60 \$2,000.

61 (c) In addition to the penalties in paragraph (a), as a
62 condition of probation, the court may order placement, at the
63 convicted person's sole expense, of an ignition interlock device
64 approved by the department in accordance with s. 316.1938 for at
65 least 6 continuous months upon all vehicles that are
66 ~~individually or jointly leased or owned and routinely operated~~
67 ~~by the convicted person if, at the time of the offense, the~~
68 ~~person had a blood-alcohol level or breath-alcohol level of .08~~



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69 ~~or higher.~~ If the convicted person is convicted of a first
70 offense misdemeanor of the second degree and has not caused
71 injury to, or the death of, a person or damage to property and
72 such person voluntarily places, or if the court orders placement
73 of, an interlock device under this subsection, the court, upon
74 proper showing that the person has received counseling,
75 treatment, rehabilitation or is enrolled in a substance abuse
76 course pursuant to subsection (5), may withhold adjudication if
77 the person does not have a prior withholding of adjudication or
78 adjudication of guilt for any other offense. Failure of the
79 person to comply with the full terms of the order of placement
80 of the ignition interlock device may result in, among other
81 penalties, the court ordering an adjudication of guilt.

82
83 For purposes of this subsection, the term "conviction" means a
84 determination of guilt which is the result of a plea or a trial,
85 regardless of whether adjudication is withheld or a plea of nolo
86 contendere is entered.

87 Section 3. Subsection (2) of section 316.1937, Florida
88 Statutes, is amended to read:

89 316.1937 Ignition interlock devices, requiring; unlawful
90 acts.—

91 (2) If the court imposes the use of an ignition interlock
92 device, the court shall:

93 (a) Stipulate on the record the requirement for, and the
94 period of, the use of a certified ignition interlock device.

95 (b) Order that the records of the department reflect such
96 requirement.

97 (c) Order that an ignition interlock device be installed,



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98 as the court may determine necessary, on any vehicle owned or
99 operated by the person.

100 (d) If the person claims inability to pay, provide the
101 following discounts on the monthly leasing fee:

102 1. If a person's family income is at or below 100 percent
103 of the federal poverty level as documented by written order of
104 the court, the regular monthly leasing fee charged to all
105 customers by the interlock provider shall be discounted by 50
106 percent.

107 2. If a person's family income is at or below 149 percent
108 of the federal poverty level as documented by written order of
109 the court, the regular monthly leasing fee charged to all
110 customers by the interlock provider shall be discounted by 25
111 percent.

112
113 Persons who qualify for a reduced leasing fee as provided in
114 this paragraph are not required to pay the costs of installation
115 or removal of the device. ~~Determine the person's ability to pay~~
116 ~~for installation of the device if the person claims inability to~~
117 ~~pay. If the court determines that the person is unable to pay~~
118 ~~for installation of the device, the court may order that any~~
119 ~~portion of a fine paid by the person for a violation of s.~~
120 ~~316.193 shall be allocated to defray the costs of installing the~~
121 ~~device.~~

122 (e) Require proof of installation of the device and
123 periodic reporting to the department for verification of the
124 operation of the device in the person's vehicle.

125
126 ===== T I T L E A M E N D M E N T =====



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127 And the title is amended as follows:

128 Delete line 5

129 and insert:

130 reference; amending s. 316.193, F.S.; authorizing a
131 court to order placement of an ignition interlock
132 device as a condition of probation, subject to certain
133 requirements; authorizing the court to withhold
134 adjudication if a person convicted of a certain
135 offense voluntarily places, or if the court orders
136 placement of, an ignition interlock device, under
137 certain circumstances; providing that failure of the
138 person to comply with the full terms of the order
139 requiring placement of an ignition interlock device
140 may result in the court ordering an adjudication of
141 guilt; defining the term "conviction"; amending s.
142 316.1937, F.S.; requiring a court that imposes the use
143 of an ignition interlock device to provide certain
144 discounts on the monthly leasing fee for the device,
145 if the person documents that he or she meets certain
146 income requirements; waiving costs associated with
147 installation and removal of the device in certain
148 circumstances; amending ss. 316.2397 and 316.2398,
149 F.S.;