

By Representative Simmons

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 amending conditions for conviction in cases of
7 accident, serious bodily injury, or death;
8 removing a cross reference; allowing a law
9 enforcement officer to place a person in
10 protective custody under certain circumstances;
11 requiring a person placed in protective custody
12 to pay reasonable costs of evaluation and
13 treatment under certain circumstances; amending
14 s. 316.1932, F.S.; requiring a law enforcement
15 officer to inform a person that refusal to
16 submit to certain tests is a misdemeanor;
17 amending s. 316.1933, F.S.; requiring a person
18 to submit to a blood test under certain
19 circumstances; providing that the test need not
20 be incidental to a lawful arrest; providing
21 that a breath-alcohol test may substitute for a
22 blood-alcohol test under certain circumstances;
23 creating s. 316.1939, F.S.; providing a penalty
24 for refusing to submit to a chemical or
25 physical test of breath, urine, or blood;
26 providing application; amending s. 327.35,
27 F.S.; reducing the number of convictions
28 required for a felony BUI; amending conditions
29 for conviction in cases of accident, serious
30 bodily injury, or death; correcting cross
31 references; allowing a law enforcement officer

1 to place a person in protective custody under
2 certain circumstances; requiring a person
3 placed in protective custody to pay reasonable
4 costs of evaluation and treatment under certain
5 circumstances; amending s. 327.352, F.S.;
6 requiring a law enforcement officer to inform a
7 person that refusal to submit to certain tests
8 is a misdemeanor; amending s. 327.353, F.S.;
9 requiring a person to submit to a blood test
10 under certain circumstances; providing that the
11 test need not be incidental to a lawful arrest;
12 providing that a breath-alcohol test may
13 substitute for a blood-alcohol test under
14 certain circumstances; creating s. 327.359,
15 F.S.; providing a penalty for refusing to
16 submit to a chemical or physical test of
17 breath, urine, or blood; providing application;
18 creating s. 397.6755, F.S.; specifying grounds
19 for which a court may determine that criteria
20 exist for involuntary admission and treatment
21 of certain persons; requiring payment for such
22 evaluation and treatment from a certain fund;
23 requiring persons placed in such involuntary
24 custody to reimburse the provider of services
25 under certain circumstances; amending s.
26 921.0022, F.S.; revising language relating to
27 certain DUI offenses; including certain BUI
28 offenses within the offense severity ranking
29 chart; amending s. 938.07, F.S.; providing for
30 application of a fee to persons found guilty of
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1 boating under the influence; correcting a cross
2 reference; providing an effective date.

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

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6 Section 1. Subsections (2), (3), (4), and (9) of
7 section 316.193, Florida Statutes, are amended to read:

8 316.193 Driving under the influence; penalties.--

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

12 1. By a fine of:

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

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

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

19 2. By imprisonment for:

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

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

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

23 (b) Any person who is convicted of a third ~~fourth~~ or
24 subsequent violation of this section is guilty of a felony of
25 the third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084; however, the fine imposed for such
27 third ~~fourth~~ or subsequent violation may be not less than
28 \$1,000.

29 (3) Any person:

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

31 (b) Who operates a vehicle; and

1 (c) Who, by reason of such operation, causes or
2 contributes to the cause of:
3 1. Damage to the property or person of another commits
4 a misdemeanor of the first degree, punishable as provided in
5 s. 775.082 or s. 775.083.
6 2. Serious bodily injury to another, as defined in s.
7 316.1933, commits a felony of the third degree, punishable as
8 provided in s. 775.082, s. 775.083, or s. 775.084.
9 3. The death of any human being commits DUI
10 manslaughter, and commits:
11 a. A felony of the second degree, punishable as
12 provided in s. 775.082, s. 775.083, or s. 775.084.
13 b. A felony of the first degree, punishable as
14 provided in s. 775.082, s. 775.083, or s. 775.084, if:
15 (I) At the time of the crash, the person knew, or
16 should have known, that the crash occurred; and
17 (II) The person failed to give information and render
18 aid as required by s. 316.062.
19 (4) Any person who is convicted of a violation of
20 subsection (1) and who has a blood-alcohol level or
21 breath-alcohol level of 0.20 or higher, or any person who is
22 convicted of a violation of subsection (1) and who at the time
23 of the offense was accompanied in the vehicle by a person
24 under the age of 18 years, shall be punished:
25 (a) By a fine of:
26 1. Not less than \$500 or more than \$1,000 for a first
27 conviction.
28 2. Not less than \$1,000 or more than \$2,000 for a
29 second conviction.
30 3. Not less than \$2,000 ~~or more than \$5,000~~ for a
31 third or subsequent conviction.

