



1           Section 1. Subsections (1) and (9) of section 316.193,  
2 Florida Statutes, are amended to read:

3           316.193 Driving under the influence; penalties.--

4           (1) A person is guilty of the offense of driving under  
5 the influence and is subject to punishment as provided in  
6 subsection (2) if the person is driving or in actual physical  
7 control of a vehicle within this state and:

8           (a) The person is under the influence of alcoholic  
9 beverages, any chemical substance set forth in s. 877.111, or  
10 any substance controlled under chapter 893, when affected to  
11 the extent that the person's normal faculties are impaired;

12           (b) The person has a blood-alcohol level of 0.04 ~~0.08~~  
13 or more grams of alcohol per 100 milliliters of blood; or

14           (c) The person has a breath-alcohol level of 0.04 ~~0.08~~  
15 or more grams of alcohol per 210 liters of breath.

16           (9) A person who is arrested for a violation of this  
17 section may not be released from custody:

18           (a) Until the person is no longer under the influence  
19 of alcoholic beverages, any chemical substance set forth in s.  
20 877.111, or any substance controlled under chapter 893 and  
21 affected to the extent that his or her normal faculties are  
22 impaired;

23           (b) Until the person's blood-alcohol level or  
24 breath-alcohol level is less than 0.04 ~~0.05~~; or

25           (c) Until 8 hours have elapsed from the time the  
26 person was arrested.

27           Section 2. Subsection (2) of section 316.1934, Florida  
28 Statutes, is amended to read:

29           316.1934 Presumption of impairment; testing methods.--

30           (2) At the trial of any civil or criminal action or  
31 proceeding arising out of acts alleged to have been committed

1 | by any person while driving, or in actual physical control of,  
2 | a vehicle while under the influence of alcoholic beverages or  
3 | controlled substances, when affected to the extent that the  
4 | person's normal faculties were impaired or to the extent that  
5 | he or she was deprived of full possession of his or her normal  
6 | faculties, the results of any test administered in accordance  
7 | with s. 316.1932 or s. 316.1933 and this section are  
8 | admissible into evidence when otherwise admissible, and the  
9 | amount of alcohol in the person's blood or breath at the time  
10 | alleged, as shown by chemical analysis of the person's blood,  
11 | or by chemical or physical test of the person's breath, gives  
12 | rise to the following presumptions:

13 |       (a) If there was at that time a blood-alcohol level or  
14 | breath-alcohol level of ~~0.05 or~~ less than 0.04, it is presumed  
15 | that the person was not under the influence of alcoholic  
16 | beverages to the extent that his or her normal faculties were  
17 | impaired.

18 |       ~~(b) If there was at that time a blood alcohol level or~~  
19 | ~~breath alcohol level in excess of 0.05 but less than 0.08,~~  
20 | ~~that fact does not give rise to any presumption that the~~  
21 | ~~person was or was not under the influence of alcoholic~~  
22 | ~~beverages to the extent that his or her normal faculties were~~  
23 | ~~impaired but may be considered with other competent evidence~~  
24 | ~~in determining whether the person was under the influence of~~  
25 | ~~alcoholic beverages to the extent that his or her normal~~  
26 | ~~faculties were impaired.~~

27 |       **(b)(c)** If there was at that time a blood-alcohol level  
28 | or breath-alcohol level of 0.04 ~~0.08~~ or higher, that fact is  
29 | prima facie evidence that the person was under the influence  
30 | of alcoholic beverages to the extent that his or her normal  
31 | faculties were impaired. Moreover, such person who has a

1 | blood-alcohol level or breath-alcohol level of 0.04 ~~0.08~~ or  
2 | higher is guilty of driving, or being in actual physical  
3 | control of, a motor vehicle, with an unlawful blood-alcohol  
4 | level or breath-alcohol level.

5 |  
6 | The presumptions provided in this subsection do not limit the  
7 | introduction of any other competent evidence bearing upon the  
8 | question of whether the person was under the influence of  
9 | alcoholic beverages to the extent that his or her normal  
10 | faculties were impaired.

