

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

309-2280-02

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; amending  
8           conditions for conviction in cases of accident,  
9           serious bodily injury, or death; removing a  
10          cross-reference; amending s. 316.1932, 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. 316.1933, F.S.;  
14          requiring a person to submit to a blood test  
15          under certain circumstances; directing the  
16          court regarding requirements for ignition  
17          interlock devices; creating s. 316.1939, F.S.;  
18          providing a penalty for refusing to submit to a  
19          chemical or physical test of breath, urine, or  
20          blood; providing application; amending s.  
21          327.35, F.S.; reducing the number of  
22          convictions required for a felony BUI; amending  
23          conditions for conviction in cases of accident,  
24          serious bodily injury, or death; conforming  
25          cross-references; amending s. 327.353, F.S.;  
26          requiring a person to submit to a blood test  
27          under certain circumstances; providing that the  
28          test need not be incidental to a lawful arrest;  
29          creating s. 327.359, F.S.; providing a penalty  
30          for refusing to submit to a chemical or  
31          physical test of breath, urine, or blood;

1 providing application; amending s. 921.0022,  
2 F.S.; revising provisions relating to certain  
3 DUI offenses; including certain BUI offenses  
4 within the offense severity ranking chart;  
5 amending s. 938.07, F.S.; providing for  
6 application of a fee to persons found guilty of  
7 boating under the influence; conforming a  
8 cross-reference; amending s. 943.05, F.S.;  
9 providing for adoption of rules and forms for  
10 making DUI arrests; providing an appropriation;  
11 providing an effective date.

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

14  
15 Section 1. Subsections (2), (3), and (4) of section  
16 316.193, Florida Statutes, are amended, and subsection (11) is  
17 added to that section, to read:

18 316.193 Driving under the influence; penalties.--

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

22 1. By a fine of:

23 a. Not less than \$250 or more than \$500 for a first  
24 conviction.

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

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

29 2. By imprisonment for:

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

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

1           ~~c. Not more than 12 months for a third conviction.~~  
2           3. For a second conviction, by mandatory placement for  
3 a period of 1 year, at the convicted person's sole expense, of  
4 an ignition interlock device approved by the Department of  
5 Highway Safety and Motor Vehicles upon all vehicles that are  
6 individually or jointly leased or owned by the convicted  
7 person, and upon all vehicles that are routinely operated by  
8 the convicted person when the convicted person qualifies for a  
9 permanent or restricted license. The installation of such  
10 device may not occur before July 1, 2003.

11           (b)1. Any person who is convicted of a third fourth or  
12 subsequent violation of this section for an offense that  
13 occurs within a period of 10 years after the date of a prior  
14 conviction for a violation of this section commits is guilty  
15 of a felony of the third degree, punishable as provided in s.  
16 775.082, s. 775.083, or s. 775.084. In addition, the court  
17 shall order the mandatory placement for a period of not less  
18 than 2 years, at the convicted person's sole expense, of an  
19 ignition interlock device approved by the Department of  
20 Highway Safety and Motor Vehicles upon all vehicles that are  
21 individually or jointly leased or owned by the convicted  
22 person and upon all vehicles that are routinely operated by  
23 the convicted person when the convicted person qualifies for a  
24 permanent or restricted license. The installation of such  
25 device may not occur before July 1, 2003.†

26           2. Any person who is convicted of a third violation of  
27 this section for an offense that occurs more than 10 years  
28 after the date of a prior conviction for a violation of this  
29 section shall be punished by a fine of not less than \$1,000 or  
30 more than \$2,500 and by imprisonment for not more than 12  
31 months. In addition, the court shall order the mandatory

1 placement for a period of 1 year, at the convicted person's  
2 sole expense, of an ignition interlock device approved by the  
3 Department of Highway Safety and Motor Vehicles upon all  
4 vehicles that are individually or jointly leased or owned by  
5 the convicted person and upon all vehicles that are routinely  
6 operated by the convicted person when the convicted person  
7 qualifies for a permanent or restricted license. The  
8 installation of such device may not occur before July 1,  
9 2003.†

10 3. Any person who is convicted of a fourth or  
11 subsequent violation of this section, regardless of when any  
12 prior conviction for a violation of this section occurred,  
13 commits a felony of the third degree, punishable as provided  
14 in s. 775.082, s. 775.083, or s. 775.084. However, the fine  
15 imposed for such fourth or subsequent violation may be not  
16 less than \$1,000.

