

1 require a person operating or in actual
2 physical control of a vessel to submit to a
3 blood test for the purpose of determining
4 alcoholic content of the blood or the presence
5 of specified chemical or controlled substances
6 if that person has refused or failed to submit
7 to a lawful urine test; amending s. 327.359,
8 F.S.; removing prior suspension as a condition
9 for the commission of a misdemeanor by refusal
10 to submit to a lawful test of breath, urine, or
11 blood; providing an effective date.

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

14
15 Section 1. Paragraphs (a) and (c) of subsection (1) of
16 section 316.1932, Florida Statutes, are amended to read:

17 316.1932 Tests for alcohol, chemical substances, or
18 controlled substances; implied consent; refusal.--

19 (1)(a)1.a. Any person who accepts the privilege
20 extended by the laws of this state of operating a motor
21 vehicle within this state is, by so operating such vehicle,
22 deemed to have given his or her consent to submit to an
23 approved chemical test or physical test including, but not
24 limited to, an infrared light test of his or her breath for
25 the purpose of determining the alcoholic content of his or her
26 blood or breath if the person is lawfully arrested for any
27 offense allegedly committed while the person was driving or
28 was in actual physical control of a motor vehicle while under
29 the influence of alcoholic beverages. The chemical or physical
30 breath test must be incidental to a lawful arrest and
31 administered at the request of a law enforcement officer who

1 | has reasonable cause to believe such person was driving or was
2 | in actual physical control of the motor vehicle within this
3 | state while under the influence of alcoholic beverages. The
4 | administration of a breath test does not preclude the
5 | administration of another type of test. The person shall be
6 | told that his or her failure to submit to any lawful test of
7 | his or her breath will result in the suspension of the
8 | person's privilege to operate a motor vehicle for a period of
9 | 1 year for a first refusal, or for a period of 18 months if
10 | the driving privilege of such person has been previously
11 | suspended as a result of a refusal to submit to such a test or
12 | tests, and shall also be told that if he or she refuses to
13 | submit to a lawful test of his or her breath ~~and his or her~~
14 | ~~driving privilege has been previously suspended for a prior~~
15 | ~~refusal to submit to a lawful test of his or her breath,~~
16 | ~~urine, or blood,~~ he or she commits a misdemeanor in addition
17 | to any other penalties. The refusal to submit to a chemical or
18 | physical breath test upon the request of a law enforcement
19 | officer as provided in this section is admissible into
20 | evidence in any criminal proceeding.

21 | b. Any person who accepts the privilege extended by
22 | the laws of this state of operating a motor vehicle within
23 | this state is, by so operating such vehicle, deemed to have
24 | given his or her consent to submit to a urine test for the
25 | purpose of detecting the presence of chemical substances as
26 | set forth in s. 877.111 or controlled substances if the person
27 | is lawfully arrested for any offense allegedly committed while
28 | the person was driving or was in actual physical control of a
29 | motor vehicle while under the influence of chemical substances
30 | or controlled substances. The urine test must be incidental to
31 | a lawful arrest and administered at a detention facility or

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

28 | 2. The Alcohol Testing Program within the Department
29 | of Law Enforcement is responsible for the regulation of the
30 | operation, inspection, and registration of breath test
31 | instruments utilized under the driving and boating under the

1 | influence provisions and related provisions located in this
2 | chapter and chapters 322 and 327. The program is responsible
3 | for the regulation of the individuals who operate, inspect,
4 | and instruct on the breath test instruments utilized in the
5 | driving and boating under the influence provisions and related
6 | provisions located in this chapter and chapters 322 and 327.
7 | The program is further responsible for the regulation of blood
8 | analysts who conduct blood testing to be utilized under the
9 | driving and boating under the influence provisions and related
10 | provisions located in this chapter and chapters 322 and 327.
11 | The program shall:
12 | a. Establish uniform criteria for the issuance of
13 | permits to breath test operators, agency inspectors,
14 | instructors, blood analysts, and instruments.
15 | b. Have the authority to permit breath test operators,
16 | agency inspectors, instructors, blood analysts, and
17 | instruments.
18 | c. Have the authority to discipline and suspend,
19 | revoke, or renew the permits of breath test operators, agency
20 | inspectors, instructors, blood analysts, and instruments.
21 | d. Establish uniform requirements for instruction and
22 | curricula for the operation and inspection of approved
23 | instruments.
24 | e. Have the authority to specify one approved
25 | curriculum for the operation and inspection of approved
26 | instruments.
27 | f. Establish a procedure for the approval of breath
28 | test operator and agency inspector classes.
29 | g. Have the authority to approve or disapprove breath
30 | test instruments and accompanying paraphernalia for use
31 | pursuant to the driving and boating under the influence

1 provisions and related provisions located in this chapter and
2 chapters 322 and 327.

