

1 A bill to be entitled
2 An act relating to driving and boating under the
3 influence; amending s. 316.003, F.S.; providing a
4 definition for the term "impairing substance";
5 providing a short title; amending s. 316.193, F.S.;
6 prohibiting a person from driving or being in actual
7 physical control of a vehicle while under the
8 influence of any impairing substance; providing an
9 enhanced criminal penalty for vehicular homicide in
10 certain circumstances; amending s. 316.1932, F.S.;
11 requiring that a person be told that his or her
12 failure to submit to a lawful test of breath or urine
13 for impairing substances is a second degree
14 misdemeanor or a first degree misdemeanor under
15 certain circumstances; amending ss. 316.1933 and
16 316.1934, F.S.; conforming provisions to changes made
17 by the act; amending s. 316.1939, F.S.; classifying a
18 person's refusal to submit to a chemical or physical
19 test of breath or urine for impairing substances as a
20 second degree misdemeanor or a first degree
21 misdemeanor under certain circumstances; creating s.
22 316.19395, F.S.; authorizing state attorneys to create
23 driving under the influence diversion or similar
24 programs; providing requirements for such programs;
25 providing that a person who successfully completes a

26 | program is ineligible for future participation in such
27 | a program; amending s. 316.656, F.S.; prohibiting a
28 | court from suspending, deferring, or withholding
29 | adjudication of guilt or imposition of sentence for a
30 | specified violation; amending s. 322.34, F.S.;
31 | providing penalties for specified violations of
32 | driving while a license or driving privilege is
33 | canceled, suspended, or revoked or under suspension or
34 | revocation equivalent status; amending s. 327.35,
35 | F.S.; prohibiting a person from operating a vessel
36 | while under the influence of any impairing substance;
37 | amending s. 782.071, F.S.; providing an enhanced
38 | criminal penalty for vehicular homicide in certain
39 | circumstances; amending s. 933.02, F.S.; permitting
40 | the issuance of a search warrant when a sample of
41 | blood of a person constitutes evidence relevant to
42 | proving specified crimes; amending ss. 316.306, F.S.;
43 | conforming a cross-reference; removing an obsolete
44 | provision; amending s. 327.02, F.S.; providing a
45 | definition for the term "impairing substance";
46 | amending s. 327.35, F.S.; including impairing
47 | substances in provisions relating to boating under the
48 | influence; amending s. 327.352, F.S.; providing for
49 | tests for impairing substances; amending s. 327.353,
50 | F.S.; providing for blood tests for impairing

51 substances; amending s. 327.354, F.S.; including
 52 impairing substances in provisions concerning
 53 presumption of impairment and testing methods;
 54 amending s. 327.359, F.S.; including impairing
 55 substances in provisions concerning penalties for
 56 refusal to submit to testing; amending ss. 327.53 and
 57 655.960, F.S.; conforming cross-references; providing
 58 an effective date.

59

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

61

62 **Section 1. Subsections (33) through (112) of section**
 63 **316.003, Florida Statutes, are renumbered as subsections (34)**
 64 **through (113), respectively, a new subsection (33) is added to**
 65 **that section, and present subsection (65) is amended, to read:**

66 316.003 Definitions.—The following words and phrases, when
 67 used in this chapter, shall have the meanings respectively
 68 ascribed to them in this section, except where the context
 69 otherwise requires:

70 (33) IMPAIRING SUBSTANCE.—Any substance that, when taken
 71 into the human body, can impair, or diminish in some material
 72 respect, a person's normal faculties. Such normal faculties
 73 include, but are not limited to, the ability to see, hear, walk,
 74 talk, gauge distances, drive a motor vehicle, make judgements,
 75 act in emergencies, and, in general, perform the many mental and

76 physical acts of daily life.

77 (66)~~(65)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
 78 provided in paragraph (91) (b) ~~(90) (b)~~, any privately owned way
 79 or place used for vehicular travel by the owner and those having
 80 express or implied permission from the owner, but not by other
 81 persons.

82 **Section 2.** The amendments made by this act to s.
 83 316.193(3)(c)3. may be cited as "Trenton's Law."

84 **Section 3. Subsection (1) and paragraph (c) of subsection**
 85 **(3) of section 316.193, Florida Statutes, are amended to read:**

86 316.193 Driving under the influence; penalties.—

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

91 (a) The person is under the influence of alcoholic
 92 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 93 any substance controlled under chapter 893, or any impairing
 94 substance, when affected to the extent that the person's normal
 95 faculties are impaired;

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

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

100 (3) Any person:

101 (c) Who, by reason of such operation, causes or
102 contributes to causing:

103 1. Damage to the property or person of another commits a
104 misdemeanor of the first degree, punishable as provided in s.
105 775.082 or s. 775.083.

106 2. Serious bodily injury to another, as defined in s.
107 316.1933, commits a felony of the third degree, punishable as
108 provided in s. 775.082, s. 775.083, or s. 775.084.

109 3. The death of any human being or unborn child commits
110 DUI manslaughter, and commits:

111 a. A felony of the second degree, punishable as provided
112 in s. 775.082, s. 775.083, or s. 775.084.

113 b. A felony of the first degree, punishable as provided in
114 s. 775.082, s. 775.083, or s. 775.084, if:

115 (I) At the time of the crash, the person knew, or should
116 have known, that the crash occurred; and

117 (II) The person failed to give information and render aid
118 as required by s. 316.062.

119 c. A felony of the first degree, punishable as provided in
120 s. 775.082, 775.083, or s. 775.084, if the person has a prior
121 conviction under this subparagraph or s. 782.071.

122
123 For purposes of this subsection, the term "unborn child" has the
124 same meaning as provided in s. 775.021(5). A person who is
125 convicted of DUI manslaughter shall be sentenced to a mandatory

126 minimum term of imprisonment of 4 years.

127 **Section 4. Paragraphs (a) and (c) of subsection (1) of**
 128 **section 316.1932, Florida Statutes, are amended to read:**

129 316.1932 Tests for alcohol and other~~chemical~~ substances,
 130 ~~or controlled substances~~; implied consent; refusal.-

131 (1) (a) 1.a. A person who accepts the privilege extended by
 132 the laws of this state of operating a motor vehicle within this
 133 state is, by operating such vehicle, deemed to have given his or
 134 her consent to submit to an approved chemical test or physical
 135 test including, but not limited to, an infrared light test of
 136 his or her breath for the purpose of determining the alcoholic
 137 content of his or her blood or breath if the person is lawfully
 138 arrested for any offense allegedly committed while the person
 139 was driving or was in actual physical control of a motor vehicle
 140 while under the influence of alcoholic beverages. The chemical
 141 or physical breath test must be incidental to a lawful arrest
 142 and administered at the request of a law enforcement officer who
 143 has reasonable cause to believe such person was driving or was
 144 in actual physical control of the motor vehicle within this
 145 state while under the influence of alcoholic beverages. The
 146 administration of a breath test does not preclude the
 147 administration of another type of test. The person must ~~shall~~ be
 148 told that his or her failure to submit to any lawful test of his
 149 or her breath will result in the suspension of his or her ~~the~~
 150 ~~person's~~ privilege to operate a motor vehicle as provided in s.