- 1 (b) By imprisonment for:
2 1. Not more than 9 months for a first conviction.
3 2. Not more than 12 months for a second conviction.
4 ~~3. Not more than 12 months for a third conviction.~~

5
6 For the purposes of this subsection, ~~any conviction for a~~
7 ~~violation of s. 327.35,~~ only the instant offense is required
8 to be a violation of subsection (1) by a person who has a
9 blood-alcohol level or breath-alcohol level of 0.20 or higher.

10 (9)(a) A person who is arrested for a violation of
11 this section may not be released from custody:

12 ~~1.(a)~~ Until the person is no longer under the
13 influence of alcoholic beverages, any chemical substance set
14 forth in s. 877.111, or any substance controlled under chapter
15 893 and affected to the extent that his or her normal
16 faculties are impaired;

17 ~~2.(b)~~ Until the person's blood-alcohol level or
18 breath-alcohol level is less than 0.05; or

19 ~~3.(c)~~ Until 8 hours have elapsed from the time the
20 person was arrested.

21 (b) The arresting officer may place the person in
22 protective custody pursuant to s. 397.6772 if:

23 1. The person has previously been convicted of a
24 violation of this section or s. 327.35;

25 2. The person's blood-alcohol level or breath-alcohol
26 level, as determined by a test conducted incident to the
27 person's arrest, was 0.20 or greater;

28 3. The person, by reason of operation of a motor
29 vehicle, has caused death or serious bodily injury as defined
30 in s. 316.1933; or
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1 4. The person is on pretrial release for a previous
2 offense under this section or s. 327.35.

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4 The election to place a person in protective custody may be
5 done at the time of arrest, but transfer of the person to a
6 facility shall not occur prior to the conclusion of the time
7 period set forth in paragraph (a) or the time that the person
8 is released on bail, whichever is later. The provisions of
9 this paragraph are in addition to, not in lieu of, the
10 provisions of subsection (5). A court shall order any person
11 placed in protective custody pursuant to this paragraph who is
12 subsequently convicted of a violation of this section to pay
13 the reasonable costs of evaluation and treatment.

14 Section 2. Section 316.1932, Florida Statutes, is
15 amended to read:

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

19 (1)(a)1. Any person who accepts the privilege extended
20 by the laws of this state of operating a motor vehicle within
21 this state is, by so operating such vehicle, deemed to have
22 given his or her consent to submit to an approved chemical
23 test or physical test including, but not limited to, an
24 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 driving
30 or was in actual physical control of a motor vehicle while
31 under the influence of alcoholic beverages, chemical

1 substances, or controlled substances. The chemical or
2 physical breath test must be incidental to a lawful arrest and
3 administered at the request of a law enforcement officer who
4 has reasonable cause to believe such person was driving or was
5 in actual physical control of the motor vehicle within this
6 state while under the influence of alcoholic beverages. The
7 urine test must be incidental to a lawful arrest and
8 administered at a detention facility or any other facility,
9 mobile or otherwise, which is equipped to administer such
10 tests at the request of a law enforcement officer who has
11 reasonable cause to believe such person was driving or was in
12 actual physical control of a motor vehicle within this state
13 while under the influence of controlled substances. The urine
14 test shall be administered at a detention facility or any
15 other facility, mobile or otherwise, which is equipped to
16 administer such tests in a reasonable manner that will ensure
17 the accuracy of the specimen and maintain the privacy of the
18 individual involved. The administration of one type of test
19 does not preclude the administration of another type of test.
20 The person shall be told that his or her failure to submit to
21 any lawful test of his or her breath or urine, or both, is a
22 misdemeanor and, in addition, will result in the suspension of
23 the person's privilege to operate a motor vehicle for a period
24 of 1 year for a first refusal, or for a period of 18 months if
25 the driving privilege of such person has been previously
26 suspended as a result of a refusal to submit to such a test or
27 tests. The refusal to submit to a chemical or physical breath
28 test or to a urine test upon the request of a law enforcement
29 officer as provided in this section is admissible into
30 evidence in any criminal proceeding.
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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.
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- 1 f. Establish a procedure for the approval of breath
2 test operator and agency inspector classes.
- 3 g. Have the authority to approve or disapprove breath
4 test instruments and accompanying paraphernalia for use
5 pursuant to the driving and boating under the influence
6 provisions and related provisions located in this chapter and
7 chapters 322 and 327.
- 8 h. With the approval of the executive director of the
9 Department of Law Enforcement, make and enter into contracts
10 and agreements with other agencies, organizations,
11 associations, corporations, individuals, or federal agencies
12 as are necessary, expedient, or incidental to the performance
13 of duties.
- 14 i. Issue final orders which include findings of fact
15 and conclusions of law and which constitute final agency
16 action for the purpose of chapter 120.
- 17 j. Enforce compliance with the provisions of this
18 section through civil or administrative proceedings.
- 19 k. Make recommendations concerning any matter within
20 the purview of this section, this chapter, chapter 322, or
21 chapter 327.
- 22 l. Promulgate rules for the administration and
23 implementation of this section, including definitions of
24 terms.
- 25 m. Consult and cooperate with other entities for the
26 purpose of implementing the mandates of this section.
- 27 n. Have the authority to approve the type of blood
28 test utilized under the driving and boating under the
29 influence provisions and related provisions located in this
30 chapter and chapters 322 and 327.
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1 o. Have the authority to specify techniques and
2 methods for breath alcohol testing and blood testing utilized
3 under the driving and boating under the influence provisions
4 and related provisions located in this chapter and chapters
5 322 and 327.

