

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2384

SPONSOR: Transportation Committee and Senator Latvala

SUBJECT: DUI Interlock Devices

DATE: April 26, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The CS amends s. 316.1937, F.S., to lower the blood alcohol threshold at which an ignition interlock device will start a vehicle from 0.05 to 0.02, or as otherwise specified by the court. The section is further amended to provide that the court must require an offender who is convicted for a second or subsequent driving under the influence violation, and who has had his or her driving privilege reinstated on a restricted basis may not operate a vehicle unless the vehicle is equipped with a functioning ignition interlock device.

The CS requires a 30-day review of the ignition interlock device by the vendor and requires the vendor to forward the results of the review to the offender's probation officer and DUI program.

The CS 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; and
- 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.

This CS substantially amends section 316.1937, 322.2615, and 322.2616 of the Florida Statutes.

## II. Present Situation:

Section 316.193, F.S., provides penalties for driving under the influence of alcohol or drugs to the extent normal faculties are impaired, including placement of the offender on monthly reporting probation and requiring attendance at a licensed substance abuse education course. The offender can also be referred by the provider for evaluation and treatment. Completion of the course,

evaluation, or treatment, if recommended, is a condition of probation and failure to complete these requirements results in cancellation of the driving privilege. The court may waive the requirement for treatment if there is a second psychosocial evaluation recommending no treatment. The offender is responsible for paying reasonable costs of the course, evaluation, and treatment.

Subsection (1) of s. 316.1937, F.S., provides a court *may* order that a person, who has been convicted of driving under the influence in violation of s. 316.193, F.S., and is placed on probation, shall not drive any vehicle during the period of probation unless the vehicle is equipped with an ignition interlock device. The required period for use of an ignition interlock may not be less than 6 months. The device would prohibit the ignition from starting if the probationer's blood alcohol level is in excess of 0.05 percent.

The device must be paid for by the defendant (in Florida, the device plus installation costs \$500 - \$700 and the monthly maintenance fee is \$55), unless the court finds the defendant is unable to pay. In this latter instance, the trial court may order the defendant's fines be allocated to the cost of the device.

This section further 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 by any person who does not have a driver's license could result in a fine of not less than \$250 and not more than \$500. A violation of this section by any other person is a noncriminal traffic infraction, punishable as a nonmoving violation with a fine of \$36.

Section 322.271, F.S., provides that Department of Highway Safety and Motor Vehicles (DHSMV) may modify a driver's license suspension, revocation, or cancellation order following an administrative hearing. Eligibility for a temporary hardship license, depending on the circumstances, requires successful completion of, or proof of enrollment in a driver training or substance abuse education course, and may include letters of recommendation. Failure to successfully complete the course within 90 days after reinstatement results in cancellation of the hardship license.

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.

### **III. Effect of Proposed Changes:**

The CS amends s. 316.1937, F.S., to lower the blood alcohol threshold at which an ignition interlock device will start the vehicle from 0.05 to 0.02, or as otherwise specified by the court. The section is further amended to provide the court *must* require an offender, who is convicted for a second or subsequent driving under the influence violation, and who has had his or her

driving privilege reinstated on a restricted basis may not operate a vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device must be installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.02 percent or as otherwise specified by the court.

The CS amends s. 322.2615, F.S., providing that a temporary driving permit does not take effect until 12 hours have elapsed from suspension notification.

The CS further amends s. 322.2616, F.S. to:

- 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; and
- 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.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Persons convicted for a second or subsequent driving under the influence violation, and who has had his or her driving privilege reinstated on a restricted basis may not operate a vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device plus installation costs \$500 - \$700 and the monthly maintenance fee is \$55.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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