

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 revising conditions for conviction in cases of
9 accident, serious bodily injury, or death;
10 removing a cross reference; amending s.
11 316.1932, F.S.; requiring a law enforcement
12 officer to inform a person that refusal to
13 submit to certain tests is a misdemeanor;
14 amending s. 316.1933, F.S.; requiring a person
15 to submit to a blood test under certain
16 circumstances; amending s. 316.1937, F.S.;
17 requiring placement of an ignition interlock
18 device under certain circumstances; directing
19 the court regarding requirements for ignition
20 interlock devices; creating s. 316.1939, F.S.;
21 providing a penalty for refusing to submit to a
22 chemical or physical test of breath, urine, or
23 blood; providing application; amending s.
24 322.271, F.S.; providing for the privilege of
25 driving with an ignition interlock device while
26 a license is revoked or suspended, under
27 certain circumstances; amending s. 327.35,
28 F.S.; reducing the number of convictions
29 required for a felony BUI; revising conditions
30 for conviction in cases of accident, serious
31 bodily injury, or death; conforming cross

1 references; amending s. 327.352, F.S.;
2 providing for notification that refusal to
3 submit to a test of breath, blood, or urine
4 under certain circumstances is a misdemeanor;
5 amending s. 327.353, F.S.; requiring a person
6 to submit to a blood test under certain
7 circumstances; providing that the test need not
8 be incidental to a lawful arrest; creating s.
9 327.359, F.S.; providing a penalty for refusing
10 to submit to a chemical or physical test of
11 breath, urine, or blood; providing application;
12 creating s. 397.6755, F.S.; providing for
13 evidence and criteria for involuntary admission
14 and treatment; providing funding; amending s.
15 921.0022, F.S.; revising provisions relating to
16 certain DUI offenses; including certain BUI
17 offenses within the offense severity ranking
18 chart; amending s. 938.07, F.S.; providing for
19 application of a fee to persons found guilty of
20 boating under the influence; conforming a cross
21 reference; amending s. 943.05, F.S.; providing
22 for adoption of rules and forms for making DUI
23 arrests; providing an appropriation; providing
24 an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (2), (3), and (4) of section
29 316.193, Florida Statutes, are amended, and subsection (11) is
30 added to said section, to read:

31 316.193 Driving under the influence; penalties.--

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

4 1. By a fine of:

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

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

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

11 2. By imprisonment for:

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

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

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

15 3. For a second conviction, by mandatory placement for
16 a period of at least 1 year, at the convicted person's sole
17 expense, of an ignition interlock device approved by the
18 department in accordance with s. 316.1937 upon all vehicles
19 that are individually or jointly leased or owned and routinely
20 operated by the convicted person, when the convicted person
21 qualifies for a permanent or restricted license. The
22 installation of such device may not occur before July 1, 2003.

23 (b)1. Any person who is convicted of a ~~third~~ fourth or
24 subsequent violation of this section for an offense that
25 occurs within 10 years after a prior conviction for a
26 violation of this section commits ~~is guilty of~~ a felony of the
27 third degree, punishable as provided in s. 775.082, s.
28 775.083, or s. 775.084. In addition, the court shall order the
29 mandatory placement for a period of not less than 2 years, at
30 the convicted person's sole expense, of an ignition interlock
31 device approved by the department in accordance with s.

1 316.1937 upon all vehicles that are individually or jointly
2 leased or owned and routinely operated by the convicted
3 person, when the convicted person qualifies for a permanent or
4 restricted license. The installation of such device may not
5 occur before July 1, 2003.

6 2. Any person who is convicted of a third violation of
7 this section for an offense that occurs more than 10 years
8 after the date of a prior conviction for a violation of this
9 section shall be punished by a fine of not less than \$1,000 or
10 more than \$2,500 and by imprisonment for not more than 12
11 months. In addition, the court shall order the mandatory
12 placement for a period of at least 2 years, at the convicted
13 person's sole expense, of an ignition interlock device
14 approved by the department in accordance with s. 316.1937 upon
15 all vehicles that are individually or jointly leased or owned
16 and routinely operated by the convicted person, when the
17 convicted person qualifies for a permanent or restricted
18 license. The installation of such device may not occur before
19 July 1, 2003.

