

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. Barcode 530358

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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11 Senator Burt moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

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16 and insert:

17 Section 1. Subsections (2), (3), and (4) of section
18 316.193, Florida Statutes, are amended, and subsection (11) is
19 added to said section, to read:

20 316.193 Driving under the influence; penalties.--

21

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

24

1. By a fine of:

25

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

27

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

29

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

31

2. By imprisonment for:

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. Barcode 530358

1 a. Not more than 6 months for a first conviction.
2 b. Not more than 9 months for a second conviction.
3 ~~c. Not more than 12 months for a third conviction.~~
4 3. For a second conviction, by mandatory placement for
5 a period of at least 1 year, at the convicted person's sole
6 expense, of an ignition interlock device approved by the
7 department in accordance with s. 316.1938 upon all vehicles
8 that are individually or jointly leased or owned and routinely
9 operated by the convicted person, when the convicted person
10 qualifies for a permanent or restricted license. The
11 installation of such device may not occur before July 1, 2003.

12 (b)1. Any person who is convicted of a third fourth or
13 subsequent violation of this section for an offense that
14 occurs within 10 years after a prior conviction for a
15 violation of this section commits is guilty of a felony of the
16 third degree, punishable as provided in s. 775.082, s.
17 775.083, or s. 775.084. In addition, the court shall order the
18 mandatory placement for a period of not less than 2 years, at
19 the convicted person's sole expense, of an ignition interlock
20 device approved by the department in accordance with s.
21 316.1938 upon all vehicles that are individually or jointly
22 leased or owned and routinely operated by the convicted
23 person, when the convicted person qualifies for a permanent or
24 restricted license. The installation of such device may not
25 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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 placement for a period of at least 2 years, at the convicted
2 person's sole expense, of an ignition interlock device
3 approved by the department in accordance with s. 316.1938 upon
4 all vehicles that are individually or jointly leased or owned
5 and routinely operated by the convicted person, when the
6 convicted person qualifies for a permanent or restricted
7 license. The installation of such device may not occur before
8 July 1, 2003.

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

16 (3) Any person:

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

18 (b) Who operates a vehicle; and

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

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

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

27 3. The death of any human being commits DUI
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 b. A felony of the first degree, punishable as

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 provided in s. 775.082, s. 775.083, or s. 775.084, if:

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

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

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

12 (a) By a fine of:

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

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

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

19 (b) By imprisonment for:

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

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

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

23
24 For the purposes of this subsection, ~~any conviction for a~~
25 ~~violation of s. 327.35,~~ only the instant offense is required
26 to be a violation of subsection (1) by a person who has a
27 blood-alcohol level or breath-alcohol level of 0.20 or higher.

28 (c) In addition to the penalties in paragraphs (a) and
29 (b), the court shall order the mandatory placement, at the
30 convicted person's sole expense, of an ignition interlock
31 device approved by the department in accordance with s.

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 316.1938 upon all vehicles that are individually or jointly
2 leased or owned and routinely operated by the convicted person
3 for up to 6 months for the first offense and for at least 2
4 years for a second offense, when the convicted person
5 qualifies for a permanent or restricted license. The
6 installation of such device may not occur before July 1, 2003.

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

10 Section 2. Section 316.1932, Florida Statutes, is
11 amended to read:

12 316.1932 Breath, blood, and urine tests for alcohol,
13 chemical substances, or controlled substances; implied
14 consent; refusal ~~right to refuse~~--

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

- 1 2. 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 322 and 327. 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 322 and 327.
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 322 and 327.
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 f. Establish a procedure for the approval of breath

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 test operator and agency inspector classes.

2 g. Have the authority to approve or disapprove breath
3 test instruments and accompanying paraphernalia for use
4 pursuant to the driving and boating under the influence
5 provisions and related provisions located in this chapter and
6 chapters 322 and 327.

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

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

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

18 k. Make recommendations concerning any matter within
19 the purview of this section, this chapter, chapter 322, or
20 chapter 327.

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

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

26 n. Have the authority to approve the type of blood
27 test utilized under the driving and boating under the
28 influence provisions and related provisions located in this
29 chapter and chapters 322 and 327.

30 o. Have the authority to specify techniques and
31 methods for breath alcohol testing and blood testing utilized

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 under the driving and boating under the influence provisions
2 and related provisions located in this chapter and chapters
3 322 and 327.

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

7
8 Nothing in this section shall be construed to supersede
9 provisions in this chapter and chapters 322 and 327. The
10 specifications in this section are derived from the power and
11 authority previously and currently possessed by the Department
12 of Law Enforcement and are enumerated to conform with the
13 mandates of chapter 99-379, Laws of Florida.

