

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; providing  
19          for supervision and reporting to the  
20          department; directing the court regarding  
21          requirements for ignition interlock devices;  
22          creating s. 316.1939, 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; amending s. 327.35,  
26          F.S.; reducing the number of convictions  
27          required for a felony BUI; revising conditions  
28          for conviction in cases of accident, serious  
29          bodily injury, or death; conforming cross  
30          references; amending s. 327.352, F.S.;  
31          providing for notification that refusal to

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

21

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

23

24 Section 1. Subsections (2), (3), and (4) of section  
25 316.193, Florida Statutes, are amended, and subsection (11) is  
26 added to said section, to read:

27 316.193 Driving under the influence; penalties.--

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

31 1. By a fine of:

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

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

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

7           2. By imprisonment for:

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

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

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

11          3. For a second conviction, by mandatory placement for  
12 a period of at least 1 year, at the convicted person's sole  
13 expense, of an ignition interlock device approved by the  
14 department in accordance with s. 316.1938 upon all vehicles  
15 that are individually or jointly leased or owned and routinely  
16 operated by the convicted person, when the convicted person  
17 qualifies for a permanent or restricted license. The  
18 installation of such device may not occur before July 1, 2003.

19          (b)1. Any person who is convicted of a third ~~fourth or~~  
20 ~~subsequent~~ violation of this section for an offense that  
21 occurs within 10 years after a prior conviction for a  
22 violation of this section commits is guilty of a felony of the  
23 third degree, punishable as provided in s. 775.082, s.  
24 775.083, or s. 775.084. In addition, the court shall order the  
25 mandatory placement for a period of not less than 2 years, at  
26 the convicted person's sole expense, of an ignition interlock  
27 device approved by the department in accordance with s.  
28 316.1938 upon all vehicles that are individually or jointly  
29 leased or owned and routinely operated by the convicted  
30 person, when the convicted person qualifies for a permanent or  
31

1 restricted license. The installation of such device may not  
2 occur before July 1, 2003.

3 2. Any person who is convicted of a third violation of  
4 this section for an offense that occurs more than 10 years  
5 after the date of a prior conviction for a violation of this  
6 section shall be punished by a fine of not less than \$1,000 or  
7 more than \$2,500 and by imprisonment for not more than 12  
8 months. In addition, the court shall order the mandatory  
9 placement for a period of at least 2 years, at the convicted  
10 person's sole expense, of an ignition interlock device  
11 approved by the department in accordance with s. 316.1938 upon  
12 all vehicles that are individually or jointly leased or owned  
13 and routinely operated by the convicted person, when the  
14 convicted person qualifies for a permanent or restricted  
15 license. The installation of such device may not occur before  
16 July 1, 2003.

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

24 (3) Any person:

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

26 (b) Who operates a vehicle; and

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

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

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

4           3. The death of any human being commits DUI  
5 manslaughter, and commits:

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

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

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

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

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

20           (a) By a fine of:

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

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

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

27           (b) By imprisonment for:

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

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

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

31

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

5 (c) In addition to the penalties in paragraphs (a) and  
6 (b), the court shall order the mandatory placement, at the  
7 convicted person's sole expense, of an ignition interlock  
8 device approved by the department in accordance with s.  
9 316.1938 upon all vehicles that are individually or jointly  
10 leased or owned and routinely operated by the convicted person  
11 for up to 6 months for the first offense and for at least 2  
12 years for a second offense, when the convicted person  
13 qualifies for a permanent or restricted license. The  
14 installation of such device may not occur before July 1, 2003.

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

18 Section 2. Section 316.1932, Florida Statutes, is  
19 amended to read:

20 316.1932 Breath, blood, and urine tests for alcohol,  
21 chemical substances, or controlled substances; implied  
22 consent; refusal ~~right to refuse~~.--

23 (1)(a)1. Any person who accepts the privilege extended  
24 by the laws of this state of operating a motor vehicle within  
25 this state is, by so operating such vehicle, deemed to have  
26 given his or her consent to submit to an approved chemical  
27 test or physical test including, but not limited to, an  
28 infrared light test of his or her breath for the purpose of  
29 determining the alcoholic content of his or her blood or  
30 breath, and to a urine test for the purpose of detecting the  
31 presence of chemical substances as set forth in s. 877.111 or

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

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

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

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

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

30  
 31



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

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

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

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

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

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

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

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

28          k. Make recommendations concerning any matter within  
29 the purview of this section, this chapter, chapter 322, or  
30 chapter 327.

