

By the Committee on Finance and Tax; and Senator Wise

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1 A bill to be entitled
2 An act relating to driver responsibility; amending s.
3 316.192, F.S.; providing for the addition of a
4 specified charge to any fine imposed for reckless
5 driving; providing for the distribution of proceeds
6 collected from the imposition of such charge; amending
7 s. 316.1932, F.S.; providing for the imposition of a
8 specified fine against each driver who refuses to
9 submit to a blood-alcohol level test when asked to do
10 so by a law enforcement officer; providing for the
11 distribution of proceeds collected from the imposition
12 of such fine; creating s. 322.2701, F.S.; providing a
13 short title; creating s. 322.27021, F.S.; directing
14 the Department of Highway Safety and Motor Vehicles to
15 assess a specified annual surcharge against a person
16 who accumulates points under specified provisions
17 against his or her driver's license within a certain
18 timeframe; requiring the department to notify a
19 licensee upon assignment of a certain number of
20 points; providing applicability; creating s.
21 322.27022, F.S.; directing the department to assess
22 specified annual surcharges against a person who has a
23 final conviction within a certain timeframe for a DUI
24 offense; providing applicability; creating s.
25 322.27023, F.S.; directing the department to assess
26 specified annual surcharges against a person driving
27 without a valid driver's license or without financial
28 responsibility; providing applicability; creating s.
29 322.2704, F.S.; requiring the department to notify

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30 licenses of the surcharges, the time period in which
31 to pay the surcharges, and consequences of
32 noncompliance; requiring the department to suspend a
33 driver's license if the licensee does not pay the
34 surcharge or arrange for installment payments within a
35 specified time after the notice of surcharge is sent;
36 specifying the period of suspension; creating s.
37 322.2705, F.S.; directing the department to provide by
38 rule for installment payments of the surcharges;
39 authorizing the department to adopt rules to permit
40 licensees to pay assessed surcharges with credit
41 cards; providing for content of such rules; requiring
42 the department to suspend a driver's license if the
43 credit card payment is subsequently reversed;
44 specifying the period of suspension; creating s.
45 322.2706, F.S.; directing the department to enter into
46 a contract with a vendor for the collection of
47 specified annual surcharges; creating s. 322.2707,
48 F.S.; requiring the department to adopt a surcharge
49 reduction program by rule; requiring the department to
50 waive the surcharge for a noncriminal infraction
51 committed by a person within a certain time period;
52 requiring the department to reduce the amount of a
53 surcharge for certain drivers who complete a driver
54 improvement program; requiring the department to
55 reduce or extend the payment period for surcharges
56 assessed against indigent persons; creating s.
57 322.2709, F.S.; providing for distribution of moneys
58 derived from surcharges collected by the department;

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59 amending s. 318.121, F.S.; exempting specified
60 provisions from a limitation on surcharges added to
61 civil traffic penalties; providing an effective date.
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63 Be It Enacted by the Legislature of the State of Florida:
64

65 Section 1. Present subsection (5) of section 316.192,
66 Florida Statutes, is redesignated as subsection (6), and a new
67 subsection (5) is added to that section, to read:

68 316.192 Reckless driving.—

69 (5) Notwithstanding any other provision of this section, an
70 additional charge in the amount of \$300 shall be added to any
71 fine imposed pursuant to this section. One hundred fifty dollars
72 from each such charge shall be remitted to the Department of
73 Revenue for deposit into the Emergency Medical Services Trust
74 Fund and \$150 shall be remitted to the Department of Revenue for
75 deposit into the Education Enhancement Trust Fund.

76 Section 2. Paragraph (a) of subsection (1) of section
77 316.1932, Florida Statutes, is amended to read:

78 316.1932 Tests for alcohol, chemical substances, or
79 controlled substances; implied consent; refusal.—

80 (1) (a) 1.a. Any person who accepts the privilege extended by
81 the laws of this state of operating a motor vehicle within this
82 state is, by so operating such vehicle, deemed to have given his
83 or her consent to submit to an approved chemical test or
84 physical test including, but not limited to, an infrared light
85 test of his or her breath for the purpose of determining the
86 alcoholic content of his or her blood or breath if the person is
87 lawfully arrested for any offense allegedly committed while the

