

By the Committee on Transportation and Senator Latvala

306-2214-00

1 A bill to be entitled
 2 An act relating to suspension of driver's
 3 licenses; amending s. 316.1937, F.S.; requiring
 4 the use of an ignition interlock device for a
 5 certain time period for persons convicted of a
 6 second or subsequent offense of driving under
 7 the influence; making technical corrections
 8 regarding breath-alcohol level; lowering the
 9 blood-alcohol level required for operation of
 10 said device; providing for a 30-day review of
 11 the device; providing for the results of the
 12 data log to be sent to the offender's probation
 13 officer and DUI program; amending s. 322.2615,
 14 F.S.; providing an effective time period for
 15 the issuance of a temporary permit; amending s.
 16 322.2616, F.S.; clarifying the blood-alcohol
 17 levels that are unlawful; prescribing a waiting
 18 period before a temporary driving permit
 19 becomes effective; providing an effective date.

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

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 23 Section 1. Subsection (1) of section 316.1937, Florida
 24 Statutes, is amended, and paragraph (f) is added to subsection
 25 (2) of that section, to read:

26 316.1937 Ignition interlock devices, requiring;
 27 unlawful acts.--

28 (1)(a) In addition to any other authorized penalties,
 29 the court may require that any person who is convicted of
 30 driving under the influence in violation of s. 316.193, and
 31 who is granted probation, shall not operate a motor vehicle

1 during the period of probation unless that vehicle is equipped
2 with a functioning ignition interlock device certified by the
3 department as provided in s. 316.1938, and installed in such a
4 manner that the vehicle will not start if the operator's
5 breath-alcohol ~~blood alcohol~~ level is in excess of 0.02 ~~0.05~~
6 percent or as otherwise specified by the court. The court may
7 require the use of an approved ignition interlock device for
8 the period of probation, said period to be for not less than 6
9 months, if the person is permitted to operate a motor vehicle,
10 whether the privilege to operate a motor vehicle is restricted
11 or not, as determined by the court.

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

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

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

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

4 322.2615 Suspension of license; right to review.--

5 (1)

6 (b) The suspension under paragraph (a) shall be
7 pursuant to, and the notice of suspension shall inform the
8 driver of, the following:

9 1.a. The driver refused to submit to a lawful breath,
10 blood, or urine test and his or her driving privilege is
11 suspended for a period of 1 year for a first refusal or for a
12 period of 18 months if his or her driving privilege has been
13 previously suspended as a result of a refusal to submit to
14 such a test; or

15 b. The driver violated s. 316.193 by driving with an
16 unlawful blood-alcohol level as provided in that section and
17 his or her driving privilege is suspended for a period of 6
18 months for a first offense or for a period of 1 year if his or
19 her driving privilege has been previously suspended for a
20 violation of s. 316.193.

21 2. The suspension period shall commence on the date of
22 arrest or issuance of the notice of suspension, whichever is
23 later.

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

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

3 5. The driver may submit to the department any
4 materials relevant to the arrest.

5 (3) If the department determines that the license of
6 the person arrested should be suspended pursuant to this
7 section and if the notice of suspension has not already been
8 served upon the person by a law enforcement officer or
9 correctional officer as provided in subsection (1), the
10 department shall issue a notice of suspension and, unless the
11 notice is mailed pursuant to s. 322.251, a temporary permit
12 that shall not become effective until 12 hours have elapsed
13 and that ~~which~~ expires 30 days after the date of issuance if
14 the driver is otherwise eligible.

15 Section 3. Subsections (1), (2), and (3), paragraph
16 (a) of subsection (8), paragraph (b) of subsection (9), and
17 subsection (17) of section 322.2616, Florida Statutes, are
18 amended to read:

19 322.2616 Suspension of license; persons under 21 years
20 of age; right to review.--

21 (1)(a) Notwithstanding s. 316.193, it is unlawful for
22 a person under the age of 21 who has a blood-alcohol or
23 breath-alcohol level of 0.02 percent or higher to drive or be
24 in actual physical control of a motor vehicle.

25 (b) A law enforcement officer who has probable cause
26 to believe that a motor vehicle is being driven by or is in
27 the actual physical control of a person who is under the age
28 of 21 while under the influence of alcoholic beverages or who
29 has any blood-alcohol or breath-alcohol level may lawfully
30 detain such a person and may request that person to submit to
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1 a test to determine his or her blood-alcohol or breath-alcohol
2 level.