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

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

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

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

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

18  
19 Nothing in this section shall be construed to supersede  
20 provisions in this chapter and chapters 322 and 327. The  
21 specifications in this section are derived from the power and  
22 authority previously and currently possessed by the Department  
23 of Law Enforcement and are enumerated to conform with the  
24 mandates of chapter 99-379, Laws of Florida.

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

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

1 of Law Enforcement. For this purpose, the department may  
2 approve satisfactory techniques or methods. Any insubstantial  
3 differences between approved techniques and actual testing  
4 procedures in any individual case do not render the test or  
5 test results invalid.

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

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

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

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

31

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

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

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

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

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

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

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

28           e. A civil, criminal, or administrative action may not  
 29 be brought against any person or health care provider  
 30 participating in good faith in the provision of notice or  
 31 failure to provide notice as provided in this section. Any

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

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

29           4. Upon the request of the person tested, full  
30 information concerning the test taken at the direction of the  
31

1 law enforcement officer shall be made available to the person  
2 or his or her attorney.

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

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

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

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

31



1           316.1933 Blood test for impairment or intoxication in  
2 cases of death or serious bodily injury; right to use  
3 reasonable force.--

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

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

30           Section 4. Section 316.1937, Florida Statutes, is  
31 amended to read:

1           316.1937 Ignition interlock devices, requiring;  
2 unlawful acts.--

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

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

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

25           (b) Order that the records of the department reflect  
26 such requirement.

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

30           (d) Determine the person's ~~probationer's~~ ability to  
31 pay for installation of the device if the person probationer

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

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

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

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

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

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

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

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

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

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

31

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

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

16           Section 5. Section 316.1939, Florida Statutes, is  
17 created to read:

18           316.1939 Refusal to submit to testing; penalties.--

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

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

29           (b) Who was placed under lawful arrest for a violation  
30 of s. 316.193 unless such test was requested pursuant to s.  
31 316.1932(1)(c);

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

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

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

14  
15 commits a misdemeanor of the first degree and is subject to  
16 punishment as provided in s. 775.082 or s. 775.083.

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

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

27           Section 6. Subsections (2), (3), and (4) of section  
28 327.35, Florida Statutes, are amended to read:

29           327.35 Boating under the influence; penalties;  
30 "designated drivers".--

31

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          (b)1. Any person who is convicted of a third ~~fourth or~~  
16 ~~subsequent~~ violation of this section for an offense that  
17 occurs within 10 years after a prior conviction for a  
18 violation of this section commits ~~is guilty of~~ a felony of the  
19 third degree, punishable as provided in s. 775.082, s.  
20 775.083, or s. 775.084.

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

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

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

4 (3) Any person:

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

6 (b) Who operates a vessel; and

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

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

12 2. Serious bodily injury to another, as defined in s.  
13 327.353 ~~316.1933~~, commits a felony of the third degree,  
14 punishable as provided in s. 775.082, s. 775.083, or s.  
15 775.084.

16 3. The death of any human being commits BUI  
17 manslaughter, and commits:

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

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

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

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

26  
27 This sub-subparagraph does not require that the person knew  
28 that the accident resulted in injury or death.

29 (4) Any person who is convicted of a violation of  
30 subsection (1) and who has a blood-alcohol level or  
31 breath-alcohol level of 0.20 or higher, or any person who is



1 convicted of a violation of subsection (1) and who at the time  
2 of the offense was accompanied in the vessel by a person under  
3 the age of 18 years, shall be punished:

4 (a) By a fine of:

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

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

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

11 (b) By imprisonment for:

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

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

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

15  
16 For the purposes of this subsection, only the instant offense  
17 is required to be a violation of subsection (1) by a person  
18 who has a blood-alcohol level or breath-alcohol level of 0.20  
19 or higher.