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88 person was driving or was in actual physical control of a motor
89 vehicle while under the influence of alcoholic beverages. The
90 chemical or physical breath test must be incidental to a lawful
91 arrest and administered at the request of a law enforcement
92 officer who has reasonable cause to believe such person was
93 driving or was in actual physical control of the motor vehicle
94 within this state while under the influence of alcoholic
95 beverages. The administration of a breath test does not preclude
96 the administration of another type of test. The person shall be
97 told that his or her failure to submit to any lawful test of his
98 or her breath will result in the suspension of the person's
99 privilege to operate a motor vehicle for a period of 1 year for
100 a first refusal, or for a period of 18 months if the driving
101 privilege of such person has been previously suspended as a
102 result of a refusal to submit to such a test or tests, and shall
103 also be told that if he or she refuses to submit to a lawful
104 test of his or her breath and his or her driving privilege has
105 been previously suspended for a prior refusal to submit to a
106 lawful test of his or her breath, urine, or blood, he or she
107 commits a misdemeanor in addition to any other penalties. The
108 refusal to submit to a chemical or physical breath test upon the
109 request of a law enforcement officer as provided in this section
110 is admissible into evidence in any criminal proceeding.

111 b. Any person who accepts the privilege extended by the
112 laws of this state of operating a motor vehicle within this
113 state is, by so operating such vehicle, deemed to have given his
114 or her consent to submit to a urine test for the purpose of
115 detecting the presence of chemical substances as set forth in s.
116 877.111 or controlled substances if the person is lawfully

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117 arrested for any offense allegedly committed while the person
118 was driving or was in actual physical control of a motor vehicle
119 while under the influence of chemical substances or controlled
120 substances. The urine test must be incidental to a lawful arrest
121 and administered at a detention facility or any other facility,
122 mobile or otherwise, which is equipped to administer such tests
123 at the request of a law enforcement officer who has reasonable
124 cause to believe such person was driving or was in actual
125 physical control of a motor vehicle within this state while
126 under the influence of chemical substances or controlled
127 substances. The urine test shall be administered at a detention
128 facility or any other facility, mobile or otherwise, which is
129 equipped to administer such test in a reasonable manner that
130 will ensure the accuracy of the specimen and maintain the
131 privacy of the individual involved. The administration of a
132 urine test does not preclude the administration of another type
133 of test. The person shall be told that his or her failure to
134 submit to any lawful test of his or her urine will result in the
135 suspension of the person's privilege to operate a motor vehicle
136 for a period of 1 year for the first refusal, or for a period of
137 18 months if the driving privilege of such person has been
138 previously suspended as a result of a refusal to submit to such
139 a test or tests, and shall also be told that if he or she
140 refuses to submit to a lawful test of his or her urine and his
141 or her driving privilege has been previously suspended for a
142 prior refusal to submit to a lawful test of his or her breath,
143 urine, or blood, he or she commits a misdemeanor in addition to
144 any other penalties. The refusal to submit to a urine test upon
145 the request of a law enforcement officer as provided in this

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146 section is admissible into evidence in any criminal proceeding.

147 c. Notwithstanding any other provision of this section, a
148 fine in the amount of \$300 shall be assessed against each driver
149 who refuses to submit to a blood-alcohol level test when asked
150 to do so by a law enforcement officer. One hundred fifty dollars
151 from each such fine shall be remitted to the Department of
152 Revenue for deposit into the Emergency Medical Services Trust
153 Fund and \$150 shall be remitted to the Department of Revenue for
154 deposit into the Education Enhancement Trust Fund.

155 2. The Alcohol Testing Program within the Department of Law
156 Enforcement is responsible for the regulation of the operation,
157 inspection, and registration of breath test instruments utilized
158 under the driving and boating under the influence provisions and
159 related provisions located in this chapter and chapters 322 and
160 327. The program is responsible for the regulation of the
161 individuals who operate, inspect, and instruct on the breath
162 test instruments utilized in the driving and boating under the
163 influence provisions and related provisions located in this
164 chapter and chapters 322 and 327. The program is further
165 responsible for the regulation of blood analysts who conduct
166 blood testing to be utilized under the driving and boating under
167 the influence provisions and related provisions located in this
168 chapter and chapters 322 and 327. The program shall:

169 a. Establish uniform criteria for the issuance of permits
170 to breath test operators, agency inspectors, instructors, blood
171 analysts, and instruments.

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

174 c. Have the authority to discipline and suspend, revoke, or

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175 renew the permits of breath test operators, agency inspectors,
176 instructors, blood analysts, and instruments.

177 d. Establish uniform requirements for instruction and
178 curricula for the operation and inspection of approved
179 instruments.

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

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

184 g. Have the authority to approve or disapprove breath test
185 instruments and accompanying paraphernalia for use pursuant to
186 the driving and boating under the influence provisions and
187 related provisions located in this chapter and chapters 322 and
188 327.

189 h. With the approval of the executive director of the
190 Department of Law Enforcement, make and enter into contracts and
191 agreements with other agencies, organizations, associations,
192 corporations, individuals, or federal agencies as are necessary,
193 expedient, or incidental to the performance of duties.

