

By Senator Wright

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1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; prohibiting a person from
4 driving or being in actual physical control of a
5 vehicle while under the influence of any intoxicating
6 substance; amending s. 316.1932, F.S.; requiring that
7 a person be told that his or her failure to submit to
8 a lawful test of breath or urine is a second degree
9 misdemeanor or a first degree misdemeanor under
10 certain circumstances; amending s. 316.1939, F.S.;
11 classifying a person's refusal to submit to a chemical
12 or physical test of breath or urine as a second degree
13 misdemeanor or a first degree misdemeanor under
14 certain circumstances; creating s. 316.19395, F.S.;
15 authorizing judicial circuits to create driving under
16 the influence diversion programs; providing
17 requirements for such diversion programs; providing
18 that a person who successfully completes a diversion
19 program is ineligible for participation in such a
20 program in the future; amending s. 316.656, F.S.;
21 prohibiting a court from suspending, deferring, or
22 withholding adjudication of guilt or imposition of
23 sentence for a specified violation; amending s.
24 322.34, F.S.; providing penalties for specified
25 violations of driving while a license or driving
26 privilege is canceled, suspended, or revoked or under
27 suspension or revocation equivalent status; amending
28 s. 327.35, F.S.; prohibiting a person from operating a
29 vessel while under the influence of any intoxicating

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30 substance; amending s. 933.02, F.S.; permitting the
31 issuance of a search warrant when a sample of blood of
32 a person constitutes evidence relevant to proving
33 specified crimes; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

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

39 316.193 Driving under the influence; penalties.—

40 (1) A person commits ~~is guilty of~~ the offense of driving
41 under the influence and is subject to punishment as provided in
42 subsection (2) if the person is driving or in actual physical
43 control of a vehicle within this state and:

44 (a) The person is under the influence of alcoholic
45 beverages, any chemical substance set forth in s. 877.111, ~~or~~
46 any substance controlled under chapter 893, or any intoxicating
47 substance, when affected to the extent that the person's normal
48 faculties are impaired;

49 (b) The person has a blood-alcohol level of 0.08 or more
50 grams of alcohol per 100 milliliters of blood; or

51 (c) The person has a breath-alcohol level of 0.08 or more
52 grams of alcohol per 210 liters of breath.

53 Section 2. Paragraph (a) of subsection (1) of section
54 316.1932, Florida Statutes, is amended to read:

55 316.1932 Tests for alcohol, chemical substances, or
56 controlled substances; implied consent; refusal.—

57 (1)(a)1.a. A person who accepts the privilege extended by
58 the laws of this state of operating a motor vehicle within this

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59 state is, by operating such vehicle, deemed to have given his or
60 her consent to submit to an approved chemical test or physical
61 test including, but not limited to, an infrared light test of
62 his or her breath for the purpose of determining the alcoholic
63 content of his or her blood or breath if the person is lawfully
64 arrested for any offense allegedly committed while the person
65 was driving or was in actual physical control of a motor vehicle
66 while under the influence of alcoholic beverages. The chemical
67 or physical breath test must be incidental to a lawful arrest
68 and administered at the request of a law enforcement officer who
69 has reasonable cause to believe such person was driving or was
70 in actual physical control of the motor vehicle within this
71 state while under the influence of alcoholic beverages. The
72 administration of a breath test does not preclude the
73 administration of another type of test. The person must ~~shall~~ be
74 told that his or her failure to submit to any lawful test of his
75 or her breath will result in the suspension of his or her ~~the~~
76 ~~person's~~ privilege to operate a motor vehicle as provided in s.
77 322.2615(1)(a) for a period of 1 year for a first refusal, or
78 for a period of 18 months if the driving privilege of such
79 person has been previously suspended or if he or she has
80 previously been fined under s. 327.35215 as a result of a
81 refusal to submit to a test or tests required under this chapter
82 or chapter 327, and must ~~shall~~ also be told that if he or she
83 refuses to submit to a lawful test of his or her breath ~~and his~~
84 ~~or her driving privilege has been previously suspended or if he~~
85 ~~or she has previously been fined under s. 327.35215 for a prior~~
86 ~~refusal to submit to a lawful test of his or her breath, urine,~~
87 ~~or blood as required under this chapter or chapter 327, he or~~

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88 she commits a misdemeanor of the second ~~first~~ degree, punishable
89 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
90 first degree, punishable as provided in s. 775.082 or s.
91 775.083, if his or her driving privilege has been previously
92 suspended or if he or she has previously been fined under s.
93 327.35215 for a prior refusal to submit to a lawful test of his
94 or her breath, urine, or blood as required under this chapter or
95 chapter 327, in addition to any other penalties provided by law.
96 The refusal to submit to a chemical or physical breath test upon
97 the request of a law enforcement officer as provided in this
98 section is admissible into evidence in any criminal proceeding.

