



336412

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2016	.	
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The Committee on Transportation (Simpson) recommended the following:

1           **Senate Substitute for Amendment (927104) (with title**  
2 **amendment)**

3  
4           Between lines 174 and 175  
5 insert:

6           Section 4. Subsection (2), paragraph (c) of subsection (4),  
7 paragraph (j) of subsection (6), and subsection (11) of section  
8 316.193, Florida Statutes, are amended, and subsection (15) is  
9 added to that section, to read:

10           316.193 Driving under the influence; penalties.-



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11 (2) (a) Except as provided in paragraph (b), subsection (3),  
12 or subsection (4), any person who is convicted of a violation of  
13 subsection (1) shall be punished:

14 1. By a fine of:

15 a. Not less than \$500 or more than \$1,000 for a first  
16 conviction.

17 b. Not less than \$1,000 or more than \$2,000 for a second  
18 conviction; and

19 2. By imprisonment for:

20 a. Not more than 6 months for a first conviction.

21 b. Not more than 9 months for a second conviction.

22 3. For a second conviction, by mandatory placement for a  
23 period of at least 1 year, at the convicted person's sole  
24 expense, of an ignition interlock device approved by the  
25 department in accordance with s. 316.1938 upon all vehicles that  
26 are individually or jointly leased or owned and routinely  
27 operated by the convicted person, when the convicted person  
28 qualifies for a permanent or restricted license. The  
29 installation of such device may not occur before July 1, 2003.  
30 Effective October 1, 2016, the court shall order a qualified  
31 sobriety and drug monitoring program as defined in subsection  
32 (15) and authorized by 23 U.S.C. s. 164 in addition to the  
33 placement of an ignition interlock device required by this  
34 section.

35 (b)1. Any person who is convicted of a third violation of  
36 this section for an offense that occurs within 10 years after a  
37 prior conviction for a violation of this section commits a  
38 felony of the third degree, punishable as provided in s.  
39 775.082, s. 775.083, or s. 775.084. In addition, the court shall



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40 order the mandatory placement for a period of not less than 2  
41 years, at the convicted person's sole expense, of an ignition  
42 interlock device approved by the department in accordance with  
43 s. 316.1938 upon all vehicles that are individually or jointly  
44 leased or owned and routinely operated by the convicted person,  
45 when the convicted person qualifies for a permanent or  
46 restricted license. The installation of such device may not  
47 occur before July 1, 2003. Effective October 1, 2016, the court  
48 shall order a qualified sobriety and drug monitoring program as  
49 defined in subsection (15) and authorized by 23 U.S.C. s. 164 in  
50 addition to the placement of an ignition interlock device  
51 required by this section.

52 2. Any person who is convicted of a third violation of this  
53 section for an offense that occurs more than 10 years after the  
54 date of a prior conviction for a violation of this section shall  
55 be punished by a fine of not less than \$2,000 or more than  
56 \$5,000 and by imprisonment for not more than 12 months. In  
57 addition, the court shall order the mandatory placement for a  
58 period of at least 2 years, at the convicted person's sole  
59 expense, of an ignition interlock device approved by the  
60 department in accordance with s. 316.1938 upon all vehicles that  
61 are individually or jointly leased or owned and routinely  
62 operated by the convicted person, when the convicted person  
63 qualifies for a permanent or restricted license. The  
64 installation of such device may not occur before July 1, 2003.  
65 Effective October 1, 2016, the court shall order a qualified  
66 sobriety and drug monitoring program as defined in subsection  
67 (15) and authorized by 23 U.S.C. s. 164 in addition to the  
68 placement of an ignition interlock device required by this



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69 section.

70           3. Any person who is convicted of a fourth or subsequent  
71 violation of this section, regardless of when any prior  
72 conviction for a violation of this section occurred, commits a  
73 felony of the third degree, punishable as provided in s.  
74 775.082, s. 775.083, or s. 775.084. However, the fine imposed  
75 for such fourth or subsequent violation may be not less than  
76 \$2,000.

77           (c) In addition to the penalties in paragraph (a), the  
78 court may order placement, at the convicted person's sole  
79 expense, of an ignition interlock device approved by the  
80 department in accordance with s. 316.1938 for at least 6  
81 continuous months upon all vehicles that are individually or  
82 jointly leased or owned and routinely operated by the convicted  
83 person if, at the time of the offense, the person had a blood-  
84 alcohol level or breath-alcohol level of .08 or higher.  
85 Effective October 1, 2016, the court shall order a qualified  
86 sobriety and drug monitoring program as defined in subsection  
87 (15) and authorized by 23 U.S.C. s. 164 in addition to the  
88 placement of an ignition interlock device required by this  
89 section.

90           (4) Any person who is convicted of a violation of  
91 subsection (1) and who has a blood-alcohol level or breath-  
92 alcohol level of 0.15 or higher, or any person who is convicted  
93 of a violation of subsection (1) and who at the time of the  
94 offense was accompanied in the vehicle by a person under the age  
95 of 18 years, shall be punished:

96           (c) In addition to the penalties in paragraphs (a) and (b),  
97 the court shall order the mandatory placement, at the convicted



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98 person's sole expense, of an ignition interlock device approved  
99 by the department in accordance with s. 316.1938 upon all  
100 vehicles that are individually or jointly leased or owned and  
101 routinely operated by the convicted person for not less than 6  
102 continuous months for the first offense and for not less than 2  
103 continuous years for a second offense, when the convicted person  
104 qualifies for a permanent or restricted license. Effective  
105 October 1, 2016, the court shall order a qualified sobriety and  
106 drug monitoring program as defined in subsection (15) and  
107 authorized by 23 U.S.C. s. 164 in addition to the placement of  
108 an ignition interlock device required by this section.