20 Section 7. Section 327.352, Florida Statutes, is  
21 amended to read:

22 327.352 Breath, blood, and urine tests for alcohol,  
23 chemical substances, or controlled substances; implied  
24 consent; refusal ~~right to refuse~~.--

25 (1)(a) The Legislature declares that the operation of  
26 a vessel is a privilege that must be exercised in a reasonable  
27 manner. In order to protect the public health and safety, it  
28 is essential that a lawful and effective means of reducing the  
29 incidence of boating while impaired or intoxicated be  
30 established. Therefore, any person who accepts the privilege  
31 extended by the laws of this state of operating a vessel

1 within this state is, by so operating such vessel, deemed to  
2 have given his or her consent to submit to an approved  
3 chemical test or physical test including, but not limited to,  
4 an infrared light test of his or her breath for the purpose of  
5 determining the alcoholic content of his or her blood or  
6 breath, and to a urine test for the purpose of detecting the  
7 presence of chemical substances as set forth in s. 877.111 or  
8 controlled substances, if the person is lawfully arrested for  
9 any offense allegedly committed while the person was operating  
10 a vessel while under the influence of alcoholic beverages,  
11 chemical substances, or controlled substances. The chemical  
12 or physical breath test must be incidental to a lawful arrest  
13 and administered at the request of a law enforcement officer  
14 who has reasonable cause to believe such person was operating  
15 the vessel within this state while under the influence of  
16 alcoholic beverages. The urine test must be incidental to a  
17 lawful arrest and administered at a detention facility or any  
18 other facility, mobile or otherwise, which is equipped to  
19 administer such tests at the request of a law enforcement  
20 officer who has reasonable cause to believe such person was  
21 operating a vessel within this state while under the influence  
22 of controlled substances. The urine test shall be administered  
23 at a detention facility or any other facility, mobile or  
24 otherwise, which is equipped to administer such tests in a  
25 reasonable manner that will ensure the accuracy of the  
26 specimen and maintain the privacy of the individual involved.  
27 The administration of one type of test does not preclude the  
28 administration of another type of test. The person shall be  
29 told that his or her failure to submit to any lawful test of  
30 his or her breath or urine, or both, will result in a civil  
31 penalty of \$500, and shall also be told that if he or she

1 refuses to submit to a lawful test of his or her breath or  
2 urine, or both, and he or she has been previously fined for  
3 refusal to submit to any lawful test of his or her breath,  
4 urine, or blood, he or she commits a misdemeanor in addition  
5 to any other penalties. The refusal to submit to a chemical or  
6 physical breath or urine test upon the request of a law  
7 enforcement officer as provided in this section is admissible  
8 into evidence in any criminal proceeding.

9 (b)1. The blood-alcohol level must be based upon grams  
10 of alcohol per 100 milliliters of blood. The breath-alcohol  
11 level must be based upon grams of alcohol per 210 liters of  
12 breath.

13 2. An analysis of a person's breath, in order to be  
14 considered valid under this section, must have been performed  
15 substantially according to methods approved by the Department  
16 of Law Enforcement. Any insubstantial differences between  
17 approved techniques and actual testing procedures in any  
18 individual case do not render the test or test results  
19 invalid.

20 3. 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 316 and 322. 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 316 and 322.  
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 316 and 322.

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 316 and 322.

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 316, or  
8 chapter 322.

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 316 and 322.

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  
22 316 and 322.

