

By Senator Wise

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1                   A bill to be entitled  
2           An act relating to driving a motor vehicle while  
3           impaired; amending s. 316.003, F.S.; defining the  
4           terms "drive" and "impair" or "impaired"; amending s.  
5           316.193, F.S.; providing that a person commits the  
6           offense of driving while impaired and is subject to  
7           punishment for such violation if the person is driving  
8           a motor vehicle and satisfies the specified criteria  
9           relating to the consumption of alcohol, controlled  
10          substances, or other impairing substances; providing  
11          that a person commits the offense of driving while  
12          impaired if the person has in the blood or urine  
13          certain controlled substances in specified  
14          circumstances; providing that a person is entitled to  
15          an affirmative defense to the offense of driving while  
16          impaired if the person charged with the offense of  
17          driving while impaired introduced a controlled  
18          substance into his or her body pursuant to a  
19          prescription issued by a licensed health professional  
20          who is authorized to prescribe the controlled  
21          substance and if the person consumed the controlled  
22          substance in accordance with the health professional's  
23          directions; providing that the use of a nonprescribed  
24          substance does not constitute an affirmative defense  
25          for a person who has a prescription for another  
26          substance; providing that alcohol or a legal impairing  
27          substance does not constitute a defense against a  
28          charge of driving while impaired under certain  
29          circumstances; amending ss. 187.201, 261.20, 310.101,

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30 316.027, 316.1932, 316.1933, 316.1934, 316.1937,  
31 316.1939, 318.143, 318.17, 320.055, 322.12, 322.25,  
32 322.26, 322.2615, 320.2616, 322.271, 322.2715, 322.28,  
33 322.291, 322.34, 322.61, 322.62, 322.63, 324.023,  
34 337.195, 401.281, and 401.445, F.S.; revising  
35 provisions to conform to changes made by the act;  
36 providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Subsections (89) and (90) are added to section  
41 316.003, Florida Statutes, to read:

42 316.003 Definitions.—The following words and phrases, when  
43 used in this chapter, shall have the meanings respectively  
44 ascribed to them in this section, except where the context  
45 otherwise requires:

46 (89) DRIVE.—To operate or be in actual physical control of  
47 a vehicle.

48 (90) IMPAIR OR IMPAIRED.—To weaken or diminish a person's  
49 physical or mental abilities, including, but not limited to, the  
50 person's balance, coordination, reflexes, memory, and  
51 comprehension, and the person's ability to see, hear, walk,  
52 talk, judge distances, act in an emergency, follow directions,  
53 multitask, and, in general, perform the many mental and physical  
54 acts of daily life.

55 Section 2. Section 316.193, Florida Statutes, is amended to  
56 read:

57 316.193 Driving while impaired ~~under the influence~~;  
58 penalties.—

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59           (1) A person commits ~~is guilty of~~ the offense of driving  
60 while impaired ~~under the influence~~ and is subject to punishment  
61 as provided in subsection (2) if the person is driving ~~or in~~  
62 ~~actual physical control of~~ a vehicle anywhere within this state  
63 and:

64           (a) The person is impaired by an ~~under the influence of~~  
65 alcoholic beverage ~~beverages~~, a any chemical substance  
66 identified set forth in s. 877.111, a ~~or any substance~~  
67 controlled substance as defined in ~~under~~ chapter 893 or the  
68 Federal Register, any other impairing substance, or a  
69 combination of these items ~~when affected to the extent that the~~  
70 ~~person's normal faculties are impaired;~~

71           (b) The person has an alcohol concentration ~~a blood-alcohol~~  
72 ~~level~~ of 0.08 or more grams of alcohol per 100 milliliters of  
73 blood or per 210 liters of breath at the time of driving or  
74 anytime after driving as a result of alcohol consumed before or  
75 during driving; ~~or~~

76           (c) The person has in the blood or urine a substance  
77 identified as a controlled substance as defined in Schedule I of  
78 chapter 893 or the Federal Register, or one of its metabolites  
79 or analogs; ~~or a breath-alcohol level of 0.08 or more grams of~~  
80 ~~alcohol per 210 liters of breath.~~

81           (d) The person has in the blood or urine a substance  
82 identified as a controlled substance in Schedule II, Schedule  
83 III, or Schedule IV of chapter 893 or the Federal Register, or  
84 one of its metabolites or analogs.

85           (2) (a) Except as provided in paragraph (b), subsection (3),  
86 or subsection (4), a ~~any~~ person who is convicted of a violation  
87 of subsection (1) shall be punished:

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88 1. By a fine of:

89 a. Not less than \$500 or more than \$1,000 for a first  
90 conviction.

91 b. Not less than \$1,000 or more than \$2,000 for a second  
92 conviction; and

93 2. By imprisonment for:

94 a. Not more than 6 months for a first conviction.

95 b. Not more than 9 months for a second conviction.

96 3. For a second conviction, by mandatory placement for a  
97 period of at least 1 year, at the convicted person's sole  
98 expense, of an ignition interlock device approved by the  
99 department in accordance with s. 316.1938 upon all vehicles that  
100 are individually or jointly leased or owned and routinely  
101 operated by the convicted person, when the convicted person  
102 qualifies for a permanent or restricted license. The  
103 installation of such device may not occur before July 1, 2003.

104 (b)1. A ~~Any~~ person who is convicted of a third violation of  
105 this section for an offense that occurs within 10 years after a  
106 prior conviction for a violation of this section commits a  
107 felony of the third degree, punishable as provided in s.  
108 775.082, s. 775.083, or s. 775.084. In addition, the court shall  
109 order the mandatory placement for a period of at least ~~not less~~  
110 ~~than~~ 2 years, at the convicted person's sole expense, of an  
111 ignition interlock device approved by the department in  
112 accordance with s. 316.1938 upon all vehicles that are  
113 individually or jointly leased or owned and routinely operated  
114 by the convicted person, when the convicted person qualifies for  
115 a permanent or restricted license. The installation of such  
116 device may not occur before July 1, 2003.

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117           2. A ~~Any~~ person who is convicted of a third violation of  
118 this section for an offense that occurs more than 10 years after  
119 the date of a prior conviction for a violation of this section  
120 shall be punished by a fine of not less than \$2,000 or more than  
121 \$5,000 and by imprisonment for not more than 12 months. In  
122 addition, the court shall order the mandatory placement for a  
123 period of at least 2 years, at the convicted person's sole  
124 expense, of an ignition interlock device approved by the  
125 department in accordance with s. 316.1938 upon all vehicles that  
126 are individually or jointly leased or owned and routinely  
127 operated by the convicted person, when the convicted person  
128 qualifies for a permanent or restricted license. The  
129 installation of such device may not occur before July 1, 2003.

130           3. A ~~Any~~ person who is convicted of a fourth or subsequent  
131 violation of this section, regardless of when any prior  
132 conviction for a violation of this section occurred, commits a  
133 felony of the third degree, punishable as provided in s.  
134 775.082, s. 775.083, or s. 775.084. ~~However,~~ The fine imposed  
135 for such fourth or subsequent violation may ~~be~~ not be less than  
136 \$2,000.

137           (3) A ~~Any~~ person:

138           (a) Who is in violation of subsection (1);

139           (b) Who operates a vehicle; and

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

142           1. Damage to the property or person of another commits a  
143 misdemeanor of the first degree, punishable as provided in s.  
144 775.082 or s. 775.083.

145           2. Serious bodily injury to another, as defined in s.

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146 316.1933, commits a felony of the third degree, punishable as  
147 provided in s. 775.082, s. 775.083, or s. 775.084.

148 3. The death of a ~~any~~ human being or unborn quick child  
149 commits DUI manslaughter, and commits:

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

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

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

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

158

159 For purposes of this subsection, the definition of the term  
160 "unborn quick child" shall be determined in accordance with the  
161 definition of viable fetus as set forth in s. 782.071. A person  
162 who is convicted of DUI manslaughter shall be sentenced to a  
163 mandatory minimum term of imprisonment of 4 years.

164 (4) A ~~Any~~ person who is convicted of a violation of  
165 subsection (1) and who has a blood-alcohol level or breath-  
166 alcohol level of 0.15 or higher, or a ~~any~~ person who is  
167 convicted of a violation of subsection (1) and who at the time  
168 of the offense was accompanied in the vehicle by a person under  
169 the age of 18 years, shall be punished:

170 (a) By a fine of:

171 1. Not less than \$1,000 or more than \$2,000 for a first  
172 conviction.

173 2. Not less than \$2,000 or more than \$4,000 for a second  
174 conviction.

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175           3. Not less than \$4,000 for a third or subsequent  
176 conviction.

177           (b) By imprisonment for:

178           1. Not more than 9 months for a first conviction.

179           2. Not more than 12 months for a second conviction.

180

181 For the purposes of this subsection, only the instant offense is  
182 required to be a violation of subsection (1) by a person who has  
183 a blood-alcohol level or breath-alcohol level of 0.15 or higher.

184           (c) In addition to the penalties in paragraphs (a) and (b),  
185 the court shall order the mandatory placement, at the convicted  
186 person's sole expense, of an ignition interlock device approved  
187 by the department in accordance with s. 316.1938 upon all  
188 vehicles that are individually or jointly leased or owned and  
189 routinely operated by the convicted person for at least ~~not less~~  
190 ~~than~~ 6 continuous months for the first offense and for at least  
191 ~~not less than~~ 2 continuous years for a second offense, when the  
192 convicted person qualifies for a permanent or restricted  
193 license.

194           (5) The court shall place all offenders convicted of  
195 violating this section on monthly reporting probation and shall  
196 require completion of a substance abuse course conducted by a  
197 DUI program licensed by the department under s. 322.292, which  
198 must include a psychosocial evaluation of the offender. If the  
199 DUI program refers the offender to an authorized substance abuse  
200 treatment provider for substance abuse treatment, in addition to  
201 any sentence or fine imposed under this section, completion of  
202 all such education, evaluation, and treatment is a condition of  
203 reporting probation. The offender shall assume reasonable costs

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204 for such education, evaluation, and treatment. The referral to  
205 treatment resulting from a psychosocial evaluation may ~~shall~~ not  
206 be waived without a supporting independent psychosocial  
207 evaluation conducted by an authorized substance abuse treatment  
208 provider appointed by the court, which shall have access to the  
209 DUI program's psychosocial evaluation before the independent  
210 psychosocial evaluation is conducted. The court shall review the  
211 results and recommendations of both evaluations before  
212 determining the request for waiver. The offender shall bear the  
213 full cost of this procedure. The term "substance abuse" means  
214 the abuse of alcohol or any substance named or described in  
215 Schedules I through V of s. 893.03. If an offender referred to  
216 treatment under this subsection fails to report for or complete  
217 such treatment or fails to complete the DUI program substance  
218 abuse education course and evaluation, the DUI program shall  
219 notify the court and the department of the failure. Upon receipt  
220 of the notice, the department shall cancel the offender's  
221 driving privilege, notwithstanding the terms of the court order  
222 or any suspension or revocation of the driving privilege. The  
223 department may temporarily reinstate the driving privilege on a  
224 restricted basis upon verification from the DUI program that the  
225 offender is currently participating in treatment and the DUI  
226 education course and evaluation requirement has been completed.  
227 If the DUI program notifies the department of the second failure  
228 to complete treatment, the department shall reinstate the  
229 driving privilege only after notice of completion of treatment  
230 from the DUI program. The organization that conducts the  
231 substance abuse education and evaluation may not provide  
232 required substance abuse treatment unless a waiver has been



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233 granted to that organization by the department. A waiver may be  
234 granted only if the department determines, in accordance with  
235 its rules, that the service provider that conducts the substance  
236 abuse education and evaluation is the most appropriate service  
237 provider and is licensed under chapter 397 or is exempt from  
238 such licensure. A statistical referral report shall be submitted  
239 quarterly to the department by each organization authorized to  
240 provide services under this section.

241 (6) With respect to any person convicted of a violation of  
242 subsection (1), regardless of any penalty imposed pursuant to  
243 subsection (2), subsection (3), or subsection (4):

244 (a) For the first conviction, the court shall place the  
245 defendant on probation for a period not to exceed 1 year and, as  
246 a condition of such probation, shall order the defendant to  
247 participate in public service or a community work project for a  
248 minimum of 50 hours. The court may order a defendant to pay a  
249 fine of \$10 for each hour of public service or community work  
250 otherwise required only if the court finds that the residence or  
251 location of the defendant at the time public service or  
252 community work is required or the defendant's employment  
253 obligations would create an undue hardship for the defendant.  
254 However, the total period of probation and incarceration may not  
255 exceed 1 year. The court must also, as a condition of probation,  
256 order the impoundment or immobilization of the vehicle that was  
257 operated by or in the actual control of the defendant or any one  
258 vehicle registered in the defendant's name at the time of  
259 impoundment or immobilization, for a period of 10 days or for  
260 the unexpired term of any lease or rental agreement that expires  
261 within 10 days. The impoundment or immobilization must not occur

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262 concurrently with the incarceration of the defendant. The  
263 impoundment or immobilization order may be dismissed in  
264 accordance with paragraph (e), paragraph (f), paragraph (g), or  
265 paragraph (h).

