

1                                   A bill to be entitled  
2       An act relating to driving under the influence;  
3       amending s. 316.193, F.S.; prohibiting a trial court  
4       judge from accepting specified pleas when a person is  
5       charged with the offense of driving under the  
6       influence unless specified conditions are met;  
7       amending s. 316.1932, F.S.; requiring that a person be  
8       told that his or her failure to submit to a lawful  
9       test of breath or urine is a second degree misdemeanor  
10      or a first degree misdemeanor under certain  
11      circumstances; making technical changes; amending s.  
12      316.1939, F.S.; classifying a person's refusal to  
13      submit to a chemical or physical test of breath or  
14      urine as a second degree misdemeanor or a first degree  
15      misdemeanor under certain circumstances; making  
16      technical changes; creating s. 316.19395, F.S.;  
17      authorizing judicial circuits to create a driving  
18      under the influence diversion program; requiring that  
19      the policies and procedures of the diversion program  
20      be published on the website of the state attorney's  
21      office; requiring each judicial circuit operating such  
22      a diversion program to submit participant information  
23      for persons who successfully complete the program to  
24      the Department of Highway Safety and Motor Vehicles;  
25      requiring the department to notate successful

26 completion on the driving record of such participants;  
 27 providing that a person who successfully completes  
 28 such a diversion program is ineligible for  
 29 participation in such a program in the future;  
 30 amending s. 316.656, F.S.; prohibiting a court from  
 31 suspending, deferring, or withholding adjudication of  
 32 guilt or imposition of sentence for a specified  
 33 violation; providing an effective date.

34

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

36

37 Section 1. Subsection (15) is added to section 316.193,  
 38 Florida Statutes, to read:

39 316.193 Driving under the influence; penalties.—

40 (15) A trial court judge may not accept a plea of guilty  
 41 or no contest to a reduced charge, including a charge of  
 42 reckless driving brought under s. 316.192, from a person charged  
 43 with a violation of subsection (1) unless at least one of the  
 44 following applies:

45 (a) The trial court judge determines that there is a good  
 46 faith basis to believe that a reduction in such charge is  
 47 warranted.

48 (b) The defendant successfully completes a driving under  
 49 the influence diversion program in accordance with s. 316.19395.

50 Section 2. Paragraph (a) of subsection (1) of section

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51 316.1932, Florida Statutes, is amended to read:

52 316.1932 Tests for alcohol, chemical substances, or  
53 controlled substances; implied consent; refusal.—

54 (1)(a)1.a. A person who accepts the privilege extended by  
55 the laws of this state of operating a motor vehicle within this  
56 state is, by operating such vehicle, deemed to have given his or  
57 her consent to submit to an approved chemical test or physical  
58 test including, but not limited to, an infrared light test of  
59 his or her breath for the purpose of determining the alcoholic  
60 content of his or her blood or breath if the person is lawfully  
61 arrested for any offense allegedly committed while the person  
62 was driving or was in actual physical control of a motor vehicle  
63 while under the influence of alcoholic beverages. The chemical  
64 or physical breath test must be incidental to a lawful arrest  
65 and administered at the request of a law enforcement officer who  
66 has reasonable cause to believe such person was driving or was  
67 in actual physical control of the motor vehicle within this  
68 state while under the influence of alcoholic beverages. The  
69 administration of a breath test does not preclude the  
70 administration of another type of test. The person must ~~shall~~ be  
71 told that his or her failure to submit to any lawful test of his  
72 or her breath will result in the suspension of his or her ~~the~~  
73 ~~person's~~ privilege to operate a motor vehicle as provided in s.  
74 322.2615(1)(a) for a period of 1 year for a first refusal, or  
75 for a period of 18 months if the driving privilege of such

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76 | person has been previously suspended or if he or she has  
77 | previously been fined under s. 327.35215 as a result of a  
78 | refusal to submit to a test or tests required under this chapter  
79 | or chapter 327, and must ~~shall~~ also be told that if he or she  
80 | refuses to submit to a lawful test of his or her breath ~~and his~~  
81 | ~~or her driving privilege has been previously suspended or if he~~  
82 | ~~or she has previously been fined under s. 327.35215 for a prior~~  
83 | ~~refusal to submit to a lawful test of his or her breath, urine,~~  
84 | ~~or blood as required under this chapter or chapter 327, he or~~  
85 | she commits a misdemeanor of the second ~~first~~ degree, punishable  
86 | as provided in s. 775.082 or s. 775.083, or a misdemeanor of the  
87 | first degree, punishable as provided in s. 775.082 or s.  
88 | 775.083, if his or her driving privilege has been previously  
89 | suspended or if he or she has previously been fined under s.  
90 | 327.35215 for a prior refusal to submit to a lawful test of his  
91 | or her breath, urine, or blood as required under this chapter or  
92 | chapter 327, in addition to any other penalties provided by law.  
93 | The refusal to submit to a chemical or physical breath test upon  
94 | the request of a law enforcement officer as provided in this  
95 | section is admissible into evidence in any criminal proceeding.

