

By Senator Steube

23-01547-17

20171248__

1 A bill to be entitled
2 An act relating to breach of the peace; amending s.
3 877.03, F.S.; deleting provisions that provide
4 criminal penalties for certain conduct constituting a
5 breach of the peace; amending ss. 321.05 and 933.14,
6 F.S.; conforming provisions to changes made by the
7 act; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 877.03, Florida Statutes, is amended to
12 read:

13 877.03 ~~Breach of the peace;~~ Disorderly conduct.—Whoever
14 ~~commits such acts as are of a nature to corrupt the public~~
15 ~~morals, or outrage the sense of public decency, or affect the~~
16 ~~peace and quiet of persons who may witness them, or engages in~~
17 brawling or fighting, or engages in such conduct as to
18 constitute ~~a breach of the peace or~~ disorderly conduct, commits
19 ~~shall be guilty of~~ a misdemeanor of the second degree,
20 punishable as provided in s. 775.082 or s. 775.083.

21 Section 2. Section 321.05, Florida Statutes, is amended to
22 read:

23 321.05 Duties, functions, and powers of patrol officers.—
24 The members of the Florida Highway Patrol are hereby declared to
25 be conservators of the peace and law enforcement officers of the
26 state, with the common-law right to arrest a person who, in the
27 presence of the arresting officer, commits a felony or commits
28 an affray ~~or breach of the peace~~ constituting a misdemeanor,
29 with full power to bear arms; and they shall apprehend, without

23-01547-17

20171248__

30 warrant, any person in the unlawful commission of any of the
31 acts over which the members of the Florida Highway Patrol are
32 given jurisdiction as hereinafter set out and deliver him or her
33 to the sheriff of the county that further proceedings may be had
34 against him or her according to law. In the performance of any
35 of the powers, duties, and functions authorized by law, members
36 of the Florida Highway Patrol have the same protections and
37 immunities afforded other peace officers, which shall be
38 recognized by all courts having jurisdiction over offenses
39 against the laws of this state, and have authority to apply for,
40 serve, and execute search warrants, arrest warrants, capias, and
41 other process of the court. The patrol officers under the
42 direction and supervision of the Department of Highway Safety
43 and Motor Vehicles shall perform and exercise throughout the
44 state the following duties, functions, and powers:

45 (1) To patrol the state highways and regulate, control, and
46 direct the movement of traffic thereon; to maintain the public
47 peace by preventing violence on highways; to apprehend fugitives
48 from justice; to enforce all laws regulating and governing
49 traffic, travel, and public safety upon the public highways and
50 providing for the protection of the public highways and public
51 property thereon, including the security and safety of this
52 state's transportation infrastructure; to make arrests without
53 warrant for the violation of any state law committed in their
54 presence in accordance with state law; providing that no search
55 may be made unless it is incident to a lawful arrest, to
56 regulate and direct traffic concentrations and congestions; to
57 enforce laws governing the operation, licensing, and taxing and
58 limiting the size, weight, width, length, and speed of vehicles

23-01547-17

20171248__

59 and licensing and controlling the operations of drivers and
60 operators of vehicles, including the safety, size, and weight of
61 commercial motor vehicles; to collect all state fees and
62 revenues levied as an incident to the use or right to use the
63 highways for any purpose, including the taxing and registration
64 of commercial motor vehicles; to require the drivers of vehicles
65 to stop and exhibit their driver licenses, registration cards,
66 or documents required by law to be carried by such vehicles; to
67 investigate traffic accidents, secure testimony of witnesses and
68 of persons involved, and make report thereof with copy, if
69 requested in writing, to any person in interest or his or her
70 attorney; to investigate reported thefts of vehicles; and to
71 seize contraband or stolen property on or being transported on
72 the highways. Each patrol officer of the Florida Highway Patrol
73 is subject to and has the same arrest and other authority
74 provided for law enforcement officers generally in chapter 901
75 and has statewide jurisdiction. Each officer also has arrest
76 authority as provided for state law enforcement officers in s.
77 901.15. This section does not conflict with, but is supplemental
78 to, chapter 933.

