

26 s. 322.2616, F.S.; requiring certain information to be
 27 contained in a notice of suspension; waiving the
 28 requirement to install an ignition interlock device
 29 under certain circumstances; amending s. 322.2715,
 30 F.S.; directing the Department of Highway Safety and
 31 Motor Vehicles to require placement of an ignition
 32 interlock device before issuing a permanent or
 33 restricted driver license to a person who refused to
 34 submit to a lawful test of his or her breath;
 35 requiring the person to install the device at his or
 36 her own expense for a specified period; providing an
 37 effective date.

38

39 Be It Enacted by the Legislature of the State of Florida:

40

41 Section 1. Paragraph (a) of subsection (1) of section
 42 316.1932, Florida Statutes, is amended to read:

43 316.1932 Tests for alcohol, chemical substances, or
 44 controlled substances; implied consent; refusal.—

45 (1)(a)1.a. A person who accepts the privilege extended by
 46 the laws of this state of operating a motor vehicle within this
 47 state is, by operating such vehicle, deemed to have given his or
 48 her consent to submit to an approved chemical test or physical
 49 test including, but not limited to, an infrared light test of
 50 his or her breath for the purpose of determining the alcoholic

51 content of his or her blood or breath if the person is lawfully
52 arrested for any offense allegedly committed while the person
53 was driving or was in actual physical control of a motor vehicle
54 while under the influence of alcoholic beverages. The chemical
55 or physical breath test must be incidental to a lawful arrest
56 and administered at the request of a law enforcement officer who
57 has reasonable cause to believe such person was driving or was
58 in actual physical control of the motor vehicle within this
59 state while under the influence of alcoholic beverages. The
60 administration of a breath test does not preclude the
61 administration of another type of test. The person must ~~shall~~ be
62 told that his or her failure to submit to any lawful test of his
63 or her breath will, for a first refusal, result in the
64 suspension of the person's privilege to operate a motor vehicle
65 ~~for a period of 1 year~~ and the person will be subject to
66 mandatory placement for 1 continuous year, at the person's own
67 expense, of an ignition interlock device approved by the
68 department in accordance with s. 316.1938 on all vehicles that
69 are individually or jointly leased or owned and routinely
70 operated by the person, when the person qualifies for
71 reinstatement of a permanent or restricted driver license. ~~for a~~
72 ~~first refusal, or for a period of 18 months~~ If the driving
73 privilege of such person has been previously suspended or if he
74 or she has previously been fined under s. 327.35215 as a result
75 of a refusal to submit to a test or tests required under this

76 | chapter or chapter 327, the person must be told that his or her
77 | failure to submit to any lawful test of his or her breath will
78 | result in the suspension of the person's privilege to operate a
79 | motor vehicle for 18 months and the person will be subject to
80 | mandatory placement for 18 continuous months, at the person's
81 | own expense, of an ignition interlock device approved by the
82 | department in accordance with s. 316.1938 on all vehicles that
83 | are individually or jointly leased or owned and routinely
84 | operated by the person, when the person qualifies for
85 | reinstatement of a permanent or restricted driver license. The
86 | person must ~~and shall~~ also be told that if he or she refuses to
87 | submit to a lawful test of his or her breath and his or her
88 | driving privilege has been previously suspended or if he or she
89 | has previously been fined under s. 327.35215 for a prior refusal
90 | to submit to a lawful test of his or her breath, urine, or blood
91 | as required under this chapter or chapter 327, he or she commits
92 | a misdemeanor of the first degree, punishable as provided in s.
93 | 775.082 or s. 775.083, in addition to any other penalties
94 | provided by law. The refusal to submit to a chemical or physical
95 | breath test upon the request of a law enforcement officer as
96 | provided in this section is admissible into evidence in any
97 | criminal proceeding.