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

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

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

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

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

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

30 (d) If the arresting officer does not request a
31 chemical or physical breath test of the person arrested for

1 any offense allegedly committed while the person was driving
2 or was in actual physical control of a motor vehicle while
3 under the influence of alcoholic beverages or controlled
4 substances, such person may request the arresting officer to
5 have a chemical or physical test made of the arrested person's
6 breath or a test of the urine or blood for the purpose of
7 determining the alcoholic content of the person's blood or
8 breath or the presence of chemical substances or controlled
9 substances; and, if so requested, the arresting officer shall
10 have the test performed.

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

15 2. A nonresident or any other person driving in a
16 status exempt from the requirements of the driver's license
17 law, by his or her act of driving in such exempt status, is
18 deemed to have expressed his or her consent to the provisions
19 of this section.

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

23 (f)1. The tests determining the weight of alcohol in
24 the defendant's blood or breath shall be administered at the
25 request of a law enforcement officer substantially in
26 accordance with rules of the Department of Law Enforcement.
27 Such rules must specify precisely the test or tests that are
28 approved by the Department of Law Enforcement for reliability
29 of result and ease of administration, and must provide an
30 approved method of administration which must be followed in
31 all such tests given under this section. However, the failure

1 of a law enforcement officer to request the withdrawal of
2 blood does not affect the admissibility of a test of blood
3 withdrawn for medical purposes.

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

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

30 c. The notice shall consist only of the name of the
31 person being treated, the name of the person who drew the

1 blood, the blood-alcohol level indicated by the test, and the
2 date and time of the administration of the test.

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

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

23 3. The person tested may, at his or her own expense,
24 have a physician, registered nurse, other personnel authorized
25 by a hospital to draw blood, or duly licensed clinical
26 laboratory director, supervisor, technologist, or technician,
27 or other person of his or her own choosing administer an
28 independent test in addition to the test administered at the
29 direction of the law enforcement officer for the purpose of
30 determining the amount of alcohol in the person's blood or
31 breath or the presence of chemical substances or controlled

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

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

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

28 (2) The results of any test administered pursuant to
29 this section for the purpose of detecting the presence of any
30 controlled substance shall not be admissible as evidence in a
31

1 criminal prosecution for the possession of a controlled
2 substance.

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

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

14 316.1933 Blood test for impairment or intoxication in
15 cases of death or serious bodily injury; right to use
16 reasonable force.--

17 (1)(a) ~~Notwithstanding any recognized ability to~~
18 ~~refuse to submit to the tests provided in s. 316.1932 or any~~
19 ~~recognized power to revoke the implied consent to such tests,~~
20 If a law enforcement officer has probable cause to believe
21 that a motor vehicle driven by or in the actual physical
22 control of a person under the influence of alcoholic
23 beverages, any chemical substances, or any controlled
24 substances has caused the death or serious bodily injury of a
25 human being, ~~such person shall submit, upon the request of a~~
26 law enforcement officer shall require the person driving or in
27 actual physical control of the motor vehicle to submit, to a
28 test of the person's blood for the purpose of determining the
29 alcoholic content thereof or the presence of chemical
30 substances as set forth in s. 877.111 or any substance
31 controlled under chapter 893. The law enforcement officer may

1 use reasonable force if necessary to require such person to
2 submit to the administration of the blood test. The blood
3 test shall be performed in a reasonable manner.

