

By the Council for Healthy Communities and Committee on
Crime Prevention, Corrections & Safety and Representatives
Simmons, Slosberg, Heyman, Lynn, Waters, Gannon, Hogan,
Bilirakis and Flanagan

1 A bill to be entitled
2 An act relating to driving or boating under the
3 influence of alcohol or controlled substances;
4 amending s. 316.193, F.S.; reducing the number
5 of convictions required for a felony DUI;
6 requiring mandatory placement of an ignition
7 interlock device under certain circumstances;
8 providing for the forfeiture of vehicles under
9 certain circumstances; amending conditions for
10 conviction in cases of accident, serious bodily
11 injury, or death; removing a cross reference;
12 allowing a law enforcement officer to place a
13 person in protective custody under certain
14 circumstances; requiring a person placed in
15 protective custody to pay reasonable costs of
16 evaluation and treatment under certain
17 circumstances; amending s. 316.1932, F.S.;
18 requiring a law enforcement officer to inform a
19 person that refusal to submit to certain tests
20 is a misdemeanor; amending s. 316.1933, F.S.;
21 requiring a person to submit to a blood test
22 under certain circumstances; providing that the
23 test need not be incidental to a lawful arrest;
24 amending s. 316.1937, F.S.; requiring the
25 installation of ignition interlock devices in
26 conformance to the act; creating s. 316.1939,
27 F.S.; providing a penalty for refusing to
28 submit to a chemical or physical test of
29 breath, urine, or blood; providing application;
30 amending s. 322.271, F.S.; providing an
31 exception to the prohibition on a limited right

1 to drive for business or employment for certain
2 persons for whom the court has required the use
3 of an ignition interlock device; amending s.
4 327.35, F.S.; reducing the number of
5 convictions required for a felony BUI;
6 providing for the forfeiture of vessels under
7 certain circumstances; amending conditions for
8 conviction in cases of accident, serious bodily
9 injury, or death; correcting cross references;
10 allowing a law enforcement officer to place a
11 person in protective custody under certain
12 circumstances; requiring a person placed in
13 protective custody to pay reasonable costs of
14 evaluation and treatment under certain
15 circumstances; amending s. 327.352, F.S.;
16 requiring a law enforcement officer to inform a
17 person that refusal to submit to certain tests
18 is a misdemeanor; amending s. 327.353, F.S.;
19 requiring a person to submit to a blood test
20 under certain circumstances; providing that the
21 test need not be incidental to a lawful arrest;
22 creating s. 327.359, F.S.; providing a penalty
23 for refusing to submit to a chemical or
24 physical test of breath, urine, or blood;
25 providing application; creating s. 397.6755,
26 F.S.; specifying grounds for which a court may
27 determine that criteria exist for involuntary
28 admission and treatment of certain persons;
29 requiring payment for such evaluation and
30 treatment from a certain fund; requiring
31 persons placed in such involuntary custody to

1 reimburse the provider of services under
2 certain circumstances; amending s. 921.0022,
3 F.S.; revising language relating to certain DUI
4 offenses; including certain BUI offenses within
5 the offense severity ranking chart; amending s.
6 932.701, F.S.; redefining "contraband article";
7 amending s. 938.07, F.S.; providing for
8 application of a fee to persons found guilty of
9 boating under the influence; correcting a cross
10 reference; providing an effective date.

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

13
14 Section 1. Subsections (2), (3), (4), and (9) of
15 section 316.193, Florida Statutes, are amended to read:

16 316.193 Driving under the influence; penalties.--

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

20 1. By a fine of:

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

23 b. Not less than \$500 or more than \$1,000 for a second
24 conviction and, if the convicted person qualifies for a
25 restricted license pursuant to s. 322.271(2)(a), mandatory
26 placement of an ignition interlock device approved by the
27 Department of Highway Safety and Motor Vehicles in accordance
28 with s. 316.1937 upon all vehicles owned individually or
29 jointly and routinely operated by the convicted person, for a
30 period of not less than 2 years and at the sole expense of the
31 convicted person.