17 (3) Any person:

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

19 (b) Who operates a vehicle; and

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

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

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

28 3. The death of any human being commits DUI  
29 manslaughter, and commits:

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

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 crash, the person knew, or  
4 should have known, that the crash occurred; and

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

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

13           (a) By a fine of:

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

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

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

20           (b) By imprisonment for:

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

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

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

24  
25 For the purposes of this subsection, ~~any conviction for a~~  
26 ~~violation of s. 327.35,~~ only the instant offense is required  
27 to be a violation of subsection (1) by a person who has a  
28 blood-alcohol level or breath-alcohol level of 0.20 or higher.

29           (c) In addition to the additional penalties in  
30 paragraphs (a) and (b), the court shall order the mandatory  
31 placement, at the convicted person's sole expense, of an

1 ignition interlock device approved by the Department of  
2 Highway Safety and Motor Vehicles upon all vehicles that are  
3 individually or jointly leased or owned by the convicted  
4 person and upon all vehicles that are routinely operated by  
5 the convicted person when the convicted person qualifies for a  
6 permanent or restricted license up to 6 months for the first  
7 offense and up to 1 year for a second offense. The  
8 installation of such device may not occur before July 1, 2003.

9 (11) The Department of Highway Safety and Motor  
10 Vehicles is directed to adopt rules providing for the  
11 implementation of the use of ignition interlock devices.

12 Section 2. Section 316.1932, Florida Statutes, is  
13 amended to read:

14 316.1932 Breath, blood, and urine tests for alcohol,  
15 chemical substances, or controlled substances; implied  
16 consent; refusal ~~right to refuse~~--

17 (1)(a)1. Any person who accepts the privilege extended  
18 by the laws of this state of operating a motor vehicle within  
19 this state is, by so operating such vehicle, deemed to have  
20 given his or her consent to submit to an approved chemical  
21 test or physical test including, but not limited to, an  
22 infrared light test of his or her breath for the purpose of  
23 determining the alcoholic content of his or her blood or  
24 breath, and to a urine test for the purpose of detecting the  
25 presence of chemical substances as set forth in s. 877.111 or  
26 controlled substances, if the person is lawfully arrested for  
27 any offense allegedly committed while the person was driving  
28 or was in actual physical control of a motor vehicle while  
29 under the influence of alcoholic beverages, chemical  
30 substances, or controlled substances. The chemical or  
31 physical breath test must be incidental to a lawful arrest and

1 administered at the request of a law enforcement officer who  
2 has reasonable cause to believe such person was driving or was  
3 in actual physical control of the motor vehicle within this  
4 state while under the influence of alcoholic beverages. The  
5 urine test must be incidental to a lawful arrest and  
6 administered at a detention facility or any other facility,  
7 mobile or otherwise, which is equipped to administer such  
8 tests at the request of a law enforcement officer who has  
9 reasonable cause to believe such person was driving or was in  
10 actual physical control of a motor vehicle within this state  
11 while under the influence of controlled substances. The urine  
12 test shall be administered at a detention facility or any  
13 other facility, mobile or otherwise, which is equipped to  
14 administer such tests in a reasonable manner that will ensure  
15 the accuracy of the specimen and maintain the privacy of the  
16 individual involved. The administration of one type of test  
17 does not preclude the administration of another type of test.  
18 The person shall be told that his or her failure to submit to  
19 any lawful test of his or her breath or urine, or both, will  
20 result in the suspension of the person's privilege to operate  
21 a motor vehicle for a period of 1 year for a first refusal, or  
22 for a period of 18 months if the driving privilege of such  
23 person has been previously suspended as a result of a refusal  
24 to submit to such a test or tests, and will also be told that  
25 if he or she refuses to submit to a lawful test of his or her  
26 breath or urine, or both, and his or her driving privilege is  
27 currently suspended for a prior refusal to submit to a lawful  
28 test of his or her breath, urine, or blood, he or she is  
29 guilty of a misdemeanor in addition to any other penalties.  
30 The refusal to submit to a chemical or physical breath test or  
31 to a urine test upon the request of a law enforcement officer

1 as provided in this section is admissible into evidence in any  
2 criminal proceeding.

