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LEGISLATIVE ACTION

Senate

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House

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Floor: 14/WD/3R

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05/02/2014 05:04 PM

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Senator Brandes moved the following:

**Senate Amendment (with title amendment)**

Delete lines 409 - 597

and insert:

Section 5. Paragraphs (i), (j), and (k) of subsection (6) of section 316.193, Florida Statutes, are redesignated as paragraphs (j), (k), and (l), and a new paragraph (i) is added to that section, to read:

316.193 Driving under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to



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12 subsection (2), subsection (3), or subsection (4):

13 (i) The court may also dismiss the order of impoundment or  
14 immobilization if the defendant provides proof to the  
15 satisfaction of the court that a functioning, certified ignition  
16 interlock device has been installed upon all vehicles that are  
17 individually or jointly leased or owned and routinely operated  
18 by the convicted person.

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

27 (k)~~(j)~~ The person who owns a vehicle that is impounded or  
28 immobilized under this paragraph, or a person who has a lien of  
29 record against such a vehicle and who has not requested a review  
30 of the impoundment pursuant to paragraph (e), paragraph (f), or  
31 paragraph (g), may, within 10 days after the date that person  
32 has knowledge of the location of the vehicle, file a complaint  
33 in the county in which the owner resides to determine whether  
34 the vehicle was wrongfully taken or withheld from the owner or  
35 lienholder. Upon the filing of a complaint, the owner or  
36 lienholder may have the vehicle released by posting with the  
37 court a bond or other adequate security equal to the amount of  
38 the costs and fees for impoundment or immobilization, including  
39 towing or storage, to ensure the payment of such costs and fees  
40 if the owner or lienholder does not prevail. When the bond is



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41 posted and the fee is paid as set forth in s. 28.24, the clerk  
42 of the court shall issue a certificate releasing the vehicle. At  
43 the time of release, after reasonable inspection, the owner or  
44 lienholder must give a receipt to the towing or storage company  
45 indicating any loss or damage to the vehicle or to the contents  
46 of the vehicle.

47 (1) ~~(\*)~~ A defendant, in the court's discretion, may be  
48 required to serve all or any portion of a term of imprisonment  
49 to which the defendant has been sentenced pursuant to this  
50 section in a residential alcoholism treatment program or a  
51 residential drug abuse treatment program. Any time spent in such  
52 a program must be credited by the court toward the term of  
53 imprisonment.

54  
55 For the purposes of this section, any conviction for a violation  
56 of s. 327.35; a previous conviction for the violation of former  
57 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
58 previous conviction outside this state for driving under the  
59 influence, driving while intoxicated, driving with an unlawful  
60 blood-alcohol level, driving with an unlawful breath-alcohol  
61 level, or any other similar alcohol-related or drug-related  
62 traffic offense, is also considered a previous conviction for  
63 violation of this section. However, in satisfaction of the fine  
64 imposed pursuant to this section, the court may, upon a finding  
65 that the defendant is financially unable to pay either all or  
66 part of the fine, order that the defendant participate for a  
67 specified additional period of time in public service or a  
68 community work project in lieu of payment of that portion of the  
69 fine which the court determines the defendant is unable to pay.



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70 In determining such additional sentence, the court shall  
71 consider the amount of the unpaid portion of the fine and the  
72 reasonable value of the services to be ordered; however, the  
73 court may not compute the reasonable value of services at a rate  
74 less than the federal minimum wage at the time of sentencing.

75 Section 6. Subsection (7) of section 316.1937, Florida  
76 Statutes, is amended to read:

77 316.1937 Ignition interlock devices, requiring; unlawful  
78 acts.—

79 (7) Notwithstanding the provisions of this section, if a  
80 person is required to operate a motor vehicle in the course and  
81 scope of his or her employment and if the vehicle is owned or  
82 leased by the employer, the person may operate that vehicle  
83 without installation of an approved ignition interlock device if  
84 the employer has been notified of such driving privilege  
85 restriction. ~~and if~~ Proof of that notification must be ~~is~~ with  
86 the vehicle. This employment exemption does not apply, however,  
87 if the business entity which owns the vehicle is owned or  
88 controlled by the person whose driving privilege has been  
89 restricted.

90 Section 7. Section 316.1938, Florida Statutes, is amended  
91 to read:

92 316.1938 Ignition interlock devices, certification; warning  
93 label.—

94 (1) The department shall contract with a minimum of three  
95 providers, who have been selected through a competitive  
96 procurement process pursuant to s. 287.057, needed to implement  
97 the ignition interlock requirements of this chapter and chapter  
98 322. Such contract shall be at no cost to the state. The



99 contract between the department and the selected providers of  
100 ignition interlock devices shall be for a term of five years.  
101 The department is authorized to adopt rules to implement the  
102 ignition interlock requirements of this chapter and chapter 322.  
103 Such rules may include, but shall not be limited to, medical  
104 waivers, specifications for such devices, and their approval,  
105 installation, removal, servicing, and monitoring. ~~The Department~~  
106 ~~of Highway Safety and Motor Vehicles shall certify or cause to~~  
107 ~~be certified the accuracy and precision of the breath-testing~~  
108 ~~component of the ignition interlock devices as required by s.~~  
109 ~~316.1937, and shall publish a list of approved devices, together~~  
110 ~~with rules governing the accuracy and precision of the breath-~~  
111 ~~testing component of such devices as adopted by rule in~~  
112 ~~compliance with s. 316.1937. The cost of certification shall be~~  
113 ~~borne by the manufacturers of ignition interlock devices.~~

114 (2) Ignition interlock devices required by this chapter and  
115 chapter 322 shall conform to specification of the rules or  
116 contracts of the department. ~~No model of ignition interlock~~  
117 ~~device shall be certified unless it meets the accuracy~~  
118 ~~requirements specified by rule of the department.~~

119 (3) ~~The department shall design and adopt by rule A warning~~  
120 ~~label must ~~which shall~~ be affixed to each ignition interlock~~  
121 ~~device upon installation. The label must ~~shall~~ contain a warning~~  
122 ~~that any person who tampers with, circumvents, tampering,~~  
123 ~~circumventing, or otherwise misuses ~~misusing~~ the device commits~~  
124 ~~is guilty of a violation of law and may be subject to civil~~  
125 ~~liability.~~

126  
127 ===== T I T L E A M E N D M E N T =====



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128 And the title is amended as follows:  
129       Delete lines 21 - 43  
130 and insert:  
131       the roadside; amending s. 316.193, F.S.; authorizing  
132       the court to dismiss the order of impoundment or  
133       immobilization under certain circumstances; amending  
134       s. 316.1937, F.S.; revising provisions relating to the  
135       authority to operate a vehicle without installation of  
136       an approved ignition interlock device; amending s.  
137       316.1938, F.S.; requiring the Department of Highway  
138       Safety and Motor Vehicles to contract with certain  
139       providers of ignition interlock devices; specifying  
140       contract years; authorizing the department to adopt  
141       rules; requiring ignition interlock devices to conform  
142       to department rules; specifying a warning label  
143       requirement; amending s. 316.1975, F.S.;