



CHAMBER ACTION

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The Committee on Public Safety & Crime Prevention recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to driving under the influence; amending s. 316.1937, F.S.; establishing a breath alcohol level, rather than a blood alcohol level as the basis for requiring the installation of an ignition interlock device on a vehicle operated by a DUI offender; requiring the installation of ignition interlock devices on certain vehicles for certain period of time where offender fails the abstinence requirement of a supervision program; extending the period of license suspension under such circumstances; providing that the requirement to place an ignition interlock device in a vehicle be recorded on the offender's license and in the records of the Department of Highway safety and Motor Vehicles; requiring the placement of an ignition interlock device as a condition of licensure for certain probationers; requiring notification by an offender to a probation officer when installation of an ignition interlock device is required as a condition of



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29 | probation; amending s. 316.1938, F.S.; authorizing the
30 | Department of Highway Safety and Motor Vehicles to
31 | contract for certain commodities and services; deleting
32 | requirement that the department publish a list of approved
33 | ignition interlock devices; deleting requirement that
34 | manufacturers of ignition interlock devices pay the cost
35 | of certifying ignition interlock devices; providing an
36 | effective date.

37

38 | Be It Enacted by the Legislature of the State of Florida:

39

40 | Section 1. Section 316.1937, Florida Statutes, is amended
41 | to read:

42 | 316.1937 Ignition interlock devices, requiring; unlawful
43 | acts.--

44 | (1) In addition to any other authorized penalties, the
45 | court may require that any person who is convicted of driving
46 | under the influence in violation of s. 316.193 shall not operate
47 | a motor vehicle unless that vehicle is equipped with a
48 | functioning ignition interlock device certified by the
49 | department as provided in s. 316.1938, and installed in such a
50 | manner that the vehicle will not start if the operator's breath
51 | ~~bleed~~ alcohol level is in excess of 0.025 grams of alcohol per
52 | 210 liters of breath ~~0.05 percent~~ or as otherwise specified by
53 | the court. The court may require the use of an approved ignition
54 | interlock device for a period of not less than 6 months, if the
55 | person is permitted to operate a motor vehicle, whether or not
56 | the privilege to operate a motor vehicle is restricted, as



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57 | determined by the court. The court, however, shall order
58 | placement of an ignition interlock device in those circumstances
59 | required by s. 316.193.

60 | (2) If the court imposes the use of an ignition interlock
61 | device, the court shall:

62 | (a) Stipulate on the record the requirement for, and the
63 | period of, the use of a certified ignition interlock device.

64 | (b) Order that the records of the department reflect such
65 | requirement.

66 | (c) Order that an ignition interlock device be installed,
67 | as the court may determine necessary, on any vehicle owned or
68 | operated by the person.

69 | (d) Determine the person's ability to pay for installation
70 | of the device if the person claims inability to pay. If the
71 | court determines that the person is unable to pay for
72 | installation of the device, the court may order that any portion
73 | of a fine paid by the person for a violation of s. 316.193 shall
74 | be allocated to defray the costs of installing the device.

75 | (e) Require proof of installation of the device,
76 | monitoring by a licensed DUI program of the person required to
77 | have an ignition interlock device, and periodic reporting to the
78 | department by the licensed DUI program for verification of the
79 | operation of the device in the person's vehicle.

80 | (3) If the court imposes the use of an ignition interlock
81 | device on a person whose driving privilege is not suspended or
82 | revoked, the court shall require the person to provide proof of
83 | compliance to the department within 30 days. If the person fails
84 | to provide proof of installation within that period, absent a



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85 finding by the court of good cause for that failure which is
86 entered in the court record, the court shall notify the
87 department.

88 (4) If the court imposes the use of an ignition interlock
89 device on a person whose driving privilege is suspended or
90 revoked for a period of less than 3 years, the department shall
91 require proof of compliance before reinstatement of the person's
92 driving privilege.

93 (5)(a) In addition to any other provision of law, upon
94 conviction of a violation of this section the department shall
95 revoke the person's driving privilege for 1 year from the date
96 of conviction. Upon conviction of a separate violation of this
97 section during the same period of required use of an ignition
98 interlock device, the department shall revoke the person's
99 driving privilege for 5 years from the date of conviction.

100 (b) Any person convicted of a violation of subsection (9)
101 ~~(6)~~ who does not have a driver's license shall, in addition to
102 any other penalty provided by law, pay a fine of not less than
103 \$250 or more than \$500 per each such violation. In the event
104 that the person is unable to pay any such fine, the fine shall
105 become a lien against the motor vehicle used in violation of
106 subsection (9) ~~(6)~~ and payment shall be made pursuant to s.
107 316.3025(4).