151 322.2615(1) (a) for a period of 1 year for a first refusal, or
152 for a period of 18 months if the driving privilege of such
153 person has been previously suspended or if he or she has
154 previously been fined under s. 327.35215 as a result of a
155 refusal to submit to a test or tests required under this chapter
156 or chapter 327, and must ~~shall~~ also be told that if he or she
157 refuses to submit to a lawful test of his or her breath ~~and his~~
158 ~~or her driving privilege has been previously suspended or if he~~
159 ~~or she has previously been fined under s. 327.35215 for a prior~~
160 ~~refusal to submit to a lawful test of his or her breath, urine,~~
161 ~~or blood as required under this chapter or chapter 327,~~ he or
162 she commits a misdemeanor of the second ~~first~~ degree, punishable
163 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
164 first degree, punishable as provided in s. 775.082 or s.
165 775.083, if his or her driving privilege has been previously
166 suspended or if he or she has previously been fined under s.
167 327.35215 for a prior refusal to submit to a lawful test of his
168 or her breath, urine, or blood as required under this chapter or
169 chapter 327, in addition to any other penalties provided by law.
170 The refusal to submit to a chemical or physical breath test upon
171 the request of a law enforcement officer as provided in this
172 section is admissible into evidence in any criminal proceeding.

173 b. A person who accepts the privilege extended by the laws
174 of this state of operating a motor vehicle within this state is,
175 by operating such vehicle, deemed to have given his or her

176 consent to submit to a urine test for the purpose of detecting
177 the presence of chemical substances as set forth in s. 877.111,
178 ~~or~~ controlled substances, or impairing substances if the person
179 is lawfully arrested for any offense allegedly committed while
180 the person was driving or was in actual physical control of a
181 motor vehicle while under the influence of chemical substances,
182 ~~or~~ controlled substances, or impairing substances. The urine
183 test must be incidental to a lawful arrest and administered at a
184 detention facility or any other facility, mobile or otherwise,
185 which is equipped to administer such tests at the request of a
186 law enforcement officer who has reasonable cause to believe such
187 person was driving or was in actual physical control of a motor
188 vehicle within this state while under the influence of chemical
189 substances, ~~or~~ controlled substances, or impairing substances.
190 The urine test must ~~shall~~ be administered at a detention
191 facility or any other facility, mobile or otherwise, which is
192 equipped to administer such test in a reasonable manner that
193 will ensure the accuracy of the specimen and maintain the
194 privacy of the individual involved. The administration of a
195 urine test does not preclude the administration of another type
196 of test. The person must ~~shall~~ be told that his or her failure
197 to submit to any lawful test of his or her urine will result in
198 the suspension of his or her ~~the person's~~ privilege to operate a
199 motor vehicle for a period of 1 year for the first refusal, or
200 for a period of 18 months if the driving privilege of such

201 person has been previously suspended or if he or she has
202 previously been fined under s. 327.35215 as a result of a
203 refusal to submit to a test or tests required under this chapter
204 or chapter 327, and must ~~shall~~ also be told that if he or she
205 refuses to submit to a lawful test of his or her urine ~~and his~~
206 ~~or her driving privilege has been previously suspended or if he~~
207 ~~or she has previously been fined under s. 327.35215 for a prior~~
208 ~~refusal to submit to a lawful test of his or her breath, urine,~~
209 ~~or blood as required under this chapter or chapter 327,~~ he or
210 she commits a misdemeanor of the second ~~first~~ degree, punishable
211 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
212 first degree, punishable as provided in s. 775.082 or s.
213 775.083, if his or her driving privilege has been previously
214 suspended or if he or she has previously been fined under s.
215 327.35215 for a prior refusal to submit to a lawful test of his
216 or her breath, urine, or blood as required under this chapter or
217 chapter 327, in addition to any other penalties provided by law.
218 The refusal to submit to a urine test upon the request of a law
219 enforcement officer as provided in this section is admissible
220 into evidence in any criminal proceeding.

221 2. The Alcohol Testing Program within the Department of
222 Law Enforcement is responsible for the regulation of the
223 operation, inspection, and registration of breath test
224 instruments utilized under the driving and boating under the
225 influence provisions and related provisions located in this

226 chapter and chapters 322 and 327. The program is responsible for
227 the regulation of the individuals who operate, inspect, and
228 instruct on the breath test instruments utilized in the driving
229 and boating under the influence provisions and related
230 provisions located in this chapter and chapters 322 and 327. The
231 program is further responsible for the regulation of blood
232 analysts who conduct blood testing to be utilized under the
233 driving and boating under the influence provisions and related
234 provisions located in this chapter and chapters 322 and 327. The
235 program shall:

236 a. Establish uniform criteria for the issuance of permits
237 to breath test operators, agency inspectors, instructors, blood
238 analysts, and instruments.

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

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

244 d. Establish uniform requirements for instruction and
245 curricula for the operation and inspection of approved
246 instruments.

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

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

251 g. Have the authority to approve or disapprove breath test
 252 instruments and accompanying paraphernalia for use pursuant to
 253 the driving and boating under the influence provisions and
 254 related provisions located in this chapter and chapters 322 and
 255 327.

256 h. With the approval of the executive director of the
 257 Department of Law Enforcement, make and enter into contracts and
 258 agreements with other agencies, organizations, associations,
 259 corporations, individuals, or federal agencies as are necessary,
 260 expedient, or incidental to the performance of duties.

261 i. Issue final orders which include findings of fact and
 262 conclusions of law and which constitute final agency action for
 263 the purpose of chapter 120.

264 j. Enforce compliance with this section through civil or
 265 administrative proceedings.

266 k. Make recommendations concerning any matter within the
 267 purview of this section, this chapter, chapter 322, or chapter
 268 327.

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

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

273 n. Have the authority to approve the type of blood test
 274 utilized under the driving and boating under the influence
 275 provisions and related provisions located in this chapter and

276 chapters 322 and 327.

277 o. Have the authority to specify techniques and methods
278 for breath alcohol testing and blood testing utilized under the
279 driving and boating under the influence provisions and related
280 provisions located in this chapter and chapters 322 and 327.

281 p. Have the authority to approve repair facilities for the
282 approved breath test instruments, including the authority to set
283 criteria for approval.