96 |       b. A person who accepts the privilege extended by the laws  
97 | of this state of operating a motor vehicle within this state is,  
98 | by operating such vehicle, deemed to have given his or her  
99 | consent to submit to a urine test for the purpose of detecting  
100 | the presence of chemical substances as set forth in s. 877.111

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101 or controlled substances if the person is lawfully arrested for  
102 any offense allegedly committed while the person was driving or  
103 was in actual physical control of a motor vehicle while under  
104 the influence of chemical substances or controlled substances.  
105 The urine test must be incidental to a lawful arrest and  
106 administered at a detention facility or any other facility,  
107 mobile or otherwise, which is equipped to administer such tests  
108 at the request of a law enforcement officer who has reasonable  
109 cause to believe such person was driving or was in actual  
110 physical control of a motor vehicle within this state while  
111 under the influence of chemical substances or controlled  
112 substances. The urine test must ~~shall~~ be administered at a  
113 detention facility or any other facility, mobile or otherwise,  
114 which is equipped to administer such test in a reasonable manner  
115 that will ensure the accuracy of the specimen and maintain the  
116 privacy of the individual involved. The administration of a  
117 urine test does not preclude the administration of another type  
118 of test. The person must ~~shall~~ be told that his or her failure  
119 to submit to any lawful test of his or her urine will result in  
120 the suspension of his or her ~~the person's~~ privilege to operate a  
121 motor vehicle for a period of 1 year for the first refusal, or  
122 for a period of 18 months if the driving privilege of such  
123 person has been previously suspended or if he or she has  
124 previously been fined under s. 327.35215 as a result of a  
125 refusal to submit to a test or tests required under this chapter

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

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

151 and boating under the influence provisions and related  
152 provisions located in this chapter and chapters 322 and 327. The  
153 program is further responsible for the regulation of blood  
154 analysts who conduct blood testing to be utilized under the  
155 driving and boating under the influence provisions and related  
156 provisions located in this chapter and chapters 322 and 327. The  
157 program shall:

158 a. Establish uniform criteria for the issuance of permits  
159 to breath test operators, agency inspectors, instructors, blood  
160 analysts, and instruments.

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

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

166 d. Establish uniform requirements for instruction and  
167 curricula for the operation and inspection of approved  
168 instruments.

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

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

173 g. Have the authority to approve or disapprove breath test  
174 instruments and accompanying paraphernalia for use pursuant to  
175 the driving and boating under the influence provisions and

176 related provisions located in this chapter and chapters 322 and  
 177 327.

178 h. With the approval of the executive director of the  
 179 Department of Law Enforcement, make and enter into contracts and  
 180 agreements with other agencies, organizations, associations,  
 181 corporations, individuals, or federal agencies as are necessary,  
 182 expedient, or incidental to the performance of duties.

183 i. Issue final orders which include findings of fact and  
 184 conclusions of law and which constitute final agency action for  
 185 the purpose of chapter 120.

186 j. Enforce compliance with this section through civil or  
 187 administrative proceedings.

188 k. Make recommendations concerning any matter within the  
 189 purview of this section, this chapter, chapter 322, or chapter  
 190 327.

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

193 m. Consult and cooperate with other entities for the  
 194 purpose of implementing the mandates of this section.

195 n. Have the authority to approve the type of blood test  
 196 utilized under the driving and boating under the influence  
 197 provisions and related provisions located in this chapter and  
 198 chapters 322 and 327.

199 o. Have the authority to specify techniques and methods  
 200 for breath alcohol testing and blood testing utilized under the



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201 driving and boating under the influence provisions and related  
202 provisions located in this chapter and chapters 322 and 327.

203 p. Have the authority to approve repair facilities for the  
204 approved breath test instruments, including the authority to set  
205 criteria for approval.

206

207 Nothing in this section shall be construed to supersede  
208 provisions in this chapter and chapters 322 and 327. The  
209 specifications in this section are derived from the power and  
210 authority previously and currently possessed by the Department  
211 of Law Enforcement and are enumerated to conform with the  
212 mandates of chapter 99-379, Laws of Florida.

