

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Simmons offered the following:

12

Amendment to Amendment (942019)

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On page 2, line 4, through page 23, line 3,
remove: all of said lines

14

15

16

and insert:

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3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1937 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

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

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1 mandatory placement for a period of not less than 2 years, at
2 the convicted person's sole expense, of an ignition interlock
3 device approved by the department in accordance with s.
4 316.1937 upon all vehicles that are individually or jointly
5 leased or owned and routinely operated by the convicted
6 person, when the convicted person qualifies for a permanent or
7 restricted license. The installation of such device may not
8 occur before July 1, 2003.

9 2. Any person who is convicted of a third violation of
10 this section for an offense that occurs more than 10 years
11 after the date of a prior conviction for a violation of this
12 section shall be punished by a fine of not less than \$1,000 or
13 more than \$2,500 and by imprisonment for not more than 12
14 months. In addition, the court shall order the mandatory
15 placement for a period of at least 2 years, at the convicted
16 person's sole expense, of an ignition interlock device
17 approved by the department in accordance with s. 316.1937 upon
18 all vehicles that are individually or jointly leased or owned
19 and routinely operated by the convicted person, when the
20 convicted person qualifies for a permanent or restricted
21 license. The installation of such device may not occur before
22 July 1, 2003.

23 3. Any person who is convicted of a fourth or
24 subsequent violation of this section, regardless of when any
25 prior conviction for a violation of this section occurred,
26 commits a felony of the third degree, punishable as provided
27 in s. 775.082, s. 775.083, or s. 775.084.†However, the fine
28 imposed for such fourth or subsequent violation may be not
29 less than \$1,000.

30 (3) Any person:

31 (a) Who is in violation of subsection (1);

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- 1 (b) Who operates a vehicle; and
2 (c) Who, by reason of such operation, causes or
3 contributes to causing:
4 1. Damage to the property or person of another commits
5 a misdemeanor of the first degree, punishable as provided in
6 s. 775.082 or s. 775.083.
7 2. Serious bodily injury to another, as defined in s.
8 316.1933, commits a felony of the third degree, punishable as
9 provided in s. 775.082, s. 775.083, or s. 775.084.
10 3. The death of any human being commits DUI
11 manslaughter, and commits:
12 a. A felony of the second degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084.
14 b. A felony of the first degree, punishable as
15 provided in s. 775.082, s. 775.083, or s. 775.084, if:
16 (I) At the time of the crash, the person knew, or
17 should have known, that the crash occurred; and
18 (II) The person failed to give information and render
19 aid as required by s. 316.062.
20 (4) Any person who is convicted of a violation of
21 subsection (1) and who has a blood-alcohol level or
22 breath-alcohol level of 0.20 or higher, or any person who is
23 convicted of a violation of subsection (1) and who at the time
24 of the offense was accompanied in the vehicle by a person
25 under the age of 18 years, shall be punished:
26 (a) By a fine of:
27 1. Not less than \$500 or more than \$1,000 for a first
28 conviction.
29 2. Not less than \$1,000 or more than \$2,000 for a
30 second conviction.
31 3. Not less than \$2,000 ~~or more than \$5,000~~ for a

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1 third or subsequent conviction.

2 (b) By imprisonment for:

3 1. Not more than 9 months for a first conviction.

4 2. Not more than 12 months for a second conviction.

5 ~~3. Not more than 12 months for a third conviction.~~

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7 For the purposes of this subsection, ~~any conviction for a~~
8 ~~violation of s. 327.35,~~ only the instant offense is required
9 to be a violation of subsection (1) by a person who has a
10 blood-alcohol level or breath-alcohol level of 0.20 or higher.