266 (b) For the second conviction for an offense that occurs  
267 within a period of 5 years after the date of a prior conviction  
268 for violation of this section, the court shall order  
269 imprisonment for at least ~~not less than~~ 10 days. The court must  
270 also, as a condition of probation, order the impoundment or  
271 immobilization of all vehicles owned by the defendant at the  
272 time of impoundment or immobilization, for a period of 30 days  
273 or for the unexpired term of any lease or rental agreement that  
274 expires within 30 days. The impoundment or immobilization must  
275 not occur concurrently with the incarceration of the defendant  
276 and must occur concurrently with the driver's license revocation  
277 imposed under s. 322.28(2)(a)2. The impoundment or  
278 immobilization order may be dismissed in accordance with  
279 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
280 At least 48 hours of confinement must be consecutive.

281 (c) For the third or subsequent conviction for an offense  
282 that occurs within a period of 10 years after the date of a  
283 prior conviction for violation of this section, the court shall  
284 order imprisonment for at least ~~not less than~~ 30 days. The court  
285 must also, as a condition of probation, order the impoundment or  
286 immobilization of all vehicles owned by the defendant at the  
287 time of impoundment or immobilization, for a period of 90 days  
288 or for the unexpired term of any lease or rental agreement that  
289 expires within 90 days. The impoundment or immobilization must  
290 not occur concurrently with the incarceration of the defendant

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291 and must occur concurrently with the driver's license revocation  
292 imposed under s. 322.28(2)(a)3. The impoundment or  
293 immobilization order may be dismissed in accordance with  
294 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
295 At least 48 hours of confinement must be consecutive.

296 (d) The court must, at the time of sentencing the  
297 defendant, issue an order for the impoundment or immobilization  
298 of a vehicle. The order of impoundment or immobilization must  
299 include the name and telephone numbers of all immobilization  
300 agencies meeting all of the conditions of subsection (13).  
301 Within 7 business days after the date that the court issues the  
302 order of impoundment or immobilization, the clerk of the court  
303 must send notice by certified mail, return receipt requested, to  
304 the registered owner of each vehicle, if the registered owner is  
305 a person other than the defendant, and to each person of record  
306 claiming a lien against the vehicle.

307 (e) A person who owns but was not operating the vehicle  
308 when the offense occurred may submit to the court a police  
309 report indicating that the vehicle was stolen at the time of the  
310 offense or documentation of having purchased the vehicle after  
311 the offense was committed from an entity other than the  
312 defendant or the defendant's agent. If the court finds that the  
313 vehicle was stolen or that the sale was not made to circumvent  
314 the order and to allow the defendant continued access to the  
315 vehicle, the order must be dismissed and the owner of the  
316 vehicle will incur no costs. If the court denies the request to  
317 dismiss the order of impoundment or immobilization, the  
318 petitioner may request an evidentiary hearing.

319 (f) A person who owns but was not operating the vehicle

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320 when the offense occurred, and whose vehicle was stolen or who  
321 purchased the vehicle after the offense was committed directly  
322 from the defendant or the defendant's agent, may request an  
323 evidentiary hearing to determine whether the impoundment or  
324 immobilization should occur. If the court finds that ~~either~~ the  
325 vehicle was stolen or the purchase was made without knowledge of  
326 the offense, that the purchaser had no relationship to the  
327 defendant other than through the transaction, and that such  
328 purchase would not circumvent the order and allow the defendant  
329 continued access to the vehicle, the order must be dismissed and  
330 the owner of the vehicle will incur no costs.

331 (g) The court shall also dismiss the order of impoundment  
332 or immobilization of the vehicle if the court finds that the  
333 family of the owner of the vehicle has no other private or  
334 public means of transportation.

335 (h) The court may also dismiss the order of impoundment or  
336 immobilization of any vehicles that are owned by the defendant  
337 but that are operated solely by the employees of the defendant  
338 or any business owned by the defendant.

339 (i) All costs and fees for the impoundment or  
340 immobilization, including the cost of notification, must be paid  
341 by the owner of the vehicle or, if the vehicle is leased or  
342 rented, by the person leasing or renting the vehicle, unless the  
343 impoundment or immobilization order is dismissed. All provisions  
344 of s. 713.78 ~~shall~~ apply. The costs and fees for the impoundment  
345 or immobilization must be paid directly to the person impounding  
346 or immobilizing the vehicle.

347 (j) The person who owns a vehicle that is impounded or  
348 immobilized under this paragraph, or a person who has a lien of

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349 record against such a vehicle and who has not requested a review  
350 of the impoundment pursuant to paragraph (e), paragraph (f), or  
351 paragraph (g), may, within 10 days after the date that person  
352 has knowledge of the location of the vehicle, file a complaint  
353 in the county in which the owner resides to determine whether  
354 the vehicle was wrongfully taken or withheld from the owner or  
355 lienholder. Upon the filing of a complaint, the owner or  
356 lienholder may have the vehicle released by posting with the  
357 court a bond or other adequate security equal to the amount of  
358 the costs and fees for impoundment or immobilization, including  
359 towing or storage, to ensure the payment of such costs and fees  
360 if the owner or lienholder does not prevail. When the bond is  
361 posted and the fee is paid as set forth in s. 28.24, the clerk  
362 of the court shall issue a certificate releasing the vehicle. At  
363 the time of release, after reasonable inspection, the owner or  
364 lienholder must give a receipt to the towing or storage company  
365 indicating any loss or damage to the vehicle or to the contents  
366 of the vehicle.

367 (k) A defendant, ~~in the court's discretion,~~ may be required  
368 to serve all or any portion of a term of imprisonment to which  
369 the defendant has been sentenced pursuant to this section in a  
370 residential alcoholism treatment program or a residential drug  
371 abuse treatment program. Any time spent in such a program must  
372 be credited by the court toward the term of imprisonment.

373

374 For the purposes of this section, a ~~any~~ conviction for a  
375 violation of s. 327.35; a previous conviction for the violation  
376 of former s. 316.1931, former s. 860.01, or former s. 316.028;  
377 or a previous conviction outside this state for driving while

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378 impaired, driving under the influence, driving while  
379 intoxicated, driving with an unlawful blood-alcohol level,  
380 driving with an unlawful breath-alcohol level, or any other  
381 similar alcohol-related or drug-related traffic offense, is also  
382 considered a previous conviction for violation of this section.  
383 However, in satisfaction of the fine imposed pursuant to this  
384 section, the court may, upon a finding that the defendant is  
385 financially unable to pay ~~either~~ all or part of the fine, order  
386 that the defendant participate for a specified additional period  
387 ~~of time~~ in public service or a community work project in lieu of  
388 payment of that portion of the fine which the court determines  
389 the defendant is unable to pay. In determining the ~~such~~  
390 additional sentence, the court shall consider the amount of the  
391 unpaid portion of the fine and the reasonable value of the  
392 services to be ordered; however, the court may not compute the  
393 reasonable value of services at a rate less than the federal  
394 minimum wage at the time of sentencing.

395 (7) A conviction under this section does not bar any civil  
396 suit for damages against the person so convicted.

397 (8) At the arraignment, or in conjunction with any notice  
398 of arraignment provided by the clerk of the court, the clerk  
399 shall provide any person charged with a violation of this  
400 section with notice that upon conviction the court shall suspend  
401 or revoke the offender's driver's license and that the offender  
402 should make arrangements for transportation at any proceeding in  
403 which the court may take such action. Failure to provide such  
404 notice does not affect the court's suspension or revocation of  
405 the offender's driver's license.

406 (9) A person who is arrested for a violation of this

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407 section may not be released from custody:

408 (a) Until the person is no longer impaired by or under the  
409 influence of an alcoholic beverage ~~beverages~~, a any chemical  
410 substance identified ~~set forth~~ in s. 877.111, or a any substance  
411 controlled under chapter 893 and affected to the extent that he  
412 or she is ~~his or her normal faculties are~~ impaired;

413 (b) Until the person's blood-alcohol level or breath-  
414 alcohol level is less than 0.05; or

415 (c) Until 8 hours have elapsed from the time the person was  
416 arrested.

417 (10) The rulings of the Department of Highway Safety and  
418 Motor Vehicles under s. 322.2615 may ~~shall~~ not be considered in  
419 any trial for a violation of this section. Testimony or evidence  
420 from the administrative proceedings or any written statement  
421 submitted by a person in his or her request for administrative  
422 review is inadmissible into evidence or for any other purpose in  
423 any criminal proceeding, unless timely disclosed in criminal  
424 discovery pursuant to Rule 3.220, Florida Rules of Criminal  
425 Procedure.

426 (11) The Department of Highway Safety and Motor Vehicles  
427 shall ~~is directed to~~ adopt rules providing for the  
428 implementation of the use of ignition interlock devices.

429 (12) If the records of the Department of Highway Safety and  
430 Motor Vehicles show that the defendant has been previously  
431 convicted of the offense of driving while impaired or under the  
432 influence, that evidence is sufficient by itself to establish  
433 the ~~that~~ prior conviction for driving while impaired or under  
434 the influence. However, such evidence may be contradicted or  
435 rebutted by other evidence. This presumption may be considered

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436 along with any other evidence presented in deciding whether the  
437 defendant has been previously convicted of the offense of  
438 driving while impaired or under the influence.

439 (13) If personnel of the circuit court or the sheriff do  
440 not immobilize vehicles, only immobilization agencies that meet  
441 the conditions of this subsection shall immobilize vehicles in  
442 that judicial circuit.

443 (a) The immobilization agency responsible for immobilizing  
444 vehicles in that judicial circuit is ~~shall be~~ subject to strict  
445 compliance with all of the following conditions and  
446 restrictions:

447 1. Any immobilization agency engaged in the business of  
448 immobilizing vehicles shall provide to the clerk of the court a  
449 signed affidavit attesting that the agency:

- 450 a. Has verifiable experience in immobilizing vehicles;  
451 b. Maintains accurate and complete records of all payments  
452 for the immobilization, copies of all documents pertaining to  
453 the court's order of impoundment or immobilization, and any  
454 other documents relevant to each immobilization. Such records  
455 must be maintained by the immobilization agency for at least 3  
456 years; and

457 c. Employs and assigns persons to immobilize vehicles who  
458 ~~that~~ meet the requirements established in subparagraph 2.

459 2. The person who immobilizes a vehicle must:

- 460 a. Not have been adjudicated incapacitated under s.  
461 744.331, or a similar statute in another state, unless his or  
462 her capacity has been judicially restored; not have been  
463 involuntarily placed in a treatment facility for the mentally  
464 ill under chapter 394, or a similar law in any other state,



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465 unless his or her competency has been judicially restored; or  
466 not have been diagnosed as having an incapacitating mental  
467 illness unless a psychologist or psychiatrist licensed in this  
468 state certifies that he or she does not currently suffer from  
469 the mental illness.

470 b. Not be a chronic and habitual user of alcoholic  
471 beverages to the extent that he or she is ~~his or her normal~~  
472 ~~faculties are~~ impaired; not have been committed under chapter  
473 397, former chapter 396, or a similar law in any other state;  
474 not have been found to be a habitual offender under s.  
475 856.011(3), or a similar law in any other state; or not have had  
476 any conviction ~~convictions~~ under this section, or a similar law  
477 in any other state, within 2 years before the affidavit is  
478 submitted.

479 c. Not have been committed for controlled substance abuse  
480 or have been found guilty of a crime under chapter 893, or a  
481 similar law in any other state, relating to controlled  
482 substances in any other state.

483 d. Not have been found guilty of or entered a plea of  
484 guilty or nolo contendere to, regardless of adjudication, or  
485 been convicted of a felony, unless his or her civil rights have  
486 been restored.

487 e. Be a citizen or legal resident alien of the United  
488 States or have been granted authorization to seek employment in  
489 this country by the United States Bureau of Citizenship and  
490 Immigration Services.

491 (b) The immobilization agency shall conduct a state  
492 criminal history check through the ~~Florida~~ Department of Law  
493 Enforcement to ensure that the person hired to immobilize a

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494 vehicle meets the requirements in sub-subparagraph (a)2.d.

495 (c) A person who violates paragraph (a) commits a  
496 misdemeanor of the first degree, punishable as provided in s.  
497 775.082 or s. 775.083.

498 (14) As used in this chapter, the term:

499 (a) "Immobilization," "immobilizing," or "immobilize" means  
500 the act of installing a vehicle antitheft device on the steering  
501 wheel of a vehicle, the act of placing a tire lock or wheel  
502 clamp on a vehicle, or a governmental agency's act of taking  
503 physical possession of the license tag and vehicle registration  
504 rendering a vehicle legally inoperable to prevent any person  
505 from operating the vehicle pursuant to an order of impoundment  
506 or immobilization under subsection (6).

507 (b) "Immobilization agency" or "immobilization agencies"  
508 means any person, firm, company, agency, organization,  
509 partnership, corporation, association, trust, or other business  
510 entity of any kind whatsoever that meets all of the conditions  
511 of subsection (13).

512 (c) "Impoundment," "impounding," or "impound" means the act  
513 of storing a vehicle at a storage facility pursuant to an order  
514 of impoundment or immobilization under subsection (6) where the  
515 person impounding the vehicle exercises control, supervision,  
516 and responsibility over the vehicle.

