

By the Committee on Law Enforcement & Public Safety and
Representatives Betancourt, Fasano and Heyman

1 A bill to be entitled
2 An act relating to tests for alcohol, chemical
3 substances, or controlled substances; amending
4 ss. 316.1932 and 316.1933, F.S.; amending the
5 implied consent law and laws prescribing
6 testing for impairment or intoxication in cases
7 of death or serious bodily injury; authorizing
8 certain health care providers who become aware
9 of a person's unlawful blood-alcohol level to
10 notify law enforcement officials; prescribing a
11 form for the notice; providing that such
12 reporting is not a violation of any ethical or
13 moral duty; prohibiting any action or
14 administrative proceeding being brought against
15 anyone participating in good faith in making
16 such report; providing immunity from civil or
17 criminal liability and from any professional
18 disciplinary action; providing immunity in any
19 judicial proceeding resulting from the report;
20 providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:
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24 Section 1. Paragraph (f) of subsection (1) of section
25 316.1932, Florida Statutes, is amended to read:

26 316.1932 Breath, blood, and urine tests for alcohol,
27 chemical substances, or controlled substances; implied
28 consent; right to refuse.--

29 (1)

30 (f)1. The tests determining the weight of alcohol in
31 the defendant's blood or breath shall be administered at the

1 request of a law enforcement officer substantially in
2 accordance with rules of the Department of Law Enforcement.
3 Such rules must specify precisely the test or tests that are
4 approved by the Department of Law Enforcement for reliability
5 of result and ease of administration, and must provide an
6 approved method of administration which must be followed in
7 all such tests given under this section. However, the failure
8 of a law enforcement officer to request the withdrawal of
9 blood does not affect the admissibility of a test of blood
10 withdrawn for medical purposes.

11 2.a. Only a physician, certified paramedic, registered
12 nurse, licensed practical nurse, other personnel authorized by
13 a hospital to draw blood, or duly licensed clinical laboratory
14 director, supervisor, technologist, or technician, acting at
15 the request of a law enforcement officer, may withdraw blood
16 for the purpose of determining its alcoholic content or the
17 presence of chemical substances or controlled substances
18 therein. However, the failure of a law enforcement officer to
19 request the withdrawal of blood does not affect the
20 admissibility of a test of blood withdrawn for medical
21 purposes.

22 b. If a health care provider who is providing medical
23 care in a health care facility to a person injured in a motor
24 vehicle crash becomes aware, as a result of any blood test
25 performed in the course of that treatment, that the person's
26 blood-alcohol level meets or exceeds the blood-alcohol level
27 specified in s. 316.193(1)(b), the health care provider may
28 notify any law enforcement officer or agency. Any such
29 notification must be given within a reasonable time
30 exclusively for the purpose of a law enforcement officer
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1 requesting the withdrawal of a blood sample pursuant to this
2 section.

3 c. The notice must consist of the name of the person
4 being treated, the name of the person who drew the blood, the
5 blood-alcohol level disclosed by the test, and the date and
6 time of the administration of the test. Such notification must
7 be given within a reasonable time exclusively for the purpose
8 of a law enforcement officer requesting the withdrawal of a
9 blood sample pursuant to this section.

10 d. Nothing contained in s. 395.3025(4) or s. 455.667
11 affects the authority to report imposed by that section, and
12 the health care provider is not considered to have breached
13 any duty under s. 395.3025(4) or s. 455.667 owed to the person
14 about whom the report is made. Reporting or failing to report
15 is not a violation of any ethical or moral duty.

16 e. An action or administrative proceeding may not be
17 brought against anyone participating in good faith in the
18 making of a report under this section. Any person
19 participating in making the report has immunity from any
20 liability, civil or criminal, and from any professional
21 disciplinary action that might otherwise be incurred or
22 imposed with respect to making the report. Any such
23 participant has the same immunity with respect to
24 participating in any judicial proceedings resulting from the
25 report.

