

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Koster offered the following:

2

3 **Amendment to Amendment (210753) (with title amendment)**

4 Remove lines 11-411 and insert:

5 individually or jointly leased or owned and routinely operated
6 by the person for 1 continuous year commencing from when the
7 person qualifies for reinstatement of a permanent or restricted
8 driver license. This subsection applies in addition to any other
9 penalties authorized by this section. The ignition interlock
10 device placement period required by this subsection shall run
11 concurrently with any other ignition interlock device placement
12 period required by a court or the department.

13 (b) If the person agrees to the placement of an ignition

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

27 (c) The prohibitions and penalties provided in s.
28 316.1937(5), (6), and (8) apply during the 1-year interlock
29 device placement period to a person whose driving privilege is
30 reinstated pursuant to this subsection and to an ignition
31 interlock device required by this subsection.

32 (d) If the person who agreed to the placement of an
33 ignition interlock device under paragraph (a) violates the
34 prohibitions in s. 316.1937(5), (6), or (8) or fails to maintain
35 an operable ignition interlock device as required by this
36 section during the required 1-year period for ignition interlock
37 device placement, the department must suspend the person's
38 driving privilege and must restore the person's driving

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39 privilege suspension from the date of violation or failure to
40 maintain an operable ignition interlock device. The suspension
41 of the person's driving privilege must continue for the
42 remainder of the 1-year suspension that commenced upon notice of
43 suspension of the person's driving privilege under s. 322.2615.
44 If the department restores the person's driving privilege
45 suspension under this paragraph, 30 days must elapse after the
46 restoration before the person is eligible for a restricted
47 license for business or employment purposes for the remainder of
48 the 1-year suspension. The restoration of the person's driving
49 privilege suspension under this paragraph is not subject to s.
50 322.2615 or chapter 120.

51 (2)-(1) A person who has refused to submit to a chemical or
52 physical test of his or her breath or urine, as described in s.
53 316.1932, and whose driving privilege was previously suspended
54 or who was previously fined under s. 327.35215 for a prior
55 refusal to submit to a lawful test of his or her breath, urine,
56 or blood required under this chapter or chapter 327, and:

57 (a) Who the arresting law enforcement officer had probable
58 cause to believe was driving or in actual physical control of a
59 motor vehicle in this state while under the influence of
60 alcoholic beverages, chemical substances, or controlled
61 substances;

62 (b) Who was placed under lawful arrest for a violation of
63 s. 316.193 unless such test was requested pursuant to s.

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64 316.1932(1)(c);

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

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

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

80
81 commits a misdemeanor of the first degree and is subject to
82 punishment as provided in s. 775.082 or s. 775.083.

83 ~~(3)-(2)~~ The disposition of any administrative proceeding
84 that relates to the suspension of a person's driving privilege
85 does not affect a criminal action under subsection (2) ~~this~~
86 ~~section~~.

87 ~~(4)-(3)~~ The disposition of a criminal action under
88 subsection (2) ~~this section~~ does not affect any administrative

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89 proceeding that relates to the suspension of a person's driving
90 privilege. The department's records showing that a person's
91 license has been previously suspended for a prior refusal to
92 submit to a lawful test of his or her breath, urine, or blood is
93 ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable
94 presumption of such suspension.

95 (5) The department must annually post on its website the
96 number of drivers who for the first time refuse to submit to a
97 test required by s. 316.1932 and the number of such drivers who
98 choose to serve the 1-year suspension without obtaining a
99 license for business or employment purposes, choose to obtain a
100 license for business or employment purposes during the 1-year
101 suspension, or agree to the placement of an ignition interlock
102 device under paragraph (1)(a) instead of serving a 1-year
103 suspension of his or her driving privilege. The department must
104 also include the number of drivers who request formal or
105 informal review of the suspension for first time refusals of a
106 lawful breath test and the number of such drivers who obtain a
107 license for business or employment purposes or whose suspension
108 is not sustained.

