

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Criminal Justice  
2 Subcommittee

3 Representative Koster offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Paragraph (a) of subsection (1) of section  
8 316.1932, Florida Statutes, is amended to read:

9 316.1932 Tests for alcohol, chemical substances, or  
10 controlled substances; implied consent; refusal.—

11 (1)(a)1.a. A person who accepts the privilege extended by  
12 the laws of this state of operating a motor vehicle within this  
13 state is, by operating such vehicle, deemed to have given his or  
14 her consent to submit to an approved chemical test or physical  
15 test including, but not limited to, an infrared light test of  
16 his or her breath for the purpose of determining the alcoholic

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17 content of his or her blood or breath if the person is lawfully  
18 arrested for any offense allegedly committed while the person  
19 was driving or was in actual physical control of a motor vehicle  
20 while under the influence of alcoholic beverages. The chemical  
21 or physical breath test must be incidental to a lawful arrest  
22 and administered at the request of a law enforcement officer who  
23 has reasonable cause to believe such person was driving or was  
24 in actual physical control of the motor vehicle within this  
25 state while under the influence of alcoholic beverages. The  
26 administration of a breath test does not preclude the  
27 administration of another type of test. The person must ~~shall~~ be  
28 told that his or her failure to submit to any lawful test of his  
29 or her breath will, for a first refusal, result in the  
30 suspension of the person's privilege to operate a motor vehicle  
31 for a period of 1 year and the person will be subject to  
32 mandatory continuous placement for 1 year, at the person's own  
33 expense, of an ignition interlock device approved by the  
34 department in accordance with s. 316.1938 on all vehicles that  
35 are individually or jointly leased or owned and routinely  
36 operated by the person, when the person qualifies for  
37 reinstatement of a permanent or restricted license. ~~for a first~~  
38 ~~refusal, or for a period of 18 months~~ If the driving privilege  
39 of such person has been previously suspended or if he or she has  
40 previously been fined under s. 327.35215 as a result of a  
41 refusal to submit to a test or tests required under this chapter

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42 | or chapter 327, the person must be told that his or her failure  
43 | to submit to any lawful test of his or her breath will result in  
44 | the suspension of the person's privilege to operate a motor  
45 | vehicle for 18 months and the person will be subject to  
46 | mandatory continuous placement for 18 months, at the person's  
47 | own expense, of an ignition interlock device approved by the  
48 | department in accordance with s. 316.1938 on all vehicles that  
49 | are individually or jointly leased or owned and routinely  
50 | operated by the person, when the person qualifies for  
51 | reinstatement of a permanent or restricted license. The person  
52 | must ~~and shall~~ also be told that if he or she refuses to submit  
53 | to a lawful test of his or her breath and his or her driving  
54 | privilege has been previously suspended or if he or she has  
55 | previously been fined under s. 327.35215 for a prior refusal to  
56 | submit to a lawful test of his or her breath, urine, or blood as  
57 | required under this chapter or chapter 327, he or she commits a  
58 | misdemeanor of the first degree, punishable as provided in s.  
59 | 775.082 or s. 775.083, in addition to any other penalties  
60 | provided by law. The refusal to submit to a chemical or physical  
61 | breath test upon the request of a law enforcement officer as  
62 | provided in this section is admissible into evidence in any  
63 | criminal proceeding.

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

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67 consent to submit to a urine test for the purpose of detecting  
68 the presence of chemical substances as set forth in s. 877.111  
69 or controlled substances if the person is lawfully arrested for  
70 any offense allegedly committed while the person was driving or  
71 was in actual physical control of a motor vehicle while under  
72 the influence of chemical substances or controlled substances.  
73 The urine test must be incidental to a lawful arrest and  
74 administered at a detention facility or any other facility,  
75 mobile or otherwise, which is equipped to administer such tests  
76 at the request of a law enforcement officer who has reasonable  
77 cause to believe such person was driving or was in actual  
78 physical control of a motor vehicle within this state while  
79 under the influence of chemical substances or controlled  
80 substances. The urine test must ~~shall~~ be administered at a  
81 detention facility or any other facility, mobile or otherwise,  
82 which is equipped to administer such test in a reasonable manner  
83 that will ensure the accuracy of the specimen and maintain the  
84 privacy of the individual involved. The administration of a  
85 urine test does not preclude the administration of another type  
86 of test. The person must ~~shall~~ be told that his or her failure  
87 to submit to any lawful test of his or her urine will result in  
88 the suspension of the person's privilege to operate a motor  
89 vehicle for ~~a period of~~ 1 year for the first refusal, or for a  
90 ~~period of~~ 18 months if the driving privilege of such person has  
91 been previously suspended or if he or she has previously been

