

1 A bill to be entitled
 2 An act relating to driving under the influence;
 3 amending s. 316.193, F.S.; deleting obsolete
 4 provisions; authorizing a court to order a transdermal
 5 monitoring device or treatment program in lieu of an
 6 ignition interlock device; providing an effective
 7 date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

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 11 Section 1. Subsection (2), paragraph (c) of subsection
 12 (4), subsection (5), and paragraph (i) of subsection (6) of
 13 section 316.193, Florida Statutes, are amended to read:

14 316.193 Driving under the influence; penalties.—

15 (2) (a) Except as provided in paragraph (b), subsection
 16 (3), or subsection (4), a ~~any~~ person who is convicted of a
 17 violation of subsection (1) shall be punished:

- 18 1. By a fine of:
 - 19 a. Not less than \$500 or more than \$1,000 for a first
 - 20 conviction.
 - 21 b. Not less than \$1,000 or more than \$2,000 for a second
 - 22 conviction; and
- 23 2. By imprisonment for:
 - 24 a. Not more than 6 months for a first conviction.
 - 25 b. Not more than 9 months for a second conviction.
- 26 3. For a second conviction, by mandatory placement for a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 | period of at least 1 year, at the convicted person's sole
 28 | expense, of an ignition interlock device approved by the
 29 | department in accordance with s. 316.1938 upon all vehicles that
 30 | are individually or jointly leased or owned and routinely
 31 | operated by the convicted person, when the convicted person
 32 | qualifies for a permanent or restricted license. The court may,
 33 | in lieu of an ignition interlock device, order a transdermal
 34 | monitoring device or treatment program. ~~The installation of such~~
 35 | ~~device may not occur before July 1, 2003.~~

36 | (b)1. A ~~Any~~ person who is convicted of a third violation
 37 | of this section for an offense that occurs within 10 years after
 38 | a prior conviction for a violation of this section commits a
 39 | felony of the third degree, punishable as provided in s.
 40 | 775.082, s. 775.083, or s. 775.084. In addition, the court shall
 41 | order the mandatory placement for a period of not less than 2
 42 | years, at the convicted person's sole expense, of an ignition
 43 | interlock device approved by the department in accordance with
 44 | s. 316.1938 upon all vehicles that are individually or jointly
 45 | leased or owned and routinely operated by the convicted person,
 46 | when the convicted person qualifies for a permanent or
 47 | restricted license. The court may, in lieu of an ignition
 48 | interlock device, order a transdermal monitoring device or
 49 | treatment program. ~~The installation of such device may not occur~~
 50 | ~~before July 1, 2003.~~

51 | 2. A ~~Any~~ person who is convicted of a third violation of
 52 | this section for an offense that occurs more than 10 years after

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53 the date of a prior conviction for a violation of this section
54 shall be punished by a fine of not less than \$2,000 or more than
55 \$5,000 and by imprisonment for not more than 12 months. In
56 addition, the court shall order the mandatory placement for a
57 period of at least 2 years, at the convicted person's sole
58 expense, of an ignition interlock device approved by the
59 department in accordance with s. 316.1938 upon all vehicles that
60 are individually or jointly leased or owned and routinely
61 operated by the convicted person, when the convicted person
62 qualifies for a permanent or restricted license. The court may,
63 in lieu of an ignition interlock device, order a transdermal
64 monitoring device or treatment program. ~~The installation of such~~
65 ~~device may not occur before July 1, 2003.~~

66 3. A ~~Any~~ person who is convicted of a fourth or subsequent
67 violation of this section, regardless of when any prior
68 conviction for a violation of this section occurred, commits a
69 felony of the third degree, punishable as provided in s.
70 775.082, s. 775.083, or s. 775.084. However, the fine imposed
71 for such fourth or subsequent violation may be not less than
72 \$2,000.

73 (c) In addition to the penalties in paragraph (a), the
74 court may order placement, at the convicted person's sole
75 expense, of an ignition interlock device approved by the
76 department in accordance with s. 316.1938 for at least 6
77 continuous months upon all vehicles that are individually or
78 jointly leased or owned and routinely operated by the convicted

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79 | person if, at the time of the offense, the person had a blood-
80 | alcohol level or breath-alcohol level of .08 or higher. The
81 | court may, in lieu of an ignition interlock device, order a
82 | transdermal monitoring device or treatment program.