1 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
2 ~~third conviction; and~~
3 2. By imprisonment for:
4 a. Not more than 6 months for a first conviction.
5 b. Not more than 9 months for a second conviction.
6 ~~c. Not more than 12 months for a third conviction.~~
7 (b) Any person who is convicted of a third ~~fourth~~ or
8 subsequent violation of this section is guilty of a felony of
9 the third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084; however, the fine imposed for such
11 third ~~fourth~~ or subsequent violation may be not less than
12 \$1,000. Further, any vehicle owned by the convicted person and
13 used in the commission of the offense shall be forfeited in
14 accordance with the provisions of the Florida Contraband
15 Forfeiture Act, ss. 932.701-932.707.
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 the cause of:
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

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

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

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

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

13 (a) By a fine of:

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

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

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

20 (b) By imprisonment for:

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

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

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

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

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

31

1 ~~1.(a)~~ Until the person is no longer under the
2 influence of alcoholic beverages, any chemical substance set
3 forth in s. 877.111, or any substance controlled under chapter
4 893 and affected to the extent that his or her normal
5 faculties are impaired;

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

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

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

12 **1. The person has previously been convicted of a**
13 **violation of this section or s. 327.35;**

14 **2. The person's blood-alcohol level or breath-alcohol**
15 **level, as determined by a test conducted incident to the**
16 **person's arrest, was 0.20 or greater;**

17 **3. The person, by reason of operation of a motor**
18 **vehicle, has caused death or serious bodily injury as defined**
19 **in s. 316.1933; or**

20 **4. The person is on pretrial release for a previous**
21 **offense under this section or s. 327.35.**

22
23 **The election to place a person in protective custody may be**
24 **done at the time of arrest, but transfer of the person to a**
25 **facility shall not occur prior to the conclusion of the time**
26 **period set forth in paragraph (a) or the time that the person**
27 **is released on bail, whichever is later. The provisions of**
28 **this paragraph are in addition to, not in lieu of, the**
29 **provisions of subsection (5). A court shall order any person**
30 **placed in protective custody pursuant to this paragraph who is**
31

1 subsequently convicted of a violation of this section to pay
2 the reasonable costs of evaluation and treatment.

3 Section 2. Section 316.1932, Florida Statutes, is
4 amended to read:

5 316.1932 Breath, blood, and urine tests for alcohol,
6 chemical substances, or controlled substances; implied
7 consent; refusal ~~right to refuse~~--

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

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

20 2. The Alcohol Testing Program within the Department
21 of Law Enforcement is responsible for the regulation of the
22 operation, inspection, and registration of breath test
23 instruments utilized under the driving and boating under the
24 influence provisions and related provisions located in this
25 chapter and chapters 322 and 327. The program is responsible
26 for the regulation of the individuals who operate, inspect,
27 and instruct on the breath test instruments utilized in the
28 driving and boating under the influence provisions and related
29 provisions located in this chapter and chapters 322 and 327.
30 The program is further responsible for the regulation of blood
31 analysts who conduct blood testing to be utilized under the

1 driving and boating under the influence provisions and related
2 provisions located in this chapter and chapters 322 and 327.
3 The program shall:
4 a. Establish uniform criteria for the issuance of
5 permits to breath test operators, agency inspectors,
6 instructors, blood analysts, and instruments.
7 b. Have the authority to permit breath test operators,
8 agency inspectors, instructors, blood analysts, and
9 instruments.
10 c. Have the authority to discipline and suspend,
11 revoke, or renew the permits of breath test operators, agency
12 inspectors, instructors, blood analysts, and instruments.
13 d. Establish uniform requirements for instruction and
14 curricula for the operation and inspection of approved
15 instruments.
16 e. Have the authority to specify one approved
17 curriculum for the operation and inspection of approved
18 instruments.
19 f. Establish a procedure for the approval of breath
20 test operator and agency inspector classes.
21 g. Have the authority to approve or disapprove breath
22 test instruments and accompanying paraphernalia for use
23 pursuant to the driving and boating under the influence
24 provisions and related provisions located in this chapter and
25 chapters 322 and 327.
26 h. With the approval of the executive director of the
27 Department of Law Enforcement, make and enter into contracts
28 and agreements with other agencies, organizations,
29 associations, corporations, individuals, or federal agencies
30 as are necessary, expedient, or incidental to the performance
31 of duties.