517 (d) "Person" means any individual, firm, company, agency,  
518 organization, partnership, corporation, association, trust, or  
519 other business entity of any kind whatsoever.

520 (15) (a) If a person who is charged with violating  
521 subsection (1) (d) introduced into his or her body a controlled  
522 substance prescribed by a licensed health professional

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523 authorized to prescribe the controlled substance and if the  
524 person consumed the controlled substance in accordance with the  
525 health professional's directions, the person is entitled to an  
526 affirmative defense against any allegation that the person  
527 violated subsection (1)(d). The introduction of a nonprescribed  
528 substance into the person's body does not constitute an  
529 affirmative defense with respect to any nonprescribed substance.

530 (b) Except for paragraph (a), the fact that a person  
531 charged with violating subsection (1) is or was legally entitled  
532 to introduce into the human body alcohol, a chemical substance,  
533 a controlled substance, a medication, a drug, or any other  
534 impairing substance does not constitute a defense against any  
535 charge of violating subsection (1).

536 Section 3. Paragraph (b) of subsection (6) of section  
537 187.201, Florida Statutes, is amended to read:

538 187.201 State Comprehensive Plan adopted.—The Legislature  
539 hereby adopts as the State Comprehensive Plan the following  
540 specific goals and policies:

541 (6) PUBLIC SAFETY.—

542 (b) *Policies.*—

543 1. Maintain safe and secure prisons and other correctional  
544 facilities with the required number of well-trained staff.

545 2. Provide effective alternatives to incarceration for  
546 appropriate offenders and encourage victim restitution.

547 3. Make the corrections system as financially cost-  
548 effective as possible through prison industries and other inmate  
549 work programs and through contractual agreements with public and  
550 private vendors.

551 4. Continue to monitor educational and vocational training

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552 of inmates to increase the likelihood of successful  
553 reintegration into the community.

554 5. Provide all inmates with access to adequate health care,  
555 including diagnostic and treatment programs for offenders  
556 suffering from substance abuse or psychological disorders.

557 6. Provide incentives to attract and retain high-quality  
558 law enforcement and correctional officers.

559 7. Emphasize the reduction of serious crime, particularly  
560 violent, organized, economic, and drug-related crimes.

561 8. Increase the level of training and technical assistance  
562 provided to law enforcement agencies.

563 9. Increase crime prevention efforts to enhance the  
564 protection of individual personal safety and property.

565 10. Emphasize and protect the rights of crime victims.

566 11. Continue to implement coordinated and integrated  
567 strategies to combat organized crime, economic crime, and drug  
568 trafficking.

569 12. Expand the state's provisions for the protection of  
570 witnesses in criminal cases, especially organized crime cases.

571 13. Strengthen the state's commitment to pursue, both  
572 criminally and civilly, those individuals who profit from  
573 economic crimes, in a manner that keeps pace with the level and  
574 sophistication of these criminal activities.

575 14. Improve the efficiency of law enforcement through the  
576 establishment of a close communication and coordination system  
577 among agencies and a comprehensive reporting system for such  
578 types of criminal activities as forcible felonies and organized,  
579 economic, and drug crimes.

580 15. Improve the effectiveness of the delinquent juvenile

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581 justice system commitment programs to reduce recidivism of  
582 juveniles who would otherwise be recommitted to state  
583 supervision.

584 16. Utilize alternative sentencing and dispute resolution  
585 when appropriate, particularly in civil disputes and minor  
586 criminal violations.

587 17. Increase the state's commitment to stringent  
588 enforcement of laws against drunken or drugged driving.

589 18. Expand public awareness campaigns that will emphasize  
590 the dangers of driving while impaired by ~~under the influence of~~  
591 alcohol or drugs.

592 19. Promote efforts to encourage the use of personal safety  
593 restraint devices for all persons traveling in motor vehicles.

594 20. Improve the enforcement of and compliance with safe  
595 highway speed limits.

596 21. Provide effective and efficient driver licensing  
597 systems, including a reliable testing system designed to  
598 preclude unqualified drivers from receiving driver's licenses.

599 22. Require local governments, in cooperation with regional  
600 and state agencies, to prepare advance plans for the safe  
601 evacuation of coastal residents.

602 23. Require local governments, in cooperation with regional  
603 and state agencies, to adopt plans and policies to protect  
604 public and private property and human lives from the effects of  
605 natural disasters.

606 Section 4. Paragraph (b) of subsection (5) of section  
607 261.20, Florida Statutes, is amended to read:

608 261.20 Operations of off-highway vehicles on public lands;  
609 restrictions; safety courses; required equipment; prohibited

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610 acts; penalties.—

611 (5) It is a violation of this section:

612 (b) To operate an off-highway vehicle while impaired by an  
613 alcoholic beverage ~~under the influence of alcohol~~, a controlled  
614 substance, or a ~~any~~ prescription or over-the-counter drug that  
615 impairs vision or motor condition.

616 Section 5. Paragraph (m) of subsection (1) of section  
617 310.101, Florida Statutes, is amended to read:

618 310.101 Grounds for disciplinary action by the board.—

619 (1) Any act of misconduct, inattention to duty, negligence,  
620 or incompetence; any willful violation of any law or rule,  
621 including the rules of the road, applicable to a licensed state  
622 pilot or certificated deputy pilot; or any failure to exercise  
623 that care which a reasonable and prudent licensed state pilot or  
624 certificated deputy pilot would exercise under the same or  
625 similar circumstances may result in disciplinary action.  
626 Examples of acts by a licensed state pilot or certificated  
627 deputy pilot which constitute grounds for disciplinary action  
628 include, but are not limited to:

629 (m) Having a license to operate a motor vehicle revoked,  
630 suspended, or otherwise acted against by any jurisdiction,  
631 including its agencies or subdivisions, for operating the  
632 vehicle while impaired by ~~under the influence of~~ alcohol or  
633 drugs. The jurisdiction's acceptance of a relinquishment of  
634 license, stipulation, consent order, plea of nolo contendere,  
635 penalty in any form, or other settlement offered in response to  
636 or in anticipation of the filing of charges related to the  
637 license to operate a motor vehicle shall be construed as action  
638 against the license.

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639 Section 6. Paragraph (b) of subsection (1) of section  
640 316.027, Florida Statutes, is amended to read:

641 316.027 Crash involving death or personal injuries.—

642 (1)

643 (b) The driver of any vehicle involved in a crash occurring  
644 on public or private property which ~~that~~ results in the death of  
645 any person must immediately stop the vehicle at the scene of the  
646 crash, or as close thereto as possible, and must remain at the  
647 scene of the crash until he or she has fulfilled the  
648 requirements of s. 316.062. A person who is arrested for a  
649 violation of this paragraph and who has previously been  
650 convicted of a violation of this section, s. 316.061, s.  
651 316.191, or s. 316.193, or a felony violation of s. 322.34,  
652 shall be held in custody until brought before the court for  
653 admittance to bail in accordance with chapter 903. Any person  
654 who willfully violates this paragraph commits a felony of the  
655 first degree, punishable as provided in s. 775.082, s. 775.083,  
656 or s. 775.084. Any person who willfully commits such a violation  
657 while driving impaired ~~under the influence~~ as set forth in s.  
658 316.193(1) shall be sentenced to a mandatory minimum term of  
659 imprisonment of 2 years.

660 Section 7. Section 316.1932, Florida Statutes, is amended  
661 to read:

662 316.1932 Tests for alcohol, chemical substances, or  
663 controlled substances; implied consent; refusal.—

664 (1)(a)1.a. A ~~Any~~ person who accepts the privilege extended  
665 by the laws of this state of operating a motor vehicle within  
666 this state is, by ~~se~~ operating such vehicle, deemed to have  
667 given ~~his or her~~ consent to submit to an approved chemical ~~test~~

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668 or physical breath test, including, but not limited to, an  
669 infrared light test of his or her breath for the purpose of  
670 determining the alcoholic content of the ~~his or her~~ blood or  
671 breath if the person is lawfully arrested for an ~~any~~ offense  
672 allegedly committed while the person was driving or was in  
673 actual physical control of a motor vehicle while impaired by an  
674 ~~under the influence of~~ alcoholic beverage ~~beverages~~. The  
675 chemical or physical breath test must be incidental to a lawful  
676 arrest and administered at the request of a law enforcement  
677 officer who has reasonable cause to believe that the ~~such~~ person  
678 was driving or was in actual physical control of the motor  
679 vehicle within this state while impaired by an ~~under the~~  
680 ~~influence of~~ alcoholic beverage ~~beverages~~. The administration of  
681 the ~~a~~ breath test does not preclude the administration of  
682 another type of test. The person shall be told that ~~his or her~~  
683 failure to submit to a ~~any~~ lawful breath test ~~of his or her~~  
684 ~~breath~~ will result in the suspension of his or her ~~the person's~~  
685 privilege to operate a motor vehicle for a period of 1 year for  
686 a first refusal, or for a period of 18 months if the driving  
687 privilege ~~of such person~~ has been previously suspended as a  
688 result of a refusal to submit to a lawful breath, blood, or  
689 urine test. The person ~~such a test or tests,~~ and shall also be  
690 told that if he or she refuses to submit to a lawful breath test  
691 ~~of his or her breath~~ and if his or her driving privilege has  
692 been previously suspended as a result of ~~for~~ a ~~prior~~ refusal to  
693 submit to a lawful breath, blood, or urine test ~~of his or her~~  
694 ~~breath, urine, or blood,~~ he or she commits a misdemeanor in  
695 addition to any other penalty ~~penalties~~. The refusal to submit  
696 to a chemical or physical breath test upon the request of a law



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697 enforcement officer as provided in this section is admissible  
698 into evidence in any criminal proceeding.

699 b. A ~~Any~~ person who accepts the privilege extended by the  
700 laws of this state of operating a motor vehicle within this  
701 state is, by ~~se~~ operating such vehicle, deemed to have given ~~his~~  
702 ~~or her~~ consent to submit to a urine test for the purpose of  
703 detecting the presence of a chemical substance ~~substances~~ as set  
704 forth in s. 877.111 or a controlled substance ~~substances~~ if the  
705 person is lawfully arrested for an ~~any~~ offense allegedly  
706 committed while the person was driving or was in actual physical  
707 control of a motor vehicle while impaired by a ~~under the~~  
708 ~~influence of~~ chemical ~~substances~~ or controlled substance  
709 ~~substances~~. The urine test must be incidental to a lawful arrest  
710 and administered at a detention facility or any other facility,  
711 mobile or otherwise, which is equipped to administer such test  
712 ~~tests~~ at the request of a law enforcement officer who has  
713 reasonable cause to believe that the ~~such~~ person was driving or  
714 was in actual physical control of a motor vehicle within this  
715 state while impaired by a ~~under the influence of~~ chemical  
716 ~~substances~~ or controlled substance ~~substances~~. The urine test  
717 shall be administered ~~at a detention facility or any other~~  
718 ~~facility, mobile or otherwise, which is equipped to administer~~  
719 ~~such test~~ in a reasonable manner that will ensure the accuracy  
720 of the specimen and maintain the privacy of the person  
721 ~~individual~~ involved. The administration of the ~~a~~ urine test does  
722 not preclude the administration of another type of test. The  
723 person shall be told that ~~his or her~~ failure to submit to a ~~any~~  
724 lawful urine test ~~of his or her urine~~ will result in the  
725 suspension of his or her ~~the person's~~ privilege to operate a

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726 motor vehicle for a period of 1 year for the first refusal, or  
727 for a period of 18 months if the driving privilege ~~of such~~  
728 ~~person~~ has been previously suspended as a result of a refusal to  
729 submit to a lawful breath, blood, or urine test. The person ~~such~~  
730 ~~a test or tests,~~ and shall also be told that if he or she  
731 refuses to submit to a lawful urine test ~~of his or her urine~~ and  
732 if his or her driving privilege has been previously suspended as  
733 a result of ~~for~~ a ~~prior~~ refusal to submit to a lawful breath,  
734 blood, or urine test ~~of his or her breath, urine, or blood,~~ he  
735 or she commits a misdemeanor in addition to any other penalty  
736 ~~penalties~~. The refusal to submit to a urine test upon the  
737 request of a law enforcement officer as provided in this section  
738 is admissible into evidence in any criminal proceeding.

739 2. The Alcohol Testing Program within the Department of Law  
740 Enforcement is responsible for the regulation of the operation,  
741 inspection, and registration of breath test instruments that are  
742 used ~~utilized~~ under the provisions of driving and boating while  
743 impaired ~~under the influence provisions~~ and under related  
744 provisions ~~located~~ in this chapter and chapters 322 and 327. The  
745 program is responsible for the regulation of the individuals who  
746 operate, inspect, and instruct on the breath test instruments  
747 that are used under the provisions of ~~utilized in the~~ driving  
748 and boating while impaired ~~under the influence provisions~~ and  
749 under related provisions ~~located~~ in this chapter and chapters  
750 322 and 327. The program is further responsible for the  
751 regulation of blood analysts who conduct blood testing that is  
752 used ~~to be utilized~~ under the provisions of driving and boating  
753 under the influence ~~provisions~~ and under related provisions  
754 ~~located~~ in this chapter and chapters 322 and 327. The program

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755 shall:

756 a. Establish uniform criteria for the issuance of permits  
757 to breath test operators, agency inspectors, instructors, blood  
758 analysts, and instruments.

