

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Plakon offered the following:

Amendment (with title amendment)

Between lines 1284 and 1285, insert:

Section 35. Paragraph (e) is added to subsection (14) of section 316.193, Florida Statutes, to read:

316.193 Driving under the influence; penalties.-

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

(e) "Conviction" means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

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13 Section 36. Subsection (2) of section 316.1937, Florida
14 Statutes, is amended to read:

15 316.1937 Ignition interlock devices, requiring; unlawful
16 acts.—

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

19 (a) Stipulate on the record the requirement for, and the
20 period of, the use of a certified ignition interlock device.

21 (b) Order that the records of the department reflect such
22 requirement.

23 (c) Order, at no cost to the state, that an ignition
24 interlock device be installed, as the court may determine
25 necessary, on any vehicle owned or operated by the person.

26 (d) ~~Determine the person's ability to pay for installation~~
27 ~~of the device~~ If the person claims inability to pay, require an
28 ignition interlock provider to provide the following discounts
29 on the monthly leasing fee as follows:

30 1. If a person's family income is at or below 100 percent
31 of the federal poverty level as documented by written order of
32 the court, the regular monthly leasing fee charged to all
33 customers using the interlock device shall be discounted by 50
34 percent.

35 2. If the person's family income is at or below 149
36 percent of the federal poverty level as documented by written
37 order of the court, the regular monthly leasing fee charged to

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38 all customers using the interlock device shall be discounted by
39 25 percent.

40 3. A person who qualifies for a reduced fee pursuant to
41 this paragraph shall not be required to pay the costs for
42 installation or deinstallation of ~~If the court determines that~~
43 ~~the person is unable to pay for installation of the device, the~~
44 ~~court may order that any portion of a fine paid by the person~~
45 ~~for a violation of s. 316.193 shall be allocated to defray the~~
46 ~~costs of installing the device.~~

47 (e) Require proof of installation of the device and
48 periodic reporting to the department for verification of the
49 operation of the device in the person's vehicle.

50 Section 37. Section 316.656, Florida Statutes, is amended
51 to read:

52 316.656 Mandatory adjudication; prohibition against
53 accepting plea to lesser included offense; exceptions.—

54 (1) Notwithstanding the provisions of s. 948.01, no court
55 may suspend, defer, or withhold adjudication of guilt or
56 imposition of sentence for any violation of s. 316.193, for
57 manslaughter resulting from the operation of a motor vehicle, or
58 for vehicular homicide, except under the following
59 circumstances:

60 (a) Upon agreement by the state attorney, the court may
61 withhold adjudication of guilt for a first offense second degree
62 misdemeanor violation of s. 316.193 if such person did not

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63 violate s. 316.193(4); if, in addition to the penalties
64 prescribed in s. 316.193, the court orders installation of an
65 ignition interlock device certified by the department as
66 provided in s. 316.1938 for at least 6 continuous months upon
67 all vehicles that are routinely operated by the convicted
68 person; and if the person does not have a prior withholding of
69 adjudication or adjudication of guilt for any other criminal
70 offense. If the person fails to successfully complete the entire
71 term of the ignition interlock device program, the court must
72 order an adjudication of guilt.

73 (b) Upon agreement by the state attorney, the court may
74 withhold adjudication of guilt for a first offense second degree
75 misdemeanor violation of s. 316.193 if such person did not
76 violate s. 316.193(4); if, in addition to the penalties
77 prescribed in s. 316.193, the court orders revocation of the
78 person's driving privileges for at least 6 continuous months,
79 during which time the person participates in a qualified
80 sobriety and drug monitoring program as defined in s. 316.193;
81 and if the person does not have a prior withholding of
82 adjudication or adjudication of guilt for any other criminal
83 offense. Such person is not eligible for a restricted driver's
84 license pursuant to s. 322.271 during this period of time. If
85 the person operates a motor vehicle during the term of license
86 revocation or if the person fails to successfully complete the

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87 entire term of a qualified sobriety and drug monitoring
88 program, the court must order an adjudication of guilt.

89 (c) Notwithstanding paragraphs (a) and (b), upon
90 agreement by the state attorney, a person is eligible to
91 petition the court to enter a withhold of adjudication 5 years
92 after the date of his or her conviction for a first offense
93 second degree misdemeanor violation of s. 316.193 if such person
94 did not violate s. 316.193(4) and if the person does not have a
95 prior withholding of adjudication for any other criminal offense
96 and does not commit any additional criminal offenses for a
97 period of 5 years after the date of his or her conviction.

98
99 The disposition of an offense pursuant to paragraphs (a) and (b)
100 shall be made by the court to the department on a standard
101 format prescribed by the department.

102 (2) (a) No trial judge may accept a plea of guilty to a
103 lesser offense from a person charged under the provisions of
104 this act who has been given a breath or blood test to determine
105 blood or breath alcohol content, the results of which show a
106 blood or breath alcohol content by weight of 0.15 percent or
107 more.

108 (b) No trial judge may accept a plea of guilty to a lesser
109 offense from a person charged with a violation of s. 316.193(3),
110 manslaughter resulting from the operation of a motor vehicle, or
111 vehicular homicide.

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

Remove line 183 and insert:
requirements; amending s. 316.193, F.S.; defining the
term "conviction"; amending s. 316.1937, F.S.;
revising requirements for court-ordered installation
of an ignition interlock device; amending s. 316.656,
F.S.; authorizing a court to withhold adjudication of
guilt for certain offenses under certain
circumstances; providing effective dates.