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 316 and 322. 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 (c) Any person who accepts the privilege extended by  
4 the laws of this state of operating a vessel within this state  
5 is, by operating such vessel, deemed to have given his or her  
6 consent to submit to an approved blood test for the purpose of  
7 determining the alcoholic content of the blood or a blood test  
8 for the purpose of determining the presence of chemical  
9 substances or controlled substances as provided in this  
10 section if there is reasonable cause to believe the person was  
11 operating a vessel while under the influence of alcoholic  
12 beverages or chemical or controlled substances and the person  
13 appears for treatment at a hospital, clinic, or other medical  
14 facility and the administration of a breath or urine test is  
15 impractical or impossible. As used in this paragraph, the term  
16 "other medical facility" includes an ambulance or other  
17 medical emergency vehicle. The blood test shall be performed  
18 in a reasonable manner. Any person who is incapable of  
19 refusal by reason of unconsciousness or other mental or  
20 physical condition is deemed not to have withdrawn his or her  
21 consent to such test. Any person who is capable of refusal  
22 shall be told that his or her failure to submit to such a  
23 blood test will result in a civil penalty of \$500 and that a  
24 refusal to submit to a lawful test of his or her blood, if he  
25 or she has previously been fined for refusal to submit to any  
26 lawful test of his or her breath, urine, or blood, is a  
27 misdemeanor. The refusal to submit to a blood test upon the  
28 request of a law enforcement officer shall be admissible in  
29 evidence in any criminal proceeding.

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

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

10 (e)1. The tests determining the weight of alcohol in  
11 the defendant's blood or breath shall be administered at the  
12 request of a law enforcement officer substantially in  
13 accordance with rules of the Department of Law Enforcement.  
14 However, the failure of a law enforcement officer to request  
15 the withdrawal of blood does not affect the admissibility of a  
16 test of blood withdrawn for medical purposes.

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

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

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

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

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



1 by a law enforcement officer, regardless of whether or not the  
2 subject resisted administration of the test.

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

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

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

19 327.353 Blood test for impairment or intoxication in  
20 cases of death or serious bodily injury; right to use  
21 reasonable force.--

22 (1)(a) ~~Notwithstanding any recognized ability to~~  
23 ~~refuse to submit to the tests provided in s. 327.352 or any~~  
24 ~~recognized power to revoke the implied consent to such tests,~~  
25 If a law enforcement officer has probable cause to believe  
26 that a vessel operated by a person under the influence of  
27 alcoholic beverages, any chemical substances, or any  
28 controlled substances has caused the death or serious bodily  
29 injury of a human being, ~~the person shall submit, upon the~~  
30 ~~request of a law enforcement officer~~ shall require the person  
31 operating or in actual physical control of the vessel to

1 submit to a test of the person's blood for the purpose of  
2 determining the alcoholic content thereof or the presence of  
3 chemical substances as set forth in s. 877.111 or any  
4 substance controlled under chapter 893. The law enforcement  
5 officer may use reasonable force if necessary to require the  
6 person to submit to the administration of the blood test. The  
7 blood test shall be performed in a reasonable manner.  
8 Notwithstanding s. 327.352, the testing required by this  
9 paragraph need not be incidental to a lawful arrest of the  
10 person.

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

16 Section 9. Section 327.359, Florida Statutes, is  
17 created to read:

18 327.359 Refusal to submit to testing; penalties.--Any  
19 person who has refused to submit to a chemical or physical  
20 test of his or her breath, blood, or urine, as described in s.  
21 327.352, and who has been previously fined for refusal to  
22 submit to a lawful test of his or her breath, urine, or blood,  
23 and:

24 (1) Who the arresting law enforcement officer had  
25 probable cause to believe was operating or in actual physical  
26 control of a vessel in this state while under the influence of  
27 alcoholic beverages, chemical substances, or controlled  
28 substances;

29 (2) Who was placed under lawful arrest for a violation  
30 of s. 327.35 unless such test was requested pursuant to s.  
31 327.352(1)(c);

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

3           (4) Who was informed that a refusal to submit to a  
4 lawful test of his or her breath, urine, or blood, if he or  
5 she has been previously fined for refusal to submit to a  
6 lawful test of his or her breath, urine, or blood, is a  
7 misdemeanor; and

8           (5) 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 10. Paragraphs (c) and (i) of subsection (3)  
15 of section 921.0022, Florida Statutes, as amended by chapter  
16 2001-358, Laws of Florida, are amended to read:

17           921.0022 Criminal Punishment Code; offense severity  
18 ranking chart.--

19           (3) OFFENSE SEVERITY RANKING CHART

21 Florida	Felony	
22 Statute	Degree	Description
23		
24		(c) LEVEL 3
25 <u>316.193(2)(b)</u>	<u>3rd</u>	<u>Felony DUI, 3rd conviction.</u>
26 316.1935(2)	3rd	Fleeing or attempting to elude
27		law enforcement officer in marked
28		patrol vehicle with siren and
29		lights activated.
30		
31		

