

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Koster offered the following:

Amendment (with title amendment)

Remove lines 222-599 and insert:

subject to suspension of the person's driving privilege under s. 322.2615 for 1 year, for a first refusal, unless the person agrees, instead of serving such suspension, to placement at the person's own expense of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 on all vehicles individually or jointly leased or owned or routinely operated by the person for 1 continuous year commencing from when the person qualifies for reinstatement of a permanent or restricted driver

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

14 license. This subsection applies in addition to any other
15 penalties authorized by this section. The ignition interlock
16 device placement period required by this subsection shall run
17 concurrently with any other ignition interlock device placement
18 period required by a court or the department.

19 (b) If the person agrees to the placement of an ignition
20 interlock device under paragraph (a), the person must notify the
21 department of his or her agreement to the installation of an
22 ignition interlock device and must have the ignition interlock
23 device installed in such vehicles within 10 days after the date
24 of the issuance of the notice of suspension. The department must
25 reinstate the person's driving privilege effective on the date
26 of ignition interlock device placement on such vehicles. Such
27 ignition interlock device placement must be entered on the
28 driver's record and has the same effect as entering on the
29 driver's record a suspension for failure to submit to a lawful
30 test of breath, blood, or urine. Verification of the operation
31 of the device in the person's vehicle must be periodically
32 reported to the department.

33 (c) The prohibitions and penalties provided in s.
34 316.1937(5), (6), and (8) apply during the 1-year interlock
35 device placement period to a person whose driving privilege is
36 reinstated pursuant to this subsection and to an ignition
37 interlock device required by this subsection.

38 (d) If the person who agreed to the placement of an

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

39 ignition interlock device under paragraph (a) violates the
40 prohibitions in s. 316.1937(5), (6), or (8) or fails to maintain
41 an operable ignition interlock device as required by this
42 section during the required 1-year period for ignition interlock
43 device placement, the department must suspend the person's
44 driving privilege and must restore the person's driving
45 privilege suspension from the date of violation or failure to
46 maintain an operable ignition interlock device. The suspension
47 of the person's driving privilege must continue for the
48 remainder of the 1-year suspension that commenced upon notice of
49 suspension of the person's driving privilege under s. 322.2615.
50 If the department restores the person's driving privilege
51 suspension under this paragraph, 30 days must elapse after the
52 restoration before the person is eligible for a restricted
53 license for business or employment purposes for the remainder of
54 the 1-year suspension. The restoration of the person's driving
55 privilege suspension under this paragraph is not subject to s.
56 322.2615 or chapter 120.

57 (2)~~(1)~~ A person who has refused to submit to a chemical or
58 physical test of his or her breath or urine, as described in s.
59 316.1932, and whose driving privilege was previously suspended
60 or who was previously fined under s. 327.35215 for a prior
61 refusal to submit to a lawful test of his or her breath, urine,
62 or blood required under this chapter or chapter 327, and:

63 (a) Who the arresting law enforcement officer had probable

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

64 cause to believe was driving or in actual physical control of a
65 motor vehicle in this state while under the influence of
66 alcoholic beverages, chemical substances, or controlled
67 substances;

68 (b) Who was placed under lawful arrest for a violation of
69 s. 316.193 unless such test was requested pursuant to s.
70 316.1932(1)(c);

71 (c) Who was informed that, if he or she refused to submit
72 to such test, his or her privilege to operate a motor vehicle
73 would be suspended for a period of 1 year or, in the case of a
74 second or subsequent refusal, for a period of 18 months;

75 (d) Who was informed that a refusal to submit to a lawful
76 test of his or her breath or urine, if his or her driving
77 privilege has been previously suspended or if he or she has
78 previously been fined under s. 327.35215 for a prior refusal to
79 submit to a lawful test of his or her breath, urine, or blood as
80 required under this chapter or chapter 327, is a misdemeanor of
81 the first degree, punishable as provided in s. 775.082 or s.
82 775.083, in addition to any other penalties provided by law; and

83 (e) Who, after having been so informed, refused to submit
84 to any such test when requested to do so by a law enforcement
85 officer or correctional officer

86
87 commits a misdemeanor of the first degree and is subject to
88 punishment as provided in s. 775.082 or s. 775.083.

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

89 ~~(3)-(2)~~ The disposition of any administrative proceeding
90 that relates to the suspension of a person's driving privilege
91 does not affect a criminal action under subsection (2) ~~this~~
92 ~~section~~.