11 (c) In addition to the penalties in paragraphs (a) and
12 (b), the court shall order the mandatory placement, at the
13 convicted person's sole expense, of an ignition interlock
14 device approved by the department in accordance with s.
15 316.1937 upon all vehicles that are individually or jointly
16 leased or owned and routinely operated by the convicted person
17 for up to 6 months for the first offense and for at least 2
18 years for a second offense, when the convicted person
19 qualifies for a permanent or restricted license. The
20 installation of such device may not occur before July 1, 2003.

21 (11) The Department of Highway Safety and Motor
22 Vehicles is directed to adopt rules providing for the
23 implementation of the use of ignition interlock devices.

24 Section 1. Section 316.1932, Florida Statutes, is
25 amended to read:

26 316.1932 Breath, blood, and urine tests for alcohol,
27 chemical substances, or controlled substances; implied
28 consent; refusal right to refuse.--

29 (1)(a)1. Any person who accepts the privilege extended
30 by the laws of this state of operating a motor vehicle within
31 this state is, by so operating such vehicle, deemed to have

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1 given his or her consent to submit to an approved chemical
2 test or physical test including, but not limited to, an
3 infrared light test of his or her breath for the purpose of
4 determining the alcoholic content of his or her blood or
5 breath, and to a urine test for the purpose of detecting the
6 presence of chemical substances as set forth in s. 877.111 or
7 controlled substances, if the person is lawfully arrested for
8 any offense allegedly committed while the person was driving
9 or was in actual physical control of a motor vehicle while
10 under the influence of alcoholic beverages, chemical
11 substances, or controlled substances. The chemical or
12 physical breath test must be incidental to a lawful arrest and
13 administered at the request of a law enforcement officer who
14 has reasonable cause to believe such person was driving or was
15 in actual physical control of the motor vehicle within this
16 state while under the influence of alcoholic beverages. The
17 urine test must be incidental to a lawful arrest and
18 administered at a detention facility or any other facility,
19 mobile or otherwise, which is equipped to administer such
20 tests at the request of a law enforcement officer who has
21 reasonable cause to believe such person was driving or was in
22 actual physical control of a motor vehicle within this state
23 while under the influence of controlled substances. The urine
24 test shall be administered at a detention facility or any
25 other facility, mobile or otherwise, which is equipped to
26 administer such tests in a reasonable manner that will ensure
27 the accuracy of the specimen and maintain the privacy of the
28 individual involved. The administration of one type of test
29 does not preclude the administration of another type of test.
30 The person shall be told that his or her failure to submit to
31 any lawful test of his or her breath or urine, or both, will

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1 result in the suspension of the person's privilege to operate
2 a motor vehicle for a period of 1 year for a first refusal, or
3 for a period of 18 months if the driving privilege of such
4 person has been previously suspended as a result of a refusal
5 to submit to such a test or tests, and shall also be told that
6 if he or she refuses to submit to a lawful test of his or her
7 breath or urine, or both, and his or her driving privilege has
8 been previously suspended for a prior refusal to submit to a
9 lawful test of his or her breath, urine, or blood, he or she
10 commits a misdemeanor in addition to any other penalties. The
11 refusal to submit to a chemical or physical breath test or to
12 a urine test upon the request of a law enforcement officer as
13 provided in this section is admissible into evidence in any
14 criminal proceeding.

15 2. The Alcohol Testing Program within the Department
16 of Law Enforcement is responsible for the regulation of the
17 operation, inspection, and registration of breath test
18 instruments utilized under the driving and boating under the
19 influence provisions and related provisions located in this
20 chapter and chapters 322 and 327. The program is responsible
21 for the regulation of the individuals who operate, inspect,
22 and instruct on the breath test instruments utilized in the
23 driving and boating under the influence provisions and related
24 provisions located in this chapter and chapters 322 and 327.
25 The program is further responsible for the regulation of blood
26 analysts who conduct blood testing to be utilized under the
27 driving and boating under the influence provisions and related
28 provisions located in this chapter and chapters 322 and 327.
29 The program shall:

30 a. Establish uniform criteria for the issuance of
31 permits to breath test operators, agency inspectors,

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1 instructors, blood analysts, and instruments.