759 b. Have the authority to issue permits to ~~permit~~ breath  
760 test operators, agency inspectors, instructors, blood analysts,  
761 and instruments.

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

765 d. Establish uniform requirements for instruction and  
766 curricula for the operation and inspection of approved  
767 instruments.

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

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

772 g. Have the authority to approve or disapprove breath test  
773 instruments and accompanying paraphernalia for use pursuant to  
774 the provisions of driving and boating while impaired ~~under the~~  
775 ~~influence provisions~~ and related provisions ~~located~~ in this  
776 chapter and chapters 322 and 327.

777 h. With the approval of the executive director of the  
778 Department of Law Enforcement, make and enter into contracts and  
779 agreements with other agencies, organizations, associations,  
780 corporations, individuals, or federal agencies as are necessary,  
781 expedient, or incidental to the performance of duties.

782 i. Issue final orders that ~~which~~ include findings of fact  
783 and conclusions of law and that ~~which~~ constitute final agency

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784 action for the purpose of chapter 120.

785 j. Enforce compliance with ~~the provisions of~~ this section  
786 through civil or administrative proceedings.

787 k. Make recommendations concerning any matter within the  
788 purview of this section, this chapter, chapter 322, or chapter  
789 327.

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

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

794 n. Have the authority to approve the type of blood test to  
795 be used under the provisions of ~~utilized under the~~ driving and  
796 boating while impaired ~~under the influence provisions~~ and under  
797 related provisions ~~located~~ in this chapter and chapters 322 and  
798 327.

799 o. Have the authority to specify techniques and methods for  
800 breath alcohol testing and blood testing to be used under the  
801 provisions of ~~utilized under the~~ driving and boating while  
802 impaired ~~under the influence provisions~~ and under related  
803 provisions ~~located~~ in this chapter and chapters 322 and 327.

804 p. Have the authority to approve repair facilities for the  
805 approved breath test instruments, including the authority to set  
806 criteria for approval.

807  
808 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
809 provisions in this chapter and chapters 322 and 327. The  
810 specifications in this section are derived from the power and  
811 authority previously and currently possessed by the Department  
812 of Law Enforcement and are enumerated to conform with the

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813 mandates of chapter 99-379, Laws of Florida.

814 (b)1. The blood-alcohol level must be based upon grams of  
815 alcohol per 100 milliliters of blood. The breath-alcohol level  
816 must be based upon grams of alcohol per 210 liters of breath.

817 2. An analysis of a person's breath, in order to be  
818 considered valid under this section, must have been performed  
819 substantially according to methods approved by the Department of  
820 Law Enforcement. For this purpose, the department may approve  
821 satisfactory techniques or methods. Any insubstantial difference  
822 ~~differences~~ between approved techniques and actual testing  
823 procedures in any individual case does ~~do~~ not render the test or  
824 test results invalid.

825 (c) A ~~Any~~ person who accepts the privilege extended by the  
826 laws of this state of operating a motor vehicle within this  
827 state is, by operating such vehicle, deemed to have given ~~his or~~  
828 ~~her~~ consent to submit to an approved blood test for the purpose  
829 of determining the alcoholic content of the blood or a blood  
830 test for the purpose of determining the presence of a chemical  
831 ~~substances~~ or controlled substance ~~substances~~ as provided in  
832 this section if there is reasonable cause to believe that the  
833 person was driving or was in actual physical control of a motor  
834 vehicle while impaired by an ~~under the influence of~~ alcoholic  
835 beverage ~~beverages~~ or a chemical or controlled substance  
836 ~~substances~~ and if the person appears for treatment at a  
837 hospital, clinic, or other medical facility and the  
838 administration of a breath or urine test is impractical or  
839 impossible. As used in this paragraph, the term "other medical  
840 facility" includes an ambulance or other medical emergency  
841 vehicle. The blood test shall be performed in a reasonable

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842 manner. A ~~Any~~ person who is incapable of refusal by reason of  
843 unconsciousness or other mental or physical condition is deemed  
844 not to have withdrawn ~~his or her~~ consent to such test. A blood  
845 test may be administered whether or not the person is told that  
846 ~~his or her~~ failure to submit to ~~such~~ a lawful blood test will  
847 result in the suspension of his or her ~~the person's~~ privilege to  
848 operate a motor vehicle upon the public highways of this state  
849 and that a refusal to submit to a lawful blood test is a  
850 misdemeanor ~~of his or her blood,~~ if his or her driving privilege  
851 has been previously suspended as a result of a ~~for~~ refusal to  
852 submit to a lawful breath, blood, or urine test ~~of his or her~~  
853 ~~breath, urine, or blood, is a misdemeanor.~~ A Any person who is  
854 capable of refusal shall be told that ~~his or her~~ failure to  
855 submit to ~~such~~ a lawful blood test will result in the suspension  
856 of his or her ~~the person's~~ privilege to operate a motor vehicle  
857 for a period of 1 year for a first refusal, or for a period of  
858 18 months if the driving privilege ~~of the person~~ has been  
859 suspended previously as a result of a refusal to submit to a   
860 lawful breath, blood, or urine test, ~~such a test or tests,~~ and  
861 that a refusal to submit to a lawful blood test is a misdemeanor  
862 ~~of his or her blood,~~ if the ~~his or her~~ driving privilege has  
863 been previously suspended as a result of ~~for~~ a prior refusal to  
864 submit to a lawful breath, blood, or urine test ~~of his or her~~  
865 ~~breath, urine, or blood, is a misdemeanor.~~ The refusal to submit  
866 to a blood test upon the request of a law enforcement officer is  
867 admissible in evidence in any criminal proceeding.

868 (d) If the arresting officer does not request a chemical or  
869 physical breath test of the person arrested for an ~~any~~ offense  
870 allegedly committed while the person was driving or was in

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871 actual physical control of a motor vehicle while impaired by an  
872 ~~under the influence of~~ alcoholic beverage ~~beverages~~ or a  
873 chemical or controlled substance ~~substances~~, the ~~such~~ person may  
874 request the arresting officer to have a chemical or physical  
875 breath test made of the arrested person ~~person's breath~~ or a  
876 urine or blood test ~~of the urine or blood~~ for the purpose of  
877 determining the alcoholic content of his or her ~~the person's~~  
878 blood or breath or the presence of a chemical ~~substances~~ or  
879 controlled substance. ~~substances; and,~~ If so requested, the  
880 arresting officer shall have the test performed.

881 (e)1. By applying for a driver's license and by accepting  
882 and using a driver's license, the person holding the driver's  
883 license is deemed to have given ~~expressed his or her~~ consent to  
884 the provisions of this section.

885 2. A nonresident or any other person driving in a status  
886 exempt from the requirements of the driver's license law, by the  
887 ~~his or her~~ act of driving in such exempt status, is deemed to  
888 have given ~~expressed his or her~~ consent to the provisions of  
889 this section.

890 3. A warning of the consent provision of this section shall  
891 be printed on each new or renewed driver's license.

892 (f)1. The tests determining the weight of alcohol in a  
893 person's ~~the defendant's~~ blood or breath shall be administered  
894 at the request of a law enforcement officer substantially in  
895 accordance with rules of the Department of Law Enforcement. Such  
896 rules must specify precisely the test or tests that are approved  
897 by the Department of Law Enforcement for reliability of result  
898 and ease of administration, and must provide an approved method  
899 of administration which must be followed in all ~~such~~ tests given

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900 under this section. However, the failure of a law enforcement  
901 officer to request the withdrawal of blood does not affect the  
902 admissibility of a test of blood withdrawn for medical purposes.

903 2.a. Only a physician, certified paramedic, registered  
904 nurse, licensed practical nurse, other personnel authorized by a  
905 hospital to draw blood, or duly licensed clinical laboratory  
906 director, supervisor, technologist, or technician, acting at the  
907 request of a law enforcement officer, may withdraw blood for the  
908 purpose of determining its alcoholic content or the presence of  
909 a chemical substances or controlled substance substances  
910 therein. However, the failure of a law enforcement officer to  
911 request the withdrawal of blood does not affect the  
912 admissibility of a test of blood withdrawn for medical purposes.

913 b. Notwithstanding any provision of law pertaining to the  
914 confidentiality of hospital records or other medical records, if  
915 a health care provider, who is providing medical care in a  
916 health care facility to a person injured in a motor vehicle  
917 crash, becomes aware, as a result of a any blood test performed  
918 in the course of that medical treatment, that the person's  
919 blood-alcohol level meets or exceeds the blood-alcohol level  
920 specified in s. 316.193(1)(b), the health care provider may  
921 notify a any law enforcement officer or law enforcement agency.  
922 Any such notice must be given within a reasonable time after the  
923 health care provider receives the test result. Any such notice  
924 shall be used only for the purpose of providing the law  
925 enforcement officer with reasonable cause to request the  
926 withdrawal of a blood sample pursuant to this section.

927 c. The notice shall consist only of the name of the person  
928 being treated, the name of the person who drew the blood, the



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929 blood-alcohol level indicated by the test, and the date and time  
930 of the administration of the test.

931 d. Section ~~Nothing contained in s.~~ 395.3025(4), s. 456.057,  
932 or any applicable practice act does not affect ~~affects~~ the  
933 authority to provide notice under this section, and the health  
934 care provider is not considered to have breached any duty owed  
935 to the person under s. 395.3025(4), s. 456.057, or any  
936 applicable practice act by providing notice or failing to  
937 provide notice. It is not deemed ~~shall not be~~ a breach of ~~any~~  
938 ethical, moral, or legal duty for a health care provider to  
939 provide notice or fail to provide notice.

940 e. A civil, criminal, or administrative action may not be  
941 brought against a ~~any~~ person or health care provider  
942 participating in good faith in the provision of notice or  
943 failing ~~failure~~ to provide notice as provided in this section. A  
944 ~~Any~~ person or health care provider participating in the  
945 provision of notice or failing ~~failure~~ to provide notice as  
946 provided in this section is ~~shall be~~ immune from any civil or  
947 criminal liability and from any professional disciplinary action  
948 with respect to the provision of notice or failure to provide  
949 notice under this section. Any such participant has the same  
950 immunity with respect to participating in any judicial  
951 proceedings resulting from the notice or failure to provide  
952 notice.

953 3. The person tested may, at his or her own expense, have a  
954 physician, registered nurse, other personnel authorized by a  
955 hospital to draw blood, or duly licensed clinical laboratory  
956 director, supervisor, technologist, or technician, or other  
957 person of his or her own choosing administer an independent test

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958 in addition to the test administered at the direction of the law  
959 enforcement officer for the purpose of determining the amount of  
960 alcohol in the person's blood or breath or the presence of a  
961 chemical ~~substances~~ or controlled substance ~~substances~~ at the  
962 time alleged, as shown by chemical analysis of his or her blood  
963 or urine, or by chemical or physical test of his or her breath.  
964 The failure or inability to obtain an independent test by a  
965 person does not preclude the admissibility in evidence of the  
966 test taken at the direction of the law enforcement officer. The  
967 law enforcement officer may ~~shall~~ not interfere with the  
968 person's opportunity to obtain the independent test and shall  
969 provide the person with timely telephone access to secure the  
970 test, but the burden is on the person to arrange and secure the  
971 test at his or her ~~the person's own~~ expense.

972 4. Upon the request of the person tested, full information  
973 concerning the results of the test taken at the direction of the  
974 law enforcement officer shall be made available to the person or  
975 his or her attorney. Full information is limited to the  
976 following:

977 a. The type of test administered and the procedures  
978 followed.

979 b. The time of the collection of the blood or breath sample  
980 analyzed.

981 c. The numerical results of the test indicating the alcohol  
982 content of the blood and breath.

983 d. The type and status of any permit issued by the  
984 Department of Law Enforcement which was held by the person who  
985 performed the test.

986 e. If the test was administered by means of a breath

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987 testing instrument, the date of performance of the most recent  
988 required inspection of the ~~such~~ instrument.

989

990 Full information does not include manuals, schematics, or  
991 software of the instrument used to test the person or any other  
992 material that is not in the actual possession of the state.  
993 Additionally, full information does not include information in  
994 the possession of the manufacturer of the test instrument.

995 5. A hospital, clinical laboratory, medical clinic, or  
996 similar medical institution or physician, certified paramedic,  
997 registered nurse, licensed practical nurse, other personnel  
998 authorized by a hospital to draw blood, or duly licensed  
999 clinical laboratory director, supervisor, technologist, or  
1000 technician, or other person assisting a law enforcement officer  
1001 does not incur any civil or criminal liability as a result of  
1002 the withdrawal or analysis of a blood or urine specimen, or the  
1003 chemical or physical test of a person's breath pursuant to  
1004 accepted medical standards when requested by a law enforcement  
1005 officer, regardless of whether or not the subject resisted the  
1006 administration of the test.

