



306058

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2023	.	
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The Committee on Transportation (DiCeglie) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 252

and insert:

or her breath will, for a first refusal, result in the suspension of the person's privilege to operate a motor vehicle for ~~a period of 1 year~~ and mandatory continuous placement for 1 year, at the person's expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 on all vehicles individually or jointly leased or owned and routinely



11 operated by the person as provided in s. 316.1939(1). ~~for a~~  
12 ~~first refusal, or for a period of 18 months~~ If the driving  
13 privilege of such person has been previously suspended or if he  
14 or she has previously been fined under s. 327.35215 as a result  
15 of a refusal to submit to a test or tests required under this  
16 chapter or chapter 327, the person must be told that his or her  
17 failure to submit to any lawful test of his or her breath will  
18 result in the suspension of the person's privilege to operate a  
19 motor vehicle for 18 months and mandatory continuous placement  
20 for 18 months, at the person's expense, of an ignition interlock  
21 device approved by the department in accordance with s. 316.1938  
22 on all vehicles that are individually or jointly leased or owned  
23 and routinely operated by the person as provided in s.  
24 316.1939(1). The person must ~~and shall~~ also be told that if he  
25 or she refuses to submit to a lawful test of his or her breath  
26 and his or her driving privilege has been previously suspended  
27 or if he or she has previously been fined under s. 327.35215 for  
28 a prior refusal to submit to a lawful test of his or her breath,  
29 urine, or blood as required under this chapter or chapter 327,  
30 he or she commits a misdemeanor of the first degree, punishable  
31 as provided in s. 775.082 or s. 775.083, in addition to any  
32 other penalties provided by law. The refusal to submit to a  
33 chemical or physical breath test upon the request of a law  
34 enforcement officer as provided in this section is admissible  
35 into evidence in any criminal proceeding.

36 b. A person who accepts the privilege extended by the laws  
37 of this state of operating a motor vehicle within this state is,  
38 by operating such vehicle, deemed to have given his or her  
39 consent to submit to a urine test for the purpose of detecting



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40 the presence of chemical substances as set forth in s. 877.111  
41 or controlled substances if the person is lawfully arrested for  
42 any offense allegedly committed while the person was driving or  
43 was in actual physical control of a motor vehicle while under  
44 the influence of chemical substances or controlled substances.  
45 The urine test must be incidental to a lawful arrest and  
46 administered at a detention facility or any other facility,  
47 mobile or otherwise, which is equipped to administer such tests  
48 at the request of a law enforcement officer who has reasonable  
49 cause to believe such person was driving or was in actual  
50 physical control of a motor vehicle within this state while  
51 under the influence of chemical substances or controlled  
52 substances. The urine test must ~~shall~~ be administered at a  
53 detention facility or any other facility, mobile or otherwise,  
54 which is equipped to administer such test in a reasonable manner  
55 that will ensure the accuracy of the specimen and maintain the  
56 privacy of the individual involved. The administration of a  
57 urine test does not preclude the administration of another type  
58 of test. The person must ~~shall~~ be told that his or her failure  
59 to submit to any lawful test of his or her urine will result in  
60 the suspension of the person's privilege to operate a motor  
61 vehicle for ~~a period of~~ 1 year for the first refusal, or for ~~a~~  
62 ~~period of~~ 18 months if the driving privilege of such person has  
63 been previously suspended or if he or she has previously been  
64 fined under s. 327.35215 as a result of a refusal to submit to a  
65 test or tests required under this chapter or chapter 327, and  
66 must ~~shall~~ also be told that if he or she refuses to submit to a  
67 lawful test of his or her urine and his or her driving privilege  
68 has been previously suspended or if he or she has previously



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69 been fined under s. 327.35215 for a prior refusal to submit to a  
70 lawful test of his or her breath, urine, or blood as required  
71 under this chapter or chapter 327, he or she commits a  
72 misdemeanor of the first degree, punishable as provided in s.  
73 775.082 or s. 775.083, in addition to any other penalties  
74 provided by law. The refusal to submit to a urine test upon the  
75 request of a law enforcement officer as provided in this section  
76 is admissible into evidence in any criminal proceeding.

