

1                                   A bill to be entitled  
 2           An act relating to penalties for refusal to submit to  
 3           a breath-alcohol test; amending s. 316.1932, F.S.;  
 4           requiring a person who refuses to submit to a lawful  
 5           test of his or her breath for the purpose of  
 6           determining the alcoholic content of his or her blood  
 7           or breath to be told that an ignition interlock device  
 8           will be placed upon all vehicles that are individually  
 9           or jointly leased or owned and routinely operated by  
 10          the person; amending s. 316.1939, F.S.; conforming  
 11          criminal penalty provisions to changes made by the  
 12          act; providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

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 16           Section 1. Paragraph (a) of subsection (1) of section  
 17   316.1932, Florida Statutes, is amended to read:

18           316.1932 Tests for alcohol, chemical substances, or  
 19   controlled substances; implied consent; refusal.—

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

26 | content of his or her blood or breath if the person is lawfully  
27 | arrested for any offense allegedly committed while the person  
28 | was driving or was in actual physical control of a motor vehicle  
29 | while under the influence of alcoholic beverages. The chemical  
30 | or physical breath test must be incidental to a lawful arrest  
31 | and administered at the request of a law enforcement officer who  
32 | has reasonable cause to believe such person was driving or was  
33 | in actual physical control of the motor vehicle within this  
34 | state while under the influence of alcoholic beverages. The  
35 | administration of a breath test does not preclude the  
36 | administration of another type of test. The person shall be told  
37 | that his or her failure to submit to any lawful test of his or  
38 | her breath will, for a first refusal, result in the suspension  
39 | of the person's privilege to operate a motor vehicle for a  
40 | ~~period of 1 year~~ and placement for 1 year, at the person's  
41 | expense, of an ignition interlock device approved by the  
42 | department in accordance with s. 316.1938 upon all vehicles that  
43 | are individually or jointly leased or owned and routinely  
44 | operated by the person. ~~for a first refusal, or for a period of~~  
45 | ~~18 months~~ If the driving privilege of such person has been  
46 | previously suspended or if he or she has previously been fined  
47 | under s. 327.35215 as a result of a refusal to submit to a test  
48 | or tests required under this chapter or chapter 327, the person  
49 | shall be told that his or her failure to submit to any lawful  
50 | test of his or her breath will result in the suspension of the

51 person's privilege to operate a motor vehicle for 18 months and  
52 placement for 18 months, at the person's expense, of an ignition  
53 interlock device approved by the department in accordance with  
54 s. 316.1938 upon all vehicles that are individually or jointly  
55 leased or owned and routinely operated by the person. The person  
56 ~~and~~ shall also be told that if he or she refuses to submit to a  
57 lawful test of his or her breath and his or her driving  
58 privilege has been previously suspended or if he or she has  
59 previously been fined under s. 327.35215 for a prior refusal to  
60 submit to a lawful test of his or her breath, urine, or blood as  
61 required under this chapter or chapter 327, he or she commits a  
62 misdemeanor of the first degree, punishable as provided in s.  
63 775.082 or s. 775.083, in addition to any other penalties  
64 provided by law. The refusal to submit to a chemical or physical  
65 breath test upon the request of a law enforcement officer as  
66 provided in this section is admissible into evidence in any  
67 criminal proceeding.

68 b. A person who accepts the privilege extended by the laws  
69 of this state of operating a motor vehicle within this state is,  
70 by operating such vehicle, deemed to have given his or her  
71 consent to submit to a urine test for the purpose of detecting  
72 the presence of chemical substances as set forth in s. 877.111  
73 or controlled substances if the person is lawfully arrested for  
74 any offense allegedly committed while the person was driving or  
75 was in actual physical control of a motor vehicle while under

76 | the influence of chemical substances or controlled substances.  
77 | The urine test must be incidental to a lawful arrest and  
78 | administered at a detention facility or any other facility,  
79 | mobile or otherwise, which is equipped to administer such tests  
80 | at the request of a law enforcement officer who has reasonable  
81 | cause to believe such person was driving or was in actual  
82 | physical control of a motor vehicle within this state while  
83 | under the influence of chemical substances or controlled  
84 | substances. The urine test shall be administered at a detention  
85 | facility or any other facility, mobile or otherwise, which is  
86 | equipped to administer such test in a reasonable manner that  
87 | will ensure the accuracy of the specimen and maintain the  
88 | privacy of the individual involved. The administration of a  
89 | urine test does not preclude the administration of another type  
90 | of test. The person shall be told that his or her failure to  
91 | submit to any lawful test of his or her urine will result in the  
92 | suspension of the person's privilege to operate a motor vehicle  
93 | for ~~a period of~~ 1 year for the first refusal, or for ~~a period of~~  
94 | 18 months if the driving privilege of such person has been  
95 | previously suspended or if he or she has previously been fined  
96 | under s. 327.35215 as a result of a refusal to submit to a test  
97 | or tests required under this chapter or chapter 327, and shall  
98 | also be told that if he or she refuses to submit to a lawful  
99 | test of his or her urine and his or her driving privilege has  
100 | been previously suspended or if he or she has previously been

101 fined under s. 327.35215 for a prior refusal to submit to a  
102 lawful test of his or her breath, urine, or blood as required  
103 under this chapter or chapter 327, he or she commits a  
104 misdemeanor of the first degree, punishable as provided in s.  
105 775.082 or s. 775.083, in addition to any other penalties  
106 provided by law. The refusal to submit to a urine test upon the  
107 request of a law enforcement officer as provided in this section  
108 is admissible into evidence in any criminal proceeding.