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

9 i. Issue final orders which include findings of fact
10 and conclusions of law and which constitute final agency
11 action for the purpose of chapter 120.

12 j. Enforce compliance with the provisions of this
13 section through civil or administrative proceedings.

14 k. Make recommendations concerning any matter within
15 the purview of this section, this chapter, chapter 322, or
16 chapter 327.

17 l. Promulgate rules for the administration and
18 implementation of this section, including definitions of
19 terms.

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

22 n. Have the authority to approve the type of blood
23 test utilized under the driving and boating under the
24 influence provisions and related provisions located in this
25 chapter and chapters 322 and 327.

26 o. Have the authority to specify techniques and
27 methods for breath alcohol testing and blood testing utilized
28 under the driving and boating under the influence provisions
29 and related provisions located in this chapter and chapters
30 322 and 327.

31

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

4
5 Nothing in this section shall be construed to supersede
6 provisions in this chapter and chapters 322 and 327. The
7 specifications in this section are derived from the power and
8 authority previously and currently possessed by the Department
9 of Law Enforcement and are enumerated to conform with the
10 mandates of chapter 99-379, Laws of Florida.

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

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

20 | Section 2. Section 316.1933, Florida Statutes, is
21 | amended to read:

22 | 316.1933 Blood test for alcohol, chemical substances,
23 | or controlled substances ~~impairment or intoxication in cases~~
24 | ~~of death or serious bodily injury;~~ right to use reasonable
25 | force.--

26 | (1)(a) If a law enforcement officer has probable cause
27 | to believe that a motor vehicle driven by or in the actual
28 | physical control of a person under the influence of alcoholic
29 | beverages, any chemical substances, or any controlled
30 | substances has caused the death or serious bodily injury of a
31 | human being, or if the person driving or in actual physical

1 control of a motor vehicle has refused or failed to submit to
2 a urine test requested pursuant to s. 316.1932(1)(a)1.b., a
3 law enforcement officer shall require the person driving or in
4 actual physical control of the motor vehicle to submit to a
5 test of the person's blood for the purpose of determining the
6 alcoholic content thereof or the presence of chemical
7 substances as set forth in s. 877.111 or any substance
8 controlled under chapter 893. The law enforcement officer may
9 use reasonable force if necessary to require such person to
10 submit to the administration of the blood test. The blood test
11 shall be performed in a reasonable manner. Notwithstanding s.
12 316.1932, the testing required by this paragraph need not be
13 incidental to a lawful arrest of the person unless the testing
14 is required because the person refused or failed to submit to
15 a urine test requested pursuant to s. 316.1932(1)(a)1.b.

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

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

1 1. 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 2. 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 3. 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 4. 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 (b) A chemical analysis of the person's blood to
10 determine the alcoholic content thereof must have been
11 performed substantially in accordance with methods approved by
12 the Department of Law Enforcement and by an individual
13 possessing a valid permit issued by the department for this
14 purpose. The Department of Law Enforcement may approve
15 satisfactory techniques or methods, ascertain the
16 qualifications and competence of individuals to conduct such
17 analyses, and issue permits that are subject to termination or
18 revocation at the discretion of the department. Any
19 insubstantial differences between approved methods or
20 techniques and actual testing procedures, or any insubstantial
21 defects concerning the permit issued by the department, in any
22 individual case, shall not render the test or test results
23 invalid.

24 (c) No hospital, clinical laboratory, medical clinic,
25 or similar medical institution or physician, certified
26 paramedic, registered nurse, licensed practical nurse, other
27 personnel authorized by a hospital to draw blood, or duly
28 licensed clinical laboratory director, supervisor,
29 technologist, or technician, or other person assisting a law
30 enforcement officer shall incur any civil or criminal
31 liability as a result of the withdrawal or analysis of a blood

1 specimen pursuant to accepted medical standards when requested
2 by a law enforcement officer, regardless of whether or not the
3 subject resisted administration of the test.

4 (3)(a) Any criminal charge resulting from the incident
5 giving rise to the officer's demand for testing shall be tried
6 concurrently with a charge of any violation arising out of the
7 same incident, unless, in the discretion of the court, such
8 charges should be tried separately. If such charges are tried
9 separately, the fact that such person refused, resisted,
10 obstructed, or opposed testing shall be admissible at the
11 trial of the criminal offense which gave rise to the demand
12 for testing.

