

1                   A bill to be entitled  
2           An act relating to refusal to submit to a breath,  
3           urine, or blood test; amending s. 316.1932, F.S.;  
4           requiring a person arrested for driving under the  
5           influence who refuses to submit to a lawful test of  
6           his or her breath to be told that he or she is subject  
7           to mandatory placement, for a specified period, of an  
8           ignition interlock device on all vehicles that are  
9           individually or jointly leased or owned and routinely  
10          operated by the person; amending s. 316.1939, F.S.;  
11          requiring a person arrested for driving under the  
12          influence who refuses to submit to a lawful test of  
13          his or her breath to be subject to mandatory  
14          placement, for a specified period, of an ignition  
15          interlock device on all vehicles that are individually  
16          or jointly leased or owned and routinely operated by  
17          the person; authorizing certain placement periods for  
18          ignition interlock devices to run concurrently;  
19          requiring reporting to the Department of Highway  
20          Safety and Motor Vehicles; specifying application of  
21          prohibitions and penalties; conforming provisions to  
22          changes made by the act; amending s. 322.2615, F.S.;  
23          requiring certain information to be contained in a  
24          notice of suspension; waiving the requirement to  
25          install an ignition interlock device under certain

26 | circumstances; amending s. 322.2616, F.S.; requiring  
 27 | certain information to be contained in a notice of  
 28 | suspension; waiving the requirement to install an  
 29 | ignition interlock device under certain circumstances;  
 30 | amending s. 322.2715, F.S.; directing the department  
 31 | to require placement of an ignition interlock device  
 32 | before issuing a permanent or restricted driver  
 33 | license to a person who refused to submit to a lawful  
 34 | test of his or her breath; requiring the person to  
 35 | install the device at his or her own expense for a  
 36 | specified period; providing an effective date.

37 |

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

39 |

40 | Section 1. Paragraph (a) of subsection (1) of section  
 41 | 316.1932, Florida Statutes, is amended to read:

42 | 316.1932 Tests for alcohol, chemical substances, or  
 43 | controlled substances; implied consent; refusal.—

44 | (1)(a)1.a. A person who accepts the privilege extended by  
 45 | the laws of this state of operating a motor vehicle within this  
 46 | state is, by operating such vehicle, deemed to have given his or  
 47 | her consent to submit to an approved chemical test or physical  
 48 | test including, but not limited to, an infrared light test of  
 49 | his or her breath for the purpose of determining the alcoholic  
 50 | content of his or her blood or breath if the person is lawfully

51 | arrested for any offense allegedly committed while the person  
52 | was driving or was in actual physical control of a motor vehicle  
53 | while under the influence of alcoholic beverages. The chemical  
54 | or physical breath test must be incidental to a lawful arrest  
55 | and administered at the request of a law enforcement officer who  
56 | has reasonable cause to believe such person was driving or was  
57 | in actual physical control of the motor vehicle within this  
58 | state while under the influence of alcoholic beverages. The  
59 | administration of a breath test does not preclude the  
60 | administration of another type of test. The person must ~~shall~~ be  
61 | told that his or her failure to submit to any lawful test of his  
62 | or her breath will, for a first refusal, result in the  
63 | suspension of the person's privilege to operate a motor vehicle  
64 | for a period of 1 year, and the person will be subject to  
65 | mandatory placement for 1 continuous year, at the person's own  
66 | expense, of an ignition interlock device on all vehicles that  
67 | are individually or jointly leased or owned and routinely  
68 | operated by the person when the person qualifies for  
69 | reinstatement of a permanent or restricted driver license. ~~for a~~  
70 | ~~first refusal, or for a period of 18 months~~ If the driving  
71 | privilege of such person has been previously suspended or if he  
72 | or she has previously been fined under s. 327.35215 as a result  
73 | of a refusal to submit to a test or tests required under this  
74 | chapter or chapter 327, the person must be told that his or her  
75 | failure to submit to any lawful test of his or her breath will