99 b. A person who accepts the privilege extended by the laws
100 of this state of operating a motor vehicle within this state is,
101 by operating such vehicle, deemed to have given his or her
102 consent to submit to a urine test for the purpose of detecting
103 the presence of chemical substances as set forth in s. 877.111
104 or controlled substances if the person is lawfully arrested for
105 any offense allegedly committed while the person was driving or
106 was in actual physical control of a motor vehicle while under
107 the influence of chemical substances or controlled substances.
108 The urine test must be incidental to a lawful arrest and
109 administered at a detention facility or any other facility,
110 mobile or otherwise, which is equipped to administer such tests
111 at the request of a law enforcement officer who has reasonable
112 cause to believe such person was driving or was in actual
113 physical control of a motor vehicle within this state while
114 under the influence of chemical substances or controlled
115 substances. The urine test must ~~shall~~ be administered at a
116 detention facility or any other facility, mobile or otherwise,

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117 which is equipped to administer such test in a reasonable manner
118 that will ensure the accuracy of the specimen and maintain the
119 privacy of the individual involved. The administration of a
120 urine test does not preclude the administration of another type
121 of test. The person must ~~shall~~ be told that his or her failure
122 to submit to any lawful test of his or her urine will result in
123 the suspension of his or her ~~the person's~~ privilege to operate a
124 motor vehicle for a period of 1 year for the first refusal, or
125 for a period of 18 months if the driving privilege of such
126 person has been previously suspended or if he or she has
127 previously been fined under s. 327.35215 as a result of a
128 refusal to submit to a test or tests required under this chapter
129 or chapter 327, and must ~~shall~~ also be told that if he or she
130 refuses to submit to a lawful test of his or her urine ~~and his~~
131 ~~or her driving privilege has been previously suspended or if he~~
132 ~~or she has previously been fined under s. 327.35215 for a prior~~
133 ~~refusal to submit to a lawful test of his or her breath, urine,~~
134 ~~or blood as required under this chapter or chapter 327,~~ he or
135 she commits a misdemeanor of the second ~~first~~ degree, punishable
136 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
137 first degree, punishable as provided in s. 775.082 or s.
138 775.083, if his or her driving privilege has been previously
139 suspended or if he or she has previously been fined under s.
140 327.35215 for a prior refusal to submit to a lawful test of his
141 or her breath, urine, or blood as required under this chapter or
142 chapter 327, in addition to any other penalties provided by law.
143 The refusal to submit to a urine test upon the request of a law
144 enforcement officer as provided in this section is admissible
145 into evidence in any criminal proceeding.

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146 2. The Alcohol Testing Program within the Department of Law
147 Enforcement is responsible for the regulation of the operation,
148 inspection, and registration of breath test instruments utilized
149 under the driving and boating under the influence provisions and
150 related provisions located in this chapter and chapters 322 and
151 327. The program is responsible for the regulation of the
152 individuals who operate, inspect, and instruct on the breath
153 test instruments utilized in the driving and boating under the
154 influence provisions and related provisions located in this
155 chapter and chapters 322 and 327. The program is further
156 responsible for the regulation of blood analysts who conduct
157 blood testing to be utilized under the driving and boating under
158 the influence provisions and related provisions located in this
159 chapter and chapters 322 and 327. The program shall:

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

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

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

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

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

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

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175 g. Have the authority to approve or disapprove breath test
176 instruments and accompanying paraphernalia for use pursuant to
177 the driving and boating under the influence provisions and
178 related provisions located in this chapter and chapters 322 and
179 327.

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

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

188 j. Enforce compliance with this section through civil or
189 administrative proceedings.

190 k. Make recommendations concerning any matter within the
191 purview of this section, this chapter, chapter 322, or chapter
192 327.

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

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

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

201 o. Have the authority to specify techniques and methods for
202 breath alcohol testing and blood testing utilized under the
203 driving and boating under the influence provisions and related

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204 provisions located in this chapter and chapters 322 and 327.

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

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

215 Section 3. Section 316.1939, Florida Statutes, is amended
216 to read:

217 316.1939 Refusal to submit to testing; penalties.-

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

230 (a) ~~Who~~ The arresting law enforcement officer had probable
231 cause to believe that the person was driving or in actual
232 physical control of a motor vehicle in this state while under

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233 the influence of alcoholic beverages, chemical substances, or
234 controlled substances.~~†~~

235 (b) The person ~~Who~~ was placed under lawful arrest for a
236 violation of s. 316.193~~2~~, unless such test was requested pursuant
237 to s. 316.1932(1) (c) ~~.†~~

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

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

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

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

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

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

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

271 316.19395 Driving under the influence diversion programs.-

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

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

282 (3) A person who successfully completes a diversion program
283 offered under this section is ineligible for future
284 participation in such a program.

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

287 316.656 Mandatory adjudication; prohibition against
288 accepting plea to lesser included offense.-

289 (1) Notwithstanding ~~the provisions of~~ s. 948.01, a court
290 may not ~~no court may~~ suspend, defer, or withhold adjudication of

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291 guilt or imposition of sentence for any violation of s. 316.193
292 or s. 316.1939, for manslaughter resulting from the operation of
293 a motor vehicle, or for vehicular homicide.