14 (b)1. The blood-alcohol level must be based upon grams
15 of alcohol per 100 milliliters of blood. The breath-alcohol
16 level must be based upon grams of alcohol per 210 liters of
17 breath.

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

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 The refusal to submit to a blood test upon the request of a
2 law enforcement officer is admissible in evidence in any
3 criminal proceeding.

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

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

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

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

28 (f)1. The tests determining the weight of alcohol in
29 the defendant's blood or breath shall be administered at the
30 request of a law enforcement officer substantially in
31 accordance with rules of the Department of Law Enforcement.

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

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

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 purpose of providing the law enforcement officer with
2 reasonable cause to request the withdrawal of a blood sample
3 pursuant to this section.

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

8 d. Nothing contained in s. 395.3025(4), s. 456.057, or
9 any applicable practice act affects the authority to provide
10 notice under this section, and the health care provider is not
11 considered to have breached any duty owed to the person under
12 s. 395.3025(4), s. 456.057, or any applicable practice act by
13 providing notice or failing to provide notice. It shall not be
14 a breach of any ethical, moral, or legal duty for a health
15 care provider to provide notice or fail to provide notice.

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

28 3. The person tested may, at his or her own expense,
29 have a physician, registered nurse, other personnel authorized
30 by a hospital to draw blood, or duly licensed clinical
31 laboratory director, supervisor, technologist, or technician,

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

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

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 subject resisted administration of the test.

2 (2) The results of any test administered pursuant to
3 this section for the purpose of detecting the presence of any
4 controlled substance shall not be admissible as evidence in a
5 criminal prosecution for the possession of a controlled
6 substance.

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

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

18 316.1933 Blood test for impairment or intoxication in
19 cases of death or serious bodily injury; right to use
20 reasonable force.--

21 ~~(1)(a) Notwithstanding any recognized ability to~~
22 ~~refuse to submit to the tests provided in s. 316.1932 or any~~
23 ~~recognized power to revoke the implied consent to such tests,~~
24 If a law enforcement officer has probable cause to believe
25 that a motor vehicle driven by or in the actual physical
26 control of a person under the influence of alcoholic
27 beverages, any chemical substances, or any controlled
28 substances has caused the death or serious bodily injury of a
29 human being, ~~such person shall submit, upon the request of a~~
30 law enforcement officer shall require the person driving or in
31 actual physical control of the motor vehicle to submit to a

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 test of the person's blood for the purpose of determining the
2 alcoholic content thereof or the presence of chemical
3 substances as set forth in s. 877.111 or any substance
4 controlled under chapter 893. The law enforcement officer may
5 use reasonable force if necessary to require such person to
6 submit to the administration of the blood test. The blood
7 test shall be performed in a reasonable manner.

8 Notwithstanding s. 316.1932, the testing required by this
9 paragraph need not be incidental to a lawful arrest of the
10 person.

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

16 Section 4. Section 316.1937, Florida Statutes, is
17 amended to read:

18 316.1937 Ignition interlock devices, requiring;
19 unlawful acts.--

20 (1) In addition to any other authorized penalties, the
21 court may require that any person who is convicted of driving
22 under the influence in violation of s. 316.193, ~~and who is~~
23 ~~granted probation,~~ shall not operate a motor vehicle ~~during~~
24 ~~the period of probation~~ unless that vehicle is equipped with a
25 functioning ignition interlock device certified by the
26 department as provided in s. 316.1938, and installed in such a
27 manner that the vehicle will not start if the operator's blood
28 alcohol level is in excess of 0.05 percent or as otherwise
29 specified by the court. The court may require the use of an
30 approved ignition interlock device for a ~~the~~ period of
31 ~~probation, said period to be for~~ not less than 6 months, if

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 the person is permitted to operate a motor vehicle, whether or
2 not the privilege to operate a motor vehicle is restricted ~~or~~
3 ~~not~~, as determined by the court. The court, however, shall
4 order placement of an ignition interlock device in those
5 circumstances required by s. 316.193.

6 (2) If the court imposes the use of an ignition
7 interlock device ~~as a condition of probation~~, the court shall:

8 (a) Stipulate on the record the requirement for, and
9 the period of, the use of a certified ignition interlock
10 device.

11 (b) Order that the records of the department reflect
12 such requirement.

13 (c) Order that an ignition interlock device be
14 installed, as the court may determine necessary, on any
15 vehicle owned or operated by the person probationer.

16 (d) Determine the person's probationer's ability to
17 pay for installation of the device if the person probationer
18 claims inability to pay. If the court determines that the
19 person probationer is unable to pay for installation of the
20 device, the court may order that any portion of a fine paid by
21 the person probationer for a violation of s. 316.193 shall be
22 allocated to defray the costs of installing the device.

