

Bill No. SB 1344

Barcode 100140

CHAMBER ACTION

Senate

House

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11 The Committee on Transportation (Sebesta) recommended the  
12 following amendment:

**Senate Amendment (with title amendment)**

15 On page 67, between lines 14 and 15,

17 insert:

18 Section 59. Subsections (1), (7), (10) and (11) of  
19 section 322.2615, Florida Statutes, are amended to read:

20 322.2615 Suspension of license; right to review.--

21 (1)(a) A law enforcement officer or correctional  
22 officer shall, on behalf of the department, suspend the  
23 driving privilege of a person who has been arrested by a law  
24 enforcement officer for a violation of s. 316.193, relating to  
25 unlawful blood-alcohol level or breath-alcohol level, or of a  
26 person who has refused to submit to a breath, urine, or blood  
27 test authorized by s. 316.1932. The officer shall take the  
28 person's driver's license and issue the person a 10-day  
29 temporary permit if the person is otherwise eligible for the  
30 driving privilege and shall issue the person a notice of  
31 suspension. If a blood test has been administered, the results

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1 of which are not available to the officer at the time of the  
 2 arrest, the agency employing the officer shall transmit such  
 3 results to the department within 5 days after receipt of the  
 4 results. If the department then determines that the person  
 5 was arrested for a violation of s. 316.193 and that the person  
 6 had a blood-alcohol level or breath-alcohol level of 0.08 or  
 7 higher, the department shall suspend the person's driver's  
 8 license pursuant to subsection (3).

9 (b) The suspension under paragraph (a) shall be  
 10 pursuant to, and the notice of suspension shall inform the  
 11 driver of, the following:

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

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

24 2. The suspension period shall commence on the date of  
 25 arrest or issuance of the notice of suspension, whichever is  
 26 later.

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

31 4. The temporary permit issued at the time of arrest

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1 will expire at midnight of the 10th day following the date of  
2 arrest or issuance of the notice of suspension, whichever is  
3 later.

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

6 (7) In a formal review hearing under subsection (6) or  
7 an informal review hearing under subsection (4), the hearing  
8 officer shall determine by a preponderance of the evidence  
9 whether sufficient cause exists to sustain, amend, or  
10 invalidate the suspension. The scope of the review shall be  
11 limited to the following issues:

12 (a) If the license was suspended for driving with an  
13 unlawful blood-alcohol level or breath alcohol level in  
14 violation of s. 316.193:

15 1. Whether the arresting law enforcement officer had  
16 probable cause to believe that the person was driving or in  
17 actual physical control of a motor vehicle in this state while  
18 under the influence of alcoholic beverages or controlled  
19 substances.

20 2. Whether the person was placed under lawful arrest  
21 for a violation of s. 316.193.

22 3. Whether the person had an unlawful blood-alcohol  
23 level or breath alcohol level as provided in s. 316.193.

24 (b) If the license was suspended for refusal to submit  
25 to a breath, blood, or urine test:

26 1. Whether the arresting law enforcement officer had  
27 probable cause to believe that the person was driving or in  
28 actual physical control of a motor vehicle in this state while  
29 under the influence of alcoholic beverages or controlled  
30 substances.

31 2. Whether the person was placed under lawful arrest

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1 for a violation of s. 316.193.

2           3. Whether the person refused to submit to any such  
3 test after being requested to do so by a law enforcement  
4 officer or correctional officer.

5           4. Whether the person was told that if he or she  
6 refused to submit to such test his or her privilege to operate  
7 a motor vehicle would be suspended for a period of 1 year or,  
8 in the case of a second or subsequent refusal, for a period of  
9 18 months.

10           (10) A person whose driver's license is suspended  
11 under subsection (1) or subsection (3) may apply for issuance  
12 of a license for business or employment purposes only if the  
13 person is otherwise eligible for the driving privilege  
14 pursuant to s. 322.271.

15           (a) If the suspension of the driver's license of the  
16 person for failure to submit to a breath, urine, or blood test  
17 is sustained, the person is not eligible to receive a license  
18 for business or employment purposes only, pursuant to s.  
19 322.271, until 90 days have elapsed after the expiration of  
20 the last temporary permit issued. If the driver is not issued  
21 a 10-day permit pursuant to this section or s. 322.64 because  
22 he or she is ineligible for the permit and the suspension for  
23 failure to submit to a breath, urine, or blood test is not  
24 invalidated by the department, the driver is not eligible to  
25 receive a business or employment license pursuant to s.  
26 322.271 until 90 days have elapsed from the date of the  
27 suspension.

28           (b) If the suspension of the driver's license of the  
29 person arrested for a violation of s. 316.193, relating to  
30 unlawful blood-alcohol level, or breath alcohol level is  
31 sustained, the person is not eligible to receive a license for

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1 business or employment purposes only pursuant to s. 322.271  
 2 until 30 days have elapsed after the expiration of the last  
 3 temporary permit issued. If the driver is not issued a 10-day  
 4 permit pursuant to this section or s. 322.64 because he or she  
 5 is ineligible for the permit and the suspension for a  
 6 violation of s. 316.193, relating to unlawful blood-alcohol  
 7 level, is not invalidated by the department, the driver is not  
 8 eligible to receive a business or employment license pursuant  
 9 to s. 322.271 until 30 days have elapsed from the date of the  
 10 arrest.

11 (11) The formal review hearing may be conducted upon a  
 12 review of the reports of a law enforcement officer or a  
 13 correctional officer, including documents relating to the  
 14 administration of a breath test or blood test or the refusal  
 15 to take either test or the refusal to take a urine test.  
 16 However, as provided in subsection (6), the driver may  
 17 subpoena the officer or any person who administered or  
 18 analyzed a breath or blood test.

19  
20 (Redesignate subsequent sections.)

21

22

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

24 And the title is amended as follows:

25 On page 7, line 9, after the first semicolon

26

27 insert:

28 amending s. 322.2615, F.S.; revising provisions  
 29 related to administrative suspension of  
 30 driver's licenses;

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