98 | b. A person who accepts the privilege extended by the laws
99 | of this state of operating a motor vehicle within this state is,
100 | by operating such vehicle, deemed to have given his or her

101 consent to submit to a urine test for the purpose of detecting
 102 the presence of chemical substances as set forth in s. 877.111
 103 or controlled substances if the person is lawfully arrested for
 104 any offense allegedly committed while the person was driving or
 105 was in actual physical control of a motor vehicle while under
 106 the influence of chemical substances or controlled substances.
 107 The urine test must be incidental to a lawful arrest and
 108 administered at a detention facility or any other facility,
 109 mobile or otherwise, which is equipped to administer such tests
 110 at the request of a law enforcement officer who has reasonable
 111 cause to believe such person was driving or was in actual
 112 physical control of a motor vehicle within this state while
 113 under the influence of chemical substances or controlled
 114 substances. The urine test must ~~shall~~ be administered at a
 115 detention facility or any other facility, mobile or otherwise,
 116 which is equipped to administer such test in a reasonable manner
 117 that will ensure the accuracy of the specimen and maintain the
 118 privacy of the individual involved. The administration of a
 119 urine test does not preclude the administration of another type
 120 of test. The person must ~~shall~~ be told that his or her failure
 121 to submit to any lawful test of his or her urine will result in
 122 the suspension of the person's privilege to operate a motor
 123 vehicle for ~~a period of~~ 1 year for the first refusal, or for a
 124 ~~period of~~ 18 months if the driving privilege of such person has
 125 been previously suspended or if he or she has previously been

126 fined under s. 327.35215 as a result of a refusal to submit to a
127 test or tests required under this chapter or chapter 327, and
128 must ~~shall~~ also be told that if he or she refuses to submit to a
129 lawful test of his or her urine and his or her driving privilege
130 has been previously suspended or if he or she has previously
131 been fined under s. 327.35215 for a prior refusal to submit to a
132 lawful test of his or her breath, urine, or blood as required
133 under this chapter or chapter 327, he or she commits a
134 misdemeanor of the first degree, punishable as provided in s.
135 775.082 or s. 775.083, in addition to any other penalties
136 provided by law. The refusal to submit to a urine test upon the
137 request of a law enforcement officer as provided in this section
138 is admissible into evidence in any criminal proceeding.

139 2. The Alcohol Testing Program within the Department of
140 Law Enforcement is responsible for the regulation of the
141 operation, inspection, and registration of breath test
142 instruments used ~~utilized~~ under the driving and boating under
143 the influence provisions and related provisions located in this
144 chapter and chapters 322 and 327. The program is responsible for
145 the regulation of the individuals who operate, inspect, and
146 instruct on the breath test instruments used ~~utilized~~ in the
147 driving and boating under the influence provisions and related
148 provisions located in this chapter and chapters 322 and 327. The
149 program is further responsible for the regulation of blood
150 analysts who conduct blood testing to be used ~~utilized~~ under the

151 driving and boating under the influence provisions and related
 152 provisions located in this chapter and chapters 322 and 327. The
 153 program must ~~shall~~:

154 a. Establish uniform criteria for the issuance of permits
 155 to breath test operators, agency inspectors, instructors, blood
 156 analysts, and instruments.

157 b. Have the authority to permit breath test operators,
 158 agency inspectors, instructors, blood analysts, and instruments.

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

162 d. Establish uniform requirements for instruction and
 163 curricula for the operation and inspection of approved
 164 instruments.

165 e. Have the authority to specify one approved curriculum
 166 for the operation and inspection of approved instruments.

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

169 g. Have the authority to approve or disapprove breath test
 170 instruments and accompanying paraphernalia for use pursuant to
 171 the driving and boating under the influence provisions and
 172 related provisions located in this chapter and chapters 322 and
 173 327.

174 h. With the approval of the executive director of the
 175 Department of Law Enforcement, make and enter into contracts and

176 | agreements with other agencies, organizations, associations,
177 | corporations, individuals, or federal agencies as are necessary,
178 | expedient, or incidental to the performance of duties.

