

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to driving under the influence; amending
7 s. 316.1937, F.S.; authorizing the court to order a
8 portion of a DUI fine to be used to pay certain costs
9 related to ignition interlock devices; amending s.
10 322.271, F.S.; conforming references; creating s.
11 322.2715, F.S.; directing the Department of Highway Safety
12 and Motor Vehicles to require the placement of a certified
13 ignition interlock device for specified DUI offenses when
14 the court has failed to order such placement under
15 specified circumstances; specifying duration of placement
16 period; specifying responsibility for costs associated
17 with an ignition interlock device; requiring proof of
18 installation; providing an exception for certain medical
19 conditions; providing for determinations by the court
20 regarding ability to pay; providing for review by writ of
21 certiorari; providing application; providing an effective
22 date.

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

25

26 Section 1. Paragraph (d) of subsection (2) of section
27 316.1937, Florida Statutes, is amended to read:

28 316.1937 Ignition interlock devices, requiring; unlawful
29 acts.--

30 (2) If the court imposes the use of an ignition interlock
31 device, the court shall:

32 (d) Determine the person's ability to pay for installation
33 of the device if the person claims inability to pay. If the
34 court determines that the person is unable to pay for
35 installation of the device, the court may order that any portion
36 of a fine paid by the person for a violation of s. 316.193 shall
37 be allocated to defray the costs of installation, monthly fees,
38 surcharges, insurance costs, and deposits for installing the
39 device.

40 Section 2. Paragraph (d) of subsection (2) of section
41 322.271, Florida Statutes, is amended to read:

42 322.271 Authority to modify revocation, cancellation, or
43 suspension order.--

44 (2)

45 (d) The department, based upon review of the licensee's
46 application for reinstatement, may require use of an ignition
47 interlock device pursuant to s. 316.1937 or s. 322.2715.

48 Section 3. Section 322.2715, Florida Statutes, is created
49 to read:

50 322.2715 Ignition interlock device.--

51 (1) Before issuing a permanent or restricted license under
 52 this chapter, the department, except as provided in subsection
 53 (4), shall require the placement of an ignition interlock device
 54 certified under s. 316.1938 for a person who has been convicted
 55 of committing the offense of driving under the influence as
 56 specified in subsection (5) and for whom the court:

57 (a) Has failed to order the placement of an ignition
 58 interlock device when required by s. 316.193; or

59 (b) Has ordered the placement of an ignition interlock
 60 device but has failed to order its use for at least the minimum
 61 period of time required by subsection (2).

62 (2) If the person is convicted of:

63 (a) A first offense of driving under the influence under
 64 s. 316.193 and has an unlawful blood-alcohol level or breath-
 65 alcohol level as specified in s. 316.193(4), or if a person is
 66 convicted of a violation of s. 316.193 and was at the time of
 67 the offense accompanied in the vehicle by a person younger than
 68 18 years of age, the person shall have the ignition interlock
 69 device installed for a period of 6 months for the first offense
 70 and for a period of not less than 2 years for a second offense.

71 (b) A second offense of driving under the influence under
 72 s. 316.193, the ignition interlock device shall be installed for
 73 a period of not less than 1 year.

74 (c) A third offense of driving under the influence under
 75 s. 316.193 which occurs within 10 years after a prior conviction
 76 for a violation of s. 316.193, the ignition interlock device
 77 shall be installed for a period of not less than 2 years.

78 (d) A third offense of driving under the influence under
 79 s. 316.193 which occurs more than 10 years after the date of a
 80 prior conviction for a violation of s. 316.193, the ignition
 81 interlock device shall be installed for a period of not less
 82 than 2 years.

83 (3) For an ignition interlock device placement required by
 84 the department under subsection (1):

85 (a) The period of placement shall be for the minimum time
 86 applicable under subsection (2) for the offense.

87 (b) All costs associated with the device shall be paid by
 88 the convicted person.

89 (c) The device shall be placed on all vehicles that are
 90 individually or jointly leased or owned and routinely operated
 91 by the convicted person.

92 (d) Proof of installation shall be provided to the
 93 department by the convicted person when a person qualifies for a
 94 permanent or restricted license.

95 (4) The department may consider proof that a convicted
 96 person who is subject to subsection (1) has a medical condition
 97 that prohibits an ignition interlock device from functioning
 98 normally. In such case, the department, in its discretion, may
 99 issue the permanent or restricted license without requiring the
 100 placement of an ignition interlock device.

101 (5) For purposes of this section, any conviction for a
 102 violation of s. 316.193, a previous conviction for a violation
 103 of former s. 316.1931, or a conviction outside this state for
 104 driving under the influence, driving while intoxicated, driving
 105 with an unlawful blood-alcohol level, or any other similar

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106 alcohol-related or drug-related traffic offense is a conviction
 107 of driving under the influence.

108 (6) If a person subject to subsection (1) is unable to pay
 109 for the installation and related costs of the ignition interlock
 110 device, the person may petition the court to determine his or
 111 her ability to pay under s. 316.1937(2)(d). The department shall
 112 not issue such person a permanent or restricted license until
 113 the court has entered an order containing its findings regarding
 114 such person's ability to pay.

115 (7) Review of an ignition interlock placement requirement
 116 under subsection (1) shall be by writ of certiorari as provided
 117 in s. 322.31.

118 (8) This section shall only apply to the reinstatement of
 119 the driving privilege following a revocation, suspension, or
 120 cancellation that is based upon a conviction for the offense of
 121 driving under the influence as specified in subsection (5) that
 122 was committed on or after July 1, 2005.

123 Section 4. This act shall take effect July 1, 2005.