109 Section 3. Subsections (1) and (3), paragraph (a) of
110 subsection (10), and paragraph (b) of subsection (14) of section
111 322.2615, Florida Statutes, are amended to read:

112 322.2615 Suspension of license; right to review.—

113 (1) (a) A law enforcement officer or correctional officer

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

130 (b) The suspension under paragraph (a) shall be pursuant
131 to, and the notice of suspension shall inform the driver of, the
132 following:

133 1.a. The driver refused to submit to a lawful breath,
134 blood, or urine test and his or her driving privilege is
135 suspended for ~~a period of~~ 1 year for a first refusal unless,
136 instead of serving such suspension for a first refusal of a
137 breath test, the driver agrees to placement, at his or her own
138 expense, of an ignition interlock device under s. 316.1939(1),

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139 or for ~~a period of~~ 18 months if his or her driving privilege has
140 been previously suspended as a result of a refusal to submit to
141 such a test; or

142 b. The driver was driving or in actual physical control of
143 a motor vehicle and had an unlawful blood-alcohol level or
144 breath-alcohol level of 0.08 or higher and his or her driving
145 privilege is suspended for ~~a period of~~ 6 months for a first
146 offense or for ~~a period of~~ 1 year if his or her driving
147 privilege has been previously suspended under this section.

148 2. The suspension period shall commence on the date of
149 issuance of the notice of suspension.

150 3. The driver may request a formal or informal review of
151 the suspension by the department within 10 days after the date
152 of issuance of the notice of suspension or may request a review
153 of eligibility for a restricted driving privilege under s.
154 322.271(7).

155 4. A driver who requests a formal or informal review of
156 the suspension for a first-time refusal of a lawful breath test
157 waives the privilege to agree to the placement of an ignition
158 interlock device pursuant to s. 316.1939(1).

159 5.4. The temporary permit issued at the time of suspension
160 expires at midnight of the 10th day following the date of
161 issuance of the notice of suspension.

162 6.5. The driver may submit to the department any materials
163 relevant to the suspension.

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

176 (10) A person whose driver license is suspended under
177 subsection (1) or subsection (3) may apply for issuance of a
178 license for business or employment purposes only if the person
179 is otherwise eligible for the driving privilege pursuant to s.
180 322.271.

181 (a) If the suspension of the driver license of the person
182 for failure to submit to a breath, urine, or blood test is
183 sustained, the person is not eligible to receive a license for
184 business or employment purposes only, pursuant to s. 322.271,
185 until 90 days have elapsed after the expiration of the last
186 temporary permit issued and the person has had an ignition
187 interlock device approved by the department in accordance with
188 s. 316.1938 installed for 1 continuous year, at the person's own

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

202 (14)

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

207 Section 4. Subsections (2) and (4), paragraph (b) of
208 subsection (8), and subsections (11) and (15) of section
209 322.2616, Florida Statutes, are amended to read:

210 322.2616 Suspension of license; persons under 21 years of
211 age; right to review.—

212 (2)(a) A law enforcement officer or correctional officer
213 shall, on behalf of the department, suspend the driving

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

222 (b) The suspension under paragraph (a) must be pursuant
223 to, and the notice of suspension must inform the driver of, the
224 following:

225 1.a. The driver refused to submit to a lawful breath test
226 and his or her driving privilege is suspended for ~~a period of 1~~
227 year for a first refusal unless, instead of serving such
228 suspension, the driver agrees to placement, at his or her own
229 expense, of an ignition interlock device approved by the
230 department in accordance with s. 316.1938 for 1 continuous year
231 on all vehicles that he or she individually or jointly leases or
232 owns or routinely operates, or for ~~a period of~~ 18 months if his
233 or her driving privilege has been previously suspended as
234 provided in this section as a result of a refusal to submit to a
235 test; or

236 b. The driver was under the age of 21 and was driving or
237 in actual physical control of a motor vehicle while having a
238 blood-alcohol or breath-alcohol level of 0.02 or higher; and the

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239 person's driving privilege is suspended for ~~a period of~~ 6 months
240 for a first violation, or for ~~a period of~~ 1 year if his or her
241 driving privilege has been previously suspended as provided in
242 this section for driving or being in actual physical control of
243 a motor vehicle with a blood-alcohol or breath-alcohol level of
244 0.02 or higher.