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

14 (b) The suspension under paragraph (a) must be
15 pursuant to, and the notice of suspension must inform the
16 driver of, the following:

17 1.a. The driver refused to submit to a lawful breath
18 test and his or her driving privilege is suspended for a
19 period of 1 year for a first refusal or for a period of 18
20 months if his or her driving privilege has been previously
21 suspended as provided in this section as a result of a refusal
22 to submit to a test; or

23 b. The driver was under the age of 21 and was driving
24 or in actual physical control of a motor vehicle while having
25 a blood-alcohol or breath-alcohol level of 0.02 percent or
26 higher; and the person's driving privilege is suspended for a
27 period of 6 months for a first violation, or for a period of 1
28 year if his or her driving privilege has been previously
29 suspended as provided in this section for driving or being in
30 actual physical control of a motor vehicle with a

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1 blood-alcohol or breath-alcohol level of 0.02 percent or
2 higher.

3 2. The suspension period commences on the date of
4 issuance of the notice of suspension.

5 3. The driver may request a formal or informal review
6 of the suspension by the department within 10 days after the
7 issuance of the notice of suspension.

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

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

14 (3) The law enforcement officer shall forward to the
15 department, within 5 days after the date of the issuance of
16 the notice of suspension, a copy of the notice of suspension,
17 the driver's license of the person receiving the notice of
18 suspension, and an affidavit stating the officer's grounds for
19 belief that the person was under the age of 21 and was driving
20 or in actual physical control of a motor vehicle with any
21 blood-alcohol or breath-alcohol level, and the results of any
22 blood or breath test or an affidavit stating that a blood or
23 breath test was requested by a law enforcement officer or
24 correctional officer and that the person refused to submit to
25 such test. The failure of the officer to submit materials
26 within the 5-day period specified in this subsection does not
27 bar the department from considering any materials submitted at
28 or before the hearing.

29 (8) In a formal review hearing under subsection (7) or
30 an informal review hearing under subsection (5), the hearing
31 officer shall determine by a preponderance of the evidence

1 whether sufficient cause exists to sustain, amend, or
2 invalidate the suspension. The scope of the review is limited
3 to the following issues:

4 (a) If the license was suspended because the
5 individual, then under the age of 21, drove with a
6 blood-alcohol or breath-alcohol level of 0.02 percent or
7 higher:

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

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

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

16 (9) Based on the determination of the hearing officer
17 under subsection (8) for both informal hearings under
18 subsection (5) and formal hearings under subsection (7), the
19 department shall:

20 (b) Sustain the suspension of the person's driving
21 privilege for a period of 6 months for driving or being in
22 actual physical control of a motor vehicle while under the age
23 of 21 with a blood-alcohol or breath-alcohol level of 0.02
24 ~~percent~~ or higher, or for a period of 1 year if the driving
25 privilege of such person has been previously suspended under
26 this section ~~as a result of driving a motor vehicle while~~
27 ~~under the age of 21 with a breath-alcohol level of at least~~
28 ~~0.02 percent but less than 0.08 percent~~. The suspension period
29 commences on the date of the issuance of the notice of
30 suspension.

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1 (17) A breath test to determine breath-alcohol level
2 pursuant to this section may be conducted as authorized by s.
3 316.1932 or by a breath alcohol ~~preliminary alcohol screening~~
4 test device listed in the United States Department of
5 Transportation's conforming-product list of evidential
6 breath-measurement devices. The reading from such a device is
7 presumed accurate and is admissible in evidence in any
8 administrative hearing conducted under this section.

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

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 SB 2384

14 The CS provides that a court must order the use of an ignition
15 interlock device on the vehicle of any person placed on
16 probation for a second or subsequent DUI offense. If the
17 offender does not install this device, he or she will not be
18 permitted to operate a vehicle for a period of not less than
19 one year. The operator's blood alcohol level must not be in
20 excess of 0.02 to start the ignition of the vehicle.

21 The CS also:

- 22 1. Makes technical changes to add "blood alcohol level" and
23 delete the word "percent";
 - 24 1. Provides that the temporary permit does not take effect
25 until 12 hours have elapsed from suspension notification; and
 - 26 3. Clarifies that a hearing officer can sustain a second or
27 subsequent suspension for a person under the age of 21 years.
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