26 3. The person tested may, at his or her own expense,
27 have a physician, registered nurse, other personnel authorized
28 by a hospital to draw blood, or duly licensed clinical
29 laboratory director, supervisor, technologist, or technician,
30 or other person of his or her own choosing administer an
31 independent test in addition to the test administered at the

1 direction of the law enforcement officer for the purpose of
2 determining the amount of alcohol in the person's blood or
3 breath or the presence of chemical substances or controlled
4 substances at the time alleged, as shown by chemical analysis
5 of his or her blood or urine, or by chemical or physical test
6 of his or her breath. The failure or inability to obtain an
7 independent test by a person does not preclude the
8 admissibility in evidence of the test taken at the direction
9 of the law enforcement officer. The law enforcement officer
10 shall not interfere with the person's opportunity to obtain
11 the independent test and shall provide the person with timely
12 telephone access to secure the test, but the burden is on the
13 person to arrange and secure the test at the person's own
14 expense.

15 4. Upon the request of the person tested, full
16 information concerning the test taken at the direction of the
17 law enforcement officer shall be made available to the person
18 or his or her attorney.

19 5. A hospital, clinical laboratory, medical clinic, or
20 similar medical institution or physician, certified paramedic,
21 registered nurse, licensed practical nurse, other personnel
22 authorized by a hospital to draw blood, or duly licensed
23 clinical laboratory director, supervisor, technologist, or
24 technician, or other person assisting a law enforcement
25 officer does not incur any civil or criminal liability as a
26 result of the withdrawal or analysis of a blood or urine
27 specimen, or the chemical or physical test of a person's
28 breath pursuant to accepted medical standards when requested
29 by a law enforcement officer, regardless of whether or not the
30 subject resisted administration of the test.

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1 Section 2. Paragraph (a) of subsection (2) of section
2 316.1933, Florida Statutes, is amended to read:

3 316.1933 Blood test for impairment or intoxication in
4 cases of death or serious bodily injury; right to use
5 reasonable force.--

6 (2)(a) Only a physician, certified paramedic,
7 registered nurse, licensed practical nurse, other personnel
8 authorized by a hospital to draw blood, or duly licensed
9 clinical laboratory director, supervisor, technologist, or
10 technician, acting at the request of a law enforcement
11 officer, may withdraw blood for the purpose of determining the
12 alcoholic content thereof or the presence of chemical
13 substances or controlled substances therein. However, the
14 failure of a law enforcement officer to request the withdrawal
15 of blood shall not affect the admissibility of a test of blood
16 withdrawn for medical purposes.

17 1. If a health care provider who is providing medical
18 care in a health care facility to a person injured in a motor
19 vehicle crash becomes aware, as a result of any blood test
20 performed in the course of that treatment, that the person's
21 blood-alcohol level meets or exceeds the blood-alcohol level
22 specified in s. 316.193(1)(b), the health care provider may
23 notify any law enforcement officer or agency. Such
24 notification must be given within a reasonable time
25 exclusively for the purpose of a law enforcement officer
26 requesting the withdrawal of a blood sample pursuant to this
27 section.

28 2. The notice must consist of the name of the person
29 being treated, the name of the person who drew the blood, the
30 blood-alcohol level disclosed by the test, and the date and
31 time of the administration of the test.

1 3. Nothing contained in s. 395.3025(4) or s. 455.667
2 affects the authority to report imposed by that section, and
3 the health care provider shall not be considered to have
4 breached any duty under s. 395.3025(4) or s. 455.667 owed to
5 the person about whom the report is made. Reporting or failing
6 to report is not a violation of any ethical or moral duty.

7 4. An action or administrative proceeding may not be
8 brought against anyone participating in good faith in the
9 making of a report under this section, and any person
10 participating in making the report shall have immunity from
11 any liability, civil or criminal, and from any professional
12 disciplinary action that might otherwise be incurred or
13 imposed with respect to making the report. Any such
14 participant shall have the same immunity with respect to
15 participating in any judicial proceedings resulting from the
16 report.

17 Section 3. This act shall take effect July 1 of the
18 year in which enacted.

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