

By the Committee on Criminal Justice; and Senators DiCeglie and Hooper

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1 A bill to be entitled
2 An act relating to refusal to submit to a breath,
3 urine, or blood test; amending s. 316.1932, F.S.;
4 requiring that a person arrested for driving or being
5 in actual physical control of a motor vehicle while
6 under the influence who refuses to submit to a lawful
7 test of his or her breath incident to a lawful arrest
8 be told that he or she is subject to mandatory
9 placement, for a specified period, of an ignition
10 interlock device on all vehicles that are individually
11 or jointly leased or owned and routinely operated by
12 the person; amending s. 316.1939, F.S.; requiring a
13 person arrested for driving under the influence who
14 refuses to submit to a lawful test of his or her
15 breath to be subject to mandatory placement, for a
16 specified period, of an ignition interlock device on
17 all vehicles that are individually or jointly leased
18 or owned and routinely operated by the person;
19 authorizing certain placement periods for ignition
20 interlock devices to run concurrently; requiring
21 reporting to the Department of Highway Safety and
22 Motor Vehicles; specifying application of prohibitions
23 and penalties; conforming provisions to changes made
24 by the act; amending s. 322.2615, F.S.; requiring that
25 a notice of suspension contain certain information;
26 waiving the requirement for the installation of an
27 ignition interlock device under certain circumstances;
28 amending s. 322.2616, F.S.; requiring that a notice of
29 suspension issued to persons younger than a specified

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30 age contain certain information; waiving the
31 requirement for the installation of an ignition
32 interlock device under certain circumstances; amending
33 s. 322.2715, F.S.; directing the department to require
34 placement of an ignition interlock device before
35 issuing a permanent or restricted driver license to a
36 person who refused to submit to a lawful test of his
37 or her breath; requiring the person to install the
38 device at his or her own expense for a specified
39 period; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Paragraph (a) of subsection (1) of section
44 316.1932, Florida Statutes, is amended to read:

45 316.1932 Tests for alcohol, chemical substances, or
46 controlled substances; implied consent; refusal.—

47 (1) (a) 1.a. A person who accepts the privilege extended by
48 the laws of this state of operating a motor vehicle within this
49 state is, by operating such vehicle, deemed to have given his or
50 her consent to submit to an approved chemical test or physical
51 test including, but not limited to, an infrared light test of
52 his or her breath for the purpose of determining the alcoholic
53 content of his or her blood or breath if the person is lawfully
54 arrested for any offense allegedly committed while the person
55 was driving or was in actual physical control of a motor vehicle
56 while under the influence of alcoholic beverages. The chemical
57 or physical breath test must be incidental to a lawful arrest
58 and administered at the request of a law enforcement officer who

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59 has reasonable cause to believe such person was driving or was
60 in actual physical control of the motor vehicle within this
61 state while under the influence of alcoholic beverages. The
62 administration of a breath test does not preclude the
63 administration of another type of test. The person must ~~shall~~ be
64 told that his or her failure to submit to any lawful test of his
65 or her breath will, for a first refusal, result in the
66 suspension of the person's privilege to operate a motor vehicle
67 for a period of 1 year, and the person will be subject to
68 mandatory placement for 1 continuous year, at the person's own
69 expense, of an ignition interlock device on all vehicles that
70 are individually or jointly leased or owned and routinely
71 operated by the person when the person qualifies for
72 reinstatement of a permanent or restricted driver license. ~~for a~~
73 ~~first refusal, or for a period of 18 months~~ If the driving
74 privilege of such person has been previously suspended or if he
75 or she has previously been fined under s. 327.35215 as a result
76 of a refusal to submit to a test or tests required under this
77 chapter or chapter 327, the person must be told that his or her
78 failure to submit to any lawful test of his or her breath will
79 result in the suspension of the person's privilege to operate a
80 motor vehicle for 18 months. The person must ~~and shall~~ also be
81 told that if he or she refuses to submit to a lawful test of his
82 or her breath and his or her driving privilege has been
83 previously suspended or if he or she has previously been fined
84 under s. 327.35215 for a prior refusal to submit to a lawful
85 test of his or her breath, urine, or blood as required under
86 this chapter or chapter 327, he or she commits a misdemeanor of
87 the first degree, punishable as provided in s. 775.082 or s.

