

By the Committees on Governmental Oversight and Productivity;
Criminal Justice; and Senator Burt

302-2249-02

1 A bill to be entitled
2 An act relating to driving or boating under the
3 influence of alcohol or controlled substances;
4 amending s. 316.193, F.S.; reducing the number
5 of convictions required for a felony DUI;
6 requiring mandatory placement of an interlock
7 device under certain circumstances; providing
8 for the forfeiture of vehicles under certain
9 circumstances; amending conditions for
10 conviction in cases of accident, serious bodily
11 injury, or death; removing a cross-reference;
12 allowing a law enforcement officer to place a
13 person in protective custody under certain
14 circumstances; requiring a person placed in
15 protective custody to pay reasonable costs of
16 evaluation and treatment under certain
17 circumstances; amending s. 316.1932, F.S.;
18 requiring a law enforcement officer to inform a
19 person that refusal to submit to certain tests
20 is a misdemeanor; amending s. 316.1933, F.S.;
21 requiring a person to submit to a blood test
22 under certain circumstances; providing that the
23 test need not be incidental to a lawful arrest;
24 providing that a breath-alcohol test may
25 substitute for a blood-alcohol test under
26 certain circumstances; creating s. 316.1939,
27 F.S.; providing a penalty for refusing to
28 submit to a chemical or physical test of
29 breath, urine, or blood; providing application;
30 amending s. 327.35, F.S.; reducing the number
31 of convictions required for a felony BUI;

1 providing for the forfeiture of vessels under
2 certain circumstances; amending conditions for
3 conviction in cases of accident, serious bodily
4 injury, or death; conforming cross-references;
5 allowing a law enforcement officer to place a
6 person in protective custody under certain
7 circumstances; requiring a person placed in
8 protective custody to pay reasonable costs of
9 evaluation and treatment under certain
10 circumstances; amending s. 327.352, F.S.;
11 requiring a law enforcement officer to inform a
12 person that refusal to submit to certain tests
13 is a misdemeanor; amending s. 327.353, F.S.;
14 requiring a person to submit to a blood test
15 under certain circumstances; providing that the
16 test need not be incidental to a lawful arrest;
17 providing that a breath-alcohol test may
18 substitute for a blood-alcohol test under
19 certain circumstances; creating s. 327.359,
20 F.S.; providing a penalty for refusing to
21 submit to a chemical or physical test of
22 breath, urine, or blood; providing application;
23 creating s. 397.6755, F.S.; specifying grounds
24 for which a court may determine that criteria
25 exist for involuntary admission and treatment
26 of certain persons; requiring payment for such
27 evaluation and treatment from a specified fund;
28 requiring persons placed in such involuntary
29 custody to reimburse the provider of services
30 under certain circumstances; amending s.
31 921.0022, F.S.; revising provisions relating to

1 certain DUI offenses; including certain BUI
2 offenses within the offense severity ranking
3 chart; amending s. 932.701, F.S.; redefining
4 the term "contraband article"; amending s.
5 938.07, F.S.; providing for application of a
6 fee to persons found guilty of boating under
7 the influence; conforming a cross-reference;
8 amending s. 943.05, F.S.; providing for
9 adoption of rules and forms for making DUI
10 arrests; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsections (2), (3), and (4) of section
15 316.193, Florida Statutes, are amended to read:

16 316.193 Driving under the influence; penalties.--

17 (2)(a) Except as provided in paragraph (b), subsection
18 (3), or subsection (4), any person who is convicted of a
19 violation of subsection (1) shall be punished:

20 1. By a fine of:

21 a. Not less than \$250 or more than \$500 for a first
22 conviction.

23 b. Not less than \$500 or more than \$1,000 for a second
24 conviction and mandatory placement for a period of not less
25 than 2 years, at the convicted person's sole expense, of an
26 ignition interlock device approved by the Department of
27 Highway Safety and Motor Vehicles upon all vehicles leased or
28 owned, individually or jointly, which are routinely operated
29 by the convicted person when the convicted person qualifies
30 for a permanent or restricted license.

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1 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
2 ~~third conviction; and~~

3 2. By imprisonment for:

4 a. Not more than 6 months for a first conviction.

5 b. Not more than 9 months for a second conviction.

6 ~~c. Not more than 12 months for a third conviction.~~

7 (b)1. Any person who is convicted of a ~~third~~ fourth or
8 subsequent violation of this section for an offense that
9 occurs within a period of 10 years after the date of a prior
10 conviction for a violation of this section commits is guilty
11 of a felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084. In addition, the court
13 shall order the mandatory placement for a period of not less
14 than 2 years, at the convicted person's sole expense, of an
15 ignition interlock device approved by the Department of
16 Highway Safety and Motor Vehicles upon all vehicles that are
17 individually or jointly leased or owned and that are routinely
18 operated by the convicted person when the convicted person
19 qualifies for a permanent or restricted license.†

20 2. Any person who is convicted of a third violation of
21 this section for an offense that occurs more than 10 years
22 after the date of a prior conviction for a violation of this
23 section shall be punished by a fine of not less than \$1,000 or
24 more than \$2,500 and by imprisonment for not more than 12
25 months. In addition, the court shall order the mandatory
26 placement for a period of not less than 2 years, at the
27 convicted person's sole expense, of an ignition interlock
28 device approved by the Department of Highway Safety and Motor
29 Vehicles upon all vehicles that are individually or jointly
30 leased or owned and that are routinely operated by the

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1 convicted person when the convicted person qualifies for a
2 permanent or restricted license.†

3 3. Any person who is convicted of a fourth or
4 subsequent violation of this section, regardless of when any
5 prior conviction for a violation of this section occurred,
6 commits a felony of the third degree, punishable as provided
7 in s. 775.082, s. 775.083, or s. 775.084. However, the fine
8 imposed for such fourth or subsequent violation may be not
9 less than \$1,000.

10 (3) Any person:

11 (a) Who is in violation of subsection (1);

12 (b) Who operates a vehicle; and

13 (c) Who, by reason of such operation, causes or
14 contributes to causing:

15 1. Damage to the property or person of another commits
16 a misdemeanor of the first degree, punishable as provided in
17 s. 775.082 or s. 775.083.

18 2. Serious bodily injury to another, as defined in s.
19 316.1933, commits a felony of the third degree, punishable as
20 provided in s. 775.082, s. 775.083, or s. 775.084.

21 3. The death of any human being commits DUI
22 manslaughter, and commits:

23 a. A felony of the second degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084.

25 b. A felony of the first degree, punishable as
26 provided in s. 775.082, s. 775.083, or s. 775.084, if:

27 (I) At the time of the crash, the person knew, or
28 should have known, that the crash occurred; and

29 (II) The person failed to give information and render
30 aid as required by s. 316.062.