284

285 Nothing in this section shall be construed to supersede
286 provisions in this chapter and chapters 322 and 327. The
287 specifications in this section are derived from the power and
288 authority previously and currently possessed by the Department
289 of Law Enforcement and are enumerated to conform with the
290 mandates of chapter 99-379, Laws of Florida.

291 (c) A person who accepts the privilege extended by the
292 laws of this state of operating a motor vehicle within this
293 state is, by operating such vehicle, deemed to have given his or
294 her consent to submit to an approved blood test for the purpose
295 of determining the alcoholic content of the blood or a blood
296 test for the purpose of determining the presence of chemical
297 substances, ~~or~~ controlled substances, or impairing substances as
298 provided in this section if there is reasonable cause to believe
299 the person was driving or in actual physical control of a motor
300 vehicle while under the influence of alcoholic beverages or

301 chemical, ~~or~~ controlled, or impairing substances and the person
302 appears for treatment at a hospital, clinic, or other medical
303 facility and the administration of a breath or urine test is
304 impractical or impossible. As used in this paragraph, the term
305 "other medical facility" includes an ambulance or other medical
306 emergency vehicle. The blood test shall be performed in a
307 reasonable manner. A person who is incapable of refusal by
308 reason of unconsciousness or other mental or physical condition
309 is deemed not to have withdrawn his or her consent to such test.
310 A blood test may be administered whether or not the person is
311 told that his or her failure to submit to such a blood test will
312 result in the suspension of the person's privilege to operate a
313 motor vehicle upon the public highways of this state and that a
314 refusal to submit to a lawful test of his or her blood, if his
315 or her driving privilege has been previously suspended for
316 refusal to submit to a lawful test of his or her breath, urine,
317 or blood, is a misdemeanor. A person who is capable of refusal
318 shall be told that his or her failure to submit to such a blood
319 test will result in the suspension of the person's privilege to
320 operate a motor vehicle for a period of 1 year for a first
321 refusal, or for a period of 18 months if the driving privilege
322 of the person has been suspended previously or if he or she has
323 previously been fined under s. 327.35215 as a result of a
324 refusal to submit to a test or tests required under this chapter
325 or chapter 327. The refusal to submit to a blood test upon the

326 request of a law enforcement officer is admissible in evidence
327 in any criminal proceeding.

328 **Section 5. Paragraph (a) of subsection (1), paragraph (a)**
329 **of subsection (2), paragraph (b) of subsection (3), and**
330 **subsection (4) of section 316.1933, Florida Statutes, are**
331 **amended to read:**

332 316.1933 Blood test for impairment or intoxication in
333 cases of death or serious bodily injury; right to use reasonable
334 force.—

335 (1)(a) If a law enforcement officer has probable cause to
336 believe that a motor vehicle driven by or in the actual physical
337 control of a person under the influence of alcoholic beverages,
338 any chemical substances, ~~or~~ any controlled substances, or any
339 impairing substances has caused the death or serious bodily
340 injury of a human being, a law enforcement officer shall require
341 the person driving or in actual physical control of the motor
342 vehicle to submit to a test of the person's blood for the
343 purpose of determining the alcoholic content thereof or the
344 presence of chemical substances as set forth in s. 877.111, ~~or~~
345 any substances ~~substance~~ controlled under chapter 893, or any
346 impairing substances. The law enforcement officer may use
347 reasonable force if necessary to require such person to submit
348 to the administration of the blood test. The blood test shall be
349 performed in a reasonable manner. Notwithstanding s. 316.1932,
350 the testing required by this paragraph need not be incidental to

351 a lawful arrest of the person.

352 (2)(a) Only a physician, certified paramedic, registered
353 nurse, licensed practical nurse, other personnel authorized by a
354 hospital to draw blood, or duly licensed clinical laboratory
355 director, supervisor, technologist, or technician, acting at the
356 request of a law enforcement officer, may withdraw blood for the
357 purpose of determining the alcoholic content thereof or the
358 presence of chemical substances, ~~or~~ controlled substances, or
359 impairing substances therein. However, the failure of a law
360 enforcement officer to request the withdrawal of blood shall not
361 affect the admissibility of a test of blood withdrawn for
362 medical purposes.

363 1. Notwithstanding any provision of law pertaining to the
364 confidentiality of hospital records or other medical records, if
365 a health care provider, who is providing medical care in a
366 health care facility to a person injured in a motor vehicle
367 crash, becomes aware, as a result of any blood test performed in
368 the course of that medical treatment, that the person's blood-
369 alcohol level meets or exceeds the blood-alcohol level specified
370 in s. 316.193(1)(b), the health care provider may notify any law
371 enforcement officer or law enforcement agency. Any such notice
372 must be given within a reasonable time after the health care
373 provider receives the test result. Any such notice shall be used
374 only for the purpose of providing the law enforcement officer
375 with reasonable cause to request the withdrawal of a blood

376 sample pursuant to this section.

377 2. The notice shall consist only of the name of the person
378 being treated, the name of the person who drew the blood, the
379 blood-alcohol level indicated by the test, and the date and time
380 of the administration of the test.

381 3. Nothing contained in s. 395.3025(4), s. 456.057, or any
382 applicable practice act affects the authority to provide notice
383 under this section, and the health care provider is not
384 considered to have breached any duty owed to the person under s.
385 395.3025(4), s. 456.057, or any applicable practice act by
386 providing notice or failing to provide notice. It shall not be a
387 breach of any ethical, moral, or legal duty for a health care
388 provider to provide notice or fail to provide notice.

389 4. A civil, criminal, or administrative action may not be
390 brought against any person or health care provider participating
391 in good faith in the provision of notice or failure to provide
392 notice as provided in this section. Any person or health care
393 provider participating in the provision of notice or failure to
394 provide notice as provided in this section shall be immune from
395 any civil or criminal liability and from any professional
396 disciplinary action with respect to the provision of notice or
397 failure to provide notice under this section. Any such
398 participant has the same immunity with respect to participating
399 in any judicial proceedings resulting from the notice or failure
400 to provide notice.

401 (3)
 402 (b) The results of any test administered pursuant to this
 403 section for the purpose of detecting the presence of any
 404 controlled substance or impairing substance shall not be
 405 admissible as evidence in a criminal prosecution for the
 406 possession of a controlled substance or an impairing substance.

407 (4) Notwithstanding any provision of law pertaining to the
 408 confidentiality of hospital records or other medical records,
 409 information relating to the alcoholic content of the blood or
 410 the presence of chemical substances, ~~or~~ controlled substances,
 411 or impairing substances in the blood obtained pursuant to this
 412 section shall be released to a court, prosecuting attorney,
 413 defense attorney, or law enforcement officer in connection with
 414 an alleged violation of s. 316.193 upon request for such
 415 information.

