



724064

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
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The Committee on Criminal Justice (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and 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. A person who accepts the privilege extended by
the laws of this state of operating a motor vehicle within this



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11 state is, by operating such vehicle, deemed to have given his or
12 her consent to submit to an approved chemical test or physical
13 test including, but not limited to, an infrared light test of
14 his or her breath for the purpose of determining the alcoholic
15 content of his or her blood or breath if the person is lawfully
16 arrested for any offense allegedly committed while the person
17 was driving or was in actual physical control of a motor vehicle
18 while under the influence of alcoholic beverages. The chemical
19 or physical breath test must be incidental to a lawful arrest
20 and administered at the request of a law enforcement officer who
21 has reasonable cause to believe such person was driving or was
22 in actual physical control of the motor vehicle within this
23 state while under the influence of alcoholic beverages. The
24 administration of a breath test does not preclude the
25 administration of another type of test. The person must ~~shall~~ be
26 told that his or her failure to submit to any lawful test of his
27 or her breath will, for a first refusal, result in the
28 suspension of the person's privilege to operate a motor vehicle
29 ~~for a period of 1 year,~~ and the person will be subject to
30 mandatory placement for 1 continuous year, at the person's own
31 expense, of an ignition interlock device on all vehicles that
32 are individually or jointly leased or owned and routinely
33 operated by the person when the person qualifies for
34 reinstatement of a permanent or restricted driver license. ~~for a~~
35 ~~first refusal, or for a period of 18 months~~ If the driving
36 privilege of such person has been previously suspended or if he
37 or she has previously been fined under s. 327.35215 as a result
38 of a refusal to submit to a test or tests required under this
39 chapter or chapter 327, the person must be told that his or her



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40 failure to submit to any lawful test of his or her breath will
41 result in the suspension of the person's privilege to operate a
42 motor vehicle for 18 months. The person must ~~and shall~~ also be
43 told that if he or she refuses to submit to a lawful test of his
44 or her breath and his or her driving privilege has been
45 previously suspended or if he or she has previously been fined
46 under s. 327.35215 for a prior refusal to submit to a lawful
47 test of his or her breath, urine, or blood as required under
48 this chapter or chapter 327, he or she commits a misdemeanor of
49 the first degree, punishable as provided in s. 775.082 or s.
50 775.083, in addition to any other penalties provided by law. The
51 refusal to submit to a chemical or physical breath test upon the
52 request of a law enforcement officer as provided in this section
53 is admissible into evidence in any criminal proceeding.

54 b. A person who accepts the privilege extended by the laws
55 of this state of operating a motor vehicle within this state is,
56 by operating such vehicle, deemed to have given his or her
57 consent to submit to a urine test for the purpose of detecting
58 the presence of chemical substances as set forth in s. 877.111
59 or controlled substances if the person is lawfully arrested for
60 any offense allegedly committed while the person was driving or
61 was in actual physical control of a motor vehicle while under
62 the influence of chemical substances or controlled substances.
63 The urine test must be incidental to a lawful arrest and
64 administered at a detention facility or any other facility,
65 mobile or otherwise, which is equipped to administer such tests
66 at the request of a law enforcement officer who has reasonable
67 cause to believe such person was driving or was in actual
68 physical control of a motor vehicle within this state while



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69 under the influence of chemical substances or controlled
70 substances. The urine test must ~~shall~~ be administered at a
71 detention facility or any other facility, mobile or otherwise,
72 which is equipped to administer such test in a reasonable manner
73 that will ensure the accuracy of the specimen and maintain the
74 privacy of the individual involved. The administration of a
75 urine test does not preclude the administration of another type
76 of test. The person must ~~shall~~ be told that his or her failure
77 to submit to any lawful test of his or her urine will result in
78 the suspension of the person's privilege to operate a motor
79 vehicle for ~~a period of~~ 1 year for the first refusal, or for a
80 ~~period of~~ 18 months if the driving privilege of such person has
81 been previously suspended or if he or she has previously been
82 fined under s. 327.35215 as a result of a refusal to submit to a
83 test or tests required under this chapter or chapter 327, and
84 must ~~shall~~ also be told that if he or she refuses to submit to a
85 lawful test of his or her urine and his or her driving privilege
86 has been previously suspended or if he or she has previously
87 been fined under s. 327.35215 for a prior refusal to submit to a
88 lawful test of his or her breath, urine, or blood as required
89 under this chapter or chapter 327, he or she commits a
90 misdemeanor of the first degree, punishable as provided in s.
91 775.082 or s. 775.083, in addition to any other penalties
92 provided by law. The refusal to submit to a urine test upon the
93 request of a law enforcement officer as provided in this section
94 is admissible into evidence in any criminal proceeding.

