

STORAGE NAME: h1809.tr
DATE: April 5, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 1809
RELATING TO: Driver's License Suspension/DUI
SPONSOR(S): Representative Merchant
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION
 - (2) JUDICIARY
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The bill provides that a court must order the use of an ignition interlock device on the vehicle of any person placed on probation for a second or subsequent DUI offense. If the offender does not install this device, he or she will not be permitted to operate a vehicle for a period of not less than one year. The operator's blood alcohol level must not be in excess of 0.05 to start the ignition of the vehicle.

Currently, the court may, in addition to any other authorized penalties, require any person convicted of driving under the influence and who is granted probation to have an ignition interlock device installed on his or her vehicle. The device would prohibit the ignition from starting if the probationer's blood alcohol level is in excess of 0.05 percent.

The bill also:

- Makes technical changes to add "blood alcohol level" and delete the word "percent";
- Provides that the temporary permit does not take effect until 12 hours have elapsed from suspension notification;
- Clarifies that a hearing officer can sustain a second or subsequent suspension for a person under the age of 21 years;
- Provides that the results of a blood test that was obtained during an investigation pursuant to ss. 316.1932 and 316.1933, F.S., can be used for the suspension of a driver's license of a person under this section; and
- Provides civil immunity for a law enforcement officer while performing his or her duties as provided in this section.

Current law provides for the suspension of the driver's license for any person under the age of 21 years who has a blood alcohol or breath alcohol level of 0.02 percent or higher. A temporary driving permit may be issued upon suspension and is effective for 10 days. However, there is no waiting period for this temporary permit to begin to take effect.

The bill has an effective date of July 1, 2000.

The bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Section 316.1937, F.S., provides that the court may, in addition to any other authorized penalties, require any person convicted of driving under the influence and who is granted probation to have an ignition interlock device installed on his or her vehicle. The device would prohibit the ignition from starting if the probationer's blood alcohol level is in excess of 0.05 percent.

The probation officer is responsible for insuring that the device has been installed and is operating.

This section provides that it is unlawful to tamper with the device, have someone else blow into the device, or for a person to lend or lease a vehicle to anyone required to have this device installed in the vehicle. A violation of this section could result in a fine of not less than \$250 and not more than \$500.

Section 322.2616, F.S., provides for the suspension of the driver's license for any person under the age of 21 years who has a blood alcohol or breath alcohol level of 0.02 percent or higher. A temporary driving permit may be issued upon suspension and is effective for 10 days. However, there is no waiting period for this temporary permit to begin to take effect.

Current statutes do not provide for the results of a blood alcohol test to be used in the determination for suspension of a driver's license for a person under the age of 21 years. There is also no provision for civil immunity for a law enforcement officer acting in good faith in regards to blood tests in DUI cases.

C. EFFECT OF PROPOSED CHANGES:

The bill amends s. 3216.1937, F.S., to provide that a court must order the use of an ignition interlock device on the vehicle of any person placed on probation for a second or subsequent DUI offense. If the offender does not install this device, he or she will not be permitted to operate a vehicle for a period of not less than one year. The operator's blood alcohol level must not be in excess of 0.05 to start the ignition of the vehicle.

If the offender tampers with the device or drives a motor vehicle without the device, he or she, in addition to any other penalties provided in this section, will have his or her driver's license suspended for a minimum term of one year.

The bill amends s. 322.2616, F.S., to do the following:

- Make technical changes to add "blood alcohol level" and delete the word "percent";
- Provide that the temporary permit does not take effect until 12 hours have elapsed from suspension notification;
- Clarify that a hearing officer can sustain a second or subsequent suspension for a person under the age of 21 years;
- Provide that the results of a blood test that was obtained during an investigation pursuant to ss. 316.1932 and 316.1933, F.S., can be used for the suspension of a driver's license of a person under this section; and
- Provide civil immunity for a law enforcement officer while performing his or her duties as provided in this section.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The sponsor intends to offer a "Strike Everything" amendment to do the following:

- Change "blood alcohol" to "breath alcohol" in s. 316.1937, F.S., to provide conformity;
- Lower the breath alcohol level for the ignition interlock device from 0.05 to 0.02;
- Conform, for a second or subsequent DUI conviction, the period of use of the device to the period of probation ordered by the court in s. 316.193, F.S.;
- Require a 30 day review of the breath alcohol levels by the service provider of the device;
- Require that the service provider forward the data log of the breath alcohol levels for the 30 days to the offender's probation officer and DUI program;
- Delete Section 2 which amends s. 322.2616, F.S.;
- Amend s. 322.2615, F.S., relating to the suspension of a driver's license for any person, regardless of age, found to be driving under the influence; and
- Provide for the temporary permit issued at the time of arrest provided in s. 322.2615, F.S., to become effective only after 12 hours, rather than immediately, have elapsed.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

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