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88 775.083, in addition to any other penalties provided by law. The
89 refusal to submit to a chemical or physical breath test upon the
90 request of a law enforcement officer as provided in this section
91 is admissible into evidence in any criminal proceeding.

92 b. A person who accepts the privilege extended by the laws
93 of this state of operating a motor vehicle within this state is,
94 by operating such vehicle, deemed to have given his or her
95 consent to submit to a urine test for the purpose of detecting
96 the presence of chemical substances as set forth in s. 877.111
97 or controlled substances if the person is lawfully arrested for
98 any offense allegedly committed while the person was driving or
99 was in actual physical control of a motor vehicle while under
100 the influence of chemical substances or controlled substances.
101 The urine test must be incidental to a lawful arrest and
102 administered at a detention facility or any other facility,
103 mobile or otherwise, which is equipped to administer such tests
104 at the request of a law enforcement officer who has reasonable
105 cause to believe such person was driving or was in actual
106 physical control of a motor vehicle within this state while
107 under the influence of chemical substances or controlled
108 substances. The urine test must ~~shall~~ be administered at a
109 detention facility or any other facility, mobile or otherwise,
110 which is equipped to administer such test in a reasonable manner
111 that will ensure the accuracy of the specimen and maintain the
112 privacy of the individual involved. The administration of a
113 urine test does not preclude the administration of another type
114 of test. The person must ~~shall~~ be told that his or her failure
115 to submit to any lawful test of his or her urine will result in
116 the suspension of the person's privilege to operate a motor

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117 vehicle for ~~a period of~~ 1 year for the first refusal, or for a
118 ~~period of~~ 18 months if the driving privilege of such person has
119 been previously suspended or if he or she has previously been
120 fined under s. 327.35215 as a result of a refusal to submit to a
121 test or tests required under this chapter or chapter 327, and
122 must ~~shall~~ also be told that if he or she refuses to submit to a
123 lawful test of his or her urine and his or her driving privilege
124 has been previously suspended or if he or she has previously
125 been fined under s. 327.35215 for a prior refusal to submit to a
126 lawful test of his or her breath, urine, or blood as required
127 under this chapter or chapter 327, he or she commits a
128 misdemeanor of the first degree, punishable as provided in s.
129 775.082 or s. 775.083, in addition to any other penalties
130 provided by law. The refusal to submit to a urine test upon the
131 request of a law enforcement officer as provided in this section
132 is admissible into evidence in any criminal proceeding.

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

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146 located in this chapter and chapters 322 and 327. The program
147 must ~~shall~~:

148 a. Establish uniform criteria for the issuance of permits
149 to breath test operators, agency inspectors, instructors, blood
150 analysts, and instruments.

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

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

156 d. Establish uniform requirements for instruction and
157 curricula for the operation and inspection of approved
158 instruments.

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

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

163 g. Have the authority to approve or disapprove breath test
164 instruments and accompanying paraphernalia for use pursuant to
165 the driving and boating under the influence provisions and
166 related provisions located in this chapter and chapters 322 and
167 327.

168 h. With the approval of the executive director of the
169 Department of Law Enforcement, make and enter into contracts and
170 agreements with other agencies, organizations, associations,
171 corporations, individuals, or federal agencies as are necessary,
172 expedient, or incidental to the performance of duties.

173 i. Issue final orders that ~~which~~ include findings of fact
174 and conclusions of law and that ~~which~~ constitute final agency

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175 action for the purpose of chapter 120.

176 j. Enforce compliance with this section through civil or
177 administrative proceedings.

178 k. Make recommendations concerning any matter within the
179 purview of this section, this chapter, chapter 322, or chapter
180 327.