416 **Section 6. Subsections (1) and (2) of section 316.1934,**
 417 **Florida Statutes, are amended to read:**

418 316.1934 Presumption of impairment; testing methods.—

419 (1) It is unlawful and punishable as provided in chapter
 420 322 and in s. 316.193 for any person who is under the influence
 421 of alcoholic beverages, ~~or~~ controlled substances, or impairing
 422 substances, when affected to the extent that the person's normal
 423 faculties are impaired or to the extent that the person is
 424 deprived of full possession of normal faculties, to drive or be
 425 in actual physical control of any motor vehicle within this

426 state. Such normal faculties include, but are not limited to,
427 the ability to see, hear, walk, talk, judge distances, drive an
428 automobile, make judgments, act in emergencies, and, in general,
429 normally perform the many mental and physical acts of daily
430 life.

431 (2) At the trial of any civil or criminal action or
432 proceeding arising out of acts alleged to have been committed by
433 any person while driving, or in actual physical control of, a
434 vehicle while under the influence of alcoholic beverages, ~~or~~
435 controlled substances, or impairing substances, when affected to
436 the extent that the person's normal faculties were impaired or
437 to the extent that he or she was deprived of full possession of
438 his or her normal faculties, the results of any test
439 administered in accordance with s. 316.1932 or s. 316.1933 and
440 this section are admissible into evidence when otherwise
441 admissible, and the amount of alcohol in the person's blood or
442 breath at the time alleged, as shown by chemical analysis of the
443 person's blood, or by chemical or physical test of the person's
444 breath, gives rise to the following presumptions:

445 (a) If there was at that time a blood-alcohol level or
446 breath-alcohol level of 0.05 or less, it is presumed that the
447 person was not under the influence of alcoholic beverages to the
448 extent that his or her normal faculties were impaired.

449 (b) If there was at that time a blood-alcohol level or
450 breath-alcohol level in excess of 0.05 but less than 0.08, that

451 fact does not give rise to any presumption that the person was
452 or was not under the influence of alcoholic beverages to the
453 extent that his or her normal faculties were impaired but may be
454 considered with other competent evidence in determining whether
455 the person was under the influence of alcoholic beverages to the
456 extent that his or her normal faculties were impaired.

457 (c) If there was at that time a blood-alcohol level or
458 breath-alcohol level of 0.08 or higher, that fact is prima facie
459 evidence that the person was under the influence of alcoholic
460 beverages to the extent that his or her normal faculties were
461 impaired. Moreover, such person who has a blood-alcohol level or
462 breath-alcohol level of 0.08 or higher is guilty of driving, or
463 being in actual physical control of, a motor vehicle, with an
464 unlawful blood-alcohol level or breath-alcohol level.

465

466 The presumptions provided in this subsection do not limit the
467 introduction of any other competent evidence bearing upon the
468 question of whether the person was under the influence of
469 alcoholic beverages to the extent that his or her normal
470 faculties were impaired.

471 **Section 7. Section 316.1939, Florida Statutes, is amended**
472 **to read:**

473 316.1939 Refusal to submit to testing; penalties.—

474 (1) A person who has refused to submit to a chemical or
475 physical test of his or her breath or urine, as described in s.

476 | 316.1932, commits a misdemeanor of the second degree, punishable
477 | as provided in s. 775.082 or s. 775.083, in addition to any
478 | other penalties provided by law, and such person whose driving
479 | privilege was previously suspended or who was previously fined
480 | under s. 327.35215 for a prior refusal to submit to a lawful
481 | test of his or her breath, urine, or blood required under this
482 | chapter or chapter 327 commits a misdemeanor of the first
483 | degree, punishable as provided in s. 775.082 or s. 775.083, in
484 | addition to any other penalties provided by law if all of the
485 | following apply, and:

486 | (a) ~~Who~~ The arresting law enforcement officer had probable
487 | cause to believe that the person was driving or in actual
488 | physical control of a motor vehicle in this state while under
489 | the influence of alcoholic beverages, chemical substances, ~~or~~
490 | controlled substances, or impairing substances.

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

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

499 | (d) The person, after having been informed as required in
500 | paragraph (c), still refuses ~~who was informed that a refusal to~~

501 submit to a lawful test of his or her breath or urine as
502 described in s. 316.1932, ~~if his or her driving privilege has~~
503 ~~been previously suspended or if he or she has previously been~~
504 ~~fined under s. 327.35215 for a prior refusal to submit to a~~
505 ~~lawful test of his or her breath, urine, or blood as required~~
506 ~~under this chapter or chapter 327, is a misdemeanor of the first~~
507 ~~degree, punishable as provided in s. 775.082 or s. 775.083, in~~
508 ~~addition to any other penalties provided by law; and~~

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

512
513 ~~commits a misdemeanor of the first degree and is subject to~~
514 ~~punishment as provided in s. 775.082 or s. 775.083.~~

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

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

526 **Section 8. Section 316.19395, Florida Statutes, is created**
527 **to read:**

528 316.19395 Driving under the influence diversion or similar
529 programs.-

530 (1) Any state attorney may create a driving under the
531 influence diversion program or other program that results in the
532 dismissal of a charge. A state attorney who creates a program
533 under this section shall publish the terms and conditions of the
534 program on his or her office's website.

535 (2) Each state attorney who offers a program under this
536 section shall notify the department of each person who
537 successfully completes the program. The department shall notate
538 the successful completion of the program on the driving record
539 of each such person.

540 (3) A person who successfully completes a program offered
541 under this section is ineligible for future participation in
542 such a program.

543 **Section 9. Subsection (1) of section 316.656, Florida**
544 **Statutes, is amended to read:**

545 316.656 Mandatory adjudication; prohibition against
546 accepting plea to lesser included offense.-

547 (1) Notwithstanding ~~the provisions of s. 948.01, a court~~
548 may not ~~no court may~~ suspend, defer, or withhold adjudication of
549 guilt or imposition of sentence for any violation of s. 316.193
550 or s. 316.1939, for manslaughter resulting from the operation of

551 a motor vehicle, or for vehicular homicide.

552 **Section 10. Subsection (2) of section 322.34, Florida**
 553 **Statutes, is amended to read:**

554 322.34 Driving while license suspended, revoked, canceled,
 555 or disqualified.—

556 (2) Any person whose driver license or driving privilege
 557 has been canceled, suspended, or revoked as provided by law, or
 558 who does not have a driver license or driving privilege but is
 559 under suspension or revocation equivalent status as defined in
 560 s. 322.01(43), except persons defined in s. 322.264, who,
 561 knowing of such cancellation, suspension, revocation, or
 562 suspension or revocation equivalent status, drives any motor
 563 vehicle upon the highways of this state while such license or
 564 privilege is canceled, suspended, or revoked, or while under
 565 suspension or revocation equivalent status, commits:

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

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

571 ~~2~~. A person convicted of a third or subsequent conviction,
 572 except as provided in paragraph (c), must serve a minimum of 10
 573 days in jail.

