

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 The Committee on Transportation offered the following:

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13 **Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause
15
16 and insert in lieu thereof:

17 Section 1. Subsection (1) of section 316.1937, Florida
18 Statutes, is amended, and paragraph (f) is added to subsection
19 (2) of said section, to read:

20 316.1937 Ignition interlock devices, requiring;
21 unlawful acts.--

22 (1)(a) In addition to any other authorized penalties,
23 the court may require that any person who is convicted of
24 driving under the influence in violation of s. 316.193, and
25 who is granted probation, shall not operate a motor vehicle
26 during the period of probation unless that vehicle is equipped
27 with a functioning ignition interlock device certified by the
28 department as provided in s. 316.1938, and installed in such a
29 manner that the vehicle will not start if the operator's
30 breath-alcohol ~~blood alcohol~~ level is in excess of 0.02 ~~0.05~~
31 ~~percent~~ or as otherwise specified by the court. The court may

Amendment No. 01 (for drafter's use only)

1 require the use of an approved ignition interlock device for
2 the period of probation, said period to be for not less than 6
3 months, if the person is permitted to operate a motor vehicle,
4 whether the privilege to operate a motor vehicle is restricted
5 or not, as determined by the court.

6 (b) In addition to any other authorized penalties, the
7 court shall require that any person who is convicted for a
8 second or subsequent violation of driving under the influence
9 in violation of s. 316.193, and who has had his or her driving
10 privilege reinstated on a restricted basis as provided in s.
11 316.193(5), shall not operate a motor vehicle for a period not
12 to exceed 1 year unless the vehicle is equipped with a
13 functioning ignition interlock device certified by the
14 department as provided in s. 316.1938 and installed in such a
15 manner that the vehicle will not start if the operator's
16 breath-alcohol level is in excess of 0.02 or as otherwise
17 specified by the court.

18 (2) If the court imposes the use of an ignition
19 interlock device as a condition of probation, the court shall:

20 (f) Require a 30-day review of the ignition interlock
21 device by the service provider of said device. The results of
22 the data log shall be forwarded to the offender's probation
23 officer and DUI program.

24 Section 2. Paragraph (b) of subsection (1) and
25 subsection (3) of section 322.2615, Florida Statutes, are
26 amended to read:

27 322.2615 Suspension of license; right to review.--

28 (1)(a) A law enforcement officer or correctional
29 officer shall, on behalf of the department, suspend the
30 driving privilege of a person who has been arrested by a law
31 enforcement officer for a violation of s. 316.193, relating to

Amendment No. 01 (for drafter's use only)

1 unlawful blood-alcohol level or breath-alcohol level, or of a
2 person who has refused to submit to a breath, urine, or blood
3 test authorized by s. 316.1932. The officer shall take the
4 person's driver's license and issue the person a 30-day
5 temporary permit if the person is otherwise eligible for the
6 driving privilege and shall issue the person a notice of
7 suspension. If a blood test has been administered, the results
8 of which are not available to the officer at the time of the
9 arrest, the agency employing the officer shall transmit such
10 results to the department within 5 days after receipt of the
11 results. If the department then determines that the person
12 was arrested for a violation of s. 316.193 and that the person
13 had a blood-alcohol level or breath-alcohol level of 0.08 or
14 higher, the department shall suspend the person's driver's
15 license pursuant to subsection (3).

16 (b) The suspension under paragraph (a) shall be
17 pursuant to, and the notice of suspension shall inform the
18 driver of, the following:

19 1.a. The driver refused to submit to a lawful breath,
20 blood, or urine test and his or her driving privilege is
21 suspended for a period of 1 year for a first refusal or for a
22 period of 18 months if his or her driving privilege has been
23 previously suspended as a result of a refusal to submit to
24 such a test; or

25 b. The driver violated s. 316.193 by driving with an
26 unlawful blood-alcohol level as provided in that section and
27 his or her driving privilege is suspended for a period of 6
28 months for a first offense or for a period of 1 year if his or
29 her driving privilege has been previously suspended for a
30 violation of s. 316.193.