1007 (2) The results of a ~~any~~ test administered pursuant to this  
1008 section for the purpose of detecting the presence of a ~~any~~  
1009 controlled substance are ~~shall~~ not ~~be~~ admissible as evidence in  
1010 a criminal prosecution for the possession of a controlled  
1011 substance.

1012 (3) Notwithstanding any provision of law pertaining to the  
1013 confidentiality of hospital records or other medical records,  
1014 information relating to the alcoholic content of the blood or  
1015 breath or the presence of a chemical ~~substances~~ or controlled

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1016 substance ~~substances~~ in the blood obtained pursuant to this  
1017 section shall be released to a court, prosecuting attorney,  
1018 defense attorney, or law enforcement officer in connection with  
1019 an alleged violation of s. 316.193 upon request for such  
1020 information.

1021 Section 8. Paragraph (a) of subsection (1) of section  
1022 316.1933, Florida Statutes, is amended to read:

1023 316.1933 Blood test for impairment or intoxication in cases  
1024 of death or serious bodily injury; right to use reasonable  
1025 force.—

1026 (1) (a) If a law enforcement officer has probable cause to  
1027 believe that a motor vehicle driven by or in the actual physical  
1028 control of a person who is impaired by an ~~under the influence of~~  
1029 alcoholic beverage ~~beverages~~, a any chemical substance  
1030 ~~substances~~, or a any controlled substance ~~substances~~ has caused  
1031 the death or serious bodily injury of a human being, the ~~a~~ law  
1032 enforcement officer shall require the person driving or in  
1033 actual physical control of the motor vehicle to submit to a  
1034 blood test ~~of the person's blood~~ for the purpose of determining  
1035 the alcoholic content thereof or the presence of a chemical  
1036 substance ~~substances~~ as set forth in s. 877.111 or a any  
1037 substance controlled under chapter 893. The law enforcement  
1038 officer may use reasonable force if necessary to require such  
1039 person to submit to the administration of the blood test. The  
1040 blood test shall be performed in a reasonable manner.  
1041 Notwithstanding s. 316.1932, the testing required by this  
1042 paragraph need not be incidental to a lawful arrest of the  
1043 person.

1044 Section 9. Subsections (1) and (2) of section 316.1934,

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1045 Florida Statutes, are amended to read:

1046 316.1934 Presumption of impairment; testing methods.-

1047 (1) It is unlawful and punishable as provided in chapter  
1048 322 and in s. 316.193 for a ~~any~~ person who is impaired by or  
1049 under the influence of an alcoholic beverage ~~beverages~~ or a  
1050 controlled substance ~~substances~~, when affected to the extent  
1051 that the person is ~~person's normal faculties~~ are impaired or to  
1052 the extent that the person is deprived of his or her abilities  
1053 ~~full possession of normal faculties~~, to drive or be in actual  
1054 physical control of a ~~any~~ motor vehicle within this state. Such  
1055 abilities ~~normal faculties~~ include, but are not limited to, the  
1056 ability to see, hear, walk, talk, judge distances, drive an  
1057 automobile, make judgments, act in emergencies, and, in general,  
1058 normally perform the many mental and physical acts of daily  
1059 life.

1060 (2) At the trial of any civil or criminal action or  
1061 proceeding arising out of an act ~~acts~~ alleged to have been  
1062 committed by a ~~any~~ person while driving, or being in actual  
1063 physical control of, a vehicle while impaired by or under the  
1064 influence of an alcoholic beverage ~~beverages~~ or a controlled  
1065 substance ~~substances~~, when affected to the extent that the  
1066 person's abilities ~~normal faculties~~ were impaired or to the  
1067 extent that he or she was deprived of full possession of his or  
1068 her abilities ~~normal faculties~~, the results of any test  
1069 administered in accordance with s. 316.1932 or s. 316.1933 and  
1070 this section are admissible into evidence when otherwise  
1071 admissible, and the amount of alcohol in the person's blood or  
1072 breath at the time alleged, as shown by chemical analysis of the  
1073 ~~person's~~ blood, or by chemical or physical test of the ~~person's~~

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1074 breath, gives rise to the following presumptions:

1075 (a) If the ~~there was at that time a~~ blood-alcohol level or  
1076 breath-alcohol level was ~~of~~ 0.05 or less, it is presumed that  
1077 the person was not impaired by ~~under the influence of an~~  
1078 alcoholic beverage ~~beverages~~ to the extent that his or her  
1079 abilities ~~normal faculties~~ were impaired.

1080 (b) If the ~~there was at that time a~~ blood-alcohol level or  
1081 breath-alcohol level was in excess of 0.05 but less than 0.08,  
1082 that fact does not give rise to any presumption that the person  
1083 was or was not impaired by ~~under the influence of an~~ alcoholic  
1084 beverage ~~beverages~~ to the extent that his or her abilities  
1085 ~~normal faculties~~ were impaired but may be considered with other  
1086 competent evidence in determining whether the person was  
1087 impaired by an ~~under the influence of~~ alcoholic beverage  
1088 ~~beverages~~ to the extent that his or her abilities ~~normal~~  
1089 ~~faculties~~ were impaired.

1090 (c) If the ~~there was at that time a~~ blood-alcohol level or  
1091 breath-alcohol level was ~~of~~ 0.08 or higher, that fact is prima  
1092 facie evidence that the person was impaired by an ~~under the~~  
1093 ~~influence of~~ alcoholic beverage ~~beverages~~ to the extent that his  
1094 or her abilities ~~normal faculties~~ were impaired. Moreover, a  
1095 ~~such~~ person who has a blood-alcohol level or breath-alcohol  
1096 level of 0.08 or higher commits the offense ~~is guilty~~ of  
1097 driving, or being in actual physical control of, a motor  
1098 vehicle, with an unlawful blood-alcohol level or breath-alcohol  
1099 level.

1100

1101 The presumptions provided in this subsection do not limit the  
1102 introduction of any other competent evidence bearing upon the

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1103 question of whether the person was impaired by an ~~under the~~  
1104 ~~influence of~~ alcoholic beverage ~~beverages~~ to the extent that his  
1105 or her abilities ~~normal faculties~~ were impaired.

1106 Section 10. Subsection (1) of section 316.1937, Florida  
1107 Statutes, is amended to read:

1108 316.1937 Ignition interlock devices, requiring; unlawful  
1109 acts.—

1110 (1) In addition to any other authorized penalty ~~penalties~~,  
1111 the court may require that a ~~any~~ person who is convicted of  
1112 driving while impaired ~~under the influence~~ in violation of s.  
1113 316.193 may ~~shall~~ not operate a motor vehicle unless the ~~that~~  
1114 vehicle is equipped with a functioning ignition interlock device  
1115 certified by the department as provided in s. 316.1938, and  
1116 installed in such a manner that the vehicle will not start if  
1117 the operator's blood-alcohol ~~blood alcohol~~ level is in excess of  
1118 0.05 percent or as otherwise specified by the court. The court  
1119 may require the use of an approved ignition interlock device for  
1120 a period of at least ~~not less than~~ 6 continuous months, if the  
1121 person is permitted to operate a motor vehicle, whether or not  
1122 the privilege to operate a motor vehicle is restricted, as  
1123 determined by the court. The court, however, shall order  
1124 placement of an ignition interlock device in those circumstances  
1125 required by s. 316.193.

1126 Section 11. Subsection (1) of section 316.1939, Florida  
1127 Statutes, is amended to read:

1128 316.1939 Refusal to submit to testing; penalties.—

1129 (1) A ~~Any~~ person who has refused to submit to a chemical or  
1130 physical test of his or her breath, blood, or urine, as  
1131 described in s. 316.1932, and whose driving privilege was

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1132 previously suspended for a ~~prior~~ refusal to submit to a lawful  
1133 breath, blood, or urine test ~~of his or her breath, urine, or~~  
1134 ~~blood~~, and:

1135 (a) Who the arresting law enforcement officer had probable  
1136 cause to believe was driving or was in actual physical control  
1137 of a motor vehicle in this state while impaired by an ~~under the~~  
1138 ~~influence of~~ alcoholic beverage ~~beverages~~, chemical substance  
1139 ~~substances~~, or controlled substance ~~substances~~;

1140 (b) Who was placed under lawful arrest for a violation of  
1141 s. 316.193 unless such test was requested pursuant to s.  
1142 316.1932(1)(c);

1143 (c) Who was informed that, if he or she refused to submit  
1144 to such test, his or her privilege to operate a motor vehicle  
1145 would be suspended for a period of 1 year or, in the case of a  
1146 second or subsequent refusal, for a period of 18 months;

1147 (d) Who was informed that a refusal to submit to a lawful  
1148 breath, blood, or urine test ~~of his or her breath, urine, or~~  
1149 ~~blood~~, if his or her driving privilege has been previously  
1150 suspended for a ~~prior~~ refusal to submit to a lawful breath,  
1151 blood, or urine test ~~of his or her breath, urine, or blood~~, is a  
1152 misdemeanor; and

1153 (e) Who, after having been so informed, refused to submit  
1154 to any such test when requested to do so by a law enforcement  
1155 officer or correctional officer

1156  
1157 commits a misdemeanor of the first degree and is subject to  
1158 punishment as provided in s. 775.082 or s. 775.083.

1159 Section 12. Subsection (5) of section 318.143, Florida  
1160 Statutes, is amended to read:



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1161 318.143 Sanctions for infractions by minors.—

1162 (5) A minor who is arrested for a violation of s. 316.193  
1163 may be released from custody as soon as:

1164 (a) The minor is no longer impaired by an ~~under the~~  
1165 ~~influence of~~ alcoholic beverage ~~beverages,~~ a ~~of any~~ chemical  
1166 substance set forth in s. 877.111, or a ~~of any~~ substance  
1167 controlled under chapter 893, and is not affected to the extent  
1168 that his or her abilities ~~normal faculties~~ are impaired;

1169 (b) The minor's blood-alcohol level is less than 0.05  
1170 percent; or

1171 (c) Six hours have elapsed after the minor's arrest.

1172 Section 13. Section 318.17, Florida Statutes, is amended to  
1173 read:

1174 318.17 Offenses excepted.—The provisions ~~No provision~~ of  
1175 this chapter are not ~~is~~ available to a person who is charged  
1176 with any of the following offenses:

1177 (1) Fleeing or attempting to elude a police officer, in  
1178 violation of s. 316.1935;

1179 (2) Leaving the scene of a crash, in violation of ss.  
1180 316.027 and 316.061;

1181 (3) Driving, or being in actual physical control of, a ~~any~~  
1182 vehicle while impaired by an ~~under the influence of~~ alcoholic  
1183 beverage ~~beverages,~~ a ~~any~~ chemical substance set forth in s.  
1184 877.111, or a ~~any~~ substance controlled under chapter 893, in  
1185 violation of s. 316.193, or driving with an unlawful blood-  
1186 alcohol level;

1187 (4) Reckless driving, in violation of s. 316.192;

1188 (5) Making a false crash report ~~reports,~~ in violation of s.  
1189 316.067;

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1190 (6) Willfully failing or refusing to comply with a ~~any~~  
1191 lawful order or direction of a ~~any~~ police officer or member of  
1192 the fire department, in violation of s. 316.072(3);

1193 (7) Obstructing an officer, in violation of s. 316.545(1);  
1194 or

1195 (8) Any other offense in chapter 316 which is classified as  
1196 a criminal violation.

1197 Section 14. Paragraph (c) of subsection (1) of section  
1198 320.055, Florida Statutes, is amended to read:

1199 320.055 Registration periods; renewal periods.—The  
1200 following registration periods and renewal periods are  
1201 established:

1202 (1)

1203 (c) Notwithstanding the requirements of paragraph (a), the  
1204 owner of a motor vehicle subject to paragraph (a) who has had  
1205 his or her driver's license suspended pursuant to a violation of  
1206 s. 316.193 or pursuant to s. 322.26(2) for driving while  
1207 impaired ~~under the influence~~ must obtain a 6-month registration  
1208 as a condition of reinstating the license, subject to renewal  
1209 during the 3-year period that financial responsibility  
1210 requirements apply. The registration period begins the first day  
1211 of the birth month of the owner and ends the last day of the  
1212 fifth month immediately following the owner's birth month. For  
1213 such vehicles, the department shall issue a vehicle registration  
1214 certificate that is valid for 6 months and shall issue a  
1215 validation sticker that displays an expiration date of 6 months  
1216 after the date of issuance. The license tax required by s.  
1217 320.08 and all other applicable license taxes are ~~shall be~~ one-  
1218 half of the amount otherwise required, except the service charge

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1219 required by s. 320.04 shall be paid in full for each 6-month  
1220 registration. A vehicle required to be registered under this  
1221 paragraph is not eligible for the extended registration period  
1222 under paragraph (b).