574 (c) A felony of the third degree, punishable as provided
 575 in s. 775.082, s. 775.083, or s. 775.084, upon a third or

576 subsequent conviction if the current violation of this section
577 or the most recent prior violation of the section is related to
578 driving while license canceled, suspended, revoked, or
579 suspension or revocation equivalent status resulting from a
580 violation of:

581 1. Driving under the influence. A person to whom this
582 subparagraph applies must serve a minimum of 30 days in jail
583 upon a first conviction, a minimum of 60 days in jail upon a
584 second conviction, and a minimum of 90 days in jail upon a third
585 or subsequent conviction;

586 2. Refusal to submit to a urine, breath-alcohol, or blood
587 alcohol test. A person to whom this subparagraph applies must
588 serve a minimum of 30 days in jail upon a first conviction, a
589 minimum of 60 days in jail upon a second conviction, and a
590 minimum of 90 days in jail upon a third or subsequent
591 conviction;

592 3. A traffic offense causing death or serious bodily
593 injury; or

594 4. Fleeing or eluding.

595
596 The element of knowledge is satisfied if the person has been
597 previously cited as provided in subsection (1); or the person
598 admits to knowledge of the cancellation, suspension, or
599 revocation, or suspension or revocation equivalent status; or
600 the person received notice as provided in subsection (4). There

601 is ~~shall be~~ a rebuttable presumption that the knowledge
 602 requirement is satisfied if a judgment or an order as provided
 603 in subsection (4) appears in the department's records for any
 604 case except for one involving a suspension by the department for
 605 failure to pay a traffic fine or for a financial responsibility
 606 violation.

607 **Section 11. Subsection (1) of section 327.35, Florida**
 608 **Statutes, is amended to read:**

609 327.35 Boating under the influence; penalties; "designated
 610 drivers."—

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

615 (a) The person is under the influence of alcoholic
 616 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 617 any substance controlled under chapter 893, or any impairing
 618 substance when affected to the extent that the person's normal
 619 faculties are impaired;

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

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

624 **Section 12. Subsection (1) of section 782.071, Florida**
 625 **Statutes, is amended to read:**

626 782.071 Vehicular homicide.—"Vehicular homicide" is the
 627 killing of a human being, or the killing of an unborn child by
 628 any injury to the mother, caused by the operation of a motor
 629 vehicle by another in a reckless manner likely to cause the
 630 death of, or great bodily harm to, another.

631 (1) Vehicular homicide is:

632 (a) A felony of the second degree, punishable as provided
 633 in s. 775.082, s. 775.083, or s. 775.084.

634 (b) A felony of the first degree, punishable as provided
 635 in s. 775.082, s. 775.083, or s. 775.084, if:

636 1. At the time of the accident, the person knew, or should
 637 have known, that the accident occurred; and

638 2. The person failed to give information and render aid as
 639 required by s. 316.062.

640 (c) A felony of the first degree, punishable as provided
 641 in s. 775.082, s. 775.083, or s. 775.084, if the person has a
 642 prior conviction under this section or s. 316.193(3)(c)3.

643
 644 This paragraph does not require that the person knew that the
 645 accident resulted in injury or death.

646 **Section 13. Section 933.02, Florida Statutes, is amended**
 647 **to read:**

648 933.02 Grounds for issuance of search warrant.—Upon proper
 649 affidavits being made, a search warrant may be issued under ~~the~~
 650 ~~provisions of~~ this chapter upon any of the following grounds:

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

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

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

655 (b) In connection with gambling, gambling implements and
 656 appliances; or

657 (c) In violation of s. 847.011 or other laws in reference
 658 to obscene prints and literature;

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

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

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

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

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

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

668 (5) When the laws in relation to cruelty to animals, as
 669 provided in chapter 828, have been or are violated in any
 670 particular building or place; ~~or~~

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

674
 675 This section also applies to any papers or documents used as a

676 means of or in aid of the commission of any offense against the
 677 laws of the state.

678 **Section 14. Paragraph (a) of subsection (3) of section**
 679 **316.306, Florida Statutes, is amended to read:**

680 316.306 School and work zones; prohibition on the use of a
 681 wireless communications device in a handheld manner.—

682 (3)(a)1. A person may not operate a motor vehicle while
 683 using a wireless communications device in a handheld manner in a
 684 designated school crossing, school zone, or work zone area as
 685 defined in s. 316.003 ~~s. 316.003(112)~~. This subparagraph shall
 686 only be applicable to work zone areas if construction personnel
 687 are present or are operating equipment on the road or
 688 immediately adjacent to the work zone area. For the purposes of
 689 this paragraph, a motor vehicle that is stationary is not being
 690 operated and is not subject to the prohibition in this
 691 paragraph.

692 2. ~~Effective January 1, 2020,~~ A law enforcement officer
 693 may stop motor vehicles and issue citations to persons who are
 694 driving while using a wireless communications device in a
 695 handheld manner in violation of subparagraph 1.

696 **Section 15. Subsections (19) through (48) of section**
 697 **327.02, Florida Statutes, are renumbered as subsections (20)**
 698 **through (49), respectively, and a new subsection (19) is added**
 699 **to that section to read:**

700 327.02 Definitions.—As used in this chapter and in chapter

701 328, unless the context clearly requires a different meaning,
 702 the term:

703 (19) "Impairing substance" has the same meaning as in s.
 704 316.003.

705 **Section 16. Subsection (1) and paragraph (a) of subsection**
 706 **(8) of section 327.35, Florida Statutes, are amended to read:**

707 327.35 Boating under the influence; penalties; "designated
 708 drivers."—

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

713 (a) The person is under the influence of alcoholic
 714 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 715 any substance controlled under chapter 893, or any impairing
 716 substance when affected to the extent that the person's normal
 717 faculties are impaired;

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

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

722 (8) A person who is arrested for a violation of this
 723 section may not be released from custody:

724 (a) Until the person is no longer under the influence of
 725 alcoholic beverages, any chemical substance set forth in s.

