

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.)

BILL: SB 1316

SPONSOR: Senator Webster

SUBJECT: Suspension of Driver's Licenses

DATE: March 16, 1999

REVISED: 3/23/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill clarifies the blood-alcohol and breath-alcohol levels that are unlawful for purposes of suspending the driver's license of a person under 21 years of age. The bill provides the temporary driving permit issued at the time of notice of suspension does not become effective until after 12 hours have elapsed. The bill also provides the results of a blood test conducted pursuant to law may be used to suspend a driving privilege. Finally, the bill immunizes law enforcement officers who exercise due care in the enforcement of this section from civil liability.

This bill substantially amends s. 322.2616 of the Florida Statutes.

II. Present Situation:

Section 322.2616, F.S., provides that it is unlawful for a person under 21 years of age who has a breath-alcohol level of .02 percent or higher to drive or be in actual physical control of a motor vehicle. A law enforcement officer, on behalf of the Department of Highway Safety and Motor Vehicles (DHSMV), shall suspend the license of a person under the age of 21 if the person's blood-alcohol or breath-alcohol level is .02 percent or higher. The officer is further directed to take the person's driver's license and issue a 10-day temporary driving permit. If the person is otherwise eligible to drive, the person is permitted to drive immediately following receipt of the temporary driving permit.

Subsection 322.2616(9), F.S., provides the DHSMV is to suspend a person's driving privilege for a period of 6 months for driving or being in actual physical control of a motor vehicle while under the age of 21 with a blood-alcohol or breath-alcohol level of .02 percent or higher, or for a period of 1 year if the driving privilege of such person has been previously suspended as a result of driving a motor vehicle while under the age of 21 with a breath-alcohol level of at least .02 percent but less than .08 percent.

Currently, statutes do not provide for the results of a blood test to be used to suspend the license of persons under age 21 who commit certain DUI violations. This issue arises in cases where the person suspected of a DUI violation is unconscious and unable to provide a breath-alcohol reading. Similarly, current statutes do not provide immunity from civil liability for a law enforcement officer's actions under this law.

III. Effect of Proposed Changes:

The bill amends s. 316.2616, F.S., to clarify it is unlawful for a person under 21 years of age operate a motor vehicle with a .02 breath-alcohol *or blood-alcohol* level. The bill deletes the reference to word "percent" in all references to alcohol level and incorporates the term "blood-alcohol level" where appropriate. These changes provide conformity to other DUI sections in the law.

The bill provides the 10-day temporary permit issued at the time a notice of suspension is issued does not become effective until after 12 hours have elapsed. This provision will prohibit minors from driving immediately following issuance of the suspension notice.

The bill also resolves a conflict in the current statutory language by providing for the suspension of a person's driving privilege for a period of one year if the person's license has previously been suspended under *this section*. Current statutory language provides for a one year suspension where the driving privileges of a person under 21 years of age has previously been suspended for driving with a breath-alcohol level of at least .02 percent but less than .08 percent.

The bill provides a blood test taken during an investigation conducted under ss. 316.1932 and 316.1933, F.S., may be used to suspend the driving privileges of a person under 21 years of age who operated a motor vehicle with a .02 blood-alcohol or breath-alcohol level. According to DHSMV, this change codifies the present interpretation and application of this statute.

Finally, the bill provides law enforcement officers who enforce ss. 316.1932 or 316.1933, F.S., in good faith and who exercise due care are immune from civil liability. This provision represents a limited immunity for enforcement actions taken under this statute.

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:

#1 by Transportation:

Clarifies that the department has *7 working* days within which to mail certain notices relating to a suspension of driving privileges.