

By the Committees on Transportation; and Criminal Justice; and
Senator Simmons

596-04107-17

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1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; authorizing a court to
4 order placement of an ignition interlock device as a
5 condition of probation, subject to certain
6 requirements; authorizing the court to withhold
7 adjudication if a person convicted of a certain
8 offense voluntarily places, or if the court orders
9 placement of, an ignition interlock device, under
10 certain circumstances; providing that failure of the
11 person to comply with the full terms of the order
12 requiring placement of an ignition interlock device
13 may result in the court ordering an adjudication of
14 guilt; defining the term "conviction"; amending s.
15 316.1937, F.S.; requiring a court that imposes the use
16 of an ignition interlock device to provide certain
17 discounts on the monthly leasing fee for the device,
18 if the person documents that he or she meets certain
19 income requirements; waiving costs associated with
20 installation and removal of the device in certain
21 circumstances; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (2) of section 316.193, Florida
26 Statutes, is amended to read:

27 316.193 Driving under the influence; penalties.—

28 (2)

29 (a) Except as provided in paragraph (b), subsection (3), or

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30 subsection (4), any person who is convicted of a violation of
31 subsection (1) shall be punished:

32 1. By a fine of:

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

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

37 2. By imprisonment for:

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

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

40 3. For a second conviction, by mandatory placement for a
41 period of at least 1 year, at the convicted person's sole
42 expense, of an ignition interlock device approved by the
43 department in accordance with s. 316.1938 upon all vehicles that
44 are individually or jointly leased or owned and routinely
45 operated by the convicted person, when the convicted person
46 qualifies for a permanent or restricted license. The
47 installation of such device may not occur before July 1, 2003.

48 (b)1. Any person who is convicted of a third violation of
49 this section for an offense that occurs within 10 years after a
50 prior conviction for a violation of this section commits a
51 felony of the third degree, punishable as provided in s.
52 775.082, s. 775.083, or s. 775.084. In addition, the court shall
53 order the mandatory placement for a period of not less than 2
54 years, at the convicted person's sole expense, of an ignition
55 interlock device approved by the department in accordance with
56 s. 316.1938 upon all vehicles that are individually or jointly
57 leased or owned and routinely operated by the convicted person,
58 when the convicted person qualifies for a permanent or

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59 restricted license. The installation of such device may not
60 occur before July 1, 2003.

61 2. Any person who is convicted of a third violation of this
62 section for an offense that occurs more than 10 years after the
63 date of a prior conviction for a violation of this section shall
64 be punished by a fine of not less than \$2,000 or more than
65 \$5,000 and by imprisonment for not more than 12 months. In
66 addition, the court shall order the mandatory placement for a
67 period of at least 2 years, at the convicted person's sole
68 expense, of an ignition interlock device approved by the
69 department in accordance with s. 316.1938 upon all vehicles that
70 are individually or jointly leased or owned and routinely
71 operated by the convicted person, when the convicted person
72 qualifies for a permanent or restricted license. The
73 installation of such device may not occur before July 1, 2003.

74 3. Any person who is convicted of a fourth or subsequent
75 violation of this section, regardless of when any prior
76 conviction for a violation of this section occurred, commits a
77 felony of the third degree, punishable as provided in s.
78 775.082, s. 775.083, or s. 775.084. However, the fine imposed
79 for such fourth or subsequent violation may be not less than
80 \$2,000.

81 (c) In addition to the penalties in paragraph (a), as a
82 condition of probation, the court may order placement, at the
83 convicted person's sole expense, of an ignition interlock device
84 approved by the department in accordance with s. 316.1938 for at
85 least 6 continuous months upon all vehicles that are
86 ~~individually or jointly leased or owned and routinely operated~~
87 ~~by the convicted person if, at the time of the offense, the~~

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88 ~~person had a blood alcohol level or breath alcohol level of .08~~
89 ~~or higher. If the convicted person is convicted of a first~~
90 ~~offense misdemeanor of the second degree and has not caused~~
91 ~~injury to, or the death of, a person or damage to property and~~
92 ~~such person voluntarily places, or if the court orders placement~~
93 ~~of, an interlock device under this subsection, the court, upon~~
94 ~~proper showing that the person has received counseling,~~
95 ~~treatment, rehabilitation or is enrolled in a substance abuse~~
96 ~~course pursuant to subsection (5), may withhold adjudication if~~
97 ~~the person does not have a prior withholding of adjudication or~~
98 ~~adjudication of guilt for any other offense. Failure of the~~
99 ~~person to comply with the full terms of the order of placement~~
100 ~~of the ignition interlock device may result in, among other~~
101 ~~penalties, the court ordering an adjudication of guilt.~~

102
103 For purposes of this subsection, the term "conviction" means a
104 determination of guilt which is the result of a plea or a trial,
105 regardless of whether adjudication is withheld or a plea of nolo
106 contendere is entered.

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

109 316.1937 Ignition interlock devices, requiring; unlawful
110 acts.—

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

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

115 (b) Order that the records of the department reflect such
116 requirement.

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

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

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

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

132
133 Persons who qualify for a reduced leasing fee as provided in
134 this paragraph are not required to pay the costs of installation
135 or removal of the device. ~~Determine the person's ability to pay~~
136 for installation of the device if the person claims inability to
137 pay. If the court determines that the person is unable to pay
138 for installation of the device, the court may order that any
139 portion of a fine paid by the person for a violation of s.
140 316.193 shall be allocated to defray the costs of installing the
141 device.

142 (e) Require proof of installation of the device and
143 periodic reporting to the department for verification of the
144 operation of the device in the person's vehicle.

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