



1           Section 1. Paragraphs (a), (c), and (f) of subsection  
2 (1) of section 316.1932, Florida Statutes, are amended to  
3 read:

4           316.1932 Tests for alcohol, chemical substances, or  
5 controlled substances; implied consent; refusal.--

6           (1)(a)1.a. Any person who accepts the privilege  
7 extended by the laws of this state of operating a motor  
8 vehicle within this state is, by so operating such vehicle,  
9 deemed to have given his or her consent to submit to an  
10 approved chemical test or physical test including, but not  
11 limited to, an infrared light test of his or her breath for  
12 the purpose of determining the alcoholic content of his or her  
13 blood or breath if the person is lawfully arrested for any  
14 offense allegedly committed while the person was driving or  
15 was in actual physical control of a motor vehicle while under  
16 the influence of alcoholic beverages. The chemical or physical  
17 breath test must be incidental to a lawful arrest and  
18 administered at the request of a law enforcement officer who  
19 has reasonable cause to believe such person was driving or was  
20 in actual physical control of the motor vehicle within this  
21 state while under the influence of alcoholic beverages. The  
22 administration of a breath test does not preclude the  
23 administration of another type of test. The person shall be  
24 told that his or her failure to submit to any lawful test of  
25 his or her breath will result in the suspension of the  
26 person's privilege to operate a motor vehicle for a period of  
27 1 year for a first refusal, or for a period of 18 months if  
28 the driving privilege of such person has been previously  
29 suspended as a result of a refusal to submit to such a test or  
30 tests, and shall also be told that if he or she refuses to  
31 submit to a lawful test of his or her breath ~~and his or her~~

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

8       b. Any person who accepts the privilege extended by  
9 the laws of this state of operating a motor vehicle within  
10 this state is, by so operating such vehicle, deemed to have  
11 given his or her consent to submit to a urine test for the  
12 purpose of detecting the presence of chemical substances as  
13 set forth in s. 877.111 or controlled substances if the person  
14 is lawfully arrested for any offense allegedly committed while  
15 the person was driving or was in actual physical control of a  
16 motor vehicle while under the influence of chemical substances  
17 or controlled substances. The urine test must be incidental to  
18 a lawful arrest and administered at a detention facility or  
19 any other facility, mobile or otherwise, which is equipped to  
20 administer such tests at the request of a law enforcement  
21 officer who has reasonable cause to believe such person was  
22 driving or was in actual physical control of a motor vehicle  
23 within this state while under the influence of chemical  
24 substances or controlled substances. The urine test shall be  
25 administered at a detention facility or any other facility,  
26 mobile or otherwise, which is equipped to administer such test  
27 in a reasonable manner that will ensure the accuracy of the  
28 specimen and maintain the privacy of the individual involved.  
29 The administration of a urine test does not preclude the  
30 administration of another type of test. The person shall be  
31 told that his or her failure to submit to any lawful test of

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

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

30  
31

1 a. Establish uniform criteria for the issuance of  
2 permits to breath test operators, agency inspectors,  
3 instructors, blood analysts, and instruments.

4 b. Have the authority to permit breath test operators,  
5 agency inspectors, instructors, blood analysts, and  
6 instruments.

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

10 d. Establish uniform requirements for instruction and  
11 curricula for the operation and inspection of approved  
12 instruments.

13 e. Have the authority to specify one approved  
14 curriculum for the operation and inspection of approved  
15 instruments.

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

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

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

29 i. Issue final orders which include findings of fact  
30 and conclusions of law and which constitute final agency  
31 action for the purpose of chapter 120.

1           j. Enforce compliance with the provisions of this  
2 section through civil or administrative proceedings.

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

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

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

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

15           o. Have the authority to specify techniques and  
16 methods for breath alcohol testing and blood testing utilized  
17 under the driving and boating under the influence provisions  
18 and related provisions located in this chapter and chapters  
19 322 and 327.