95 2. The Alcohol Testing Program within the Department of Law
96 Enforcement is responsible for the regulation of the operation,
97 inspection, and registration of breath test instruments used



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98 ~~utilized~~ under the driving and boating under the influence
99 provisions and related provisions located in this chapter and
100 chapters 322 and 327. The program is responsible for the
101 regulation of the individuals who operate, inspect, and instruct
102 on the breath test instruments used ~~utilized~~ in the driving and
103 boating under the influence provisions and related provisions
104 located in this chapter and chapters 322 and 327. The program is
105 further responsible for the regulation of blood analysts who
106 conduct blood testing to be used ~~utilized~~ under the driving and
107 boating under the influence provisions and related provisions
108 located in this chapter and chapters 322 and 327. The program
109 must ~~shall~~:

110 a. Establish uniform criteria for the issuance of permits
111 to breath test operators, agency inspectors, instructors, blood
112 analysts, and instruments.

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

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

118 d. Establish uniform requirements for instruction and
119 curricula for the operation and inspection of approved
120 instruments.

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

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

125 g. Have the authority to approve or disapprove breath test
126 instruments and accompanying paraphernalia for use pursuant to



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127 the driving and boating under the influence provisions and
128 related provisions located in this chapter and chapters 322 and
129 327.

130 h. With the approval of the executive director of the
131 Department of Law Enforcement, make and enter into contracts and
132 agreements with other agencies, organizations, associations,
133 corporations, individuals, or federal agencies as are necessary,
134 expedient, or incidental to the performance of duties.

135 i. Issue final orders that ~~which~~ include findings of fact
136 and conclusions of law and that ~~which~~ constitute final agency
137 action for the purpose of chapter 120.

138 j. Enforce compliance with this section through civil or
139 administrative proceedings.

140 k. Make recommendations concerning any matter within the
141 purview of this section, this chapter, chapter 322, or chapter
142 327.

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

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

147 n. Have the authority to approve the type of blood test
148 used ~~utilized~~ under the driving and boating under the influence
149 provisions and related provisions located in this chapter and
150 chapters 322 and 327.

151 o. Have the authority to specify techniques and methods for
152 breath alcohol testing and blood testing used ~~utilized~~ under the
153 driving and boating under the influence provisions and related
154 provisions located in this chapter and chapters 322 and 327.

155 p. Have the authority to approve repair facilities for the



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156 approved breath test instruments, including the authority to set
157 criteria for approval.

158
159 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede
160 provisions in this chapter and chapters 322 and 327. The
161 specifications in this section are derived from the power and
162 authority previously and currently possessed by the Department
163 of Law Enforcement and are enumerated to conform with the
164 mandates of chapter 99-379, Laws of Florida.

165 Section 2. Section 316.1939, Florida Statutes, is amended
166 to read:

167 316.1939 Refusal to submit to testing; penalties.—

168 (1) (a) A person who refuses to submit to a lawful test of
169 his or her breath as required under s. 316.1932(1)(a)1.a. is
170 subject to mandatory placement, at the person's own expense, of
171 an ignition interlock device approved by the department in the
172 same manner as devices approved by the department in accordance
173 with s. 316.1938 on all vehicles individually or jointly leased
174 or owned and routinely operated by the person for 1 continuous
175 year for a first refusal when the person qualifies for
176 reinstatement of a permanent or restricted driver license. This
177 subsection applies in addition to any other penalties authorized
178 by this section. The ignition interlock device placement period
179 required by this subsection may run concurrently with any other
180 ignition interlock device placement period required by a court
181 or the department.

182 (b) Proof of installation of an ignition interlock device
183 required by this subsection must be sent to the department, and
184 verification of the operation of the device in the person's



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185 vehicle must be periodically reported to the department.

186 (c) The prohibitions and penalties provided in s.
187 316.1937(5), (6), and (8) apply to a person whose driving
188 privilege is restricted pursuant to this subsection and to an
189 ignition interlock device required by this subsection.

