

Amendment No.

CHAMBER ACTION

Senate

House

.

---

1 Representative Bovo offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 826 and 827, insert:

5 Section 16. Paragraphs (d) and (i) of subsection (6) of  
6 section 316.193, Florida Statutes, are amended, and subsections  
7 (13) and (14) are added to that section, to read:

8 316.193 Driving under the influence; penalties.--

9 (6) With respect to any person convicted of a violation of  
10 subsection (1), regardless of any penalty imposed pursuant to  
11 subsection (2), subsection (3), or subsection (4):

12 (d) The court must at the time of sentencing the defendant  
13 issue an order for the impoundment or immobilization of a  
14 vehicle. The order of impoundment or immobilization must include  
15 the name and telephone numbers of all immobilization agencies  
16 meeting all of the conditions of subsection (13). Within 7

897395

Approved For Filing: 4/26/2009 7:45:29 PM

Amendment No.

17 business days after the date that the court issues the order of  
18 impoundment or immobilization, the clerk of the court must send  
19 notice by certified mail, return receipt requested, to the  
20 registered owner of each vehicle, if the registered owner is a  
21 person other than the defendant, and to each person of record  
22 claiming a lien against the vehicle.

23 (i) All costs and fees for the impoundment or  
24 immobilization, including the cost of notification, must be paid  
25 by the owner of the vehicle or, if the vehicle is leased or  
26 rented, by the person leasing or renting the vehicle, unless the  
27 impoundment or immobilization order is dismissed. All provisions  
28 of s. 713.78 shall apply. The costs and fees for the impoundment  
29 or immobilization must be paid directly to the person impounding  
30 or immobilizing the vehicle.

31  
32 For the purposes of this section, any conviction for a violation  
33 of s. 327.35; a previous conviction for the violation of former  
34 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
35 previous conviction outside this state for driving under the  
36 influence, driving while intoxicated, driving with an unlawful  
37 blood-alcohol level, driving with an unlawful breath-alcohol  
38 level, or any other similar alcohol-related or drug-related  
39 traffic offense, is also considered a previous conviction for  
40 violation of this section. However, in satisfaction of the fine  
41 imposed pursuant to this section, the court may, upon a finding  
42 that the defendant is financially unable to pay either all or  
43 part of the fine, order that the defendant participate for a  
44 specified additional period of time in public service or a  
897395

Approved For Filing: 4/26/2009 7:45:29 PM

Amendment No.

45 community work project in lieu of payment of that portion of the  
46 fine which the court determines the defendant is unable to pay.  
47 In determining such additional sentence, the court shall  
48 consider the amount of the unpaid portion of the fine and the  
49 reasonable value of the services to be ordered; however, the  
50 court may not compute the reasonable value of services at a rate  
51 less than the federal minimum wage at the time of sentencing.

52 (13) If personnel of the circuit court or the sheriff do  
53 not immobilize vehicles, only immobilization agencies that meet  
54 the conditions of this subsection shall immobilize vehicles in  
55 that judicial circuit.

56 (a) The immobilization agency responsible for immobilizing  
57 vehicles in that judicial circuit shall be subject to strict  
58 compliance with all of the following conditions and restrictions:

59 1. Any immobilization agency engaged in the business of  
60 immobilizing vehicles shall:

61 a. Have a class "R" license issued pursuant to part IV of  
62 chapter 493;

63 b. Have at least 3 years of verifiable experience in  
64 immobilizing vehicles; and

65 c. Maintain accurate and complete records of all payments  
66 for the immobilization, copies of all documents pertaining to  
67 the court's order of impoundment or immobilization, and any  
68 other documents relevant to each immobilization. Such records  
69 must be maintained by the immobilization agency for at least 3  
70 years.

71 2. The person who immobilizes a vehicle must never have  
72 been convicted of any felony or of driving or boating under the  
897395

Approved For Filing: 4/26/2009 7:45:29 PM

Amendment No.

73 influence of alcohol or a controlled substance in the last 3  
74 years.

75 (b) A person who violates paragraph (a) commits a  
76 misdemeanor of the first degree, punishable as provided in s.  
77 775.082 or s. 775.083.

78 (c) Any immobilization agency who is aggrieved by a  
79 person's violation of paragraph (a) may bring a civil action  
80 against the person who violated paragraph (a) seeking injunctive  
81 relief, damages, reasonable attorney's fees and costs, and any  
82 other remedy available at law or in equity as may be necessary  
83 to enforce this subsection. In any action to enforce this  
84 subsection, establishment of a violation of paragraph (a) shall  
85 conclusively establish a clear legal right to injunctive relief,  
86 that irreparable harm will be caused if an injunction does not  
87 issue, that no adequate remedy at law exists, and that public  
88 policy favors issuance of injunctive relief.

89 (14) As used in this chapter, the term:

90 (a) "Immobilization," "immobilizing," or "immobilize"  
91 means the act of installing a vehicle antitheft device on the  
92 steering wheel of a vehicle, the act of placing a tire lock or  
93 wheel clamp on a vehicle, or a governmental agency's act of  
94 taking physical possession of the license tag and vehicle  
95 registration rendering a vehicle legally inoperable to prevent  
96 any person from operating the vehicle pursuant to an order of  
97 impoundment or immobilization under subsection (6).

98 (b) "Immobilization agency" or "immobilization agencies"  
99 means any firm, company, agency, organization, partnership,  
100 corporation, association, trust, or other business entity of any  
897395

Approved For Filing: 4/26/2009 7:45:29 PM

Amendment No.

101 kind whatsoever that meets all of the conditions of subsection  
102 (13).

103 (c) "Impoundment," "impounding," or "impound" means the  
104 act of storing a vehicle at a storage facility pursuant to an  
105 order of impoundment or immobilization under subsection (6)  
106 where the person impounding the vehicle exercises control,  
107 supervision, and responsibility over the vehicle.

108 (d) "Person" means any individual, firm, company, agency,  
109 organization, partnership, corporation, association, trust, or  
110 other business entity of any kind whatsoever.

111 -----  
112  
113  
114 **T I T L E A M E N D M E N T**

115 Remove line 70 and insert:

116 department to adopt rules; amending s. 316.193, F.S.; requiring  
117 the court to include in the order of impoundment or  
118 immobilization the names and telephone numbers of immobilization  
119 agencies that meet specified requirements; requiring the person  
120 whose vehicle is ordered to be impounded or immobilized to pay  
121 the impoundment or immobilization fees and costs directly to the  
122 person impounding or immobilizing the vehicle; establishing  
123 conditions and restrictions for immobilization agencies who are  
124 engaged in the business of immobilizing vehicles in judicial  
125 circuits where personnel of the court or sheriff do not  
126 immobilize vehicles; providing penalties for violating such  
127 conditions and restrictions; authorizing aggrieved  
128 immobilization agency to initiate a civil action against a  
897395

Approved For Filing: 4/26/2009 7:45:29 PM

Amendment No.

129 person who commits such violation; providing for attorney's fees  
130 and costs; defining the terms "immobilization," "immobilize,"  
131 "immobilizing," "immobilization agency," "immobilization  
132 agencies," "impound," "impounding," "impoundment," and "person";  
133 providing effective dates.

897395

Approved For Filing: 4/26/2009 7:45:29 PM

Page 6 of 6