194 i. Issue final orders which include findings of fact and
195 conclusions of law and which constitute final agency action for
196 the purpose of chapter 120.

197 j. Enforce compliance with the provisions of this section
198 through civil or administrative proceedings.

199 k. Make recommendations concerning any matter within the
200 purview of this section, this chapter, chapter 322, or chapter
201 327.

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

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

206 n. Have the authority to approve the type of blood test
207 utilized under the driving and boating under the influence
208 provisions and related provisions located in this chapter and
209 chapters 322 and 327.

210 o. Have the authority to specify techniques and methods for
211 breath alcohol testing and blood testing utilized under the
212 driving and boating under the influence provisions and related
213 provisions located in this chapter and chapters 322 and 327.

214 p. Have the authority to approve repair facilities for the
215 approved breath test instruments, including the authority to set
216 criteria for approval.

217
218 Nothing in this section shall be construed to supersede
219 provisions in this chapter and chapters 322 and 327. The
220 specifications in this section are derived from the power and
221 authority previously and currently possessed by the Department
222 of Law Enforcement and are enumerated to conform with the
223 mandates of chapter 99-379, Laws of Florida.

224 Section 3. Section 322.2701, Florida Statutes, is created
225 to read:

226 322.2701 Short title.—Sections 322.2701-322.2709 may be
227 cited as "Florida's Driver Responsibility Law."

228 Section 4. Section 322.27021, Florida Statutes, is created
229 to read:

230 322.27021 Surcharge for points.—

231 (1) Each year, the department shall assess a surcharge on
232 each person who has accumulated 7 or more points under s. 322.27

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233 against his or her driver's license during the preceding 36-
234 month period.

235 (2) The amount of the surcharge under this section is \$120
236 for the first 7 points and \$25 for each additional point.

237 (3) The department shall notify the holder of a driver's
238 license of the assignment of a 4th point on that license by
239 first-class mail sent to the person's most recent address as
240 shown on the records of the department.

241 (4) This section does not apply to a conviction that
242 becomes final before July 1, 2009.

243 Section 5. Section 322.27022, Florida Statutes, is created
244 to read:

245 322.27022 Surcharge for conviction of driving under the
246 influence.-

247 (1) Each year, the department shall assess a surcharge on
248 each person who has a final conviction during the preceding 36-
249 month period for a violation of s. 316.193.

250 (2) The amount of the surcharge under this section is:

251 (a) Five hundred dollars per year for a first conviction.

252 (b) Seven hundred fifty dollars per year for a second or
253 subsequent conviction within a 36-month period.

254 (c) One thousand dollars per year for a first or subsequent
255 conviction if the blood-alcohol level of the person was 0.20 or
256 higher at the time the analysis was performed.

257 (3) A surcharge under this section may not be assessed for
258 the same conviction for a period longer than 36 months.

259 (4) This section does not apply to a conviction that
260 becomes final before July 1, 2009.

261 Section 6. Section 322.27023, Florida Statutes, is created

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262 to read:

263 322.27023 Surcharge for conviction of driving without a
264 valid license or without financial responsibility.-

265 (1) Each year, the department shall assess a surcharge on
266 each person who has a final conviction during the preceding 36-
267 month period for a violation of s. 322.03, s. 322.065, s.
268 324.021, or s. 627.733.

269 (2) The amount of a surcharge under this section is \$120
270 per year.

271 (3) This section does not apply to a conviction that
272 becomes final before July 1, 2009.

273 Section 7. Section 322.2704, Florida Statutes, is created
274 to read:

275 322.2704 Notice of surcharge.-

276 (1) The department shall notify the holder of a driver's
277 license of the assessment of a surcharge under ss. 322.2701-
278 322.2709, Florida's Driver Responsibility Law, by first-class
279 mail sent to the person's most recent address as shown on the
280 records of the department. The notice must specify the date by
281 which the surcharge must be paid and state the consequences of
282 failure to pay the surcharge.

283 (2) If the person fails to pay the full amount of the
284 surcharge or fails to enter into an installment payment
285 agreement with the department within 30 days after the date the
286 notification was sent, the person's license shall be
287 automatically suspended.

288 (3) A license suspended under this section shall remain
289 suspended until the person pays the full amount of the surcharge
290 or the installment payment under s. 322.2705 and any related

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291 costs.

292 Section 8. Section 322.2705, Florida Statutes, is created
293 to read:

294 322.2705 Payment of surcharges.—

295 (1) The department shall by rule provide for the payment of
296 a surcharge under ss. 322.2701-322.2709, Florida's Driver
297 Responsibility Law, in installments.