2 b. Have the authority to permit breath test operators,
3 agency inspectors, instructors, blood analysts, and
4 instruments.

5 c. Have the authority to discipline and suspend,
6 revoke, or renew the permits of breath test operators, agency
7 inspectors, instructors, blood analysts, and instruments.

8 d. Establish uniform requirements for instruction and
9 curricula for the operation and inspection of approved
10 instruments.

11 e. Have the authority to specify one approved
12 curriculum for the operation and inspection of approved
13 instruments.

14 f. Establish a procedure for the approval of breath
15 test operator and agency inspector classes.

16 g. Have the authority to approve or disapprove breath
17 test instruments and accompanying paraphernalia for use
18 pursuant to the driving and boating under the influence
19 provisions and related provisions located in this chapter and
20 chapters 322 and 327.

21 h. With the approval of the executive director of the
22 Department of Law Enforcement, make and enter into contracts
23 and agreements with other agencies, organizations,
24 associations, corporations, individuals, or federal agencies
25 as are necessary, expedient, or incidental to the performance
26 of duties.

27 i. Issue final orders which include findings of fact
28 and conclusions of law and which constitute final agency
29 action for the purpose of chapter 120.

30 j. Enforce compliance with the provisions of this
31 section through civil or administrative proceedings.

1 k. Make recommendations concerning any matter within
2 the purview of this section, this chapter, chapter 322, or
3 chapter 327.

4 l. Promulgate rules for the administration and
5 implementation of this section, including definitions of
6 terms.

7 m. Consult and cooperate with other entities for the
8 purpose of implementing the mandates of this section.

9 n. Have the authority to approve the type of blood
10 test utilized under the driving and boating under the
11 influence provisions and related provisions located in this
12 chapter and chapters 322 and 327.

13 o. Have the authority to specify techniques and
14 methods for breath alcohol testing and blood testing utilized
15 under the driving and boating under the influence provisions
16 and related provisions located in this chapter and chapters
17 322 and 327.

18 p. Have the authority to approve repair facilities for
19 the approved breath test instruments, including the authority
20 to set criteria for approval.

21
22 Nothing in this section shall be construed to supersede
23 provisions in this chapter and chapters 322 and 327. The
24 specifications in this section are derived from the power and
25 authority previously and currently possessed by the Department
26 of Law Enforcement and are enumerated to conform with the
27 mandates of chapter 99-379, Laws of Florida.

28 (b)1. The blood-alcohol level must be based upon grams
29 of alcohol per 100 milliliters of blood. The breath-alcohol
30 level must be based upon grams of alcohol per 210 liters of
31 breath.

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1 2. An analysis of a person's breath, in order to be
2 considered valid under this section, must have been performed
3 substantially according to methods approved by the Department
4 of Law Enforcement. For this purpose, the department may
5 approve satisfactory techniques or methods. Any insubstantial
6 differences between approved techniques and actual testing
7 procedures in any individual case do not render the test or
8 test results invalid.

9 (c) Any person who accepts the privilege extended by
10 the laws of this state of operating a motor vehicle within
11 this state is, by operating such vehicle, deemed to have given
12 his or her consent to submit to an approved blood test for the
13 purpose of determining the alcoholic content of the blood or a
14 blood test for the purpose of determining the presence of
15 chemical substances or controlled substances as provided in
16 this section if there is reasonable cause to believe the
17 person was driving or in actual physical control of a motor
18 vehicle while under the influence of alcoholic beverages or
19 chemical or controlled substances and the person appears for
20 treatment at a hospital, clinic, or other medical facility and
21 the administration of a breath or urine test is impractical or
22 impossible. As used in this paragraph, the term "other medical
23 facility" includes an ambulance or other medical emergency
24 vehicle. The blood test shall be performed in a reasonable
25 manner. Any person who is incapable of refusal by reason of
26 unconsciousness or other mental or physical condition is
27 deemed not to have withdrawn his or her consent to such test.
28 A blood test may be administered whether or not the person is
29 told that his or her failure to submit to such a blood test
30 will result in the suspension of the person's privilege to
31 operate a motor vehicle upon the public highways of this state

