

By Senator Wright

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1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; prohibiting a trial court
4 judge from accepting specified pleas when a person is
5 charged with the offense of driving under the
6 influence unless specified conditions are met;
7 amending s. 316.1932, F.S.; requiring that a person be
8 told that his or her failure to submit to a lawful
9 test of breath or urine is a second degree misdemeanor
10 or a first degree misdemeanor under certain
11 circumstances; making technical changes; amending s.
12 316.1939, F.S.; classifying a person's refusal to
13 submit to a chemical or physical test of breath or
14 urine as a second degree misdemeanor or a first degree
15 misdemeanor under certain circumstances; making
16 technical changes; creating s. 316.19395, F.S.;
17 authorizing judicial circuits to create a driving
18 under the influence diversion program; requiring that
19 the policies and procedures of the diversion program
20 be published on the website of the state attorney's
21 office; requiring each judicial circuit operating such
22 a diversion program to submit participant information
23 for persons who successfully complete the program to
24 the Department of Highway Safety and Motor Vehicles;
25 requiring the department to notate successful
26 completion on the driving record of such participants;
27 providing that a person who successfully completes
28 such a diversion program is ineligible for
29 participation in such a program in the future;

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30 amending s. 316.656, F.S.; prohibiting a court from
31 suspending, deferring, or withholding adjudication of
32 guilt or imposition of sentence for a specified
33 violation; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Subsection (15) is added to section 316.193,
38 Florida Statutes, to read:

39 316.193 Driving under the influence; penalties.—

40 (15) A trial court judge may not accept a plea of guilty or
41 no contest to a reduced charge, including a charge of reckless
42 driving brought under s. 316.192, from a person charged with a
43 violation of subsection (1) unless at least one of the following
44 applies:

45 (a) The trial court judge determines that there is a good
46 faith basis to believe that a reduction in such charge is
47 warranted.

48 (b) The defendant successfully completes a driving under
49 the influence diversion program in accordance with s. 316.19395.

50 Section 2. Paragraph (a) of subsection (1) of section
51 316.1932, Florida Statutes, is amended to read:

52 316.1932 Tests for alcohol, chemical substances, or
53 controlled substances; implied consent; refusal.—

54 (1)(a)1.a. A person who accepts the privilege extended by
55 the laws of this state of operating a motor vehicle within this
56 state is, by operating such vehicle, deemed to have given his or
57 her consent to submit to an approved chemical test or physical
58 test including, but not limited to, an infrared light test of

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59 his or her breath for the purpose of determining the alcoholic
60 content of his or her blood or breath if the person is lawfully
61 arrested for any offense allegedly committed while the person
62 was driving or was in actual physical control of a motor vehicle
63 while under the influence of alcoholic beverages. The chemical
64 or physical breath test must be incidental to a lawful arrest
65 and administered at the request of a law enforcement officer who
66 has reasonable cause to believe such person was driving or was
67 in actual physical control of the motor vehicle within this
68 state while under the influence of alcoholic beverages. The
69 administration of a breath test does not preclude the
70 administration of another type of test. The person must ~~shall~~ be
71 told that his or her failure to submit to any lawful test of his
72 or her breath will result in the suspension of his or her ~~the~~
73 ~~person's~~ privilege to operate a motor vehicle as provided in s.
74 322.2615(1)(a) for a period of 1 year for a first refusal, or
75 for a period of 18 months if the driving privilege of such
76 person has been previously suspended or if he or she has
77 previously been fined under s. 327.35215 as a result of a
78 refusal to submit to a test or tests required under this chapter
79 or chapter 327, and must ~~shall~~ also be told that if he or she
80 refuses to submit to a lawful test of his or her breath ~~and his~~
81 ~~or her driving privilege has been previously suspended or if he~~
82 ~~or she has previously been fined under s. 327.35215 for a prior~~
83 ~~refusal to submit to a lawful test of his or her breath, urine,~~
84 ~~or blood as required under this chapter or chapter 327, he or~~
85 she commits a misdemeanor of the second ~~first~~ degree, punishable
86 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
87 first degree, punishable as provided in s. 775.082 or s.

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88 775.083, if his or her driving privilege has been previously
89 suspended or if he or she has previously been fined under s.
90 327.35215 for a prior refusal to submit to a lawful test of his
91 or her breath, urine, or blood as required under this chapter or
92 chapter 327, in addition to any other penalties provided by law.
93 The refusal to submit to a chemical or physical breath test upon
94 the request of a law enforcement officer as provided in this
95 section is admissible into evidence in any criminal proceeding.

