

Amendment No.

CHAMBER ACTION

Senate

House

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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 and routinely operated by the person for 1 continuous year commencing from when the person qualifies for reinstatement of a permanent or restricted

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14 driver 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

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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

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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.

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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

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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:

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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

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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

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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 and 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

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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

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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

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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

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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

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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

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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

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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

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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  
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

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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

417  
418 -----

**T I T L E   A M E N D M E N T**

419 Remove lines 24-47 and insert:  
420 owned and routinely operated by the person for 1  
421 continuous year commencing from when the person  
422 qualifies for reinstatement of a permanent or  
423 restricted driver license; providing applicability;  
424 authorizing certain placement periods for ignition  
425 interlock devices to run concurrently; requiring  
426 reporting to the Department of Highway Safety and  
427 Motor Vehicles; requiring reinstatement of the  
428 person's driving privilege on the date of placement;  
429 specifying application of prohibitions and penalties;  
430 requiring the department to suspend the person's  
431 driving privilege and restore the person's driving  
432 privilege suspension from the date of violation or  
433 failure to maintain an operable ignition interlock  
434 device; providing applicability; requiring the  
435 department to annually post on its website certain  
436 information; conforming provisions to changes made by  
437 the act; amending s. 322.2615, F.S.; requiring that a  
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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.

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