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1 and that a refusal to submit to a lawful test of his or her
2 blood, if his or her driving privilege has been previously
3 suspended for refusal to submit to a lawful test of his or her
4 breath, urine, or blood, is a misdemeanor. Any person who is
5 capable of refusal shall be told that his or her failure to
6 submit to such a blood test will result in the suspension of
7 the person's privilege to operate a motor vehicle for a period
8 of 1 year for a first refusal, or for a period of 18 months if
9 the driving privilege of the person has been suspended
10 previously as a result of a refusal to submit to such a test
11 or tests, and that a refusal to submit to a lawful test of his
12 or her blood, if his or her driving privilege has been
13 previously suspended for a prior refusal to submit to a lawful
14 test of his or her breath, urine, or blood, is a misdemeanor.
15 The refusal to submit to a blood test upon the request of a
16 law enforcement officer is admissible in evidence in any
17 criminal proceeding.

18 (d) If the arresting officer does not request a
19 chemical or physical breath test of the person arrested for
20 any offense allegedly committed while the person was driving
21 or was in actual physical control of a motor vehicle while
22 under the influence of alcoholic beverages or controlled
23 substances, such person may request the arresting officer to
24 have a chemical or physical test made of the arrested person's
25 breath or a test of the urine or blood for the purpose of
26 determining the alcoholic content of the person's blood or
27 breath or the presence of chemical substances or controlled
28 substances; and, if so requested, the arresting officer shall
29 have the test performed.

30 (e)1. By applying for a driver's license and by
31 accepting and using a driver's license, the person holding the

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1 driver's license is deemed to have expressed his or her
2 consent to the provisions of this section.

3 2. A nonresident or any other person driving in a
4 status exempt from the requirements of the driver's license
5 law, by his or her act of driving in such exempt status, is
6 deemed to have expressed his or her consent to the provisions
7 of this section.

8 3. A warning of the consent provision of this section
9 shall be printed above the signature line on each new or
10 renewed driver's license.

11 (f)1. The tests determining the weight of alcohol in
12 the defendant's blood or breath shall be administered at the
13 request of a law enforcement officer substantially in
14 accordance with rules of the Department of Law Enforcement.
15 Such rules must specify precisely the test or tests that are
16 approved by the Department of Law Enforcement for reliability
17 of result and ease of administration, and must provide an
18 approved method of administration which must be followed in
19 all such tests given under this section. However, the failure
20 of a law enforcement officer to request the withdrawal of
21 blood does not affect the admissibility of a test of blood
22 withdrawn for medical purposes.

23 2.a. Only a physician, certified paramedic, registered
24 nurse, licensed practical nurse, other personnel authorized by
25 a hospital to draw blood, or duly licensed clinical laboratory
26 director, supervisor, technologist, or technician, acting at
27 the request of a law enforcement officer, may withdraw blood
28 for the purpose of determining its alcoholic content or the
29 presence of chemical substances or controlled substances
30 therein. However, the failure of a law enforcement officer to
31 request the withdrawal of blood does not affect the

1 admissibility of a test of blood withdrawn for medical
2 purposes.

3 b. Notwithstanding any provision of law pertaining to
4 the confidentiality of hospital records or other medical
5 records, if a health care provider, who is providing medical
6 care in a health care facility to a person injured in a motor
7 vehicle crash, becomes aware, as a result of any blood test
8 performed in the course of that medical treatment, that the
9 person's blood-alcohol level meets or exceeds the
10 blood-alcohol level specified in s. 316.193(1)(b), the health
11 care provider may notify any law enforcement officer or law
12 enforcement agency. Any such notice must be given within a
13 reasonable time after the health care provider receives the
14 test result. Any such notice shall be used only for the
15 purpose of providing the law enforcement officer with
16 reasonable cause to request the withdrawal of a blood sample
17 pursuant to this section.