4 Notwithstanding s. 316.1932, the testing required by this
5 paragraph need not be incidental to a lawful arrest of the
6 person.

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

12 (c) The law enforcement officer shall offer any person
13 subject to a blood test under this subsection the opportunity
14 to submit to an approved chemical test of the person's breath
15 and, if the person submits to the test and a valid reading is
16 obtained, the blood test shall be waived. This paragraph
17 shall not apply to any person who is unconscious or whose
18 mental or physical condition does not allow the administration
19 of a breath test or any person who the law enforcement officer
20 has probable cause to believe was operating a motor vehicle
21 under the influence of any chemical substances as set forth in
22 s. 877.111 or any controlled substances.

23 Section 4. Section 316.1939, Florida Statutes, is
24 created to read:

25 316.1939 Refusal to submit to testing; penalties.--

26 (1) Any person who has refused to submit to a chemical
27 or physical test of his or her breath, blood, or urine as
28 described in s. 316.1932, and:

29 (a) Who the arresting law enforcement officer had
30 probable cause to believe was driving or in actual physical
31 control of a motor vehicle in this state while under the

1 influence of alcoholic beverages, chemical substances, or
2 controlled substances.

3 (b) Who was placed under lawful arrest for a violation
4 of s. 316.193, unless such test was requested pursuant to s.
5 316.1932(1)(c).

6 (c) Who was informed that if he or she refused to
7 submit to such test, his or her privilege to operate a motor
8 vehicle would be suspended for a period of 1 year or, in the
9 case of a second or subsequent refusal, for a period of 18
10 months, and that the refusal to submit to such test is a
11 misdemeanor.

12 (d) Who, after having been so informed, refused to
13 submit to any such test when requested to do so by a law
14 enforcement officer or correctional officer

15
16 commits a misdemeanor of the first degree and is subject to
17 punishment as provided in s. 775.082 or s. 775.083.

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

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

24 Section 5. Subsections (2), (3), (4), and (8) of
25 section 327.35, Florida Statutes, are amended to read:

26 327.35 Boating under the influence; penalties;
27 "designated drivers".--

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

31 1. By a fine of:

- 1 a. Not less than \$250 or more than \$500 for a first
2 conviction.
- 3 b. Not less than \$500 or more than \$1,000 for a second
4 conviction-
- 5 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
6 ~~third conviction; and~~
- 7 2. By imprisonment for:
- 8 a. Not more than 6 months for a first conviction.
- 9 b. Not more than 9 months for a second conviction.
- 10 ~~c. Not more than 12 months for a third conviction.~~
- 11 (b) Any person who is convicted of a third ~~fourth~~ or
12 subsequent violation of this section is guilty of a felony of
13 the third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084; however, the fine imposed for such
15 third ~~fourth~~ or subsequent violation may not be less than
16 \$1,000.
- 17 (3) Any person:
- 18 (a) Who is in violation of subsection (1);
- 19 (b) Who operates a vessel; and
- 20 (c) Who, by reason of such operation, causes or
21 contributes to the cause of:
- 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.
26 327.353 ~~316.1933~~, commits a felony of the third degree,
27 punishable as provided in s. 775.082, s. 775.083, or s.
28 775.084.
- 29 3. The death of any human being commits BUI
30 manslaughter, and commits:
31

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

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

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

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

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

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

18 (a) By a fine of:

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

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

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

25 (b) By imprisonment for:

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

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

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

29

30 For the purposes of this subsection, only the instant offense
31 is required to be a violation of subsection (1) by a person

1 who has a blood-alcohol level or breath-alcohol level of 0.20
2 or higher.

3 (8)~~(a)~~ A person who is arrested for a violation of
4 this section may not be released from custody:

5 1.~~(a)~~ Until the person is no longer under the
6 influence of alcoholic beverages, any chemical substance set
7 forth in s. 877.111, or any substance controlled under chapter
8 893 and affected to the extent that his or her normal
9 faculties are impaired;

10 2.~~(b)~~ Until the person's blood-alcohol level or
11 breath-alcohol level is less than 0.05; or

12 3.~~(c)~~ Until 8 hours have elapsed from the time the
13 person was arrested.

14 (b) The arresting officer may place the person in
15 protective custody pursuant to s. 397.6772 if:

16 1. The person has previously been convicted of a
17 violation of this section or s. 316.193;

18 2. The person's blood-alcohol level or breath-alcohol
19 level, as determined by a test conducted incident to the
20 person's arrest, was 0.20 or greater;

21 3. The person, by reason of operation of a vessel, has
22 caused death or serious bodily injury as defined in s.
23 327.353; or

24 4. The person is on pretrial release for a previous
25 offense under this section or s. 316.193.