20 3. Any person who is convicted of a fourth or
21 subsequent violation of this section, regardless of when any
22 prior conviction for a violation of this section occurred,
23 commits a felony of the third degree, punishable as provided
24 in s. 775.082, s. 775.083, or s. 775.084. However, the fine
25 imposed for such fourth or subsequent violation may be not
26 less than \$1,000.

27 (3) Any person:

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

29 (b) Who operates a vehicle; and

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

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

4 2. Serious bodily injury to another, as defined in s.
5 316.1933, commits a felony of the third degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084.

7 3. The death of any human being commits DUI
8 manslaughter, and commits:

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

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

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

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

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

23 (a) By a fine of:

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

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

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

30 (b) By imprisonment for:

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

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

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

3
4 For the purposes of this subsection, ~~any conviction for a~~
5 ~~violation of s. 327.35,~~ only the instant offense is required
6 to be a violation of subsection (1) by a person who has a
7 blood-alcohol level or breath-alcohol level of 0.20 or higher.

8 (c) In addition to the penalties in paragraphs (a) and
9 (b), the court shall order the mandatory placement, at the
10 convicted person's sole expense, of an ignition interlock
11 device approved by the department in accordance with s.
12 316.1937 upon all vehicles that are individually or jointly
13 leased or owned and routinely operated by the convicted person
14 for up to 6 months for the first offense and for at least 2
15 years for a second offense, when the convicted person
16 qualifies for a permanent or restricted license. The
17 installation of such device may not occur before July 1, 2003.

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

21 Section 2. Section 316.1932, Florida Statutes, is
22 amended to read:

23 316.1932 Breath, blood, and urine tests for alcohol,
24 chemical substances, or controlled substances; implied
25 consent; refusal ~~right to refuse~~.--

26 (1)(a)1. Any person who accepts the privilege extended
27 by the laws of this state of operating a motor vehicle within
28 this state is, by so operating such vehicle, deemed to have
29 given his or her consent to submit to an approved chemical
30 test or physical test including, but not limited to, an
31 infrared light test of his or her breath for the purpose of

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

1 person has been previously suspended as a result of a refusal
2 to submit to such a test or tests, and shall also be told that
3 if he or she refuses to submit to a lawful test of his or her
4 breath or urine, or both, and his or her driving privilege has
5 been previously suspended for a prior refusal to submit to a
6 lawful test of his or her breath, urine, or blood, he or she
7 commits a misdemeanor in addition to any other penalties. The
8 refusal to submit to a chemical or physical breath test or to
9 a urine test upon the request of a law enforcement officer as
10 provided in this section is admissible into evidence in any
11 criminal proceeding.

12 2. The Alcohol Testing Program within the Department
13 of Law Enforcement is responsible for the regulation of the
14 operation, inspection, and registration of breath test
15 instruments utilized under the driving and boating under the
16 influence provisions and related provisions located in this
17 chapter and chapters 322 and 327. The program is responsible
18 for the regulation of the individuals who operate, inspect,
19 and instruct on the breath test instruments utilized in the
20 driving and boating under the influence provisions and related
21 provisions located in this chapter and chapters 322 and 327.
22 The program is further responsible for the regulation of blood
23 analysts who conduct blood testing to be utilized under the
24 driving and boating under the influence provisions and related
25 provisions located in this chapter and chapters 322 and 327.
26 The program shall:

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

30
31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21

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

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

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

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

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

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

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

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.

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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. Section 316.1937, Florida Statutes, is
2 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 a ~~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 or
18 not the privilege to operate a motor vehicle is restricted ~~or~~
19 ~~not~~, as determined by the court. The court, however, shall
20 order placement of an ignition interlock device in those
21 circumstances required by s. 316.193.

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

24 (a) Stipulate on the record the requirement for, and
25 the period of, the use of a certified ignition interlock
26 device.

27 (b) Order that the records of the department reflect
28 such requirement.

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

1 (d) Determine the person's ~~probationer's~~ ability to
2 pay for installation of the device if the person ~~probationer~~
3 claims inability to pay. If the court determines that the
4 person ~~probationer~~ is unable to pay for installation of the
5 device, the court may order that any portion of a fine paid by
6 the person ~~probationer~~ for a violation of s. 316.193 shall be
7 allocated to defray the costs of installing the device.