18 c. The notice shall consist only of the name of the
19 person being treated, the name of the person who drew the
20 blood, the blood-alcohol level indicated by the test, and the
21 date and time of the administration of the test.

22 d. Nothing contained in s. 395.3025(4), s. 456.057, or
23 any applicable practice act affects the authority to provide
24 notice under this section, and the health care provider is not
25 considered to have breached any duty owed to the person under
26 s. 395.3025(4), s. 456.057, or any applicable practice act by
27 providing notice or failing to provide notice. It shall not be
28 a breach of any ethical, moral, or legal duty for a health
29 care provider to provide notice or fail to provide notice.

30 e. A civil, criminal, or administrative action may not
31 be brought against any person or health care provider

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1 participating in good faith in the provision of notice or
2 failure to provide notice as provided in this section. Any
3 person or health care provider participating in the provision
4 of notice or failure to provide notice as provided in this
5 section shall be immune from any civil or criminal liability
6 and from any professional disciplinary action with respect to
7 the provision of notice or failure to provide notice under
8 this section. Any such participant has the same immunity with
9 respect to participating in any judicial proceedings resulting
10 from the notice or failure to provide notice.

11 3. The person tested may, at his or her own expense,
12 have a physician, registered nurse, other personnel authorized
13 by a hospital to draw blood, or duly licensed clinical
14 laboratory director, supervisor, technologist, or technician,
15 or other person of his or her own choosing administer an
16 independent test in addition to the test administered at the
17 direction of the law enforcement officer for the purpose of
18 determining the amount of alcohol in the person's blood or
19 breath or the presence of chemical substances or controlled
20 substances at the time alleged, as shown by chemical analysis
21 of his or her blood or urine, or by chemical or physical test
22 of his or her breath. The failure or inability to obtain an
23 independent test by a person does not preclude the
24 admissibility in evidence of the test taken at the direction
25 of the law enforcement officer. The law enforcement officer
26 shall not interfere with the person's opportunity to obtain
27 the independent test and shall provide the person with timely
28 telephone access to secure the test, but the burden is on the
29 person to arrange and secure the test at the person's own
30 expense.

31 4. Upon the request of the person tested, full

1 information concerning the test taken at the direction of the
2 law enforcement officer shall be made available to the person
3 or his or her attorney.

4 5. A hospital, clinical laboratory, medical clinic, or
5 similar medical institution or physician, certified paramedic,
6 registered nurse, licensed practical nurse, other personnel
7 authorized by a hospital to draw blood, or duly licensed
8 clinical laboratory director, supervisor, technologist, or
9 technician, or other person assisting a law enforcement
10 officer does not incur any civil or criminal liability as a
11 result of the withdrawal or analysis of a blood or urine
12 specimen, or the chemical or physical test of a person's
13 breath pursuant to accepted medical standards when requested
14 by a law enforcement officer, regardless of whether or not the
15 subject resisted administration of the test.

16 (2) The results of any test administered pursuant to
17 this section for the purpose of detecting the presence of any
18 controlled substance shall not be admissible as evidence in a
19 criminal prosecution for the possession of a controlled
20 substance.

21 (3) Notwithstanding any provision of law pertaining to
22 the confidentiality of hospital records or other medical
23 records, information relating to the alcoholic content of the
24 blood or breath or the presence of chemical substances or
25 controlled substances in the blood obtained pursuant to this
26 section shall be released to a court, prosecuting attorney,
27 defense attorney, or law enforcement officer in connection
28 with an alleged violation of s. 316.193 upon request for such
29 information.