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

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

27 Section 3. Section 316.1939, Florida Statutes, is
28 amended to read:

29 316.1939 Refusal to submit to testing; penalties.--

30 (1) Any person who has refused to submit to a chemical
31 or physical test of his or her breath, blood, or urine, as

1 described in s. 316.1932, ~~and whose driving privilege was~~
2 ~~previously suspended for a prior refusal to submit to a lawful~~
3 ~~test of his or her breath, urine, or blood,~~ and:

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

9 (b) Who was placed under lawful arrest for a violation
10 of s. 316.193 unless such test was requested pursuant to s.
11 316.1932(1)(c);

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

17 (d) Who was informed that a refusal to submit to a
18 lawful test of his or her breath, urine, or blood, ~~if his or~~
19 ~~her driving privilege has been previously suspended for a~~
20 ~~prior refusal to submit to a lawful test of his or her breath,~~
21 ~~urine, or blood,~~ is a misdemeanor; and

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

25
26 commits a misdemeanor of the first degree, punishable ~~and is~~
27 ~~subject to punishment~~ as provided in s. 775.082 or s. 775.083.

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

31

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

8 Section 4. Paragraphs (a) and (c) of subsection (1) of
9 section 327.352, Florida Statutes, are amended to read:

10 327.352 Tests for alcohol, chemical substances, or
11 controlled substances; implied consent; refusal.--

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

1 | breath test does not preclude the administration of another
2 | type of test. The person shall be told that his or her failure
3 | to submit to any lawful test of his or her breath will result
4 | in a civil penalty of \$500~~7~~, and shall also be told that if he
5 | or she refuses to submit to a lawful test of his or her breath
6 | ~~and he or she has been previously fined for refusal to submit~~
7 | ~~to any lawful test of his or her breath, urine, or blood,~~ he
8 | or she commits a misdemeanor in addition to any other
9 | penalties. The refusal to submit to a chemical or physical
10 | breath test upon the request of a law enforcement officer as
11 | provided in this section is admissible into evidence in any
12 | criminal proceeding.

13 | 2. Any person who accepts the privilege extended by
14 | the laws of this state of operating a vessel within this state
15 | is, by so operating such vessel, deemed to have given his or
16 | her consent to submit to a urine test for the purpose of
17 | detecting the presence of chemical substances as set forth in
18 | s. 877.111 or controlled substances if the person is lawfully
19 | arrested for any offense allegedly committed while the person
20 | was operating a vessel while under the influence of chemical
21 | substances or controlled substances. The urine test must be
22 | incidental to a lawful arrest and administered at a detention
23 | facility or any other facility, mobile or otherwise, which is
24 | equipped to administer such tests at the request of a law
25 | enforcement officer who has reasonable cause to believe such
26 | person was operating a vessel within this state while under
27 | the influence of chemical substances or controlled substances.
28 | The urine test shall be administered at a detention facility
29 | or any other facility, mobile or otherwise, which is equipped
30 | to administer such test in a reasonable manner that will
31 | ensure the accuracy of the specimen and maintain the privacy

1 of the individual involved. The administration of a urine test
2 does not preclude the administration of another type of test.
3 The person shall be told that his or her failure to submit to
4 any lawful test of his or her urine will result in a civil
5 penalty of \$500~~7~~, and shall also be told that if he or she
6 refuses to submit to a lawful test of his or her urine ~~and he~~
7 ~~or she has been previously fined for refusal to submit to any~~
8 ~~lawful test of his or her breath, urine, or blood~~, he or she
9 commits a misdemeanor in addition to any other penalties. The
10 refusal to submit to a urine test upon the request of a law
11 enforcement officer as provided in this section is admissible
12 into evidence in any criminal proceeding.

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

1 | told that his or her failure to submit to such a blood test
2 | will result in a civil penalty of \$500 and that a refusal to
3 | submit to a lawful test of his or her blood, ~~if he or she has~~
4 | ~~previously been fined for refusal to submit to any lawful test~~
5 | ~~of his or her breath, urine, or blood,~~ is a misdemeanor. The
6 | refusal to submit to a blood test upon the request of a law
7 | enforcement officer shall be admissible in evidence in any
8 | criminal proceeding.

9 | Section 5. Section 327.353, Florida Statutes, is
10 | amended to read:

11 | 327.353 Blood test for alcohol, chemical substances,
12 | or controlled substances ~~impairment or intoxication in cases~~
13 | ~~of death or serious bodily injury;~~ right to use reasonable
14 | force.--

15 | (1)(a) If a law enforcement officer has probable cause
16 | to believe that a vessel operated by a person under the
17 | influence of alcoholic beverages, any chemical substances, or
18 | any controlled substances has caused the death or serious
19 | bodily injury of a human being, or if the person operating or
20 | in actual physical control of a vessel has refused or failed
21 | to submit to a urine test requested pursuant to s.