11 |       Section 3. Section 322.2615, Florida Statutes, is  
12 | amended to read:

13 |       322.2615 Suspension of license; right to review.--

14 |       (1)(a) A law enforcement officer or correctional  
15 | officer shall, on behalf of the department, suspend the  
16 | driving privilege of a person who is driving or in actual  
17 | physical control of a motor vehicle and who has an unlawful  
18 | blood-alcohol level or breath-alcohol level of 0.04 ~~0.08~~ or  
19 | higher, or of a person who has refused to submit to a urine  
20 | test or a test of his or her breath-alcohol or blood-alcohol  
21 | level. The officer shall take the person's driver's license  
22 | and issue the person a 10-day temporary permit if the person  
23 | is otherwise eligible for the driving privilege and shall  
24 | issue the person a notice of suspension. If a blood test has  
25 | been administered, the officer or the agency employing the  
26 | officer shall transmit such results to the department within 5  
27 | days after receipt of the results. If the department then  
28 | determines that the person had a blood-alcohol level or  
29 | breath-alcohol level of 0.04 ~~0.08~~ or higher, the department  
30 | shall suspend the person's driver's license pursuant to  
31 | subsection (3).

1 (b) The suspension under paragraph (a) shall be  
2 pursuant to, and the notice of suspension shall inform the  
3 driver of, the following:

4 1.a. The driver refused to submit to a lawful breath,  
5 blood, or urine test and his or her driving privilege is  
6 suspended for a period of 1 year for a first refusal or for a  
7 period of 18 months if his or her driving privilege has been  
8 previously suspended as a result of a refusal to submit to  
9 such a test; or

10 b. The driver was driving or in actual physical  
11 control of a motor vehicle and had an unlawful blood-alcohol  
12 level or breath-alcohol level of 0.04 ~~0.08~~ or higher and his  
13 or her driving privilege is suspended for a period of 6 months  
14 for a first offense or for a period of 1 year if his or her  
15 driving privilege has been previously suspended under this  
16 section.

17 2. The suspension period shall commence on the date of  
18 issuance of the notice of suspension.

19 3. The driver may request a formal or informal review  
20 of the suspension by the department within 10 days after the  
21 date of issuance of the notice of suspension.

22 4. The temporary permit issued at the time of  
23 suspension expires at midnight of the 10th day following the  
24 date of issuance of the notice of suspension.

25 5. The driver may submit to the department any  
26 materials relevant to the suspension.

27 (2) Except as provided in paragraph (1)(a), the law  
28 enforcement officer shall forward to the department, within 5  
29 days after issuing the notice of suspension, the driver's  
30 license; an affidavit stating the officer's grounds for belief  
31 that the person was driving or in actual physical control of a

1 | motor vehicle while under the influence of alcoholic beverages  
2 | or chemical or controlled substances; the results of any  
3 | breath or blood test or an affidavit stating that a breath,  
4 | blood, or urine test was requested by a law enforcement  
5 | officer or correctional officer and that the person refused to  
6 | submit; the officer's description of the person's field  
7 | sobriety test, if any; the notice of suspension; and a copy of  
8 | the crash report, if any. The failure of the officer to submit  
9 | materials within the 5-day period specified in this subsection  
10 | and in subsection (1) does not affect the department's ability  
11 | to consider any evidence submitted at or prior to the hearing.  
12 | The officer may also submit a copy of a videotape of the field  
13 | sobriety test or the attempt to administer such test.  
14 | Materials submitted to the department by a law enforcement  
15 | agency or correctional agency shall be considered  
16 | self-authenticating and shall be in the record for  
17 | consideration by the hearing officer. Notwithstanding s.  
18 | 316.066(4), the crash report shall be considered by the  
19 | hearing officer.