179 | i. Issue final orders that ~~which~~ include findings of fact
180 | and conclusions of law and that ~~which~~ constitute final agency
181 | action for the purpose of chapter 120.

182 | j. Enforce compliance with this section through civil or
183 | administrative proceedings.

184 | k. Make recommendations concerning any matter within the
185 | purview of this section, this chapter, chapter 322, or chapter
186 | 327.

187 | l. Adopt ~~Promulgate~~ rules for the administration and
188 | implementation of this section, including definitions of terms.

189 | m. Consult and cooperate with other entities for the
190 | purpose of implementing ~~the mandates of~~ this section.

191 | n. Have the authority to approve the type of blood test
192 | used ~~utilized~~ under the driving and boating under the influence
193 | provisions and related provisions located in this chapter and
194 | chapters 322 and 327.

195 | o. Have the authority to specify techniques and methods
196 | for breath alcohol testing and blood testing used ~~utilized~~ under
197 | the driving and boating under the influence provisions and
198 | related provisions located in this chapter and chapters 322 and
199 | 327.

200 | p. Have the authority to approve repair facilities for the

201 approved breath test instruments, including the authority to set
 202 criteria for approval.

203
 204 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede
 205 provisions in this chapter and chapters 322 and 327. The
 206 specifications in this section are derived from the power and
 207 authority previously and currently possessed by the Department
 208 of Law Enforcement and are enumerated to conform with the
 209 mandates of chapter 99-379, Laws of Florida.

210 Section 2. Section 316.1939, Florida Statutes, is amended
 211 to read:

212 316.1939 Refusal to submit to testing; penalties.—

213 (1) A person who refuses to submit to a lawful test of his
 214 or her breath as required under s. 316.1932(1)(a)1.a. is subject
 215 to mandatory placement, at the person's own expense, of an
 216 ignition interlock device approved by the department in
 217 accordance with s. 316.1938 on all vehicles individually or
 218 jointly leased or owned and routinely operated by the person for
 219 1 continuous year for a first refusal, or 18 continuous months
 220 for a second or subsequent refusal, when the person qualifies
 221 for reinstatement of a permanent or restricted driver license.
 222 This subsection applies in addition to any other penalties
 223 authorized by this section.

224 (2)~~(1)~~ A person who has refused to submit to a chemical or
 225 physical test of his or her breath or urine, as described in s.

226 316.1932, and whose driving privilege was previously suspended
 227 or who was previously fined under s. 327.35215 for a prior
 228 refusal to submit to a lawful test of his or her breath, urine,
 229 or blood required under this chapter or chapter 327, and:

230 (a) Who the arresting law enforcement officer had probable
 231 cause to believe was driving or in actual physical control of a
 232 motor vehicle in this state while under the influence of
 233 alcoholic beverages, chemical substances, or controlled
 234 substances;

235 (b) Who was placed under lawful arrest for a violation of
 236 s. 316.193 unless such test was requested pursuant to s.
 237 316.1932(1)(c);

238 (c) Who was informed that:~~7~~

239 1. If he or she refused to submit to a lawful test of his
 240 or her breath, his or her privilege to operate a motor vehicle
 241 would be suspended for 1 year for a first refusal or 18 months
 242 for a second or subsequent refusal, and that he or she would be
 243 subject to mandatory placement, at his or her own expense, of an
 244 ignition interlock device approved by the department in
 245 accordance with s. 316.1938, for 1 continuous year for a first
 246 refusal, or 18 continuous months for a second or subsequent
 247 refusal, on all vehicles that he or she individually or jointly
 248 leases or owns and routinely operates, when he or she qualifies
 249 for reinstatement of a permanent or restricted driver license;
 250 or

251 2. If he or she refused to submit to a lawful ~~such~~ test of
 252 his or her urine, his or her privilege to operate a motor
 253 vehicle would be suspended for ~~a period of~~ 1 year for a first
 254 refusal or, ~~in the case of a second or subsequent refusal, for a~~
 255 ~~period of~~ 18 months for a second or subsequent refusal;