76 result in the suspension of the person's privilege to operate a  
77 motor vehicle for 18 months. The person must ~~and shall~~ also be  
78 told that if he or she refuses to submit to a lawful test of his  
79 or her breath and his or her driving privilege has been  
80 previously suspended or if he or she has previously been fined  
81 under s. 327.35215 for a prior refusal to submit to a lawful  
82 test of his or her breath, urine, or blood as required under  
83 this chapter or chapter 327, he or she commits a misdemeanor of  
84 the first degree, punishable as provided in s. 775.082 or s.  
85 775.083, in addition to any other penalties provided by law. The  
86 refusal to submit to a chemical or physical breath test upon the  
87 request of a law enforcement officer as provided in this section  
88 is admissible into evidence in any criminal proceeding.

89 b. A person who accepts the privilege extended by the laws  
90 of this state of operating a motor vehicle within this state is,  
91 by operating such vehicle, deemed to have given his or her  
92 consent to submit to a urine test for the purpose of detecting  
93 the presence of chemical substances as set forth in s. 877.111  
94 or controlled substances if the person is lawfully arrested for  
95 any offense allegedly committed while the person was driving or  
96 was in actual physical control of a motor vehicle while under  
97 the influence of chemical substances or controlled substances.  
98 The urine test must be incidental to a lawful arrest and  
99 administered at a detention facility or any other facility,  
100 mobile or otherwise, which is equipped to administer such tests

101 at the request of a law enforcement officer who has reasonable  
102 cause to believe such person was driving or was in actual  
103 physical control of a motor vehicle within this state while  
104 under the influence of chemical substances or controlled  
105 substances. The urine test must ~~shall~~ be administered at a  
106 detention facility or any other facility, mobile or otherwise,  
107 which is equipped to administer such test in a reasonable manner  
108 that will ensure the accuracy of the specimen and maintain the  
109 privacy of the individual involved. The administration of a  
110 urine test does not preclude the administration of another type  
111 of test. The person must ~~shall~~ be told that his or her failure  
112 to submit to any lawful test of his or her urine will result in  
113 the suspension of the person's privilege to operate a motor  
114 vehicle for ~~a period of~~ 1 year for the first refusal, or for a  
115 ~~period of~~ 18 months if the driving privilege of such person has  
116 been previously suspended or if he or she has previously been  
117 fined under s. 327.35215 as a result of a refusal to submit to a  
118 test or tests required under this chapter or chapter 327, and  
119 must ~~shall~~ also be told that if he or she refuses to submit to a  
120 lawful test of his or her urine and his or her driving privilege  
121 has been previously suspended or if he or she has previously  
122 been fined under s. 327.35215 for a prior refusal to submit to a  
123 lawful test of his or her breath, urine, or blood as required  
124 under this chapter or chapter 327, he or she commits a  
125 misdemeanor of the first degree, punishable as provided in s.

126 775.082 or s. 775.083, in addition to any other penalties  
127 provided by law. The refusal to submit to a urine test upon the  
128 request of a law enforcement officer as provided in this section  
129 is admissible into evidence in any criminal proceeding.

130 2. The Alcohol Testing Program within the Department of  
131 Law Enforcement is responsible for the regulation of the  
132 operation, inspection, and registration of breath test  
133 instruments used ~~utilized~~ under the driving and boating under  
134 the influence provisions and related provisions located in this  
135 chapter and chapters 322 and 327. The program is responsible for  
136 the regulation of the individuals who operate, inspect, and  
137 instruct on the breath test instruments used ~~utilized~~ in the  
138 driving and boating under the influence provisions and related  
139 provisions located in this chapter and chapters 322 and 327. The  
140 program is further responsible for the regulation of blood  
141 analysts who conduct blood testing to be used ~~utilized~~ under the  
142 driving and boating under the influence provisions and related  
143 provisions located in this chapter and chapters 322 and 327. The  
144 program must ~~shall~~:

145 a. Establish uniform criteria for the issuance of permits  
146 to breath test operators, agency inspectors, instructors, blood  
147 analysts, and instruments.