26
27 The election to place a person in protective custody may be
28 done at the time of arrest, but transfer of the person to a
29 facility shall not occur prior to the conclusion of the time
30 period set forth in paragraph (a). The provisions of this
31 paragraph are in addition to, not in lieu of, the provisions

1 of subsection (5). A court shall order any person placed in
2 protective custody pursuant to this paragraph, who is
3 subsequently convicted of a violation of this section, to pay
4 the reasonable costs of evaluation and treatment.

5 Section 6. Section 327.352, Florida Statutes, is
6 amended to read:

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

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

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

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

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

1 3. The Alcohol Testing Program within the Department
2 of Law Enforcement is responsible for the regulation of the
3 operation, inspection, and registration of breath test
4 instruments utilized under the driving and boating under the
5 influence provisions and related provisions located in this
6 chapter and chapters 316 and 322. The program is responsible
7 for the regulation of the individuals who operate, inspect,
8 and instruct on the breath test instruments utilized in the
9 driving and boating under the influence provisions and related
10 provisions located in this chapter and chapters 316 and 322.
11 The program is further responsible for the regulation of blood
12 analysts who conduct blood testing to be utilized under the
13 driving and boating under the influence provisions and related
14 provisions located in this chapter and chapters 316 and 322.
15 The program shall:
16 a. Establish uniform criteria for the issuance of
17 permits to breath test operators, agency inspectors,
18 instructors, blood analysts, and instruments.
19 b. Have the authority to permit breath test operators,
20 agency inspectors, instructors, blood analysts, and
21 instruments.
22 c. Have the authority to discipline and suspend,
23 revoke, or renew the permits of breath test operators, agency
24 inspectors, instructors, blood analysts, and instruments.
25 d. Establish uniform requirements for instruction and
26 curricula for the operation and inspection of approved
27 instruments.
28 e. Have the authority to specify one approved
29 curriculum for the operation and inspection of approved
30 instruments.
31

- 1 f. Establish a procedure for the approval of breath
2 test operator and agency inspector classes.
- 3 g. Have the authority to approve or disapprove breath
4 test instruments and accompanying paraphernalia for use
5 pursuant to the driving and boating under the influence
6 provisions and related provisions located in this chapter and
7 chapters 316 and 322.
- 8 h. With the approval of the executive director of the
9 Department of Law Enforcement, make and enter into contracts
10 and agreements with other agencies, organizations,
11 associations, corporations, individuals, or federal agencies
12 as are necessary, expedient, or incidental to the performance
13 of duties.
- 14 i. Issue final orders which include findings of fact
15 and conclusions of law and which constitute final agency
16 action for the purpose of chapter 120.
- 17 j. Enforce compliance with the provisions of this
18 section through civil or administrative proceedings.
- 19 k. Make recommendations concerning any matter within
20 the purview of this section, this chapter, chapter 316, or
21 chapter 322.
- 22 l. Promulgate rules for the administration and
23 implementation of this section, including definitions of
24 terms.
- 25 m. Consult and cooperate with other entities for the
26 purpose of implementing the mandates of this section.
- 27 n. Have the authority to approve the type of blood
28 test utilized under the driving and boating under the
29 influence provisions and related provisions located in this
30 chapter and chapters 316 and 322.
- 31

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

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

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

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

1 refusal by reason of unconsciousness or other mental or
2 physical condition is deemed not to have withdrawn his or her
3 consent to such test. Any person who is capable of refusal
4 shall be told that his or her failure to submit to such a
5 blood test is a misdemeanor and, in addition, will result in a
6 civil penalty of \$500. The refusal to submit to a blood test
7 upon the request of a law enforcement officer shall be
8 admissible in evidence in any criminal proceeding.

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

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

27 2. Only a physician, certified paramedic, registered
28 nurse, licensed practical nurse, other personnel authorized by
29 a hospital to draw blood, or duly licensed clinical laboratory
30 director, supervisor, technologist, or technician, acting at
31 the request of a law enforcement officer, may withdraw blood

1 for the purpose of determining its alcoholic content or the
2 presence of chemical substances or controlled substances
3 therein. However, the failure of a law enforcement officer to
4 request the withdrawal of blood does not affect the
5 admissibility of a test of blood withdrawn for medical
6 purposes.