1 i. Issue final orders which include findings of fact
2 and conclusions of law and which constitute final agency
3 action for the purpose of chapter 120.
4 j. Enforce compliance with the provisions of this
5 section through civil or administrative proceedings.
6 k. Make recommendations concerning any matter within
7 the purview of this section, this chapter, chapter 322, or
8 chapter 327.
9 l. Promulgate rules for the administration and
10 implementation of this section, including definitions of
11 terms.
12 m. Consult and cooperate with other entities for the
13 purpose of implementing the mandates of this section.
14 n. Have the authority to approve the type of blood
15 test utilized under the driving and boating under the
16 influence provisions and related provisions located in this
17 chapter and chapters 322 and 327.
18 o. Have the authority to specify techniques and
19 methods for breath alcohol testing and blood testing utilized
20 under the driving and boating under the influence provisions
21 and related provisions located in this chapter and chapters
22 322 and 327.
23 p. Have the authority to approve repair facilities for
24 the approved breath test instruments, including the authority
25 to set criteria for approval.
26
27 Nothing in this section shall be construed to supersede
28 provisions in this chapter and chapters 322 and 327. The
29 specifications in this section are derived from the power and
30 authority previously and currently possessed by the Department
31

1 of Law Enforcement and are enumerated to conform with the
2 mandates of chapter 99-379, Laws of Florida.

3 (b)1. The blood-alcohol level must be based upon grams
4 of alcohol per 100 milliliters of blood. The breath-alcohol
5 level must be based upon grams of alcohol per 210 liters of
6 breath.

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

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

1 unconsciousness or other mental or physical condition is
2 deemed not to have withdrawn his or her consent to such test.
3 A blood test may be administered whether or not the person is
4 told that his or her failure to submit to such a blood test is
5 a misdemeanor and, in addition, will result in the suspension
6 of the person's privilege to operate a motor vehicle upon the
7 public highways of this state. Any person who is capable of
8 refusal shall be told that his or her failure to submit to
9 such a blood test is a misdemeanor and, in addition, will
10 result in the suspension of the person's privilege to operate
11 a motor vehicle for a period of 1 year for a first refusal, or
12 for a period of 18 months if the driving privilege of the
13 person has been suspended previously as a result of a refusal
14 to submit to such a test or tests. The refusal to submit to a
15 blood test upon the request of a law enforcement officer is
16 admissible in evidence in any criminal proceeding.

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

29 (e)1. By applying for a driver's license and by
30 accepting and using a driver's license, the person holding the
31

1 driver's license is deemed to have expressed his or her
2 consent to the provisions of this section.

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

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

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

23 2.a. Only a physician, certified paramedic, registered
24 nurse, licensed practical nurse, other personnel authorized by
25 a hospital to draw blood, or duly licensed clinical laboratory
26 director, supervisor, technologist, or technician, acting at
27 the request of a law enforcement officer, may withdraw blood
28 for the purpose of determining its alcoholic content or the
29 presence of chemical substances or controlled substances
30 therein. However, the failure of a law enforcement officer to
31 request the withdrawal of blood does not affect the

1 | admissibility of a test of blood withdrawn for medical
2 | purposes.

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

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

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

30 | e. A civil, criminal, or administrative action may not
31 | be brought against any person or health care provider

1 participating in good faith in the provision of notice or
2 failure to provide notice as provided in this section. Any
3 person or health care provider participating in the provision
4 of notice or failure to provide notice as provided in this
5 section shall be immune from any civil or criminal liability
6 and from any professional disciplinary action with respect to
7 the provision of notice or failure to provide notice under
8 this section. Any such participant has the same immunity with
9 respect to participating in any judicial proceedings resulting
10 from the notice or failure to provide notice.

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

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

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

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

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

31

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

3 316.1933 Blood test for impairment or intoxication in
4 cases of death or serious bodily injury; right to use
5 reasonable force.--

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

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

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

3 316.1937 Ignition interlock devices, requiring;
4 unlawful acts.--

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

22 Section 5. Section 316.1939, Florida Statutes, is
23 created to read:

24 316.1939 Refusal to submit to testing; penalties.--

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

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

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 refusal to submit to such
7 test is a misdemeanor.

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

11
12 commits a misdemeanor of the first degree and is subject to
13 punishment as provided in s. 775.082 or s. 775.083.

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

17 (3) Except as provided in s. 316.193, the disposition
18 of a criminal action under this section does not affect any
19 administrative proceeding that relates to the suspension of a
20 person's driving privilege.