3           2. The Alcohol Testing Program within the Department  
4 of Law Enforcement is responsible for the regulation of the  
5 operation, inspection, and registration of breath test  
6 instruments utilized under the driving and boating under the  
7 influence provisions and related provisions located in this  
8 chapter and chapters 322 and 327. The program is responsible  
9 for the regulation of the individuals who operate, inspect,  
10 and instruct on the breath test instruments utilized in the  
11 driving and boating under the influence provisions and related  
12 provisions located in this chapter and chapters 322 and 327.  
13 The program is further responsible for the regulation of blood  
14 analysts who conduct blood testing to be utilized under the  
15 driving and boating under the influence provisions and related  
16 provisions located in this chapter and chapters 322 and 327.

17 The program shall:

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

30  
31



- 1 e. Have the authority to specify one approved  
2 curriculum for the operation and inspection of approved  
3 instruments.
- 4 f. Establish a procedure for the approval of breath  
5 test operator and agency inspector classes.
- 6 g. Have the authority to approve or disapprove breath  
7 test instruments and accompanying paraphernalia for use  
8 pursuant to the driving and boating under the influence  
9 provisions and related provisions located in this chapter and  
10 chapters 322 and 327.
- 11 h. With the approval of the executive director of the  
12 Department of Law Enforcement, make and enter into contracts  
13 and agreements with other agencies, organizations,  
14 associations, corporations, individuals, or federal agencies  
15 as are necessary, expedient, or incidental to the performance  
16 of duties.
- 17 i. Issue final orders which include findings of fact  
18 and conclusions of law and which constitute final agency  
19 action for the purpose of chapter 120.
- 20 j. Enforce compliance with the provisions of this  
21 section through civil or administrative proceedings.
- 22 k. Make recommendations concerning any matter within  
23 the purview of this section, this chapter, chapter 322, or  
24 chapter 327.
- 25 l. Promulgate rules for the administration and  
26 implementation of this section, including definitions of  
27 terms.
- 28 m. Consult and cooperate with other entities for the  
29 purpose of implementing the mandates of this section.
- 30 n. Have the authority to approve the type of blood  
31 test utilized under the driving and boating under the

1 influence provisions and related provisions located in this  
2 chapter and chapters 322 and 327.

3 o. Have the authority to specify techniques and  
4 methods for breath alcohol testing and blood testing utilized  
5 under the driving and boating under the influence provisions  
6 and related provisions located in this chapter and chapters  
7 322 and 327.

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

11  
12 Nothing in this section shall be construed to supersede  
13 provisions in this chapter and chapters 322 and 327. The  
14 specifications in this section are derived from the power and  
15 authority previously and currently possessed by the Department  
16 of Law Enforcement and are enumerated to conform with the  
17 mandates of chapter 99-379, Laws of Florida.

18 (b)1. The blood-alcohol level must be based upon grams  
19 of alcohol per 100 milliliters of blood. The breath-alcohol  
20 level must be based upon grams of alcohol per 210 liters of  
21 breath.