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

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

30           (c) Any person who accepts the privilege extended by  
31 the laws of this state of operating a motor vehicle within

1 | this state is, by operating such vehicle, deemed to have given  
2 | his or her consent to submit to an approved blood test for the  
3 | purpose of determining the alcoholic content of the blood or a  
4 | blood test for the purpose of determining the presence of  
5 | chemical substances or controlled substances as provided in  
6 | this section if there is reasonable cause to believe the  
7 | person was driving or in actual physical control of a motor  
8 | vehicle while under the influence of alcoholic beverages or  
9 | chemical or controlled substances and the person appears for  
10 | treatment at a hospital, clinic, or other medical facility and  
11 | the administration of a breath or urine test is impractical or  
12 | impossible. As used in this paragraph, the term "other medical  
13 | facility" includes an ambulance or other medical emergency  
14 | vehicle. The blood test shall be performed in a reasonable  
15 | manner. Any person who is incapable of refusal by reason of  
16 | unconsciousness or other mental or physical condition is  
17 | deemed not to have withdrawn his or her consent to such test.  
18 | A blood test may be administered whether or not the person is  
19 | told that his or her failure to submit to such a blood test  
20 | will result in the suspension of the person's privilege to  
21 | operate a motor vehicle upon the public highways of this state  
22 | and that a refusal to submit to a lawful test of his or her  
23 | ~~blood, if his or her driving privilege has been previously~~  
24 | ~~suspended for refusal to submit to a lawful test of his or her~~  
25 | ~~breath, urine, or blood,~~ is a misdemeanor. Any person who is  
26 | capable of refusal shall be told that his or her failure to  
27 | submit to such a blood test will result in the suspension of  
28 | the person's privilege to operate a motor vehicle for a period  
29 | of 1 year for a first refusal, or for a period of 18 months if  
30 | the driving privilege of the person has been suspended  
31 | previously as a result of a refusal to submit to such a test

1 or tests, and that a refusal to submit to a lawful test of his  
2 or her blood, ~~if his or her driving privilege has been~~  
3 ~~previously suspended for a prior refusal to submit to a lawful~~  
4 ~~test of his or her breath, urine, or blood,~~ is a misdemeanor.  
5 The refusal to submit to a blood test upon the request of a  
6 law enforcement officer is admissible in evidence in any  
7 criminal proceeding.

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

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

31



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 results of the test taken at the  
31 direction of the law enforcement officer shall be made

1 available to the person or his or her attorney. Full  
2 information is limited to the following:

3 a. The type of test administered and the procedures  
4 followed.

5 b. The time of the collection of the blood or breath  
6 sample analyzed.

7 c. The numerical results of the test indicating the  
8 alcohol content of the blood and breath.

9 d. The type and status of any permit issued by the  
10 Department of Law Enforcement which was held by the person who  
11 performed the test.

12 e. If the test was administered by means of a breath  
13 testing instrument, the date of performance of the most recent  
14 required inspection of such instrument.

15  
16 Full information does not include manuals, schematics, or  
17 software of the instrument used to test the person or any  
18 other material that is not in the actual possession of the  
19 state. Additionally, full information does not include  
20 information in the possession of the manufacturer of the test  
21 instrument.

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

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

3 Section 2. Section 316.1939, Florida Statutes, is  
4 amended to read:

5 316.1939 Refusal to submit to testing; penalties.--

6 (1) Any person who has refused to submit to a chemical  
7 or physical test of his or her breath, blood, or urine, as  
8 described in s. 316.1932, ~~and whose driving privilege was~~  
9 ~~previously suspended for a prior refusal to submit to a lawful~~  
10 ~~test of his or her breath, urine, or blood,~~ and:

11 (a) Who the arresting law enforcement officer had  
12 probable cause to believe was driving or in actual physical  
13 control of a motor vehicle in this state while under the  
14 influence of alcoholic beverages, chemical substances, or  
15 controlled substances;

16 (b) Who was placed under lawful arrest for a violation  
17 of s. 316.193 unless such test was requested pursuant to s.  
18 316.1932(1)(c);