8 (e) Require proof of installation of the device and
9 periodic reporting to the department ~~probation officer~~ for
10 verification of the operation of the device in the person's
11 ~~probationer's~~ vehicle.

12 (3) If the court imposes the use of an ignition
13 interlock device ~~as a term of probation~~ on a person whose
14 driving privilege is not suspended or revoked, the court shall
15 require the person to provide proof of compliance to the
16 department ~~probation officer~~ within 30 days. If the person
17 fails to provide proof of installation within that period,
18 absent a finding by the court of good cause for that failure
19 which is entered in the court record, the court shall notify
20 the department ~~revoke or terminate the person's probation.~~

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

26 (5)(a) In addition to any other provision of law, upon
27 conviction of a violation of this section the department shall
28 revoke the person's driving privilege for 1 year from the date
29 of conviction. Upon conviction of a separate violation of
30 this section during the same period of required use of an
31 ignition interlock device, the department shall revoke the

1 person's driving privilege for 5 years from the date of
2 conviction.

3 (b) Any person convicted of a violation of subsection
4 (6) who does not have a driver's license shall, in addition to
5 any other penalty provided by law, pay a fine of not less than
6 \$250 or more than \$500 per each such violation. In the event
7 that the person is unable to pay any such fine, the fine shall
8 become a lien against the motor vehicle used in violation of
9 subsection (6) and payment shall be made pursuant to s.
10 316.3025(4).

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

13 (b) It is unlawful for any person whose driving
14 privilege is restricted pursuant to this section to request or
15 solicit any other person to blow into an ignition interlock
16 device or to start a motor vehicle equipped with the device
17 for the purpose of providing the person so restricted with an
18 operable motor vehicle.

19 (c) It is unlawful to blow into an ignition interlock
20 device or to start a motor vehicle equipped with the device
21 for the purpose of providing an operable motor vehicle to a
22 person whose driving privilege is restricted pursuant to this
23 section.

24 (d) It is unlawful to knowingly lease or lend a motor
25 vehicle to a person who has had his or her driving privilege
26 restricted ~~under a condition of probation~~ as provided in this
27 section, unless the vehicle is equipped with a functioning,
28 certified ignition interlock device. Any person whose driving
29 privilege is restricted under a condition of probation
30 requiring an ignition interlock device shall notify any other
31

1 person who leases or loans a motor vehicle to him or her of
2 such driving restriction.

3 (7) Notwithstanding the provisions of this section, if
4 a person is required to operate a motor vehicle in the course
5 and scope of his or her employment and if the vehicle is owned
6 by the employer, the person may operate that vehicle without
7 installation of an approved ignition interlock device if the
8 employer has been notified of such driving privilege
9 restriction and if proof of that notification is with the
10 vehicle. This employment exemption does not apply, however,
11 if the business entity which owns the vehicle is owned or
12 controlled by the person whose driving privilege has been
13 restricted.

14 (8) In addition to the penalties provided in this
15 section, a violation of this section is a noncriminal traffic
16 infraction, punishable as a nonmoving violation as provided in
17 chapter 318.

18 Section 5. Section 316.1939, Florida Statutes, is
19 created to read:

20 316.1939 Refusal to submit to testing; penalties.--

21 (1) Any person who has refused to submit to a chemical
22 or physical test of his or her breath, blood, or urine, as
23 described in s. 316.1932, and whose driving privilege is
24 previously suspended for a prior refusal to submit to a lawful
25 test of his or her breath, urine, or blood, and:

26 (a) Who the arresting law enforcement officer had
27 probable cause to believe was driving or in actual physical
28 control of a motor vehicle in this state while under the
29 influence of alcoholic beverages, chemical substances, or
30 controlled substances;

31

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

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

8 (d) Who was informed that a refusal to submit to a
9 lawful test of his or her breath, urine, or blood, if his or
10 her driving privilege has been previously suspended for a
11 prior refusal to submit to a lawful test of his or her breath,
12 urine, or blood, is a misdemeanor; and