83 | (4) Any person who is convicted of a violation of
84 | subsection (1) and who has a blood-alcohol level or breath-
85 | alcohol level of 0.15 or higher, or any person who is convicted
86 | of a violation of subsection (1) and who at the time of the
87 | offense was accompanied in the vehicle by a person under the age
88 | of 18 years, shall be punished:

89 | (c) In addition to the penalties in paragraphs (a) and
90 | (b), the court shall order the mandatory placement, at the
91 | convicted person's sole expense, of an ignition interlock device
92 | approved by the department in accordance with s. 316.1938 upon
93 | all vehicles that are individually or jointly leased or owned
94 | and routinely operated by the convicted person for not less than
95 | 6 continuous months for the first offense and for not less than
96 | 2 continuous years for a second offense, when the convicted
97 | person qualifies for a permanent or restricted license. The
98 | court may, in lieu of an ignition interlock device, order a
99 | transdermal monitoring device or treatment program.

100 | (5) The court shall place all offenders convicted of
101 | violating this section on monthly reporting probation and shall
102 | require completion of a substance abuse course conducted by a
103 | DUI program licensed by the department under s. 322.292, which
104 | must include a psychosocial evaluation of the offender. The

105 court may also order a transdermal monitoring device. If the DUI
106 program refers the offender to an authorized substance abuse
107 treatment provider for substance abuse treatment, in addition to
108 any sentence or fine imposed under this section, completion of
109 all such education, evaluation, and treatment is a condition of
110 reporting probation. The offender shall assume reasonable costs
111 for such education, evaluation, transdermal monitoring, and
112 treatment. The referral to treatment resulting from a
113 psychosocial evaluation shall not be waived without a supporting
114 independent psychosocial evaluation conducted by an authorized
115 substance abuse treatment provider appointed by the court, which
116 shall have access to the DUI program's psychosocial evaluation
117 before the independent psychosocial evaluation is conducted. The
118 court shall review the results and recommendations of both
119 evaluations before determining the request for waiver. The
120 offender shall bear the full cost of this procedure. The term
121 "substance abuse" means the abuse of alcohol or any substance
122 named or described in Schedules I through V of s. 893.03. If an
123 offender referred to treatment under this subsection fails to
124 report for or complete such treatment or fails to complete the
125 DUI program substance abuse education course and evaluation, the
126 DUI program shall notify the court and the department of the
127 failure. Upon receipt of the notice, the department shall cancel
128 the offender's driving privilege, notwithstanding the terms of
129 the court order or any suspension or revocation of the driving
130 privilege. The department may temporarily reinstate the driving

131 | privilege on a restricted basis upon verification from the DUI
132 | program that the offender is currently participating in
133 | treatment and the DUI education course and evaluation
134 | requirement has been completed. If the DUI program notifies the
135 | department of the second failure to complete treatment, the
136 | department shall reinstate the driving privilege only after
137 | notice of completion of treatment from the DUI program. The
138 | organization that conducts the substance abuse education and
139 | evaluation may not provide required substance abuse treatment
140 | unless a waiver has been granted to that organization by the
141 | department. A waiver may be granted only if the department
142 | determines, in accordance with its rules, that the service
143 | provider that conducts the substance abuse education and
144 | evaluation is the most appropriate service provider and is
145 | licensed under chapter 397 or is exempt from such licensure. A
146 | statistical referral report shall be submitted quarterly to the
147 | department by each organization authorized to provide services
148 | under this section.

149 | (6) With respect to any person convicted of a violation of
150 | subsection (1), regardless of any penalty imposed pursuant to
151 | subsection (2), subsection (3), or subsection (4):

152 | (i) The court may also dismiss the order of impoundment or
153 | immobilization if the defendant provides proof to the
154 | satisfaction of the court that a functioning, certified ignition
155 | interlock device has been installed upon all vehicles that are
156 | individually or jointly leased or owned and routinely operated

157 | by the convicted person. The court may, in lieu of an ignition
 158 | interlock device, order a transdermal monitoring device or
 159 | treatment program.

160 |
 161 | For the purposes of this section, any conviction for a violation
 162 | of s. 327.35; a previous conviction for the violation of former
 163 | s. 316.1931, former s. 860.01, or former s. 316.028; or a
 164 | previous conviction outside this state for driving under the
 165 | influence, driving while intoxicated, driving with an unlawful
 166 | blood-alcohol level, driving with an unlawful breath-alcohol
 167 | level, or any other similar alcohol-related or drug-related
 168 | traffic offense, is also considered a previous conviction for
 169 | violation of this section. However, in satisfaction of the fine
 170 | imposed pursuant to this section, the court may, upon a finding
 171 | that the defendant is financially unable to pay either all or
 172 | part of the fine, order that the defendant participate for a
 173 | specified additional period of time in public service or a
 174 | community work project in lieu of payment of that portion of the
 175 | fine which the court determines the defendant is unable to pay.
 176 | In determining such additional sentence, the court shall
 177 | consider the amount of the unpaid portion of the fine and the
 178 | reasonable value of the services to be ordered; however, the
 179 | court may not compute the reasonable value of services at a rate
 180 | less than the federal minimum wage at the time of sentencing.

181 | Section 2. This act shall take effect October 1, 2015.