

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 7, 1998 Revised: _____

Subject: DUI Vehicle Impoundment or Immobilization

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Dugger	Miller	CJ	Favorable/CS
2.	_____	_____	TR	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The CS/SB 604 requires that the applicable time period for impounding or immobilizing a vehicle driven by a person convicted of DUI (10, 30, or 90 days depending on the number of DUI convictions) is to be concurrent with probation, if probation is ordered by the court. Currently, when the applicable time period for impoundment or immobilization is ordered by the court, it cannot begin until after the offender has completed probation or imprisonment. The CS also expressly reiterates that the period of impoundment or immobilization cannot be concurrent with imprisonment.

This CS substantially amends section 316.193 of the Florida Statutes.

II. Present Situation:

Section 316.193(6)(d), F.S., provides that in addition to any other penalty imposed by this section, the court must order the impoundment or immobilization of a vehicle that was driven by, or in the actual physical control of, a person who is convicted of driving under the influence of alcohol or drugs to the extent that normal faculties are impaired (DUI), unless the court finds that the family of the owner has no other public or private means of transportation. The impoundment statute has been upheld against a vagueness challenge by the Florida Supreme Court in Muller v. State, 693 So.2d 976 (Fla. 1997).

The period of impoundment or immobilization under the statute is 10 days for a first conviction, 30 days for the second conviction within 3 years of a prior conviction, and 90 days for the third conviction within 5 years of a prior conviction. The period of impoundment or immobilization may not be concurrent with probation or imprisonment. (Probation for first-time offenders is

required under the statute and cannot exceed one year.) If the vehicle is leased, the period of impoundment or immobilization may not extend beyond the expiration of the lease agreement.

Within 7 business days after the date the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the person convicted of DUI, and to each person of record claiming a lien against the vehicle. All costs and fees must be paid by the owner of the vehicle or by the person leasing the vehicle if the vehicle is leased.

The person who owns an impounded or immobilized vehicle or a person having a lien of record against such vehicle may file a complaint in the county where the owner resides to determine whether the vehicle was wrongly taken or withheld from the owner or lienholder within 10 days after the date that person learns the location of the vehicle. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting a bond or other adequate security that covers the amount of the costs and fees for impoundment or immobilization. When the bond is posted and a court fee is paid, the clerk of the court is required to issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or its contents.

III. Effect of Proposed Changes:

The CS/SB 604 requires that the applicable time period for impounding or immobilizing a vehicle driven by a person convicted of DUI (10, 30, or 90 days depending on the number of DUI convictions) is to be concurrent with probation, if probation is ordered by the court. Thus, if the court orders a first-time DUI offender's vehicle impounded for 10 days, that 10-day time period will begin while the offender is on probation. (Currently, when the applicable time period for impoundment or immobilization is ordered by the court, it cannot begin until after the offender has completed probation or imprisonment.)

The CS also expressly reiterates that the period of impoundment or immobilization cannot be concurrent with imprisonment. It also stipulates that s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles applies to impoundment or immobilization under s. 316.193, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.