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

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

185 n. Have the authority to approve the type of blood test
186 used ~~utilized~~ under the driving and boating under the influence
187 provisions and related provisions located in this chapter and
188 chapters 322 and 327.

189 o. Have the authority to specify techniques and methods for
190 breath alcohol testing and blood testing used ~~utilized~~ under the
191 driving and boating under the influence provisions and related
192 provisions located in this chapter and chapters 322 and 327.

193 p. Have the authority to approve repair facilities for the
194 approved breath test instruments, including the authority to set
195 criteria for approval.

196

197 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede
198 provisions in this chapter and chapters 322 and 327. The
199 specifications in this section are derived from the power and
200 authority previously and currently possessed by the Department
201 of Law Enforcement and are enumerated to conform with the
202 mandates of chapter 99-379, Laws of Florida.

203 Section 2. Section 316.1939, Florida Statutes, is amended

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204 to read:

205 316.1939 Refusal to submit to testing; penalties.—

206 (1) (a) A person who refuses to submit to a lawful test of
207 his or her breath as required under s. 316.1932 (1) (a) 1.a. is
208 subject to mandatory placement, at the person's own expense, of
209 an ignition interlock device approved by the department in the
210 same manner as devices approved by the department in accordance
211 with s. 316.1938 on all vehicles individually or jointly leased
212 or owned and routinely operated by the person for 1 continuous
213 year for a first refusal when the person qualifies for
214 reinstatement of a permanent or restricted driver license. This
215 subsection applies in addition to any other penalties authorized
216 by this section. The ignition interlock device placement period
217 required by this subsection may run concurrently with any other
218 ignition interlock device placement period required by a court
219 or the department.

220 (b) Proof of installation of an ignition interlock device
221 required by this subsection must be sent to the department, and
222 verification of the operation of the device in the person's
223 vehicle must be periodically reported to the department.

224 (c) The prohibitions and penalties provided in s.
225 316.1937(5), (6), and (8) apply to a person whose driving
226 privilege is restricted pursuant to this subsection and to an
227 ignition interlock device required by this subsection.

228 (2) ~~(1)~~ A person who has refused to submit to a chemical or
229 physical test of his or her breath or urine, as described in s.
230 316.1932, and whose driving privilege was previously suspended
231 or who was previously fined under s. 327.35215 for a prior
232 refusal to submit to a lawful test of his or her breath, urine,

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233 or blood required under this chapter or chapter 327, and:

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

239 (b) Who was placed under lawful arrest for a violation of
240 s. 316.193 unless such test was requested pursuant to s.
241 316.1932(1)(c);

242 (c) Who was informed that:7

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

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

259 (d) Who was informed that a refusal to submit to a lawful
260 test of his or her breath or urine, if his or her driving
261 privilege has been previously suspended or if he or she has

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262 previously been fined under s. 327.35215 for a prior refusal to
263 submit to a lawful test of his or her breath, urine, or blood as
264 required under this chapter or chapter 327, is a misdemeanor of
265 the first degree, punishable as provided in s. 775.082 or s.
266 775.083, in addition to any other penalties provided by law; and

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

270

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

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

277 (4)~~(3)~~ The disposition of a criminal action under
278 subsection (2) ~~this section~~ does not affect any administrative
279 proceeding that relates to the suspension of a person's driving
280 privilege. The department's records showing that a person's
281 license has been previously suspended for a prior refusal to
282 submit to a lawful test of his or her breath, urine, or blood is
283 ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable
284 presumption of such suspension.