23 (e) Require proof of installation of the device and
24 periodic reporting to the department probation officer for
25 verification of the operation of the device in the person's
26 probationer's vehicle.

27 (3) If the court imposes the use of an ignition
28 interlock device ~~as a term of probation~~ on a person whose
29 driving privilege is not suspended or revoked, the court shall
30 require the person to provide proof of compliance to the
31 department probation officer within 30 days. If the person

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 fails to provide proof of installation within that period,
2 absent a finding by the court of good cause for that failure
3 which is entered in the court record, the court shall notify
4 the department ~~revoke or terminate the person's probation.~~

5 (4) If the court imposes the use of an ignition
6 interlock device ~~as a term of probation~~ on a person whose
7 driving privilege is suspended or revoked for a period of less
8 than 3 years, the department shall require proof of compliance
9 before reinstatement of the person's driving privilege.

10 (5)(a) In addition to any other provision of law, upon
11 conviction of a violation of this section the department shall
12 revoke the person's driving privilege for 1 year from the date
13 of conviction. Upon conviction of a separate violation of
14 this section during the same period of required use of an
15 ignition interlock device, the department shall revoke the
16 person's driving privilege for 5 years from the date of
17 conviction.

18 (b) Any person convicted of a violation of subsection
19 (6) who does not have a driver's license shall, in addition to
20 any other penalty provided by law, pay a fine of not less than
21 \$250 or more than \$500 per each such violation. In the event
22 that the person is unable to pay any such fine, the fine shall
23 become a lien against the motor vehicle used in violation of
24 subsection (6) and payment shall be made pursuant to s.
25 316.3025(4).

26 (6)(a) It is unlawful to tamper with, or to circumvent
27 the operation of, a court-ordered ignition interlock device.

28 (b) It is unlawful for any person whose driving
29 privilege is restricted pursuant to this section to request or
30 solicit any other person to blow into an ignition interlock
31 device or to start a motor vehicle equipped with the device

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 for the purpose of providing the person so restricted with an
2 operable motor vehicle.

3 (c) It is unlawful to blow into an ignition interlock
4 device or to start a motor vehicle equipped with the device
5 for the purpose of providing an operable motor vehicle to a
6 person whose driving privilege is restricted pursuant to this
7 section.

8 (d) It is unlawful to knowingly lease or lend a motor
9 vehicle to a person who has had his or her driving privilege
10 restricted ~~under a condition of probation~~ as provided in this
11 section, unless the vehicle is equipped with a functioning,
12 certified ignition interlock device. Any person whose driving
13 privilege is restricted under a condition of probation
14 requiring an ignition interlock device shall notify any other
15 person who leases or loans a motor vehicle to him or her of
16 such driving restriction.

17 (7) Notwithstanding the provisions of this section, if
18 a person is required to operate a motor vehicle in the course
19 and scope of his or her employment and if the vehicle is owned
20 by the employer, the person may operate that vehicle without
21 installation of an approved ignition interlock device if the
22 employer has been notified of such driving privilege
23 restriction and if proof of that notification is with the
24 vehicle. This employment exemption does not apply, however,
25 if the business entity which owns the vehicle is owned or
26 controlled by the person whose driving privilege has been
27 restricted.

28 (8) In addition to the penalties provided in this
29 section, a violation of this section is a noncriminal traffic
30 infraction, punishable as a nonmoving violation as provided in
31 chapter 318.

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 Section 5. Section 316.1939, Florida Statutes, is
2 created to read:

3 316.1939 Refusal to submit to testing; penalties.--

4 (1) Any person who has refused to submit to a chemical
5 or physical test of his or her breath, blood, or urine, as
6 described in s. 316.1932, and whose driving privilege was
7 previously suspended for a prior refusal to submit to a lawful
8 test of his or her breath, urine, or blood, and:

9 (a) Who the arresting law enforcement officer had
10 probable cause to believe was driving or in actual physical
11 control of a motor vehicle in this state while under the
12 influence of alcoholic beverages, chemical substances, or
13 controlled substances;

14 (b) Who was placed under lawful arrest for a violation
15 of s. 316.193 unless such test was requested pursuant to s.
16 316.1932(1)(c);

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

22 (d) Who was informed that a refusal to submit to a
23 lawful test of his or her breath, urine, or blood, if his or
24 her driving privilege has been previously suspended for a
25 prior refusal to submit to a lawful test of his or her breath,
26 urine, or blood, is a misdemeanor; and

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

30
31 commits a misdemeanor of the first degree and is subject to

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 punishment as provided in s. 775.082 or s. 775.083.

