



462752

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2016	.	
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Appropriations Subcommittee on Transportation, Tourism, and  
Economic Development (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 191 - 373

and insert:

Section 4. Subsection (2), present paragraph (j) of  
subsection (6), and subsection (11) of section 316.193, Florida  
Statutes, are amended, present paragraphs (k), (l), and (m) of  
subsection (6) are redesignated as paragraphs (j), (k), and (l),  
respectively, and subsections (15) and (16) are added to that  
section, to read:



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11           316.193 Driving under the influence; penalties.-  
12           (2) (a) Except as provided in paragraph (b), subsection (3),  
13 or subsection (4), any person who is convicted of a violation of  
14 subsection (1) shall be punished:  
15           1. By a fine of:  
16           a. Not less than \$500 or more than \$1,000 for a first  
17 conviction.  
18           b. Not less than \$1,000 or more than \$2,000 for a second  
19 conviction; and  
20           2. By imprisonment for:  
21           a. Not more than 6 months for a first conviction.  
22           b. Not more than 9 months for a second conviction.  
23           3. For a second conviction, by mandatory placement for a  
24 period of at least 1 year, at the convicted person's sole  
25 expense, of an ignition interlock device approved by the  
26 department in accordance with s. 316.1938 upon all vehicles that  
27 are individually or jointly leased or owned and routinely  
28 operated by the convicted person, when the convicted person  
29 qualifies for a permanent or restricted license. Effective  
30 October 1, 2016, the court in the Fourth Judicial Circuit may  
31 order an offender to participate in a qualified sobriety and  
32 drug monitoring program, as defined in subsection (15) and  
33 authorized by 23 U.S.C. s. 164, under the pilot program in  
34 subsection (16), as an alternative to the placement of an  
35 ignition interlock device required by this section ~~The~~  
36 ~~installation of such device may not occur before July 1, 2003.~~  
37           (b)1. Any person who is convicted of a third violation of  
38 this section for an offense that occurs within 10 years after a  
39 prior conviction for a violation of this section commits a



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40 felony of the third degree, punishable as provided in s.  
41 775.082, s. 775.083, or s. 775.084. In addition, the court shall  
42 order the mandatory placement for a period of not less than 2  
43 years, at the convicted person's sole expense, of an ignition  
44 interlock device approved by the department in accordance with  
45 s. 316.1938 upon all vehicles that are individually or jointly  
46 leased or owned and routinely operated by the convicted person,  
47 when the convicted person qualifies for a permanent or  
48 restricted license. Effective October 1, 2016, the court in the  
49 Fourth Judicial Circuit may order an offender to participate in  
50 a qualified sobriety and drug monitoring program, as defined in  
51 subsection (15) and authorized by 23 U.S.C. s. 164, under the  
52 pilot program in subsection (16), as an alternative to the  
53 placement of an ignition interlock device required by this  
54 section ~~The installation of such device may not occur before~~  
55 ~~July 1, 2003.~~

56 2. Any person who is convicted of a third violation of this  
57 section for an offense that occurs more than 10 years after the  
58 date of a prior conviction for a violation of this section shall  
59 be punished by a fine of not less than \$2,000 or more than  
60 \$5,000 and by imprisonment for not more than 12 months. In  
61 addition, the court shall order the mandatory placement for a  
62 period of at least 2 years, at the convicted person's sole  
63 expense, of an ignition interlock device approved by the  
64 department in accordance with s. 316.1938 upon all vehicles that  
65 are individually or jointly leased or owned and routinely  
66 operated by the convicted person, when the convicted person  
67 qualifies for a permanent or restricted license. Effective  
68 October 1, 2016, the court in the Fourth Judicial Circuit may



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69 order an offender to participate in a qualified sobriety and  
70 drug monitoring program, as defined in subsection (15) and  
71 authorized by 23 U.S.C. s. 164, under the pilot program in  
72 subsection (16), as an alternative to the placement of an  
73 ignition interlock device required by this section ~~The~~  
74 ~~installation of such device may not occur before July 1, 2003.~~

75         3. Any person who is convicted of a fourth or subsequent  
76 violation of this section, regardless of when any prior  
77 conviction for a violation of this section occurred, commits a  
78 felony of the third degree, punishable as provided in s.  
79 775.082, s. 775.083, or s. 775.084. However, the fine imposed  
80 for such fourth or subsequent violation may be not less than  
81 \$2,000.

82         (c) In addition to the penalties in paragraph (a), the  
83 court may order placement, at the convicted person's sole  
84 expense, of an ignition interlock device approved by the  
85 department in accordance with s. 316.1938 for at least 6  
86 continuous months upon all vehicles that are individually or  
87 jointly leased or owned and routinely operated by the convicted  
88 person if, at the time of the offense, the person had a blood-  
89 alcohol level or breath-alcohol level of .08 or higher.