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1 (4) Any person who is convicted of a violation of
2 subsection (1) and who has a blood-alcohol level or
3 breath-alcohol level of 0.20 or higher, or any person who is
4 convicted of a violation of subsection (1) and who at the time
5 of the offense was accompanied in the vehicle by a person
6 under the age of 18 years, shall be punished:

7 (a) By a fine of:

8 1. Not less than \$500 or more than \$1,000 for a first
9 conviction.

10 2. Not less than \$1,000 or more than \$2,000 for a
11 second conviction.

12 3. Not less than \$2,000 ~~or more than \$5,000~~ for a
13 third or subsequent conviction.

14 (b) By imprisonment for:

15 1. Not more than 9 months for a first conviction.

16 2. Not more than 12 months for a second conviction.

17 3. ~~Not more than 12 months for a third conviction.~~

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19 For the purposes of this subsection, ~~any conviction for a~~
20 ~~violation of s. 327.35,~~ only the instant offense is required
21 to be a violation of subsection (1) by a person who has a
22 blood-alcohol level or breath-alcohol level of 0.20 or higher.

23 Section 2. Section 316.1932, Florida Statutes, is
24 amended to read:

25 316.1932 Breath, blood, and urine tests for alcohol,
26 chemical substances, or controlled substances; implied
27 consent; refusal ~~right to refuse~~.--

28 (1)(a)1. Any person who accepts the privilege extended
29 by the laws of this state of operating a motor vehicle within
30 this state is, by so operating such vehicle, deemed to have
31 given his or her consent to submit to an approved chemical

1 test or physical test including, but not limited to, an
2 infrared light test of his or her breath for the purpose of
3 determining the alcoholic content of his or her blood or
4 breath, and to a urine test for the purpose of detecting the
5 presence of chemical substances as set forth in s. 877.111 or
6 controlled substances, if the person is lawfully arrested for
7 any offense allegedly committed while the person was driving
8 or was in actual physical control of a motor vehicle while
9 under the influence of alcoholic beverages, chemical
10 substances, or controlled substances. The chemical or
11 physical breath test must be incidental to a lawful arrest and
12 administered at the request of a law enforcement officer who
13 has reasonable cause to believe such person was driving or was
14 in actual physical control of the motor vehicle within this
15 state while under the influence of alcoholic beverages. The
16 urine test must be incidental to a lawful arrest and
17 administered at a detention facility or any other facility,
18 mobile or otherwise, which is equipped to administer such
19 tests at the request of a law enforcement officer who has
20 reasonable cause to believe such person was driving or was in
21 actual physical control of a motor vehicle within this state
22 while under the influence of controlled substances. The urine
23 test shall be administered at a detention facility or any
24 other facility, mobile or otherwise, which is equipped to
25 administer such tests in a reasonable manner that will ensure
26 the accuracy of the specimen and maintain the privacy of the
27 individual involved. The administration of one type of test
28 does not preclude the administration of another type of test.
29 The person shall be told that his or her failure to submit to
30 any lawful test of his or her breath or urine, or both, will
31 result in the suspension of the person's privilege to operate

1 a motor vehicle for a period of 1 year for a first refusal, or
2 for a period of 18 months if the driving privilege of such
3 person has been previously suspended as a result of a refusal
4 to submit to such a test or tests. A person who refuses to
5 submit to a lawful test of his or her own breath or urine, or
6 both, and who has had one or more DUI convictions or has had
7 his or her driving privilege suspended for refusal to submit
8 to lawful test of his or her breath or urine, or both, is
9 guilty of a misdemeanor in addition to any other penalties.
10 The refusal to submit to a chemical or physical breath test or
11 to a urine test upon the request of a law enforcement officer
12 as provided in this section is admissible into evidence in any
13 criminal proceeding.

14 2. The Alcohol Testing Program within the Department
15 of Law Enforcement is responsible for the regulation of the
16 operation, inspection, and registration of breath test
17 instruments utilized under the driving and boating under the
18 influence provisions and related provisions located in this
19 chapter and chapters 322 and 327. The program is responsible
20 for the regulation of the individuals who operate, inspect,
21 and instruct on the breath test instruments utilized in the
22 driving and boating under the influence provisions and related
23 provisions located in this chapter and chapters 322 and 327.

24 The program is further responsible for the regulation of blood
25 analysts who conduct blood testing to be utilized under the
26 driving and boating under the influence provisions and related
27 provisions located in this chapter and chapters 322 and 327.
28 The program shall:
29 a. Establish uniform criteria for the issuance of
30 permits to breath test operators, agency inspectors,
31 instructors, blood analysts, and instruments.

1 b. Have the authority to permit breath test operators,
2 agency inspectors, instructors, blood analysts, and
3 instruments.

4 c. Have the authority to discipline and suspend,
5 revoke, or renew the permits of breath test operators, agency
6 inspectors, instructors, blood analysts, and instruments.

7 d. Establish uniform requirements for instruction and
8 curricula for the operation and inspection of approved
9 instruments.

10 e. Have the authority to specify one approved
11 curriculum for the operation and inspection of approved
12 instruments.

13 f. Establish a procedure for the approval of breath
14 test operator and agency inspector classes.

15 g. Have the authority to approve or disapprove breath
16 test instruments and accompanying paraphernalia for use
17 pursuant to the driving and boating under the influence
18 provisions and related provisions located in this chapter and
19 chapters 322 and 327.

20 h. With the approval of the executive director of the
21 Department of Law Enforcement, make and enter into contracts
22 and agreements with other agencies, organizations,
23 associations, corporations, individuals, or federal agencies
24 as are necessary, expedient, or incidental to the performance
25 of duties.

26 i. Issue final orders which include findings of fact
27 and conclusions of law and which constitute final agency
28 action for the purpose of chapter 120.

29 j. Enforce compliance with the provisions of this
30 section through civil or administrative proceedings.

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1 k. Make recommendations concerning any matter within
2 the purview of this section, this chapter, chapter 322, or
3 chapter 327.

4 l. Promulgate rules for the administration and
5 implementation of this section, including definitions of
6 terms.

7 m. Consult and cooperate with other entities for the
8 purpose of implementing the mandates of this section.

9 n. Have the authority to approve the type of blood
10 test utilized under the driving and boating under the
11 influence provisions and related provisions located in this
12 chapter and chapters 322 and 327.

13 o. Have the authority to specify techniques and
14 methods for breath alcohol testing and blood testing utilized
15 under the driving and boating under the influence provisions
16 and related provisions located in this chapter and chapters
17 322 and 327.