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

5 (3) The disposition of a criminal action under this
 6 section does not affect any administrative proceeding that
 7 relates to the suspension of a person's driving privilege. The
 8 department's records showing that a person's license has been
 9 previously suspended for a prior refusal to submit to a lawful
 10 test of his or her breath, urine, or blood shall be admissible
 11 and shall create a rebuttable presumption of such suspension.

12 Section 6. Subsections (2), (3), and (4) of section
 13 327.35, Florida Statutes, are amended to read:

14 327.35 Boating under the influence; penalties;
 15 "designated drivers".--

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

19 1. By a fine of:

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

22 b. Not less than \$500 or more than \$1,000 for a second
 23 conviction;

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

26 2. By imprisonment for:

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

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

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

30 (b)1. Any person who is convicted of a third ~~fourth or~~
 31 ~~subsequent~~ violation of this section for an offense that

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 occurs within 10 years after a prior conviction for a
 2 violation of this section commits is guilty of a felony of the
 3 third degree, punishable as provided in s. 775.082, s.
 4 775.083, or s. 775.084.

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

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

16
 17 However, the fine imposed for such fourth or subsequent
 18 violation may not be less than \$1,000.

19 (3) Any person:

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

21 (b) Who operates a vessel; and

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

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

27 2. Serious bodily injury to another, as defined in s.
 28 327.353 ~~316.1933~~, commits a felony of the third degree,
 29 punishable as provided in s. 775.082, s. 775.083, or s.
 30 775.084.

31 3. The death of any human being commits BUI

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 manslaughter, and commits:

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

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

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

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

10

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

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

19 (a) By a fine of:

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

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

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

26 (b) By imprisonment for:

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

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

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

30

31 For the purposes of this subsection, only the instant offense

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 is required to be a violation of subsection (1) by a person
2 who has a blood-alcohol level or breath-alcohol level of 0.20
3 or higher.

4 Section 7. Section 327.352, Florida Statutes, is
5 amended to read:

6 327.352 Breath, blood, and urine tests for alcohol,
7 chemical substances, or controlled substances; implied
8 consent; ~~refusal right to refuse.~~--

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

24 (b)1. The blood-alcohol level must be based upon grams
25 of alcohol per 100 milliliters of blood. The breath-alcohol
26 level must be based upon grams of alcohol per 210 liters of
27 breath.

28 2. An analysis of a person's breath, in order to be
29 considered valid under this section, must have been performed
30 substantially according to methods approved by the Department
31 of Law Enforcement. Any insubstantial differences between

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 approved techniques and actual testing procedures in any
2 individual case do not render the test or test results
3 invalid.

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

19 a. Establish uniform criteria for the issuance of
20 permits to breath test operators, agency inspectors,
21 instructors, blood analysts, and instruments.

22 b. Have the authority to permit breath test operators,
23 agency inspectors, instructors, blood analysts, and
24 instruments.

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

28 d. Establish uniform requirements for instruction and
29 curricula for the operation and inspection of approved
30 instruments.

31 e. Have the authority to specify one approved

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 curriculum for the operation and inspection of approved
2 instruments.

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

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

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

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

19 j. Enforce compliance with the provisions of this
20 section through civil or administrative proceedings.

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

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

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

29 n. Have the authority to approve the type of blood
30 test utilized under the driving and boating under the
31 influence provisions and related provisions located in this

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 chapter and chapters 316 and 322.

2 o. Have the authority to specify techniques and
3 methods for breath alcohol testing and blood testing utilized
4 under the driving and boating under the influence provisions
5 and related provisions located in this chapter and chapters
6 316 and 322.

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

10

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

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 in a reasonable manner. Any person who is incapable of
2 refusal by reason of unconsciousness or other mental or
3 physical condition is deemed not to have withdrawn his or her
4 consent to such test. Any person who is capable of refusal
5 shall be told that his or her failure to submit to such a
6 blood test will result in a civil penalty of \$500 and that a
7 refusal to submit to a lawful test of his or her blood, if he
8 or she has previously been fined for refusal to submit to any
9 lawful test of his or her breath, urine, or blood, 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 2. Only a physician, certified paramedic, registered

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

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

31 4. Upon the request of the person tested, full

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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

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

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

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

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

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 327.353 Blood test for impairment or intoxication in
2 cases of death or serious bodily injury; right to use
3 reasonable force.--

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

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

29 Section 9. Section 327.359, Florida Statutes, is
30 created to read:

31 327.359 Refusal to submit to testing; penalties.--Any

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 person who has refused to submit to a chemical or physical
2 test of his or her breath, blood, or urine, as described in s.
3 327.352, and who has been previously fined for refusal to
4 submit to a lawful test of his or her breath, urine, or blood,
5 and:

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

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

14 (3) Who was informed that if he or she refused to
15 submit to such test he or she is subject to a fine of \$500;

16 (4) Who was informed that a refusal to submit to a
17 lawful test of his or her breath, urine, or blood, if he or
18 she has been previously fined for refusal to submit to a
19 lawful test of his or her breath, urine, or blood, is a
20 misdemeanor; and

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

24
25 commits a misdemeanor of the first degree and is subject to
26 punishment as provided in s. 775.082 or s. 775.083.