31 2. The suspension period shall commence on the date of

Amendment No. 01 (for drafter's use only)

1 arrest or issuance of the notice of suspension, whichever is
2 later.

3 3. The driver may request a formal or informal review
4 of the suspension by the department within 10 days after the
5 date of arrest or issuance of the notice of suspension,
6 whichever is later.

7 4. The temporary permit issued at the time of arrest
8 shall not become effective until 12 hours have elapsed and
9 will expire at midnight of the 30th day following the date of
10 arrest or issuance of the notice of suspension, whichever is
11 later.

12 5. The driver may submit to the department any
13 materials relevant to the arrest.

14 (3) If the department determines that the license of
15 the person arrested should be suspended pursuant to this
16 section and if the notice of suspension has not already been
17 served upon the person by a law enforcement officer or
18 correctional officer as provided in subsection (1), the
19 department shall issue a notice of suspension and, unless the
20 notice is mailed pursuant to s. 322.251, a temporary permit
21 which shall not become effective until 12 hours have elapsed
22 and which expires 30 days after the date of issuance if the
23 driver is otherwise eligible.

24 Section 3. Subsections (1), (2), and (3), paragraph
25 (a) of subsection (8), paragraph (b) of subsection (9), and
26 subsection (17) of section 322.2616, Florida Statutes, are
27 amended to read:

28 322.2616 Suspension of license; persons under 21 years
29 of age; right to review.--

30 (1)(a) Notwithstanding s. 316.193, it is unlawful for
31 a person under the age of 21 who has a blood-alcohol or

Amendment No. 01 (for drafter's use only)

1 breath-alcohol level of 0.02 ~~percent~~ or higher to drive or be
2 in actual physical control of a motor vehicle.

3 (b) A law enforcement officer who has probable cause
4 to believe that a motor vehicle is being driven by or is in
5 the actual physical control of a person who is under the age
6 of 21 while under the influence of alcoholic beverages or who
7 has any blood-alcohol or breath-alcohol level may lawfully
8 detain such a person and may request that person to submit to
9 a test to determine his or her blood-alcohol or breath-alcohol
10 level.

11 (2)(a) A law enforcement officer or correctional
12 officer shall, on behalf of the department, suspend the
13 driving privilege of such person if the person has a
14 blood-alcohol or breath-alcohol level of 0.02 ~~percent~~ or
15 higher. The officer shall also suspend, on behalf of the
16 department, the driving privilege of a person who has refused
17 to submit to a test as provided by paragraph (b). The officer
18 shall take the person's driver's license and issue the person
19 a 10-day temporary driving permit if the person is otherwise
20 eligible for the driving privilege and shall issue the person
21 a notice of suspension.

22 (b) The suspension under paragraph (a) must be
23 pursuant to, and the notice of suspension must inform the
24 driver of, the following:

25 1.a. The driver refused to submit to a lawful breath
26 test and his or her driving privilege is suspended for a
27 period of 1 year for a first refusal or for a period of 18
28 months if his or her driving privilege has been previously
29 suspended as provided in this section as a result of a refusal
30 to submit to a test; or

31 b. The driver was under the age of 21 and was driving

Amendment No. 01 (for drafter's use only)

1 or in actual physical control of a motor vehicle while having
2 a blood-alcohol or breath-alcohol level of 0.02 ~~percent~~ or
3 higher; and the person's driving privilege is suspended for a
4 period of 6 months for a first violation, or for a period of 1
5 year if his or her driving privilege has been previously
6 suspended as provided in this section for driving or being in
7 actual physical control of a motor vehicle with a
8 blood-alcohol or breath-alcohol level of 0.02 ~~percent~~ or
9 higher.

10 2. The suspension period commences on the date of
11 issuance of the notice of suspension.

12 3. The driver may request a formal or informal review
13 of the suspension by the department within 10 days after the
14 issuance of the notice of suspension.

15 4. A temporary permit issued at the time of the
16 issuance of the notice of suspension shall not become
17 effective until 12 hours have elapsed and will expire at
18 midnight of the 10th day following the date of issuance.