21 Section 6. Paragraph (a) of subsection (2) of section
22 322.271, Florida Statutes, is amended to read:

23 322.271 Authority to modify revocation, cancellation,
24 or suspension order.--

25 (2)(a) Upon such hearing, the person whose license has
26 been suspended, canceled, or revoked may show that such
27 suspension, cancellation, or revocation of his or her license
28 causes a serious hardship and precludes the person's carrying
29 out his or her normal business occupation, trade, or
30 employment and that the use of the person's license in the
31 normal course of his or her business is necessary to the

1 proper support of the person or his or her family. Except as
2 otherwise provided in this subsection, the department shall
3 require proof of the successful completion of the applicable
4 department-approved driver training course operating pursuant
5 to s. 318.1451 or DUI program substance abuse education course
6 and evaluation as provided in s. 316.193(5). Letters of
7 recommendation from respected business persons in the
8 community, law enforcement officers, or judicial officers may
9 also be required to determine whether such person should be
10 permitted to operate a motor vehicle on a restricted basis for
11 business or employment use only and in determining whether
12 such person can be trusted to so operate a motor vehicle. If a
13 driver's license has been suspended under the point system or
14 pursuant to s. 322.2615, the department shall require proof of
15 enrollment in the applicable department-approved driver
16 training course or licensed DUI program substance abuse
17 education course, including evaluation and treatment, if
18 referred, and may require letters of recommendation described
19 in this subsection to determine if the driver should be
20 reinstated on a restricted basis. If such person fails to
21 complete the approved course within 90 days after
22 reinstatement or subsequently fails to complete treatment, if
23 applicable, the department shall cancel his or her driver's
24 license until the course and treatment, if applicable, is
25 successfully completed, notwithstanding the terms of the court
26 order or any suspension or revocation of the driving
27 privilege. The department may temporarily reinstate the
28 driving privilege on a restricted basis upon verification from
29 the DUI program that the offender has reentered and is
30 currently participating in treatment and has completed the DUI
31 education course and evaluation requirement. If the DUI

1 program notifies the department of the second failure to
2 complete treatment, the department shall reinstate the driving
3 privilege only after notice of completion of treatment from
4 the DUI program. The privilege of driving on a limited or
5 restricted basis for business or employment use shall not be
6 granted to a person who has been convicted of a violation of
7 s. 316.193 until completion of the DUI program substance abuse
8 education course and evaluations as provided in s. 316.193(5).
9 Except as provided in paragraph (b), the privilege of driving
10 on a limited or restricted basis for business or employment
11 use shall not be granted to a person whose license is revoked
12 pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and
13 who has been convicted of a violation of s. 316.193 two or
14 more times or whose license has been suspended two or more
15 times for refusal to submit to a test pursuant to s. 322.2615
16 or former s. 322.261, except in those circumstances where a
17 court has required use of an ignition interlock device
18 pursuant to s. 316.193(2)(a).

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

21 327.35 Boating under the influence; penalties;
22 "designated drivers".--

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

26 1. By a fine of:

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

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

31

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

3 2. By imprisonment for:

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

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

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

7 (b) Any person who is convicted of a third ~~fourth~~ or
8 subsequent violation of this section is guilty of a felony of
9 the third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084; however, the fine imposed for such
11 third ~~fourth~~ or subsequent violation may not be less than
12 \$1,000. Further, any vessel owned by the convicted person and
13 used in the commission of the offense shall be forfeited to
14 the state in accordance with the provisions of the Florida
15 Contraband Forfeiture Act, ss. 932.701-932.707.

16 (3) Any person:

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

18 (b) Who operates a vessel; and

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

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.
25 327.353 ~~316.1933~~, commits a felony of the third degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084.

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

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

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

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

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

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

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

16 (a) By a fine of:

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

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

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

23 (b) By imprisonment for:

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

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

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

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

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

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

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

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

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

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

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

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

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

24
25 The election to place a person in protective custody may be
26 done at the time of arrest, but transfer of the person to a
27 facility shall not occur prior to the conclusion of the time
28 period set forth in paragraph (a). The provisions of this
29 paragraph are in addition to, not in lieu of, the provisions
30 of subsection (5). A court shall order any person placed in
31 protective custody pursuant to this paragraph, who is

1 subsequently convicted of a violation of this section, to pay
2 the reasonable costs of evaluation and treatment.

3 Section 8. Section 327.352, Florida Statutes, is
4 amended to read:

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

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

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

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

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

30 3. The Alcohol Testing Program within the Department
31 of Law Enforcement is responsible for the regulation of the

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

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

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

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

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

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

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

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

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

29 o. Have the authority to specify techniques and
30 methods for breath alcohol testing and blood testing utilized
31 under the driving and boating under the influence provisions

1 and related provisions located in this chapter and chapters
2 316 and 322.