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92 fined under s. 327.35215 as a result of a refusal to submit to a  
93 test or tests required under this chapter or chapter 327, and  
94 must ~~shall~~ also be told that if he or she refuses to submit to a  
95 lawful test of his or her urine and his or her driving privilege  
96 has been previously suspended or if he or she has previously  
97 been fined under s. 327.35215 for a prior refusal to submit to a  
98 lawful test of his or her breath, urine, or blood as required  
99 under this chapter or chapter 327, he or she commits a  
100 misdemeanor of the first degree, punishable as provided in s.  
101 775.082 or s. 775.083, in addition to any other penalties  
102 provided by law. The refusal to submit to a urine test upon the  
103 request of a law enforcement officer as provided in this section  
104 is admissible into evidence in any criminal proceeding.

105 2. The Alcohol Testing Program within the Department of  
106 Law Enforcement is responsible for the regulation of the  
107 operation, inspection, and registration of breath test  
108 instruments used ~~utilized~~ under the driving and boating under  
109 the influence provisions and related provisions located in this  
110 chapter and chapters 322 and 327. The program is responsible for  
111 the regulation of the individuals who operate, inspect, and  
112 instruct on the breath test instruments used ~~utilized~~ in the  
113 driving and boating under the influence provisions and related  
114 provisions located in this chapter and chapters 322 and 327. The  
115 program is further responsible for the regulation of blood  
116 analysts who conduct blood testing to be used ~~utilized~~ under the

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117 driving and boating under the influence provisions and related  
118 provisions located in this chapter and chapters 322 and 327. The  
119 program must ~~shall~~:

120 a. Establish uniform criteria for the issuance of permits  
121 to breath test operators, agency inspectors, instructors, blood  
122 analysts, and instruments.

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

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

128 d. Establish uniform requirements for instruction and  
129 curricula for the operation and inspection of approved  
130 instruments.

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

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

135 g. Have the authority to approve or disapprove breath test  
136 instruments and accompanying paraphernalia for use pursuant to  
137 the driving and boating under the influence provisions and  
138 related provisions located in this chapter and chapters 322 and  
139 327.

140 h. With the approval of the executive director of the  
141 Department of Law Enforcement, make and enter into contracts and

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142 agreements with other agencies, organizations, associations,  
143 corporations, individuals, or federal agencies as are necessary,  
144 expedient, or incidental to the performance of duties.

145 i. Issue final orders that ~~which~~ include findings of fact  
146 and conclusions of law and that ~~which~~ constitute final agency  
147 action for the purpose of chapter 120.

148 j. Enforce compliance with this section through civil or  
149 administrative proceedings.

150 k. Make recommendations concerning any matter within the  
151 purview of this section, this chapter, chapter 322, or chapter  
152 327.

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

155 m. Consult and cooperate with other entities for the  
156 purpose of implementing ~~the mandates of~~ this section.

157 n. Have the authority to approve the type of blood test  
158 used ~~utilized~~ under the driving and boating under the influence  
159 provisions and related provisions located in this chapter and  
160 chapters 322 and 327.

161 o. Have the authority to specify techniques and methods  
162 for breath alcohol testing and blood testing used ~~utilized~~ under  
163 the driving and boating under the influence provisions and  
164 related provisions located in this chapter and chapters 322 and  
165 327.

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166 p. Have the authority to approve repair facilities for the  
167 approved breath test instruments, including the authority to set  
168 criterial for approval.