298 (2) A rule under this section:

299 (a) May not permit a person to pay a surcharge:

300 1. Of less than \$2,300 over a period of more than 12
301 consecutive months; or

302 2. Of \$2,300 or more over a period of more than 24
303 consecutive months.

304 (b) May provide that the department may declare the amount
305 of the unpaid surcharge immediately due and payable if the
306 person fails to make a required installment payment.

307 (3) The department may by rule authorize the payment of a
308 surcharge by use of a credit card. The rules shall require the
309 person to pay all costs incurred by the department in connection
310 with the acceptance of the credit card.

311 (4) If a person pays a surcharge or related cost by credit
312 card and the amount is subsequently reversed by the issuer of
313 the credit card, the person's license shall be automatically
314 suspended.

315 (5) A license suspended under this section remains
316 suspended until the person pays the full amount of the surcharge
317 or all past-due installments and any related costs.

318 Section 9. Section 322.2706, Florida Statutes, is created
319 to read:

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320 322.2706 Contracts for collection of surcharges.—The
321 department shall enter into a contract with a vendor for the
322 collection of surcharges receivable under ss. 322.2701-322.2709,
323 Florida's Driver Responsibility Law.

324 Section 10. Section 322.2707, Florida Statutes, is created
325 to read:

326 322.2707 Surcharge reduction program.—

327 (1) The department shall establish a surcharge reduction
328 program by rule to extend the payment period for a surcharge or
329 to waive or reduce a surcharge assessed under ss. 322.2701-
330 322.2709, the Florida's Driver Responsibility Law.

331 (2) The program shall waive the surcharge resulting from
332 the first noncriminal infraction committed by a person within
333 the preceding 48-month period.

334 (3) The program shall reduce the surcharge assessed as a
335 result of points assessed under s. 322.27 for a person who
336 completes a driver improvement program prescribed by the
337 department. The department shall establish the amount of the
338 reduction to create an incentive for drivers to enroll in a
339 driver improvement program. The reduction shall be available to
340 a driver once per 60-month period. The amount of the reduction
341 may not exceed \$100. However, the reduction may not exceed \$75
342 for a driver who, within the preceding 3-year period, was
343 assessed points for violations relating to a motor vehicle
344 accident or violations identified by the department as most
345 likely to cause accidents with injuries.

346 (4) The program shall reduce or extend the payment period
347 for surcharges exceeding \$400 annually which are imposed on
348 persons who are indigent. In determining whether a person is

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349 indigent, the department shall use the standards for eligibility
350 for the appointment of a public defender under s. 27.52. The
351 maximum reduction may not exceed 75 percent of a surcharge. The
352 maximum payment period may not be extended by more than one
353 year. The rules shall require the department to consider the
354 particular circumstances affecting a person upon whom a
355 surcharge is imposed and to limit the extent to which reductions
356 are available. The department may condition eligibility for a
357 reduction on the completion of a driver improvement program. The
358 department may charge a fee in an amount equal to the
359 department's costs to determine a person's indigent status.

360 Section 11. Section 322.2709, Florida Statutes, is created
361 to read:

362 322.2709 Remittance of surcharges collected.—Moneys derived
363 from a surcharge collected by the department under ss. 322.2701-
364 322.2709, Florida's Driver Responsibility Law, shall be
365 distributed as follows:

366 (1) Up to 1 percent shall be used to provide public service
367 announcements to notify the public of the provisions of
368 Florida's Driver Responsibility Law.

369 (2) Of the remaining moneys:

370 (a) Fifty percent shall be remitted to the Department of
371 Revenue to be deposited into the Department of Highway Safety
372 and Motor Vehicles Law Enforcement Trust Fund to recruit and
373 retain officers of the Florida Highway Patrol, which includes
374 all career service levels of rank.

375 (b) Fifty percent shall be remitted to the Department of
376 Revenue to be deposited into the Department of Health
377 Administrative Trust Fund to provide financial support to

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378 certified trauma centers to ensure the availability and
379 accessibility of trauma services throughout the state.

380 Section 12. Section 318.121, Florida Statutes, is amended
381 to read:

382 318.121 Preemption of additional fees, fines, surcharges,
383 and costs.—Notwithstanding any general or special law, or
384 municipal or county ordinance, additional fees, fines,
385 surcharges, or costs other than the court costs and surcharges
386 assessed under s. 318.18(11), (13), and (18) or under ss.
387 322.2701-322.2709 may not be added to the civil traffic
388 penalties assessed in this chapter.

389 Section 13. This act shall take effect July 1, 2009.