20 |       (3) If the department determines that the license  
21 | should be suspended pursuant to this section and if the notice  
22 | of suspension has not already been served upon the person by a  
23 | law enforcement officer or correctional officer as provided in  
24 | subsection (1), the department shall issue a notice of  
25 | suspension and, unless the notice is mailed pursuant to s.  
26 | 322.251, a temporary permit that expires 10 days after the  
27 | date of issuance if the driver is otherwise eligible.

28 |       (4) If the person whose license was suspended requests  
29 | an informal review pursuant to subparagraph (1)(b)3., the  
30 | department shall conduct the informal review by a hearing  
31 | officer employed by the department. Such informal review

1 | hearing shall consist solely of an examination by the  
2 | department of the materials submitted by a law enforcement  
3 | officer or correctional officer and by the person whose  
4 | license was suspended, and the presence of an officer or  
5 | witness is not required.

6 |         (5) After completion of the informal review, notice of  
7 | the department's decision sustaining, amending, or  
8 | invalidating the suspension of the driver's license of the  
9 | person whose license was suspended must be provided to such  
10 | person. Such notice must be mailed to the person at the last  
11 | known address shown on the department's records, or to the  
12 | address provided in the law enforcement officer's report if  
13 | such address differs from the address of record, within 21  
14 | days after the expiration of the temporary permit issued  
15 | pursuant to subsection (1) or subsection (3).

16 |         (6)(a) If the person whose license was suspended  
17 | requests a formal review, the department must schedule a  
18 | hearing to be held within 30 days after such request is  
19 | received by the department and must notify the person of the  
20 | date, time, and place of the hearing.

21 |         (b) Such formal review hearing shall be held before a  
22 | hearing officer employed by the department, and the hearing  
23 | officer shall be authorized to administer oaths, examine  
24 | witnesses and take testimony, receive relevant evidence, issue  
25 | subpoenas for the officers and witnesses identified in  
26 | documents in subsection (2), regulate the course and conduct  
27 | of the hearing, question witnesses, and make a ruling on the  
28 | suspension. The party requesting the presence of a witness  
29 | shall be responsible for the payment of any witness fees and  
30 | for notifying in writing the state attorney's office in the  
31 | appropriate circuit of the issuance of the subpoena. If the

1 person who requests a formal review hearing fails to appear  
2 and the hearing officer finds such failure to be without just  
3 cause, the right to a formal hearing is waived and the  
4 suspension shall be sustained.

5 (c) A party may seek enforcement of a subpoena under  
6 paragraph (b) by filing a petition for enforcement in the  
7 circuit court of the judicial circuit in which the person  
8 failing to comply with the subpoena resides. A failure to  
9 comply with an order of the court shall result in a finding of  
10 contempt of court. However, a person is not in contempt while  
11 a subpoena is being challenged.

12 (d) The department must, within 7 working days after a  
13 formal review hearing, send notice to the person of the  
14 hearing officer's decision as to whether sufficient cause  
15 exists to sustain, amend, or invalidate the suspension.

16 (7) In a formal review hearing under subsection (6) or  
17 an informal review hearing under subsection (4), the hearing  
18 officer shall determine by a preponderance of the evidence  
19 whether sufficient cause exists to sustain, amend, or  
20 invalidate the suspension. The scope of the review shall be  
21 limited to the following issues:

22 (a) If the license was suspended for driving with an  
23 unlawful blood-alcohol level or breath-alcohol level of 0.04  
24 ~~0.08~~ or higher:

25 1. Whether the law enforcement officer had probable  
26 cause to believe that the person whose license was suspended  
27 was driving or in actual physical control of a motor vehicle  
28 in this state while under the influence of alcoholic beverages  
29 or chemical or controlled substances.

30  
31



1           2. Whether the person whose license was suspended had  
2 an unlawful blood-alcohol level or breath-alcohol level of  
3 0.04 ~~0.08~~ or higher as provided in s. 316.193.

4           (b) If the license was suspended for refusal to submit  
5 to a breath, blood, or urine test:

6           1. Whether the law enforcement officer had probable  
7 cause to believe that the person whose license was suspended  
8 was driving or in actual physical control of a motor vehicle  
9 in this state while under the influence of alcoholic beverages  
10 or chemical or controlled substances.