30 Section 2. Subsection (1) of section 316.1933, Florida
31 Statutes, is amended to read:

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1 316.1933 Blood test for impairment or intoxication in
2 cases of death or serious bodily injury; right to use
3 reasonable force.--

4 (1)(a) ~~Notwithstanding any recognized ability to~~
5 ~~refuse to submit to the tests provided in s. 316.1932 or any~~
6 ~~recognized power to revoke the implied consent to such tests,~~
7 If a law enforcement officer has probable cause to believe
8 that a motor vehicle driven by or in the actual physical
9 control of a person under the influence of alcoholic
10 beverages, any chemical substances, or any controlled
11 substances has caused the death or serious bodily injury of a
12 human being, ~~such person shall submit, upon the request of a~~
13 law enforcement officer shall require the person driving or in
14 actual physical control of the motor vehicle to submit, to a
15 test of the person's blood for the purpose of determining the
16 alcoholic content thereof or the presence of chemical
17 substances as set forth in s. 877.111 or any substance
18 controlled under chapter 893. The law enforcement officer may
19 use reasonable force if necessary to require such person to
20 submit to the administration of the blood test. The blood
21 test shall be performed in a reasonable manner.
22 Notwithstanding s. 316.1932, the testing required by this
23 paragraph need not be incidental to a lawful arrest of the
24 person.

25 (b) The term "serious bodily injury" means an injury
26 to any person, including the driver, which consists of a
27 physical condition that creates a substantial risk of death,
28 serious personal disfigurement, or protracted loss or
29 impairment of the function of any bodily member or organ.

30 Section 3. Section 316.1937, Florida Statutes, is
31 amended to read:

1 316.1937 Ignition interlock devices, requiring;
2 unlawful acts.--

3 (1) In addition to any other authorized penalties, the
4 court may require that any person who is convicted of driving
5 under the influence in violation of s. 316.193, ~~and who is~~
6 ~~granted probation,~~ shall not operate a motor vehicle ~~during~~
7 ~~the period of probation~~ unless that vehicle is equipped with a
8 functioning ignition interlock device certified by the
9 department as provided in s. 316.1938, and installed in such a
10 manner that the vehicle will not start if the operator's blood
11 alcohol level is in excess of 0.05 percent or as otherwise
12 specified by the court. The court may require the use of an
13 approved ignition interlock device for a ~~the~~ period of
14 ~~probation, said period to be for~~ not less than 6 months, if
15 the person is permitted to operate a motor vehicle, whether or
16 not the privilege to operate a motor vehicle is restricted ~~or~~
17 ~~not~~, as determined by the court. The court, however, shall
18 order placement of an ignition interlock device in those
19 circumstances required by s. 316.193.

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

22 (a) Stipulate on the record the requirement for, and
23 the period of, the use of a certified ignition interlock
24 device.

25 (b) Order that the records of the department reflect
26 such requirement.

27 (c) Order that an ignition interlock device be
28 installed, as the court may determine necessary, on any
29 vehicle owned or operated by the person probationer.

30 (d) Determine the person's probationer's ability to
31 pay for installation of the device if the person probationer

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1 claims inability to pay. If the court determines that the
2 person probationer is unable to pay for installation of the
3 device, the court may order that any portion of a fine paid by
4 the person probationer for a violation of s. 316.193 shall be
5 allocated to defray the costs of installing the device.

6 (e) Require proof of installation of the device and
7 periodic reporting to the department probation officer for
8 verification of the operation of the device in the person's
9 probationer's vehicle.

10 (3) If the court imposes the use of an ignition
11 interlock device ~~as a term of probation~~ on a person whose
12 driving privilege is not suspended or revoked, the court shall
13 require the person to provide proof of compliance to the
14 department probation officer within 30 days. If the person
15 fails to provide proof of installation within that period,
16 absent a finding by the court of good cause for that failure
17 which is entered in the court record, the court shall notify
18 the department ~~revoke or terminate the person's probation.~~

19 (4) If the court imposes the use of an ignition
20 interlock device ~~as a term of probation~~ on a person whose
21 driving privilege is suspended or revoked for a period of less
22 than 3 years, the department shall require proof of compliance
23 before reinstatement of the person's driving privilege.

