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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2014	.	
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Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 419 and 420

insert:

Section 6. Paragraph (c) is added to subsection (2) of section
316.193, Florida Statutes, present paragraphs (i) through (k) of
subsection (6) of that section are redesignated as paragraphs
(j) through (l), respectively, and a new paragraph (i) is added
to that subsection, to read:

316.193 Driving under the influence; penalties.-



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11 (2)

12 (c) In addition to the penalties in paragraph (a), the
13 court may order the placement, at the convicted person's sole
14 expense, of an ignition interlock device approved by the
15 department in accordance with s. 316.1938 upon all vehicles that
16 are individually or jointly leased or owned and routinely
17 operated by the convicted person for not less than 6 continuous
18 months for the first offense if, at the time of the offense, the
19 person had a blood-alcohol level or breath-alcohol level of .08
20 or higher, but less than .15; had not refused to submit to a
21 lawful breath, blood, or urine test; and was not accompanied in
22 the vehicle by a person under the age of 18 years.

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

26 (i) The court may also dismiss the order of impoundment or
27 immobilization if the defendant provides proof to the
28 satisfaction of the court that a functioning, certified ignition
29 interlock device has been installed upon all vehicles that are
30 individually or jointly leased or owned and routinely operated
31 by the convicted person.

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



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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
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 Section 7. Subsection (7) of section 316.1937, Florida
53 Statutes, is amended to read:

54 316.1937 Ignition interlock devices, requiring; unlawful
55 acts.—

56 (7) Notwithstanding the provisions of this section,
57 if a person is required to operate a motor vehicle in the course
58 and scope of his or her employment and if the vehicle is owned
59 or leased by the employer, the person may operate that vehicle
60 without installation of an approved ignition interlock device if
61 the department receives notification that the employer has been
62 notified of such driving privilege restriction. Proof ~~and if~~
63 ~~proof~~ of that notification must be ~~is~~ with the vehicle. This
64 employment exemption does not apply, however, if the business
65 entity which owns the vehicle is owned or controlled by the
66 person whose driving privilege has been restricted.

67 Section 8. Section 316.1938, Florida Statutes, is amended
68 to read:



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69 316.1938 Ignition interlock devices, certification; warning
70 label.—

71 (1) The Department of Highway Safety and Motor Vehicles
72 shall certify or cause to be certified the accuracy and
73 precision of the testing ~~breath-testing~~ component of the
74 ignition interlock devices as required by s. 316.1937, and shall
75 publish a list of approved devices, together with rules
76 governing the accuracy and precision of the testing ~~breath-~~
77 ~~testing~~ component of such devices as adopted by rule in
78 compliance with s. 316.1937. The cost of certification shall be
79 borne by the manufacturers of ignition interlock devices.

80 (2) No model of ignition interlock device shall be
81 certified unless it meets or exceeds current National Highway
82 Traffic Safety Administration standards ~~the accuracy~~
83 ~~requirements specified by rule of the department.~~

84 (3) Providers of ignition interlock devices and services
85 whose devices have been certified, must contract with the
86 department to become a service provider in this state. The
87 department shall contract with any provider whose devices have
88 been certified and who has made a request to be a provider in
89 this state.

90 (4)(3) The contract between the department and all service
91 providers of ignition interlock devices shall design and adopt
92 by rule include all of the following provisions:

93 (a) The effective and efficient installation and removal
94 of the ignition interlock device.

95 (b) The provision of services, inspection, and monitoring
96 of the ignition interlock device.

97 (c) A requirement for an ignition interlock device provider



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98 to electronically transmit reports to the department regarding
99 driver activity, bypass approval, compliance, client violations,
100 and other reports in a format determined by the department.

101 (d) A detailed implementation plan that outlines the steps
102 and the timeframe necessary for an ignition interlock device
103 provider to be fully operational.

104 (e) The collection and remittance of all state revenues.

105 (f) Corrective action to be taken if an ignition interlock
106 device provider is out of compliance, including penalty
107 provisions and liquidated damages.

108 (g) The provision of security protection for ignition
109 interlock devices, including, but not limited to, each device
110 being capable of recording each event and providing visual
111 evidence of any actual or attempted tampering, alteration,
112 bypass, or circumvention.

113 (h) All ignition interlock device clients who require
114 transition of services to ensure processing and continuous
115 monitoring are achieved.

116 (i) Training for service center technicians, clients, toll-
117 free help line staff, the department, and DUI programs.

118 (j) A requirement for an ignition interlock device provider
119 in each judicial circuit to maintain a service center in the
120 circuit that is readily accessible. The service center must be
121 adequately staffed and equipped to provide all ignition
122 interlock device support services.

123 (k) A transition plan for all ignition interlock device
124 providers prior to the provider leaving the circuit to ensure
125 that continuous monitoring is achieved.

126 (l) A requirement for ignition interlock device providers



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127 to have and maintain a surety bond or irrevocable letter of
128 credit in the amount of \$200,000 executed by the applicant.

129 (m) A requirement for ignition interlock device providers
130 to have and maintain before the commencement of work insurance
131 as approved by the department, including, workers compensation
132 insurance, vendor's public liability and property damage
133 insurance, and subcontractors public liability and property
134 damage insurance.

135 (n) A requirement for ignition interlock device providers
136 to maintain client information and financial records, including
137 requirements for electronic storage media formats. Such records
138 must be maintained in accordance with generally accepted
139 accounting procedures and practices, which sufficiently and
140 properly reflect all revenues and expenditures of funds. Such
141 records shall be subject to inspection, review, or audit by
142 state personnel authorized by the department.

143 (o) A warning label which shall be affixed to each
144 ignition interlock device upon installation. The label shall
145 contain a warning that any person tampering, circumventing, or
146 otherwise misusing the device is guilty of a violation of law
147 and may be subject to civil liability.

148 (p) A provision requiring the provider to replace defective
149 ignition interlock devices at no cost to the client.

150 (5) An ignition interlock device provider shall access, use
151 and maintain the confidentiality of all pertinent information
152 received under its duties as an ignition interlock device
153 provider in accordance with chapter 119, and the federal
154 Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et
155 seq.



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

And the title is amended as follows:

Delete line 23

and insert:

certain circumstances; amending s. 316.193, F.S.;
authorizing the court to order the placement of an
ignition interlock device for certain first time
offenders of driving under the influence; authorizing
the court to dismiss an order of impoundment or
immobilization as a result of driving under the
influence if the defendant provides proof to the court
of the installation of a functioning, certified
ignition interlock device upon certain vehicles;
amending s. 316.1937, F.S.; requiring certain persons
to notify the department to satisfy requirements to
operate a motor vehicle in the course and scope of
employment without installation of an approved
ignition interlock device; amending s. 316.1938, F.S.;
authorizing the department to adopt rules to implement
an ignition interlock device program; requiring an
ignition interlock device to meet or exceed certain
standards; authorizing contract authority; requiring
the department to contract with all vendors that
request certification; requiring an interlock device
provider to meet certain privacy standards; amending
s. 316.1975, F.S.;