190 (2)~~(1)~~ A person who has refused to submit to a chemical or
191 physical test of his or her breath or urine, as described in s.
192 316.1932, and whose driving privilege was previously suspended
193 or who was previously fined under s. 327.35215 for a prior
194 refusal to submit to a lawful test of his or her breath, urine,
195 or blood required under this chapter or chapter 327, and:

196 (a) Who the arresting law enforcement officer had probable
197 cause to believe was driving or in actual physical control of a
198 motor vehicle in this state while under the influence of
199 alcoholic beverages, chemical substances, or controlled
200 substances;

201 (b) Who was placed under lawful arrest for a violation of
202 s. 316.193 unless such test was requested pursuant to s.
203 316.1932(1)(c);

204 (c) Who was informed that:7

205 1. If he or she refused to submit to a lawful test of his
206 or her breath, his or her privilege to operate a motor vehicle
207 would be suspended for 1 year for a first refusal and that he or
208 she would be subject to mandatory placement, at his or her own
209 expense, of an ignition interlock device approved by the
210 department in the same manner as devices approved by the
211 department in accordance with s. 316.1938 for 1 continuous year
212 for a first refusal on all vehicles that he or she individually
213 or jointly leases or owns and routinely operates when he or she



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214 qualifies for reinstatement of a permanent or restricted driver
215 license; or

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

221 (d) Who was informed that a refusal to submit to a lawful
222 test of his or her breath or urine, if his or her driving
223 privilege has been previously suspended or if he or she has
224 previously been fined under s. 327.35215 for a prior refusal to
225 submit to a lawful test of his or her breath, urine, or blood as
226 required under this chapter or chapter 327, is a misdemeanor of
227 the first degree, punishable as provided in s. 775.082 or s.
228 775.083, in addition to any other penalties provided by law; and

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

232
233 commits a misdemeanor of the first degree and is subject to
234 punishment as provided in s. 775.082 or s. 775.083.

235 ~~(3)~~ (2) The disposition of any administrative proceeding
236 that relates to the suspension of a person's driving privilege
237 does not affect a criminal action under subsection (2) ~~this~~
238 ~~section.~~

239 ~~(4)~~ (3) The disposition of a criminal action under
240 subsection (2) ~~this section~~ does not affect any administrative
241 proceeding that relates to the suspension of a person's driving
242 privilege. The department's records showing that a person's



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243 license has been previously suspended for a prior refusal to
244 submit to a lawful test of his or her breath, urine, or blood is
245 ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable
246 presumption of such suspension.

247 Section 3. Present subsections (12) through (16) of section
248 322.2615, Florida Statutes, are redesignated as subsections (13)
249 through (17), respectively, subsection (1) of that section is
250 amended, and a new subsection (12) is added to that section, to
251 read:

252 322.2615 Suspension of license; right to review.—

253 (1) (a) A law enforcement officer or correctional officer
254 shall, on behalf of the department, suspend the driving
255 privilege of a person who is driving or in actual physical
256 control of a motor vehicle and who has an unlawful blood-alcohol
257 level or breath-alcohol level of 0.08 or higher, or of a person
258 who has refused to submit to a urine test or a test of his or
259 her breath-alcohol or blood-alcohol level. The officer shall
260 take the person's driver license and issue the person a 10-day
261 temporary permit if the person is otherwise eligible for the
262 driving privilege and shall issue the person a notice of
263 suspension. If a blood test has been administered, the officer
264 or the agency employing the officer shall transmit such results
265 to the department within 5 days after receipt of the results. If
266 the department then determines that the person had a blood-
267 alcohol level or breath-alcohol level of 0.08 or higher, the
268 department shall suspend the person's driver license pursuant to
269 subsection (3).

270 (b) The suspension under paragraph (a) shall be pursuant
271 to, and the notice of suspension shall inform the driver of, the



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272 following:

273 1.a. The driver refused to submit to a lawful breath,
274 ~~blood, or urine~~ test and his or her driving privilege is
275 suspended for ~~a period of~~ 1 year for a first refusal or for a
276 ~~period of~~ 18 months if his or her driving privilege has been
277 previously suspended as a result of a refusal to submit to such
278 a test, and he or she is subject to mandatory placement, at his
279 or her own expense, of an ignition interlock device approved by
280 the department in the same manner as devices approved by the
281 department in accordance with s. 316.1938 for 1 continuous year
282 for a first refusal on all vehicles that he or she individually
283 or jointly leases or owns and routinely operates when he or she
284 qualifies for reinstatement of a permanent or restricted driver
285 license;

286 b. The driver refused to submit to a lawful blood or urine
287 test and his or her driving privilege is suspended for 1 year
288 for a first refusal or for 18 months if his or her driving
289 privilege has been previously suspended as a result of a refusal
290 to submit to such a test; or

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

297 2. The suspension period shall commence on the date of
298 issuance of the notice of suspension.

