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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Between lines 49 and 50
insert:

Section 1. Paragraph (a) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his



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12 or her consent to submit to an approved chemical test or
13 physical test including, but not limited to, an infrared light
14 test of his or her breath for the purpose of determining the
15 alcoholic content of his or her blood or breath if the person is
16 lawfully arrested for any offense allegedly committed while the
17 person was driving or was in actual physical control of a motor
18 vehicle while under the influence of alcoholic beverages. The
19 chemical or physical breath test must be incidental to a lawful
20 arrest and administered 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 the motor vehicle
23 within this state while under the influence of alcoholic
24 beverages. The administration of a breath test does not preclude
25 the administration of another type of test. The person shall be
26 told that his or her failure to submit to any lawful test of his
27 or her breath will result in the suspension of the person's
28 privilege to operate a motor vehicle for a period of 1 year for
29 a first refusal, or for a period of 18 months if the driving
30 privilege of such person has been previously suspended as a
31 result of a refusal to submit to such a test or tests, and shall
32 also be told that if he or she refuses to submit to a lawful
33 test of his or her breath and his or her driving privilege has
34 been previously suspended for a prior refusal to submit to a
35 lawful test of his or her breath, urine, or blood, he or she
36 commits a misdemeanor in addition to any other penalties. The
37 refusal to submit to a chemical or physical breath test upon the
38 request of a law enforcement officer as provided in this section
39 is admissible into evidence in any criminal proceeding.

40 b. Any person who accepts the privilege extended by the



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41 laws of this state of operating a motor vehicle within this
42 state is, by so operating such vehicle, deemed to have given his
43 or her consent to submit to a urine test for the purpose of
44 detecting the presence of chemical substances as set forth in s.
45 877.111 or controlled substances if the person is lawfully
46 arrested for any offense allegedly committed while the person
47 was driving or was in actual physical control of a motor vehicle
48 while under the influence of chemical substances or controlled
49 substances. The urine test must be incidental to a lawful arrest
50 and administered at a detention facility or any other facility,
51 mobile or otherwise, which is equipped to administer such tests
52 at the request of a law enforcement officer who has reasonable
53 cause to believe such person was driving or was in actual
54 physical control of a motor vehicle within this state while
55 under the influence of chemical substances or controlled
56 substances. The urine test shall be administered at a detention
57 facility or any other facility, mobile or otherwise, which is
58 equipped to administer such test in a reasonable manner that
59 will ensure the accuracy of the specimen and maintain the
60 privacy of the individual involved. The administration of a
61 urine test does not preclude the administration of another type
62 of test. The person shall be told that his or her failure to
63 submit to any lawful test of his or her urine will result in the
64 suspension of the person's privilege to operate a motor vehicle
65 for a period of 1 year for the first refusal, or for a period of
66 18 months if the driving privilege of such person has been
67 previously suspended as a result of a refusal to submit to such
68 a test or tests, and shall also be told that if he or she
69 refuses to submit to a lawful test of his or her urine and his



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70 or her driving privilege has been previously suspended for a
71 prior refusal to submit to a lawful test of his or her breath,
72 urine, or blood, he or she commits a misdemeanor in addition to
73 any other penalties. The refusal to submit to a urine test upon
74 the request of a law enforcement officer as provided in this
75 section is admissible into evidence in any criminal proceeding.

76 c. Notwithstanding any other provision of this section, a
77 fine in the amount of \$300 shall be assessed against each driver
78 who refuses to submit to a blood-alcohol level test when asked
79 to do so by a law enforcement officer. One hundred fifty dollars
80 from each such fine shall be remitted to the Department of
81 Revenue for deposit into the Emergency Medical Services Trust
82 Fund and \$150 shall be remitted to the Department of Revenue for
83 deposit into the Education Enhancement Trust Fund.

84 2. The Alcohol Testing Program within the Department of Law
85 Enforcement is responsible for the regulation of the operation,
86 inspection, and registration of breath test instruments utilized
87 under the driving and boating under the influence provisions and
88 related provisions located in this chapter and chapters 322 and
89 327. The program is responsible for the regulation of the
90 individuals who operate, inspect, and instruct on the breath
91 test instruments utilized in the driving and boating under the
92 influence provisions and related provisions located in this
93 chapter and chapters 322 and 327. The program is further
94 responsible for the regulation of blood analysts who conduct
95 blood testing to be utilized under the driving and boating under
96 the influence provisions and related provisions located in this
97 chapter and chapters 322 and 327. The program shall:

98 a. Establish uniform criteria for the issuance of permits



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- 99 to breath test operators, agency inspectors, instructors, blood
100 analysts, and instruments.
- 101 b. Have the authority to permit breath test operators,
102 agency inspectors, instructors, blood analysts, and instruments.
- 103 c. Have the authority to discipline and suspend, revoke, or
104 renew the permits of breath test operators, agency inspectors,
105 instructors, blood analysts, and instruments.
- 106 d. Establish uniform requirements for instruction and
107 curricula for the operation and inspection of approved
108 instruments.
- 109 e. Have the authority to specify one approved curriculum
110 for the operation and inspection of approved instruments.
- 111 f. Establish a procedure for the approval of breath test
112 operator and agency inspector classes.
- 113 g. Have the authority to approve or disapprove breath test
114 instruments and accompanying paraphernalia for use pursuant to
115 the driving and boating under the influence provisions and
116 related provisions located in this chapter and chapters 322 and
117 327.
- 118 h. With the approval of the executive director of the
119 Department of Law Enforcement, make and enter into contracts and
120 agreements with other agencies, organizations, associations,
121 corporations, individuals, or federal agencies as are necessary,
122 expedient, or incidental to the performance of duties.
- 123 i. Issue final orders which include findings of fact and
124 conclusions of law and which constitute final agency action for
125 the purpose of chapter 120.
- 126 j. Enforce compliance with the provisions of this section
127 through civil or administrative proceedings.



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128 k. Make recommendations concerning any matter within the
129 purview of this section, this chapter, chapter 322, or chapter
130 327.

131 l. Promulgate rules for the administration and
132 implementation of this section, including definitions of terms.

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

135 n. Have the authority to approve the type of blood test
136 utilized under the driving and boating under the influence
137 provisions and related provisions located in this chapter and
138 chapters 322 and 327.

139 o. Have the authority to specify techniques and methods for
140 breath alcohol testing and blood testing utilized under the
141 driving and boating under the influence provisions and related
142 provisions located in this chapter and chapters 322 and 327.

143 p. Have the authority to approve repair facilities for the
144 approved breath test instruments, including the authority to set
145 criteria for approval.

146

147 Nothing in this section shall be construed to supersede
148 provisions in this chapter and chapters 322 and 327. The
149 specifications in this section are derived from the power and
150 authority previously and currently possessed by the Department
151 of Law Enforcement and are enumerated to conform with the
152 mandates of chapter 99-379, Laws of Florida.

153

154 ===== T I T L E A M E N D M E N T =====

155 And the title is amended as follows:

156 Delete line 2



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157 and insert:
158 An act relating to driver responsibility; amending s. 316.1932,
159 F.S.; providing for the imposition of a specified fine against
160 each driver who refuses to submit to a blood-alcohol level test
161 when asked to do so by a law enforcement officer; providing for
162 the distribution of proceeds collected from the imposition of
163 such fine; creating s.