169  
170 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
171 provisions in this chapter and chapters 322 and 327. The  
172 specifications in this section are derived from the power and  
173 authority previously and currently possessed by the Department  
174 of Law Enforcement and are enumerated to conform with the  
175 mandates of chapter 99-379, Laws of Florida.

176 Section 2. Section 316.1939, Florida Statutes, is amended  
177 to read:

178 316.1939 Refusal to submit to testing; penalties.—

179 (1) A person who refuses to submit to a lawful test of his  
180 or her breath as required under s. 316.1932(1)(a)1.a., is  
181 subject to mandatory continuous placement, at the person's own  
182 expense, of an ignition interlock device approved by the  
183 department in accordance with s. 316.1938 on all vehicles  
184 individually or jointly leased or owned and routinely operated  
185 by the person, for 1 year for a first refusal, or 18 months for  
186 a second or subsequent refusal, when the person qualifies for  
187 reinstatement of a permanent or restricted license. This  
188 subsection applies in addition to any other penalties authorized  
189 by this section.



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190           (2) A person who has refused to submit to a chemical or  
191 physical test of his or her breath or urine, as described in s.  
192 316.1932, and whose driving privilege was previously suspended  
193 or who was previously fined under s. 327.35215 for a prior  
194 refusal to submit to a lawful test of his or her breath, urine,  
195 or blood required under this chapter or chapter 327, and:

196           (a) Who the arresting law enforcement officer had probable  
197 cause to believe was driving or in actual physical control of a  
198 motor vehicle in this state while under the influence of  
199 alcoholic beverages, chemical substances, or controlled  
200 substances;

201           (b) Who was placed under lawful arrest for a violation of  
202 s. 316.193 unless such test was requested pursuant to s.  
203 316.1932(1)(c);

204           (c) Who was informed that:7

205           1. If he or she refused to submit to a lawful test of his  
206 or her breath, his or her privilege to operate a motor vehicle  
207 would be suspended for 1 year for a first refusal or 18 months  
208 for a second or subsequent refusal, and that he or she would be  
209 subject to mandatory continuous placement, at his or her own  
210 expense, of an ignition interlock device approved by the  
211 department in accordance with s. 316.1938, for 1 year for a  
212 first refusal, or 18 months for a second or subsequent refusal,  
213 on all vehicles that he or she individually or jointly leases or

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214 owns and routinely operates, when he or she qualifies for  
215 reinstatement of a permanent or restricted license; or

216 2. If he or she refused to submit to a lawful ~~such~~ test of  
217 his or her urine, his or her privilege to operate a motor  
218 vehicle would be suspended for a ~~period of~~ 1 year for a first  
219 ~~refusal~~ or, ~~in the case of a second or subsequent refusal, for a~~  
220 ~~period of~~ 18 months for a second or subsequent refusal;

221 (d) Who was informed that a refusal to submit to a lawful  
222 test of his or her breath or urine, if his or her driving  
223 privilege has been previously suspended or if he or she has  
224 previously been fined under s. 327.35215 for a prior refusal to  
225 submit to a lawful test of his or her breath, urine, or blood as  
226 required under this chapter or chapter 327, is a misdemeanor of  
227 the first degree, punishable as provided in s. 775.082 or s.  
228 775.083, in addition to any other penalties provided by law; and

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

232  
233 commits a misdemeanor of the first degree and is subject to  
234 punishment as provided in s. 775.082 or s. 775.083.

235 (3)~~(2)~~ The disposition of any administrative proceeding  
236 that relates to the suspension of a person's driving privilege  
237 does not affect a criminal action under subsection (2) ~~this~~  
238 ~~section.~~

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239        ~~(4)-(3)~~ The disposition of a criminal action under  
240        subsection (2) ~~this section~~ does not affect any administrative  
241        proceeding that relates to the suspension of a person's driving  
242        privilege. The department's records showing that a person's  
243        license has been previously suspended for a prior refusal to  
244        submit to a lawful test of his or her breath, urine, or blood is  
245        ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable  
246        presumption of such suspension.