285 Section 3. Present subsections (12) through (16) of section
286 322.2615, Florida Statutes, are redesignated as subsections (13)
287 through (17), respectively, subsection (1) of that section is
288 amended, and a new subsection (12) is added to that section, to
289 read:

290 322.2615 Suspension of license; right to review.—

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291 (1) (a) A law enforcement officer or correctional officer
292 shall, on behalf of the department, suspend the driving
293 privilege of a person who is driving or in actual physical
294 control of a motor vehicle and who has an unlawful blood-alcohol
295 level or breath-alcohol level of 0.08 or higher, or of a person
296 who has refused to submit to a urine test or a test of his or
297 her breath-alcohol or blood-alcohol level. The officer shall
298 take the person's driver license and issue the person a 10-day
299 temporary permit if the person is otherwise eligible for the
300 driving privilege and shall issue the person a notice of
301 suspension. If a blood test has been administered, the officer
302 or the agency employing the officer shall transmit such results
303 to the department within 5 days after receipt of the results. If
304 the department then determines that the person had a blood-
305 alcohol level or breath-alcohol level of 0.08 or higher, the
306 department shall suspend the person's driver license pursuant to
307 subsection (3).

308 (b) The suspension under paragraph (a) shall be pursuant
309 to, and the notice of suspension shall inform the driver of, the
310 following:

311 1.a. The driver refused to submit to a lawful breath-
312 ~~blood, or urine~~ test and his or her driving privilege is
313 suspended for ~~a period of~~ 1 year for a first refusal or for a
314 ~~period of~~ 18 months if his or her driving privilege has been
315 previously suspended as a result of a refusal to submit to such
316 a test, and he or she is subject to mandatory placement, at his
317 or her own expense, of an ignition interlock device approved by
318 the department in the same manner as devices approved by the
319 department in accordance with s. 316.1938 for 1 continuous year

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320 for a first refusal on all vehicles that he or she individually
321 or jointly leases or owns and routinely operates when he or she
322 qualifies for reinstatement of a permanent or restricted driver
323 license;

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

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

335 2. The suspension period shall commence on the date of
336 issuance of the notice of suspension.

337 3. The driver may request a formal or informal review of
338 the suspension by the department within 10 days after the date
339 of issuance of the notice of suspension or may request a review
340 of eligibility for a restricted driving privilege under s.
341 322.271(7).

342 4. The temporary permit issued at the time of suspension
343 expires at midnight of the 10th day following the date of
344 issuance of the notice of suspension.

345 5. The driver may submit to the department any materials
346 relevant to the suspension.

347 (12) If a person whose driver license is suspended for
348 refusal to submit to a lawful breath test has such suspension

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349 invalidated for any reason under this section, the requirement
350 that he or she install an ignition interlock device for refusal
351 to submit to a lawful test of his or her breath under s.
352 316.1939(1) is waived.

353 Section 4. Present subsections (13) through (19) of section
354 322.2616, Florida Statutes, are redesignated as subsections (14)
355 through (20), respectively, subsection (2) of that section is
356 amended, and a new subsection (13) is added to that section, to
357 read:

358 322.2616 Suspension of license; persons under 21 years of
359 age; right to review.—

360 (2) (a) A law enforcement officer or correctional officer
361 shall, on behalf of the department, suspend the driving
362 privilege of such person if the person has a blood-alcohol or
363 breath-alcohol level of 0.02 or higher. The officer shall also
364 suspend, on behalf of the department, the driving privilege of a
365 person who has refused to submit to a test as provided by
366 paragraph (b). The officer shall take the person's driver
367 license and issue the person a 10-day temporary driving permit
368 if the person is otherwise eligible for the driving privilege
369 and shall issue the person a notice of suspension.

370 (b) The suspension under paragraph (a) must be pursuant to,
371 and the notice of suspension must inform the driver of, the
372 following:

373 1.a. The driver refused to submit to a lawful breath test
374 and his or her driving privilege is suspended for ~~a period of~~ 1
375 year for a first refusal or for ~~a period of~~ 18 months if his or
376 her driving privilege has been previously suspended as provided
377 in this section as a result of a refusal to submit to a test,

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378 and he or she is subject to mandatory placement, at his or her
379 own expense, of an ignition interlock device approved by the
380 department in the same manner as devices approved by the
381 department in accordance with s. 316.1938 for 1 continuous year
382 for a first refusal on all vehicles that he or she individually
383 or jointly leases or owns and routinely operates when he or she
384 qualifies for reinstatement of a permanent or restricted driver
385 license; or