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

6
7 Nothing in this section shall be construed to supersede
8 provisions in this chapter and chapters 316 and 322. The
9 specifications in this section are derived from the power and
10 authority previously and currently possessed by the Department
11 of Law Enforcement and are enumerated to conform with the
12 mandates of chapter 99-379, Laws of Florida.

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

1 shall be told that his or her failure to submit to such a
2 blood test is a misdemeanor and, in addition, will result in a
3 civil penalty of \$500. The refusal to submit to a blood test
4 upon the request of a law enforcement officer shall be
5 admissible in evidence in any criminal proceeding.

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

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

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

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

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

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

28 5. A hospital, clinical laboratory, medical clinic, or
29 similar medical institution or physician, certified paramedic,
30 registered nurse, licensed practical nurse, other personnel
31 authorized by a hospital to draw blood, or duly licensed

1 clinical laboratory director, supervisor, technologist, or
2 technician, or other person assisting a law enforcement
3 officer does not incur any civil or criminal liability as a
4 result of the withdrawal or analysis of a blood or urine
5 specimen, or the chemical or physical test of a person's
6 breath pursuant to accepted medical standards when requested
7 by a law enforcement officer, regardless of whether or not the
8 subject resisted administration of the test.

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

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

23 Section 9. Subsection (1) of section 327.353, Florida
24 Statutes, is amended to read:

25 327.353 Blood test for impairment or intoxication in
26 cases of death or serious bodily injury; right to use
27 reasonable force.--

28 (1)(a) ~~Notwithstanding any recognized ability to~~
29 ~~refuse to submit to the tests provided in s. 327.352 or any~~
30 ~~recognized power to revoke the implied consent to such tests,~~
31 If a law enforcement officer has probable cause to believe

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

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

22 Section 10. Section 327.359, Florida Statutes, is
23 created to read:

24 327.359 Refusal to submit to testing; penalties.--Any
25 person who has refused to submit to a chemical or physical
26 test of his or her breath, blood, or urine, as described in s.
27 327.352, and:

28 (1) Who the arresting law enforcement officer had
29 probable cause to believe was operating or in actual physical
30 control of a vessel in this state while under the influence of
31

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

3 (2) Who was placed under lawful arrest for a violation
4 of s. 327.35, unless such test was requested pursuant to s.
5 327.352(1)(c).

6 (3) Who was informed that refusal to submit to such
7 test is a misdemeanor.

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

11
12 commits a misdemeanor of the first degree and is subject to
13 punishment as provided in s. 775.082 or s. 775.083.

14 Section 11. Section 397.6755, Florida Statutes, is
15 created to read:

16 397.6755 Evidence of criteria for involuntary
17 admissions and involuntary treatment; funding.--

18 (1) In addition to any other ground that may give rise
19 to a finding that a person has lost the power of self-control
20 with respect to substance use and is likely to inflict
21 physical harm on himself or herself or another, a court may
22 find that a person has lost the power of self-control with
23 respect to substance use and is likely to inflict physical
24 harm on himself or herself or another if the person has been
25 arrested for a violation of s. 316.193 or s. 327.35, and:

26 (a) The person has, previous to the arrest, been
27 convicted of a violation of s. 316.193 or s. 327.35;

28 (b) The person's blood-alcohol level or breath-alcohol
29 level, as determined by a test conducted incident to the
30 person's arrest, was 0.20 or greater;

31

1 (c) The person, by reason of operation of a motor
2 vehicle or a vessel, has caused death or serious bodily injury
3 as defined in s. 316.1933 or s. 327.353; or

4 (d) The person is on pretrial release for a previous
5 offense under s. 316.193 or s. 327.35.

6 (2) Any person who meets the criteria for involuntary
7 admission pursuant to s. 397.675, who was placed in protective
8 custody pursuant to s. 316.193(9)(b) or s. 327.35(8)(b), and
9 who is a qualified resident as defined in s. 212.055(4)(d)
10 shall have the costs of evaluation and treatment paid from the
11 fund established pursuant to s. 212.055(4)(e). A court shall
12 order any person whose care is paid for under this subsection,
13 who is subsequently convicted of a violation of s. 316.193 or
14 s. 327.35, to reimburse the provider of the services for the
15 reasonable cost of the services provided and, if the person is
16 unable to reimburse the provider, a civil judgment in favor of
17 such fund shall be entered.

