



LEGISLATIVE ACTION

Senate	.	House
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Floor: 1e/AD/2R	.	Floor: RC
05/05/2017 02:31 PM	.	05/05/2017 08:14 PM
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Senator Simmons moved the following:

1           **Senate Amendment to Amendment (102880) (with title**  
2 **amendment)**

3  
4           Between lines 159 and 160  
5 insert:

6           Section 3. Subsection (2) of section 316.193, Florida  
7 Statutes, is amended to read:

8           316.193 Driving under the influence; penalties.-

9           (2)

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



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12 subsection (1) shall be punished:

13 1. By a fine of:

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

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

18 2. By imprisonment for:

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

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

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

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



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41 occur before July 1, 2003.

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

55 3. Any person who is convicted of a fourth or subsequent  
56 violation of this section, regardless of when any prior  
57 conviction for a violation of this section occurred, commits a  
58 felony of the third degree, punishable as provided in s.  
59 775.082, s. 775.083, or s. 775.084. However, the fine imposed  
60 for such fourth or subsequent violation may be not less than  
61 \$2,000.

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



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70 or higher. If the convicted person is convicted of a first  
71 offense misdemeanor of the second degree, has not violated  
72 subsection (4), and has not caused injury to, or the death of, a  
73 person or damage to property and such person voluntarily places,  
74 or if the court orders placement of, an interlock device or  
75 other equivalent device approved by the department which would  
76 prevent an impaired driver from operating a vehicle under this  
77 subsection, the court, upon proper showing that the person has  
78 received counseling, treatment, or rehabilitation or is enrolled  
79 in a substance abuse course pursuant to subsection (5), may  
80 withhold adjudication if the person does not have a prior  
81 withholding of adjudication or adjudication of guilt for any  
82 other criminal or noncriminal offense. Failure of the person to  
83 comply with all the terms of the order, including placement of  
84 the ignition interlock device or an equivalent device for the  
85 entire term required by the order, must result in, among other  
86 penalties, the court ordering an adjudication of guilt.

87  
88 For purposes of this subsection, the term "conviction" means a  
89 determination of guilt which is the result of a plea or a trial,  
90 regardless of whether adjudication is withheld or a plea of nolo  
91 contendere is entered.

92 Section 4. Subsection (2) of section 316.1937, Florida  
93 Statutes, is amended to read:

94 316.1937 Ignition interlock devices, requiring; unlawful  
95 acts.—

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

98 (a) Stipulate on the record the requirement for, and the



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99 period of, the use of a certified ignition interlock device.

100 (b) Order that the records of the department reflect such  
101 requirement.

102 (c) Order that an ignition interlock device be installed,  
103 as the court may determine necessary, on any vehicle owned or  
104 operated by the person.

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

107 1. If a person's family income is at or below 100 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 50  
111 percent.

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

117  
118 Persons who qualify for a reduced leasing fee as provided in  
119 this paragraph are not required to pay the costs of installation  
120 or removal of the device. ~~Determine the person's ability to pay~~  
121 ~~for installation of the device if the person claims inability to~~  
122 ~~pay. If the court determines that the person is unable to pay~~  
123 ~~for installation of the device, the court may order that any~~  
124 ~~portion of a fine paid by the person for a violation of s.~~  
125 ~~316.193 shall be allocated to defray the costs of installing the~~  
126 ~~device.~~

127 (e) Require proof of installation of the device and



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128 periodic reporting to the department for verification of the  
129 operation of the device in the person's vehicle.

130

131 ===== T I T L E A M E N D M E N T =====

132 And the title is amended as follows:

133 Delete line 660

134 and insert:

135 date; providing for repeal; amending s. 316.193, F.S.;

136 authorizing a court to order placement of an ignition

137 interlock device as a condition of probation, subject

138 to certain requirements; authorizing the court to

139 withhold adjudication if a person convicted of a

140 certain offense voluntarily places, or if the court

141 orders placement of, an ignition interlock device or

142 other equivalent device, under certain circumstances;

143 providing that failure of the person to comply with

144 all the terms of the order, including placement of an

145 ignition interlock device or other equivalent device,

146 must result in the court ordering an adjudication of

147 guilt; defining the term "conviction"; amending s.

148 316.1937, F.S.; requiring a court that imposes the use

149 of an ignition interlock device to provide certain

150 discounts on the monthly leasing fee for the device,

151 if the person documents that he or she meets certain

152 income requirements; waiving costs associated with

153 installation and removal of the device in certain

154 circumstances; amending s. 316.545, F.S.;