11           2. Whether the person whose license was suspended  
12 refused to submit to any such test after being requested to do  
13 so by a law enforcement officer or correctional officer.

14           3. Whether the person whose license was suspended was  
15 told that if he or she refused to submit to such test his or  
16 her privilege to operate a motor vehicle would be suspended  
17 for a period of 1 year or, in the case of a second or  
18 subsequent refusal, for a period of 18 months.

19           (8) Based on the determination of the hearing officer  
20 pursuant to subsection (7) for both informal hearings under  
21 subsection (4) and formal hearings under subsection (6), the  
22 department shall:

23           (a) Sustain the suspension of the person's driving  
24 privilege for a period of 1 year for a first refusal, or for a  
25 period of 18 months if the driving privilege of such person  
26 has been previously suspended as a result of a refusal to  
27 submit to such tests, if the person refused to submit to a  
28 lawful breath, blood, or urine test. The suspension period  
29 commences on the date of issuance of the notice of suspension.

30           (b) Sustain the suspension of the person's driving  
31 privilege for a period of 6 months for a blood-alcohol level

1 or breath-alcohol level of 0.04 ~~0.08~~ or higher, or for a  
2 period of 1 year if the driving privilege of such person has  
3 been previously suspended under this section as a result of  
4 driving with an unlawful alcohol level. The suspension period  
5 commences on the date of issuance of the notice of suspension.

6 (9) A request for a formal review hearing or an  
7 informal review hearing shall not stay the suspension of the  
8 person's driver's license. If the department fails to schedule  
9 the formal review hearing to be held within 30 days after  
10 receipt of the request therefor, the department shall  
11 invalidate the suspension. If the scheduled hearing is  
12 continued at the department's initiative, the department shall  
13 issue a temporary driving permit that shall be valid until the  
14 hearing is conducted if the person is otherwise eligible for  
15 the driving privilege. Such permit may not be issued to a  
16 person who sought and obtained a continuance of the hearing.  
17 The permit issued under this subsection shall authorize  
18 driving for business or employment use only.

19 (10) A person whose driver's license is suspended  
20 under subsection (1) or subsection (3) may apply for issuance  
21 of a license for business or employment purposes only if the  
22 person is otherwise eligible for the driving privilege  
23 pursuant to s. 322.271.

24 (a) If the suspension of the driver's license of the  
25 person for failure to submit to a breath, urine, or blood test  
26 is sustained, the person is not eligible to receive a license  
27 for business or employment purposes only, pursuant to s.  
28 322.271, until 90 days have elapsed after the expiration of  
29 the last temporary permit issued. If the driver is not issued  
30 a 10-day permit pursuant to this section or s. 322.64 because  
31 he or she is ineligible for the permit and the suspension for

1 failure to submit to a breath, urine, or blood test is not  
2 invalidated by the department, the driver is not eligible to  
3 receive a business or employment license pursuant to s.  
4 322.271 until 90 days have elapsed from the date of the  
5 suspension.

6 (b) If the suspension of the driver's license of the  
7 person relating to unlawful blood-alcohol level or  
8 breath-alcohol level of 0.04 ~~0.08~~ or higher is sustained, the  
9 person is not eligible to receive a license for business or  
10 employment purposes only pursuant to s. 322.271 until 30 days  
11 have elapsed after the expiration of the last temporary permit  
12 issued. If the driver is not issued a 10-day permit pursuant  
13 to this section or s. 322.64 because he or she is ineligible  
14 for the permit and the suspension relating to unlawful  
15 blood-alcohol level or breath-alcohol level of 0.04 ~~0.08~~ or  
16 higher is not invalidated by the department, the driver is not  
17 eligible to receive a business or employment license pursuant  
18 to s. 322.271 until 30 days have elapsed from the date of the  
19 suspension.