256 (d) Who was informed that a refusal to submit to a lawful
 257 test of his or her breath or urine, if his or her driving
 258 privilege has been previously suspended or if he or she has
 259 previously been fined under s. 327.35215 for a prior refusal to
 260 submit to a lawful test of his or her breath, urine, or blood as
 261 required under this chapter or chapter 327, is a misdemeanor of
 262 the first degree, punishable as provided in s. 775.082 or s.
 263 775.083, in addition to any other penalties provided by law; and

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

267
 268 commits a misdemeanor of the first degree and is subject to
 269 punishment as provided in s. 775.082 or s. 775.083.

270 ~~(3)-(2)~~ The disposition of any administrative proceeding
 271 that relates to the suspension of a person's driving privilege
 272 does not affect a criminal action under subsection (2) ~~this~~
 273 ~~section~~.

274 ~~(4)-(3)~~ The disposition of a criminal action under
 275 subsection (2) ~~this section~~ does not affect any administrative

276 proceeding that relates to the suspension of a person's driving
 277 privilege. The department's records showing that a person's
 278 license has been previously suspended for a prior refusal to
 279 submit to a lawful test of his or her breath, urine, or blood is
 280 ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable
 281 presumption of such suspension.

282 Section 3. Subsections (12) through (16) of section
 283 322.2615, Florida Statutes, are renumbered as subsections (13)
 284 through (17), respectively, subsection (1) and paragraph (a) of
 285 subsection (10) are amended, and a new subsection (12) is added
 286 to that section, to read:

287 322.2615 Suspension of license; right to review.—

288 (1)(a) A law enforcement officer or correctional officer
 289 shall, on behalf of the department, suspend the driving
 290 privilege of a person who is driving or in actual physical
 291 control of a motor vehicle and who has an unlawful blood-alcohol
 292 level or breath-alcohol level of 0.08 or higher, or of a person
 293 who has refused to submit to a urine test or a test of his or
 294 her breath-alcohol or blood-alcohol level. The officer shall
 295 take the person's driver license and issue the person a 10-day
 296 temporary permit if the person is otherwise eligible for the
 297 driving privilege and shall issue the person a notice of
 298 suspension. If a blood test has been administered, the officer
 299 or the agency employing the officer shall transmit such results
 300 to the department within 5 days after receipt of the results. If

301 the department then determines that the person had a blood-
302 alcohol level or breath-alcohol level of 0.08 or higher, the
303 department shall suspend the person's driver license pursuant to
304 subsection (3).

305 (b) The suspension under paragraph (a) shall be pursuant
306 to, and the notice of suspension shall inform the driver of, the
307 following:

308 1.a. The driver refused to submit to a lawful breath,
309 ~~blood, or urine~~ test and his or her driving privilege is
310 suspended for ~~a period of~~ 1 year for a first refusal or for a
311 ~~period of~~ 18 months if his or her driving privilege has been
312 previously suspended as a result of a refusal to submit to such
313 a test, and he or she is subject to mandatory placement, at his
314 or her own expense, of an ignition interlock device approved by
315 the department in accordance with s. 316.1938 for 1 continuous
316 year for a first refusal, or 18 continuous months for a second
317 or subsequent refusal, on all vehicles that he or she
318 individually or jointly leases or owns and routinely operates,
319 when he or she qualifies for reinstatement of a permanent or
320 restricted driver license;

321 b. The driver refused to submit to a lawful blood or urine
322 test and his or her driving privilege is suspended for 1 year
323 for a first refusal or for 18 months if his or her driving
324 privilege has been previously suspended as a result of a refusal
325 to submit to such a test; or

326 c.b. The driver was driving or in actual physical control
 327 of a motor vehicle and had an unlawful blood-alcohol level or
 328 breath-alcohol level of 0.08 or higher and his or her driving
 329 privilege is suspended for ~~a period of~~ 6 months for a first
 330 offense or for ~~a period of~~ 1 year if his or her driving
 331 privilege has been previously suspended under this section.