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

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

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

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

29 Section 6. Paragraph (a) of subsection (2) of section
30 322.271, Florida Statutes, is amended to read:

31

1 322.271 Authority to modify revocation, cancellation,
2 or suspension order.--

3 (2)(a) Upon such hearing, the person whose license has
4 been suspended, canceled, or revoked may show that such
5 suspension, cancellation, or revocation of his or her license
6 causes a serious hardship and precludes the person's carrying
7 out his or her normal business occupation, trade, or
8 employment and that the use of the person's license in the
9 normal course of his or her business is necessary to the
10 proper support of the person or his or her family. Except as
11 otherwise provided in this subsection, the department shall
12 require proof of the successful completion of the applicable
13 department-approved driver training course operating pursuant
14 to s. 318.1451 or DUI program substance abuse education course
15 and evaluation as provided in s. 316.193(5). Letters of
16 recommendation from respected business persons in the
17 community, law enforcement officers, or judicial officers may
18 also be required to determine whether such person should be
19 permitted to operate a motor vehicle on a restricted basis for
20 business or employment use only and in determining whether
21 such person can be trusted to so operate a motor vehicle. If a
22 driver's license has been suspended under the point system or
23 pursuant to s. 322.2615, the department shall require proof of
24 enrollment in the applicable department-approved driver
25 training course or licensed DUI program substance abuse
26 education course, including evaluation and treatment, if
27 referred, and may require letters of recommendation described
28 in this subsection to determine if the driver should be
29 reinstated on a restricted basis. If such person fails to
30 complete the approved course within 90 days after
31 reinstatement or subsequently fails to complete treatment, if

1 applicable, the department shall cancel his or her driver's
2 license until the course and treatment, if applicable, is
3 successfully completed, notwithstanding the terms of the court
4 order or any suspension or revocation of the driving
5 privilege. The department may temporarily reinstate the
6 driving privilege on a restricted basis upon verification from
7 the DUI program that the offender has reentered and is
8 currently participating in treatment and has completed the DUI
9 education course and evaluation requirement. If the DUI
10 program notifies the department of the second failure to
11 complete treatment, the department shall reinstate the driving
12 privilege only after notice of completion of treatment from
13 the DUI program. The privilege of driving on a limited or
14 restricted basis for business or employment use shall not be
15 granted to a person who has been convicted of a violation of
16 s. 316.193 until completion of the DUI program substance abuse
17 education course and evaluations as provided in s. 316.193(5).
18 Except as provided in paragraph (b), if a person's license has
19 been revoked pursuant to s. 322.28 or suspended pursuant to s.
20 322.2615, or a person has been convicted of a violation of s.
21 316.193 two or more times or has had his or her license
22 suspended two or more times for refusal to submit to a test
23 pursuant to s. 322.2615 or former s. 322.261, the privilege of
24 driving on a limited or restricted basis for business or
25 employment use shall be granted in those circumstances where a
26 court has required use of an ignition interlock device as
27 applicable pursuant to s. 316.193.~~the privilege of driving on~~
28 ~~a limited or restricted basis for business or employment use~~
29 ~~shall not be granted to a person whose license is revoked~~
30 ~~pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and~~
31 ~~who has been convicted of a violation of s. 316.193 two or~~

1 ~~more times or whose license has been suspended two or more~~
2 ~~times for refusal to submit to a test pursuant to s. 322.2615~~
3 ~~or former s. 322.261.~~

4 Section 7. Subsections (2), (3), and (4) of section
5 327.35, Florida Statutes, are amended to read:

6 327.35 Boating under the influence; penalties;
7 "designated drivers".--

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

11 1. By a fine of:

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

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

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

18 2. By imprisonment for:

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

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

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

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

28 2. Any person who is convicted of a third violation of
29 this section for an offense that occurs more than 10 years
30 after the date of a prior conviction for a violation of this
31 section shall be punished by a fine of not less than \$1,000 or

1 more than \$2,500 and by imprisonment for not more than 12
2 months.

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

8
9 However, the fine imposed for such fourth or subsequent
10 violation may not be less than \$1,000.

11 (3) Any person:

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

13 (b) Who operates a vessel; and

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

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

19 2. Serious bodily injury to another, as defined in s.
20 327.353 ~~316.1933~~, commits a felony of the third degree,
21 punishable as provided in s. 775.082, s. 775.083, or s.
22 775.084.