247        Section 3. Paragraph (a) of subsection (10) of section  
248        322.2615, Florida Statutes, is amended to read:

249        322.2615 Suspension of license; right to review.—

250        (10) A person whose driver license is suspended under  
251        subsection (1) or subsection (3) may apply for issuance of a  
252        license for business or employment purposes only if the person  
253        is otherwise eligible for the driving privilege pursuant to s.  
254        322.271.

255        (a) If the suspension of the driver license of the person  
256        for failure to submit to a breath, urine, or blood test is  
257        sustained, the person is not eligible to receive a license for  
258        business or employment purposes only, pursuant to s. 322.271,  
259        until 30 ~~90~~ days have elapsed after the expiration of the last  
260        temporary permit issued. If the driver is not issued a 10-day  
261        permit pursuant to this section or s. 322.64 because he or she  
262        is ineligible for the permit and the suspension for failure to  
263        submit to a breath, urine, or blood test is not invalidated by

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264 the department, the driver is not eligible to receive a business  
265 or employment license pursuant to s. 322.271 until 30 ~~90~~ days  
266 have elapsed from the date of the suspension.

267 Section 4. Subsection (5) of section 322.2715, Florida  
268 Statutes, is renumbered as subsection (6), subsection (1) of  
269 that section is amended, and a new subsection (5) is added to  
270 that section, to read:

271 322.2715 Ignition interlock device.—

272 (1) Before issuing a permanent or restricted driver  
273 license under this chapter, the department shall require the  
274 placement of a department-approved ignition interlock device for  
275 any person convicted of committing an offense of driving under  
276 the influence as specified in subsection (3), or for any person  
277 who refused to submit to a lawful test of his or her breath as  
278 specified in subsection (5), except that consideration may be  
279 given to those individuals having a documented medical condition  
280 that would prohibit the device from functioning normally. If a  
281 medical waiver has been granted for a ~~convicted~~ person seeking a  
282 restricted license, the ~~convicted~~ person shall not be entitled  
283 to a restricted license until the required ignition interlock  
284 device installation period under subsection (3) or under  
285 subsection (5) expires, in addition to the time requirements  
286 under s. 322.271. If a medical waiver has been approved for a  
287 ~~convicted~~ person seeking permanent reinstatement of the driver  
288 license, the ~~convicted~~ person must be restricted to an

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289 employment-purposes-only license and be supervised by a licensed  
290 DUI program until the required ignition interlock device  
291 installation period under subsection (3) or under subsection (5)  
292 expires. An interlock device shall be placed on all vehicles  
293 that are individually or jointly leased or owned and routinely  
294 operated by the convicted person.

295 (5) If a person refused to submit to a lawful test of his  
296 or her breath as required by s. 316.1932(1)(a)1.a., he or she  
297 must install, at his or her own expense, an ignition interlock  
298 device on all vehicles individually or jointly leased or owned  
299 and routinely operated by the person for 1 continuous year for a  
300 first refusal or for 18 continuous months for a second or  
301 subsequent refusal.

302 Section 5. This act shall take effect October 1, 2023.

303 -----  
304  
305 **T I T L E A M E N D M E N T**

306 Remove everything before the enacting clause and insert:  
307 An act relating to penalties for refusal to submit to breath-  
308 alcohol test; amending s. 316.1932, F.S.; requiring a person  
309 arrested for driving under the influence who refuses to submit  
310 to a lawful test of his or her breath to be told that he or she  
311 is subject to mandatory placement, for a specified time period,  
312 of an ignition interlock device on vehicles individually or  
313 jointly leased or owned and routinely operated by the person;

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314 amending s. 316.1939, F.S.; requiring a person arrested for  
315 driving under the influence who refuses to submit to a lawful  
316 test of his or her breath to be subject to mandatory placement  
317 of an ignition interlock device for a specified time period;  
318 conforming provisions to changes made by the act; amending s.  
319 322.2615, F.S.; decreasing the timeframe during which a person  
320 whose license is suspended for failure to submit to a breath,  
321 urine, or blood test is ineligible to receive a license for  
322 business or employment purposes only; amending s. 322.2715,  
323 F.S.; directing the department to require placement of an  
324 ignition interlock device before issuing a permanent or  
325 restricted license to a person who has refused to submit to a  
326 lawful breath test; providing an effective date.