



927104

LEGISLATIVE ACTION

Senate	.	House
Comm: PEND	.	
01/27/2016	.	
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The Committee on Transportation (Simpson) recommended the following:

Senate Amendment (with title amendment)

Between lines 174 and 175

insert:

Section 4. Subsection (2), paragraph (c) of subsection (4), paragraph (j) of subsection (6), and subsection (11) of section 316.193, Florida Statutes, are amended, paragraphs (k), (l), and (m) of subsection (6) of that section are redesignated as (j), (k), and (l), respectively, and subsection (15) is 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. The
30 installation of such device may not occur before July 1, 2003.
31 Effective October 1, 2016, a qualified sobriety and drug
32 monitoring program as defined in subsection (15) and authorized
33 by 23 U.S.C. s. 164 may be ordered by the court as an
34 alternative to the placement of an ignition interlock device
35 required by this section.
36 (b)1. Any person who is convicted of a third violation of
37 this section for an offense that occurs within 10 years after a
38 prior conviction for a violation of this section commits a
39 felony of the third degree, punishable as provided in s.



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

53 2. Any person who is convicted of a third violation of this
54 section for an offense that occurs more than 10 years after the
55 date of a prior conviction for a violation of this section shall
56 be punished by a fine of not less than \$2,000 or more than
57 \$5,000 and by imprisonment for not more than 12 months. In
58 addition, the court shall order the mandatory placement for a
59 period of at least 2 years, at the convicted person's sole
60 expense, of an ignition interlock device approved by the
61 department in accordance with s. 316.1938 upon all vehicles that
62 are individually or jointly leased or owned and routinely
63 operated by the convicted person, when the convicted person
64 qualifies for a permanent or restricted license. The
65 installation of such device may not occur before July 1, 2003.
66 Effective October 1, 2016, a qualified sobriety and drug
67 monitoring program as defined in subsection (15) and authorized
68 by 23 U.S.C. s. 164 may be ordered by the court as an



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69 alternative to the placement of an ignition interlock device
70 required by this section.

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

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

86 Effective October 1, 2016, a qualified sobriety and drug
87 monitoring program as defined in subsection (15) and authorized
88 by 23 U.S.C. s. 164 may be ordered by the court as an
89 alternative to the placement of an ignition interlock device
90 required by this section.

91 (4) Any person who is convicted of a violation of
92 subsection (1) and who has a blood-alcohol level or breath-
93 alcohol level of 0.15 or higher, or any person who is convicted
94 of a violation of subsection (1) and who at the time of the
95 offense was accompanied in the vehicle by a person under the age
96 of 18 years, shall be punished:

97 (c) In addition to the penalties in paragraphs (a) and (b),



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98 the court shall order the mandatory placement, at the convicted
99 person's sole expense, of an ignition interlock device approved
100 by the department in accordance with s. 316.1938 upon all
101 vehicles that are individually or jointly leased or owned and
102 routinely operated by the convicted person for not less than 6
103 continuous months for the first offense and for not less than 2
104 continuous years for a second offense, when the convicted person
105 qualifies for a permanent or restricted license. Effective
106 October 1, 2016, a qualified sobriety and drug monitoring
107 program as defined in subsection (15) and authorized by 23
108 U.S.C. s. 164 may be ordered by the court as an alternative to
109 the placement of an ignition interlock device required by this
110 section.