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

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

31

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

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

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

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

29 327.353 Blood test for impairment or intoxication in
30 cases of death or serious bodily injury; right to use
31 reasonable force.--

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

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

26 (c) The law enforcement officer shall offer any person
27 subject to a blood test under this subsection the opportunity
28 to submit to an approved chemical test of the person's breath
29 and, if the person submits to the test and a valid reading is
30 obtained, the blood test shall be waived. This paragraph shall
31 not apply to any person who is unconscious or whose mental or

1 physical condition does not allow the administration of a
2 breath test or any person who the law enforcement officer has
3 probable cause to believe was operating a vessel under the
4 influence of any chemical substances as set forth in s.
5 877.111 or any controlled substances.

6 Section 8. 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:

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

17 (2) Who was placed under lawful arrest for a violation
18 of s. 327.35, unless such test was requested pursuant to s.
19 327.352(1)(c).

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

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

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

29 Section 9. Section 397.6755, Florida Statutes, is
30 created to read:

31

1 397.6755 Evidence of criteria for involuntary
2 admissions and involuntary treatment; funding.--
3 (1) In addition to any other ground that may give rise
4 to a finding that a person has lost the power of self-control
5 with respect to substance use and is likely to inflict
6 physical harm on himself or herself or another, a court may
7 find that a person has lost the power of self-control with
8 respect to substance use and is likely to inflict physical
9 harm on himself or herself or another if the person has been
10 arrested for a violation of s. 316.193 or s. 327.35, and:
11 (a) The person has, previous to the arrest, been
12 convicted of a violation of s. 316.193 or s. 327.35;
13 (b) The person's blood-alcohol level or breath-alcohol
14 level, as determined by a test conducted incident to the
15 person's arrest, was 0.20 or greater;
16 (c) The person, by reason of operation of a motor
17 vehicle or a vessel, has caused death or serious bodily injury
18 as defined in s. 316.1933 or s. 327.353; or
19 (d) The person is on pretrial release for a previous
20 offense under s. 316.193 or s. 327.35.
21 (2) Any person who meets the criteria for involuntary
22 admission pursuant to s. 397.675, who was placed in protective
23 custody pursuant to s. 316.193(9)(b) or s. 327.35(8)(b), and
24 who is a qualified resident as defined in s. 212.055(4)(d)
25 shall have the costs of evaluation and treatment paid from the
26 fund established pursuant to s. 212.055(4)(e). A court shall
27 order any person whose care is paid for under this subsection,
28 who is subsequently convicted of a violation of s. 316.193 or
29 s. 327.35, to reimburse the provider of the services for the
30 reasonable cost of the services provided and, if the person is
31

1 unable to reimburse the provider, a civil judgment in favor of
2 such fund shall be entered.

3 Section 10. Paragraphs (f) and (i) of subsection (3)
4 of section 921.0022, Florida Statutes, are amended to read:

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

7 (3) OFFENSE SEVERITY RANKING CHART

8	9 Florida	Felony	
10	Statute	Degree	Description
11			(f) LEVEL 6
12			
13	316.027(1)(b)	2nd	Accident involving death, failure
14			to stop; leaving scene.
15	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
16			conviction.
17	<u>327.35(2)(b)</u>	<u>3rd</u>	<u>Felony BUI, 3rd or subsequent</u>
18			<u>conviction.</u>
19	775.0875(1)	3rd	Taking firearm from law
20			enforcement officer.
21	775.21(10)	3rd	Sexual predators; failure to
22			register; failure to renew
23			driver's license or
24			identification card.
25	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
26			without intent to kill.
27	784.021(1)(b)	3rd	Aggravated assault; intent to
28			commit felony.
29	784.041	3rd	Felony battery.
30	784.048(3)	3rd	Aggravated stalking; credible
31			threat.

1	784.048(5)	3rd	Aggravated stalking of person
2			under 16.
3	784.07(2)(c)	2nd	Aggravated assault on law
4			enforcement officer.
5	784.074(1)(b)	2nd	Aggravated assault on sexually
6			violent predators facility staff.
7	784.08(2)(b)	2nd	Aggravated assault on a person 65
8			years of age or older.
9	784.081(2)	2nd	Aggravated assault on specified
10			official or employee.
11	784.082(2)	2nd	Aggravated assault by detained
12			person on visitor or other
13			detainee.
14	784.083(2)	2nd	Aggravated assault on code
15			inspector.
16	787.02(2)	3rd	False imprisonment; restraining
17			with purpose other than those in
18			s. 787.01.
19	790.115(2)(d)	2nd	Discharging firearm or weapon on
20			school property.
21	790.161(2)	2nd	Make, possess, or throw
22			destructive device with intent to
23			do bodily harm or damage
24			property.
25	790.164(1)	2nd	False report of deadly explosive
26			or act of arson or violence to
27			state property.
28	790.19	2nd	Shooting or throwing deadly
29			missiles into dwellings, vessels,
30			or vehicles.
31			