299 3. The driver may request a formal or informal review of
300 the suspension by the department within 10 days after the date



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301 of issuance of the notice of suspension or may request a review
302 of eligibility for a restricted driving privilege under s.
303 322.271(7).

304 4. The temporary permit issued at the time of suspension
305 expires at midnight of the 10th day following the date of
306 issuance of the notice of suspension.

307 5. The driver may submit to the department any materials
308 relevant to the suspension.

309 (12) If a person whose driver license is suspended for
310 refusal to submit to a lawful breath test has such suspension
311 invalidated for any reason under this section, the requirement
312 that he or she install an ignition interlock device for refusal
313 to submit to a lawful test of his or her breath under s.
314 316.1939(1) is waived.

315 Section 4. Present subsections (13) through (19) of section
316 322.2616, Florida Statutes, are redesignated as subsections (14)
317 through (20), respectively, subsection (2) of that section is
318 amended, and a new subsection (13) is added to that section, to
319 read:

320 322.2616 Suspension of license; persons under 21 years of
321 age; right to review.—

322 (2) (a) A law enforcement officer or correctional officer
323 shall, on behalf of the department, suspend the driving
324 privilege of such person if the person has a blood-alcohol or
325 breath-alcohol level of 0.02 or higher. The officer shall also
326 suspend, on behalf of the department, the driving privilege of a
327 person who has refused to submit to a test as provided by
328 paragraph (b). The officer shall take the person's driver
329 license and issue the person a 10-day temporary driving permit



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330 if the person is otherwise eligible for the driving privilege
331 and shall issue the person a notice of suspension.

332 (b) The suspension under paragraph (a) must be pursuant to,
333 and the notice of suspension must inform the driver of, the
334 following:

335 1.a. The driver refused to submit to a lawful breath test
336 and his or her driving privilege is suspended for ~~a period of 1~~
337 ~~year for a first refusal or for a period of 18 months if his or~~
338 ~~her driving privilege has been previously suspended as provided~~
339 ~~in this section as a result of a refusal to submit to a test,~~
340 ~~and he or she is subject to mandatory placement, at his or her~~
341 own expense, of an ignition interlock device approved by the
342 department in the same manner as devices approved by the
343 department in accordance with s. 316.1938 for 1 continuous year
344 for a first refusal on all vehicles that he or she individually
345 or jointly leases or owns and routinely operates when he or she
346 qualifies for reinstatement of a permanent or restricted driver
347 license; or

348 b. The driver was under the age of 21 and was driving or in
349 actual physical control of a motor vehicle while having a blood-
350 alcohol or breath-alcohol level of 0.02 or higher; and the
351 person's driving privilege is suspended for ~~a period of 6 months~~
352 ~~for a first violation, or for a period of 1 year if his or her~~
353 ~~driving privilege has been previously suspended as provided in~~
354 ~~this section for driving or being in actual physical control of~~
355 ~~a motor vehicle with a blood-alcohol or breath-alcohol level of~~
356 ~~0.02 or higher.~~

357 2. The suspension period commences on the date of issuance
358 of the notice of suspension.



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359 3. The driver may request a formal or informal review of
360 the suspension by the department within 10 days after the
361 issuance of the notice of suspension.

362 4. A temporary permit issued at the time of the issuance of
363 the notice of suspension shall not become effective until after
364 12 hours have elapsed and will expire at midnight of the 10th
365 day following the date of issuance.

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

368 (c) When a driver subject to this section has a blood-
369 alcohol or breath-alcohol level of 0.05 or higher, the
370 suspension shall remain in effect until such time as the driver
371 has completed a substance abuse course offered by a DUI program
372 licensed by the department. The driver shall assume the
373 reasonable costs for the substance abuse course. As part of the
374 substance abuse course, the program shall conduct a substance
375 abuse evaluation of the driver, and notify the parents or legal
376 guardians of drivers under the age of 19 years of the results of
377 the evaluation. The term "substance abuse" means the abuse of
378 alcohol or any substance named or described in Schedules I
379 through V of s. 893.03. If a driver fails to complete the
380 substance abuse education course and evaluation, the driver
381 license shall not be reinstated by the department.