27 Section 10. Paragraphs (c) and (i) of subsection (3)
28 of section 921.0022, Florida Statutes, as amended by chapter
29 2001-358, Laws of Florida, are amended to read:

30 921.0022 Criminal Punishment Code; offense severity
31 ranking chart.--

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

| 1 | (3) OFFENSE SEVERITY RANKING CHART | | |
|----|------------------------------------|------------|------------------------------------|
| 2 | | | |
| 3 | Florida | Felony | |
| 4 | Statute | Degree | Description |
| 5 | | | |
| 6 | | | (c) LEVEL 3 |
| 7 | <u>316.193(2)(b)</u> | <u>3rd</u> | <u>Felony DUI, 3rd conviction.</u> |
| 8 | 316.1935(2) | 3rd | Fleeing or attempting to elude |
| 9 | | | law enforcement officer in marked |
| 10 | | | patrol vehicle with siren and |
| 11 | | | lights activated. |
| 12 | 319.30(4) | 3rd | Possession by junkyard of motor |
| 13 | | | vehicle with identification |
| 14 | | | number plate removed. |
| 15 | 319.33(1)(a) | 3rd | Alter or forge any certificate of |
| 16 | | | title to a motor vehicle or |
| 17 | | | mobile home. |
| 18 | 319.33(1)(c) | 3rd | Procure or pass title on stolen |
| 19 | | | vehicle. |
| 20 | 319.33(4) | 3rd | With intent to defraud, possess, |
| 21 | | | sell, etc., a blank, forged, or |
| 22 | | | unlawfully obtained title or |
| 23 | | | registration. |
| 24 | <u>327.35(2)(b)</u> | <u>3rd</u> | <u>Felony BUI.</u> |
| 25 | 328.05(2) | 3rd | Possess, sell, or counterfeit |
| 26 | | | fictitious, stolen, or fraudulent |
| 27 | | | titles or bills of sale of |
| 28 | | | vessels. |
| 29 | 328.07(4) | 3rd | Manufacture, exchange, or possess |
| 30 | | | vessel with counterfeit or wrong |
| 31 | | | ID number. |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 376.302(5) | 3rd | Fraud related to reimbursement |
| 2 | | | for cleanup expenses under the |
| 3 | | | Inland Protection Trust Fund. |
| 4 | 501.001(2)(b) | 2nd | Tampers with a consumer product |
| 5 | | | or the container using materially |
| 6 | | | false/misleading information. |
| 7 | 697.08 | 3rd | Equity skimming. |
| 8 | 790.15(3) | 3rd | Person directs another to |
| 9 | | | discharge firearm from a vehicle. |
| 10 | 796.05(1) | 3rd | Live on earnings of a prostitute. |
| 11 | 806.10(1) | 3rd | Maliciously injure, destroy, or |
| 12 | | | interfere with vehicles or |
| 13 | | | equipment used in firefighting. |
| 14 | 806.10(2) | 3rd | Interferes with or assaults |
| 15 | | | firefighter in performance of |
| 16 | | | duty. |
| 17 | 810.09(2)(c) | 3rd | Trespass on property other than |
| 18 | | | structure or conveyance armed |
| 19 | | | with firearm or dangerous weapon. |
| 20 | 812.014(2)(c)2. | 3rd | Grand theft; \$5,000 or more but |
| 21 | | | less than \$10,000. |
| 22 | 815.04(4)(b) | 2nd | Computer offense devised to |
| 23 | | | defraud or obtain property. |
| 24 | 817.034(4)(a)3. | 3rd | Engages in scheme to defraud |
| 25 | | | (Florida Communications Fraud |
| 26 | | | Act), property valued at less |
| 27 | | | than \$20,000. |
| 28 | 817.233 | 3rd | Burning to defraud insurer. |
| 29 | 817.234(8)&(9) | 3rd | Unlawful solicitation of persons |
| 30 | | | involved in motor vehicle |
| 31 | | | accidents. |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