20 (11) The formal review hearing may be conducted upon a  
21 review of the reports of a law enforcement officer or a  
22 correctional officer, including documents relating to the  
23 administration of a breath test or blood test or the refusal  
24 to take either test or the refusal to take a urine test.  
25 However, as provided in subsection (6), the driver may  
26 subpoena the officer or any person who administered or  
27 analyzed a breath or blood test.

28 (12) The formal review hearing and the informal review  
29 hearing are exempt from the provisions of chapter 120. The  
30 department may adopt rules for the conduct of reviews under  
31 this section.

1           (13) A person may appeal any decision of the  
2 department sustaining a suspension of his or her driver's  
3 license by a petition for writ of certiorari to the circuit  
4 court in the county wherein such person resides or wherein a  
5 formal or informal review was conducted pursuant to s. 322.31.  
6 However, an appeal shall not stay the suspension. A law  
7 enforcement agency may appeal any decision of the department  
8 invalidating a suspension by a petition for writ of certiorari  
9 to the circuit court in the county wherein a formal or  
10 informal review was conducted. This subsection shall not be  
11 construed to provide for a de novo appeal.

12           (14)(a) The decision of the department under this  
13 section or any circuit court review thereof may not be  
14 considered in any trial for a violation of s. 316.193, and a  
15 written statement submitted by a person in his or her request  
16 for departmental review under this section may not be admitted  
17 into evidence against him or her in any such trial.

18           (b) The disposition of any related criminal  
19 proceedings does not affect a suspension for refusal to submit  
20 to a blood, breath, or urine test imposed under this section.

21           (15) If the department suspends a person's license  
22 under s. 322.2616, it may not also suspend the person's  
23 license under this section for the same episode that was the  
24 basis for the suspension under s. 322.2616.

25           (16) The department shall invalidate a suspension for  
26 driving with an unlawful blood-alcohol level or breath-alcohol  
27 level imposed under this section if the suspended person is  
28 found not guilty at trial of an underlying violation of s.  
29 316.193.

30           Section 4. Subsection (1) of section 322.64, Florida  
31 Statutes, is amended to read:

1           322.64 Holder of commercial driver's license; driving  
2 with unlawful blood-alcohol level; refusal to submit to  
3 breath, urine, or blood test.--

4           (1)(a) A law enforcement officer or correctional  
5 officer shall, on behalf of the department, disqualify from  
6 operating any commercial motor vehicle a person who while  
7 operating or in actual physical control of a commercial motor  
8 vehicle is arrested for a violation of s. 316.193, relating to  
9 unlawful blood-alcohol level or breath-alcohol level, or a  
10 person who has refused to submit to a breath, urine, or blood  
11 test authorized by s. 322.63 arising out of the operation or  
12 actual physical control of a commercial motor vehicle. Upon  
13 disqualification of the person, the officer shall take the  
14 person's driver's license and issue the person a 10-day  
15 temporary permit for the operation of noncommercial vehicles  
16 only if the person is otherwise eligible for the driving  
17 privilege and shall issue the person a notice of  
18 disqualification. If the person has been given a blood,  
19 breath, or urine test, the results of which are not available  
20 to the officer at the time of the arrest, the agency employing  
21 the officer shall transmit such results to the department  
22 within 5 days after receipt of the results. If the department  
23 then determines that the person was arrested for a violation  
24 of s. 316.193 and that the person had a blood-alcohol level or  
25 breath-alcohol level of 0.04 ~~0.08~~ or higher, the department  
26 shall disqualify the person from operating a commercial motor  
27 vehicle pursuant to subsection (3).

28           (b) The disqualification under paragraph (a) shall be  
29 pursuant to, and the notice of disqualification shall inform  
30 the driver of, the following:  
31

1           1.a. The driver refused to submit to a lawful breath,  
2 blood, or urine test and he or she is disqualified from  
3 operating a commercial motor vehicle for a period of 1 year,  
4 for a first refusal, or permanently, if he or she has  
5 previously been disqualified as a result of a refusal to  
6 submit to such a test; or

7           b. The driver violated s. 316.193 by driving with an  
8 unlawful blood-alcohol level and he or she is disqualified  
9 from operating a commercial motor vehicle for a period of 6  
10 months for a first offense or for a period of 1 year if he or  
11 she has previously been disqualified, or his or her driving  
12 privilege has been previously suspended, for a violation of s.  
13 316.193.