1223 Section 15. Subsections (3) and (4) of section 322.12,  
1224 Florida Statutes, are amended to read:

1225 322.12 Examination of applicants.—

1226 (3) For an applicant for a Class E driver's license, the  
1227 ~~such~~ examination must ~~shall~~ include a test of the applicant's  
1228 eyesight given by the driver's license examiner designated by  
1229 the department or by a licensed ophthalmologist, optometrist, or  
1230 physician and a test of the applicant's hearing given by a  
1231 driver's license examiner or a licensed physician. The  
1232 examination must ~~shall~~ also include a test of the applicant's  
1233 ability to read and understand highway signs regulating,  
1234 warning, and directing traffic; his or her knowledge of the  
1235 traffic laws of this state, including laws regulating driving  
1236 while impaired by ~~under the influence of~~ alcohol or a controlled  
1237 substance ~~substances~~, driving with an unlawful blood-alcohol  
1238 level, and driving while intoxicated; and his or her knowledge  
1239 of the effects of alcohol and controlled substances upon persons  
1240 and the dangers of driving a motor vehicle while impaired by  
1241 ~~under the influence of~~ alcohol or a controlled substance  
1242 ~~substances~~ and must ~~shall~~ include an actual demonstration of the  
1243 applicant's ability to exercise ordinary and reasonable control  
1244 in the operation of a motor vehicle.

1245 (4) The examination for an applicant for a commercial  
1246 driver's license must ~~shall~~ include a test of the applicant's  
1247 eyesight given by a driver's license examiner designated by the

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1248 department or by a licensed ophthalmologist, optometrist, or  
1249 physician and a test of the applicant's hearing given by a  
1250 driver's license examiner or a licensed physician. The  
1251 examination must ~~shall~~ also include a test of the applicant's  
1252 ability to read and understand highway signs regulating,  
1253 warning, and directing traffic; his or her knowledge of the  
1254 traffic laws of this state pertaining to the class of motor  
1255 vehicle which he or she is applying to be licensed to operate,  
1256 including laws regulating driving while impaired by ~~under the~~  
1257 ~~influence of~~ alcohol or a controlled substance ~~substances~~,  
1258 driving with an unlawful blood-alcohol level, and driving while  
1259 intoxicated; his or her knowledge of the effects of alcohol and  
1260 controlled substances and the dangers of driving a motor vehicle  
1261 after having consumed alcohol or a controlled substance  
1262 ~~substances~~; and his or her knowledge of any special skills,  
1263 requirements, or precautions necessary for the safe operation of  
1264 the class of vehicle which he or she is applying to be licensed  
1265 to operate. In addition, the examination must ~~shall~~ include an  
1266 actual demonstration of the applicant's ability to exercise  
1267 ordinary and reasonable control in the safe operation of a motor  
1268 vehicle or combination of vehicles of the type covered by the  
1269 license classification which the applicant is seeking, including  
1270 an examination of the applicant's ability to perform an  
1271 inspection of his or her vehicle.

1272 (a) The portion of the examination which tests an  
1273 applicant's safe driving ability shall be administered by the  
1274 department or by an entity authorized by the department to  
1275 administer such examination, pursuant to s. 322.56. Such  
1276 examination shall be administered at a location approved by the

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1277 department.

1278 (b) A person who seeks to retain a hazardous-materials  
1279 endorsement must, upon renewal, pass the test for such  
1280 endorsement as specified in s. 322.57(1)(d), if the person has  
1281 not taken and passed the hazardous-materials test within 2 years  
1282 preceding his or her application for a commercial driver's  
1283 license in this state.

1284 Section 16. Subsections (5) and (7) of section 322.25,  
1285 Florida Statutes, are amended to read:

1286 322.25 When court to forward license to department and  
1287 report convictions; temporary reinstatement of driving  
1288 privileges.—

1289 (5) For the purpose of this chapter, the entrance of a plea  
1290 of nolo contendere by the defendant to a charge of driving while  
1291 intoxicated, driving while impaired ~~under the influence~~, driving  
1292 with an unlawful blood-alcohol level, or any other alcohol-  
1293 related or drug-related traffic offense similar to the offenses  
1294 specified in s. 316.193, accepted by the court and under which  
1295 plea the court has entered a fine or sentence, whether in this  
1296 state or any other state or country, shall be equivalent to a  
1297 conviction.

1298 (7) Any licensed driver convicted of driving, or being in  
1299 the actual physical control of, a vehicle within this state  
1300 while impaired by an ~~under the influence of~~ alcoholic beverage  
1301 ~~beverages~~, a ~~any~~ chemical substance set forth in s. 877.111, or  
1302 a ~~any~~ substance controlled under chapter 893, when affected to  
1303 the extent that his or her abilities ~~normal faculties~~ are  
1304 impaired, and whose license and driving privilege have been  
1305 revoked as provided in subsection (1) may be issued a court

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1306 order for reinstatement of a driving privilege on a temporary  
1307 basis ~~if; provided that~~, as a part of the penalty, upon  
1308 conviction, the defendant is required to enroll in and complete  
1309 a driver improvement course for the rehabilitation of drinking  
1310 drivers and if the driver is otherwise eligible for  
1311 reinstatement of the driving privilege as provided by s.  
1312 322.282. The court order for reinstatement must ~~shall~~ be on a  
1313 form provided by the department and must be taken by the person  
1314 convicted to a Florida driver's license examining office, where  
1315 a temporary driving permit may be issued. The period ~~of time~~ for  
1316 which a temporary permit that is issued in accordance with this  
1317 subsection is valid shall be deemed to be part of the period of  
1318 revocation imposed by the court.

1319 Section 17. Subsection (2) of section 322.26, Florida  
1320 Statutes, is amended to read:

1321 322.26 Mandatory revocation of license by department.—The  
1322 department shall forthwith revoke the license or driving  
1323 privilege of any person upon receiving a record of such person's  
1324 conviction of any of the following offenses:

1325 (2) Driving a motor vehicle or being in actual physical  
1326 control thereof, or entering a plea of nolo contendere, said  
1327 plea being accepted by the court and said court entering a fine  
1328 or sentence to a charge of driving, while impaired by an ~~under~~  
1329 ~~the influence of~~ alcoholic beverage ~~beverages~~ or a substance  
1330 controlled under chapter 893, or being in actual physical  
1331 control of a motor vehicle while under the influence of an  
1332 alcoholic beverage ~~beverages~~ or a substance controlled under  
1333 chapter 893. ~~If In any case where~~ DUI manslaughter occurs and  
1334 the person has no prior conviction ~~convictions~~ for a DUI-related

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1335 offense ~~offenses~~, the revocation of the license or driving  
1336 privilege is ~~shall be~~ permanent, except as provided for in s.  
1337 322.271(4).

1338 Section 18. Subsections (2) and (7) of section 322.2615,  
1339 Florida Statutes, are amended to read:

1340 322.2615 Suspension of license; right to review.—

1341 (2) Except as provided in paragraph (1)(a), the law  
1342 enforcement officer shall forward to the department, within 5  
1343 days after issuing the notice of suspension, the driver's  
1344 license; an affidavit stating the officer's grounds for belief  
1345 that the person was driving or was in actual physical control of  
1346 a motor vehicle while impaired by an ~~under the influence of~~  
1347 alcoholic beverage ~~beverages~~ or a chemical or controlled  
1348 substance ~~substances~~; the results of any breath or blood test or  
1349 an affidavit stating that a breath, blood, or urine test was  
1350 requested by a law enforcement officer or correctional officer  
1351 and that the person refused to submit; the officer's description  
1352 of the person's field sobriety test, if any; and the notice of  
1353 suspension. The failure of the officer to submit materials  
1354 within the 5-day period specified in this subsection and in  
1355 subsection (1) does not affect the department's ability to  
1356 consider any evidence submitted at or before ~~prior to~~ the  
1357 hearing. The officer may also submit a copy of the crash report  
1358 and a copy of a videotape of the field sobriety test or the  
1359 attempt to administer such test. Materials submitted to the  
1360 department by a law enforcement agency or correctional agency  
1361 shall be considered self-authenticating and shall be in the  
1362 record for consideration by the hearing officer. Notwithstanding  
1363 s. 316.066(5), the crash report shall be considered by the

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1364 hearing officer.

1365 (7) In a formal review hearing under subsection (6) or an  
1366 informal review hearing under subsection (4), the hearing  
1367 officer shall determine by a preponderance of the evidence  
1368 whether sufficient cause exists to sustain, amend, or invalidate  
1369 the suspension. The scope of the review is ~~shall be~~ limited to  
1370 the following issues:

1371 (a) If the license was suspended for driving with an  
1372 unlawful blood-alcohol level or breath-alcohol level of 0.08 or  
1373 higher:

1374 1. Whether the law enforcement officer had probable cause  
1375 to believe that the person whose license was suspended was  
1376 driving or was in actual physical control of a motor vehicle in  
1377 this state while impaired by an ~~under the influence of~~ alcoholic  
1378 beverage beverages or a chemical or controlled substance  
1379 substances.

1380 2. Whether the person whose license was suspended had an  
1381 unlawful blood-alcohol level or breath-alcohol level of 0.08 or  
1382 higher as provided in s. 316.193.

1383 (b) If the license was suspended for refusal to submit to a  
1384 breath, blood, or urine test:

1385 1. Whether the law enforcement officer had probable cause  
1386 to believe that the person whose license was suspended was  
1387 driving or was in actual physical control of a motor vehicle in  
1388 this state while impaired by an ~~under the influence of~~ alcoholic  
1389 beverage beverages or a chemical or controlled substance  
1390 substances.

1391 2. Whether the person whose license was suspended refused  
1392 to submit to any such test after being requested to do so by a



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1393 law enforcement officer or correctional officer.

1394 3. Whether the person whose license was suspended was told  
1395 that if he or she refused to submit to such test, his or her  
1396 privilege to operate a motor vehicle would be suspended for a  
1397 period of 1 year or, in the case of a second or subsequent  
1398 refusal, for a period of 18 months.

1399 Section 19. Paragraph (b) of subsection (1) of section  
1400 322.2616, Florida Statutes, is amended to read:

1401 322.2616 Suspension of license; persons under 21 years of  
1402 age; right to review.—

1403 (1)

1404 (b) A law enforcement officer who has probable cause to  
1405 believe that a motor vehicle is being driven by or is in the  
1406 actual physical control of a person who is under the age of 21  
1407 and who is impaired by an ~~while under the influence of~~ alcoholic  
1408 beverage beverages ~~or who~~ has any blood-alcohol or breath-  
1409 alcohol level may lawfully detain such a person and may request  
1410 that the person ~~to~~ submit to a test to determine his or her  
1411 blood-alcohol or breath-alcohol level.

1412 Section 20. Paragraph (d) of subsection (2) of section  
1413 322.271, Florida Statutes, is amended to read:

1414 322.271 Authority to modify revocation, cancellation, or  
1415 suspension order.—

1416 (2) At such hearing, the person whose license has been  
1417 suspended, canceled, or revoked may show that such suspension,  
1418 cancellation, or revocation causes a serious hardship and  
1419 precludes the person from carrying out his or her normal  
1420 business occupation, trade, or employment and that the use of  
1421 the person's license in the normal course of his or her business

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1422 is necessary to the proper support of the person or his or her  
1423 family.

1424 (d) For the purpose of this section, a previous conviction  
1425 of driving while impaired, driving under the influence, driving  
1426 while intoxicated, driving with an unlawful blood-alcohol level,  
1427 or any other similar alcohol-related or drug-related offense  
1428 outside this state or a previous conviction of former s.  
1429 316.1931, former s. 316.028, or former s. 860.01 is considered a  
1430 previous conviction for violation of s. 316.193.

1431 Section 21. Section 322.2715, Florida Statutes, is amended  
1432 to read:

1433 322.2715 Ignition interlock device.—

1434 (1) Before issuing a permanent or restricted driver's  
1435 license under this chapter, the department shall require the  
1436 placement of a department-approved ignition interlock device for  
1437 any person convicted of committing an offense of driving while  
1438 impaired ~~under the influence~~ as specified in subsection (3),  
1439 except that consideration may be given to those individuals  
1440 having a documented medical condition that would prohibit the  
1441 device from functioning normally. An interlock device shall be  
1442 placed on all vehicles that are individually or jointly leased  
1443 or owned and routinely operated by the convicted person.

1444 (2) For purposes of this section, any conviction for a  
1445 violation of s. 316.193, a previous conviction for a violation  
1446 of former s. 316.1931, or a conviction outside this state for  
1447 driving while impaired, driving under the influence, driving  
1448 while intoxicated, driving with an unlawful blood-alcohol level,  
1449 or any other similar alcohol-related or drug-related traffic  
1450 offense is a conviction of driving while impaired ~~under the~~

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1451 ~~influence.~~

1452 (3) If the person is convicted of:

1453 (a) A first offense of driving while impaired ~~under the~~  
1454 ~~influence~~ under s. 316.193 and has an unlawful blood-alcohol  
1455 level or breath-alcohol level as specified in s. 316.193(4), or  
1456 if a person is convicted of a violation of s. 316.193 and was at  
1457 the time of the offense accompanied in the vehicle by a person  
1458 younger than 18 years of age, the person shall have the ignition  
1459 interlock device installed for at least ~~not less than~~ 6  
1460 continuous months for the first offense and for at least ~~not~~  
1461 ~~less than~~ 2 continuous years for a second offense.

1462 (b) A second offense of driving while impaired ~~under the~~  
1463 ~~influence~~, the ignition interlock device shall be installed for  
1464 at least ~~a period of not less than~~ 1 continuous year.