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

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

126 analysts, and instruments.

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

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

132       d. Establish uniform requirements for instruction and  
133 curricula for the operation and inspection of approved  
134 instruments.

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

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

139       g. Have the authority to approve or disapprove breath test  
140 instruments and accompanying paraphernalia for use pursuant to  
141 the driving and boating under the influence provisions and  
142 related provisions located in this chapter and chapters 322 and  
143 327.

144       h. With the approval of the executive director of the  
145 Department of Law Enforcement, make and enter into contracts and  
146 agreements with other agencies, organizations, associations,  
147 corporations, individuals, or federal agencies as are necessary,  
148 expedient, or incidental to the performance of duties.

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

151 | action for the purpose of chapter 120.

152 |       j. Enforce compliance with this section through civil or  
153 | administrative proceedings.

154 |       k. Make recommendations concerning any matter within the  
155 | purview of this section, this chapter, chapter 322, or chapter  
156 | 327.

157 |       l. Adopt ~~Promulgate~~ rules for the administration and  
158 | implementation of this section, including definitions of terms.

159 |       m. Consult and cooperate with other entities for the  
160 | purpose of implementing ~~the mandates of~~ this section.

161 |       n. Have the authority to approve the type of blood test  
162 | used ~~utilized~~ under the driving and boating under the influence  
163 | provisions and related provisions located in this chapter and  
164 | chapters 322 and 327.

165 |       o. Have the authority to specify techniques and methods  
166 | for breath alcohol testing and blood testing used ~~utilized~~ under  
167 | the driving and boating under the influence provisions and  
168 | related provisions located in this chapter and chapters 322 and  
169 | 327.

170 |       p. Have the authority to approve repair facilities for the  
171 | approved breath test instruments, including the authority to set  
172 | criteria for approval.

173 |  
174 | ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
175 | provisions in this chapter and chapters 322 and 327. The

176 specifications in this section are derived from the power and  
 177 authority previously and currently possessed by the Department  
 178 of Law Enforcement and are enumerated to conform with the  
 179 mandates of chapter 99-379, Laws of Florida.

180 Section 2. Subsection (1) of section 316.1939, Florida  
 181 Statutes, is amended to read:

182 316.1939 Refusal to submit to testing; penalties.—

183 (1) A person who has refused to submit to a chemical or  
 184 physical test of his or her breath or urine, as described in s.  
 185 316.1932, and whose driving privilege was previously suspended  
 186 or who was previously fined under s. 327.35215 for a prior  
 187 refusal to submit to a lawful test of his or her breath, urine,  
 188 or blood required under this chapter or chapter 327, and:

189 (a) Who the arresting law enforcement officer had probable  
 190 cause to believe was driving or in actual physical control of a  
 191 motor vehicle in this state while under the influence of  
 192 alcoholic beverages, chemical substances, or controlled  
 193 substances;

194 (b) Who was placed under lawful arrest for a violation of  
 195 s. 316.193 unless such test was requested pursuant to s.  
 196 316.1932(1)(c);

197 (c) Who was informed that:~~7~~

198 1. If he or she refused to submit to a lawful test of his  
 199 or her breath, his or her privilege to operate a motor vehicle  
 200 would be suspended for 1 year for a first refusal or 18 months



201 for a second or subsequent refusal, and an ignition interlock  
 202 device would be placed for 1 year for a first refusal or 18  
 203 months for a second or subsequent refusal, at his or her  
 204 expense, upon all vehicles that are individually or jointly  
 205 leased or owned and routinely operated by him or her; or

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

211 (d) Who was informed that a refusal to submit to a lawful  
 212 test of his or her breath or urine, if his or her driving  
 213 privilege has been previously suspended or if he or she has  
 214 previously been fined under s. 327.35215 for a prior refusal to  
 215 submit to a lawful test of his or her breath, urine, or blood as  
 216 required under this chapter or chapter 327, is a misdemeanor of  
 217 the first degree, punishable as provided in s. 775.082 or s.  
 218 775.083, in addition to any other penalties provided by law; and

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

222  
 223 commits a misdemeanor of the first degree and is subject to  
 224 punishment as provided in s. 775.082 or s. 775.083.

225 Section 3. This act shall take effect July 1, 2023.