294 Section 6. Subsection (2) of section 322.34, Florida
295 Statutes, is amended to read:

296 322.34 Driving while license suspended, revoked, canceled,
297 or disqualified.—

298 (2) Any person whose driver license or driving privilege
299 has been canceled, suspended, or revoked as provided by law, or
300 who does not have a driver license or driving privilege but is
301 under suspension or revocation equivalent status as defined in
302 s. 322.01(43), except persons defined in s. 322.264, who,
303 knowing of such cancellation, suspension, revocation, or
304 suspension or revocation equivalent status, drives any motor
305 vehicle upon the highways of this state while such license or
306 privilege is canceled, suspended, or revoked, or while under
307 suspension or revocation equivalent status, commits:

308 (a) A misdemeanor of the second degree, punishable as
309 provided in s. 775.082 or s. 775.083.

310 (b)~~1~~. A misdemeanor of the first degree, punishable as
311 provided in s. 775.082 or s. 775.083, upon a second or
312 subsequent conviction, except as provided in paragraph (c).

313 ~~2~~. A person convicted of a third or subsequent conviction,
314 except as provided in paragraph (c), must serve a minimum of 10
315 days in jail.

316 (c) A felony of the third degree, punishable as provided in
317 s. 775.082, s. 775.083, or s. 775.084, upon a third or
318 subsequent conviction if the current violation of this section
319 or the most recent prior violation of the section is related to

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320 driving while license canceled, suspended, revoked, or
321 suspension or revocation equivalent status resulting from a
322 violation of:

323 1. Driving under the influence. A person to whom this
324 subparagraph applies must serve a minimum of 30 days in jail
325 upon a first conviction, a minimum of 60 days in jail upon a
326 second conviction, and a minimum of 90 days in jail upon a third
327 or subsequent conviction;

328 2. Refusal to submit to a urine, breath-alcohol, or blood
329 alcohol test. A person to whom this subparagraph applies must
330 serve a minimum of 30 days in jail upon a first conviction, a
331 minimum of 60 days in jail upon a second conviction, and a
332 minimum of 90 days in jail upon a third or subsequent
333 conviction;

334 3. A traffic offense causing death or serious bodily
335 injury; or

336 4. Fleeing or eluding.

337

338 The element of knowledge is satisfied if the person has been
339 previously cited as provided in subsection (1); or the person
340 admits to knowledge of the cancellation, suspension, or
341 revocation, or suspension or revocation equivalent status; or
342 the person received notice as provided in subsection (4). There
343 is ~~shall be~~ a rebuttable presumption that the knowledge
344 requirement is satisfied if a judgment or an order as provided
345 in subsection (4) appears in the department's records for any
346 case except for one involving a suspension by the department for
347 failure to pay a traffic fine or for a financial responsibility
348 violation.

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349 Section 7. Subsection (1) of section 327.35, Florida
350 Statutes, is amended to read:

351 327.35 Boating under the influence; penalties; "designated
352 drivers."—

353 (1) A person commits ~~is guilty of~~ the offense of boating
354 under the influence and is subject to punishment as provided in
355 subsection (2) if the person is operating a vessel within this
356 state and:

357 (a) The person is under the influence of alcoholic
358 beverages, any chemical substance set forth in s. 877.111, ~~or~~
359 any substance controlled under chapter 893, or any intoxicating
360 substance when affected to the extent that the person's normal
361 faculties are impaired;

362 (b) The person has a blood-alcohol level of 0.08 or more
363 grams of alcohol per 100 milliliters of blood; or

364 (c) The person has a breath-alcohol level of 0.08 or more
365 grams of alcohol per 210 liters of breath.

366 Section 8. Section 933.02, Florida Statutes, is amended to
367 read:

368 933.02 Grounds for issuance of search warrant.—Upon proper
369 affidavits being made, a search warrant may be issued under ~~the~~
370 ~~provisions of~~ this chapter upon any of the following grounds:

371 (1) When the property shall have been stolen or embezzled
372 in violation of law;

373 (2) When any property shall have been used:

374 (a) As a means to commit any crime;

375 (b) In connection with gambling, gambling implements and
376 appliances; or

377 (c) In violation of s. 847.011 or other laws in reference

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378 to obscene prints and literature;

379 (3) When any property constitutes evidence relevant to
380 proving that a felony has been committed;

381 (4) When any property is being held or possessed:

382 (a) In violation of any of the laws prohibiting the
383 manufacture, sale, and transportation of intoxicating liquors;

384 (b) In violation of the fish and game laws;

385 (c) In violation of the laws relative to food and drug; or

386 (d) In violation of the laws relative to citrus disease
387 pursuant to s. 581.184; ~~or~~

388 (5) When the laws in relation to cruelty to animals, as
389 provided in chapter 828, have been or are violated in any
390 particular building or place; ~~or-~~

391 (6) When a sample of the blood of a person constitutes
392 evidence relevant to proving that a violation of s. 316.193 or
393 s. 327.35 has been committed.

394

395 This section also applies to any papers or documents used as a
396 means of or in aid of the commission of any offense against the
397 laws of the state.

398 Section 9. This act shall take effect October 1, 2025.