79 (2) To assist other constituted law enforcement officers of
80 the state to quell mobs and riots, guard prisoners, and police
81 disaster areas.

82 (3) (a) To make arrests while in fresh pursuit of a person
83 believed to have violated the traffic and other laws.

84 (b) To make arrest of a person wanted for a felony or
85 against whom a warrant has been issued on any charge in
86 violation of federal, state, or county laws or municipal
87 ordinances.

23-01547-17

20171248__

88 (4) (a) All fines and costs and the proceeds of the
89 forfeiture of bail bonds and recognizances resulting from the
90 enforcement of this chapter by patrol officers shall be paid
91 into the fine and forfeiture fund established pursuant to s.
92 142.01 of the county where the offense is committed. In all
93 cases of arrest by patrol officers, the person arrested shall be
94 delivered forthwith by the officer to the sheriff of the county,
95 or he or she shall obtain from the person arrested a
96 recognizance or, if deemed necessary, a cash bond or other
97 sufficient security conditioned for his or her appearance before
98 the proper tribunal of the county to answer the charge for which
99 he or she has been arrested; and all fees accruing shall be
100 taxed against the party arrested, which fees are hereby declared
101 to be part of the compensation of the sheriffs authorized to be
102 fixed by the Legislature under s. 5(c), Art. II of the State
103 Constitution, to be paid such sheriffs in the same manner as
104 fees are paid for like services in other criminal cases. All
105 patrol officers are hereby directed to deliver all bonds
106 accepted and approved by them to the sheriff of the county in
107 which the offense is alleged to have been committed. However, a
108 sheriff shall not be paid any arrest fee for the arrest of a
109 person for violation of any section of chapter 316 when the
110 arresting officer was transported in a Florida Highway Patrol
111 car to the vicinity where the arrest was made; and a sheriff
112 shall not be paid any fee for mileage for himself or herself or
113 a prisoner for miles traveled in a Florida Highway Patrol car. A
114 patrol officer is not entitled to any fee or mileage cost except
115 when responding to a subpoena in a civil cause or except when
116 the patrol officer is appearing as an official witness to

23-01547-17

20171248__

117 testify at any hearing or law action in any court of this state
118 as a direct result of his or her employment as a patrol officer
119 during time not compensated as a part of his or her normal
120 duties. Nothing herein shall be construed as limiting the power
121 to locate and to take from any person under arrest or about to
122 be arrested deadly weapons. This section is not a limitation
123 upon existing powers and duties of sheriffs or police officers.

124 (b) Any person so arrested and released on his or her own
125 recognizance by an officer and who fails to appear or respond to
126 a notice to appear, in addition to the traffic violation charge,
127 commits a noncriminal traffic infraction subject to the penalty
128 provided in s. 318.18(2).

129 (5) The department may employ or assign some fit and
130 suitable person with experience in the field of public relations
131 who shall promote, coordinate, and publicize the traffic safety
132 activities in the state and assign such person to the office of
133 the Governor at a salary to be fixed by the department. The
134 person so assigned or employed shall be a member of the uniform
135 division of the Florida Highway Patrol, and he or she shall have
136 the pay and rank of lieutenant while on such assignment.

137 (6) The Division of Florida Highway Patrol is authorized to
138 adopt rules which may be necessary to implement the provisions
139 of chapter 316.

140 Section 3. Subsection (3) of section 933.14, Florida
141 Statutes, is amended to read:

142 933.14 Return of property taken under search warrant.-

143 ~~(3) No pistol or firearm taken by any officer with a search~~
144 ~~warrant or without a search warrant upon a view by the officer~~
145 ~~of a breach of the peace shall be returned except pursuant to an~~

23-01547-17

20171248__

146 ~~order of a trial court judge.~~

147 Section 4. This act shall take effect upon becoming a law.