1465 (c) A third offense of driving while impaired ~~under the~~  
1466 ~~influence~~ which occurs within 10 years after a prior conviction  
1467 for a violation of s. 316.193, the ignition interlock device  
1468 shall be installed for at least ~~a period of not less than~~ 2  
1469 continuous years.

1470 (d) A third offense of driving while impaired ~~under the~~  
1471 ~~influence~~ which occurs more than 10 years after the date of a  
1472 prior conviction, the ignition interlock device shall be  
1473 installed for at least ~~a period of not less than~~ 2 continuous  
1474 years.

1475 (e) A fourth or subsequent offense of driving while  
1476 impaired ~~under the influence~~, the ignition interlock device  
1477 shall be installed for at least ~~a period of not less than~~ 5  
1478 years.

1479 (4) If the court fails to order the mandatory placement of

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1480 the ignition interlock device or fails to order for the  
 1481 applicable period the mandatory placement of an ignition  
 1482 interlock device under s. 316.193 or s. 316.1937 at the time of  
 1483 imposing sentence or within 30 days thereafter, the department  
 1484 shall immediately require that the ignition interlock device be  
 1485 installed as provided in this section, except that consideration  
 1486 may be given to those individuals having a documented medical  
 1487 condition that would prohibit the device from functioning  
 1488 normally. This subsection applies to the reinstatement of the  
 1489 driving privilege following a revocation, suspension, or  
 1490 cancellation that is based upon a conviction for the offense of  
 1491 driving while impaired ~~under the influence~~ which occurs on or  
 1492 after July 1, 2005.

1493 (5) In addition to any fee ~~fees~~ authorized by rule for the  
 1494 installation and maintenance of the ignition interlock device,  
 1495 the authorized installer of the device shall collect and remit  
 1496 \$12 for each installation to the department, which shall be  
 1497 deposited into the Highway Safety Operating Trust Fund to be  
 1498 used for the operation of the Ignition Interlock Device Program.

1499 Section 22. Subsection (1) and paragraphs (a), (c), and (e)  
 1500 of subsection (2) of section 322.28, Florida Statutes, are  
 1501 amended to read:

1502 322.28 Period of suspension or revocation.—

1503 (1) Unless otherwise provided by this section, the  
 1504 department may ~~shall~~ not suspend a license for a period of more  
 1505 than 1 year and, upon revoking a license, in any case except in  
 1506 a prosecution for the offense of driving a motor vehicle while  
 1507 impaired by an ~~under the influence of~~ alcoholic beverage  
 1508 ~~beverages~~, a chemical substance ~~substances~~ as set forth in s.

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1509 877.111, or a controlled substance ~~substances~~, may ~~shall~~ not in  
1510 any event grant a new license until the expiration of 1 year  
1511 after such revocation.

1512 (2) In a prosecution for a violation of s. 316.193 or  
1513 former s. 316.1931, the following provisions apply:

1514 (a) Upon conviction of the driver, the court, along with  
1515 imposing sentence, shall revoke the driver's license or driving  
1516 privilege of the person so convicted, effective on the date of  
1517 conviction, and shall prescribe the period of ~~such~~ revocation in  
1518 accordance with the following provisions:

1519 1. Upon a first conviction for a violation of the  
1520 provisions of s. 316.193, except a violation resulting in death,  
1521 the driver's license or driving privilege shall be revoked for  
1522 not less than 180 days and not ~~or~~ more than 1 year.

1523 2. Upon a second conviction for an offense that occurs  
1524 within ~~a period of~~ 5 years after ~~the date of~~ a prior conviction  
1525 for a violation ~~of the provisions~~ of s. 316.193 or former s.  
1526 316.1931 or a combination of these ~~such~~ sections, the driver's  
1527 license or driving privilege shall be revoked for not less than  
1528 5 years.

1529 3. Upon a third conviction for an offense that occurs  
1530 within ~~a period of~~ 10 years after ~~the date of~~ a prior conviction  
1531 for the violation ~~of the provisions~~ of s. 316.193 or former s.  
1532 316.1931 or a combination of these ~~such~~ sections, the driver's  
1533 license or driving privilege shall be revoked for not less than  
1534 10 years.

1535  
1536 For the purposes of this paragraph, a previous conviction  
1537 outside this state for driving under the influence, driving

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1538 while impaired, driving while intoxicated, driving with an  
1539 unlawful blood-alcohol level, or any other alcohol-related or  
1540 drug-related traffic offense similar to the offense of driving  
1541 while impaired ~~under the influence~~ as proscribed by s. 316.193  
1542 will be considered a previous conviction for violation of s.  
1543 316.193, and a conviction for violation of former s. 316.028,  
1544 former s. 316.1931, or former s. 860.01 is considered a  
1545 conviction for violation of s. 316.193.

1546 (c) The forfeiture of bail bond, not vacated within 20  
1547 days, in any prosecution for the offense of driving while  
1548 impaired by an ~~under the influence of alcoholic beverage~~  
1549 ~~beverages~~, a chemical substance ~~substances~~, or a controlled  
1550 substance ~~substances~~ to the extent of depriving the defendant of  
1551 his or her abilities ~~normal faculties~~ shall be deemed equivalent  
1552 to a conviction for the purposes of this paragraph, and the  
1553 department shall forthwith revoke the defendant's driver's  
1554 license or driving privilege for the maximum period applicable  
1555 under paragraph (a) for a first conviction and for the minimum  
1556 period applicable under paragraph (a) for a second or subsequent  
1557 conviction; however, if the defendant is later convicted of the  
1558 charge, the period of revocation imposed by the department for  
1559 such conviction may ~~shall~~ not exceed the difference between the  
1560 applicable maximum for a first conviction or minimum for a  
1561 second or subsequent conviction and the revocation period under  
1562 this subsection that has actually elapsed. ~~†~~ Upon conviction of  
1563 such charge, the court may impose revocation for a period ~~of~~  
1564 ~~time~~ as specified in paragraph (a). This paragraph does not  
1565 apply if an appropriate motion contesting the forfeiture is  
1566 filed within the 20-day period.

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1567 (e) The court shall permanently revoke the driver's license  
1568 or driving privilege of a person who has been convicted four  
1569 times for violation of s. 316.193 or former s. 316.1931 or a  
1570 combination of these ~~such~~ sections. The court shall permanently  
1571 revoke the driver's license or driving privilege of a ~~any~~ person  
1572 who has been convicted of DUI manslaughter in violation of s.  
1573 316.193. If the court has not permanently revoked the ~~such~~  
1574 driver's license or driving privilege within 30 days after  
1575 imposing sentence, the department shall permanently revoke the  
1576 driver's license or driving privilege pursuant to this  
1577 paragraph. The person may not be issued or granted a ~~No~~ driver's  
1578 license or driving privilege ~~may be issued or granted to any~~  
1579 ~~such person~~. This paragraph applies only if at least one of the  
1580 convictions for violation of s. 316.193 or former s. 316.1931  
1581 was for a violation that occurred after July 1, 1982. For the  
1582 purposes of this paragraph, a conviction for violation of former  
1583 s. 316.028, former s. 316.1931, or former s. 860.01 is also  
1584 considered a conviction for violation of s. 316.193. ~~Also,~~ A  
1585 conviction of driving under the influence, driving while  
1586 intoxicated, driving while impaired, driving with an unlawful  
1587 blood-alcohol level, or any other similar alcohol-related or  
1588 drug-related traffic offense outside this state is also  
1589 considered a conviction for the purposes of this paragraph.

1590 Section 23. Section 322.291, Florida Statutes, is amended  
1591 to read:

1592 322.291 Driver improvement schools or DUI programs;  
1593 required in certain suspension and revocation cases.—Except as  
1594 provided in s. 322.03(2), a ~~any~~ person:

1595 (1) Whose driving privilege has been revoked:

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1596 (a) Upon conviction for:

1597 1. Driving, or being in actual physical control of, a ~~any~~

1598 vehicle while impaired by an ~~under the influence of~~ alcoholic

1599 beverage beverages, a ~~any~~ chemical substance set forth in s.

1600 877.111, or a ~~any~~ substance controlled under chapter 893, in

1601 violation of s. 316.193;

1602 2. Driving with an unlawful blood- or breath-alcohol level;

1603 3. Manslaughter resulting from the operation of a motor

1604 vehicle;

1605 4. Failure to stop and render aid as required under the

1606 laws of this state in the event of a motor vehicle crash

1607 resulting in the death or personal injury of another;

1608 5. Reckless driving; or

1609 (b) As a habitual offender;

1610 (c) Upon direction of the court, if the court feels that

1611 the seriousness of the offense and the circumstances surrounding

1612 the conviction warrant the revocation of the licensee's driving

1613 privilege; or

1614 (2) Whose license was suspended under the point system, was

1615 suspended for driving with an unlawful blood-alcohol level of

1616 0.10 percent or higher before January 1, 1994, was suspended for

1617 driving with an unlawful blood-alcohol level of 0.08 percent or

1618 higher after December 31, 1993, was suspended for a violation of

1619 s. 316.193(1), or was suspended for refusing to submit to a

1620 lawful breath, blood, or urine test as provided in s. 322.2615

1621

1622 shall, before the driving privilege may be reinstated, present

1623 to the department proof of enrollment in an advanced driver-

1624 improvement course that is approved by the department and a



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1625 ~~department approved advanced driver improvement course~~ operating  
1626 pursuant to s. 318.1451 or a substance abuse education course  
1627 conducted by a DUI program licensed pursuant to s. 322.292,  
1628 which must ~~shall~~ include a psychosocial evaluation and  
1629 treatment, if referred. Additionally, for a third or subsequent  
1630 violation of requirements for installation of an ignition  
1631 interlock device, a person must complete treatment as determined  
1632 by a licensed treatment agency following a referral by a DUI  
1633 program and have the duration of the ignition interlock device  
1634 requirement extended by at least 1 month up to the time ~~period~~  
1635 required to complete treatment. If the person fails to complete  
1636 such course or evaluation within 90 days after reinstatement, or  
1637 subsequently fails to complete treatment, if referred, the DUI  
1638 program shall notify the department of the failure. Upon receipt  
1639 of the notice, the department shall cancel the person's  
1640 ~~offender's~~ driving privilege, notwithstanding the expiration of  
1641 the suspension or revocation of the driving privilege. The  
1642 department may temporarily reinstate the driving privilege upon  
1643 verification from the DUI program that the person ~~offender~~ has  
1644 completed the education course and evaluation requirement and  
1645 has reentered and is currently participating in treatment. If  
1646 the DUI program notifies the department of the second failure to  
1647 complete treatment, the department shall reinstate the driving  
1648 privilege only after notice of completion of treatment from the  
1649 DUI program.

1650 Section 24. Paragraph (a) of subsection (9) of section  
1651 322.34, Florida Statutes, is amended to read:

1652 322.34 Driving while license suspended, revoked, canceled,  
1653 or disqualified.—

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1654 (9) (a) A motor vehicle that is driven by a person who is  
1655 impaired by ~~under the influence of~~ alcohol or drugs in violation  
1656 of s. 316.193 is subject to seizure and forfeiture under ss.  
1657 932.701-932.706 and is subject to liens for recovering, towing,  
1658 or storing vehicles under s. 713.78 if, at the time of the  
1659 offense, the person's driver's license is suspended, revoked, or  
1660 canceled as a result of a prior conviction for driving under the  
1661 influence or driving while impaired.

1662 Section 25. Subsection (3) of section 322.61, Florida  
1663 Statutes, is amended to read:

1664 322.61 Disqualification from operating a commercial motor  
1665 vehicle.-

1666 (3) (a) Except as provided in subsection (4), any person who  
1667 is convicted of one of the offenses listed in paragraph (b)  
1668 while operating a commercial motor vehicle shall, in addition to  
1669 any other applicable penalties, be disqualified from operating a  
1670 commercial motor vehicle for a period of 1 year:

1671 (b) Except as provided in subsection (4), any holder of a  
1672 commercial driver's license who is convicted of one of the  
1673 offenses listed in this paragraph while operating a  
1674 noncommercial motor vehicle shall, in addition to any other  
1675 applicable penalties, be disqualified from operating a  
1676 commercial motor vehicle for a period of 1 year:

1677 1. Driving a motor vehicle while he or she is impaired by  
1678 ~~under the influence of~~ alcohol or a controlled substance;

1679 2. Driving a commercial motor vehicle while the alcohol  
1680 concentration of his or her blood, breath, or urine is .04  
1681 percent or higher;

1682 3. Leaving the scene of a crash involving a motor vehicle

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1683 driven by such person;

1684 4. Using a motor vehicle in the commission of a felony;

1685 5. Driving a commercial motor vehicle while in possession  
1686 of a controlled substance;

1687 6. Refusing to submit to a test to determine his or her  
1688 alcohol concentration while driving a motor vehicle;

1689 7. Driving a commercial vehicle while the ~~licenseholder's~~  
1690 commercial driver's license of the licenseholder is suspended,  
1691 revoked, or canceled or while the licenseholder is disqualified  
1692 from driving a commercial vehicle; or

1693 8. Causing a fatality through the negligent operation of a  
1694 commercial motor vehicle.