18 Section 12. Paragraphs (f) and (i) of subsection (3)
19 of section 921.0022, Florida Statutes, as amended by chapter
20 2001-358, Laws of Florida, are amended to read:

21 921.0022 Criminal Punishment Code; offense severity
22 ranking chart.--

23 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(f) LEVEL 6
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.

1	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
2			conviction.
3	<u>327.35(2)(b)</u>	<u>3rd</u>	<u>Felony BUI, 3rd or subsequent</u>
4			<u>conviction.</u>
5	775.0875(1)	3rd	Taking firearm from law
6			enforcement officer.
7	775.21(10)	3rd	Sexual predators; failure to
8			register; failure to renew
9			driver's license or
10			identification card.
11	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
12			without intent to kill.
13	784.021(1)(b)	3rd	Aggravated assault; intent to
14			commit felony.
15	784.041	3rd	Felony battery.
16	784.048(3)	3rd	Aggravated stalking; credible
17			threat.
18	784.048(5)	3rd	Aggravated stalking of person
19			under 16.
20	784.07(2)(c)	2nd	Aggravated assault on law
21			enforcement officer.
22	784.074(1)(b)	2nd	Aggravated assault on sexually
23			violent predators facility staff.
24	784.08(2)(b)	2nd	Aggravated assault on a person 65
25			years of age or older.
26	784.081(2)	2nd	Aggravated assault on specified
27			official or employee.
28	784.082(2)	2nd	Aggravated assault by detained
29			person on visitor or other
30			detainee.
31			

1	784.083(2)	2nd	Aggravated assault on code
2			inspector.
3	787.02(2)	3rd	False imprisonment; restraining
4			with purpose other than those in
5			s. 787.01.
6	790.115(2)(d)	2nd	Discharging firearm or weapon on
7			school property.
8	790.161(2)	2nd	Make, possess, or throw
9			destructive device with intent to
10			do bodily harm or damage
11			property.
12	790.164(1)	2nd	False report of deadly explosive
13			or act of arson or violence to
14			state property.
15	790.19	2nd	Shooting or throwing deadly
16			missiles into dwellings, vessels,
17			or vehicles.
18	794.011(8)(a)	3rd	Solicitation of minor to
19			participate in sexual activity by
20			custodial adult.
21	794.05(1)	2nd	Unlawful sexual activity with
22			specified minor.
23	800.04(5)(d)	3rd	Lewd or lascivious molestation;
24			victim 12 years of age or older
25			but less than 16 years; offender
26			less than 18 years.
27	800.04(6)(b)	2nd	Lewd or lascivious conduct;
28			offender 18 years of age or
29			older.
30			
31			

1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.014(2)(b)2.	2nd	Property stolen cargo valued at
10			less than \$50,000, grand theft in
11			2nd degree.
12	812.015(9)	2nd	Retail theft; property stolen
13			\$300 or more; second or
14			subsequent conviction.
15	812.13(2)(c)	2nd	Robbery, no firearm or other
16			weapon (strong-arm robbery).
17	817.034(4)(a)1.	1st	Communications fraud, value
18			greater than \$50,000.
19	817.4821(5)	2nd	Possess cloning paraphernalia
20			with intent to create cloned
21			cellular telephones.
22	825.102(1)	3rd	Abuse of an elderly person or
23			disabled adult.
24	825.102(3)(c)	3rd	Neglect of an elderly person or
25			disabled adult.
26	825.1025(3)	3rd	Lewd or lascivious molestation of
27			an elderly person or disabled
28			adult.
29	825.103(2)(c)	3rd	Exploiting an elderly person or
30			disabled adult and property is
31			valued at less than \$20,000.