18 p. Have the authority to approve repair facilities for
19 the approved breath test instruments, including the authority
20 to set criteria for approval.

21
22 Nothing in this section shall be construed to supersede
23 provisions in this chapter and chapters 322 and 327. The
24 specifications in this section are derived from the power and
25 authority previously and currently possessed by the Department
26 of Law Enforcement and are enumerated to conform with the
27 mandates of chapter 99-379, Laws of Florida.

28 (b)1. The blood-alcohol level must be based upon grams
29 of alcohol per 100 milliliters of blood. The breath-alcohol
30 level must be based upon grams of alcohol per 210 liters of
31 breath.

1 2. An analysis of a person's breath, in order to be
2 considered valid under this section, must have been performed
3 substantially according to methods approved by the Department
4 of Law Enforcement. For this purpose, the department may
5 approve satisfactory techniques or methods. Any insubstantial
6 differences between approved techniques and actual testing
7 procedures in any individual case do not render the test or
8 test results invalid.

9 (c) Any person who accepts the privilege extended by
10 the laws of this state of operating a motor vehicle within
11 this state is, by operating such vehicle, deemed to have given
12 his or her consent to submit to an approved blood test for the
13 purpose of determining the alcoholic content of the blood or a
14 blood test for the purpose of determining the presence of
15 chemical substances or controlled substances as provided in
16 this section if there is reasonable cause to believe the
17 person was driving or in actual physical control of a motor
18 vehicle while under the influence of alcoholic beverages or
19 chemical or controlled substances and the person appears for
20 treatment at a hospital, clinic, or other medical facility and
21 the administration of a breath or urine test is impractical or
22 impossible. As used in this paragraph, the term "other medical
23 facility" includes an ambulance or other medical emergency
24 vehicle. The blood test shall be performed in a reasonable
25 manner. Any person who is incapable of refusal by reason of
26 unconsciousness or other mental or physical condition is
27 deemed not to have withdrawn his or her consent to such test.
28 A blood test may be administered whether or not the person is
29 told either that his or her failure to submit to such a blood
30 test will result in the suspension of the person's privilege
31 to operate a motor vehicle upon the public highways of this

1 state or that a refusal to submit to a lawful test of his or
2 her breath or urine, or both, when the person has one or more
3 DUI convictions or has had his or her driving privilege
4 suspended for refusal to submit to a lawful test of his or her
5 breath or urine, or both, is a misdemeanor. Any person who is
6 capable of refusal shall be told either that his or her
7 failure to submit to such a blood test will result in the
8 suspension of the person's privilege to operate a motor
9 vehicle for a period of 1 year for a first refusal, or for a
10 period of 18 months if the driving privilege of the person has
11 been suspended previously as a result of a refusal to submit
12 to such a test or tests, or that a refusal to submit to a
13 lawful test of his or her breath or urine, or both, when the
14 person has one or more DUI convictions or has had his or her
15 driving privilege suspended for refusal to submit to a lawful
16 test of his or her breath or urine, or both, is a misdemeanor.
17 The refusal to submit to a blood test upon the request of a
18 law enforcement officer is admissible in evidence in any
19 criminal proceeding.

20 (d) If the arresting officer does not request a
21 chemical or physical breath test of the person arrested for
22 any offense allegedly committed while the person was driving
23 or was in actual physical control of a motor vehicle while
24 under the influence of alcoholic beverages or controlled
25 substances, such person may request the arresting officer to
26 have a chemical or physical test made of the arrested person's
27 breath or a test of the urine or blood for the purpose of
28 determining the alcoholic content of the person's blood or
29 breath or the presence of chemical substances or controlled
30 substances; and, if so requested, the arresting officer shall
31 have the test performed.

1 (e)1. By applying for a driver's license and by
2 accepting and using a driver's license, the person holding the
3 driver's license is deemed to have expressed his or her
4 consent to the provisions of this section.

5 2. A nonresident or any other person driving in a
6 status exempt from the requirements of the driver's license
7 law, by his or her act of driving in such exempt status, is
8 deemed to have expressed his or her consent to the provisions
9 of this section.

10 3. A warning of the consent provision of this section
11 shall be printed above the signature line on each new or
12 renewed driver's license.

13 (f)1. The tests determining the weight of alcohol in
14 the defendant's blood or breath shall be administered at the
15 request of a law enforcement officer substantially in
16 accordance with rules of the Department of Law Enforcement.
17 Such rules must specify precisely the test or tests that are
18 approved by the Department of Law Enforcement for reliability
19 of result and ease of administration, and must provide an
20 approved method of administration which must be followed in
21 all such tests given under this section. However, the failure
22 of a law enforcement officer to request the withdrawal of
23 blood does not affect the admissibility of a test of blood
24 withdrawn for medical purposes.

25 2.a. Only a physician, certified paramedic, registered
26 nurse, licensed practical nurse, other personnel authorized by
27 a hospital to draw blood, or duly licensed clinical laboratory
28 director, supervisor, technologist, or technician, acting at
29 the request of a law enforcement officer, may withdraw blood
30 for the purpose of determining its alcoholic content or the
31 presence of chemical substances or controlled substances

1 | therein. However, the failure of a law enforcement officer to
2 | request the withdrawal of blood does not affect the
3 | admissibility of a test of blood withdrawn for medical
4 | purposes.

5 | b. Notwithstanding any provision of law pertaining to
6 | the confidentiality of hospital records or other medical
7 | records, if a health care provider, who is providing medical
8 | care in a health care facility to a person injured in a motor
9 | vehicle crash, becomes aware, as a result of any blood test
10 | performed in the course of that medical treatment, that the
11 | person's blood-alcohol level meets or exceeds the
12 | blood-alcohol level specified in s. 316.193(1)(b), the health
13 | care provider may notify any law enforcement officer or law
14 | enforcement agency. Any such notice must be given within a
15 | reasonable time after the health care provider receives the
16 | test result. Any such notice shall be used only for the
17 | purpose of providing the law enforcement officer with
18 | reasonable cause to request the withdrawal of a blood sample
19 | pursuant to this section.

20 | c. The notice shall consist only of the name of the
21 | person being treated, the name of the person who drew the
22 | blood, the blood-alcohol level indicated by the test, and the
23 | date and time of the administration of the test.

24 | d. Nothing contained in s. 395.3025(4), s. 456.057, or
25 | any applicable practice act affects the authority to provide
26 | notice under this section, and the health care provider is not
27 | considered to have breached any duty owed to the person under
28 | s. 395.3025(4), s. 456.057, or any applicable practice act by
29 | providing notice or failing to provide notice. It shall not be
30 | a breach of any ethical, moral, or legal duty for a health
31 | care provider to provide notice or fail to provide notice.