19 5. The driver may submit to the department any
20 materials relevant to the suspension of his or her license.

21 (3) The law enforcement officer shall forward to the
22 department, within 5 days after the date of the issuance of
23 the notice of suspension, a copy of the notice of suspension,
24 the driver's license of the person receiving the notice of
25 suspension, and an affidavit stating the officer's grounds for
26 belief that the person was under the age of 21 and was driving
27 or in actual physical control of a motor vehicle with any
28 blood-alcohol or breath-alcohol level, and the results of any
29 blood or breath test or an affidavit stating that a blood or
30 breath test was requested by a law enforcement officer or
31 correctional officer and that the person refused to submit to

Amendment No. 01 (for drafter's use only)

1 such test. The failure of the officer to submit materials
2 within the 5-day period specified in this subsection does not
3 bar the department from considering any materials submitted at
4 or before the hearing.

5 (8) In a formal review hearing under subsection (7) or
6 an informal review hearing under subsection (5), the hearing
7 officer shall determine by a preponderance of the evidence
8 whether sufficient cause exists to sustain, amend, or
9 invalidate the suspension. The scope of the review is limited
10 to the following issues:

11 (a) If the license was suspended because the
12 individual, then under the age of 21, drove with a
13 blood-alcohol or breath-alcohol level of 0.02 ~~percent~~ or
14 higher:

15 1. Whether the law enforcement officer had probable
16 cause to believe that the person was under the age of 21 and
17 was driving or in actual physical control of a motor vehicle
18 in this state with any blood-alcohol or breath-alcohol level
19 or while under the influence of alcoholic beverages.

20 2. Whether the person was under the age of 21.

21 3. Whether the person had a blood-alcohol or
22 breath-alcohol level of 0.02 ~~percent~~ or higher.

23 (9) Based on the determination of the hearing officer
24 under subsection (8) for both informal hearings under
25 subsection (5) and formal hearings under subsection (7), the
26 department shall:

27 (b) Sustain the suspension of the person's driving
28 privilege for a period of 6 months for driving or being in
29 actual physical control of a motor vehicle while under the age
30 of 21 with a blood-alcohol or breath-alcohol level of 0.02
31 ~~percent~~ or higher, or for a period of 1 year if the driving

Amendment No. 01 (for drafter's use only)

1 privilege of such person has been previously suspended under
2 this section ~~as a result of driving a motor vehicle while~~
3 ~~under the age of 21 with a breath-alcohol level of at least~~
4 ~~0.02 percent but less than 0.08 percent.~~ The suspension period
5 commences on the date of the issuance of the notice of
6 suspension.

7 (17) A breath test to determine breath-alcohol level
8 pursuant to this section may be conducted as authorized by s.
9 316.1932 or by a breath-alcohol ~~preliminary alcohol screening~~
10 test device listed in the United States Department of
11 Transportation's conforming-product list of evidential
12 breath-measurement devices. The reading from such a device is
13 presumed accurate and is admissible in evidence in any
14 administrative hearing conducted under this section.

15 Section 4. This act shall take effect July 1, 2000.

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

19 And the title is amended as follows:

20 remove from the title of the bill: the entire title

21

22 and insert in lieu thereof:

23

A bill to be entitled

24

An act relating to suspension of driver's
25 licenses; amending s. 316.1937, F.S.; requiring
26 the use of an ignition interlock device for a
27 certain time period for persons convicted of a
28 second or subsequent offense of driving under
29 the influence; making technical corrections
30 regarding breath-alcohol level; lowering the
31 blood-alcohol level required for operation of

Amendment No. 01 (for drafter's use only)

1 said device; providing for a 30-day review of
2 the device; providing for the results of the
3 data log to be sent to the offender's probation
4 officer and DUI program; amending s. 322.2615,
5 F.S.; providing an effective time period for
6 the issuance of a temporary permit; amending s.
7 322.2616, F.S.; clarifying the blood-alcohol
8 levels that are unlawful; prescribing a waiting
9 period before a temporary driving permit
10 becomes effective; providing an effective date.

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