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

24 (d) Who was informed that a refusal to submit to a  
25 lawful test of his or her breath, urine, or blood, ~~if his or~~  
26 ~~her driving privilege has been previously suspended for a~~  
27 ~~prior refusal to submit to a lawful test of his or her breath,~~  
28 ~~urine, or blood,~~ is a misdemeanor; and

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

1  
2 commits the offense of refusal to submit to testing. If such  
3 person's driving privilege was previously suspended for a  
4 prior refusal to submit to a lawful test of his or her breath,  
5 urine, or blood, such offense is a misdemeanor of the first  
6 degree, punishable and is subject to punishment as provided in  
7 s. 775.082 or s. 775.083. If such person's driving privilege  
8 was not previously suspended for a prior refusal to submit to  
9 a lawful test of his or her breath, urine, or blood, such  
10 offense shall be punished by imprisonment for not more than 6  
11 months and by a fine of up to \$500.

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

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

22 Section 3. Paragraphs (a), (c), and (e) of subsection  
23 (1) of section 327.352, Florida Statutes, are amended to read:

24 327.352 Tests for alcohol, chemical substances, or  
25 controlled substances; implied consent; refusal.--

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

1 | the privilege extended by the laws of this state of operating  
2 | a vessel within this state is, by so operating such vessel,  
3 | deemed to have given his or her consent to submit to an  
4 | approved chemical test or physical test including, but not  
5 | limited to, an infrared light test of his or her breath for  
6 | the purpose of determining the alcoholic content of his or her  
7 | blood or breath if the person is lawfully arrested for any  
8 | offense allegedly committed while the person was operating a  
9 | vessel while under the influence of alcoholic beverages. The  
10 | chemical or physical breath test must be incidental to a  
11 | lawful arrest and administered at the request of a law  
12 | enforcement officer who has reasonable cause to believe such  
13 | person was operating the vessel within this state while under  
14 | the influence of alcoholic beverages. The administration of a  
15 | breath test does not preclude the administration of another  
16 | type of test. The person shall be told that his or her failure  
17 | to submit to any lawful test of his or her breath will result  
18 | in a civil penalty of \$500~~7~~ and shall also be told that if he  
19 | or she refuses to submit to a lawful test of his or her breath  
20 | ~~and he or she has been previously fined for refusal to submit~~  
21 | ~~to any lawful test of his or her breath, urine, or blood, he~~  
22 | or she commits a misdemeanor in addition to any other  
23 | penalties. The refusal to submit to a chemical or physical  
24 | breath test upon the request of a law enforcement officer as  
25 | provided in this section is admissible into evidence in any  
26 | criminal proceeding.

27 |         2. Any person who accepts the privilege extended by  
28 | the laws of this state of operating a vessel within this state  
29 | is, by so operating such vessel, deemed to have given his or  
30 | her consent to submit to a urine test for the purpose of  
31 | detecting the presence of chemical substances as set forth in

1 s. 877.111 or controlled substances if the person is lawfully  
2 arrested for any offense allegedly committed while the person  
3 was operating a vessel while under the influence of chemical  
4 substances or controlled substances. The urine test must be  
5 incidental to a lawful arrest and administered at a detention  
6 facility or any other facility, mobile or otherwise, which is  
7 equipped to administer such tests at the request of a law  
8 enforcement officer who has reasonable cause to believe such  
9 person was operating a vessel within this state while under  
10 the influence of chemical substances or controlled substances.  
11 The urine test shall be administered at a detention facility  
12 or any other facility, mobile or otherwise, which is equipped  
13 to administer such test in a reasonable manner that will  
14 ensure the accuracy of the specimen and maintain the privacy  
15 of the individual involved. The administration of a urine test  
16 does not preclude the administration of another type of test.  
17 The person shall be told that his or her failure to submit to  
18 any lawful test of his or her urine will result in a civil  
19 penalty of \$500~~7~~, and shall also be told that if he or she  
20 refuses to submit to a lawful test of his or her urine ~~and he~~  
21 ~~or she has been previously fined for refusal to submit to any~~  
22 ~~lawful test of his or her breath, urine, or blood~~, he or she  
23 commits a misdemeanor in addition to any other penalties. The  
24 refusal to submit to a urine test upon the request of a law  
25 enforcement officer as provided in this section is admissible  
26 into evidence in any criminal proceeding.