1	827.03(1)	3rd	Abuse of a child.
2	827.03(3)(c)	3rd	Neglect of a child.
3	827.071(2)&(3)	2nd	Use or induce a child in a sexual
4			performance, or promote or direct
5			such performance.
6	836.05	2nd	Threats; extortion.
7	836.10	2nd	Written threats to kill or do
8			bodily injury.
9	843.12	3rd	Aids or assists person to escape.
10	847.0135(3)	3rd	Solicitation of a child, via a
11			computer service, to commit an
12			unlawful sex act.
13	914.23	2nd	Retaliation against a witness,
14			victim, or informant, with bodily
15			injury.
16	943.0435(9)	3rd	Sex offenders; failure to comply
17			with reporting requirements.
18	944.35(3)(a)2.	3rd	Committing malicious battery upon
19			or inflicting cruel or inhuman
20			treatment on an inmate or
21			offender on community
22			supervision, resulting in great
23			bodily harm.
24	944.40	2nd	Escapes.
25	944.46	3rd	Harboring, concealing, aiding
26			escaped prisoners.
27	944.47(1)(a)5.	2nd	Introduction of contraband
28			(firearm, weapon, or explosive)
29			into correctional facility.
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1	951.22(1)	3rd	Intoxicating drug, firearm, or
2			weapon introduced into county
3			facility.
4			(i) LEVEL 9
5	316.193		
6	(3)(c)3.b.	1st	DUI manslaughter; failing to
7			render aid or give information.
8	<u>327.35(3)(c)3.b.</u>	<u>1st</u>	<u>BUI manslaughter; failing to</u>
9			<u>render aid or give information.</u>
10	560.123(8)(b)3.	1st	Failure to report currency or
11			payment instruments totaling or
12			exceeding \$100,000 by money
13			transmitter.
14	560.125(5)(c)	1st	Money transmitter business by
15			unauthorized person, currency, or
16			payment instruments totaling or
17			exceeding \$100,000.
18	655.50(10)(b)3.	1st	Failure to report financial
19			transactions totaling or
20			exceeding \$100,000 by financial
21			institution.
22	755.0844	1st	Aggravated white collar crime.
23	782.04(1)	1st	Attempt, conspire, or solicit to
24			commit premeditated murder.
25	782.04(3)	1st,PBL	Accomplice to murder in
26			connection with arson, sexual
27			battery, robbery, burglary, and
28			other specified felonies.
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1	782.051(1)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony enumerated in
4			s. 782.04(3).
5	782.07(2)	1st	Aggravated manslaughter of an
6			elderly person or disabled adult.
7	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
8			reward or as a shield or hostage.
9	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
10			or facilitate commission of any
11			felony.
12	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
13			interfere with performance of any
14			governmental or political
15			function.
16	787.02(3)(a)	1st	False imprisonment; child under
17			age 13; perpetrator also commits
18			aggravated child abuse, sexual
19			battery, or lewd or lascivious
20			battery, molestation, conduct, or
21			exhibition.
22	790.161	1st	Attempted capital destructive
23			device offense.
24	790.166(2)	1st,PBL	Possessing, selling, using, or
25			attempting to use a weapon of
26			mass destruction.
27	794.011(2)	1st	Attempted sexual battery; victim
28			less than 12 years of age.
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1	794.011(2)	Life	Sexual battery; offender younger
2			than 18 years and commits sexual
3			battery on a person less than 12
4			years.
5	794.011(4)	1st	Sexual battery; victim 12 years
6			or older, certain circumstances.
7	794.011(8)(b)	1st	Sexual battery; engage in sexual
8			conduct with minor 12 to 18 years
9			by person in familial or
10			custodial authority.
11	800.04(5)(b)	1st	Lewd or lascivious molestation;
12			victim less than 12 years;
13			offender 18 years or older.
14	812.13(2)(a)	1st,PBL	Robbery with firearm or other
15			deadly weapon.
16	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
17			deadly weapon.
18	827.03(2)	1st	Aggravated child abuse.
19	847.0145(1)	1st	Selling, or otherwise
20			transferring custody or control,
21			of a minor.
22	847.0145(2)	1st	Purchasing, or otherwise
23			obtaining custody or control, of
24			a minor.
25	859.01	1st	Poisoning or introducing
26			bacteria, radioactive materials,
27			viruses, or chemical compounds
28			into food, drink, medicine, or
29			water with intent to kill or
30			injure another person.
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1	893.135	1st	Attempted capital trafficking
2			offense.
3	893.135(1)(a)3.	1st	Trafficking in cannabis, more
4			than 10,000 lbs.
5	893.135		
6	(1)(b)1.c.	1st	Trafficking in cocaine, more than
7			400 grams, less than 150
8			kilograms.
9	893.135		
10	(1)(c)1.c.	1st	Trafficking in illegal drugs,
11			more than 28 grams, less than 30
12			kilograms.
13	893.135		
14	(1)(d)1.c.	1st	Trafficking in phencyclidine,
15			more than 400 grams.
16	893.135		
17	(1)(e)1.c.	1st	Trafficking in methaqualone, more
18			than 25 kilograms.
19	893.135		
20	(1)(f)1.c.	1st	Trafficking in amphetamine, more
21			than 200 grams.
22	893.135		
23	(1)(h)1.c.	1st	Trafficking in
24			gamma-hydroxybutyric acid (GHB),
25			10 kilograms or more.
26	893.135		
27	(1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10
28			kilograms or more.
29	893.135		
30	(1)(j)2.c.	1st	Trafficking in Phenethylamines,
31			400 grams or more.