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

150 c. Have the authority to discipline and suspend, revoke,

151 or renew the permits of breath test operators, agency  
 152 inspectors, instructors, blood analysts, and instruments.

153 d. Establish uniform requirements for instruction and  
 154 curricula for the operation and inspection of approved  
 155 instruments.

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

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

160 g. Have the authority to approve or disapprove breath test  
 161 instruments and accompanying paraphernalia for use pursuant to  
 162 the driving and boating under the influence provisions and  
 163 related provisions located in this chapter and chapters 322 and  
 164 327.

165 h. With the approval of the executive director of the  
 166 Department of Law Enforcement, make and enter into contracts and  
 167 agreements with other agencies, organizations, associations,  
 168 corporations, individuals, or federal agencies as are necessary,  
 169 expedient, or incidental to the performance of duties.

170 i. Issue final orders that ~~which~~ include findings of fact  
 171 and conclusions of law and that ~~which~~ constitute final agency  
 172 action for the purpose of chapter 120.

173 j. Enforce compliance with this section through civil or  
 174 administrative proceedings.

175 k. Make recommendations concerning any matter within the

176 purview of this section, this chapter, chapter 322, or chapter  
 177 327.

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

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

182 n. Have the authority to approve the type of blood test  
 183 used ~~utilized~~ under the driving and boating under the influence  
 184 provisions and related provisions located in this chapter and  
 185 chapters 322 and 327.

186 o. Have the authority to specify techniques and methods  
 187 for breath alcohol testing and blood testing used ~~utilized~~ under  
 188 the driving and boating under the influence provisions and  
 189 related provisions located in this chapter and chapters 322 and  
 190 327.

191 p. Have the authority to approve repair facilities for the  
 192 approved breath test instruments, including the authority to set  
 193 criteria for approval.

194  
 195 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
 196 provisions in this chapter and chapters 322 and 327. The  
 197 specifications in this section are derived from the power and  
 198 authority previously and currently possessed by the Department  
 199 of Law Enforcement and are enumerated to conform with the  
 200 mandates of chapter 99-379, Laws of Florida.

201 Section 2. Section 316.1939, Florida Statutes, is amended  
 202 to read:

203 316.1939 Refusal to submit to testing; penalties.—

204 (1)(a) A person who refuses to submit to a lawful test of  
 205 his or her breath as required under s. 316.1932(1)(a)1.a. is  
 206 subject to mandatory placement, at the person's own expense, of  
 207 an ignition interlock device approved by the department in the  
 208 same manner as devices approved by the department in accordance  
 209 with s. 316.1938 on all vehicles individually or jointly leased  
 210 or owned and routinely operated by the person for 1 continuous  
 211 year for a first refusal when the person qualifies for  
 212 reinstatement of a permanent or restricted driver license. This  
 213 subsection applies in addition to any other penalties authorized  
 214 by this section. The ignition interlock device placement period  
 215 required by this subsection may run concurrently with any other  
 216 ignition interlock device placement period required by a court  
 217 or the department.

218 (b) Proof of installation of an ignition interlock device  
 219 required by this subsection must be sent to the department, and  
 220 verification of the operation of the device in the person's  
 221 vehicle must be periodically reported to the department.

222 (c) The prohibitions and penalties provided in s.  
 223 316.1937(5), (6), and (8) apply to a person whose driving  
 224 privilege is restricted pursuant to this subsection and to an  
 225 ignition interlock device required by this subsection.