27 (c) Any person who accepts the privilege extended by  
28 the laws of this state of operating a vessel within this state  
29 is, by operating such vessel, deemed to have given his or her  
30 consent to submit to an approved blood test for the purpose of  
31 determining the alcoholic content of the blood or a blood test

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

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

30 2. Only a physician, certified paramedic, registered  
31 nurse, licensed practical nurse, other personnel authorized by



1 a hospital to draw blood, or duly licensed clinical laboratory  
2 director, supervisor, technologist, or technician, acting at  
3 the request of a law enforcement officer, may withdraw blood  
4 for the purpose of determining its alcoholic content or the  
5 presence of chemical substances or controlled substances  
6 therein. However, the failure of a law enforcement officer to  
7 request the withdrawal of blood does not affect the  
8 admissibility of a test of blood withdrawn for medical  
9 purposes.

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

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

1 direction of the law enforcement officer shall be made  
2 available to the person or his or her attorney. Full  
3 information is limited to the following:

4 a. The type of test administered and the procedures  
5 followed.

6 b. The time of the collection of the blood or breath  
7 sample analyzed.

8 c. The numerical results of the test indicating the  
9 alcohol content of the blood and breath.

10 d. The type and status of any permit issued by the  
11 Department of Law Enforcement which was held by the person who  
12 performed the test.

13 e. If the test was administered by means of a breath  
14 testing instrument, the date of performance of the most recent  
15 required inspection of such instrument.

16  
17 Full information does not include manuals, schematics, or  
18 software of the instrument used to test the person or any  
19 other material that is not in the actual possession of the  
20 state. Additionally, full information does not include  
21 information in the possession of the manufacturer of the test  
22 instrument.

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

1 breath 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 Section 4. Section 327.359, Florida Statutes, is  
5 amended to read:

6 327.359 Refusal to submit to testing; penalties.--Any  
7 person who has refused to submit to a chemical or physical  
8 test of his or her breath, blood, or urine, as described in s.  
9 327.352, ~~and who has been previously fined for refusal to~~  
10 ~~submit to a lawful test of his or her breath, urine, or blood,~~  
11 and:

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

17 (2) Who was placed under lawful arrest for a violation  
18 of s. 327.35 unless such test was requested pursuant to s.  
19 327.352(1)(c);

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

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

27 (5) Who, after having been so informed, refused to  
28 submit to any such test when requested to do so by a law  
29 enforcement officer or correctional officer,  
30  
31

1 commits the offense of refusal to submit to testing. If such  
2 person has been previously fined for a prior refusal to submit  
3 to a lawful test of his or her breath, urine, or blood, such  
4 offense is a misdemeanor of the first degree, punishable and  
5 ~~is subject to punishment~~ as provided in s. 775.082 or s.  
6 775.083. If such person has not previously been fined for a  
7 prior refusal to submit to a lawful test of his or her breath,  
8 urine, or blood, such offense shall be punished by  
9 imprisonment for not more than 6 months and by a fine of up to  
10 \$500.

11 Section 5. This act shall take effect October 1, 2006.

12  
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
14 COMMITTEE SUBSTITUTE FOR  
15 CS for Senate Bill 232

16 The CS makes a technical change by placing "maintenance" with  
17 "inspection" relating to full information available to a  
18 person concerning the results of a test administered by means  
19 of a breath testing instrument.

20 Also, this CS provides for imprisonment for up to 6 months and  
21 a fine of up to \$500 (even though the person has not been  
22 adjudicated guilty) for an offense of refusal to submit to  
23 testing if the person's driving privilege was not previously  
24 suspended for a prior refusal.  
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