1	794.011(8)(a)	3rd	Solicitation of minor to
2			participate in sexual activity by
3			custodial adult.
4	794.05(1)	2nd	Unlawful sexual activity with
5			specified minor.
6	800.04(5)(d)	3rd	Lewd or lascivious molestation;
7			victim 12 years of age or older
8			but less than 16 years; offender
9			less than 18 years.
10	800.04(6)(b)	2nd	Lewd or lascivious conduct;
11			offender 18 years of age or
12			older.
13	806.031(2)	2nd	Arson resulting in great bodily
14			harm to firefighter or any other
15			person.
16	810.02(3)(c)	2nd	Burglary of occupied structure;
17			unarmed; no assault or battery.
18	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
19			but less than \$100,000, grand
20			theft in 2nd degree.
21	812.014(2)(b)2.	2nd	Property stolen cargo valued at
22			less than \$50,000, grand theft in
23			2nd degree.
24	812.015(9)	2nd	Retail theft; property stolen
25			\$300 or more; second or
26			subsequent conviction.
27	812.13(2)(c)	2nd	Robbery, no firearm or other
28			weapon (strong-arm robbery).
29	817.034(4)(a)1.	1st	Communications fraud, value
30			greater than \$50,000.
31			

1	817.4821(5)	2nd	Possess cloning paraphernalia
2			with intent to create cloned
3			cellular telephones.
4	825.102(1)	3rd	Abuse of an elderly person or
5			disabled adult.
6	825.102(3)(c)	3rd	Neglect of an elderly person or
7			disabled adult.
8	825.1025(3)	3rd	Lewd or lascivious molestation of
9			an elderly person or disabled
10			adult.
11	825.103(2)(c)	3rd	Exploiting an elderly person or
12			disabled adult and property is
13			valued at less than \$20,000.
14	827.03(1)	3rd	Abuse of a child.
15	827.03(3)(c)	3rd	Neglect of a child.
16	827.071(2)&(3)	2nd	Use or induce a child in a sexual
17			performance, or promote or direct
18			such performance.
19	836.05	2nd	Threats; extortion.
20	836.10	2nd	Written threats to kill or do
21			bodily injury.
22	843.12	3rd	Aids or assists person to escape.
23	847.0135(3)	3rd	Solicitation of a child, via a
24			computer service, to commit an
25			unlawful sex act.
26	914.23	2nd	Retaliation against a witness,
27			victim, or informant, with bodily
28			injury.
29	943.0435(9)	3rd	Sex offenders; failure to comply
30			with reporting requirements.
31			

1	944.35(3)(a)2.	3rd	Committing malicious battery upon
2			or inflicting cruel or inhuman
3			treatment on an inmate or
4			offender on community
5			supervision, resulting in great
6			bodily harm.
7	944.40	2nd	Escapes.
8	944.46	3rd	Harboring, concealing, aiding
9			escaped prisoners.
10	944.47(1)(a)5.	2nd	Introduction of contraband
11			(firearm, weapon, or explosive)
12			into correctional facility.
13	951.22(1)	3rd	Intoxicating drug, firearm, or
14			weapon introduced into county
15			facility.
16			(i) LEVEL 9
17	316.193		
18	(3)(c)3.b.	1st	DUI manslaughter; failing to
19			render aid or give information.
20	<u>327.35(3)(c)3.b.</u>	<u>1st</u>	<u>BUI manslaughter; failing to</u>
21			<u>render aid or give information.</u>
22	560.123(8)(b)3.	1st	Failure to report currency or
23			payment instruments totaling or
24			exceeding \$100,000 by money
25			transmitter.
26	560.125(5)(c)	1st	Money transmitter business by
27			unauthorized person, currency, or
28			payment instruments totaling or
29			exceeding \$100,000.
30			
31			

1	655.50(10)(b)3.	1st	Failure to report financial
2			transactions totaling or
3			exceeding \$100,000 by financial
4			institution.
5	755.0844	1st	Aggravated white collar crime.
6	782.04(1)	1st	Attempt, conspire, or solicit to
7			commit premeditated murder.
8	782.04(3)	1st,PBL	Accomplice to murder in
9			connection with arson, sexual
10			battery, robbery, burglary, and
11			other specified felonies.
12	782.051(1)	1st	Attempted felony murder while
13			perpetrating or attempting to
14			perpetrate a felony enumerated in
15			s. 782.04(3).
16	782.07(2)	1st	Aggravated manslaughter of an
17			elderly person or disabled adult.
18	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
19			reward or as a shield or hostage.
20	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
21			or facilitate commission of any
22			felony.
23	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
24			interfere with performance of any
25			governmental or political
26			function.
27			
28			
29			
30			
31			