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

93         ~~(j)1. Notwithstanding the provisions of this section, s.~~  
94 ~~316.1937, and s. 322.2715 relating to ignition interlock devices~~  
95 ~~required for second or subsequent offenders, in order to~~  
96 ~~strengthen the pretrial and posttrial options available to~~  
97 ~~prosecutors and judges, the court may order, if deemed~~



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98 ~~appropriate, that a person participate in a qualified sobriety~~  
99 ~~and drug monitoring program, as defined in subparagraph 2., in~~  
100 ~~addition to the ignition interlock device requirement.~~  
101 ~~Participation shall be at the person's sole expense.~~

102 ~~2. As used in this paragraph, the term "qualified sobriety~~  
103 ~~and drug monitoring program" means an evidence-based program,~~  
104 ~~approved by the department, in which participants are regularly~~  
105 ~~tested for alcohol and drug use. As the court deems appropriate,~~  
106 ~~the program may monitor alcohol or drugs through one or more of~~  
107 ~~the following modalities: breath testing twice a day; continuous~~  
108 ~~transdermal alcohol monitoring in cases of hardship; or random~~  
109 ~~blood, breath, urine, or oral fluid testing. Testing modalities~~  
110 ~~that provide the best ability to sanction a violation as close~~  
111 ~~in time as reasonably feasible to the occurrence of the~~  
112 ~~violation should be given preference. This paragraph does not~~  
113 ~~preclude a court from ordering an ignition interlock device as a~~  
114 ~~testing modality.~~

115 ~~3. For purposes of this paragraph, the term "evidence-based~~  
116 ~~program" means a program that satisfies the requirements of at~~  
117 ~~least two of the following:~~

118 ~~a. The program is included in the federal registry of~~  
119 ~~evidence-based programs and practices.~~

120 ~~b. The program has been reported in a peer-reviewed journal~~  
121 ~~as having positive effects on the primary targeted outcome.~~

122 ~~c. The program has been documented as effective by informed~~  
123 ~~experts and other sources.~~

124

125 For the purposes of this section, any conviction for a violation  
126 of s. 327.35; a previous conviction for the violation of former



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127 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
128 previous conviction outside this state for driving under the  
129 influence, driving while intoxicated, driving with an unlawful  
130 blood-alcohol level, driving with an unlawful breath-alcohol  
131 level, or any other similar alcohol-related or drug-related  
132 traffic offense, is also considered a previous conviction for  
133 violation of this section. However, in satisfaction of the fine  
134 imposed pursuant to this section, the court may, upon a finding  
135 that the defendant is financially unable to pay either all or  
136 part of the fine, order that the defendant participate for a  
137 specified additional period of time in public service or a  
138 community work project in lieu of payment of that portion of the  
139 fine which the court determines the defendant is unable to pay.  
140 In determining such additional sentence, the court shall  
141 consider the amount of the unpaid portion of the fine and the  
142 reasonable value of the services to be ordered; however, the  
143 court may not compute the reasonable value of services at a rate  
144 less than the federal minimum wage at the time of sentencing.

145 (11) The Department of Highway Safety and Motor Vehicles is  
146 directed to adopt rules providing for the implementation of the  
147 use of ignition interlock devices and qualified sobriety and  
148 drug monitoring programs, as defined in subsection (15), to be  
149 used in the pilot program under subsection (16).

150 (15) As used in this section, the term:

151 (a) "Qualified sobriety and drug monitoring program" means  
152 an evidence-based program approved by the department which  
153 authorizes a court or an agency with jurisdiction, as a  
154 condition of bond, sentence, probation, parole, or restricted  
155 driving privileges, to require a person who was arrested for,



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156 pleaded guilty to, or was convicted of driving under the  
157 influence of alcohol or drugs to be regularly tested for alcohol  
158 and drug use. As the court deems appropriate, the program shall  
159 monitor alcohol or drugs through one or more of the following  
160 modalities: breath testing twice a day at a testing location;  
161 continuous transdermal alcohol monitoring via an electronic  
162 monitoring device; random blood, breath, or urine testing; or  
163 drug patch or oral fluid testing. Testing modalities that  
164 provide the best ability to detect a violation as close in time  
165 as reasonably feasible to the occurrence of the violation should  
166 be given preference. Participation shall be at the person's sole  
167 expense.

168 (b) "Evidence-based program" means a program that satisfies  
169 the requirements of at least two of the following:

170 1. The program is included in the federal registry of  
171 evidence-based programs and practices.

172 2. The program has been reported in a peer-reviewed journal  
173 as having positive effects on the primary targeted outcome.

174 3. The program has been documented as effective by informed  
175 experts and other sources.

176 (16) The Fourth Judicial Circuit, in coordination with the  
177 department, shall implement a qualified sobriety and drug  
178 monitoring pilot program effective October 1, 2016, for offenses  
179 where an ignition interlock device is mandated under  
180 subparagraphs (2) (a)3., (2) (b)1., and (2) (b)2. The Fourth  
181 Judicial Circuit may order a qualified sobriety and drug  
182 monitoring program, as defined in subsection (15) and authorized  
183 by 23 U.S.C. s. 164, as an alternative to the ignition interlock  
184 device. The Fourth Judicial Circuit shall provide a report on



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185 the results of the pilot program to the Governor, the President  
186 of the Senate, and the Speaker of the House of Representatives  
187 by March 1, 2018.

188  
189 ===== T I T L E A M E N D M E N T =====

190 And the title is amended as follows:

191 Delete lines 15 - 26

192 and insert:

193 certain tasks on the roadside; amending s. 316.193,  
194 F.S.; authorizing, as of a specified date, a specified  
195 court to order a certain qualified sobriety and drug  
196 monitoring program under a specified pilot program as  
197 an alternative to the placement of an ignition  
198 interlock device; deleting obsolete provisions;  
199 deleting provisions relating to a qualified sobriety  
200 and drug monitoring program; directing the department  
201 to adopt rules providing for the implementation of the  
202 use of certain qualified sobriety and drug monitoring  
203 programs; redefining the term "qualified sobriety and  
204 drug monitoring program"; creating a qualified  
205 sobriety and drug monitoring pilot program effective  
206 on a specified date, subject to certain requirements;  
207 requiring a specified court to provide a report to the  
208 Governor and the Legislature by a specified date;  
209 amending s.