1 e. A civil, criminal, or administrative action may not
2 be brought against any person or health care provider
3 participating in good faith in the provision of notice or
4 failure to provide notice as provided in this section. Any
5 person or health care provider participating in the provision
6 of notice or failure to provide notice as provided in this
7 section shall be immune from any civil or criminal liability
8 and from any professional disciplinary action with respect to
9 the provision of notice or failure to provide notice under
10 this section. Any such participant has the same immunity with
11 respect to participating in any judicial proceedings resulting
12 from the notice or failure to provide notice.

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

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

7 5. A hospital, clinical laboratory, medical clinic, or
8 similar medical institution or physician, certified paramedic,
9 registered nurse, licensed practical nurse, other personnel
10 authorized by a hospital to draw blood, or duly licensed
11 clinical laboratory director, supervisor, technologist, or
12 technician, or other person assisting a law enforcement
13 officer does not incur any civil or criminal liability as a
14 result of the withdrawal or analysis of a blood or urine
15 specimen, or the chemical or physical test of a person's
16 breath pursuant to accepted medical standards when requested
17 by a law enforcement officer, regardless of whether or not the
18 subject resisted administration of the test.

19 (2) The results of any test administered pursuant to
20 this section for the purpose of detecting the presence of any
21 controlled substance shall not be admissible as evidence in a
22 criminal prosecution for the possession of a controlled
23 substance.

24 (3) Notwithstanding any provision of law pertaining to
25 the confidentiality of hospital records or other medical
26 records, information relating to the alcoholic content of the
27 blood or breath or the presence of chemical substances or
28 controlled substances in the blood obtained pursuant to this
29 section shall be released to a court, prosecuting attorney,
30 defense attorney, or law enforcement officer in connection
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1 with an alleged violation of s. 316.193 upon request for such
2 information.

3 Section 3. Subsection (1) of section 316.1933, Florida
4 Statutes, is amended to read:

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

8 (1)(a) ~~Notwithstanding any recognized ability to~~
9 ~~refuse to submit to the tests provided in s. 316.1932 or any~~
10 ~~recognized power to revoke the implied consent to such tests,~~
11 If a law enforcement officer has probable cause to believe
12 that a motor vehicle driven by or in the actual physical
13 control of a person under the influence of alcoholic
14 beverages, any chemical substances, or any controlled
15 substances has caused the death or serious bodily injury of a
16 human being, ~~such person shall submit, upon the request of a~~
17 law enforcement officer shall require the person driving or in
18 actual physical control of the motor vehicle to submit to a
19 test of the person's blood for the purpose of determining the
20 alcoholic content thereof or the presence of chemical
21 substances as set forth in s. 877.111 or any substance
22 controlled under chapter 893. The law enforcement officer may
23 use reasonable force if necessary to require such person to
24 submit to the administration of the blood test. The blood
25 test shall be performed in a reasonable manner.
26 Notwithstanding s. 316.1932, the testing required by this
27 paragraph need not be incidental to a lawful arrest of the
28 person.

29 (b) The term "serious bodily injury" means an injury
30 to any person, including the driver, which consists of a
31 physical condition that creates a substantial risk of death,

1 serious personal disfigurement, or protracted loss or
2 impairment of the function of any bodily member or organ.

3 Section 4. Subsection (1) of section 316.1937, Florida
4 Statutes, is amended to read:

5 316.1937 Ignition interlock devices, requiring;
6 unlawful acts.--

7 (1) In addition to any other authorized penalties, the
8 court may require that any person who is convicted of driving
9 under the influence in violation of s. 316.193, and who is
10 granted probation, shall not operate a motor vehicle during
11 the period of probation unless that vehicle is equipped with a
12 functioning ignition interlock device certified by the
13 department as provided in s. 316.1938, and installed in such a
14 manner that the vehicle will not start if the operator's blood
15 alcohol level is in excess of 0.05 percent or as otherwise
16 specified by the court. The court may require the use of an
17 approved ignition interlock device for the period of
18 probation, said period to be for not less than 6 months, if
19 the person is permitted to operate a motor vehicle, whether
20 the privilege to operate a motor vehicle is restricted or not,
21 as determined by the court. The court shall require placement
22 of an ignition interlock device in accordance with s.
23 316.193(2). To facilitate the use of an interlock device the
24 court may authorize all or a portion of the fine imposed for a
25 violation of s. 316.193 to be used to pay for the ignition
26 interlock device.

27 Section 5. Section 316.1939, Florida Statutes, is
28 created to read:

29 316.1939 Refusal to submit to testing; penalties.--
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1 (1) Any person who has refused to submit to a chemical
2 or physical test of his or her breath, blood, or urine, as
3 described in s. 316.1932, and:

4 (a) Whom the arresting law enforcement officer had
5 probable cause to believe was driving or in actual physical
6 control of a motor vehicle in this state while under the
7 influence of alcoholic beverages, chemical substances, or
8 controlled substances;

9 (b) Who was placed under lawful arrest for a violation
10 of s. 316.193, unless such test was requested pursuant to s.
11 316.1932(1)(c);

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

17 (d) Who has one or more DUI convictions or has had his
18 or her driving privilege suspended for refusal to submit to a
19 lawful test of his or her breath or urine, or both, and who
20 was informed that a refusal to submit to a lawful test of his
21 or her breath or urine is a misdemeanor; and

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

25
26 commits a misdemeanor of the first degree and is subject to
27 punishment as provided in s. 775.082 or s. 775.083. A person
28 convicted for DUI or of a misdemeanor for refusal to submit to
29 a breath or urine test is eligible to participate in any drug
30 court in the circuit.

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1 (2) The disposition of any administrative proceeding
2 that relates to the suspension of a person's driving privilege
3 does not affect a criminal action under this section.

4 (3) The disposition of a criminal action under this
5 section does not affect any administrative proceeding that
6 relates to the suspension of a person's driving privilege.

7 Section 6. Subsections (2), (3), and (4) of section
8 327.35, Florida Statutes, are amended to read:

9 327.35 Boating under the influence; penalties;
10 "designated drivers".--

11 (2)(a) Except as provided in paragraph (b), subsection
12 (3), or subsection (4), any person who is convicted of a
13 violation of subsection (1) shall be punished:

14 1. By a fine of:

15 a. Not less than \$250 or more than \$500 for a first
16 conviction.

17 b. Not less than \$500 or more than \$1,000 for a second
18 conviction.

19 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
20 ~~third conviction; and~~

21 2. By imprisonment for:

22 a. Not more than 6 months for a first conviction.

