

By Senator Baxley

12-00869-19

2019612__

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; defining the term
4 "conviction"; amending s. 316.1937, F.S.; requiring
5 that the monthly leasing fee for an ignition interlock
6 device be discounted by specified percentages under
7 certain circumstances when a person claims inability
8 to pay; providing that a person who qualifies for a
9 discount is not required to pay certain costs;
10 amending s. 316.656, F.S.; authorizing a court, upon
11 agreement by a state attorney, to withhold
12 adjudication of guilt for certain criminal violations
13 relating to driving under the influence, under certain
14 circumstances; providing that a person is eligible to
15 petition the court to enter a withhold of adjudication
16 within a specified period after the date of his or her
17 conviction for a certain criminal violation, under
18 certain circumstances; making technical changes;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Present paragraphs (a) through (d) of subsection
24 (14) of section 316.193, Florida Statutes, are redesignated as
25 paragraphs (b) through (e), respectively, and a new paragraph
26 (a) is added to that subsection, to read:

27 316.193 Driving under the influence; penalties.—

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

29 (a) "Conviction" means a determination of guilt which is

12-00869-19

2019612__

30 the result of a plea or a trial, regardless of whether
31 adjudication is withheld or a plea of nolo contendere is
32 entered.

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

35 316.1937 Ignition interlock devices, ~~requiring~~; unlawful
36 acts.—

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

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

41 (b) Order that the records of the department reflect such
42 requirement.

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

46 1. If the person claims inability to pay for an ignition
47 interlock device, the following discounts on the monthly leasing
48 fee must be provided:

49 a. If a person's family income is at or below 100 percent
50 of the federal poverty level, as documented by written order of
51 the court, the regular monthly leasing fee charged to all
52 customers by the interlock provider must be discounted for such
53 person by 50 percent.

54 b. If the person's family income is greater than 100
55 percent but at or below 149 percent of the federal poverty
56 level, as documented by written order of the court, the regular
57 monthly leasing fee charged to all customers by the interlock
58 provider must be discounted for such person by 25 percent.

12-00869-19

2019612__

59 2. A person who qualifies for a reduced fee pursuant to
60 this paragraph is not required to pay the costs for installation
61 or deinstallation of the device.

62 ~~(d) Determine the person's ability to pay for installation~~
63 ~~of the device if the person claims inability to pay. If the~~
64 ~~court determines that the person is unable to pay for~~
65 ~~installation of the device, the court may order that any portion~~
66 ~~of a fine paid by the person for a violation of s. 316.193 shall~~
67 ~~be allocated to defray the costs of installing the device.~~

68 (d)(e) Require proof of installation of the device and
69 periodic reporting to the department for verification of the
70 operation of the device in the person's vehicle.

71 Section 3. Section 316.656, Florida Statutes, is amended to
72 read:

73 316.656 Mandatory adjudication; exceptions; prohibition
74 against accepting plea to lesser included offense.—

75 (1) (a) Notwithstanding the provisions of s. 948.01, a no
76 court may not suspend, defer, or withhold adjudication of guilt
77 or imposition of sentence for any violation of s. 316.193,
78 except as otherwise provided in this subsection; for
79 manslaughter resulting from the operation of a motor vehicle; ~~r~~
80 or for vehicular homicide.

81 (b) Upon agreement by the state attorney, the court may
82 withhold adjudication of guilt for a first offense second degree
83 misdemeanor violation of s. 316.193, other than a violation of
84 s. 316.193(4), if the person does not have a prior withhold of
85 adjudication for any other criminal offense and, in addition to
86 the penalties prescribed in s. 316.193, the court orders either
87 of the following:

12-00869-19

2019612__

88 1. Installation of an ignition interlock device certified
89 by the department as provided in s. 316.1938, or the person
90 voluntarily installs such device, for at least 6 continuous
91 months upon all vehicles that are routinely operated by the
92 person. If the person fails to complete the entire term of the
93 ignition interlock device program, the court must order an
94 adjudication of guilt.

95 2. Revocation of the person's driving privileges, or the
96 person voluntarily relinquishes such privileges, for at least 6
97 continuous months during which time the person must participate
98 in a qualified sobriety and drug monitoring program as defined
99 in s. 316.193(6)(j). Such person is not eligible for a
100 restricted driver license pursuant to s. 322.271 during this
101 period of time. If the person operates a motor vehicle during
102 the term of license revocation or fails to complete the entire
103 term of a qualified sobriety and drug monitoring program, the
104 court must order an adjudication of guilt.

105 (c) Notwithstanding paragraph (b), a person is eligible to
106 petition the court to enter a withhold of adjudication 5 years
107 after the date of his or her conviction for a first offense
108 second degree misdemeanor violation of s. 316.193, other than a
109 violation of s. 316.193(4), if such person does not have a prior
110 withhold of adjudication for any other criminal offense and has
111 not committed any additional criminal offenses for the period of
112 5 years after the date of his or her conviction.

113 (2) (a) A ~~No~~ trial judge may not accept a plea of guilty to
114 a lesser offense from a person charged under ~~the provisions of~~
115 this act who has been given a breath or blood test to determine
116 blood or breath alcohol content, the results of which show a

12-00869-19

2019612__

117 blood or breath alcohol content by weight of 0.15 percent or
118 more.

119 (b) A ~~No~~ trial judge may not accept a plea of guilty to a
120 lesser offense from a person charged with a violation of s.
121 316.193(3), manslaughter resulting from the operation of a motor
122 vehicle, or vehicular homicide.

123 Section 4. This act shall take effect July 1, 2019.