245 2. The suspension period commences on the date of issuance
246 of the notice of suspension.

247 3. The driver may request a formal or informal review of
248 the suspension by the department within 10 days after the
249 issuance of the notice of suspension.

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

256 5. If the driver agrees to the placement, at his or her
257 own expense, of a department-approved ignition interlock device
258 for 1 year on all vehicles that he or she individually or
259 jointly leases or owns or routinely operates instead of serving
260 a 1-year driving privilege suspension for a first-time refusal
261 of a lawful breath test, the driver must notify the department
262 of his or her agreement to the installation of an ignition
263 interlock device and must have the ignition interlock device

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264 installed in such vehicles within 10 days after the date of the
265 issuance of the notice of suspension. Such ignition interlock
266 device placement will be entered on the driver's record and will
267 have the same effect as entering on the driver's record a
268 suspension for failure to submit to a lawful test of blood-
269 alcohol or breath-alcohol.

270 6. If the driver who agreed to the placement, at his or
271 her own expense, of a department-approved ignition interlock
272 device for 1 year on all vehicles that he or she individually or
273 jointly leases or owns or routinely operates instead of serving
274 a 1-year driving privilege suspension for a first-time refusal
275 of a lawful breath test violates the prohibitions in s.
276 316.1937(5), (6), or (8) or fails to maintain an operable
277 ignition interlock device during the required 1-year period for
278 ignition interlock device placement, the department must suspend
279 the person's driving privilege and must restore the person's
280 driving privilege suspension from the date of violation or
281 failure to maintain an operable ignition interlock device. The
282 suspension of the person's driving privilege must continue for
283 the remainder of the 1-year suspension that commenced upon
284 notice of suspension of the person's driving privilege. If the
285 department restores the person's driving privilege suspension,
286 30 days must elapse before the person is eligible for a
287 restricted license for business or employment purposes for the
288 remainder of the 1-year suspension. The restoration of the

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289 person's driving privilege suspension under this subparagraph is
290 not subject to s. 322.2615 or chapter 120.

291 ~~7.4.~~ A temporary permit issued at the time of the issuance
292 of the notice of suspension shall not become effective until
293 after 12 hours have elapsed and will expire at midnight of the
294 10th day following the date of issuance.

295 ~~8.5.~~ The driver may submit to the department any materials
296 relevant to the suspension of his or her license.

297 (c) When a driver subject to this section has a blood-
298 alcohol or breath-alcohol level of 0.05 or higher, the
299 suspension shall remain in effect until such time as the driver
300 has completed a substance abuse course offered by a DUI program
301 licensed by the department. The driver shall assume the
302 reasonable costs for the substance abuse course. As part of the
303 substance abuse course, the program shall conduct a substance
304 abuse evaluation of the driver, and notify the parents or legal
305 guardians of drivers under the age of 19 years of the results of
306 the evaluation. The term "substance abuse" means the abuse of
307 alcohol or any substance named or described in Schedules I
308 through V of s. 893.03. If a driver fails to complete the
309 substance abuse education course and evaluation, the driver
310 license shall not be reinstated by the department.

311 (d) A minor under the age of 18 years proven to be driving
312 with a blood-alcohol or breath-alcohol level of 0.02 or higher
313 may be taken by a law enforcement officer to the addictions

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314 receiving facility in the county in which the minor is found to
315 be so driving, if the county makes the addictions receiving
316 facility available for such purpose.