108 (6) If a person is convicted of DUI and is accepted into a
109 supervision program conducted by a licensed DUI program and
110 fails the abstinence requirement of the program, the supervision
111 program shall continue and an ignition interlock device shall be
112 required for 1 year of a 5-year license revocation period



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113 required by s. 322.28(2)(a) and for 2 years of a 10-year license
114 revocation period required by s. 322.28(2)(a), and the time
115 period of the original license suspension shall be extended such
116 that the period of suspension shall be deemed to begin on the
117 date the ignition interlock device is installed. If such DUI
118 offender fails the abstinence requirement of the supervision
119 program a second time, the offender's restricted license shall
120 be revoked for the remaining revocation period.

121 (7) The requirement to place an ignition interlock device
122 in a convicted person's vehicles shall be recorded on the
123 person's license and in the department's records.

124 (8) If, while required to place an ignition interlock
125 device on his or her vehicle, the convicted person is on any
126 type of probation, the probation order shall contain a condition
127 requiring the placement of an ignition interlock device, as
128 required by this section, effective upon the convicted person's
129 obtaining a license under s. 322.271. The convicted person shall
130 notify his or her probation officer of said condition within 72
131 hours after imposition of said condition.

132 (9)~~(6)~~(a) It is unlawful to tamper with, or to circumvent
133 the operation of, a court-ordered ignition interlock device.

134 (b) It is unlawful for any person whose driving privilege
135 is restricted pursuant to this section to request or solicit any
136 other person to blow into an ignition interlock device or to
137 start a motor vehicle equipped with the device for the purpose
138 of providing the person so restricted with an operable motor
139 vehicle.



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140 (c) It is unlawful to blow into an ignition interlock
141 device or to start a motor vehicle equipped with the device for
142 the purpose of providing an operable motor vehicle to a person
143 whose driving privilege is restricted pursuant to this section.

144 (d) It is unlawful to knowingly lease or lend a motor
145 vehicle to a person who has had his or her driving privilege
146 restricted as provided in this section, unless the vehicle is
147 equipped with a functioning, certified ignition interlock
148 device. Any person whose driving privilege is restricted under a
149 condition of probation requiring an ignition interlock device
150 shall notify any other person who leases or loans a motor
151 vehicle to him or her of such driving restriction.

152 (10)~~(7)~~ Notwithstanding the provisions of this section, if
153 a person is required to operate a motor vehicle in the course
154 and scope of his or her employment and if the vehicle is owned
155 by the employer, the person may operate that vehicle without
156 installation of an approved ignition interlock device if the
157 employer has been notified of such driving privilege restriction
158 and if proof of that notification is with the vehicle. This
159 employment exemption does not apply, however, if the business
160 entity which owns the vehicle is owned or controlled by the
161 person whose driving privilege has been restricted.

162 (11)~~(8)~~ In addition to the penalties provided in this
163 section, a violation of this section is a noncriminal traffic
164 infraction, punishable as a nonmoving violation as provided in
165 chapter 318.

166 Section 2. Section 316.1938, Florida Statutes, is amended
167 to read:



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168 316.1938 Ignition interlock devices, certification;
169 warning label.--

170 (1) The Department of Highway Safety and Motor Vehicles is
171 authorized to contract, in accordance with chapter 287, with a
172 provider or providers to furnish all or some of the commodities
173 and contractual services required for the implementation of this
174 section.

175 (2)(1) The Department of Highway Safety and Motor Vehicles
176 shall certify or cause to be certified the accuracy and
177 precision of the breath-testing component of the ignition
178 interlock devices as required by s. 316.1937, ~~and shall publish~~
179 ~~a list of approved devices, together with rules governing the~~
180 ~~accuracy and precision of the breath-testing component of such~~
181 ~~devices as adopted by rule in compliance with s. 316.1937. The~~
182 ~~cost of certification shall be borne by the manufacturers of~~
183 ~~ignition interlock devices.~~

184 (3)(2) No model of ignition interlock device shall be
185 certified unless it meets the accuracy requirements specified by
186 ~~rule of~~ the department.

187 (4)(3) The department shall design and adopt by rule a
188 warning label which shall be affixed to each ignition interlock
189 device upon installation. The label shall contain a warning that
190 any person tampering, circumventing, or otherwise misusing the
191 device is guilty of a violation of law and may be subject to
192 civil liability.

193 Section 3. This act shall take effect July 1, 2003.
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