726 877.111, ~~or~~ any substance controlled under chapter 893, or any
 727 impairing substance and affected to the extent that his or her
 728 normal faculties are impaired;

729 **Section 17. Section 327.352, Florida Statutes, is amended**
 730 **to read:**

731 327.352 Tests for alcohol and other, ~~chemical~~ substances,
 732 ~~or controlled substances~~; implied consent; refusal.—

733 (1) (a) 1. The Legislature declares that the operation of a
 734 vessel is a privilege that must be exercised in a reasonable
 735 manner. In order to protect the public health and safety, it is
 736 essential that a lawful and effective means of reducing the
 737 incidence of boating while impaired or intoxicated be
 738 established. Therefore, a person who accepts the privilege
 739 extended by the laws of this state of operating a vessel within
 740 this state is, by operating such vessel, deemed to have given
 741 his or her consent to submit to an approved chemical test or
 742 physical test including, but not limited to, an infrared light
 743 test of his or her breath for the purpose of determining the
 744 alcoholic content of his or her blood or breath if the person is
 745 lawfully arrested for any offense allegedly committed while the
 746 person was operating a vessel while under the influence of
 747 alcoholic beverages. The chemical or physical breath test must
 748 be incidental to a lawful arrest and administered at the request
 749 of a law enforcement officer who has reasonable cause to believe
 750 such person was operating the vessel within this state while

751 | under the influence of alcoholic beverages. The administration
752 | of a breath test does not preclude the administration of another
753 | type of test. The person shall be told that his or her failure
754 | to submit to any lawful test of his or her breath under this
755 | chapter will result in a civil penalty of \$500, and that if he
756 | or she refuses to submit to a lawful test of his or her breath
757 | and he or she has been previously fined under s. 327.35215 or
758 | his or her driving privilege has been previously suspended for
759 | refusal to submit to any lawful test of his or her breath,
760 | urine, or blood, he or she commits a misdemeanor of the first
761 | degree, punishable as provided in s. 775.082 or s. 775.083, in
762 | addition to any other penalties provided by law. The refusal to
763 | submit to a chemical or physical breath test upon the request of
764 | a law enforcement officer as provided in this section is
765 | admissible into evidence in any criminal proceeding.

766 | 2. A person who accepts the privilege extended by the laws
767 | of this state of operating a vessel within this state is, by
768 | operating such vessel, deemed to have given his or her consent
769 | to submit to a urine test for the purpose of detecting the
770 | presence of chemical substances as set forth in s. 877.111, ~~or~~
771 | controlled substances, or impairing substances if the person is
772 | lawfully arrested for any offense allegedly committed while the
773 | person was operating a vessel while under the influence of
774 | chemical substances, ~~or~~ controlled substances, or impairing
775 | substances. The urine test must be incidental to a lawful arrest

776 and administered at a detention facility or any other facility,
777 mobile or otherwise, which is equipped to administer such tests
778 at the request of a law enforcement officer who has reasonable
779 cause to believe such person was operating a vessel within this
780 state while under the influence of chemical substances, ~~or~~
781 controlled substances, or impairing substances. The urine test
782 must be administered at a detention facility or any other
783 facility, mobile or otherwise, which is equipped to administer
784 such test in a reasonable manner that will ensure the accuracy
785 of the specimen and maintain the privacy of the individual
786 involved. The administration of a urine test does not preclude
787 the administration of another type of test. The person shall be
788 told that his or her failure to submit to any lawful test of his
789 or her urine under this chapter will result in a civil penalty
790 of \$500, and that if he or she refuses to submit to a lawful
791 test of his or her urine and he or she has been previously fined
792 under s. 327.35215 or his or her driving privilege has been
793 previously suspended for refusal to submit to any lawful test of
794 his or her breath, urine, or blood, he or she commits a
795 misdemeanor of the first degree, punishable as provided in s.
796 775.082 or s. 775.083, in addition to any other penalties
797 provided by law. The refusal to submit to a urine test upon the
798 request of a law enforcement officer as provided in this section
799 is admissible into evidence in any criminal proceeding.

800 (b)1. The blood-alcohol level must be based upon grams of

801 alcohol per 100 milliliters of blood. The breath-alcohol level
802 must be based upon grams of alcohol per 210 liters of breath.

803 2. An analysis of a person's breath, in order to be
804 considered valid under this section, must have been performed
805 substantially according to methods approved by the Department of
806 Law Enforcement. Any insubstantial differences between approved
807 techniques and actual testing procedures in any individual case
808 do not render the test or test results invalid.

809 3. The Alcohol Testing Program within the Department of
810 Law Enforcement is responsible for the regulation of the
811 operation, inspection, and registration of breath test
812 instruments utilized under the driving and boating under the
813 influence provisions and related provisions located in this
814 chapter and chapters 316 and 322. The program is responsible for
815 the regulation of the individuals who operate, inspect, and
816 instruct on the breath test instruments utilized in the driving
817 and boating under the influence provisions and related
818 provisions located in this chapter and chapters 316 and 322. The
819 program is further responsible for the regulation of blood
820 analysts who conduct blood testing to be utilized under the
821 driving and boating under the influence provisions and related
822 provisions located in this chapter and chapters 316 and 322. The
823 program shall:

824 a. Establish uniform criteria for the issuance of permits
825 to breath test operators, agency inspectors, instructors, blood

826 analysts, and instruments.

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

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

832 d. Establish uniform requirements for instruction and
833 curricula for the operation and inspection of approved
834 instruments.

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

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

839 g. Have the authority to approve or disapprove breath test
840 instruments and accompanying paraphernalia for use pursuant to
841 the driving and boating under the influence provisions and
842 related provisions located in this chapter and chapters 316 and
843 322.

844 h. With the approval of the executive director of the
845 Department of Law Enforcement, make and enter into contracts and
846 agreements with other agencies, organizations, associations,
847 corporations, individuals, or federal agencies as are necessary,
848 expedient, or incidental to the performance of duties.

849 i. Issue final orders which include findings of fact and
850 conclusions of law and which constitute final agency action for

851 the purpose of chapter 120.

852 j. Enforce compliance with the provisions of this section
853 through civil or administrative proceedings.

854 k. Make recommendations concerning any matter within the
855 purview of this section, this chapter, chapter 316, or chapter
856 322.

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

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

861 n. Have the authority to approve the type of blood test
862 utilized under the driving and boating under the influence
863 provisions and related provisions located in this chapter and
864 chapters 316 and 322.

865 o. Have the authority to specify techniques and methods
866 for breath alcohol testing and blood testing utilized under the
867 driving and boating under the influence provisions and related
868 provisions located in this chapter and chapters 316 and 322.

869 p. Have the authority to approve repair facilities for the
870 approved breath test instruments, including the authority to set
871 criteria for approval.

872

873 Nothing in this section shall be construed to supersede
874 provisions in this chapter and chapters 316 and 322. The
875 specifications in this section are derived from the power and

876 authority previously and currently possessed by the Department
877 of Law Enforcement and are enumerated to conform with the
878 mandates of chapter 99-379, Laws of Florida.