96 b. A person who accepts the privilege extended by the laws
97 of this state of operating a motor vehicle within this state is,
98 by operating such vehicle, deemed to have given his or her
99 consent to submit to a urine test for the purpose of detecting
100 the presence of chemical substances as set forth in s. 877.111
101 or controlled substances if the person is lawfully arrested for
102 any offense allegedly committed while the person was driving or
103 was in actual physical control of a motor vehicle while under
104 the influence of chemical substances or controlled substances.
105 The urine test must be incidental to a lawful arrest and
106 administered at a detention facility or any other facility,
107 mobile or otherwise, which is equipped to administer such tests
108 at the request of a law enforcement officer who has reasonable
109 cause to believe such person was driving or was in actual
110 physical control of a motor vehicle within this state while
111 under the influence of chemical substances or controlled
112 substances. The urine test must ~~shall~~ be administered at a
113 detention facility or any other facility, mobile or otherwise,
114 which is equipped to administer such test in a reasonable manner
115 that will ensure the accuracy of the specimen and maintain the
116 privacy of the individual involved. The administration of a

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117 urine test does not preclude the administration of another type
118 of test. The person must ~~shall~~ be told that his or her failure
119 to submit to any lawful test of his or her urine will result in
120 the suspension of his or her ~~the person's~~ privilege to operate a
121 motor vehicle for a period of 1 year for the first refusal, or
122 for a period of 18 months if the driving privilege of such
123 person has been previously suspended or if he or she has
124 previously been fined under s. 327.35215 as a result of a
125 refusal to submit to a test or tests required under this chapter
126 or chapter 327, and must ~~shall~~ also be told that if he or she
127 refuses to submit to a lawful test of his or her urine ~~and his~~
128 ~~or her driving privilege has been previously suspended or if he~~
129 ~~or she has previously been fined under s. 327.35215 for a prior~~
130 ~~refusal to submit to a lawful test of his or her breath, urine,~~
131 ~~or blood as required under this chapter or chapter 327,~~ he or
132 she commits a misdemeanor of the second ~~first~~ degree, punishable
133 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
134 first degree, punishable as provided in s. 775.082 or s.
135 775.083, if his or her driving privilege has been previously
136 suspended or if he or she has previously been fined under s.
137 327.35215 for a prior refusal to submit to a lawful test of his
138 or her breath, urine, or blood as required under this chapter or
139 chapter 327, in addition to any other penalties provided by law.
140 The refusal to submit to a urine test upon the request of a law
141 enforcement officer as provided in this section is admissible
142 into evidence in any criminal proceeding.

143 2. The Alcohol Testing Program within the Department of Law
144 Enforcement is responsible for the regulation of the operation,
145 inspection, and registration of breath test instruments utilized

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146 under the driving and boating under the influence provisions and
147 related provisions located in this chapter and chapters 322 and
148 327. The program is responsible for the regulation of the
149 individuals who operate, inspect, and instruct on the breath
150 test instruments utilized in the driving and boating under the
151 influence provisions and related provisions located in this
152 chapter and chapters 322 and 327. The program is further
153 responsible for the regulation of blood analysts who conduct
154 blood testing to be utilized under the driving and boating under
155 the influence provisions and related provisions located in this
156 chapter and chapters 322 and 327. The program shall:

157 a. Establish uniform criteria for the issuance of permits
158 to breath test operators, agency inspectors, instructors, blood
159 analysts, and instruments.

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

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

165 d. Establish uniform requirements for instruction and
166 curricula for the operation and inspection of approved
167 instruments.

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

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

172 g. Have the authority to approve or disapprove breath test
173 instruments and accompanying paraphernalia for use pursuant to
174 the driving and boating under the influence provisions and

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175 related provisions located in this chapter and chapters 322 and
176 327.

177 h. With the approval of the executive director of the
178 Department of Law Enforcement, make and enter into contracts and
179 agreements with other agencies, organizations, associations,
180 corporations, individuals, or federal agencies as are necessary,
181 expedient, or incidental to the performance of duties.

182 i. Issue final orders which include findings of fact and
183 conclusions of law and which constitute final agency action for
184 the purpose of chapter 120.

185 j. Enforce compliance with this section through civil or
186 administrative proceedings.

187 k. Make recommendations concerning any matter within the
188 purview of this section, this chapter, chapter 322, or chapter
189 327.

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

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

194 n. Have the authority to approve the type of blood test
195 utilized under the driving and boating under the influence
196 provisions and related provisions located in this chapter and
197 chapters 322 and 327.