23 b. Not more than 9 months for a second conviction.

24 ~~c. Not more than 12 months for a third conviction.~~

25 (b)1. Any person who is convicted of a third ~~fourth~~ or
26 ~~subsequent~~ violation of this section for an offense that
27 occurs within a period of 10 years after the date of a prior
28 conviction for a violation of this section commits is guilty
29 of a felony of the third degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084.+

31

1 2. Any person who is convicted of a third violation of
2 this section for an offense that occurs more than 10 years
3 after the date of a prior conviction for a violation of this
4 section shall be punished by a fine of not less than \$1,000 or
5 more than \$2,500 and by imprisonment for not more than 12
6 months.

7 3. Any person who is convicted of a fourth or
8 subsequent violation of this section, regardless of when any
9 prior conviction for a violation of this section occurred,
10 commits a felony of the third degree, punishable as provided
11 in s. 775.082, s. 775.083, or s. 775.084.

12
13 However, the fine imposed for such fourth or subsequent
14 violation may not be less than \$1,000.

15 (3) Any person:

16 (a) Who is in violation of subsection (1);

17 (b) Who operates a vessel; and

18 (c) Who, by reason of such operation, causes or
19 contributes to causing:

20 1. Damage to the property or person of another commits
21 a misdemeanor of the first degree, punishable as provided in
22 s. 775.082 or s. 775.083.

23 2. Serious bodily injury to another, as defined in s.
24 327.353 ~~s. 316.1933~~, commits a felony of the third degree,
25 punishable as provided in s. 775.082, s. 775.083, or s.
26 775.084.

27 3. The death of any human being commits BUI
28 manslaughter, and commits:

29 a. A felony of the second degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.

31

1 b. A felony of the first degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084, if:

3 (I) At the time of the accident, the person knew, or
4 should have known, that the accident occurred; and

5 (II) The person failed to give information and render
6 aid as required by s. 327.30 ~~s. 316.062~~.

7
8 This sub-subparagraph does not require that the person knew
9 that the accident resulted in injury or death.

10 (4) Any person who is convicted of a violation of
11 subsection (1) and who has a blood-alcohol level or
12 breath-alcohol level of 0.20 or higher, or any person who is
13 convicted of a violation of subsection (1) and who at the time
14 of the offense was accompanied in the vessel by a person under
15 the age of 18 years, shall be punished:

16 (a) By a fine of:

17 1. Not less than \$500 or more than \$1,000 for a first
18 conviction.

19 2. Not less than \$1,000 or more than \$2,000 for a
20 second conviction.

21 3. Not less than \$2,000 ~~or more than \$5,000~~ for a
22 third or subsequent conviction.

23 (b) By imprisonment for:

24 1. Not more than 9 months for a first conviction.

25 2. Not more than 12 months for a second conviction.

26 ~~3. Not more than 12 months for a third conviction.~~

27
28 For the purposes of this subsection, only the instant offense
29 is required to be a violation of subsection (1) by a person
30 who has a blood-alcohol level or breath-alcohol level of 0.20
31 or higher.

1 Section 7. Section 327.352, Florida Statutes, is
2 amended to read:

3 327.352 Breath, blood, and urine tests for alcohol,
4 chemical substances, or controlled substances; implied
5 consent; refusal ~~right to refuse~~.--

6 (1)(a) The Legislature declares that the operation of
7 a vessel is a privilege that must be exercised in a reasonable
8 manner. In order to protect the public health and safety, it
9 is essential that a lawful and effective means of reducing the
10 incidence of boating while impaired or intoxicated be
11 established. Therefore, any person who accepts the privilege
12 extended by the laws of this state of operating a vessel
13 within this state is, by so operating such vessel, deemed to
14 have given his or her consent to submit to an approved
15 chemical test or physical test including, but not limited to,
16 an infrared light test of his or her breath for the purpose of
17 determining the alcoholic content of his or her blood or
18 breath, and to a urine test for the purpose of detecting the
19 presence of chemical substances as set forth in s. 877.111 or
20 controlled substances, if the person is lawfully arrested for
21 any offense allegedly committed while the person was operating
22 a vessel while under the influence of alcoholic beverages,
23 chemical substances, or controlled substances. The chemical
24 or physical breath test must be incidental to a lawful arrest
25 and administered at the request of a law enforcement officer
26 who has reasonable cause to believe such person was operating
27 the vessel within this state while under the influence of
28 alcoholic beverages. The urine test must be incidental to a
29 lawful arrest and administered at a detention facility or any
30 other facility, mobile or otherwise, which is equipped to
31 administer such tests at the request of a law enforcement

1 officer who has reasonable cause to believe such person was
2 operating a vessel within this state while under the influence
3 of controlled substances. The urine test shall be administered
4 at a detention facility or any other facility, mobile or
5 otherwise, which is equipped to administer such tests in a
6 reasonable manner that will ensure the accuracy of the
7 specimen and maintain the privacy of the individual involved.
8 The administration of one type of test does not preclude the
9 administration of another type of test. The person shall be
10 told that his or her failure to submit to any lawful test of
11 his or her breath or urine, or both, will result in a civil
12 penalty of \$500. A person who refuses to submit to a lawful
13 test of his or her breath or urine, or both, and who has had
14 one or more BUI convictions or has been fined for refusal to
15 submit to any lawful test of his or her breath or urine, or
16 both, is guilty of a misdemeanor in addition to any other
17 penalties.The refusal to submit to a chemical or physical
18 breath or urine test upon the request of a law enforcement
19 officer as provided in this section is admissible into
20 evidence in any criminal proceeding.

21 (b)1. The blood-alcohol level must be based upon grams
22 of alcohol per 100 milliliters of blood. The breath-alcohol
23 level must be based upon grams of alcohol per 210 liters of
24 breath.

25 2. An analysis of a person's breath, in order to be
26 considered valid under this section, must have been performed
27 substantially according to methods approved by the Department
28 of Law Enforcement. Any insubstantial differences between
29 approved techniques and actual testing procedures in any
30 individual case do not render the test or test results
31 invalid.

1 3. The Alcohol Testing Program within the Department
2 of Law Enforcement is responsible for the regulation of the
3 operation, inspection, and registration of breath test
4 instruments utilized under the driving and boating under the
5 influence provisions and related provisions located in this
6 chapter and chapters 316 and 322. The program is responsible
7 for the regulation of the individuals who operate, inspect,
8 and instruct on the breath test instruments utilized in the
9 driving and boating under the influence provisions and related
10 provisions located in this chapter and chapters 316 and 322.
11 The program is further responsible for the regulation of blood
12 analysts who conduct blood testing to be utilized under the
13 driving and boating under the influence provisions and related
14 provisions located in this chapter and chapters 316 and 322.