1 896.101(5)(c) 1st Money laundering, financial
2 instruments totaling or exceeding
3 \$100,000.
4 896.104(4)(a)3. 1st Structuring transactions to evade
5 reporting or registration
6 requirements, financial
7 transactions totaling or
8 exceeding \$100,000.
9 Section 13. Paragraph (a) of subsection (2) of section
10 932.701, Florida Statutes, is amended to read:
11 932.701 Short title; definitions.--
12 (2) As used in the Florida Contraband Forfeiture Act:
13 (a) "Contraband article" means:
14 1. Any controlled substance as defined in chapter 893
15 or any substance, device, paraphernalia, or currency or other
16 means of exchange that was used, was attempted to be used, or
17 was intended to be used in violation of any provision of
18 chapter 893, if the totality of the facts presented by the
19 state is clearly sufficient to meet the state's burden of
20 establishing probable cause to believe that a nexus exists
21 between the article seized and the narcotics activity, whether
22 or not the use of the contraband article can be traced to a
23 specific narcotics transaction.
24 2. Any gambling paraphernalia, lottery tickets, money,
25 currency, or other means of exchange which was used, was
26 attempted, or intended to be used in violation of the gambling
27 laws of the state.
28 3. Any equipment, liquid or solid, which was being
29 used, is being used, was attempted to be used, or intended to
30 be used in violation of the beverage or tobacco laws of the
31 state.

- 1 4. Any motor fuel upon which the motor fuel tax has
2 not been paid as required by law.
- 3 5. Any personal property, including, but not limited
4 to, any vessel, aircraft, item, object, tool, substance,
5 device, weapon, machine, vehicle of any kind, money,
6 securities, books, records, research, negotiable instruments,
7 or currency, which was used or was attempted to be used as an
8 instrumentality in the commission of, or in aiding or abetting
9 in the commission of, any felony, whether or not comprising an
10 element of the felony, or which is acquired by proceeds
11 obtained as a result of a violation of the Florida Contraband
12 Forfeiture Act. The term "contraband article" includes any
13 motor vehicle or vessel used during the course of committing
14 an offense in violation of ss. 316.193 and 327.35.
- 15 6. Any real property, including any right, title,
16 leasehold, or other interest in the whole of any lot or tract
17 of land, which was used, is being used, or was attempted to be
18 used as an instrumentality in the commission of, or in aiding
19 or abetting in the commission of, any felony, or which is
20 acquired by proceeds obtained as a result of a violation of
21 the Florida Contraband Forfeiture Act.
- 22 7. Any personal property, including, but not limited
23 to, equipment, money, securities, books, records, research,
24 negotiable instruments, currency, or any vessel, aircraft,
25 item, object, tool, substance, device, weapon, machine, or
26 vehicle of any kind in the possession of or belonging to any
27 person who takes aquaculture products in violation of s.
28 812.014(2)(c).
- 29 8. Any motor vehicle offered for sale in violation of
30 s. 320.28.
- 31

1 9. Any motor vehicle used during the course of
2 committing an offense in violation of s. 322.34(9)(a).

3 Section 14. Section 938.07, Florida Statutes, is
4 amended to read:

5 938.07 Driving or boating under the
6 influence.--Notwithstanding any other provision of s. 316.193
7 or s. 327.35, a court cost of \$135 shall be added to any fine
8 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
9 remit the funds to the Department of Revenue, \$25 of which
10 shall be deposited in the Emergency Medical Services Trust
11 Fund, \$50 shall be deposited in the Criminal Justice Standards
12 and Training Trust Fund of the Department of Law Enforcement
13 to be used for operational expenses in conducting the
14 statewide criminal analysis laboratory system established in
15 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
16 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

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