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

30 (c) Any person who accepts the privilege extended by  
31 the laws of this state of operating a motor vehicle within

1 this state is, by operating such vehicle, deemed to have given  
2 his or her consent to submit to an approved blood test for the  
3 purpose of determining the alcoholic content of the blood or a  
4 blood test for the purpose of determining the presence of  
5 chemical substances or controlled substances as provided in  
6 this section if there is reasonable cause to believe the  
7 person was driving or in actual physical control of a motor  
8 vehicle while under the influence of alcoholic beverages or  
9 chemical or controlled substances and the person appears for  
10 treatment at a hospital, clinic, or other medical facility and  
11 the administration of a breath or urine test is impractical or  
12 impossible. As used in this paragraph, the term "other medical  
13 facility" includes an ambulance or other medical emergency  
14 vehicle. The blood test shall be performed in a reasonable  
15 manner. Any person who is incapable of refusal by reason of  
16 unconsciousness or other mental or physical condition is  
17 deemed not to have withdrawn his or her consent to such test.  
18 A blood test may be administered whether or not the person is  
19 told that his or her failure to submit to such a blood test  
20 will result in the suspension of the person's privilege to  
21 operate a motor vehicle upon the public highways of this state  
22 and that a refusal to submit to a lawful test of his or her  
23 blood, if his or her driving privilege is currently suspended  
24 for refusal to submit to a lawful test of his or her breath,  
25 urine, or blood, is a misdemeanor. Any person who is capable  
26 of refusal shall be told that his or her failure to submit to  
27 such a blood test will result in the suspension of the  
28 person's privilege to operate a motor vehicle for a period of  
29 1 year for a first refusal, or for a period of 18 months if  
30 the driving privilege of the person has been suspended  
31 previously as a result of a refusal to submit to such a test

1 or tests, and that a refusal to submit to a lawful test of his  
2 or her blood, if his or her driving privilege is currently  
3 suspended for a prior refusal to submit to a lawful test of  
4 his or her breath, urine, or blood, is a misdemeanor. The  
5 refusal to submit to a blood test upon the request of a law  
6 enforcement officer is admissible in evidence in any criminal  
7 proceeding.

8 (d) If the arresting officer does not request a  
9 chemical or physical breath test of the person arrested for  
10 any offense allegedly committed while the person was driving  
11 or was in actual physical control of a motor vehicle while  
12 under the influence of alcoholic beverages or controlled  
13 substances, such person may request the arresting officer to  
14 have a chemical or physical test made of the arrested person's  
15 breath or a test of the urine or blood for the purpose of  
16 determining the alcoholic content of the person's blood or  
17 breath or the presence of chemical substances or controlled  
18 substances; and, if so requested, the arresting officer shall  
19 have the test performed.

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

24 2. A nonresident or any other person driving in a  
25 status exempt from the requirements of the driver's license  
26 law, by his or her act of driving in such exempt status, is  
27 deemed to have expressed his or her consent to the provisions  
28 of this section.

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

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. 456.057, 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. 456.057, 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 (2) The results of any test administered pursuant to  
7 this section for the purpose of detecting the presence of any  
8 controlled substance shall not be admissible as evidence in a  
9 criminal prosecution for the possession of a controlled  
10 substance.

11 (3) Notwithstanding any provision of law pertaining to  
12 the confidentiality of hospital records or other medical  
13 records, information relating to the alcoholic content of the  
14 blood or breath or the presence of chemical substances or  
15 controlled substances in the blood obtained pursuant to this  
16 section shall be released to a court, prosecuting attorney,  
17 defense attorney, or law enforcement officer in connection  
18 with an alleged violation of s. 316.193 upon request for such  
19 information.

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

22 316.1933 Blood test for impairment or intoxication in  
23 cases of death or serious bodily injury; right to use  
24 reasonable force.--

25 (1)(a) ~~Notwithstanding any recognized ability to~~  
26 ~~refuse to submit to the tests provided in s. 316.1932 or any~~  
27 ~~recognized power to revoke the implied consent to such tests,~~  
28 If a law enforcement officer has probable cause to believe  
29 that a motor vehicle driven by or in the actual physical  
30 control of a person under the influence of alcoholic  
31 beverages, any chemical substances, or any controlled



1 substances has caused the death or serious bodily injury of a  
2 human being, ~~such person shall submit, upon the request of a~~  
3 law enforcement officer shall require the person driving or in  
4 actual physical control of the motor vehicle to submit,to a  
5 test of the person's blood for the purpose of determining the  
6 alcoholic content thereof or the presence of chemical  
7 substances as set forth in s. 877.111 or any substance  
8 controlled under chapter 893. The law enforcement officer may  
9 use reasonable force if necessary to require such person to  
10 submit to the administration of the blood test. The blood  
11 test shall be performed in a reasonable manner.  
12 Notwithstanding s. 316.1932, the testing required by this  
13 paragraph need not be incidental to a lawful arrest of the  
14 person.