332 2. The suspension period shall commence on the date of
 333 issuance of the notice of suspension.

334 3. The driver may request a formal or informal review of
 335 the suspension by the department within 10 days after the date
 336 of issuance of the notice of suspension or may request a review
 337 of eligibility for a restricted driving privilege under s.
 338 322.271(7).

339 4. The temporary permit issued at the time of suspension
 340 expires at midnight of the 10th day following the date of
 341 issuance of the notice of suspension.

342 5. The driver may submit to the department any materials
 343 relevant to the suspension.

344 (10) A person whose driver license is suspended under
 345 subsection (1) or subsection (3) may apply for issuance of a
 346 license for business or employment purposes only if the person
 347 is otherwise eligible for the driving privilege pursuant to s.
 348 322.271.

349 (a) If the suspension of the driver license of the person
 350 for failure to submit to a breath, urine, or blood test is

351 sustained, the person is not eligible to receive a license for
352 business or employment purposes only, pursuant to s. 322.271,
353 until 30 ~~90~~ days have elapsed after the expiration of the last
354 temporary permit issued. If the driver is not issued a 10-day
355 permit pursuant to this section or s. 322.64 because he or she
356 is ineligible for the permit and the suspension for failure to
357 submit to a breath, urine, or blood test is not invalidated by
358 the department, the driver is not eligible to receive a business
359 or employment license pursuant to s. 322.271 until 30 ~~90~~ days
360 have elapsed from the date of the suspension.

361 (12) If a person whose driver license is suspended for
362 refusal to submit to a lawful breath test has his or her driver
363 license suspension invalidated for any reason under this
364 section, the requirement that he or she install an ignition
365 interlock device for refusal to submit to a lawful test of his
366 or her breath under s. 316.1939(1) is waived.

367 Section 4. Subsections (13) through (19) of section
368 322.2616, Florida Statutes, are renumbered as subsections (14)
369 through (20), respectively, subsection (2) is amended, and a new
370 subsection (13) is added to that section, to read:

371 322.2616 Suspension of license; persons under 21 years of
372 age; right to review.—

373 (2)(a) A law enforcement officer or correctional officer
374 shall, on behalf of the department, suspend the driving
375 privilege of such person if the person has a blood-alcohol or

376 breath-alcohol level of 0.02 or higher. The officer shall also
377 suspend, on behalf of the department, the driving privilege of a
378 person who has refused to submit to a test as provided by
379 paragraph (b). The officer shall take the person's driver
380 license and issue the person a 10-day temporary driving permit
381 if the person is otherwise eligible for the driving privilege
382 and shall issue the person a notice of suspension.

383 (b) The suspension under paragraph (a) must be pursuant
384 to, and the notice of suspension must inform the driver of, the
385 following:

386 1.a. The driver refused to submit to a lawful breath test
387 and his or her driving privilege is suspended for ~~a period of 1~~
388 ~~year for a first refusal or for a period of 18 months if his or~~
389 ~~her driving privilege has been previously suspended as provided~~
390 ~~in this section as a result of a refusal to submit to a test,~~
391 ~~and he or she is subject to mandatory placement, at his or her~~
392 ~~own expense, of an ignition interlock device approved by the~~
393 ~~department in accordance with s. 316.1938 for 1 continuous year~~
394 ~~for a first refusal, or 18 continuous months for a second or~~
395 ~~subsequent refusal, on all vehicles that he or she individually~~
396 ~~or jointly leases or owns and routinely operates, when he or she~~
397 ~~qualifies for reinstatement of a permanent or restricted driver~~
398 ~~license; or~~

399 b. The driver was under the age of 21 and was driving or
400 in actual physical control of a motor vehicle while having a

401 blood-alcohol or breath-alcohol level of 0.02 or higher; and the
402 person's driving privilege is suspended for ~~a period of~~ 6 months
403 for a first violation, or for ~~a period of~~ 1 year if his or her
404 driving privilege has been previously suspended as provided in
405 this section for driving or being in actual physical control of
406 a motor vehicle with a blood-alcohol or breath-alcohol level of
407 0.02 or higher.

