

HB 6013

2017

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; providing an effective  
 7           date.

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

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 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  
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,  
46 | and direct the movement of traffic thereon; to maintain the  
47 | public peace by preventing violence on highways; to apprehend  
48 | fugitives from justice; to enforce all laws regulating and  
49 | governing traffic, travel, and public safety upon the public  
50 | highways and providing for the protection of the public highways

51 and public property thereon, including the security and safety  
52 of this state's transportation infrastructure; to make arrests  
53 without warrant for the violation of any state law committed in  
54 their presence in accordance with state law; providing that no  
55 search 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  
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  
80 of the state to quell mobs and riots, guard prisoners, and  
81 police 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.

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  
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  
 138 to adopt rules which may be necessary to implement the  
 139 provisions 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~~  
 144 ~~search warrant or without a search warrant upon a view by the~~  
 145 ~~officer of a breach of the peace shall be returned except~~  
 146 ~~pursuant to an order of a trial court judge.~~

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