

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 555 Driving Under the Influence

**SPONSOR(S):** Highway & Waterway Safety Subcommittee; Plakon; Cortes, B. and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1244

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	12 Y, 1 N, As CS	Pitts	Smith
2) Judiciary Committee	17 Y, 0 N	Keegan	Havlicak
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

Current Florida law gives the court the discretion to order mandatory Ignition Interlock Device (IID) installation for all first-time offenders of Driving Under the Influence (DUI), in addition to any other authorized penalties. If the court exercises this discretion, the installation period must be for at least six months.

The bill requires that all first time convicted DUI offenders have an IID placed on their vehicle at the convicted person's sole expense, for at least six months.

The bill may have an indeterminate, but significant negative impact on state funds. The Department of Highway Safety and Motor Vehicles (DHSMV) estimates that additional resources will be necessary to monitor and oversee the IID program should all first time DUI offenders require mandatory IID installation.

The effective date of the bill is October 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

While studies reveal a downward trend in alcohol use by drivers over the past forty years,<sup>1</sup> crashes involving alcohol impairment currently cost over \$37 billion annually.<sup>2</sup> Studies also establish a strong correlation between alcohol intoxication and the risk of being involved in a crash. Drivers with an alcohol level of 0.08 percent were approximately four times more likely to be involved in a crash than an unintoxicated driver, and drivers with an alcohol level of 0.15 percent were twelve times more likely to be involved in a crash.<sup>3</sup>

#### **Criminal Penalties**

Criminal penalties vary depending on factors such as the number of prior convictions, how much time has passed between convictions, and the offender's blood-alcohol or breath-alcohol concentration (BAC).

#### **First- Time Offender Penalties**

A first conviction for driving under the influence is a first degree misdemeanor<sup>4</sup> and will result in a fine of at least \$500, but no more than \$1,000, a period of up to six months in jail,<sup>5</sup> a period of up to one year on probation, participation in at least fifty hours of community service, and a mandatory vehicle impoundment of the vehicle operated by the driver during the DUI.<sup>6</sup> The court has the discretion to order Ignition Interlock Device (IID) installation for a first-time offender, in addition to any other authorized penalties, for a period of at least six months.<sup>7</sup>

If a first-time offender's BAC is 0.15 percent or higher, or if a passenger under eighteen years of age is present in the vehicle during the offense, the penalties are enhanced. Such an offender is subject to a fine of at least \$1,000, but no more than \$2,000, a period of up to nine months in jail, and mandatory IID installation upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for not less than six months.<sup>8</sup>

It is a third degree felony<sup>9</sup> for an offender to commit a DUI offense involving serious bodily injury to another person, and a second degree felony<sup>10</sup> if the DUI offense results in the death of any person or unborn child.<sup>11</sup> It is a first degree felony<sup>12</sup> if an offender knew or should have known that a crash occurred and failed to give information and render aid and the crash results in the death of any person or unborn child.<sup>13</sup>

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<sup>1</sup> The National Highway Traffic Safety Administration has conducted several National Roadside Surveys since the first Survey was conducted in 1973. The results of these surveys have revealed a downward trend in alcohol use by vehicle operators from 1973 to 2014, when the most recent Survey was completed. U.S. Dept. of Transportation, *Results of the 2013-2014 National Roadside Survey of Alcohol and Drug Use by Drivers*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN. (Feb. 2015), [http://www.nhtsa.gov/staticfiles/nti/pdf/812118-Roadside\\_Survey\\_2014.pdf](http://www.nhtsa.gov/staticfiles/nti/pdf/812118-Roadside_Survey_2014.pdf).

<sup>2</sup> U.S. Dept. of Transportation, *Impaired Driving*, <http://www.nhtsa.gov/Impaired> (last visited Feb. 15, 2016).

<sup>3</sup> U.S. Dept. of Transportation, *Drug and Alcohol Crash Risk – Fact Sheet*, <http://www.nhtsa.gov/staticfiles/nti/pdf/11388c-CrashRiskStudy-FactSheet.pdf> (last visited Feb. 15, 2016).

<sup>4</sup> Absent statutorily prescribed penalties, a first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

<sup>5</sup> s. 316.193(2), F.S.

<sup>6</sup> s. 316.193(6)(a), F.S.

<sup>7</sup> s. 316.1937, F.S.

<sup>8</sup> s. 316.193(4), F.S.

<sup>9</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082 and 775.083, F.S.

<sup>10</sup> A second degree felony is punishable by up to fifteen years imprisonment and a \$10,000 fine. ss. 775.082 and 775.083, F.S.

<sup>11</sup> s. 316.193(3), F.S.

<sup>12</sup> A first degree felony is punishable by up to thirty years imprisonment and a \$10,000 fine. ss. 775.082 and 775.083, F.S.

<sup>13</sup> s. 316.193(3), F.S.

### Ignition Interlock Device (IID)

Section 316.193, F.S., requires IID's to be installed on the vehicles of persons convicted of DUI. The following table summarizes Florida's IID sentencing requirements:

<b>DUI Conviction</b>	<b>IID Requirement</b>
1 <sup>st</sup> Conviction	If court ordered
1 <sup>st</sup> Conviction if BAC is $\geq 0.15$ , or minor in car	Mandatory for at least 6 continuous months
2 <sup>nd</sup> Conviction	Mandatory for at least 1 year
2 <sup>nd</sup> Conviction if BAC is $\geq 0.15$ , or minor in car	Mandatory for at least 2 continuous years
3 <sup>rd</sup> Conviction	Mandatory for at least 2 years

The Florida Legislature's Office of Program Policy Analysis & Government Accountability conducted a study researching ignition interlock devices and DUI recidivism rates. An ignition interlock device prevents the start of a vehicle with a breath sample above .025, collects data, and records and stores visual evidence of device use. Research shows that ignition interlock devices, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions. The study found the six month recidivism rate for first-time DUI offenders that were not required to install an IID was 1.74 percent. When compared, the recidivism rate for first-time offenders required to use the IID was less with a rate of 0.34 percent. However, the study also found that only 49 percent of Florida DUI offenders installed an IID, as required, after completing their period of license revocation.<sup>14</sup>

### **Proposed Changes**

The bill amends s. 316.193, F.S., requiring that all first time convicted DUI offenders have an IID placed on their vehicle at the convicted person's sole expense, for at least six months.

#### B. SECTION DIRECTORY:

**Section 1** Amends s. 316.193, F.S., related to driving under the influence.

**Section 2** Provides an effective date of October 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill may have an indeterminate, but significant negative impact on state funds. DHSMV estimates that additional resources will be necessary to monitor and oversee the IID program should all first time DUI offenders require mandatory IID installation.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

<sup>14</sup> The Florida Legislature Office of Program Policy Analysis & Government Accountability, *Ignition Interlock Devices and DUI Recidivism Rates*, <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1414rpt.pdf> (last visited February 1, 2016).

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

An individual who is convicted for a first DUI must have an IID placed on their vehicle for at least six months, at the convicted person's sole expense.

D. FISCAL COMMENTS:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2016, the Highway & Waterway Safety Subcommittee adopted a strike-all amendment to HB 555 and reported the bill favorably as a committee substitute. The strike-all amendment:

- Requires that all first time convicted DUI offenders have an IID placed on their vehicle at the convicted person's sole expense, for at least six months.

This analysis is written to the Committee Substitute as it was reported out of the Highway & Waterway Safety Subcommittee.