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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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04/29/2025 01:25 PM

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Senator Wright moved the following:

**Senate Amendment (with title amendment)**

Between lines 52 and 53

insert:

Section 3. 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 state is, by operating such vehicle, deemed to have given his or



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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 shall be told  
26 that his or her failure to submit to any lawful test of his or  
27 her breath will result in the suspension of his or her ~~the~~  
28 ~~person's~~ privilege to operate a motor vehicle for a period of 1  
29 year for a first refusal, or for a period of 18 months if the  
30 driving privilege of such person has been previously suspended  
31 or if he or she has previously been fined under s. 327.35215 as  
32 a result of a refusal to submit to a test or tests required  
33 under this chapter or chapter 327, and shall also be told that  
34 if he or she refuses to submit to a lawful test of his or her  
35 breath ~~and his or her driving privilege has been previously~~  
36 ~~suspended or if he or she has previously been fined under s.~~  
37 ~~327.35215 for a prior refusal to submit to a lawful test of his~~  
38 ~~or her breath, urine, or blood as required under this chapter or~~  
39 ~~chapter 327, he or she commits a misdemeanor of the second ~~first~~~~  
40 degree, punishable as provided in s. 775.082 or s. 775.083, or a



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41 misdemeanor of the first degree, punishable as provided in s.  
42 775.082 or s. 775.083, if his or her driving privilege has been  
43 previously suspended or if he or she has previously been fined  
44 under s. 327.35215 for a prior refusal to submit to a lawful  
45 test of his or her breath, urine, or blood as required under  
46 this chapter or chapter 327, in addition to any other penalties  
47 provided by law. The refusal to submit to a chemical or physical  
48 breath test upon the request of a law enforcement officer as  
49 provided in this section is admissible into evidence in any  
50 criminal proceeding.

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



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

98 2. The Alcohol Testing Program within the Department of Law



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

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

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

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

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

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

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

127 g. Have the authority to approve or disapprove breath test



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128 instruments and accompanying paraphernalia for use pursuant to  
129 the driving and boating under the influence provisions and  
130 related provisions located in this chapter and chapters 322 and  
131 327.

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

137 i. Issue final orders which include findings of fact and  
138 conclusions of law and which constitute final agency action for  
139 the purpose of chapter 120.

140 j. Enforce compliance with this section through civil or  
141 administrative proceedings.

142 k. Make recommendations concerning any matter within the  
143 purview of this section, this chapter, chapter 322, or chapter  
144 327.

145 l. Promulgate rules for the administration and  
146 implementation of this section, including definitions of terms.

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

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

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



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157 p. Have the authority to approve repair facilities for the  
158 approved breath test instruments, including the authority to set  
159 criteria for approval.

160  
161 Nothing in this section shall be construed to supersede  
162 provisions in this chapter and chapters 322 and 327. The  
163 specifications in this section are derived from the power and  
164 authority previously and currently possessed by the Department  
165 of Law Enforcement and are enumerated to conform with the  
166 mandates of chapter 99-379, Laws of Florida.

167 Section 4. Subsection (1) of section 316.1939, Florida  
168 Statutes, is amended to read:

169 316.1939 Refusal to submit to testing; penalties.—

170 (1) A person who has refused to submit to a chemical or  
171 physical test of his or her breath or urine, as described in s.  
172 316.1932, commits a misdemeanor of the second degree, punishable  
173 as provided in s. 775.082 or s. 775.083, in addition to any  
174 other penalties provided by law, and such person whose driving  
175 privilege was previously suspended or who was previously fined  
176 under s. 327.35215 for a prior refusal to submit to a lawful  
177 test of his or her breath, urine, or blood required under this  
178 chapter or chapter 327 commits a misdemeanor of the first  
179 degree, punishable as provided in s. 775.082 or s. 775.083, in  
180 addition to any other penalties provided by law if all of the  
181 following apply, and:

182 (a) ~~Who~~ The arresting law enforcement officer had probable  
183 cause to believe that the person was driving or in actual  
184 physical control of a motor vehicle in this state while under  
185 the influence of alcoholic beverages, chemical substances, or



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186 controlled substances.~~†~~

187 (b) The person ~~who~~ was placed under lawful arrest for a  
188 violation of s. 316.193~~, unless such test was requested pursuant~~  
189 to s. 316.1932(1)(c).~~†~~

190 (c) The person ~~who~~ was informed that, if he or she refused  
191 to submit to such test, his or her privilege to operate a motor  
192 vehicle would be suspended for a period of 1 year or, in the  
193 case of a second or subsequent refusal, for a period of 18  
194 months.~~†~~

195 (d) The person, after having been informed as required in  
196 paragraph (c), still refuses ~~who was informed that a refusal to~~  
197 submit to a lawful test of his or her breath or urine as  
198 described in s. 316.1932, ~~if his or her driving privilege has~~  
199 ~~been previously suspended or if he or she has previously been~~  
200 ~~fined under s. 327.35215 for a prior refusal to submit to a~~  
201 ~~lawful test of his or her breath, urine, or blood as required~~  
202 ~~under this chapter or chapter 327, is a misdemeanor of the first~~  
203 ~~degree, punishable as provided in s. 775.082 or s. 775.083, in~~  
204 addition to any other penalties provided by law; and

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

208  
209 ~~commits a misdemeanor of the first degree and is subject to~~  
210 ~~punishment as provided in s. 775.082 or s. 775.083.~~

211  
212 ===== T I T L E A M E N D M E N T =====

213 And the title is amended as follows:

214 Delete line 6





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215 and insert:  
216       specified offenses; amending s. 316.1932, F.S.;  
217       requiring that a person be told that his or her  
218       failure to submit to a lawful test of breath or urine  
219       is a second degree misdemeanor or a first degree  
220       misdemeanor under certain circumstances; amending s.  
221       316.1939, F.S.; classifying a person's refusal to  
222       submit to a chemical or physical test of breath or  
223       urine as a second degree misdemeanor or a first degree  
224       misdemeanor under certain circumstances; amending s.  
225       327.35, F.S.;