879 (c) A person who accepts the privilege extended by the
880 laws of this state of operating a vessel within this state is,
881 by operating such vessel, deemed to have given his or her
882 consent to submit to an approved blood test for the purpose of
883 determining the alcoholic content of the blood or a blood test
884 for the purpose of determining the presence of chemical
885 substances, ~~or~~ controlled substances, or impairing substances as
886 provided in this section if there is reasonable cause to believe
887 the person was operating a vessel while under the influence of
888 alcoholic beverages or chemical, ~~or~~ controlled, or impairing
889 substances and the person appears for treatment at a hospital,
890 clinic, or other medical facility and the administration of a
891 breath or urine test is impractical or impossible. As used in
892 this paragraph, the term "other medical facility" includes an
893 ambulance or other medical emergency vehicle. The blood test
894 must be performed in a reasonable manner. A person who is
895 incapable of refusal by reason of unconsciousness or other
896 mental or physical condition is deemed not to have withdrawn his
897 or her consent to such test. A person who is capable of refusal
898 shall be told that his or her failure to submit to such a blood
899 test will result in a civil penalty of \$500. The refusal to
900 submit to a blood test upon the request of a law enforcement

901 officer is admissible in evidence in any criminal proceeding.

902 (d) If the arresting officer does not request a chemical
 903 or physical breath test of the person arrested for any offense
 904 allegedly committed while the person was operating a vessel
 905 while under the influence of alcoholic beverages, ~~or~~ controlled
 906 substances, or impairing substances, the person may request the
 907 arresting officer to have a chemical or physical test made of
 908 the arrested person's breath or a test of the urine or blood for
 909 the purpose of determining the alcoholic content of the person's
 910 blood or breath or the presence of chemical substances, ~~or~~
 911 controlled substances, or impairing substances; and, if so
 912 requested, the arresting officer shall have the test performed.

913 (e)1. The tests determining the weight of alcohol in the
 914 defendant's blood or breath shall be administered at the request
 915 of a law enforcement officer substantially in accordance with
 916 rules of the Department of Law Enforcement. However, the failure
 917 of a law enforcement officer to request the withdrawal of blood
 918 does not affect the admissibility of a test of blood withdrawn
 919 for medical purposes.

920 2. Only a physician, certified paramedic, registered
 921 nurse, licensed practical nurse, other personnel authorized by a
 922 hospital to draw blood, or duly licensed clinical laboratory
 923 director, supervisor, technologist, or technician, acting at the
 924 request of a law enforcement officer, may withdraw blood for the
 925 purpose of determining its alcoholic content or the presence of

926 | chemical substances, ~~or~~ controlled substances, or impairing
927 | substances therein. However, the failure of a law enforcement
928 | officer to request the withdrawal of blood does not affect the
929 | admissibility of a test of blood withdrawn for medical purposes.

930 | 3. The person tested may, at his or her own expense, have
931 | a physician, registered nurse, other personnel authorized by a
932 | hospital to draw blood, or duly licensed clinical laboratory
933 | director, supervisor, technologist, or technician, or other
934 | person of his or her own choosing administer an independent test
935 | in addition to the test administered at the direction of the law
936 | enforcement officer for the purpose of determining the amount of
937 | alcohol in the person's blood or breath or the presence of
938 | chemical substances, ~~or~~ controlled substances, or impairing
939 | substances at the time alleged, as shown by chemical analysis of
940 | his or her blood or urine, or by chemical or physical test of
941 | his or her breath. The failure or inability to obtain an
942 | independent test by a person does not preclude the admissibility
943 | in evidence of the test taken at the direction of the law
944 | enforcement officer. The law enforcement officer shall not
945 | interfere with the person's opportunity to obtain the
946 | independent test and shall provide the person with timely
947 | telephone access to secure the test, but the burden is on the
948 | person to arrange and secure the test at the person's own
949 | expense.

950 | 4. Upon the request of the person tested, full information

951 concerning the results of the test taken at the direction of the
952 law enforcement officer shall be made available to the person or
953 his or her attorney. Full information is limited to the
954 following:

955 a. The type of test administered and the procedures
956 followed.

957 b. The time of the collection of the blood or breath
958 sample analyzed.

959 c. The numerical results of the test indicating the
960 alcohol content of the blood and breath.

961 d. The type and status of any permit issued by the
962 Department of Law Enforcement which was held by the person who
963 performed the test.

964 e. If the test was administered by means of a breath
965 testing instrument, the date of performance of the most recent
966 required inspection of such instrument.

967

968 Full information does not include manuals, schematics, or
969 software of the instrument used to test the person or any other
970 material that is not in the actual possession of the state.

971 Additionally, full information does not include information in
972 the possession of the manufacturer of the test instrument.

973 5. A hospital, clinical laboratory, medical clinic, or
974 similar medical institution or physician, certified paramedic,
975 registered nurse, licensed practical nurse, other personnel

976 authorized by a hospital to draw blood, or duly licensed
977 clinical laboratory director, supervisor, technologist, or
978 technician, or other person assisting a law enforcement officer
979 does not incur any civil or criminal liability as a result of
980 the withdrawal or analysis of a blood or urine specimen, or the
981 chemical or physical test of a person's breath pursuant to
982 accepted medical standards when requested by a law enforcement
983 officer, regardless of whether or not the subject resisted
984 administration of the test.

985 (2) The results of any test administered pursuant to this
986 section for the purpose of detecting the presence of any
987 controlled substance shall not be admissible as evidence in a
988 criminal prosecution for the possession of a controlled
989 substance.

990 (3) Notwithstanding any provision of law pertaining to the
991 confidentiality of hospital records or other medical records,
992 information relating to the alcoholic content of the blood or
993 breath or the presence of chemical substances, ~~or~~ controlled
994 substances, or impairing substances in the blood obtained
995 pursuant to this section shall be released to a court,
996 prosecuting attorney, defense attorney, or law enforcement
997 officer in connection with an alleged violation of s. 327.35
998 upon request for such information.

999 **Section 18. Paragraph (a) of subsection (1), paragraph (a)**
1000 **of subsection (2), paragraph (b) of subsection (3), and**

1001 **subsection (4) of section 327.353, Florida Statutes, are amended**
 1002 **to read:**

1003 327.353 Blood test for impairment or intoxication in cases
 1004 of death or serious bodily injury; right to use reasonable
 1005 force.—

1006 (1) (a) If a law enforcement officer has probable cause to
 1007 believe that a vessel operated by a person under the influence
 1008 of alcoholic beverages, any chemical substances, ~~or~~ any
 1009 controlled substances, or any impairing substances has caused
 1010 the death or serious bodily injury of a human being, a law
 1011 enforcement officer shall require the person operating or in
 1012 actual physical control of the vessel to submit to a test of the
 1013 person's blood for the purpose of determining the alcoholic
 1014 content thereof or the presence of chemical substances as set
 1015 forth in s. 877.111 or any substance controlled under chapter
 1016 893. The law enforcement officer may use reasonable force if
 1017 necessary to require the person to submit to the administration
 1018 of the blood test. The blood test shall be performed in a
 1019 reasonable manner. Notwithstanding s. 327.352, the testing
 1020 required by this paragraph need not be incidental to a lawful
 1021 arrest of the person.