93 ~~(4)-(3)~~ The disposition of a criminal action under
94 subsection (2) ~~this section~~ does not affect any administrative
95 proceeding that relates to the suspension of a person's driving
96 privilege. The department's records showing that a person's
97 license has been previously suspended for a prior refusal to
98 submit to a lawful test of his or her breath, urine, or blood is
99 ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable
100 presumption of such suspension.

101 (5) The department must annually post on its website the
102 number of drivers who for the first time refuse to submit to a
103 test required by s. 316.1932 and the number of such drivers who
104 choose to serve the 1-year suspension without obtaining a
105 license for business or employment purposes, choose to obtain a
106 license for business or employment purposes during the 1-year
107 suspension, or agree to the placement of an ignition interlock
108 device under paragraph (1)(a) instead of serving a 1-year
109 suspension of his or her driving privilege. The department must
110 also include the number of drivers who request formal or
111 informal review of the suspension for first time refusals of a
112 lawful breath test and the number of such drivers who obtain a
113 license for business or employment purposes or whose suspension

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

114 is not sustained.

115 Section 3. Subsections (1) and (3), paragraph (a) of
116 subsection (10), and paragraph (b) of subsection (14) of section
117 322.2615, Florida Statutes, are amended to read:

118 322.2615 Suspension of license; right to review.—

119 (1)(a) A law enforcement officer or correctional officer
120 shall, on behalf of the department, suspend the driving
121 privilege of a person who is driving or in actual physical
122 control of a motor vehicle and who has an unlawful blood-alcohol
123 level or breath-alcohol level of 0.08 or higher, or of a person
124 who has refused to submit to a urine test or a test of his or
125 her breath-alcohol or blood-alcohol level. The officer shall
126 take the person's driver license and issue the person a 10-day
127 temporary permit if the person is otherwise eligible for the
128 driving privilege and shall issue the person a notice of
129 suspension. If a blood test has been administered, the officer
130 or the agency employing the officer shall transmit such results
131 to the department within 5 days after receipt of the results. If
132 the department then determines that the person had a blood-
133 alcohol level or breath-alcohol level of 0.08 or higher, the
134 department shall suspend the person's driver license pursuant to
135 subsection (3).

136 (b) The suspension under paragraph (a) shall be pursuant
137 to, and the notice of suspension shall inform the driver of, the
138 following:

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

139 1.a. The driver refused to submit to a lawful breath,
140 blood, or urine test and his or her driving privilege is
141 suspended for ~~a period of~~ 1 year for a first refusal unless,
142 instead of serving such suspension for a first refusal of a
143 breath test, the driver agrees to placement, at his or her own
144 expense, of an ignition interlock device under s. 316.1939(1),
145 or for ~~a period of~~ 18 months if his or her driving privilege has
146 been previously suspended as a result of a refusal to submit to
147 such a test; or

148 b. The driver was driving or in actual physical control of
149 a motor vehicle and had an unlawful blood-alcohol level or
150 breath-alcohol level of 0.08 or higher and his or her driving
151 privilege is suspended for ~~a period of~~ 6 months for a first
152 offense or for ~~a period of~~ 1 year if his or her driving
153 privilege has been previously suspended under this section.

154 2. The suspension period shall commence on the date of
155 issuance of the notice of suspension.

156 3. The driver may request a formal or informal review of
157 the suspension by the department within 10 days after the date
158 of issuance of the notice of suspension or may request a review
159 of eligibility for a restricted driving privilege under s.
160 322.271(7).

161 4. A driver who requests a formal or informal review of
162 the suspension for a first-time refusal of a lawful breath test
163 waives the privilege to agree to the placement of an ignition

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

164 interlock device pursuant to s. 316.1939(1).

165 ~~5.4.~~ The temporary permit issued at the time of suspension
166 expires at midnight of the 10th day following the date of
167 issuance of the notice of suspension.

168 ~~6.5.~~ The driver may submit to the department any materials
169 relevant to the suspension.

170 (3) If the department determines that the license should
171 be suspended pursuant to this section and if the notice of
172 suspension has not already been served upon the person by a law
173 enforcement officer or correctional officer as provided in
174 subsection (1), the department shall issue a notice of
175 suspension and, unless the notice is mailed pursuant to s.
176 322.251, a temporary permit that expires 10 days after the date
177 of issuance if the driver is otherwise eligible. The notice
178 shall also inform the driver that his or her driving privilege
179 is suspended unless, instead of serving such suspension, the
180 driver agrees to placement of an ignition interlock device
181 pursuant to s. 316.1939(1).