408 2. The suspension period commences on the date of issuance
409 of the notice of suspension.

410 3. The driver may request a formal or informal review of
411 the suspension by the department within 10 days after the
412 issuance of the notice of suspension.

413 4. A temporary permit issued at the time of the issuance
414 of the notice of suspension shall not become effective until
415 after 12 hours have elapsed and will expire at midnight of the
416 10th day following the date of issuance.

417 5. The driver may submit to the department any materials
418 relevant to the suspension of his or her license.

419 (c) When a driver subject to this section has a blood-
420 alcohol or breath-alcohol level of 0.05 or higher, the
421 suspension shall remain in effect until such time as the driver
422 has completed a substance abuse course offered by a DUI program
423 licensed by the department. The driver shall assume the
424 reasonable costs for the substance abuse course. As part of the
425 substance abuse course, the program shall conduct a substance

426 abuse evaluation of the driver, and notify the parents or legal
427 guardians of drivers under the age of 19 years of the results of
428 the evaluation. The term "substance abuse" means the abuse of
429 alcohol or any substance named or described in Schedules I
430 through V of s. 893.03. If a driver fails to complete the
431 substance abuse education course and evaluation, the driver
432 license shall not be reinstated by the department.

433 (d) A minor under the age of 18 years proven to be driving
434 with a blood-alcohol or breath-alcohol level of 0.02 or higher
435 may be taken by a law enforcement officer to the addictions
436 receiving facility in the county in which the minor is found to
437 be so driving, if the county makes the addictions receiving
438 facility available for such purpose.

439 (13) If a person whose driver license is suspended for
440 refusal to submit to a lawful breath test has his or her driver
441 license suspension invalidated for any reason under this
442 section, the requirement that he or she install an ignition
443 interlock device for refusal to submit to a lawful test of his
444 or her breath under s. 316.1939(1) is waived.

445 Section 5. Subsection (5) of section 322.2715, Florida
446 Statutes, is renumbered as subsection (6), subsection (1) is
447 amended, and a new subsection (5) is added to that section, to
448 read:

449 322.2715 Ignition interlock device.—

450 (1) Before issuing a permanent or restricted driver

451 license under this chapter, the department shall require the
452 placement of a department-approved ignition interlock device for
453 any person convicted of committing an offense of driving under
454 the influence as specified in subsection (3), or for any person
455 who refused to submit to a lawful test of his or her breath as
456 specified in subsection (5), except that consideration may be
457 given to those individuals having a documented medical condition
458 that would prohibit the device from functioning normally. If a
459 medical waiver has been granted for a ~~convicted~~ person seeking a
460 restricted license, the ~~convicted~~ person shall not be entitled
461 to a restricted license until the required ignition interlock
462 device installation period under subsection (3) or subsection
463 (5) expires, in addition to the time requirements under s.
464 322.271. If a medical waiver has been approved for a ~~convicted~~
465 person seeking permanent reinstatement of the driver license,
466 the ~~convicted~~ person must be restricted to an employment-
467 purposes-only license and be supervised by a licensed DUI
468 program until the required ignition interlock device
469 installation period under subsection (3) or subsection (5)
470 expires. An interlock device shall be placed on all vehicles
471 that are individually or jointly leased or owned and routinely
472 operated by the ~~convicted~~ person.

473 (5) If a person refused to submit to a lawful test of his
474 or her breath as required by s. 316.1932(1)(a)1.a., he or she
475 must install, at his or her own expense, an ignition interlock

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476 device on all vehicles individually or jointly leased or owned
477 and routinely operated by the person for 1 continuous year for a
478 first refusal or for 18 continuous months for a second or
479 subsequent refusal upon reinstatement of a permanent or
480 restricted driver license.

481 Section 6. This act shall take effect October 1, 2023.