14           2. The disqualification period for operating  
15 commercial vehicles shall commence on the date of arrest or  
16 issuance of notice of disqualification, whichever is later.

17           3. The driver may request a formal or informal review  
18 of the disqualification by the department within 10 days after  
19 the date of arrest or issuance of notice of disqualification,  
20 whichever is later.

21           4. The temporary permit issued at the time of arrest  
22 or disqualification will expire at midnight of the 10th day  
23 following the date of disqualification.

24           5. The driver may submit to the department any  
25 materials relevant to the arrest.

26           Section 5. Section 322.291, Florida Statutes, is  
27 amended to read:

28           322.291 Driver improvement schools or DUI programs;  
29 required in certain suspension and revocation cases.--Except  
30 as provided in s. 322.03(2), any person:

31           (1) Whose driving privilege has been revoked:

1           (a) Upon conviction for:  
2           1. Driving, or being in actual physical control of,  
3 any vehicle while under the influence of alcoholic beverages,  
4 any chemical substance set forth in s. 877.111, or any  
5 substance controlled under chapter 893, in violation of s.  
6 316.193;  
7           2. Driving with an unlawful blood- or breath-alcohol  
8 level;  
9           3. Manslaughter resulting from the operation of a  
10 motor vehicle;  
11           4. Failure to stop and render aid as required under  
12 the laws of this state in the event of a motor vehicle crash  
13 resulting in the death or personal injury of another;  
14           5. Reckless driving; or  
15           (b) As an habitual offender;  
16           (c) Upon direction of the court, if the court feels  
17 that the seriousness of the offense and the circumstances  
18 surrounding the conviction warrant the revocation of the  
19 licensee's driving privilege; or  
20           (2) Whose license was suspended under the point  
21 system, was suspended for driving with an unlawful  
22 blood-alcohol level of 0.10 percent or higher before January  
23 1, 1994, was suspended for driving with an unlawful  
24 blood-alcohol level of 0.08 percent or higher after December  
25 31, 1993, but before July 1, 2007, was suspended for a  
26 violation of s. 316.193(1), or was suspended for refusing to  
27 submit to a lawful breath, blood, or urine test as provided in  
28 s. 322.2615  
29  
30 shall, before the driving privilege may be reinstated, present  
31 to the department proof of enrollment in a department-approved

1 advanced driver improvement course operating pursuant to s.  
2 318.1451 or a substance abuse education course conducted by a  
3 DUI program licensed pursuant to s. 322.292, which shall  
4 include a psychosocial evaluation and treatment, if referred.  
5 If the person fails to complete such course or evaluation  
6 within 90 days after reinstatement, or subsequently fails to  
7 complete treatment, if referred, the DUI program shall notify  
8 the department of the failure. Upon receipt of the notice, the  
9 department shall cancel the offender's driving privilege,  
10 notwithstanding the expiration of the suspension or revocation  
11 of the driving privilege. The department may temporarily  
12 reinstate the driving privilege upon verification from the DUI  
13 program that the offender has completed the education course  
14 and evaluation requirement and has reentered and is currently  
15 participating in treatment. If the DUI program notifies the  
16 department of the second failure to complete treatment, the  
17 department shall reinstate the driving privilege only after  
18 notice of completion of treatment from the DUI program.