182 (10) A person whose driver license is suspended under
183 subsection (1) or subsection (3) may apply for issuance of a
184 license for business or employment purposes only if the person
185 is otherwise eligible for the driving privilege pursuant to s.
186 322.271.

187 (a) If the suspension of the driver license of the person
188 for failure to submit to a breath, urine, or blood test is

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

189 sustained, the person is not eligible to receive a license for
190 business or employment purposes only, pursuant to s. 322.271,
191 until 90 days have elapsed after the expiration of the last
192 temporary permit issued and the person has had an ignition
193 interlock device approved by the department in accordance with
194 s. 316.1938 installed for 1 continuous year, at the person's own
195 expense, on all vehicles that he or she individually or jointly
196 leases or owns or routinely operates. If the driver is not
197 issued a 10-day permit pursuant to this section or s. 322.64
198 because he or she is ineligible for the permit and the
199 suspension for failure to submit to a breath, urine, or blood
200 test is not invalidated by the department, the driver is not
201 eligible to receive a business or employment license pursuant to
202 s. 322.271 until 90 days have elapsed from the date of the
203 suspension and has had an ignition interlock device approved by
204 the department in accordance with s. 316.1938 installed for 1
205 continuous year, at the person's own expense, on all vehicles
206 that he or she individually or jointly leases or owns or
207 routinely operates.

208 (14)

209 (b) The disposition of any related criminal proceedings
210 does not affect a suspension or ignition interlock device
211 placement for refusal to submit to a blood, breath, or urine
212 test imposed under this section.

213 Section 4. Subsections (2) and (4), paragraph (b) of

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

214 subsection (8), and subsections (11) and (15) of section
215 322.2616, Florida Statutes, are amended to read:

216 322.2616 Suspension of license; persons under 21 years of
217 age; right to review.—

218 (2)(a) A law enforcement officer or correctional officer
219 shall, on behalf of the department, suspend the driving
220 privilege of such person if the person has a blood-alcohol or
221 breath-alcohol level of 0.02 or higher. The officer shall also
222 suspend, on behalf of the department, the driving privilege of a
223 person who has refused to submit to a test as provided by
224 paragraph (b). The officer shall take the person's driver
225 license and issue the person a 10-day temporary driving permit
226 if the person is otherwise eligible for the driving privilege
227 and shall issue the person a notice of suspension.

228 (b) The suspension under paragraph (a) must be pursuant
229 to, and the notice of suspension must inform the driver of, the
230 following:

231 1.a. The driver refused to submit to a lawful breath test
232 and his or her driving privilege is suspended for ~~a period of 1~~
233 year for a first refusal unless, instead of serving such
234 suspension, the driver agrees to placement, at his or her own
235 expense, of an ignition interlock device approved by the
236 department in accordance with s. 316.1938 for 1 continuous year
237 on all vehicles that he or she individually or jointly leases or
238 owns or routinely operates, or for ~~a period of~~ 18 months if his

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

239 or her driving privilege has been previously suspended as
240 provided in this section as a result of a refusal to submit to a
241 test; or

242 b. The driver was under the age of 21 and was driving or
243 in actual physical control of a motor vehicle while having a
244 blood-alcohol or breath-alcohol level of 0.02 or higher; and the
245 person's driving privilege is suspended for ~~a period of~~ 6 months
246 for a first violation, or for ~~a period of~~ 1 year if his or her
247 driving privilege has been previously suspended as provided in
248 this section for driving or being in actual physical control of
249 a motor vehicle with a blood-alcohol or breath-alcohol level of
250 0.02 or higher.

251 2. The suspension period commences on the date of issuance
252 of the notice of suspension.

253 3. The driver may request a formal or informal review of
254 the suspension by the department within 10 days after the
255 issuance of the notice of suspension.

256 4. A driver who requests a formal or informal review of
257 the suspension for a first-time refusal of a lawful breath test
258 waives the privilege to agree to the placement, at his or her
259 own expense, of a department-approved ignition interlock device
260 for 1 year on all vehicles that he or she individually or
261 jointly leases or owns or routinely operates.

262 5. If the driver agrees to the placement, at his or her
263 own expense, of a department-approved ignition interlock device

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

264 for 1 year on all vehicles that he or she individually or
265 jointly leases or owns or routinely operates instead of serving
266 a 1-year driving privilege suspension for a first-time refusal
267 of a lawful breath test, the driver must notify the department
268 of his or her agreement to the installation of an ignition
269 interlock device and must have the ignition interlock device
270 installed in such vehicles within 10 days after the date of the
271 issuance of the notice of suspension. Such ignition interlock
272 device placement will be entered on the driver's record and will
273 have the same effect as entering on the driver's record a
274 suspension for failure to submit to a lawful test of blood-
275 alcohol or breath-alcohol.

