

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 a specified offense; conforming
15 provisions to changes made by this act; providing an
16 effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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

22 316.1939 Refusal to submit to testing; penalties.—

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

28 (a) Who the arresting law enforcement officer had probable
29 cause to believe was driving or in actual physical control of a

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30 motor vehicle in this state while under the influence of
31 alcoholic beverages, chemical substances, or controlled
32 substances;

33 (b) Who was placed under lawful arrest for a violation of
34 s. 316.193 unless such test was requested pursuant to s.
35 316.1932(1)(c);

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

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

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

- 48 1. By a fine of at least \$500 but not more than \$1,000;
49 2. By probation for 6 months; and
50 3. By having 4 points assessed against his or her driver
51 license.

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

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

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

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

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

80 Section 2. This act shall take effect October 1, 2017.