15 The program shall:

- 16 a. Establish uniform criteria for the issuance of
17 permits to breath test operators, agency inspectors,
18 instructors, blood analysts, and instruments.
- 19 b. Have the authority to permit breath test operators,
20 agency inspectors, instructors, blood analysts, and
21 instruments.
- 22 c. Have the authority to discipline and suspend,
23 revoke, or renew the permits of breath test operators, agency
24 inspectors, instructors, blood analysts, and instruments.
- 25 d. Establish uniform requirements for instruction and
26 curricula for the operation and inspection of approved
27 instruments.
- 28 e. Have the authority to specify one approved
29 curriculum for the operation and inspection of approved
30 instruments.

31

1 f. Establish a procedure for the approval of breath
2 test operator and agency inspector classes.

3 g. Have the authority to approve or disapprove breath
4 test instruments and accompanying paraphernalia for use
5 pursuant to the driving and boating under the influence
6 provisions and related provisions located in this chapter and
7 chapters 316 and 322.

8 h. With the approval of the executive director of the
9 Department of Law Enforcement, make and enter into contracts
10 and agreements with other agencies, organizations,
11 associations, corporations, individuals, or federal agencies
12 as are necessary, expedient, or incidental to the performance
13 of duties.

14 i. Issue final orders which include findings of fact
15 and conclusions of law and which constitute final agency
16 action for the purpose of chapter 120.

17 j. Enforce compliance with the provisions of this
18 section through civil or administrative proceedings.

19 k. Make recommendations concerning any matter within
20 the purview of this section, this chapter, chapter 316, or
21 chapter 322.

22 l. Promulgate rules for the administration and
23 implementation of this section, including definitions of
24 terms.

25 m. Consult and cooperate with other entities for the
26 purpose of implementing the mandates of this section.

27 n. Have the authority to approve the type of blood
28 test utilized under the driving and boating under the
29 influence provisions and related provisions located in this
30 chapter and chapters 316 and 322.

31

1 o. Have the authority to specify techniques and
2 methods for breath alcohol testing and blood testing utilized
3 under the driving and boating under the influence provisions
4 and related provisions located in this chapter and chapters
5 316 and 322.

6 p. Have the authority to approve repair facilities for
7 the approved breath test instruments, including the authority
8 to set criteria for approval.

9
10 Nothing in this section shall be construed to supersede
11 provisions in this chapter and chapters 316 and 322. The
12 specifications in this section are derived from the power and
13 authority previously and currently possessed by the Department
14 of Law Enforcement and are enumerated to conform with the
15 mandates of chapter 99-379, Laws of Florida.

16 (c) Any person who accepts the privilege extended by
17 the laws of this state of operating a vessel within this state
18 is, by operating such vessel, deemed to have given his or her
19 consent to submit to an approved blood test for the purpose of
20 determining the alcoholic content of the blood or a blood test
21 for the purpose of determining the presence of chemical
22 substances or controlled substances as provided in this
23 section if there is reasonable cause to believe the person was
24 operating a vessel while under the influence of alcoholic
25 beverages or chemical or controlled substances and the person
26 appears for treatment at a hospital, clinic, or other medical
27 facility and the administration of a breath or urine test is
28 impractical or impossible. As used in this paragraph, the term
29 "other medical facility" includes an ambulance or other
30 medical emergency vehicle. The blood test shall be performed
31 in a reasonable manner. Any person who is incapable of

1 refusal by reason of unconsciousness or other mental or
2 physical condition is deemed not to have withdrawn his or her
3 consent to such test. Any person who is capable of refusal
4 shall be told that either his or her failure to submit to such
5 a blood test will result in a civil penalty of \$500 or that a
6 refusal to submit to a lawful test of his or her breath or
7 urine, or both, when the person has one or more BUI
8 convictions or has been fined for refusal to submit to any
9 lawful test of his or her breath or urine, or both, is a
10 misdemeanor. The refusal to submit to a blood test upon the
11 request of a law enforcement officer shall be admissible in
12 evidence in any criminal proceeding.

13 (d) If the arresting officer does not request a
14 chemical or physical breath test of the person arrested for
15 any offense allegedly committed while the person was operating
16 a vessel while under the influence of alcoholic beverages or
17 controlled substances, the person may request the arresting
18 officer to have a chemical or physical test made of the
19 arrested person's breath or a test of the urine or blood for
20 the purpose of determining the alcoholic content of the
21 person's blood or breath or the presence of chemical
22 substances or controlled substances; and, if so requested, the
23 arresting officer shall have the test performed.

24 (e)1. The tests determining the weight of alcohol in
25 the defendant's blood or breath shall be administered at the
26 request of a law enforcement officer substantially in
27 accordance with rules of the Department of Law Enforcement.
28 However, the failure of a law enforcement officer to request
29 the withdrawal of blood does not affect the admissibility of a
30 test of blood withdrawn for medical purposes.

31

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

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

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

5 5. A hospital, clinical laboratory, medical clinic, or
6 similar medical institution or 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, or other person assisting a law enforcement
11 officer does not incur any civil or criminal liability as a
12 result of the withdrawal or analysis of a blood or urine
13 specimen, or the chemical or physical test of a person's
14 breath pursuant to accepted medical standards when requested
15 by a law enforcement officer, regardless of whether or not the
16 subject resisted administration of the test.

17 (2) The results of any test administered pursuant to
18 this section for the purpose of detecting the presence of any
19 controlled substance shall not be admissible as evidence in a
20 criminal prosecution for the possession of a controlled
21 substance.

22 (3) Notwithstanding any provision of law pertaining to
23 the confidentiality of hospital records or other medical
24 records, information relating to the alcoholic content of the
25 blood or breath or the presence of chemical substances or
26 controlled substances in the blood obtained pursuant to this
27 section shall be released to a court, prosecuting attorney,
28 defense attorney, or law enforcement officer in connection
29 with an alleged violation of s. 327.35 upon request for such
30 information.