19 Section 6. Subsections (1) and (8) of section 327.35,  
20 Florida Statutes, are amended to read:

21 327.35 Boating under the influence; penalties;  
22 "designated drivers".--

23 (1) A person is guilty of the offense of boating under  
24 the influence and is subject to punishment as provided in  
25 subsection (2) if the person is operating a vessel within this  
26 state and:

27 (a) The person is under the influence of alcoholic  
28 beverages, any chemical substance set forth in s. 877.111, or  
29 any substance controlled under chapter 893, when affected to  
30 the extent that the person's normal faculties are impaired;  
31



1 (b) The person has a blood-alcohol level of 0.04 ~~0.08~~  
2 or more grams of alcohol per 100 milliliters of blood; or

3 (c) The person has a breath-alcohol level of 0.04 ~~0.08~~  
4 or more grams of alcohol per 210 liters of breath.

5 (8) A person who is arrested for a violation of this  
6 section may not be released from custody:

7 (a) Until the person is no longer under the influence  
8 of alcoholic beverages, any chemical substance set forth in s.  
9 877.111, or any substance controlled under chapter 893 and  
10 affected to the extent that his or her normal faculties are  
11 impaired;

12 (b) Until the person's blood-alcohol level or  
13 breath-alcohol level is less than 0.04 ~~0.05~~; or

14 (c) Until 8 hours have elapsed from the time the  
15 person was arrested.

16 Section 7. For the purpose of incorporating the  
17 amendments made by this act to section 316.193, Florida  
18 Statutes, in a reference thereto, paragraph (f) of subsection  
19 (1) of section 316.1932, Florida Statutes, is reenacted to  
20 read:

21 316.1932 Tests for alcohol, chemical substances, or  
22 controlled substances; implied consent; refusal.--

23 (1)

24 (f)1. The tests determining the weight of alcohol in  
25 the defendant's blood or breath shall be administered at the  
26 request of a law enforcement officer substantially in  
27 accordance with rules of the Department of Law Enforcement.  
28 Such rules must specify precisely the test or tests that are  
29 approved by the Department of Law Enforcement for reliability  
30 of result and ease of administration, and must provide an  
31 approved method of administration which must be followed in

1 all such tests given under this section. However, the failure  
2 of a law enforcement officer to request the withdrawal of  
3 blood does not affect the admissibility of a test of blood  
4 withdrawn for medical purposes.

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

16         b. Notwithstanding any provision of law pertaining to  
17 the confidentiality of hospital records or other medical  
18 records, if a health care provider, who is providing medical  
19 care in a health care facility to a person injured in a motor  
20 vehicle crash, becomes aware, as a result of any blood test  
21 performed in the course of that medical treatment, that the  
22 person's blood-alcohol level meets or exceeds the  
23 blood-alcohol level specified in s. 316.193(1)(b), the health  
24 care provider may notify any law enforcement officer or law  
25 enforcement agency. Any such notice must be given within a  
26 reasonable time after the health care provider receives the  
27 test result. Any such notice shall be used only for the  
28 purpose of providing the law enforcement officer with  
29 reasonable cause to request the withdrawal of a blood sample  
30 pursuant to this section.

31

1           c. The notice shall consist only of the name of the  
2 person being treated, the name of the person who drew the  
3 blood, the blood-alcohol level indicated by the test, and the  
4 date and time of the administration of the test.

5           d. Nothing contained in s. 395.3025(4), s. 456.057, or  
6 any applicable practice act affects the authority to provide  
7 notice under this section, and the health care provider is not  
8 considered to have breached any duty owed to the person under  
9 s. 395.3025(4), s. 456.057, or any applicable practice act by  
10 providing notice or failing to provide notice. It shall not be  
11 a breach of any ethical, moral, or legal duty for a health  
12 care provider to provide notice or fail to provide notice.

13           e. A civil, criminal, or administrative action may not  
14 be brought against any person or health care provider  
15 participating in good faith in the provision of notice or  
16 failure to provide notice as provided in this section. Any  
17 person or health care provider participating in the provision  
18 of notice or failure to provide notice as provided in this  
19 section shall be immune from any civil or criminal liability  
20 and from any professional disciplinary action with respect to  
21 the provision of notice or failure to provide notice under  
22 this section. Any such participant has the same immunity with  
23 respect to participating in any judicial proceedings resulting  
24 from the notice or failure to provide notice.

