

By Senator Berman

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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.; expanding conditions under  
4           which a person commits the offense of driving under  
5           the influence and must remain in custody after arrest;  
6           defining the term "impairing substance"; reenacting  
7           ss. 316.027(2)(c), 322.2715(3)(a), and 322.291, F.S.,  
8           relating to crashes involving death or personal  
9           injuries, ignition interlock devices, and driver  
10          improvement schools or DUI programs, respectively, to  
11          incorporate the amendments made to s. 316.193, F.S.,  
12          in references thereto; providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. Present paragraphs (c) and (d) of subsection  
17          (14) of section 316.193, Florida Statutes, are redesignated as  
18          paragraphs (d) and (e), respectively, a new paragraph (c) is  
19          added to that subsection, and subsections (1) and (9) of that  
20          section are amended, to read:

21           316.193 Driving under the influence; penalties.—

22           (1) A person commits ~~is guilty of~~ the offense of driving  
23          under the influence and is subject to punishment as provided in  
24          subsection (2) if the person is driving or in actual physical  
25          control of a vehicle within this state and:

26           (a) The person is under the influence of alcoholic  
27          beverages, any chemical substance set forth in s. 877.111, ~~or~~  
28          any substance controlled under chapter 893, or any other  
29          impairing substance, or any combination thereof, when affected

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30 to the extent that the person's normal faculties are impaired;

31 (b) The person has a blood-alcohol level of 0.08 or more  
32 grams of alcohol per 100 milliliters of blood; or

33 (c) The person has a breath-alcohol level of 0.08 or more  
34 grams of alcohol per 210 liters of breath.

35 (9) A person who is arrested for a violation of this  
36 section may not be released from custody:

37 (a) Until the person is no longer under the influence of  
38 alcoholic beverages, any chemical substance set forth in s.  
39 877.111, ~~or~~ any substance controlled under chapter 893, or any  
40 other impairing substance, or any combination thereof, and  
41 affected to the extent that his or her normal faculties are  
42 impaired;

43 (b) Until the person's blood-alcohol level or breath-  
44 alcohol level is less than 0.05; or

45 (c) Until 8 hours have elapsed from the time the person was  
46 arrested.

47 (14) As used in this chapter, the term:

48 (c) "Impairing substance" means any substance that, when  
49 taken into the human body, can impair, or diminish in some  
50 material respect, a person's normal faculties. These normal  
51 faculties include, but are not limited to, the ability to see,  
52 hear, walk, talk, judge distances, drive an automobile, make  
53 judgments, act in emergencies, and, in general, normally perform  
54 the many mental and physical acts of daily life.

55 Section 2. For the purpose of incorporating the amendment  
56 made by this act to section 316.193, Florida Statutes, in a  
57 reference thereto, paragraph (c) of subsection (2) of section  
58 316.027, Florida Statutes, is reenacted to read:

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59 316.027 Crash involving death or personal injuries.—

60 (2)

61 (c) The driver of a vehicle involved in a crash occurring  
62 on public or private property which results in the death of a  
63 person shall immediately stop the vehicle at the scene of the  
64 crash, or as close thereto as possible, and shall remain at the  
65 scene of the crash until he or she has fulfilled the  
66 requirements of s. 316.062. A person who is arrested for a  
67 violation of this paragraph and who has previously been  
68 convicted of a violation of this section, s. 316.061, s.  
69 316.191, or s. 316.193, or a felony violation of s. 322.34,  
70 shall be held in custody until brought before the court for  
71 admittance to bail in accordance with chapter 903. A person who  
72 willfully violates this paragraph commits a felony of the first  
73 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
74 775.084, and shall be sentenced to a mandatory minimum term of  
75 imprisonment of 4 years. A person who willfully commits such a  
76 violation while driving under the influence as set forth in s.  
77 316.193(1) shall be sentenced to a mandatory minimum term of  
78 imprisonment of 4 years.

79 Section 3. For the purpose of incorporating the amendment  
80 made by this act to section 316.193, Florida Statutes, in  
81 references thereto, paragraph (a) of subsection (3) of section  
82 322.2715, Florida Statutes, is reenacted to read:

83 322.2715 Ignition interlock device.—

84 (3) If the person is convicted of:

85 (a) A first offense of driving under the influence under s.  
86 316.193 and has an unlawful blood-alcohol level or breath-  
87 alcohol level as specified in s. 316.193(1), the ignition

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88 interlock device may be installed for at least 6 continuous  
89 months.

90 Section 4. For the purpose of incorporating the amendment  
91 made by this act to section 316.193, Florida Statutes, in  
92 references thereto, section 322.291, Florida Statutes, is  
93 reenacted to read:

94 322.291 Driver improvement schools or DUI programs;  
95 required in certain suspension and revocation cases.—Except as  
96 provided in s. 322.03(2), any person:

97 (1) Whose driving privilege has been revoked:

98 (a) Upon conviction for:

99 1. Driving, or being in actual physical control of, any  
100 vehicle while under the influence of alcoholic beverages, any  
101 chemical substance set forth in s. 877.111, or any substance  
102 controlled under chapter 893, in violation of s. 316.193;

103 2. Driving with an unlawful blood- or breath-alcohol level;

104 3. Manslaughter resulting from the operation of a motor  
105 vehicle;

106 4. Failure to stop and render aid as required under the  
107 laws of this state in the event of a motor vehicle crash  
108 resulting in the death or personal injury of another;

109 5. Reckless driving; or

110 (b) As a habitual offender;

111 (c) Upon direction of the court, if the court feels that  
112 the seriousness of the offense and the circumstances surrounding  
113 the conviction warrant the revocation of the licensee's driving  
114 privilege; or

115 (2) Whose license was suspended under the point system, was  
116 suspended for driving with an unlawful blood-alcohol level of

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117 0.10 percent or higher before January 1, 1994, was suspended for  
118 driving with an unlawful blood-alcohol level of 0.08 percent or  
119 higher after December 31, 1993, was suspended for a violation of  
120 s. 316.193(1), or was suspended for refusing to submit to a  
121 lawful breath, blood, or urine test as provided in s. 322.2615  
122  
123 shall, before the driving privilege may be reinstated, present  
124 to the department proof of enrollment in a department-approved  
125 advanced driver improvement course operating pursuant to s.  
126 318.1451 or a substance abuse education course conducted by a  
127 DUI program licensed pursuant to s. 322.292, which shall include  
128 a psychosocial evaluation and treatment, if referred.  
129 Additionally, for a third or subsequent violation of  
130 requirements for installation of an ignition interlock device, a  
131 person must complete treatment as determined by a licensed  
132 treatment agency following a referral by a DUI program and have  
133 the duration of the ignition interlock device requirement  
134 extended by at least 1 month up to the time period required to  
135 complete treatment. If the person fails to complete such course  
136 or evaluation within 90 days after reinstatement, or  
137 subsequently fails to complete treatment, if referred, the DUI  
138 program shall notify the department of the failure. Upon receipt  
139 of the notice, the department shall cancel the offender's  
140 driving privilege, notwithstanding the expiration of the  
141 suspension or revocation of the driving privilege. The  
142 department may temporarily reinstate the driving privilege upon  
143 verification from the DUI program that the offender has  
144 completed the education course and evaluation requirement and  
145 has reentered and is currently participating in treatment. If

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146 the DUI program notifies the department of the second failure to  
147 complete treatment, the department shall reinstate the driving  
148 privilege only after notice of completion of treatment from the  
149 DUI program.

150 Section 5. This act shall take effect July 1, 2022.