213 Section 3. Section 316.1939, Florida Statutes, is amended  
214 to read:

215 316.1939 Refusal to submit to testing; penalties.—

216 (1) A person who has refused to submit to a chemical or  
217 physical test of his or her breath or urine, as described in s.  
218 316.1932, commits a misdemeanor of the second degree, punishable  
219 as provided in s. 775.082 or s. 775.083, in addition to any  
220 other penalties provided by law, and such person whose driving  
221 privilege was previously suspended or who was previously fined  
222 under s. 327.35215 for a prior refusal to submit to a lawful  
223 test of his or her breath, urine, or blood required under this  
224 chapter or chapter 327 commits a misdemeanor of the first  
225 degree, punishable as provided in s. 775.082 or s. 775.083, in

226 addition to any other penalties provided by law if all of the  
 227 following apply, ~~and:~~

228 (a) ~~Who~~ The arresting law enforcement officer had probable  
 229 cause to believe that the person was driving or in actual  
 230 physical control of a motor vehicle in this state while under  
 231 the influence of alcoholic beverages, chemical substances, or  
 232 controlled substances. ~~.~~

233 (b) The person ~~Who~~ was placed under lawful arrest for a  
 234 violation of s. 316.193, unless such test was requested pursuant  
 235 to s. 316.1932(1)(c). ~~.~~

236 (c) The person ~~Who~~ was informed that, if he or she refused  
 237 to submit to such test, his or her privilege to operate a motor  
 238 vehicle would be suspended for a period of 1 year or, in the  
 239 case of a second or subsequent refusal, for a period of 18  
 240 months. ~~.~~

241 (d) The person, after having been informed as required in  
 242 paragraph (c), still refuses ~~Who was informed that a refusal to~~  
 243 ~~submit to a lawful test of his or her breath or urine as~~  
 244 ~~described in s. 316.1932, if his or her driving privilege has~~  
 245 ~~been previously suspended or if he or she has previously been~~  
 246 ~~finned under s. 327.35215 for a prior refusal to submit to a~~  
 247 ~~lawful test of his or her breath, urine, or blood as required~~  
 248 ~~under this chapter or chapter 327, is a misdemeanor of the first~~  
 249 ~~degree, punishable as provided in s. 775.082 or s. 775.083, in~~  
 250 ~~addition to any other penalties provided by law; and~~

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251 ~~(c) Who, after having been so informed, refused to submit~~  
 252 ~~to any such test when requested to do so by a law enforcement~~  
 253 ~~officer or correctional officer~~

254  
 255 ~~commits a misdemeanor of the first degree and is subject to~~  
 256 ~~punishment as provided in s. 775.082 or s. 775.083.~~

257 (2) The disposition of any administrative proceeding that  
 258 relates to the suspension of a person's driving privilege does  
 259 not affect a criminal action under this section.

260 (3) The disposition of a criminal action under this  
 261 section does not affect any administrative proceeding that  
 262 relates to the suspension of a person's driving privilege. The  
 263 department's records showing that a person's license has been  
 264 previously suspended for a prior refusal to submit to a lawful  
 265 test of his or her breath, urine, or blood are ~~shall be~~  
 266 admissible and create ~~shall create~~ a rebuttable presumption of  
 267 such suspension.

268 Section 4. Section 316.19395, Florida Statutes, is created  
 269 to read:

270 316.19395 Driving under the influence diversion programs.-

271 (1) Any judicial circuit may create a driving under the  
 272 influence diversion program. A judicial circuit that creates  
 273 such a diversion program shall publish the terms and conditions  
 274 of the program on the website of the office of the state  
 275 attorney for that circuit.

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276        (2) Each judicial circuit that offers a diversion program  
 277 under this section shall notify the department of each person  
 278 who successfully completes the program. The department shall  
 279 notate the successful completion of participation in the  
 280 diversion program on the driving record of each such person.

281        (3) A person who successfully completes such a diversion  
 282 program is ineligible for future participation in such a  
 283 program.

284        Section 5. Subsection (1) of section 316.656, Florida  
 285 Statutes, is amended to read:

286        316.656 Mandatory adjudication; prohibition against  
 287 accepting plea to lesser included offense.—

288        (1) Notwithstanding ~~the provisions of~~ s. 948.01, a court  
 289 may not ~~no court may~~ suspend, defer, or withhold adjudication of  
 290 guilt or imposition of sentence for any violation of s. 316.193  
 291 or s. 316.1939, for manslaughter resulting from the operation of  
 292 a motor vehicle, or for vehicular homicide.

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