386 b. The driver was under the age of 21 and was driving or in
387 actual physical control of a motor vehicle while having a blood-
388 alcohol or breath-alcohol level of 0.02 or higher; and the
389 person's driving privilege is suspended for ~~a period of~~ 6 months
390 for a first violation, or for ~~a period of~~ 1 year if his or her
391 driving privilege has been previously suspended as provided in
392 this section for driving or being in actual physical control of
393 a motor vehicle with a blood-alcohol or breath-alcohol level of
394 0.02 or higher.

395 2. The suspension period commences on the date of issuance
396 of the notice of suspension.

397 3. The driver may request a formal or informal review of
398 the suspension by the department within 10 days after the
399 issuance of the notice of suspension.

400 4. A temporary permit issued at the time of the issuance of
401 the notice of suspension shall not become effective until after
402 12 hours have elapsed and will expire at midnight of the 10th
403 day following the date of issuance.

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

406 (c) When a driver subject to this section has a blood-

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407 alcohol or breath-alcohol level of 0.05 or higher, the
408 suspension shall remain in effect until such time as the driver
409 has completed a substance abuse course offered by a DUI program
410 licensed by the department. The driver shall assume the
411 reasonable costs for the substance abuse course. As part of the
412 substance abuse course, the program shall conduct a substance
413 abuse evaluation of the driver, and notify the parents or legal
414 guardians of drivers under the age of 19 years of the results of
415 the evaluation. The term "substance abuse" means the abuse of
416 alcohol or any substance named or described in Schedules I
417 through V of s. 893.03. If a driver fails to complete the
418 substance abuse education course and evaluation, the driver
419 license shall not be reinstated by the department.

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

426 (13) If a person whose driver license is suspended for
427 refusal to submit to a lawful breath test has such suspension
428 invalidated for any reason under this section, the requirement
429 that he or she install an ignition interlock device for refusal
430 to submit to a lawful test of his or her breath under s.
431 316.1939(1) is waived.

432 Section 5. Present subsection (5) of section 322.2715,
433 Florida Statutes, is redesignated as subsection (6), subsection
434 (1) of that section is amended, and a new subsection (5) is
435 added to that section, to read:

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436 322.2715 Ignition interlock device.—

437 (1) Before issuing a permanent or restricted driver license

438 under this chapter, the department shall require the placement

439 of a department-approved ignition interlock device for any

440 person convicted of committing an offense of driving under the

441 influence as specified in subsection (3), or for any person who

442 refused to submit to a lawful test of his or her breath as

443 specified in subsection (5), except that consideration may be

444 given to those individuals having a documented medical condition

445 that would prohibit the device from functioning normally. If a

446 medical waiver has been granted for a ~~convicted~~ person seeking a

447 restricted license, the ~~convicted~~ person shall not be entitled

448 to a restricted license until the required ignition interlock

449 device installation period under subsection (3) or subsection

450 (5) expires, in addition to the time requirements under s.

451 322.271. If a medical waiver has been approved for a ~~convicted~~

452 person seeking permanent reinstatement of the driver license,

453 the ~~convicted~~ person must be restricted to an employment-

454 purposes-only license and be supervised by a licensed DUI

455 program until the required ignition interlock device

456 installation period under subsection (3) or subsection (5)

457 expires. An interlock device shall be placed on all vehicles

458 that are individually or jointly leased or owned and routinely

459 operated by the ~~convicted~~ person.

460 (5) If a person refused to submit to a lawful test of his

461 or her breath as required by s. 316.1932(1)(a)1.a., he or she

462 must install, at his or her own expense, an ignition interlock

463 device on all vehicles individually or jointly leased or owned

464 and routinely operated by the person for 1 continuous year for a

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465 first refusal upon reinstatement of a permanent or restricted
466 driver license.

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