15 (b) The term "serious bodily injury" means an injury  
16 to any person, including the driver, which consists of a  
17 physical condition that creates a substantial risk of death,  
18 serious personal disfigurement, or protracted loss or  
19 impairment of the function of any bodily member or organ.

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

22 316.1937 Ignition interlock devices, requiring;  
23 unlawful acts.--

24 (1) In addition to any other authorized penalties, the  
25 court may require that any person who is convicted of driving  
26 under the influence in violation of s. 316.193, and who is  
27 granted probation, shall not operate a motor vehicle during  
28 the period of probation unless that vehicle is equipped with a  
29 functioning ignition interlock device certified by the  
30 department as provided in s. 316.1938, and installed in such a  
31 manner that the vehicle will not start if the operator's blood

1 alcohol level is in excess of 0.05 percent or as otherwise  
2 specified by the court. The court may require the use of an  
3 approved ignition interlock device for the period of  
4 probation, said period to be for not less than 6 months, if  
5 the person is permitted to operate a motor vehicle, whether  
6 the privilege to operate a motor vehicle is restricted or not,  
7 as determined by the court. The court shall require placement  
8 of an ignition interlock device in accordance with s.  
9 316.193(2) and (4).

10 Section 5. Section 316.1939, Florida Statutes, is  
11 created to read:

12 316.1939 Refusal to submit to testing; penalties.--

13 (1) Any person who has refused to submit to a chemical  
14 or physical test of his or her breath, blood, or urine, as  
15 described in s. 316.1932 and whose driving privilege is  
16 currently suspended for a prior refusal to submit to a lawful  
17 test of his or her breath, urine, or blood, and:

18 (a) Whom the arresting law enforcement officer had  
19 probable cause to believe was driving or in actual physical  
20 control of a motor vehicle in this state while under the  
21 influence of alcoholic beverages, chemical substances, or  
22 controlled substances;

23 (b) Who was placed under lawful arrest for a violation  
24 of s. 316.193;

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

30 (d) Who was informed that a refusal to submit to a  
31 lawful test of his or her breath, urine, or blood, if his or

1 her driving privilege is currently suspended for a prior  
2 refusal to submit to a lawful test of his or her breath,  
3 urine, or blood, is a misdemeanor; and

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

7  
8 commits a misdemeanor of the first degree and is subject to  
9 punishment as provided in s. 775.082 or s. 775.083.

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

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

16 Section 6. Subsections (2), (3), and (4) of section  
17 327.35, Florida Statutes, are amended to read:

18 327.35 Boating under the influence; penalties;  
19 "designated drivers".--

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

23 1. By a fine of:

24 a. Not less than \$250 or more than \$500 for a first  
25 conviction.

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

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

30 2. By imprisonment for:

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

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

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

3           (b)1. Any person who is convicted of a third ~~fourth~~ or  
4 ~~subsequent~~ violation of this section for an offense that  
5 occurs within a period of 10 years after the date of a prior  
6 conviction for a violation of this section commits ~~is guilty~~  
7 ~~of~~ a felony of the third degree, punishable as provided in s.  
8 775.082, s. 775.083, or s. 775.084.†

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

15           3. Any person who is convicted of a fourth or  
16 subsequent violation of this section, regardless of when any  
17 prior conviction for a violation of this section occurred,  
18 commits a felony of the third degree, punishable as provided  
19 in s. 775.082, s. 775.083, or s. 775.084.

20  
21 However, the fine imposed for such fourth or subsequent  
22 violation may not be less than \$1,000.

23           (3) Any person:

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

25           (b) Who operates a vessel; and

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

28           1. Damage to the property or person of another commits  
29 a misdemeanor of the first degree, punishable as provided in  
30 s. 775.082 or s. 775.083.

