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

23

24 Be It Enacted by the Legislature of the State of Florida:

25

26 Section 1. Paragraph (f) of subsection (1) of section  
27 316.1932, Florida Statutes, is amended to read:28 316.1932 Breath, blood, and urine tests for alcohol,  
29 chemical substances, or controlled substances; implied  
30 consent; right to refuse.--

31 (1)

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12 withdrawn for medical purposes.

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

24 b. Notwithstanding any provision of law pertaining to  
25 the confidentiality of hospital records or other medical  
26 records, if a health care provider, who is providing medical  
27 care in a health care facility to a person injured in a motor  
28 vehicle crash, becomes aware, as a result of any blood test  
29 performed in the course of that medical treatment, that the  
30 person's blood-alcohol level meets or exceeds the  
31 blood-alcohol level specified in s. 316.193(1)(b), the health

1 care provider may notify any law enforcement officer or law  
2 enforcement agency. Any such notice must be given within a  
3 reasonable time after the health care provider receives the  
4 test result. Any such notice shall be used only for the  
5 purpose of providing the law enforcement officer with  
6 reasonable cause to request the withdrawal of a blood sample  
7 pursuant to this section.

8 c. The notice shall consist only of the name of the  
9 person being treated, the name of the person who drew the  
10 blood, the blood-alcohol level indicated by the test, and the  
11 date and time of the administration of the test.

12 d. Nothing contained in s. 395.3025(4), s. 455.667, or  
13 any applicable practice act affects the authority to provide  
14 notice under this section, and the health care provider is not  
15 considered to have breached any duty owed to the person under  
16 s. 395.3025(4), s. 455.667, or any applicable practice act by  
17 providing notice or failing to provide notice. It shall not be  
18 a breach of any ethical, moral, or legal duty for a health  
19 care provider to provide notice or fail to provide notice.

20 e. A civil, criminal, or administrative action may not  
21 be brought against any person or health care provider  
22 participating in good faith in the provision of notice or  
23 failure to provide notice as provided in this section. Any  
24 person or health care provider participating in the provision  
25 of notice or failure to provide notice as provided in this  
26 section shall be immune from any civil or criminal liability  
27 and from any professional disciplinary action with respect to  
28 the provision of notice or failure to provide notice under  
29 this section. Any such participant has the same immunity with  
30 respect to participating in any judicial proceedings resulting  
31 from the notice or failure to provide notice.

1           3. The person tested may, at his or her own expense,  
2 have a physician, registered nurse, other personnel authorized  
3 by a hospital to draw blood, or duly licensed clinical  
4 laboratory director, supervisor, technologist, or technician,  
5 or other person of his or her own choosing administer an  
6 independent test in addition to the test administered at the  
7 direction of the law enforcement officer for the purpose of  
8 determining the amount of alcohol in the person's blood or  
9 breath or the presence of chemical substances or controlled  
10 substances at the time alleged, as shown by chemical analysis  
11 of his or her blood or urine, or by chemical or physical test  
12 of his or her breath. The failure or inability to obtain an  
13 independent test by a person does not preclude the  
14 admissibility in evidence of the test taken at the direction  
15 of the law enforcement officer. The law enforcement officer  
16 shall not interfere with the person's opportunity to obtain  
17 the independent test and shall provide the person with timely  
18 telephone access to secure the test, but the burden is on the  
19 person to arrange and secure the test at the person's own  
20 expense.

21           4. Upon the request of the person tested, full  
22 information concerning the test taken at the direction of the  
23 law enforcement officer shall be made available to the person  
24 or his or her attorney.

25           5. A hospital, clinical laboratory, medical clinic, or  
26 similar medical institution or physician, certified paramedic,  
27 registered nurse, licensed practical nurse, other personnel  
28 authorized by a hospital to draw blood, or duly licensed  
29 clinical laboratory director, supervisor, technologist, or  
30 technician, or other person assisting a law enforcement  
31 officer does not incur any civil or criminal liability as a

1 result of the withdrawal or analysis of a blood or urine  
2 specimen, or the chemical or physical test of a person's  
3 breath pursuant to accepted medical standards when requested  
4 by a law enforcement officer, regardless of whether or not the  
5 subject resisted administration of the test.

6 Section 2. Paragraph (a) of subsection (2) of section  
7 316.1933, Florida Statutes, is amended to read:

8 316.1933 Blood test for impairment or intoxication in  
9 cases of death or serious bodily injury; right to use  
10 reasonable force.--

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

22 1. Notwithstanding any provision of law pertaining to  
23 the confidentiality of hospital records or other medical  
24 records, if a health care provider, who is providing medical  
25 care in a health care facility to a person injured in a motor  
26 vehicle crash, becomes aware, as a result of any blood test  
27 performed in the course of that medical treatment, that the  
28 person's blood-alcohol level meets or exceeds the  
29 blood-alcohol level specified in s. 316.193(1)(b), the health  
30 care provider may notify any law enforcement officer or law  
31 enforcement agency. Any such notice must be given within a

1 reasonable time after the health care provider receives the  
2 test result. Any such notice shall be used only for the  
3 purpose of providing the law enforcement officer with  
4 reasonable cause to request the withdrawal of a blood sample  
5 pursuant to this section.

6 2. The notice shall consist only of the name of the  
7 person being treated, the name of the person who drew the  
8 blood, the blood-alcohol level indicated by the test, and the  
9 date and time of the administration of the test.

10 3. Nothing contained in s. 395.3025(4), s. 455.667, or  
11 any applicable practice act affects the authority to provide  
12 notice under this section, and the health care provider is not  
13 considered to have breached any duty owed to the person under  
14 s. 395.3025(4), s. 455.667, or any applicable practice act by  
15 providing notice or failing to provide notice. It shall not be  
16 a breach of any ethical, moral, or legal duty for a health  
17 care provider to provide notice or fail to provide notice.

18 4. A civil, criminal, or administrative action may not  
19 be brought against any person or health care provider  
20 participating in good faith in the provision of notice or  
21 failure to provide notice as provided in this section. Any  
22 person or health care provider participating in the provision  
23 of notice or failure to provide notice as provided in this  
24 section shall be immune from any civil or criminal liability  
25 and from any professional disciplinary action with respect to  
26 the provision of notice or failure to provide notice under  
27 this section. Any such participant has the same immunity with  
28 respect to participating in any judicial proceedings resulting  
29 from the notice or failure to provide notice.

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