226        ~~(2)(1)~~ A person who has refused to submit to a chemical or  
 227 physical test of his or her breath or urine, as described in s.  
 228 316.1932, and whose driving privilege was previously suspended  
 229 or who was previously fined under s. 327.35215 for a prior  
 230 refusal to submit to a lawful test of his or her breath, urine,  
 231 or blood required under this chapter or chapter 327, and:

232        (a) Who the arresting law enforcement officer had probable  
 233 cause to believe was driving or in actual physical control of a  
 234 motor vehicle in this state while under the influence of  
 235 alcoholic beverages, chemical substances, or controlled  
 236 substances;

237        (b) Who was placed under lawful arrest for a violation of  
 238 s. 316.193 unless such test was requested pursuant to s.  
 239 316.1932(1)(c);

240        (c) Who was informed that:7

241        1. If he or she refused to submit to a lawful test of his  
 242 or her breath, his or her privilege to operate a motor vehicle  
 243 would be suspended for 1 year for a first refusal and that he or  
 244 she would be subject to mandatory placement, at his or her own  
 245 expense, of an ignition interlock device approved by the  
 246 department in the same manner as devices approved by the  
 247 department in accordance with s. 316.1938, for 1 continuous year  
 248 for a first refusal on all vehicles that he or she individually  
 249 or jointly leases or owns and routinely operates when he or she  
 250 qualifies for reinstatement of a permanent or restricted driver

251 license; or

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

257 (d) Who was informed that a refusal to submit to a lawful  
 258 test of his or her breath or urine, if his or her driving  
 259 privilege has been previously suspended or if he or she has  
 260 previously been fined under s. 327.35215 for a prior refusal to  
 261 submit to a lawful test of his or her breath, urine, or blood as  
 262 required under this chapter or chapter 327, is a misdemeanor of  
 263 the first degree, punishable as provided in s. 775.082 or s.  
 264 775.083, in addition to any other penalties provided by law; and

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

268  
 269 commits a misdemeanor of the first degree and is subject to  
 270 punishment as provided in s. 775.082 or s. 775.083.

271 ~~(3)-(2)~~ The disposition of any administrative proceeding  
 272 that relates to the suspension of a person's driving privilege  
 273 does not affect a criminal action under subsection (2) ~~this~~  
 274 ~~section.~~

275 ~~(4)-(3)~~ The disposition of a criminal action under

276 subsection (2) ~~this section~~ does not affect any administrative  
 277 proceeding that relates to the suspension of a person's driving  
 278 privilege. The department's records showing that a person's  
 279 license has been previously suspended for a prior refusal to  
 280 submit to a lawful test of his or her breath, urine, or blood is  
 281 ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable  
 282 presumption of such suspension.

283 Section 3. Subsections (12) through (16) of section  
 284 322.2615, Florida Statutes, are renumbered as subsections (13)  
 285 through (17), respectively, subsection (1) is amended, and a new  
 286 subsection (12) is added to that section, to read:

287 322.2615 Suspension of license; right to review.—

288 (1)(a) A law enforcement officer or correctional officer  
 289 shall, on behalf of the department, suspend the driving  
 290 privilege of a person who is driving or in actual physical  
 291 control of a motor vehicle and who has an unlawful blood-alcohol  
 292 level or breath-alcohol level of 0.08 or higher, or of a person  
 293 who has refused to submit to a urine test or a test of his or  
 294 her breath-alcohol or blood-alcohol level. The officer shall  
 295 take the person's driver license and issue the person a 10-day  
 296 temporary permit if the person is otherwise eligible for the  
 297 driving privilege and shall issue the person a notice of  
 298 suspension. If a blood test has been administered, the officer  
 299 or the agency employing the officer shall transmit such results  
 300 to the department within 5 days after receipt of the results. If

301 the department then determines that the person had a blood-  
302 alcohol level or breath-alcohol level of 0.08 or higher, the  
303 department shall suspend the person's driver license pursuant to  
304 subsection (3).