31

1           2. Serious bodily injury to another, as defined in s.  
2 327.353 ~~s. 316.1933~~, commits a felony of the third degree,  
3 punishable as provided in s. 775.082, s. 775.083, or s.  
4 775.084.

5           3. The death of any human being commits BUI  
6 manslaughter, and commits:

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

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

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

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

15

16 This sub-subparagraph does not require that the person knew  
17 that the accident resulted in injury or death.

18           (4) Any person who is convicted of a violation of  
19 subsection (1) and who has a blood-alcohol level or  
20 breath-alcohol level of 0.20 or higher, or any person who is  
21 convicted of a violation of subsection (1) and who at the time  
22 of the offense was accompanied in the vessel by a person under  
23 the age of 18 years, shall be punished:

24           (a) By a fine of:

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

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

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

31           (b) By imprisonment for:

- 1           1. Not more than 9 months for a first conviction.
- 2           2. Not more than 12 months for a second conviction.
- 3           3. ~~Not more than 12 months for a third conviction.~~

4  
5 For the purposes of this subsection, only the instant offense  
6 is required to be a violation of subsection (1) by a person  
7 who has a blood-alcohol level or breath-alcohol level of 0.20  
8 or higher.

9           Section 7. Section 327.352, Florida Statutes, is  
10 amended to read:

11           327.352 Breath, blood, and urine tests for alcohol,  
12 chemical substances, or controlled substances; implied  
13 consent; refusal ~~right to refuse~~.--

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

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

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

1 level must be based upon grams of alcohol per 210 liters of  
2 breath.

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

10           3. The Alcohol Testing Program within the Department  
11 of Law Enforcement is responsible for the regulation of the  
12 operation, inspection, and registration of breath test  
13 instruments utilized under the driving and boating under the  
14 influence provisions and related provisions located in this  
15 chapter and chapters 316 and 322. The program is responsible  
16 for the regulation of the individuals who operate, inspect,  
17 and instruct on the breath test instruments utilized in the  
18 driving and boating under the influence provisions and related  
19 provisions located in this chapter and chapters 316 and 322.  
20 The program is further responsible for the regulation of blood  
21 analysts who conduct blood testing to be utilized under the  
22 driving and boating under the influence provisions and related  
23 provisions located in this chapter and chapters 316 and 322.  
24 The program shall:

25           a. Establish uniform criteria for the issuance of  
26 permits to breath test operators, agency inspectors,  
27 instructors, blood analysts, and instruments.

28           b. Have the authority to permit breath test operators,  
29 agency inspectors, instructors, blood analysts, and  
30 instruments.

31



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

4           d. Establish uniform requirements for instruction and  
5 curricula for the operation and inspection of approved  
6 instruments.

7           e. Have the authority to specify one approved  
8 curriculum for the operation and inspection of approved  
9 instruments.

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

12          g. Have the authority to approve or disapprove breath  
13 test instruments and accompanying paraphernalia for use  
14 pursuant to the driving and boating under the influence  
15 provisions and related provisions located in this chapter and  
16 chapters 316 and 322.

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

23          i. Issue final orders which include findings of fact  
24 and conclusions of law and which constitute final agency  
25 action for the purpose of chapter 120.

26          j. Enforce compliance with the provisions of this  
27 section through civil or administrative proceedings.

28          k. Make recommendations concerning any matter within  
29 the purview of this section, this chapter, chapter 316, or  
30 chapter 322.

31

1           l. Promulgate rules for the administration and  
2 implementation of this section, including definitions of  
3 terms.

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

6           n. Have the authority to approve the type of blood  
7 test utilized under the driving and boating under the  
8 influence provisions and related provisions located in this  
9 chapter and chapters 316 and 322.

10          o. Have the authority to specify techniques and  
11 methods for breath alcohol testing and blood testing utilized  
12 under the driving and boating under the influence provisions  
13 and related provisions located in this chapter and chapters  
14 316 and 322.

15          p. Have the authority to approve repair facilities for  
16 the approved breath test instruments, including the authority  
17 to set criteria for approval.