1	319.30(4)	3rd	Possession by junkyard of motor
2			vehicle with identification
3			number plate removed.
4	319.33(1)(a)	3rd	Alter or forge any certificate of
5			title to a motor vehicle or
6			mobile home.
7	319.33(1)(c)	3rd	Procure or pass title on stolen
8			vehicle.
9	319.33(4)	3rd	With intent to defraud, possess,
10			sell, etc., a blank, forged, or
11			unlawfully obtained title or
12			registration.
13	<u>327.35(2)(b)</u>	<u>3rd</u>	<u>Felony BUI.</u>
14	328.05(2)	3rd	Possess, sell, or counterfeit
15			fictitious, stolen, or fraudulent
16			titles or bills of sale of
17			vessels.
18	328.07(4)	3rd	Manufacture, exchange, or possess
19			vessel with counterfeit or wrong
20			ID number.
21	376.302(5)	3rd	Fraud related to reimbursement
22			for cleanup expenses under the
23			Inland Protection Trust Fund.
24	501.001(2)(b)	2nd	Tampers with a consumer product
25			or the container using materially
26			false/misleading information.
27	697.08	3rd	Equity skimming.
28	790.15(3)	3rd	Person directs another to
29			discharge firearm from a vehicle.
30	796.05(1)	3rd	Live on earnings of a prostitute.
31			

1	806.10(1)	3rd	Maliciously injure, destroy, or
2			interfere with vehicles or
3			equipment used in firefighting.
4	806.10(2)	3rd	Interferes with or assaults
5			firefighter in performance of
6			duty.
7	810.09(2)(c)	3rd	Trespass on property other than
8			structure or conveyance armed
9			with firearm or dangerous weapon.
10	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
11			less than \$10,000.
12	815.04(4)(b)	2nd	Computer offense devised to
13			defraud or obtain property.
14	817.034(4)(a)3.	3rd	Engages in scheme to defraud
15			(Florida Communications Fraud
16			Act), property valued at less
17			than \$20,000.
18	817.233	3rd	Burning to defraud insurer.
19	817.234(8)&(9)	3rd	Unlawful solicitation of persons
20			involved in motor vehicle
21			accidents.
22	817.234(11)(a)	3rd	Insurance fraud; property value
23			less than \$20,000.
24	817.505(4)	3rd	Patient brokering.
25	828.12(2)	3rd	Tortures any animal with intent
26			to inflict intense pain, serious
27			physical injury, or death.
28	831.28(2)(a)	3rd	Counterfeiting a payment
29			instrument with intent to defraud
30			or possessing a counterfeit
31			payment instrument.