| | | | |
|----|----------------|-----|-----------------------------------|
| 1 | 817.234(11)(a) | 3rd | Insurance fraud; property value |
| 2 | | | less than \$20,000. |
| 3 | 817.505(4) | 3rd | Patient brokering. |
| 4 | 828.12(2) | 3rd | Tortures any animal with intent |
| 5 | | | to inflict intense pain, serious |
| 6 | | | physical injury, or death. |
| 7 | 831.28(2)(a) | 3rd | Counterfeiting a payment |
| 8 | | | instrument with intent to defraud |
| 9 | | | or possessing a counterfeit |
| 10 | | | payment instrument. |
| 11 | 831.29 | 2nd | Possession of instruments for |
| 12 | | | counterfeiting drivers' licenses |
| 13 | | | or identification cards. |
| 14 | 838.021(3)(b) | 3rd | Threatens unlawful harm to public |
| 15 | | | servant. |
| 16 | 843.19 | 3rd | Injure, disable, or kill police |
| 17 | | | dog or horse. |
| 18 | 870.01(2) | 3rd | Riot; inciting or encouraging. |
| 19 | 893.13(1)(a)2. | 3rd | Sell, manufacture, or deliver |
| 20 | | | cannabis (or other s. |
| 21 | | | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 22 | | | (2)(c)3., (2)(c)5., (2)(c)6., |
| 23 | | | (2)(c)7., (2)(c)8., (2)(c)9., |
| 24 | | | (3), or (4) drugs). |
| 25 | 893.13(1)(d)2. | 2nd | Sell, manufacture, or deliver s. |
| 26 | | | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 27 | | | (2)(c)3., (2)(c)5., (2)(c)6., |
| 28 | | | (2)(c)7., (2)(c)8., (2)(c)9., |
| 29 | | | (3), or (4) drugs within 200 feet |
| 30 | | | of university or public park. |
| 31 | | | |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 893.13(1)(f)2. | 2nd | Sell, manufacture, or deliver s. |
| 2 | | | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 3 | | | (2)(c)3., (2)(c)5., (2)(c)6., |
| 4 | | | (2)(c)7., (2)(c)8., (2)(c)9., |
| 5 | | | (3), or (4) drugs within 200 feet |
| 6 | | | of public housing facility. |
| 7 | 893.13(6)(a) | 3rd | Possession of any controlled |
| 8 | | | substance other than felony |
| 9 | | | possession of cannabis. |
| 10 | 893.13(7)(a)9. | 3rd | Obtain or attempt to obtain |
| 11 | | | controlled substance by fraud, |
| 12 | | | forgery, misrepresentation, etc. |
| 13 | 893.13(7)(a)11. | 3rd | Furnish false or fraudulent |
| 14 | | | material information on any |
| 15 | | | document or record required by |
| 16 | | | chapter 893. |
| 17 | 918.13(1)(a) | 3rd | Alter, destroy, or conceal |
| 18 | | | investigation evidence. |
| 19 | 944.47 | | |
| 20 | (1)(a)1.-2. | 3rd | Introduce contraband to |
| 21 | | | correctional facility. |
| 22 | 944.47(1)(c) | 2nd | Possess contraband while upon the |
| 23 | | | grounds of a correctional |
| 24 | | | institution. |
| 25 | 985.3141 | 3rd | Escapes from a juvenile facility |
| 26 | | | (secure detention or residential |
| 27 | | | commitment facility). |
| 28 | | | (i) LEVEL 9 |
| 29 | 316.193 | | |
| 30 | (3)(c)3.b. | 1st | DUI manslaughter; failing to |
| 31 | | | render aid or give information. |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

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| 1 | <u>327.35(3)(c)3.b.</u> | <u>1st</u> | <u>BUI manslaughter; failing to</u> |
| 2 | | | <u>render aid or give information.</u> |
| 3 | 560.123(8)(b)3. | 1st | Failure to report currency or |
| 4 | | | payment instruments totaling or |
| 5 | | | exceeding \$100,000 by money |
| 6 | | | transmitter. |
| 7 | 560.125(5)(c) | 1st | Money transmitter business by |
| 8 | | | unauthorized person, currency, or |
| 9 | | | payment instruments totaling or |
| 10 | | | exceeding \$100,000. |
| 11 | 655.50(10)(b)3. | 1st | Failure to report financial |
| 12 | | | transactions totaling or |
| 13 | | | exceeding \$100,000 by financial |
| 14 | | | institution. |
| 15 | 755.0844 | 1st | Aggravated white collar crime. |
| 16 | 782.04(1) | 1st | Attempt, conspire, or solicit to |
| 17 | | | commit premeditated murder. |
| 18 | 782.04(3) | 1st,PBL | Accomplice to murder in |
| 19 | | | connection with arson, sexual |
| 20 | | | battery, robbery, burglary, and |
| 21 | | | other specified felonies. |
| 22 | 782.051(1) | 1st | Attempted felony murder while |
| 23 | | | perpetrating or attempting to |
| 24 | | | perpetrate a felony enumerated in |
| 25 | | | s. 782.04(3). |
| 26 | 782.07(2) | 1st | Aggravated manslaughter of an |
| 27 | | | elderly person or disabled adult. |
| 28 | 787.01(1)(a)1. | 1st,PBL | Kidnapping; hold for ransom or |
| 29 | | | reward or as a shield or hostage. |
| 30 | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit |
| 31 | | | or facilitate commission of any |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