24 (5)(a) In addition to any other provision of law, upon
25 conviction of a violation of this section the department shall
26 revoke the person's driving privilege for 1 year from the date
27 of conviction. Upon conviction of a separate violation of
28 this section during the same period of required use of an
29 ignition interlock device, the department shall revoke the
30 person's driving privilege for 5 years from the date of
31 conviction.

1 (b) Any person convicted of a violation of subsection
2 (6) who does not have a driver's license shall, in addition to
3 any other penalty provided by law, pay a fine of not less than
4 \$250 or more than \$500 per each such violation. In the event
5 that the person is unable to pay any such fine, the fine shall
6 become a lien against the motor vehicle used in violation of
7 subsection (6) and payment shall be made pursuant to s.
8 316.3025(4).

9 (6)(a) It is unlawful to tamper with, or to circumvent
10 the operation of, a court-ordered ignition interlock device.

11 (b) It is unlawful for any person whose driving
12 privilege is restricted pursuant to this section to request or
13 solicit any other person to blow into an ignition interlock
14 device or to start a motor vehicle equipped with the device
15 for the purpose of providing the person so restricted with an
16 operable motor vehicle.

17 (c) It is unlawful to blow into an ignition interlock
18 device or to start a motor vehicle equipped with the device
19 for the purpose of providing an operable motor vehicle to a
20 person whose driving privilege is restricted pursuant to this
21 section.

22 (d) It is unlawful to knowingly lease or lend a motor
23 vehicle to a person who has had his or her driving privilege
24 restricted ~~under a condition of probation~~ as provided in this
25 section, unless the vehicle is equipped with a functioning,
26 certified ignition interlock device. Any person whose driving
27 privilege is restricted under a condition of probation
28 requiring an ignition interlock device shall notify any other
29 person who leases or loans a motor vehicle to him or her of
30 such driving restriction.

31 (7) Notwithstanding the provisions of this section, if

1 a person is required to operate a motor vehicle in the course
2 and scope of his or her employment and if the vehicle is owned
3 by the employer, the person may operate that vehicle without
4 installation of an approved ignition interlock device if the
5 employer has been notified of such driving privilege
6 restriction and if proof of that notification is with the
7 vehicle. This employment exemption does not apply, however,
8 if the business entity which owns the vehicle is owned or
9 controlled by the person whose driving privilege has been
10 restricted.

11 (8) In addition to the penalties provided in this
12 section, a violation of this section is a noncriminal traffic
13 infraction, punishable as a nonmoving violation as provided in
14 chapter 318.

15 Section 4. Section 316.1939, Florida Statutes, is
16 created to read:

17 316.1939 Refusal to submit to testing; penalties.--

18 (1) Any person who has refused to submit to a chemical
19 or physical test of his or her breath, blood, or urine, as
20 described in s. 316.1932, and whose driving privilege is
21 previously suspended for a prior refusal to submit to a lawful
22 test of his or her breath, urine, or blood, and:

23 (a) Who the arresting law enforcement officer had
24 probable cause to believe was driving or in actual physical
25 control of a motor vehicle in this state while under the
26 influence of alcoholic beverages, chemical substances, or
27 controlled substances;

28 (b) Who was placed under lawful arrest for a violation
29 of s. 316.193;

30 (c) Who was informed that, if he or she refused to
31 submit to such test, his or her privilege to operate a motor

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1 vehicle would be suspended for a period of 1 year or, in the
2 case of a second or subsequent refusal, for a period of 18
3 months;

4 (d) Who was informed that a refusal to submit to a
5 lawful test of his or her breath, urine, or blood, if his or
6 her driving privilege has been previously suspended for a
7 prior refusal to submit to a lawful test of his or her breath,
8 urine, or blood, is a misdemeanor; and

9 (e) Who, after having been so informed, refused to
10 submit to any such test when requested to do so by a law
11 enforcement officer or correctional officer

12
13 commits a misdemeanor of the first degree and is subject to
14 punishment as provided in s. 775.082 or s. 775.083.