276 6. If the driver who agreed to the placement, at his or
277 her own expense, of a department-approved ignition interlock
278 device for 1 year on all vehicles that he or she individually or
279 jointly leases or owns or routinely operates instead of serving
280 a 1-year driving privilege suspension for a first-time refusal
281 of a lawful breath test violates the prohibitions in s.
282 316.1937(5), (6), or (8) or fails to maintain an operable
283 ignition interlock device during the required 1-year period for
284 ignition interlock device placement, the department must suspend
285 the person's driving privilege and must restore the person's
286 driving privilege suspension from the date of violation or
287 failure to maintain an operable ignition interlock device. The
288 suspension of the person's driving privilege must continue for

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

289 the remainder of the 1-year suspension that commenced upon
290 notice of suspension of the person's driving privilege. If the
291 department restores the person's driving privilege suspension,
292 30 days must elapse before the person is eligible for a
293 restricted license for business or employment purposes for the
294 remainder of the 1-year suspension. The restoration of the
295 person's driving privilege suspension under this subparagraph is
296 not subject to s. 322.2615 or chapter 120.

297 ~~7.4.~~ A temporary permit issued at the time of the issuance
298 of the notice of suspension shall not become effective until
299 after 12 hours have elapsed and will expire at midnight of the
300 10th day following the date of issuance.

301 ~~8.5.~~ The driver may submit to the department any materials
302 relevant to the suspension of his or her license.

303 (c) When a driver subject to this section has a blood-
304 alcohol or breath-alcohol level of 0.05 or higher, the
305 suspension shall remain in effect until such time as the driver
306 has completed a substance abuse course offered by a DUI program
307 licensed by the department. The driver shall assume the
308 reasonable costs for the substance abuse course. As part of the
309 substance abuse course, the program shall conduct a substance
310 abuse evaluation of the driver, and notify the parents or legal
311 guardians of drivers under the age of 19 years of the results of
312 the evaluation. The term "substance abuse" means the abuse of
313 alcohol or any substance named or described in Schedules I

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

314 through V of s. 893.03. If a driver fails to complete the
315 substance abuse education course and evaluation, the driver
316 license shall not be reinstated by the department.

317 (d) A minor under the age of 18 years proven to be driving
318 with a blood-alcohol or breath-alcohol level of 0.02 or higher
319 may be taken by a law enforcement officer to the addictions
320 receiving facility in the county in which the minor is found to
321 be so driving, if the county makes the addictions receiving
322 facility available for such purpose.

323 (4) If the department finds that the license of the person
324 should be suspended under this section and if the notice of
325 suspension has not already been served upon the person by a law
326 enforcement officer or correctional officer as provided in
327 subsection (2), the department shall issue a notice of
328 suspension and, unless the notice is mailed under s. 322.251, a
329 temporary driving permit that expires 10 days after the date of
330 issuance if the driver is otherwise eligible. The notice shall
331 also inform the driver that his or her driving privilege is
332 suspended unless, instead of serving such suspension, the driver
333 agrees to placement of an ignition interlock device pursuant to
334 s. 316.1939(1).

335 (8) In a formal review hearing under subsection (7) or an
336 informal review hearing under subsection (5), the hearing
337 officer shall determine by a preponderance of the evidence
338 whether sufficient cause exists to sustain, amend, or invalidate

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

339 the suspension. The scope of the review is limited to the
340 following issues:

341 (b) If the license was suspended because of the
342 individual's refusal to submit to a breath test:

343 1. Whether the law enforcement officer had probable cause
344 to believe that the person was under the age of 21 and was
345 driving or in actual physical control of a motor vehicle in this
346 state with any blood-alcohol or breath-alcohol level or while
347 under the influence of alcoholic beverages.

348 2. Whether the person was under the age of 21.

349 3. Whether the person refused to submit to a breath test
350 after being requested to do so by a law enforcement officer or
351 correctional officer.

352 4. Whether the person was told that if he or she refused
353 to submit to a breath test his or her privilege to operate a
354 motor vehicle would be suspended for a period of 1 year unless
355 the driver agreed to placement, at his or her own expense, of a
356 department-approved ignition interlock device for 1 continuous
357 year on all vehicles that he or she individually or jointly
358 leases or owns or routinely operates, or, in the case of a
359 second or subsequent refusal, for a period of 18 months.