| | | | |
|----|----------------|---------|-----------------------------------|
| 1 | | | felony. |
| 2 | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to |
| 3 | | | interfere with performance of any |
| 4 | | | governmental or political |
| 5 | | | function. |
| 6 | 787.02(3)(a) | 1st | False imprisonment; child under |
| 7 | | | age 13; perpetrator also commits |
| 8 | | | aggravated child abuse, sexual |
| 9 | | | battery, or lewd or lascivious |
| 10 | | | battery, molestation, conduct, or |
| 11 | | | exhibition. |
| 12 | 790.161 | 1st | Attempted capital destructive |
| 13 | | | device offense. |
| 14 | 790.166(2) | 1st,PBL | Possessing, selling, using, or |
| 15 | | | attempting to use a weapon of |
| 16 | | | mass destruction. |
| 17 | 794.011(2) | 1st | Attempted sexual battery; victim |
| 18 | | | less than 12 years of age. |
| 19 | 794.011(2) | Life | Sexual battery; offender younger |
| 20 | | | than 18 years and commits sexual |
| 21 | | | battery on a person less than 12 |
| 22 | | | years. |
| 23 | 794.011(4) | 1st | Sexual battery; victim 12 years |
| 24 | | | or older, certain circumstances. |
| 25 | 794.011(8)(b) | 1st | Sexual battery; engage in sexual |
| 26 | | | conduct with minor 12 to 18 years |
| 27 | | | by person in familial or |
| 28 | | | custodial authority. |
| 29 | 800.04(5)(b) | 1st | Lewd or lascivious molestation; |
| 30 | | | victim less than 12 years; |
| 31 | | | offender 18 years or older. |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

| | | | |
|----|-----------------|---------|-----------------------------------|
| 1 | 812.13(2)(a) | 1st,PBL | Robbery with firearm or other |
| 2 | | | deadly weapon. |
| 3 | 812.133(2)(a) | 1st,PBL | Carjacking; firearm or other |
| 4 | | | deadly weapon. |
| 5 | 827.03(2) | 1st | Aggravated child abuse. |
| 6 | 847.0145(1) | 1st | Selling, or otherwise |
| 7 | | | transferring custody or control, |
| 8 | | | of a minor. |
| 9 | 847.0145(2) | 1st | Purchasing, or otherwise |
| 10 | | | obtaining custody or control, of |
| 11 | | | a minor. |
| 12 | 859.01 | 1st | Poisoning or introducing |
| 13 | | | bacteria, radioactive materials, |
| 14 | | | viruses, or chemical compounds |
| 15 | | | into food, drink, medicine, or |
| 16 | | | water with intent to kill or |
| 17 | | | injure another person. |
| 18 | 893.135 | 1st | Attempted capital trafficking |
| 19 | | | offense. |
| 20 | 893.135(1)(a)3. | 1st | Trafficking in cannabis, more |
| 21 | | | than 10,000 lbs. |
| 22 | 893.135 | | |
| 23 | (1)(b)1.c. | 1st | Trafficking in cocaine, more than |
| 24 | | | 400 grams, less than 150 |
| 25 | | | kilograms. |
| 26 | 893.135 | | |
| 27 | (1)(c)1.c. | 1st | Trafficking in illegal drugs, |
| 28 | | | more than 28 grams, less than 30 |
| 29 | | | kilograms. |
| 30 | 893.135 | | |
| 31 | (1)(d)1.c. | 1st | Trafficking in phencyclidine, |

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

- 1 more than 400 grams.
- 2 893.135
- 3 (1)(e)1.c. 1st Trafficking in methaqualone, more
- 4 than 25 kilograms.
- 5 893.135
- 6 (1)(f)1.c. 1st Trafficking in amphetamine, more
- 7 than 200 grams.
- 8 893.135
- 9 (1)(h)1.c. 1st Trafficking in
- 10 gamma-hydroxybutyric acid (GHB),
- 11 10 kilograms or more.
- 12 893.135
- 13 (1)(i)1.c. 1st Trafficking in 1,4-Butanediol, 10
- 14 kilograms or more.
- 15 893.135
- 16 (1)(j)2.c. 1st Trafficking in Phenethylamines,
- 17 400 grams or more.
- 18 896.101(5)(c) 1st Money laundering, financial
- 19 instruments totaling or exceeding
- 20 \$100,000.
- 21 896.104(4)(a)3. 1st Structuring transactions to evade
- 22 reporting or registration
- 23 requirements, financial
- 24 transactions totaling or
- 25 exceeding \$100,000.