31

1 Section 8. Subsection (1) of section 327.353, Florida
2 Statutes, is amended to read:

3 327.353 Blood test for impairment or intoxication in
4 cases of death or serious bodily injury; right to use
5 reasonable force.--

6 (1)(a) ~~Notwithstanding any recognized ability to~~
7 ~~refuse to submit to the tests provided in s. 327.352 or any~~
8 ~~recognized power to revoke the implied consent to such tests,~~
9 If a law enforcement officer has probable cause to believe
10 that a vessel operated by a person under the influence of
11 alcoholic beverages, any chemical substances, or any
12 controlled substances has caused the death or serious bodily
13 injury of a human being, ~~the person shall submit, upon the~~
14 ~~request of a law enforcement officer~~ shall require the person
15 operating or in actual physical control of the vessel to
16 submit to a test of the person's blood for the purpose of
17 determining the alcoholic content thereof or the presence of
18 chemical substances as set forth in s. 877.111 or any
19 substance controlled under chapter 893. The law enforcement
20 officer may use reasonable force if necessary to require the
21 person to submit to the administration of the blood test. The
22 blood test shall be performed in a reasonable manner.
23 Notwithstanding s. 327.352, the testing required by this
24 paragraph need not be incidental to a lawful arrest of the
25 person.

26 (b) The term "serious bodily injury" means an injury
27 to any person, including the operator, which consists of a
28 physical condition that creates a substantial risk of death,
29 serious personal disfigurement, or protracted loss or
30 impairment of the function of any bodily member or organ.

31

1 Section 9. Section 327.359, Florida Statutes, is
2 created to read:

3 327.359 Refusal to submit to testing; penalties.--Any
4 person who has refused to submit to a chemical or physical
5 test of his or her breath, blood, or urine, as described in s.
6 327.352, and:

7 (1) Whom the arresting law enforcement officer had
8 probable cause to believe was operating or in actual physical
9 control of a vessel in this state while under the influence of
10 alcoholic beverages, chemical substances, or controlled
11 substances;

12 (2) Who was placed under lawful arrest for a violation
13 of s. 327.35, unless such test was requested pursuant to s.
14 327.352(1)(c);

15 (3) Who was informed that if he or she refused to
16 submit to such test he or she is subject to a fine of \$500,
17 and that the refusal to submit to such test is a misdemeanor;

18 (4) Who has one or more BUI convictions or the person
19 has been fined for refusal to submit to a lawful test of his
20 or her breath or urine, or both, and who was informed that a
21 refusal to submit to a lawful test of his or her breath or
22 urine is a misdemeanor; and

23 (5) Who, after having been so informed, refused to
24 submit to any such test when requested to do so by a law
25 enforcement officer or correctional officer

26
27 commits a misdemeanor of the first degree and is subject to
28 punishment as provided in s. 775.082 or s. 775.083. A person
29 convicted for BUI or of a misdemeanor for refusal to submit to
30 a breath or urine test is eligible to participate in any drug
31 court in the circuit.

1 Section 10. Paragraphs (c) and (i) of subsection (3)
2 of section 921.0022, Florida Statutes, as amended by chapter
3 2001-358, Laws of Florida, are amended to read:

4 921.0022 Criminal Punishment Code; offense severity
5 ranking chart.--

6 (3) OFFENSE SEVERITY RANKING CHART

7	8 Florida	9 Felony	
10	11 Statute	12 Degree	13 Description
14			(c) LEVEL 3
15	<u>316.193(2)(b)</u>	<u>3rd</u>	<u>Felony DUI</u>
16	316.1935(2)	3rd	Fleeing or attempting to elude 17 law enforcement officer in marked 18 patrol vehicle with siren and 19 lights activated.
20	319.30(4)	3rd	Possession by junkyard of motor 21 vehicle with identification 22 number plate removed.
23	319.33(1)(a)	3rd	Alter or forge any certificate of 24 title to a motor vehicle or 25 mobile home.
26	319.33(1)(c)	3rd	Procure or pass title on stolen 27 vehicle.
28	319.33(4)	3rd	With intent to defraud, possess, 29 sell, etc., a blank, forged, or 30 unlawfully obtained title or 31 registration.
	<u>327.35(2)(b)</u>	<u>3rd</u>	<u>Felony BUI.</u>

1	328.05(2)	3rd	Possess, sell, or counterfeit
2			fictitious, stolen, or fraudulent
3			titles or bills of sale of
4			vessels.
5	328.07(4)	3rd	Manufacture, exchange, or possess
6			vessel with counterfeit or wrong
7			ID number.
8	376.302(5)	3rd	Fraud related to reimbursement
9			for cleanup expenses under the
10			Inland Protection Trust Fund.
11	501.001(2)(b)	2nd	Tampers with a consumer product
12			or the container using materially
13			false/misleading information.
14	697.08	3rd	Equity skimming.
15	790.15(3)	3rd	Person directs another to
16			discharge firearm from a vehicle.
17	796.05(1)	3rd	Live on earnings of a prostitute.
18	806.10(1)	3rd	Maliciously injure, destroy, or
19			interfere with vehicles or
20			equipment used in firefighting.
21	806.10(2)	3rd	Interferes with or assaults
22			firefighter in performance of
23			duty.
24	810.09(2)(c)	3rd	Trespass on property other than
25			structure or conveyance armed
26			with firearm or dangerous weapon.
27	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
28			less than \$10,000.
29	815.04(4)(b)	2nd	Computer offense devised to
30			defraud or obtain property.
31			

1	817.034(4)(a)3.	3rd	Engages in scheme to defraud
2			(Florida Communications Fraud
3			Act), property valued at less
4			than \$20,000.
5	817.233	3rd	Burning to defraud insurer.
6	817.234(8)&(9)	3rd	Unlawful solicitation of persons
7			involved in motor vehicle
8			accidents.
9	817.234(11)(a)	3rd	Insurance fraud; property value
10			less than \$20,000.
11	817.505(4)	3rd	Patient brokering.
12	828.12(2)	3rd	Tortures any animal with intent
13			to inflict intense pain, serious
14			physical injury, or death.
15	831.28(2)(a)	3rd	Counterfeiting a payment
16			instrument with intent to defraud
17			or possessing a counterfeit
18			payment instrument.
19	831.29	2nd	Possession of instruments for
20			counterfeiting drivers' licenses
21			or identification cards.
22	838.021(3)(b)	3rd	Threatens unlawful harm to public
23			servant.
24	843.19	3rd	Injure, disable, or kill police
25			dog or horse.
26	870.01(2)	3rd	Riot; inciting or encouraging.
27			
28			
29			
30			
31			

1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 200 feet
12			of university or public park.
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs within 200 feet
18			of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
23			controlled substance by fraud,
24			forgery, misrepresentation, etc.
25	893.13(7)(a)11.	3rd	Furnish false or fraudulent
26			material information on any
27			document or record required by
28			chapter 893.
29	918.13(1)(a)	3rd	Alter, destroy, or conceal
30			investigation evidence.
31			