18  
19 Nothing in this section shall be construed to supersede  
20 provisions in this chapter and chapters 316 and 322. The  
21 specifications in this section are derived from the power and  
22 authority previously and currently possessed by the Department  
23 of Law Enforcement and are enumerated to conform with the  
24 mandates of chapter 99-379, Laws of Florida.

25          (c) Any person who accepts the privilege extended by  
26 the laws of this state of operating a vessel within this state  
27 is, by operating such vessel, deemed to have given his or her  
28 consent to submit to an approved blood test for the purpose of  
29 determining the alcoholic content of the blood or a blood test  
30 for the purpose of determining the presence of chemical  
31 substances or controlled substances as provided in this

1 section if there is reasonable cause to believe the person was  
2 operating a vessel while under the influence of alcoholic  
3 beverages or chemical or controlled substances and the person  
4 appears for treatment at a hospital, clinic, or other medical  
5 facility and the administration of a breath or urine test is  
6 impractical or impossible. As used in this paragraph, the term  
7 "other medical facility" includes an ambulance or other  
8 medical emergency vehicle. The blood test shall be performed  
9 in a reasonable manner. Any person who is incapable of  
10 refusal by reason of unconsciousness or other mental or  
11 physical condition is deemed not to have withdrawn his or her  
12 consent to such test. Any person who is capable of refusal  
13 shall be told that his or her failure to submit to such a  
14 blood test will result in a civil penalty of \$500 and that a  
15 refusal to submit to a lawful test of his or her blood, if he  
16 or she has previously been fined for refusal to submit to any  
17 lawful test of his or her breath, urine, or blood, is a  
18 misdemeanor. The refusal to submit to a blood test upon the  
19 request of a law enforcement officer shall be admissible in  
20 evidence in any criminal proceeding.

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

1           (e)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 However, the failure of a law enforcement officer to request  
6 the withdrawal of blood does not affect the admissibility of a  
7 test of blood withdrawn for medical purposes.

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

19           3. The person tested may, at his or her own expense,  
20 have a physician, registered nurse, other personnel authorized  
21 by a hospital to draw blood, or duly licensed clinical  
22 laboratory director, supervisor, technologist, or technician,  
23 or other person of his or her own choosing administer an  
24 independent test in addition to the test administered at the  
25 direction of the law enforcement officer for the purpose of  
26 determining the amount of alcohol in the person's blood or  
27 breath or the presence of chemical substances or controlled  
28 substances at the time alleged, as shown by chemical analysis  
29 of his or her blood or urine, or by chemical or physical test  
30 of his or her breath. The failure or inability to obtain an  
31 independent test by a person does not preclude the

1 admissibility in evidence of the test taken at the direction  
2 of the law enforcement officer. The law enforcement officer  
3 shall not interfere with the person's opportunity to obtain  
4 the independent test and shall provide the person with timely  
5 telephone access to secure the test, but the burden is on the  
6 person to arrange and secure the test at the person's own  
7 expense.

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

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

24           (2) The results of any test administered pursuant to  
25 this section for the purpose of detecting the presence of any  
26 controlled substance shall not be admissible as evidence in a  
27 criminal prosecution for the possession of a controlled  
28 substance.

29           (3) Notwithstanding any provision of law pertaining to  
30 the confidentiality of hospital records or other medical  
31 records, information relating to the alcoholic content of the

1 blood or breath or the presence of chemical substances or  
2 controlled substances in the blood obtained pursuant to this  
3 section shall be released to a court, prosecuting attorney,  
4 defense attorney, or law enforcement officer in connection  
5 with an alleged violation of s. 327.35 upon request for such  
6 information.

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

9 327.353 Blood test for impairment or intoxication in  
10 cases of death or serious bodily injury; right to use  
11 reasonable force.--

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

1           **(b)** The term "serious bodily injury" means an injury  
2 to any person, including the operator, which consists of a  
3 physical condition that creates a substantial risk of death,  
4 serious personal disfigurement, or protracted loss or  
5 impairment of the function of any bodily member or organ.