1	787.02(3)(a)	1st	False imprisonment; child under
2			age 13; perpetrator also commits
3			aggravated child abuse, sexual
4			battery, or lewd or lascivious
5			battery, molestation, conduct, or
6			exhibition.
7	790.161	1st	Attempted capital destructive
8			device offense.
9	790.166(2)	1st,PBL	Possessing, selling, using, or
10			attempting to use a weapon of
11			mass destruction.
12	794.011(2)	1st	Attempted sexual battery; victim
13			less than 12 years of age.
14	794.011(2)	Life	Sexual battery; offender younger
15			than 18 years and commits sexual
16			battery on a person less than 12
17			years.
18	794.011(4)	1st	Sexual battery; victim 12 years
19			or older, certain circumstances.
20	794.011(8)(b)	1st	Sexual battery; engage in sexual
21			conduct with minor 12 to 18 years
22			by person in familial or
23			custodial authority.
24	800.04(5)(b)	1st	Lewd or lascivious molestation;
25			victim less than 12 years;
26			offender 18 years or older.
27	812.13(2)(a)	1st,PBL	Robbery with firearm or other
28			deadly weapon.
29	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
30			deadly weapon.
31	827.03(2)	1st	Aggravated child abuse.

1	847.0145(1)	1st	Selling, or otherwise
2			transferring custody or control,
3			of a minor.
4	847.0145(2)	1st	Purchasing, or otherwise
5			obtaining custody or control, of
6			a minor.
7	859.01	1st	Poisoning food, drink, medicine,
8			or water with intent to kill or
9			injure another person.
10	893.135	1st	Attempted capital trafficking
11			offense.
12	893.135(1)(a)3.	1st	Trafficking in cannabis, more
13			than 10,000 lbs.
14	893.135		
15	(1)(b)1.c.	1st	Trafficking in cocaine, more than
16			400 grams, less than 150
17			kilograms.
18	893.135		
19	(1)(c)1.c.	1st	Trafficking in illegal drugs,
20			more than 28 grams, less than 30
21			kilograms.
22	893.135		
23	(1)(d)1.c.	1st	Trafficking in phencyclidine,
24			more than 400 grams.
25	893.135		
26	(1)(e)1.c.	1st	Trafficking in methaqualone, more
27			than 25 kilograms.
28	893.135		
29	(1)(f)1.c.	1st	Trafficking in amphetamine, more
30			than 200 grams.
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- 1 893.135
2 (1)(h)1.c. 1st Trafficking in
3 gamma-hydroxybutyric acid (GHB),
4 10 kilograms or more.
5 893.135
6 (1)(i)1.c. 1st Trafficking in 1,4-Butanediol, 10
7 kilograms or more.
8 893.135
9 (1)(j)2.c. 1st Trafficking in Phenethylamines,
10 400 grams or more.
11 896.101(5)(c) 1st Money laundering, financial
12 instruments totaling or exceeding
13 \$100,000.
14 896.104(4)(a)3. 1st Structuring transactions to evade
15 reporting or registration
16 requirements, financial
17 transactions totaling or
18 exceeding \$100,000.

19 Section 11. Section 938.07, Florida Statutes, is
20 amended to read:

21 938.07 Driving or boating under the
22 influence.--Notwithstanding any other provision of s. 316.193
23 or s. 327.35, a court cost of \$135 shall be added to any fine
24 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
25 remit the funds to the Department of Revenue, \$25 of which
26 shall be deposited in the Emergency Medical Services Trust
27 Fund, \$50 shall be deposited in the Criminal Justice Standards
28 and Training Trust Fund of the Department of Law Enforcement
29 to be used for operational expenses in conducting the
30 statewide criminal analysis laboratory system established in
31

1 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
2 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

3 Section 12. This act shall take effect July 1, 2002.
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6 HOUSE SUMMARY

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8 Revises provisions of law with respect to driving or
9 boating under the influence of alcohol or controlled
10 substances. Reduces the number of convictions for a
11 felony DUI or BUI. Requires a law enforcement officer to
12 inform a person that refusal to submit to certain tests
13 with respect to DUI or BUI is a misdemeanor. See bill for
14 details.
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