1	831.29	2nd	Possession of instruments for
2			counterfeiting drivers' licenses
3			or identification cards.
4	838.021(3)(b)	3rd	Threatens unlawful harm to public
5			servant.
6	843.19	3rd	Injure, disable, or kill police
7			dog or horse.
8	870.01(2)	3rd	Riot; inciting or encouraging.
9	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
10			cannabis (or other s.
11			893.03(1)(c), (2)(c)1., (2)(c)2.,
12			(2)(c)3., (2)(c)5., (2)(c)6.,
13			(2)(c)7., (2)(c)8., (2)(c)9.,
14			(3), or (4) drugs).
15	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
16			893.03(1)(c), (2)(c)1., (2)(c)2.,
17			(2)(c)3., (2)(c)5., (2)(c)6.,
18			(2)(c)7., (2)(c)8., (2)(c)9.,
19			(3), or (4) drugs within 200 feet
20			of university or public park.
21	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
22			893.03(1)(c), (2)(c)1., (2)(c)2.,
23			(2)(c)3., (2)(c)5., (2)(c)6.,
24			(2)(c)7., (2)(c)8., (2)(c)9.,
25			(3), or (4) drugs within 200 feet
26			of public housing facility.
27	893.13(6)(a)	3rd	Possession of any controlled
28			substance other than felony
29			possession of cannabis.
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1	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
2			controlled substance by fraud,
3			forgery, misrepresentation, etc.
4	893.13(7)(a)11.	3rd	Furnish false or fraudulent
5			material information on any
6			document or record required by
7			chapter 893.
8	918.13(1)(a)	3rd	Alter, destroy, or conceal
9			investigation evidence.
10	944.47		
11	(1)(a)1.-2.	3rd	Introduce contraband to
12			correctional facility.
13	944.47(1)(c)	2nd	Possess contraband while upon the
14			grounds of a correctional
15			institution.
16	985.3141	3rd	Escapes from a juvenile facility
17			(secure detention or residential
18			commitment facility).
19			(i) LEVEL 9
20	316.193		
21	(3)(c)3.b.	1st	DUI manslaughter; failing to
22			render aid or give information.
23	<u>327.35(3)(c)3.b.</u>	<u>1st</u>	<u>BUI manslaughter; failing to</u>
24			<u>render aid or give information.</u>
25	560.123(8)(b)3.	1st	Failure to report currency or
26			payment instruments totaling or
27			exceeding \$100,000 by money
28			transmitter.
29			
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1	560.125(5)(c)	1st	Money transmitter business by
2			unauthorized person, currency, or
3			payment instruments totaling or
4			exceeding \$100,000.
5	655.50(10)(b)3.	1st	Failure to report financial
6			transactions totaling or
7			exceeding \$100,000 by financial
8			institution.
9	755.0844	1st	Aggravated white collar crime.
10	782.04(1)	1st	Attempt, conspire, or solicit to
11			commit premeditated murder.
12	782.04(3)	1st,PBL	Accomplice to murder in
13			connection with arson, sexual
14			battery, robbery, burglary, and
15			other specified felonies.
16	782.051(1)	1st	Attempted felony murder while
17			perpetrating or attempting to
18			perpetrate a felony enumerated in
19			s. 782.04(3).
20	782.07(2)	1st	Aggravated manslaughter of an
21			elderly person or disabled adult.
22	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
23			reward or as a shield or hostage.
24	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
25			or facilitate commission of any
26			felony.
27	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
28			interfere with performance of any
29			governmental or political
30			function.
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1	787.02(3)(a)	1st	False imprisonment; child under
2			age 13; perpetrator also commits
3			aggravated child abuse, sexual
4			battery, or lewd or lascivious
5			battery, molestation, conduct, or
6			exhibition.
7	790.161	1st	Attempted capital destructive
8			device offense.
9	790.166(2)	1st,PBL	Possessing, selling, using, or
10			attempting to use a weapon of
11			mass destruction.
12	794.011(2)	1st	Attempted sexual battery; victim
13			less than 12 years of age.
14	794.011(2)	Life	Sexual battery; offender younger
15			than 18 years and commits sexual
16			battery on a person less than 12
17			years.
18	794.011(4)	1st	Sexual battery; victim 12 years
19			or older, certain circumstances.
20	794.011(8)(b)	1st	Sexual battery; engage in sexual
21			conduct with minor 12 to 18 years
22			by person in familial or
23			custodial authority.
24	800.04(5)(b)	1st	Lewd or lascivious molestation;
25			victim less than 12 years;
26			offender 18 years or older.
27	812.13(2)(a)	1st,PBL	Robbery with firearm or other
28			deadly weapon.
29	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
30			deadly weapon.
31	827.03(2)	1st	Aggravated child abuse.

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

22 Section 11. Section 938.07, Florida Statutes, is  
 23 amended to read:

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

1 to be used for operational expenses in conducting the  
2 statewide criminal analysis laboratory system established in  
3 s. 943.32, and \$60 shall be deposited in the Brain and Spinal  
4 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

5 Section 12. Paragraph (d) of subsection (2) of section  
6 943.05, Florida Statutes, is amended to read:

7 943.05 Criminal Justice Information Program; duties;  
8 crime reports.--

9 (2) The program shall:

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

25 Section 13. The sum of \$216,062 is appropriated for  
26 fiscal year 2002-2003 from recurring general revenue to the  
27 Department of Corrections to be used for the purpose of  
28 implementing this act.

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