1	944.47		
2	(1)(a)1.-2.	3rd	Introduce contraband to
3			correctional facility.
4	944.47(1)(c)	2nd	Possess contraband while upon the
5			grounds of a correctional
6			institution.
7	985.3141	3rd	Escapes from a juvenile facility
8			(secure detention or residential
9			commitment facility).
10			
11			(i) LEVEL 9
12	316.193		
13	(3)(c)3.b.	1st	DUI manslaughter; failing to
14			render aid or give information.
15	<u>327.35(3)(c)3.b.</u>	<u>1st</u>	<u>BUI manslaughter; failing to</u>
16			<u>render aid or give information.</u>
17	560.123(8)(b)3.	1st	Failure to report currency or
18			payment instruments totaling or
19			exceeding \$100,000 by money
20			transmitter.
21	560.125(5)(c)	1st	Money transmitter business by
22			unauthorized person, currency, or
23			payment instruments totaling or
24			exceeding \$100,000.
25	655.50(10)(b)3.	1st	Failure to report financial
26			transactions totaling or
27			exceeding \$100,000 by financial
28			institution.
29	755.0844	1st	Aggravated white collar crime.
30	782.04(1)	1st	Attempt, conspire, or solicit to
31			commit premeditated murder.

1	782.04(3)	1st,PBL	Accomplice to murder in
2			connection with arson, sexual
3			battery, robbery, burglary, and
4			other specified felonies.
5	782.051(1)	1st	Attempted felony murder while
6			perpetrating or attempting to
7			perpetrate a felony enumerated in
8			s. 782.04(3).
9	782.07(2)	1st	Aggravated manslaughter of an
10			elderly person or disabled adult.
11	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
12			reward or as a shield or hostage.
13	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
14			or facilitate commission of any
15			felony.
16	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
17			interfere with performance of any
18			governmental or political
19			function.
20	787.02(3)(a)	1st	False imprisonment; child under
21			age 13; perpetrator also commits
22			aggravated child abuse, sexual
23			battery, or lewd or lascivious
24			battery, molestation, conduct, or
25			exhibition.
26	790.161	1st	Attempted capital destructive
27			device offense.
28	790.166(2)	1st,PBL	Possessing, selling, using, or
29			attempting to use a weapon of
30			mass destruction.
31			

1	794.011(2)	1st	Attempted sexual battery; victim
2			less than 12 years of age.
3	794.011(2)	Life	Sexual battery; offender younger
4			than 18 years and commits sexual
5			battery on a person less than 12
6			years.
7	794.011(4)	1st	Sexual battery; victim 12 years
8			or older, certain circumstances.
9	794.011(8)(b)	1st	Sexual battery; engage in sexual
10			conduct with minor 12 to 18 years
11			by person in familial or
12			custodial authority.
13	800.04(5)(b)	1st	Lewd or lascivious molestation;
14			victim less than 12 years;
15			offender 18 years or older.
16	812.13(2)(a)	1st,PBL	Robbery with firearm or other
17			deadly weapon.
18	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
19			deadly weapon.
20	827.03(2)	1st	Aggravated child abuse.
21	847.0145(1)	1st	Selling, or otherwise
22			transferring custody or control,
23			of a minor.
24	847.0145(2)	1st	Purchasing, or otherwise
25			obtaining custody or control, of
26			a minor.
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1	859.01	1st	Poisoning or introducing
2			bacteria, radioactive materials,
3			viruses, or chemical compounds
4			into food, drink, medicine, or
5			water with intent to kill or
6			injure another person.
7	893.135	1st	Attempted capital trafficking
8			offense.
9	893.135(1)(a)3.	1st	Trafficking in cannabis, more
10			than 10,000 lbs.
11	893.135		
12	(1)(b)1.c.	1st	Trafficking in cocaine, more than
13			400 grams, less than 150
14			kilograms.
15	893.135		
16	(1)(c)1.c.	1st	Trafficking in illegal drugs,
17			more than 28 grams, less than 30
18			kilograms.
19	893.135		
20	(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135		
23	(1)(e)1.c.	1st	Trafficking in methaqualone, more
24			than 25 kilograms.
25	893.135		
26	(1)(f)1.c.	1st	Trafficking in amphetamine, more
27			than 200 grams.
28	893.135		
29	(1)(h)1.c.	1st	Trafficking in
30			gamma-hydroxybutyric acid (GHB),
31			10 kilograms or more.

1 893.135
2 (1)(i)1.c. 1st Trafficking in 1,4-Butanediol, 10
3 kilograms or more.
4 893.135
5 (1)(j)2.c. 1st Trafficking in Phenethylamines,
6 400 grams or more.
7 896.101(5)(c) 1st Money laundering, financial
8 instruments totaling or exceeding
9 \$100,000.
10 896.104(4)(a)3. 1st Structuring transactions to evade
11 reporting or registration
12 requirements, financial
13 transactions totaling or
14 exceeding \$100,000.

15 Section 11. Section 938.07, Florida Statutes, is
16 amended to read:

17 938.07 Driving or boating under the
18 influence.--Notwithstanding any other provision of s. 316.193
19 or s. 327.35, a court cost of \$135 shall be added to any fine
20 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
21 remit the funds to the Department of Revenue, \$25 of which
22 shall be deposited in the Emergency Medical Services Trust
23 Fund, \$50 shall be deposited in the Criminal Justice Standards
24 and Training Trust Fund of the Department of Law Enforcement
25 to be used for operational expenses in conducting the
26 statewide criminal analysis laboratory system established in
27 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
28 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

29 Section 12. Paragraph (d) of subsection (2) of section
30 943.05, Florida Statutes, is amended to read:

31

1 943.05 Criminal Justice Information Program; duties;
2 crime reports.--

3 (2) The program shall:

4 (d) Adopt rules to effectively and efficiently
5 implement, administer, manage, maintain, and use the automated
6 fingerprint identification system and uniform offense reports
7 and arrest reports. The rules shall be considered minimum
8 requirements and shall not preclude a criminal justice agency
9 from implementing its own enhancements. However, rules and
10 forms prescribing uniform arrest or probable-cause affidavits
11 and alcohol-influence reports to be used by all law
12 enforcement agencies in making DUI arrests under s. 316.193
13 shall be adopted, and shall be used by all law enforcement
14 agencies in this state.

15 Section 13. This act shall take effect July 1, 2002.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS for SB 1024

20 Provides that it is a first degree misdemeanor to refuse to
21 submit to testing under specified circumstances. Requires
22 installation of an ignition interlock device for second and
23 third DUI convictions. Ranks Felony DUI and Felony BUI as a
24 Level 3 on the Offense Severity Chart. Requires the Florida
25 Department of Law Enforcement to adopt rules and forms for DUI
26 arrests.
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