1022 (2) (a) Only a physician, certified paramedic, registered
 1023 nurse, licensed practical nurse, other personnel authorized by a
 1024 hospital to draw blood, or duly licensed clinical laboratory
 1025 director, supervisor, technologist, or technician, acting at the

1026 request of a law enforcement officer, may withdraw blood for the
 1027 purpose of determining the alcoholic content thereof or the
 1028 presence of chemical substances, ~~or~~ controlled substances, or
 1029 impairing substances therein. However, the failure of a law
 1030 enforcement officer to request the withdrawal of blood shall not
 1031 affect the admissibility of a test of blood withdrawn for
 1032 medical purposes.

1033 (3)

1034 (b) The results of any test administered pursuant to this
 1035 section for the purpose of detecting the presence of any
 1036 controlled substance or impairing substance are not admissible
 1037 as evidence in a criminal prosecution for the possession of a
 1038 controlled substance.

1039 (4) Notwithstanding any provision of law pertaining to the
 1040 confidentiality of hospital records or other medical records,
 1041 information relating to the alcoholic content of the blood or
 1042 the presence of chemical substances, ~~or~~ controlled substances,
 1043 or impairing substances in the blood obtained pursuant to this
 1044 section shall be released to a court, prosecuting attorney,
 1045 defense attorney, or law enforcement officer in connection with
 1046 an alleged violation of s. 327.35 upon request for such
 1047 information.

1048 **Section 19. Subsections (1) and (2) of section 327.354,**
 1049 **Florida Statutes, are amended to read:**

1050 327.354 Presumption of impairment; testing methods.—

1051 (1) It is unlawful and punishable as provided in s. 327.35
1052 for any person who is under the influence of alcoholic
1053 beverages, ~~or~~ controlled substances, or impairing substances,
1054 when affected to the extent that the person's normal faculties
1055 are impaired or to the extent that the person is deprived of
1056 full possession of normal faculties, to operate any vessel
1057 within this state. Such normal faculties include, but are not
1058 limited to, the ability to see, hear, walk, talk, judge
1059 distances, drive an automobile, make judgments, act in
1060 emergencies, and, in general, normally perform the many mental
1061 and physical acts of daily life.

1062 (2) At the trial of any civil or criminal action or
1063 proceeding arising out of acts alleged to have been committed by
1064 any person while operating a vessel while under the influence of
1065 alcoholic beverages, ~~or~~ controlled substances, or impairing
1066 substances, when affected to the extent that the person's normal
1067 faculties were impaired or to the extent that he or she was
1068 deprived of full possession of his or her normal faculties, the
1069 results of any test administered in accordance with s. 327.352
1070 or s. 327.353 and this section are admissible into evidence when
1071 otherwise admissible, and the amount of alcohol in the person's
1072 blood or breath at the time alleged, as shown by chemical
1073 analysis of the person's blood, or by chemical or physical test
1074 of the person's breath, gives rise to the following
1075 presumptions:

1076 (a) If there was at that time a blood-alcohol level or
1077 breath-alcohol level of 0.05 or less, it is presumed that the
1078 person was not under the influence of alcoholic beverages to the
1079 extent that his or her normal faculties were impaired.

1080 (b) If there was at that time a blood-alcohol level or
1081 breath-alcohol level in excess of 0.05 but less than 0.08, that
1082 fact does not give rise to any presumption that the person was
1083 or was not under the influence of alcoholic beverages to the
1084 extent that his or her normal faculties were impaired but may be
1085 considered with other competent evidence in determining whether
1086 the person was under the influence of alcoholic beverages to the
1087 extent that his or her normal faculties were impaired.

1088 (c) If there was at that time a blood-alcohol level or
1089 breath-alcohol level of 0.08 or higher, that fact is prima facie
1090 evidence that the person was under the influence of alcoholic
1091 beverages to the extent that his or her normal faculties were
1092 impaired. Any person who operates a vessel and who has a blood-
1093 alcohol level or breath-alcohol level of 0.08 or higher is
1094 guilty of operating a vessel with an unlawful blood-alcohol
1095 level or breath-alcohol level.

1096
1097 The presumptions provided in this subsection do not limit the
1098 introduction of any other competent evidence bearing upon the
1099 question of whether the person was under the influence of
1100 alcoholic beverages to the extent that his or her normal

1101 faculties were impaired.

1102 **Section 20. Subsection (1) of section 327.359, Florida**
 1103 **Statutes, is amended to read:**

1104 327.359 Refusal to submit to testing; penalties.—A person
 1105 who has refused to submit to a chemical or physical test of his
 1106 or her breath or urine, as described in s. 327.352, and who has
 1107 been previously fined under s. 327.35215 or has previously had
 1108 his or her driver license suspended for refusal to submit to a
 1109 lawful test of his or her breath, urine, or blood, and:

1110 (1) Who the arresting law enforcement officer had probable
 1111 cause to believe was operating or in actual physical control of
 1112 a vessel in this state while under the influence of alcoholic
 1113 beverages, chemical substances, ~~or~~ controlled substances, or
 1114 impairing substances;

1115
 1116 commits a misdemeanor of the first degree, punishable as
 1117 provided in s. 775.082 or s. 775.083.

1118 **Section 21. Subsection (8) of section 327.53, Florida**
 1119 **Statutes, is amended to read:**

1120 327.53 Marine sanitation.—

1121 (8) The owner or operator of a live-aboard vessel as
 1122 defined in s. 327.02 ~~s. 327.02(23)~~, or a houseboat as defined in
 1123 s. 327.02 ~~s. 327.02(17)~~, that is equipped with a marine
 1124 sanitation device must maintain a record of the date of each
 1125 pumpout of the marine sanitation device and the location of the

1126 pumpout station or waste reception facility. Each record must be
 1127 maintained for 1 year after the date of the pumpout. This
 1128 subsection does not apply to marine compost toilets that process
 1129 and manage human waste using marine compost toilet technologies
 1130 that comply with United States Coast Guard requirements.

1131 **Section 22. Subsection (1) of section 655.960, Florida**
 1132 **Statutes, is amended to read:**

1133 655.960 Definitions; ss. 655.960-655.965.—As used in this
 1134 section and ss. 655.961-655.965, unless the context otherwise
 1135 requires:

1136 (1) "Access area" means any paved walkway or sidewalk
 1137 which is within 50 feet of any automated teller machine. The
 1138 term does not include any street or highway open to the use of
 1139 the public, as defined in s. 316.003(91) (a) or (b) ~~s.~~
 1140 ~~316.003(90) (a) or (b)~~, including any adjacent sidewalk, as
 1141 defined in s. 316.003.

1142 **Section 23.** This act shall take effect October 1, 2025.