26 Section 11. Section 938.07, Florida Statutes, is

27 amended to read:

28 938.07 Driving or boating under the

29 influence.--Notwithstanding any other provision of s. 316.193

30 or s. 327.35, a court cost of \$135 shall be added to any fine

31 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 remit the funds to the Department of Revenue, \$25 of which
2 shall be deposited in the Emergency Medical Services Trust
3 Fund, \$50 shall be deposited in the Criminal Justice Standards
4 and Training Trust Fund of the Department of Law Enforcement
5 to be used for operational expenses in conducting the
6 statewide criminal analysis laboratory system established in
7 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
8 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

9 Section 12. Paragraph (d) of subsection (2) of section
10 943.05, Florida Statutes, is amended to read:

11 943.05 Criminal Justice Information Program; duties;
12 crime reports.--

13 (2) The program shall:

14 (d) Adopt rules to effectively and efficiently
15 implement, administer, manage, maintain, and use the automated
16 fingerprint identification system and uniform offense reports
17 and arrest reports. The rules shall be considered minimum
18 requirements and shall not preclude a criminal justice agency
19 from implementing its own enhancements. However, rules and
20 forms prescribing uniform arrest or probable cause affidavits
21 and alcohol influence reports to be used by all law
22 enforcement agencies in making DUI arrests under s. 316.193
23 shall be adopted, and shall be used by all law enforcement
24 agencies in this state. The rules and forms prescribing such
25 uniform affidavits and reports shall be adopted and
26 implemented by July 1, 2004. Failure to use these uniform
27 affidavits and reports, however, shall not prohibit
28 prosecution under s. 316.193.

29 Section 13. The sum of \$216,062 is appropriated for
30 fiscal year 2002-2003 from recurring general revenue to the
31 Department of Corrections to be used for the purpose of

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 implementing this act.

2 Section 14. This act shall take effect July 1, 2002.

3

4

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

6 And the title is amended as follows:

7 Delete everything before the enacting clause

8

9 and insert:

10 A bill to be entitled

11 An act relating to driving or boating under the

12 influence of alcohol or controlled substances;

13 amending s. 316.193, F.S.; reducing the number

14 of convictions required for a felony DUI;

15 requiring mandatory placement of an ignition

16 interlock device under certain circumstances;

17 revising conditions for conviction in cases of

18 accident, serious bodily injury, or death;

19 removing a cross reference; amending s.

20 316.1932, F.S.; requiring a law enforcement

21 officer to inform a person that refusal to

22 submit to certain tests is a misdemeanor;

23 amending s. 316.1933, F.S.; requiring a person

24 to submit to a blood test under certain

25 circumstances; amending s. 316.1937, F.S.;

26 requiring placement of an ignition interlock

27 device under certain circumstances; providing

28 for supervision and reporting to the

29 department; directing the court regarding

30 requirements for ignition interlock devices;

31 creating s. 316.1939, F.S.; providing a penalty

Bill No. CS/CS/HB 1057, 2nd Eng.

Amendment No. ____ Barcode 530358

1 for refusing to submit to a chemical or
2 physical test of breath, urine, or blood;
3 providing application; amending s. 327.35,
4 F.S.; reducing the number of convictions
5 required for a felony BUI; revising conditions
6 for conviction in cases of accident, serious
7 bodily injury, or death; conforming cross
8 references; amending s. 327.352, F.S.;
9 providing for notification that refusal to
10 submit to a test of breath, blood, or urine
11 under certain circumstances is a misdemeanor;
12 amending s. 327.353, F.S.; requiring a person
13 to submit to a blood test under certain
14 circumstances; providing that the test need not
15 be incidental to a lawful arrest; creating s.
16 327.359, F.S.; providing a penalty for refusing
17 to submit to a chemical or physical test of
18 breath, urine, or blood; providing application;
19 amending s. 921.0022, F.S.; revising provisions
20 relating to certain DUI offenses; including
21 certain BUI offenses within the offense
22 severity ranking chart; amending s. 938.07,
23 F.S.; providing for application of a fee to
24 persons found guilty of boating under the
25 influence; conforming a cross reference;
26 amending s. 943.05, F.S.; providing for
27 adoption of rules and forms for making DUI
28 arrests; providing an appropriation; providing
29 an effective date.

30
31