77       2. The Alcohol Testing Program within the Department of Law  
78 Enforcement is responsible for the regulation of the operation,  
79 inspection, and registration of breath test instruments used  
80 ~~utilized~~ under the driving and boating under the influence  
81 provisions and related provisions located in this chapter and  
82 chapters 322 and 327. The program is responsible for the  
83 regulation of the individuals who operate, inspect, and instruct  
84 on the breath test instruments used ~~utilized~~ in the driving and  
85 boating under the influence provisions and related provisions  
86 located in this chapter and chapters 322 and 327. The program is  
87 further responsible for the regulation of blood analysts who  
88 conduct blood testing to be used ~~utilized~~ under the driving and  
89 boating under the influence provisions and related provisions  
90 located in this chapter and chapters 322 and 327. The program  
91 must ~~shall~~:

92       a. Establish uniform criteria for the issuance of permits  
93 to breath test operators, agency inspectors, instructors, blood  
94 analysts, and instruments.

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

97       c. Have the authority to discipline and suspend, revoke, or



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98 renew the permits of breath test operators, agency inspectors,  
99 instructors, blood analysts, and instruments.

100 d. Establish uniform requirements for instruction and  
101 curricula for the operation and inspection of approved  
102 instruments.

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

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

107 g. Have the authority to approve or disapprove breath test  
108 instruments and accompanying paraphernalia for use pursuant to  
109 the driving and boating under the influence provisions and  
110 related provisions located in this chapter and chapters 322 and  
111 327.

112 h. With the approval of the executive director of the  
113 Department of Law Enforcement, make and enter into contracts and  
114 agreements with other agencies, organizations, associations,  
115 corporations, individuals, or federal agencies as are necessary,  
116 expedient, or incidental to the performance of duties.

117 i. Issue final orders that ~~which~~ include findings of fact  
118 and conclusions of law and that ~~which~~ constitute final agency  
119 action for the purpose of chapter 120.

120 j. Enforce compliance with this section through civil or  
121 administrative proceedings.

122 k. Make recommendations concerning any matter within the  
123 purview of this section, this chapter, chapter 322, or chapter  
124 327.

125 l. Adopt ~~Promulgate~~ rules for the administration and  
126 implementation of this section, including definitions of terms.



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127 m. Consult and cooperate with other entities for the  
128 purpose of implementing ~~the mandates of~~ this section.

129 n. Have the authority to approve the type of blood test  
130 used ~~utilized~~ under the driving and boating under the influence  
131 provisions and related provisions located in this chapter and  
132 chapters 322 and 327.

133 o. Have the authority to specify techniques and methods for  
134 breath alcohol testing and blood testing used ~~utilized~~ under the  
135 driving and boating under the influence provisions and related  
136 provisions located in this chapter and chapters 322 and 327.

137 p. Have the authority to approve repair facilities for the  
138 approved breath test instruments, including the authority to set  
139 criteria for approval.

140  
141 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
142 provisions in this chapter and chapters 322 and 327. The  
143 specifications in this section are derived from the power and  
144 authority previously and currently possessed by the Department  
145 of Law Enforcement and are enumerated to conform with the  
146 mandates of chapter 99-379, Laws of Florida.

147 Section 2. Section 316.1939, Florida Statutes, is amended  
148 to read:

149 316.1939 Refusal to submit to testing; penalties.—

150 (1) If a person has refused to submit to a lawful test of  
151 his or her breath as required under s. 316.1932(1)(a)1.a., he or  
152 she must install, at his or her expense, an ignition interlock  
153 device on all vehicles individually or jointly leased or owned  
154 and routinely operated by him or her for 1 continuous year for a  
155 first refusal or 18 continuous months for a second or subsequent



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156 refusal as provided in s. 322.2615(1) (a).

157       (2) A person who has refused to submit to a chemical or  
158 physical test of his or her breath or urine, as described in s.  
159 316.1932, and whose driving privilege was previously suspended  
160 or who was previously fined under s. 327.35215 for a prior  
161 refusal to submit to a lawful test of his or her breath, urine,  
162 or blood required under this chapter or chapter 327, and:

163           (a) Who the arresting law enforcement officer had probable  
164 cause to believe was driving or in actual physical control of a  
165 motor vehicle in this state while under the influence of  
166 alcoholic beverages, chemical substances, or controlled  
167 substances;

168           (b) Who was placed under lawful arrest for a violation of  
169 s. 316.193 unless such test was requested pursuant to s.  
170 316.1932(1) (c);