198 o. Have the authority to specify techniques and methods for
199 breath alcohol testing and blood testing utilized under the
200 driving and boating under the influence provisions and related
201 provisions located in this chapter and chapters 322 and 327.

202 p. Have the authority to approve repair facilities for the
203 approved breath test instruments, including the authority to set

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204 criteria for approval.

205
206 Nothing in this section shall be construed to supersede
207 provisions in this chapter and chapters 322 and 327. The
208 specifications in this section are derived from the power and
209 authority previously and currently possessed by the Department
210 of Law Enforcement and are enumerated to conform with the
211 mandates of chapter 99-379, Laws of Florida.

212 Section 3. Section 316.1939, Florida Statutes, is amended
213 to read:

214 316.1939 Refusal to submit to testing; penalties.—

215 (1) A person who has refused to submit to a chemical or
216 physical test of his or her breath or urine, as described in s.
217 316.1932, commits a misdemeanor of the second degree, punishable
218 as provided in s. 775.082 or s. 775.083, in addition to any
219 other penalties provided by law, and such person whose driving
220 privilege was previously suspended or who was previously fined
221 under s. 327.35215 for a prior refusal to submit to a lawful
222 test of his or her breath, urine, or blood required under this
223 chapter or chapter 327 commits a misdemeanor of the first
224 degree, punishable as provided in s. 775.082 or s. 775.083, in
225 addition to any other penalties provided by law if all of the
226 following apply, and:

227 (a) ~~Who~~ The arresting law enforcement officer had probable
228 cause to believe that the person was driving or in actual
229 physical control of a motor vehicle in this state while under
230 the influence of alcoholic beverages, chemical substances, or
231 controlled substances. ~~†~~

232 (b) The person ~~who~~ was placed under lawful arrest for a

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233 violation of s. 316.193, unless such test was requested pursuant
234 to s. 316.1932(1)(c).~~†~~

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

240 (d) The person, after having been informed as required in
241 paragraph (c), still refuses ~~who was informed that a refusal to~~
242 ~~submit to a lawful test of his or her breath or urine as~~
243 ~~described in s. 316.1932, if his or her driving privilege has~~
244 ~~been previously suspended or if he or she has previously been~~
245 ~~fined under s. 327.35215 for a prior refusal to submit to a~~
246 ~~lawful test of his or her breath, urine, or blood as required~~
247 ~~under this chapter or chapter 327, is a misdemeanor of the first~~
248 ~~degree, punishable as provided in s. 775.082 or s. 775.083, in~~
249 ~~addition to any other penalties provided by law; and~~

250 (e) ~~who, after having been so informed, refused to submit~~
251 ~~to any such test when requested to do so by a law enforcement~~
252 ~~officer or correctional officer~~

253
254 ~~commits a misdemeanor of the first degree and is subject to~~
255 ~~punishment as provided in s. 775.082 or s. 775.083.~~

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

259 (3) The disposition of a criminal action under this section
260 does not affect any administrative proceeding that relates to
261 the suspension of a person's driving privilege. The department's

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262 records showing that a person's license has been previously
263 suspended for a prior refusal to submit to a lawful test of his
264 or her breath, urine, or blood are ~~shall be~~ admissible and
265 create ~~shall create~~ a rebuttable presumption of such suspension.

266 Section 4. Section 316.19395, Florida Statutes, is created
267 to read:

268 316.19395 Driving under the influence diversion programs.-

269 (1) Any judicial circuit may create a driving under the
270 influence diversion program. A judicial circuit that creates
271 such a diversion program shall publish the terms and conditions
272 of the program on the website of the office of the state
273 attorney for that circuit.

274 (2) Each judicial circuit that offers a diversion program
275 under this section shall notify the department of each person
276 who successfully completes the program. The department shall
277 notate the successful completion of participation in the
278 diversion program on the driving record of each such person.

279 (3) A person who successfully completes such a diversion
280 program is ineligible for future participation in such a
281 program.

282 Section 5. Subsection (1) of section 316.656, Florida
283 Statutes, is amended to read:

284 316.656 Mandatory adjudication; prohibition against
285 accepting plea to lesser included offense.-

286 (1) Notwithstanding ~~the provisions of~~ s. 948.01, a court
287 may not ~~no court may~~ suspend, defer, or withhold adjudication of
288 guilt or imposition of sentence for any violation of s. 316.193
289 or s. 316.1939, for manslaughter resulting from the operation of
290 a motor vehicle, or for vehicular homicide.

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Section 6. This act shall take effect October 1, 2024.