22 | 327.352(1)(a)2., a law enforcement officer shall require the
23 | person operating or in actual physical control of the vessel
24 | to submit to a test of the person's blood for the purpose of
25 | determining the alcoholic content thereof or the presence of
26 | chemical substances as set forth in s. 877.111 or any
27 | substance controlled under chapter 893. The law enforcement
28 | officer may use reasonable force if necessary to require the
29 | person to submit to the administration of the blood test. The
30 | blood test shall be performed in a reasonable manner.

31 | Notwithstanding s. 327.352, the testing required by this

1 paragraph need not be incidental to a lawful arrest of the
2 person unless the testing is required because the person
3 refused or failed to submit to a urine test requested pursuant
4 to s. 327.352(1)(a)2.

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

10 (2)(a) Only a physician, certified paramedic,
11 registered nurse, licensed practical nurse, other personnel
12 authorized by a hospital to draw blood, or duly licensed
13 clinical laboratory director, supervisor, technologist, or
14 technician, acting at the request of a law enforcement
15 officer, may withdraw blood for the purpose of determining the
16 alcoholic content thereof or the presence of chemical
17 substances or controlled substances therein. However, the
18 failure of a law enforcement officer to request the withdrawal
19 of blood shall not affect the admissibility of a test of blood
20 withdrawn for medical purposes.

21 (b) A chemical analysis of the person's blood to
22 determine the alcoholic content thereof must have been
23 performed substantially in accordance with methods approved by
24 the Department of Law Enforcement and by an individual
25 possessing a valid permit issued by the department for this
26 purpose. The Department of Law Enforcement may approve
27 satisfactory techniques or methods, ascertain the
28 qualifications and competence of individuals to conduct such
29 analyses, and issue permits that are subject to termination or
30 revocation at the discretion of the department. Insubstantial
31 differences between approved methods or techniques and actual

1 testing procedures, or any insubstantial defects concerning
2 the permit issued by the department, in any individual case,
3 do not render the test or test results invalid.

4 (c) A hospital, clinical laboratory, medical clinic,
5 or similar medical institution or physician, certified
6 paramedic, registered nurse, licensed practical nurse, other
7 personnel authorized by a hospital to draw blood, or duly
8 licensed clinical laboratory director, supervisor,
9 technologist, or technician, or other person assisting a law
10 enforcement officer shall not incur any civil or criminal
11 liability as a result of the withdrawal or analysis of a blood
12 specimen 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 (3)(a) Any criminal charge resulting from the incident
16 giving rise to the officer's demand for testing shall be tried
17 concurrently with a charge of any violation arising out of the
18 same incident, unless, in the discretion of the court, such
19 charges should be tried separately. If the charges are tried
20 separately, the fact that the person refused, resisted,
21 obstructed, or opposed testing is admissible at the trial of
22 the criminal offense which gave rise to the demand for
23 testing.

24 (b) The results of any test administered pursuant to
25 this section for the purpose of detecting the presence of any
26 controlled substance are not admissible as evidence in a
27 criminal prosecution for the possession of a controlled
28 substance.

29 (4) Notwithstanding any provision of law pertaining to
30 the confidentiality of hospital records or other medical
31 records, information relating to the alcoholic content of the

1 | blood or the presence of chemical substances or controlled
2 | substances in the blood obtained pursuant to this section
3 | shall be released to a court, prosecuting attorney, defense
4 | attorney, or law enforcement officer in connection with an
5 | alleged violation of s. 327.35 upon request for such
6 | information.

7 | Section 6. Section 327.359, Florida Statutes, is
8 | amended to read:

9 | 327.359 Refusal to submit to testing; penalties.--Any
10 | person who has refused to submit to a chemical or physical
11 | test of his or her breath, blood, or urine, as described in s.
12 | 327.352, ~~and who has been previously fined for refusal to~~
13 | ~~submit to a lawful test of his or her breath, urine, or blood,~~
14 | and:

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

20 | (2) Who was placed under lawful arrest for a violation
21 | of s. 327.35 unless such test was requested pursuant to s.
22 | 327.352(1)(c);

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

25 | (4) Who was informed that a refusal to submit to a
26 | lawful test of his or her breath, urine, or blood, ~~if he or~~
27 | ~~she has been previously fined for refusal to submit to a~~
28 | ~~lawful test of his or her breath, urine, or blood,~~ is a
29 | misdemeanor; and

30 |
31 |

1 (5) Who, after having been so informed, refused to
2 submit to any such test when requested to do so by a law
3 enforcement officer or correctional officer
4
5 commits a misdemeanor of the first degree, punishable ~~and is~~
6 ~~subject to punishment~~ as provided in s. 775.082 or s. 775.083.
7 Section 7. This act shall take effect October 1, 2006.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31