171           (c) Who was informed that:7

172           1. If he or she refused to submit to a lawful test of his  
173 or her breath, his or her privilege to operate a motor vehicle  
174 would be suspended for 1 year for a first refusal or 18 months  
175 for a second or subsequent refusal, and that he or she would be  
176 subject to mandatory continuous placement of an ignition  
177 interlock device for 1 year for a first refusal or 18 months for  
178 a second or subsequent refusal, at his or her expense, on all  
179 vehicles that he or she individually or jointly leases or owns  
180 and routinely operates; or

181           2. If he or she refused to submit to a lawful ~~such~~ test of  
182 his or her urine, his or her privilege to operate a motor  
183 vehicle would be suspended for ~~a period of~~ 1 year for a first  
184 refusal or, ~~in the case of a second or subsequent refusal, for a~~



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185 ~~period of~~ 18 months for a second or subsequent refusal;

186 (d) Who was informed that a refusal to submit to a lawful  
187 test of his or her breath or urine, if his or her driving  
188 privilege has been previously suspended or if he or she has  
189 previously been fined under s. 327.35215 for a prior refusal to  
190 submit to a lawful test of his or her breath, urine, or blood as  
191 required under this chapter or chapter 327, is a misdemeanor of  
192 the first degree, punishable as provided in s. 775.082 or s.  
193 775.083, in addition to any other penalties provided by law; and

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

197  
198 commits a misdemeanor of the first degree and is subject to  
199 punishment as provided in s. 775.082 or s. 775.083.

200 (3)~~(2)~~ The disposition of any administrative proceeding  
201 that relates to the suspension of a person's driving privilege  
202 does not affect a criminal action under this section.

203 (4)~~(3)~~ The disposition of a criminal action under this  
204 section does not affect any administrative proceeding that  
205 relates to the suspension of a person's driving privilege. The  
206 department's records showing that a person's license has been  
207 previously suspended for a prior refusal to submit to a lawful  
208 test of his or her breath, urine, or blood is ~~shall be~~  
209 admissible and creates ~~shall create~~ a rebuttable presumption of  
210 such suspension.

211 Section 3. Paragraph (a) of subsection (10) of section  
212 322.2615 is amended, to read:

213 322.2615 Suspension of license; right to review.-





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214 (10) A person whose driver license is suspended under  
215 subsection (1) or subsection (3) may apply for issuance of a  
216 license for business or employment purposes only if the person  
217 is otherwise eligible for the driving privilege pursuant to s.  
218 322.271.

219 (a) If the suspension of the driver license of the person  
220 for failure to submit to a breath, urine, or blood test is  
221 sustained, the person is not eligible to receive a license for  
222 business or employment purposes only, pursuant to s. 322.271,  
223 until 30 ~~90~~ days have elapsed after the expiration of the last  
224 temporary permit issued. If the driver is not issued a 10-day  
225 permit pursuant to this section or s. 322.64 because he or she  
226 is ineligible for the permit and the suspension for failure to  
227 submit to a breath, urine, or blood test is not invalidated by  
228 the department, the driver is not eligible to receive a business  
229 or employment license pursuant to s. 322.271 until 30 ~~90~~ days  
230 have elapsed from the date of the suspension.

231 Section 4. Present subsections (4) and (5) of section  
232 322.2715, Florida Statutes, are redesignated as subsections (5)  
233 and (6), respectively, and a new subsection (4) is added to that  
234 section, to read:

235 322.2715 Ignition interlock device.—

236 (4) If a driver refuses to take a lawful test of his or her  
237 breath as required by s. 316.1932, he or she must install an  
238 ignition interlock device on all vehicles individually or  
239 jointly leased or owned and routinely operated by him or her for  
240 1 continuous year for a first refusal or for 18 continuous  
241 months for a second or subsequent refusal upon reinstatement of  
242 a permanent or restricted license.



243           Section 4. This act shall take effect January 1, 2024.

244

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

246 And the title is amended as follows:

247           Delete lines 15 - 16

248 and insert:

249           provision to changes made by the act; amending s.  
250           322.2615, F.S.; decreasing the timeframe during which  
251           a person whose license is suspended for failure to  
252           submit to a breath, urine, or blood test is not  
253           eligible to receive a license for business or  
254           employment purposes only; amending s. 322.2715, F.S.;  
255           requiring a driver who refuses to take a lawful test  
256           of his or her breath to install an ignition interlock  
257           device, upon a reinstatement of certain licenses and  
258           for a specified time, on vehicles he or she leases or  
259           owns and routinely operates; providing an effective  
260           date.