25           3. The person tested may, at his or her own expense,  
26 have a physician, registered nurse, other personnel authorized  
27 by a hospital to draw blood, or duly licensed clinical  
28 laboratory director, supervisor, technologist, or technician,  
29 or other person of his or her own choosing administer an  
30 independent test in addition to the test administered at the  
31 direction of the law enforcement officer for the purpose of

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

14 4. Upon the request of the person tested, full  
15 information concerning the results of the test taken at the  
16 direction of the law enforcement officer shall be made  
17 available to the person or his or her attorney. Full  
18 information is limited to the following:

19 a. The type of test administered and the procedures  
20 followed.

21 b. The time of the collection of the blood or breath  
22 sample analyzed.

23 c. The numerical results of the test indicating the  
24 alcohol content of the blood and breath.

25 d. The type and status of any permit issued by the  
26 Department of Law Enforcement which was held by the person who  
27 performed the test.

28 e. If the test was administered by means of a breath  
29 testing instrument, the date of performance of the most recent  
30 required inspection of such instrument.

31

1 Full information does not include manuals, schematics, or  
2 software of the instrument used to test the person or any  
3 other material that is not in the actual possession of the  
4 state. Additionally, full information does not include  
5 information in the possession of the manufacturer of the test  
6 instrument.

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

19           Section 8. For the purpose of incorporating the  
20 amendments made by this act to section 316.193, Florida  
21 Statutes, in a reference thereto, paragraph (a) of subsection  
22 (2) of section 316.1933, Florida Statutes, is reenacted to  
23 read:

24           316.1933 Blood test for impairment or intoxication in  
25 cases of death or serious bodily injury; right to use  
26 reasonable force.--

27           (2)(a) Only a physician, certified paramedic,  
28 registered nurse, licensed practical nurse, other personnel  
29 authorized by a hospital to draw blood, or duly licensed  
30 clinical laboratory director, supervisor, technologist, or  
31 technician, acting at the request of a law enforcement

1 officer, may withdraw blood for the purpose of determining the  
2 alcoholic content thereof or the presence of chemical  
3 substances or controlled substances therein. However, the  
4 failure of a law enforcement officer to request the withdrawal  
5 of blood shall not affect the admissibility of a test of blood  
6 withdrawn for medical purposes.

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

22           2. The notice shall consist only of the name of the  
23 person being treated, the name of the person who drew the  
24 blood, the blood-alcohol level indicated by the test, and the  
25 date and time of the administration of the test.

26           3. Nothing contained in s. 395.3025(4), s. 456.057, or  
27 any applicable practice act affects the authority to provide  
28 notice under this section, and the health care provider is not  
29 considered to have breached any duty owed to the person under  
30 s. 395.3025(4), s. 456.057, or any applicable practice act by  
31 providing notice or failing to provide notice. It shall not be

1 a breach of any ethical, moral, or legal duty for a health  
2 care provider to provide notice or fail to provide notice.

3 4. A civil, criminal, or administrative action may not  
4 be brought against any person or health care provider  
5 participating in good faith in the provision of notice or  
6 failure to provide notice as provided in this section. Any  
7 person or health care provider participating in the provision  
8 of notice or failure to provide notice as provided in this  
9 section shall be immune from any civil or criminal liability  
10 and from any professional disciplinary action with respect to  
11 the provision of notice or failure to provide notice under  
12 this section. Any such participant has the same immunity with  
13 respect to participating in any judicial proceedings resulting  
14 from the notice or failure to provide notice.

15 Section 9. This act shall take effect July 1, 2007.

16 \*\*\*\*\*  
17 \*\*\*\*\*

18 SENATE SUMMARY

19 Lowers the blood-alcohol level from 0.08 to 0.04 for an  
20 individual to be guilty of driving under the influence.  
21 Conforms related provisions. Conforms provisions related  
22 to boating under the influence to conform.  
23  
24  
25  
26  
27  
28  
29  
30  
31