



636140

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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The Committee on Criminal Justice (Simmons) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. 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. Notwithstanding s. 316.656, if a person convicted of  
70 a first offense misdemeanor of the second degree voluntarily  
71 places, or if the court orders placement of, an ignition  
72 interlock device under this subsection, the court shall withhold  
73 adjudication if the person does not have a prior withholding of  
74 adjudication or adjudication of guilt for any other offense.  
75 Failure of the person to comply with the full terms of the order  
76 of placement of the ignition interlock device may result in,  
77 among other penalties, the court ordering an adjudication of  
78 guilt.

79  
80 For purposes of this subsection, the term "conviction" means a  
81 determination of guilt which is the result of a plea or a trial,  
82 regardless of whether adjudication is withheld or a plea of nolo  
83 contendere is entered.

84 Section 2. Subsection (2) of section 316.1937, Florida  
85 Statutes, is amended to read:

86 316.1937 Ignition interlock devices, requiring; unlawful  
87 acts.-

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

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

92 (b) Order that the records of the department reflect such  
93 requirement.

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

97 (d) If the person claims inability to pay, provide the



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98 following discounts on the monthly leasing fee:

99 1. If a person's family income does not exceed 100 percent  
100 of the federal poverty level as documented by written order of  
101 the court, the regular monthly leasing fee charged to all  
102 customers by the interlock provider shall be discounted by 50  
103 percent.

104 2. If the person's family income does not exceed 149  
105 percent of the federal poverty level as documented by written  
106 order of the court, the regular monthly leasing fee charged to  
107 all customers by the interlock provider shall be discounted by  
108 25 percent.

109  
110 Persons who qualify for a reduced leasing fee as provided in  
111 this paragraph are not required to pay the costs of installation  
112 or removal of the device. ~~Determine the person's ability to pay~~  
113 ~~for installation of the device if the person claims inability to~~  
114 ~~pay. If the court determines that the person is unable to pay~~  
115 ~~for installation of the device, the court may order that any~~  
116 ~~portion of a fine paid by the person for a violation of s.~~  
117 ~~316.193 shall be allocated to defray the costs of installing the~~  
118 ~~device.~~

119 (e) Require proof of installation of the device and  
120 periodic reporting to the department for verification of the  
121 operation of the device in the person's vehicle.

122 Section 3. This act shall take effect October 1, 2017.

123  
124 ===== T I T L E A M E N D M E N T =====

125 And the title is amended as follows:

126 Delete everything before the enacting clause



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127 and insert:

128                   A bill to be entitled  
129           An act relating to driving under the influence;  
130           amending s. 316.193, F.S.; authorizing a court to  
131           order placement of an ignition interlock device as a  
132           condition of probation, subject to certain  
133           requirements; requiring 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; providing an effective date.