1695 Section 26. Section 322.62, Florida Statutes, is amended to  
1696 read:

1697 322.62 Driving while impaired ~~under the influence~~;  
1698 commercial motor vehicle operators.—

1699 (1) A person who has ~~any~~ alcohol in his or her body may not  
1700 drive or be in actual physical control of a commercial motor  
1701 vehicle in this state. A ~~Any~~ person who violates this section  
1702 commits is guilty of a moving violation, punishable as provided  
1703 in s. 318.18.

1704 (2) (a) In addition to the penalty provided in subsection  
1705 (1), a person who violates this section shall be immediately  
1706 placed out of service ~~out-of-service immediately~~ for a period of  
1707 24 hours.

1708 (b) In addition to the penalty provided in subsection (1),  
1709 a person who violates this section and who has a blood-alcohol  
1710 level of 0.04 or more grams of alcohol per 100 milliliters of  
1711 blood, or a breath-alcohol level of 0.04 or more grams of

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1712 alcohol per 210 liters of breath is subject to the penalty  
1713 provided in s. 322.61.

1714 (3) This section does not supersede s. 316.193. ~~Nothing in~~  
1715 This section does not prohibit ~~prohibits~~ the prosecution of a  
1716 person who drives a commercial motor vehicle for driving while  
1717 impaired by ~~under the influence of~~ alcohol or a controlled  
1718 substance, ~~substances~~ whether or not the ~~such~~ person is also  
1719 prosecuted for a violation of this section.

1720 Section 27. Subsection (3) of section 322.63, Florida  
1721 Statutes, is amended to read:

1722 322.63 Alcohol or drug testing; commercial motor vehicle  
1723 operators.—

1724 (3) (a) The breath and blood tests authorized in this  
1725 section shall be administered substantially in accordance with  
1726 rules adopted by the Department of Law Enforcement.

1727 (b) The Alcohol Testing Program within the Department of  
1728 Law Enforcement is responsible for the regulation of the  
1729 operation, inspection, and registration of breath test  
1730 instruments that are used ~~utilized~~ under the provisions of  
1731 driving and boating while impaired ~~under the influence~~  
1732 ~~provisions~~ and under related provisions ~~located~~ in this chapter  
1733 and chapters 316 and 327. The program is responsible for the  
1734 regulation of the individuals who operate, inspect, and instruct  
1735 on the breath test instruments that are used ~~utilized in~~  
1736 the provisions of driving and boating while impaired ~~under the~~  
1737 ~~influence provisions~~ and under related provisions ~~located~~ in  
1738 this chapter and chapters 316 and 327. The program is further  
1739 responsible for the regulation of blood analysts who conduct  
1740 blood testing that is used ~~to be utilized~~ under the provisions

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1741 of driving and boating while impaired ~~under the influence~~  
1742 ~~provisions~~ and under related provisions ~~located~~ in this chapter  
1743 and chapters 316 and 327. The program shall:

1744 1. Establish uniform criteria for the issuance of permits  
1745 to breath test operators, agency inspectors, instructors, blood  
1746 analysts, and instruments.

1747 2. Have the authority to issue permits to ~~permit~~ breath  
1748 test operators, agency inspectors, instructors, blood analysts,  
1749 and instruments.

1750 3. Have the authority to discipline and suspend, revoke, or  
1751 renew the permits of breath test operators, agency inspectors,  
1752 instructors, blood analysts, and instruments.

1753 4. Establish uniform requirements for instruction and  
1754 curricula for the operation and inspection of approved  
1755 instruments.

1756 5. Have the authority to specify one approved curriculum  
1757 for the operation and inspection of approved instruments.

1758 6. Establish a procedure for the approval of breath test  
1759 operator and agency inspector classes.

1760 7. Have the authority to approve or disapprove breath test  
1761 instruments and accompanying paraphernalia for use pursuant to  
1762 the provisions of driving and boating while impaired ~~under the~~  
1763 ~~influence provisions~~ and related provisions ~~located~~ in this  
1764 chapter and chapters 316 and 327.

1765 8. With the approval of the executive director of the  
1766 Department of Law Enforcement, make and enter into contracts and  
1767 agreements with other agencies, organizations, associations,  
1768 corporations, individuals, or federal agencies as are necessary,  
1769 expedient, or incidental to the performance of duties.

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1770 9. Issue final orders that ~~which~~ include findings of fact  
1771 and conclusions of law and that ~~which~~ constitute final agency  
1772 action for the purpose of chapter 120.

1773 10. Enforce compliance with ~~the provisions of~~ this section  
1774 through civil or administrative proceedings.

1775 11. Make recommendations concerning any matter within the  
1776 purview of this section, this chapter, chapter 316, or chapter  
1777 327.

1778 12. Promulgate rules for the administration and  
1779 implementation of this section, including definitions of terms.

1780 13. Consult and cooperate with other entities for the  
1781 purpose of implementing the mandates of this section.

1782 14. Have the authority to approve the type of blood test to  
1783 be used ~~utilized~~ under the provisions of driving and boating  
1784 while impaired ~~under the influence provisions~~ and under related  
1785 provisions ~~located~~ in this chapter and chapters 316 and 327.

1786 15. Have the authority to specify techniques and methods  
1787 for breath alcohol testing and blood testing to be used ~~utilized~~  
1788 under the provisions of driving and boating while impaired ~~under~~  
1789 ~~the influence provisions~~ and under related provisions ~~located~~ in  
1790 this chapter and chapters 316 and 327.

1791 16. Have the authority to approve repair facilities for the  
1792 approved breath test instruments, including the authority to set  
1793 criteria for approval.

1794  
1795 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
1796 provisions in this chapter and chapters 316 and 327. The  
1797 specifications in this section are derived from the power and  
1798 authority previously and currently possessed by the Department

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1799 of Law Enforcement and are enumerated to conform with the  
1800 mandates of chapter 99-379, Laws of Florida.

1801 (c) Any insubstantial difference ~~differences~~ between  
1802 approved techniques and actual testing procedures in any  
1803 individual case does not render the test or tests results  
1804 invalid.

1805 (d) Notwithstanding any other provision of this section,  
1806 the failure of a law enforcement officer to request the  
1807 withdrawal of blood does ~~shall~~ not affect the admissibility of a  
1808 test of blood withdrawn for medical purposes.

1809 Section 28. Section 324.023, Florida Statutes, is amended  
1810 to read:

1811 324.023 Financial responsibility for bodily injury or  
1812 death.—In addition to any other financial responsibility  
1813 required by law, every owner or operator of a motor vehicle that  
1814 is required to be registered in this state, or that is located  
1815 within this state, and who, regardless of adjudication of guilt,  
1816 has been found guilty of or entered a plea of guilty or nolo  
1817 contendere to a charge of driving while impaired or under the  
1818 influence under s. 316.193 after October 1, 2007, shall, by one  
1819 of the methods established in s. 324.031(1), (2), or (3),  
1820 establish and maintain the ability to respond in damages for  
1821 liability on account of accidents arising out of the use of a  
1822 motor vehicle in the amount of \$100,000 because of bodily injury  
1823 to, or death of, one person in any one crash and, subject to  
1824 such limits for one person, in the amount of \$300,000 because of  
1825 bodily injury to, or death of, two or more persons in any one  
1826 crash and in the amount of \$50,000 because of property damage in  
1827 any one crash. If the owner or operator chooses to establish and

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1828 maintain such ability by posting a bond or furnishing a  
1829 certificate of deposit pursuant to s. 324.031(2) or (3), the  
1830 ~~such~~ bond or certificate of deposit must be in an amount of at  
1831 least ~~not less than~~ \$350,000. Such higher limits must be carried  
1832 for a minimum period of 3 years. If the owner or operator has  
1833 not been convicted of driving while impaired ~~under the influence~~  
1834 or of a felony traffic offense for a period of 3 years after  
1835 ~~from~~ the date of reinstatement of driving privileges for a  
1836 violation of s. 316.193, the owner or operator is ~~shall be~~  
1837 exempt from this section.

1838 Section 29. Subsection (1) of section 337.195, Florida  
1839 Statutes, is amended to read:

1840 337.195 Limits on liability.—

1841 (1) In a civil action for the death of or injury to a  
1842 person, or for damage to property, against the Department of  
1843 Transportation or its agents, consultants, or contractors for  
1844 work performed on a highway, road, street, bridge, or other  
1845 transportation facility when the death, injury, or damage  
1846 resulted from a motor vehicle crash within a construction zone  
1847 in which the driver of one of the vehicles was impaired by or  
1848 under the influence of an alcoholic beverage ~~beverages~~ as set  
1849 forth in s. 316.193, by a ~~under the influence of any~~ chemical  
1850 substance as set forth in s. 877.111, or by a ~~illegally under~~  
1851 ~~the influence of any~~ substance controlled under chapter 893 to  
1852 the extent that her or his abilities ~~normal faculties~~ were  
1853 impaired or that she or he operated a vehicle recklessly as  
1854 defined in s. 316.192, it is presumed that the driver's  
1855 operation of the vehicle was the sole proximate cause of her or  
1856 his own death, injury, or damage. This presumption can be



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1857 overcome if the gross negligence or intentional misconduct of  
1858 the Department of Transportation, or of its agents, consultants,  
1859 or contractors, was a proximate cause of the driver's death,  
1860 injury, or damage.

1861 Section 30. Subsection (1) of section 401.281, Florida  
1862 Statutes, is amended to read:

1863 401.281 Drivers.—

1864 (1) Each licensee is responsible for assuring that its  
1865 vehicles are driven only by trained, experienced, and otherwise  
1866 qualified personnel. The licensee must, at a minimum, document  
1867 that each of its drivers:

1868 (a) Is at least 18 years of age;

1869 (b) Certifies under oath that he or she is not addicted to  
1870 alcohol or any controlled substance;

1871 (c) Certifies under oath that he or she is free from any  
1872 physical or mental defect or disease that might impair his or  
1873 her ability to drive an ambulance;

1874 (d) Upon initial designation as a driver, has not, within  
1875 the past 3 years, been convicted of driving while impaired by  
1876 ~~under the influence of~~ alcohol or a controlled substance  
1877 ~~substances~~ and has not had a driver's license suspended under  
1878 the point system provided for in chapter 322;

1879 (e) Possesses a valid driver's license issued under chapter  
1880 322, is trained in the safe operation of emergency vehicles, and  
1881 has completed an emergency vehicle operator's course or the  
1882 reasonable equivalent as approved by the department; however,  
1883 this paragraph applies only to a driver of a land vehicle;

1884 (f) Possesses a valid American Red Cross or National Safety  
1885 Council standard first aid course card or its equivalent; and

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1886 (g) Possesses a valid American Red Cross or American Heart  
1887 Association cardiopulmonary resuscitation card.

1888 Section 31. Section 401.445, Florida Statutes, is amended  
1889 to read:

1890 401.445 Emergency examination and treatment of  
1891 incapacitated persons.—

1892 (1) A ~~No~~ recovery is not ~~shall be~~ allowed in any court in  
1893 this state against an ~~any~~ emergency medical technician, a  
1894 paramedic, or a physician as defined in this chapter, an ~~any~~  
1895 advanced registered nurse practitioner certified under s.  
1896 464.012, a ~~or any~~ physician assistant licensed under s. 458.347  
1897 or s. 459.022, or a ~~any~~ person acting under the direct medical  
1898 supervision of a physician, in an action brought for examining  
1899 or treating a patient without his or her informed consent if:

1900 (a) The patient at the time of examination or treatment is  
1901 intoxicated, impaired by the use ~~under the influence~~ of drugs,  
1902 or otherwise incapable of providing informed consent as provided  
1903 in s. 766.103;

1904 (b) The patient at the time of examination or treatment is  
1905 experiencing an emergency medical condition; and

1906 (c) The patient would reasonably, under all the surrounding  
1907 circumstances, undergo such examination, treatment, or procedure  
1908 if he or she were advised by the emergency medical technician,  
1909 paramedic, physician, advanced registered nurse practitioner, or  
1910 physician assistant in accordance with s. 766.103(3).

1911  
1912 Examination and treatment provided under this subsection are  
1913 ~~shall be~~ limited to reasonable examination of the patient to  
1914 determine the medical condition of the patient and treatment

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1915 reasonably necessary to alleviate the emergency medical  
1916 condition or to stabilize the patient.

1917 (2) In examining and treating a person who is apparently  
1918 intoxicated, impaired by the use ~~under the influence~~ of drugs,  
1919 or otherwise incapable of providing informed consent, the  
1920 emergency medical technician, paramedic, physician, advanced  
1921 registered nurse practitioner, or physician assistant, or the  
1922 ~~any~~ person acting under the direct medical supervision of a  
1923 physician, shall proceed wherever possible with the consent of  
1924 the person. If the person reasonably appears to be incapacitated  
1925 and refuses his or her consent, the person may be examined,  
1926 treated, or taken to a hospital or other appropriate treatment  
1927 resource if he or she is in need of emergency attention, without  
1928 his or her consent, but unreasonable force may ~~shall~~ not be  
1929 used.

1930 (3) This section does not limit medical treatment provided  
1931 pursuant to court order or treatment provided in accordance with  
1932 chapter 394 or chapter 397.

1933 Section 32. This act shall take effect July 1, 2012.