109 (6) With respect to any person convicted of a violation of  
110 subsection (1), regardless of any penalty imposed pursuant to  
111 subsection (2), subsection (3), or subsection (4):

112 (j)~~1.~~ Notwithstanding the provisions of this section, s.  
113 316.1937, and s. 322.2715 relating to ignition interlock devices  
114 required for second or subsequent offenders, ~~in order to~~  
115 ~~strengthen the pretrial and posttrial options available to~~  
116 ~~prosecutors and judges,~~ the court shall ~~may~~ order, ~~if deemed~~  
117 ~~appropriate,~~ that a person participate in a qualified sobriety  
118 and drug monitoring program, as defined in subsection (15)  
119 ~~subparagraph 2.~~, in addition to the ignition interlock device  
120 requirement. Participation is ~~shall be~~ at the person's sole  
121 expense.

122 ~~2. As used in this paragraph, the term "qualified sobriety~~  
123 ~~and drug monitoring program" means an evidence-based program,~~  
124 ~~approved by the department, in which participants are regularly~~  
125 ~~tested for alcohol and drug use. As the court deems appropriate,~~  
126 ~~the program may monitor alcohol or drugs through one or more of~~



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127 ~~the following modalities: breath testing twice a day; continuous~~  
128 ~~transdermal alcohol monitoring in cases of hardship; or random~~  
129 ~~blood, breath, urine, or oral fluid testing. Testing modalities~~  
130 ~~that provide the best ability to sanction a violation as close~~  
131 ~~in time as reasonably feasible to the occurrence of the~~  
132 ~~violation should be given preference. This paragraph does not~~  
133 ~~preclude a court from ordering an ignition interlock device as a~~  
134 ~~testing modality.~~

135 ~~3. For purposes of this paragraph, the term "evidence-based~~  
136 ~~program" means a program that satisfies the requirements of at~~  
137 ~~least two of the following:~~

138 ~~a. The program is included in the federal registry of~~  
139 ~~evidence-based programs and practices.~~

140 ~~b. The program has been reported in a peer-reviewed journal~~  
141 ~~as having positive effects on the primary targeted outcome.~~

142 ~~c. The program has been documented as effective by informed~~  
143 ~~experts and other sources.~~

144

145 For the purposes of this section, any conviction for a violation  
146 of s. 327.35; a previous conviction for the violation of former  
147 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
148 previous conviction outside this state for driving under the  
149 influence, driving while intoxicated, driving with an unlawful  
150 blood-alcohol level, driving with an unlawful breath-alcohol  
151 level, or any other similar alcohol-related or drug-related  
152 traffic offense, is also considered a previous conviction for  
153 violation of this section. However, in satisfaction of the fine  
154 imposed pursuant to this section, the court may, upon a finding  
155 that the defendant is financially unable to pay either all or



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156 part of the fine, order that the defendant participate for a  
157 specified additional period of time in public service or a  
158 community work project in lieu of payment of that portion of the  
159 fine which the court determines the defendant is unable to pay.  
160 In determining such additional sentence, the court shall  
161 consider the amount of the unpaid portion of the fine and the  
162 reasonable value of the services to be ordered; however, the  
163 court may not compute the reasonable value of services at a rate  
164 less than the federal minimum wage at the time of sentencing.

165 (11) The Department of Highway Safety and Motor Vehicles is  
166 directed to adopt rules providing for the implementation of the  
167 use of ignition interlock devices and qualified sobriety and  
168 drug monitoring programs defined in subsection (15).

169 (15) As used in this chapter and chapter 322, the term  
170 "qualified sobriety and drug monitoring program" means an  
171 evidence-based program, approved by the department, in which  
172 participants are regularly tested for alcohol and drug use. As  
173 the court deems appropriate, the program may monitor alcohol or  
174 drugs through one or more of the following modalities: breath  
175 testing twice a day; continuous transdermal alcohol monitoring  
176 in cases of hardship; or random blood, breath, urine, drug  
177 patch, or oral fluid testing. Testing modalities that detect a  
178 violation as soon after it occurs as is reasonably feasible  
179 should be given preference. Participation is at the person's  
180 sole expense. The term "evidence-based program" means a program  
181 that satisfies at least two of the following requirements:

182 (a) The program is included in the federal registry of  
183 evidence-based programs and practices.

184 (b) The program has been reported in a peer-reviewed



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185 journal as having positive effects on the primary targeted  
186 outcome.

187 (c) The program has been documented as effective by  
188 informed experts and other sources.

189 ===== T I T L E A M E N D M E N T =====

190 And the title is amended as follows:

191 Delete line 15

192 and insert:

193 certain tasks on the roadside; amending s. 316.193,  
194 F.S.; requiring, as of a specified date, that the  
195 court order a certain qualified sobriety and drug  
196 monitoring program in addition to the placement of an  
197 ignition interlock device; deleting provisions  
198 relating to a qualified sobriety and drug monitoring  
199 program; directing the department to adopt rules  
200 providing for the implementation of the use of certain  
201 qualified sobriety and drug monitoring programs;  
202 redefining the terms "qualified sobriety and drug  
203 monitoring program" and "evidence-based program";  
204 providing requirements for the program; amending s.  
205 316.303,