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

329 (8) In a formal review hearing under subsection (7) or an
330 informal review hearing under subsection (5), the hearing
331 officer shall determine by a preponderance of the evidence
332 whether sufficient cause exists to sustain, amend, or invalidate
333 the suspension. The scope of the review is limited to the
334 following issues:

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

337 1. Whether the law enforcement officer had probable cause
338 to believe that the person was under the age of 21 and was

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339 driving or in actual physical control of a motor vehicle in this
340 state with any blood-alcohol or breath-alcohol level or while
341 under the influence of alcoholic beverages.

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

343 3. Whether the person refused to submit to a breath test
344 after being requested to do so by a law enforcement officer or
345 correctional officer.

346 4. Whether the person was told that if he or she refused
347 to submit to a breath test his or her privilege to operate a
348 motor vehicle would be suspended for a period of 1 year unless
349 the driver agreed to placement, at his or her own expense, of a
350 department-approved ignition interlock device for 1 continuous
351 year on all vehicles that he or she individually or jointly
352 leases or owns or routinely operates, or⁷ in the case of a
353 second or subsequent refusal, for a period of 18 months.

354 (11) A person whose driver license is suspended under
355 subsection (2) or subsection (4) may apply for issuance of a
356 license for business or employment purposes only, pursuant to s.
357 322.271, if the person is otherwise eligible for the driving
358 privilege. However, such a license may not be issued until 30
359 days have elapsed after the expiration of the last temporary
360 driving permit issued under this section and, if the suspension
361 is for a first-time refusal of a breath test and such suspension
362 is affirmed in a formal or informal hearing, such person must
363 have an ignition interlock device installed as approved by the

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364 department in the same manner as devices approved by the
365 department in accordance with s. 316.1938 for 1 year on all
366 vehicles that he or she individually or jointly leases or owns
367 or routinely operates.

368 (15) The decision of the department under this section
369 shall not be considered in any trial for a violation of s.
370 316.193, nor shall any written statement submitted by a person
371 in his or her request for departmental review under this section
372 be admissible into evidence against him or her in any such
373 trial. The disposition of any related criminal proceedings shall
374 not affect a suspension or ignition interlock device placement
375 imposed under this section.

376 Section 5. Present subsection (5) of section 322.2715,
377 Florida Statutes, is redesignated as subsection (6), a new
378 subsection (5) is added to that section, and subsection (1) of
379 that section is amended, to read:

380 322.2715 Ignition interlock device.—

381 (1) Before issuing a permanent or restricted driver
382 license under this chapter, the department shall require the
383 placement of a department-approved ignition interlock device for
384 any person convicted of committing an offense of driving under
385 the influence as specified in subsection (3), or for any person
386 who refused to submit to a lawful test of his or her breath as
387 specified in subsection (5) and who chooses ignition interlock
388 device placement instead of serving a suspension of the person's

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389 privilege to operate a motor vehicle for a period of 1 year,
390 except that consideration may be given to those individuals
391 having a documented medical condition that would prohibit the
392 device from functioning normally. If a medical waiver has been
393 granted for a ~~convicted~~ person seeking a restricted license, the
394 ~~convicted~~ person shall not be entitled to a restricted license
395 until the required ignition interlock device installation period
396 under subsection (3) or subsection (5) expires, in addition to
397 the time requirements under s. 322.271. If a medical waiver has
398 been approved for a ~~convicted~~ person seeking permanent
399 reinstatement of the driver license, the ~~convicted~~ person must
400 be restricted to an employment-purposes-only license and be
401 supervised by a licensed DUI program until the required ignition
402 interlock device installation period under subsection (3) or
403 subsection (5) expires. An interlock device shall be placed on
404 all vehicles that are individually or jointly leased or owned
405 and routinely operated by the ~~convicted~~ person.

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

408 Remove line 421 and insert:
409 owned and routinely operated by the person for 1
410