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

114 ~~(j)1. Notwithstanding the provisions of this section, s.~~
115 ~~316.1937, and s. 322.2715 relating to ignition interlock devices~~
116 ~~required for second or subsequent offenders, in order to~~
117 ~~strengthen the pretrial and posttrial options available to~~
118 ~~prosecutors and judges, the court may order, if deemed~~
119 ~~appropriate, that a person participate in a qualified sobriety~~
120 ~~and drug monitoring program, as defined in subparagraph 2., in~~
121 ~~addition to the ignition interlock device requirement.~~
122 ~~Participation shall be at the person's sole expense.~~

123 ~~2. As used in this paragraph, the term "qualified sobriety~~
124 ~~and drug monitoring program" means an evidence-based program,~~
125 ~~approved by the department, in which participants are regularly~~
126 ~~tested for alcohol and drug use. As the court deems appropriate,~~



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127 ~~the program may monitor alcohol or drugs through one or more of~~
128 ~~the following modalities: breath testing twice a day; continuous~~
129 ~~transdermal alcohol monitoring in cases of hardship; or random~~
130 ~~blood, breath, urine, or oral fluid testing. Testing modalities~~
131 ~~that provide the best ability to sanction a violation as close~~
132 ~~in time as reasonably feasible to the occurrence of the~~
133 ~~violation should be given preference. This paragraph does not~~
134 ~~preclude a court from ordering an ignition interlock device as a~~
135 ~~testing modality.~~

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

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

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

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

145
146 For the purposes of this section, any conviction for a violation
147 of s. 327.35; a previous conviction for the violation of former
148 s. 316.1931, former s. 860.01, or former s. 316.028; or a
149 previous conviction outside this state for driving under the
150 influence, driving while intoxicated, driving with an unlawful
151 blood-alcohol level, driving with an unlawful breath-alcohol
152 level, or any other similar alcohol-related or drug-related
153 traffic offense, is also considered a previous conviction for
154 violation of this section. However, in satisfaction of the fine
155 imposed pursuant to this section, the court may, upon a finding



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156 that the defendant is financially unable to pay either all or
157 part of the fine, order that the defendant participate for a
158 specified additional period of time in public service or a
159 community work project in lieu of payment of that portion of the
160 fine which the court determines the defendant is unable to pay.
161 In determining such additional sentence, the court shall
162 consider the amount of the unpaid portion of the fine and the
163 reasonable value of the services to be ordered; however, the
164 court may not compute the reasonable value of services at a rate
165 less than the federal minimum wage at the time of sentencing.

166 (11) The Department of Highway Safety and Motor Vehicles is
167 directed to adopt rules providing for the implementation of the
168 use of ignition interlock devices and qualified sobriety and
169 drug monitoring programs defined in subsection (15).

170 (15) As used in this chapter and chapter 322, the term
171 "qualified sobriety and drug monitoring program" means an
172 evidence-based program, approved by the department, in which
173 participants are regularly tested for alcohol and drug use. As
174 the court deems appropriate, the program may monitor alcohol or
175 drugs through one or more of the following modalities: breath
176 testing twice a day; continuous transdermal alcohol monitoring
177 in cases of hardship; or random blood, breath, urine, drug
178 patch, or oral fluid testing. Testing modalities that detect a
179 violation as soon after it occurs as is reasonably feasible
180 should be given preference. Participation shall be at the
181 person's sole expense. The term "evidence-based program" means a
182 program that satisfies the requirements of at least two of the
183 following:

184 (a) The program is included in the federal registry of



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185 evidence-based programs and practices.

186 (b) The program has been reported in a peer-reviewed
187 journal as having positive effects on the primary targeted
188 outcome.

189 (c) The program has been documented as effective by
190 informed experts and other sources.

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

192 And the title is amended as follows:

193 Delete line 15

194 and insert:

195 certain tasks on the roadside; amending s. 316.193,
196 F.S.; authorizing the court to order a certain
197 qualified sobriety and drug monitoring program as an
198 alternative to the placement of an ignition interlock
199 device on a specified date; deleting provisions
200 relating to a qualified sobriety and drug monitoring
201 program ordered by the court in addition to the
202 ignition interlock device requirement; directing the
203 department to adopt rules providing for the
204 implementation of the use of certain qualified
205 sobriety and drug monitoring programs; redefining the
206 terms "qualified sobriety and drug monitoring program"
207 and "evidence-based program"; providing requirements
208 for the program; amending s. 316.303,