23 3. The death of any human being commits BUI
24 manslaughter, and commits:

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

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

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

31

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

3
4 This sub-subparagraph does not require that the person knew
5 that the accident resulted in injury or death.

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

12 (a) By a fine of:

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

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

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

19 (b) By imprisonment for:

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

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

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

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

28 Section 8. Section 327.352, Florida Statutes, is
29 amended to read:

1 327.352 Breath, blood, and urine tests for alcohol,
2 chemical substances, or controlled substances; implied
3 consent; refusal ~~right to refuse~~--

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

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

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 9. 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 Section 10. Section 327.359, Florida Statutes, is
 27 created to read:

28 327.359 Refusal to submit to testing; penalties.--Any
 29 person who has refused to submit to a chemical or physical
 30 test of his or her breath, blood, or urine, as described in s.
 31 327.352, and who has been previously fined for refusal to

1 submit to a lawful test of his or her breath, urine, or blood,
2 and:

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

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

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

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

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

20
21 commits a misdemeanor of the first degree and is subject to
22 punishment as provided in s. 775.082 or s. 775.083.

23 Section 11. Section 397.6755, Florida Statutes, is
24 created to read:

25 397.6755 Evidence and criteria for involuntary
26 admissions and involuntary treatment; funding.--

27 (1) If a court finds that a person arrested for
28 violation of either s. 316.193 or s. 327.35 has lost the power
29 of self-control with respect to substance use and is likely to
30 inflict physical harm upon himself or herself or another
31 pursuant to the standards set forth in s. 397.675, a court may

1 require involuntary admission and treatment of such person. In
2 making such determination, a court shall, along with all
3 relevant evidence, consider the following factors:

4 (a) Whether the person has, previous to the arrest,
5 been convicted of a violation of s. 316.193 or s. 327.35;

6 (b) Whether the person's blood-alcohol level or
7 breath-alcohol level, as determined by a test conducted
8 incident to the person's arrest, was 0.20 or greater;

9 (c) Whether the person, by reason of operation of a
10 motor vehicle or a vessel, has caused or contributed to the
11 death or serious bodily injury of another as defined in s.
12 316.1933 or s. 327.353; or

13 (d) Whether the person is on pretrial release for a
14 previous offense under s. 316.193 or s. 327.35.

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

27 Section 12. Paragraphs (c) and (i) of subsection (3)
28 of section 921.0022, Florida Statutes, as amended by chapter
29 2001-358, Laws of Florida, are amended to read:

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

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

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

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

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

1	<u>327.35(3)(c)3.b.</u>	<u>1st</u>	<u>BUI manslaughter; failing to</u>
2			<u>render aid or give information.</u>
3	560.123(8)(b)3.	1st	Failure to report currency or
4			payment instruments totaling or
5			exceeding \$100,000 by money
6			transmitter.
7	560.125(5)(c)	1st	Money transmitter business by
8			unauthorized person, currency, or
9			payment instruments totaling or
10			exceeding \$100,000.
11	655.50(10)(b)3.	1st	Failure to report financial
12			transactions totaling or
13			exceeding \$100,000 by financial
14			institution.
15	755.0844	1st	Aggravated white collar crime.
16	782.04(1)	1st	Attempt, conspire, or solicit to
17			commit premeditated murder.
18	782.04(3)	1st,PBL	Accomplice to murder in
19			connection with arson, sexual
20			battery, robbery, burglary, and
21			other specified felonies.
22	782.051(1)	1st	Attempted felony murder while
23			perpetrating or attempting to
24			perpetrate a felony enumerated in
25			s. 782.04(3).
26	782.07(2)	1st	Aggravated manslaughter of an
27			elderly person or disabled adult.
28	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
29			reward or as a shield or hostage.
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1	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
2			or facilitate commission of any
3			felony.
4	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
5			interfere with performance of any
6			governmental or political
7			function.
8	787.02(3)(a)	1st	False imprisonment; child under
9			age 13; perpetrator also commits
10			aggravated child abuse, sexual
11			battery, or lewd or lascivious
12			battery, molestation, conduct, or
13			exhibition.
14	790.161	1st	Attempted capital destructive
15			device offense.
16	790.166(2)	1st,PBL	Possessing, selling, using, or
17			attempting to use a weapon of
18			mass destruction.
19	794.011(2)	1st	Attempted sexual battery; victim
20			less than 12 years of age.
21	794.011(2)	Life	Sexual battery; offender younger
22			than 18 years and commits sexual
23			battery on a person less than 12
24			years.
25	794.011(4)	1st	Sexual battery; victim 12 years
26			or older, certain circumstances.
27	794.011(8)(b)	1st	Sexual battery; engage in sexual
28			conduct with minor 12 to 18 years
29			by person in familial or
30			custodial authority.
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1	800.04(5)(b)	1st	Lewd or lascivious molestation;
2			victim less than 12 years;
3			offender 18 years or older.
4	812.13(2)(a)	1st,PBL	Robbery with firearm or other
5			deadly weapon.
6	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
7			deadly weapon.
8	827.03(2)	1st	Aggravated child abuse.
9	847.0145(1)	1st	Selling, or otherwise
10			transferring custody or control,
11			of a minor.
12	847.0145(2)	1st	Purchasing, or otherwise
13			obtaining custody or control, of
14			a minor.
15	859.01	1st	Poisoning or introducing
16			bacteria, radioactive materials,
17			viruses, or chemical compounds
18			into food, drink, medicine, or
19			water with intent to kill or
20			injure another person.
21	893.135	1st	Attempted capital trafficking
22			offense.
23	893.135(1)(a)3.	1st	Trafficking in cannabis, more
24			than 10,000 lbs.
25	893.135		
26	(1)(b)1.c.	1st	Trafficking in cocaine, more than
27			400 grams, less than 150
28			kilograms.
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1	893.135		
2	(1)(c)1.c.	1st	Trafficking in illegal drugs,
3			more than 28 grams, less than 30
4			kilograms.
5	893.135		
6	(1)(d)1.c.	1st	Trafficking in phencyclidine,
7			more than 400 grams.
8	893.135		
9	(1)(e)1.c.	1st	Trafficking in methaqualone, more
10			than 25 kilograms.
11	893.135		
12	(1)(f)1.c.	1st	Trafficking in amphetamine, more
13			than 200 grams.
14	893.135		
15	(1)(h)1.c.	1st	Trafficking in
16			gamma-hydroxybutyric acid (GHB),
17			10 kilograms or more.
18	893.135		
19	(1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10
20			kilograms or more.
21	893.135		
22	(1)(j)2.c.	1st	Trafficking in Phenethylamines,
23			400 grams or more.
24	896.101(5)(c)	1st	Money laundering, financial
25			instruments totaling or exceeding
26			\$100,000.
27	896.104(4)(a)3.	1st	Structuring transactions to evade
28			reporting or registration
29			requirements, financial
30			transactions totaling or
31			exceeding \$100,000.

1 Section 13. Section 938.07, Florida Statutes, is
2 amended to read:

3 938.07 Driving or boating under the
4 influence.--Notwithstanding any other provision of s. 316.193
5 or s. 327.35, a court cost of \$135 shall be added to any fine
6 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
7 remit the funds to the Department of Revenue, \$25 of which
8 shall be deposited in the Emergency Medical Services Trust
9 Fund, \$50 shall be deposited in the Criminal Justice Standards
10 and Training Trust Fund of the Department of Law Enforcement
11 to be used for operational expenses in conducting the
12 statewide criminal analysis laboratory system established in
13 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
14 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

15 Section 14. Paragraph (d) of subsection (2) of section
16 943.05, Florida Statutes, is amended to read:

17 943.05 Criminal Justice Information Program; duties;
18 crime reports.--

19 (2) The program shall:

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

1 implemented by July 1, 2004. Failure to use these uniform
2 affidavits and reports, however, shall not prohibit
3 prosecution under s. 316.193.

4 Section 15. The sum of \$216,062 is appropriated for
5 fiscal year 2002-2003 from recurring general revenue to the
6 Department of Corrections to be used for the purpose of
7 implementing this act.

8 Section 16. This act shall take effect July 1, 2002.

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