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



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388 (13) If a person whose driver license is suspended for
389 refusal to submit to a lawful breath test has such suspension
390 invalidated for any reason under this section, the requirement
391 that he or she install an ignition interlock device for refusal
392 to submit to a lawful test of his or her breath under s.
393 316.1939(1) is waived.

394 Section 5. Present subsection (5) of section 322.2715,
395 Florida Statutes, is redesignated as subsection (6), subsection
396 (1) of that section is amended, and a new subsection (5) is
397 added to that section, to read:

398 322.2715 Ignition interlock device.—

399 (1) Before issuing a permanent or restricted driver license
400 under this chapter, the department shall require the placement
401 of a department-approved ignition interlock device for any
402 person convicted of committing an offense of driving under the
403 influence as specified in subsection (3), or for any person who
404 refused to submit to a lawful test of his or her breath as
405 specified in subsection (5), except that consideration may be
406 given to those individuals having a documented medical condition
407 that would prohibit the device from functioning normally. If a
408 medical waiver has been granted for a ~~convicted~~ person seeking a
409 restricted license, the ~~convicted~~ person shall not be entitled
410 to a restricted license until the required ignition interlock
411 device installation period under subsection (3) or subsection
412 (5) expires, in addition to the time requirements under s.
413 322.271. If a medical waiver has been approved for a ~~convicted~~
414 person seeking permanent reinstatement of the driver license,
415 the ~~convicted~~ person must be restricted to an employment-
416 purposes-only license and be supervised by a licensed DUI



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417 program until the required ignition interlock device
418 installation period under subsection (3) or subsection (5)
419 expires. An interlock device shall be placed on all vehicles
420 that are individually or jointly leased or owned and routinely
421 operated by the ~~convicted~~ person.

422 (5) If a person refused to submit to a lawful test of his
423 or her breath as required by s. 316.1932(1)(a)1.a., he or she
424 must install, at his or her own expense, an ignition interlock
425 device on all vehicles individually or jointly leased or owned
426 and routinely operated by the person for 1 continuous year for a
427 first refusal upon reinstatement of a permanent or restricted
428 driver license.

429 Section 6. This act shall take effect October 1, 2024.

430
431 ===== T I T L E A M E N D M E N T =====

432 And the title is amended as follows:

433 Delete everything before the enacting clause
434 and insert:

435 A bill to be entitled
436 An act relating to refusal to submit to a breath,
437 urine, or blood test; amending s. 316.1932, F.S.;
438 requiring a person arrested for driving under the
439 influence who refuses to submit to a lawful test of
440 his or her breath to be told that he or she is subject
441 to mandatory placement, for a specified period, of an
442 ignition interlock device on all vehicles that are
443 individually or jointly leased or owned and routinely
444 operated by the person; amending s. 316.1939, F.S.;
445 requiring a person arrested for driving under the



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446 influence who refuses to submit to a lawful test of
447 his or her breath to be subject to mandatory
448 placement, for a specified period, of an ignition
449 interlock device on all vehicles that are individually
450 or jointly leased or owned and routinely operated by
451 the person; authorizing certain placement periods for
452 ignition interlock devices to run concurrently;
453 requiring reporting to the Department of Highway
454 Safety and Motor Vehicles; specifying application of
455 prohibitions and penalties; conforming provisions to
456 changes made by the act; amending s. 322.2615, F.S.;
457 requiring certain information to be contained in a
458 notice of suspension; waiving the requirement to
459 install an ignition interlock device under certain
460 circumstances; amending s. 322.2616, F.S.; requiring
461 certain information to be contained in a notice of
462 suspension; waiving the requirement to install an
463 ignition interlock device under certain circumstances;
464 amending s. 322.2715, F.S.; directing the department
465 to require placement of an ignition interlock device
466 before issuing a permanent or restricted driver
467 license to a person who refused to submit to a lawful
468 test of his or her breath; requiring the person to
469 install the device at his or her own expense for a
470 specified period; providing an effective date.