6           Section 9. Section 327.359, Florida Statutes, is  
7 created to read:

8           327.359 Refusal to submit to testing; penalties.--Any  
9 person who has refused to submit to a chemical or physical  
10 test of his or her breath, blood, or urine, as described in s.  
11 327.352, and who has been previously fined for refusal to  
12 submit to a lawful test of his or her breath, urine, or blood,  
13 and:

14           (1) Whom the arresting law enforcement officer had  
15 probable cause to believe was operating or in actual physical  
16 control of a vessel in this state while under the influence of  
17 alcoholic beverages, chemical substances, or controlled  
18 substances;

19           (2) Who was placed under lawful arrest for a violation  
20 of s. 327.35;

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

24           (4) Who was informed that a refusal to submit to a  
25 lawful test of his or her breath, urine, or blood, if he or  
26 she has been previously fined for refusal to submit to a  
27 lawful test of his or her breath, urine, or blood, is a  
28 misdemeanor; and

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

1  
2 commits a misdemeanor of the first degree and is subject to  
3 punishment as provided in s. 775.082 or s. 775.083.

4 Section 10. Paragraphs (c) and (i) of subsection (3)  
5 of section 921.0022, Florida Statutes, as amended by chapter  
6 2001-358, Laws of Florida, are amended to read:

7 921.0022 Criminal Punishment Code; offense severity  
8 ranking chart.--

9 (3) OFFENSE SEVERITY RANKING CHART

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



1	319.33(4)	3rd	With intent to defraud, possess,
2			sell, etc., a blank, forged, or
3			unlawfully obtained title or
4			registration.
5	<u>327.35(2)(b)</u>	<u>3rd</u>	<u>Felony BUI.</u>
6	328.05(2)	3rd	Possess, sell, or counterfeit
7			fictitious, stolen, or fraudulent
8			titles or bills of sale of
9			vessels.
10	328.07(4)	3rd	Manufacture, exchange, or possess
11			vessel with counterfeit or wrong
12			ID number.
13	376.302(5)	3rd	Fraud related to reimbursement
14			for cleanup expenses under the
15			Inland Protection Trust Fund.
16	501.001(2)(b)	2nd	Tampers with a consumer product
17			or the container using materially
18			false/misleading information.
19	697.08	3rd	Equity skimming.
20	790.15(3)	3rd	Person directs another to
21			discharge firearm from a vehicle.
22	796.05(1)	3rd	Live on earnings of a prostitute.
23	806.10(1)	3rd	Maliciously injure, destroy, or
24			interfere with vehicles or
25			equipment used in firefighting.
26	806.10(2)	3rd	Interferes with or assaults
27			firefighter in performance of
28			duty.
29	810.09(2)(c)	3rd	Trespass on property other than
30			structure or conveyance armed
31			with firearm or dangerous weapon.

1	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
2			less than \$10,000.
3	815.04(4)(b)	2nd	Computer offense devised to
4			defraud or obtain property.
5	817.034(4)(a)3.	3rd	Engages in scheme to defraud
6			(Florida Communications Fraud
7			Act), property valued at less
8			than \$20,000.
9	817.233	3rd	Burning to defraud insurer.
10	817.234(8)&(9)	3rd	Unlawful solicitation of persons
11			involved in motor vehicle
12			accidents.
13	817.234(11)(a)	3rd	Insurance fraud; property value
14			less than \$20,000.
15	817.505(4)	3rd	Patient brokering.
16	828.12(2)	3rd	Tortures any animal with intent
17			to inflict intense pain, serious
18			physical injury, or death.
19	831.28(2)(a)	3rd	Counterfeiting a payment
20			instrument with intent to defraud
21			or possessing a counterfeit
22			payment instrument.
23	831.29	2nd	Possession of instruments for
24			counterfeiting drivers' licenses
25			or identification cards.
26	838.021(3)(b)	3rd	Threatens unlawful harm to public
27			servant.
28	843.19	3rd	Injure, disable, or kill police
29			dog or horse.
30	870.01(2)	3rd	Riot; inciting or encouraging.
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



