

1
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
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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.~~

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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.

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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.

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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
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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:

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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

Florida	Felony	Description
Statute	Degree	
		(c) LEVEL 3
<u>316.193(2)(b)</u>	<u>3rd</u>	<u>Felony DUI, 3rd conviction.</u>
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and 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			

ENROLLED

2002 Legislature

CS/CS/HB 1057, Third Engrossed

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.
30			
31			

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			
30			
31			

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.
31			

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

1	847.0145(1)	1st	Selling, or otherwise
2			transferring custody or control,
3			of a minor.
4	847.0145(2)	1st	Purchasing, or otherwise
5			obtaining custody or control, of
6			a minor.
7	859.01	1st	Poisoning 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.
31			

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.
30
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