360 (11) A person whose driver license is suspended under
361 subsection (2) or subsection (4) may apply for issuance of a
362 license for business or employment purposes only, pursuant to s.
363 322.271, if the person is otherwise eligible for the driving

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

364 privilege. However, such a license may not be issued until 30
365 days have elapsed after the expiration of the last temporary
366 driving permit issued under this section and, if the suspension
367 is for a first-time refusal of a breath test and such suspension
368 is affirmed in a formal or informal hearing, such person must
369 have an ignition interlock device installed as approved by the
370 department in the same manner as devices approved by the
371 department in accordance with s. 316.1938 for 1 year on all
372 vehicles that he or she individually or jointly leases or owns
373 or routinely operates.

374 (15) The decision of the department under this section
375 shall not be considered in any trial for a violation of s.
376 316.193, nor shall any written statement submitted by a person
377 in his or her request for departmental review under this section
378 be admissible into evidence against him or her in any such
379 trial. The disposition of any related criminal proceedings shall
380 not affect a suspension or ignition interlock device placement
381 imposed under this section.

382 Section 5. Present subsection (5) of section 322.2715,
383 Florida Statutes, is redesignated as subsection (6), a new
384 subsection (5) is added to that section, and subsection (1) of
385 that section is amended, to read:

386 322.2715 Ignition interlock device.—

387 (1) Before issuing a permanent or restricted driver
388 license under this chapter, the department shall require the

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

389 placement of a department-approved ignition interlock device for
390 any person convicted of committing an offense of driving under
391 the influence as specified in subsection (3), or for any person
392 who refused to submit to a lawful test of his or her breath as
393 specified in subsection (5) and who chooses ignition interlock
394 device placement instead of serving a suspension of the person's
395 privilege to operate a motor vehicle for a period of 1 year,
396 except that consideration may be given to those individuals
397 having a documented medical condition that would prohibit the
398 device from functioning normally. If a medical waiver has been
399 granted for a ~~convicted~~ person seeking a restricted license, the
400 ~~convicted~~ person shall not be entitled to a restricted license
401 until the required ignition interlock device installation period
402 under subsection (3) or subsection (5) expires, in addition to
403 the time requirements under s. 322.271. If a medical waiver has
404 been approved for a ~~convicted~~ person seeking permanent
405 reinstatement of the driver license, the ~~convicted~~ person must
406 be restricted to an employment-purposes-only license and be
407 supervised by a licensed DUI program until the required ignition
408 interlock device installation period under subsection (3) or
409 subsection (5) expires. An interlock device shall be placed on
410 all vehicles that are individually or jointly leased or owned or
411 ~~and~~ routinely operated by the ~~convicted~~ person.

412 (5) If a person refused to submit to a lawful test of his
413 or her breath as required by s. 316.1932(1)(a)1.a., and it is

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

414 the first time he or she refused to submit to a lawful test of
415 his or her breath, instead of serving a suspension of the
416 person's

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

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Remove lines 24-47 and insert:

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owned or routinely operated by the person for 1

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continuous year commencing from when the person

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qualifies for reinstatement of a permanent or

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restricted driver license; providing applicability;

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authorizing certain placement periods for ignition

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interlock devices to run concurrently; requiring

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reporting to the Department of Highway Safety and

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Motor Vehicles; requiring reinstatement of the

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person's driving privilege on the date of placement;

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specifying application of prohibitions and penalties;

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requiring the department to suspend the person's

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driving privilege and restore the person's driving

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privilege suspension from the date of violation or

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failure to maintain an operable ignition interlock

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device; providing applicability; requiring the

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department to annually post on its website certain

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information; conforming provisions to changes made by

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the act; amending s. 322.2615, F.S.; requiring that a

210753

Approved For Filing: 3/5/2024 7:50:46 AM

Amendment No.

439 notice of suspension contain certain information;
440 prohibiting eligibility to receive a license until
441 certain actions are performed; providing construction;
442 amending s. 322.2616, F.S.; requiring that a notice of
443 suspension issued to persons younger than a specified
444 age contain certain information; requiring that a
445 certain notice of suspension include certain
446 information; revising the scope of a formal review
447 hearing; requiring a person to notify the department
448 of his or her agreement to the installation of an
449 ignition interlock device and have the ignition
450 interlock device installed within a certain time
451 period; requiring such placement to be entered on the
452 driver's record; requiring the department to suspend
453 the person's driving privilege and restore the
454 person's driving privilege suspension from the date of
455 violation or failure to maintain an operable ignition
456 interlock device; providing construction; amending s.

210753

Approved For Filing: 3/5/2024 7:50:46 AM