15 (2) The disposition of any administrative proceeding
16 that relates to the suspension of a person's driving privilege
17 does not affect a criminal action under this section.

18 (3) The disposition of a criminal action under this
19 section does not affect any administrative proceeding that
20 relates to the suspension of a person's driving privilege. The
21 department's records showing that a person's license has been
22 previously suspended for a prior refusal to submit to a lawful
23 test of his or her breath, urine, or blood shall be admissible
24 and shall create a rebuttable presumption of such suspension.

25 Section 5. Paragraph (a) of subsection (2) of section
26 322.271, Florida Statutes, is amended to read:

27 322.271 Authority to modify revocation, cancellation,
28 or suspension order.--

29 (2)(a) Upon such hearing, the person whose license has
30 been suspended, canceled, or revoked may show that such
31 suspension, cancellation, or revocation of his or her license

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1 causes a serious hardship and precludes the person's carrying
2 out his or her normal business occupation, trade, or
3 employment and that the use of the person's license in the
4 normal course of his or her business is necessary to the
5 proper support of the person or his or her family. Except as
6 otherwise provided in this subsection, the department shall
7 require proof of the successful completion of the applicable
8 department-approved driver training course operating pursuant
9 to s. 318.1451 or DUI program substance abuse education course
10 and evaluation as provided in s. 316.193(5). Letters of
11 recommendation from respected business persons in the
12 community, law enforcement officers, or judicial officers may
13 also be required to determine whether such person should be
14 permitted to operate a motor vehicle on a restricted basis for
15 business or employment use only and in determining whether
16 such person can be trusted to so operate a motor vehicle. If a
17 driver's license has been suspended under the point system or
18 pursuant to s. 322.2615, the department shall require proof of
19 enrollment in the applicable department-approved driver
20 training course or licensed DUI program substance abuse
21 education course, including evaluation and treatment, if
22 referred, and may require letters of recommendation described
23 in this subsection to determine if the driver should be
24 reinstated on a restricted basis. If such person fails to
25 complete the approved course within 90 days after
26 reinstatement or subsequently fails to complete treatment, if
27 applicable, the department shall cancel his or her driver's
28 license until the course and treatment, if applicable, is
29 successfully completed, notwithstanding the terms of the court
30 order or any suspension or revocation of the driving
31 privilege. The department may temporarily reinstate the

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1 driving privilege on a restricted basis upon verification from
2 the DUI program that the offender has reentered and is
3 currently participating in treatment and has completed the DUI
4 education course and evaluation requirement. If the DUI
5 program notifies the department of the second failure to
6 complete treatment, the department shall reinstate the driving
7 privilege only after notice of completion of treatment from
8 the DUI program. The privilege of driving on a limited or
9 restricted basis for business or employment use shall not be
10 granted to a person who has been convicted of a violation of
11 s. 316.193 until completion of the DUI program substance abuse
12 education course and evaluations as provided in s. 316.193(5).
13 Except as provided in paragraph (b), if a person's license has
14 been revoked pursuant to s. 322.28 or suspended pursuant to s.
15 322.2615, or a person has been convicted of a violation of s.
16 316.193 two or more times or has had his or her license
17 suspended two or more times for refusal to submit to a test
18 pursuant to s. 322.2615 or former s. 322.261, the privilege of
19 driving on a limited or restricted basis for business or
20 employment use shall be granted in those circumstances where a
21 court has required use of an ignition interlock device as
22 applicable pursuant to s. 316.193.~~the privilege of driving on~~
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