305 (b) The suspension under paragraph (a) shall be pursuant  
306 to, and the notice of suspension shall inform the driver of, the  
307 following:

308 1.a. The driver refused to submit to a lawful breath,  
309 ~~blood, or urine~~ test and his or her driving privilege is  
310 suspended for ~~a period of~~ 1 year for a first refusal or for a  
311 ~~period of~~ 18 months if his or her driving privilege has been  
312 previously suspended as a result of a refusal to submit to such  
313 a test, and he or she is subject to mandatory placement, at his  
314 or her own expense, of an ignition interlock device approved by  
315 the department in the same manner as devices approved by the  
316 department in accordance with s. 316.1938 for 1 continuous year  
317 for a first refusal on all vehicles that he or she individually  
318 or jointly leases or owns and routinely operates when he or she  
319 qualifies for reinstatement of a permanent or restricted driver  
320 license;

321 b. The driver refused to submit to a lawful blood or urine  
322 test and his or her driving privilege is suspended for 1 year  
323 for a first refusal or for 18 months if his or her driving  
324 privilege has been previously suspended as a result of a refusal  
325 to submit to such a test; or

326 ~~c.b.~~ The driver was driving or in actual physical control  
327 of a motor vehicle and had an unlawful blood-alcohol level or  
328 breath-alcohol level of 0.08 or higher and his or her driving  
329 privilege is suspended for ~~a period of~~ 6 months for a first  
330 offense or for ~~a period of~~ 1 year if his or her driving  
331 privilege has been previously suspended under this section.

332 2. The suspension period shall commence on the date of  
333 issuance of the notice of suspension.

334 3. The driver may request a formal or informal review of  
335 the suspension by the department within 10 days after the date  
336 of issuance of the notice of suspension or may request a review  
337 of eligibility for a restricted driving privilege under s.  
338 322.271(7).

339 4. The temporary permit issued at the time of suspension  
340 expires at midnight of the 10th day following the date of  
341 issuance of the notice of suspension.

342 5. The driver may submit to the department any materials  
343 relevant to the suspension.

344 (12) If a person whose driver license is suspended for  
345 refusal to submit to a lawful breath test has such suspension  
346 invalidated for any reason under this section, the requirement  
347 that he or she install an ignition interlock device for refusal  
348 to submit to a lawful test of his or her breath under s.  
349 316.1939(1) is waived.

350 Section 4. Subsections (13) through (19) of section

351 322.2616, Florida Statutes, are renumbered as subsections (14)  
 352 through (20), respectively, subsection (2) is amended, and a new  
 353 subsection (13) is added to that section, to read:

354 322.2616 Suspension of license; persons under 21 years of  
 355 age; right to review.—

356 (2) (a) A law enforcement officer or correctional officer  
 357 shall, on behalf of the department, suspend the driving  
 358 privilege of such person if the person has a blood-alcohol or  
 359 breath-alcohol level of 0.02 or higher. The officer shall also  
 360 suspend, on behalf of the department, the driving privilege of a  
 361 person who has refused to submit to a test as provided by  
 362 paragraph (b). The officer shall take the person's driver  
 363 license and issue the person a 10-day temporary driving permit  
 364 if the person is otherwise eligible for the driving privilege  
 365 and shall issue the person a notice of suspension.

366 (b) The suspension under paragraph (a) must be pursuant  
 367 to, and the notice of suspension must inform the driver of, the  
 368 following:

369 1.a. The driver refused to submit to a lawful breath test  
 370 and his or her driving privilege is suspended for ~~a period of 1~~  
 371 ~~year for a first refusal or for a period of 18 months if his or~~  
 372 ~~her driving privilege has been previously suspended as provided~~  
 373 ~~in this section as a result of a refusal to submit to a test,~~  
 374 and he or she is subject to mandatory placement, at his or her  
 375 own expense, of an ignition interlock device approved by the

376 department in the same manner as devices approved by the  
377 department in accordance with s. 316.1938 for 1 continuous year  
378 for a first refusal on all vehicles that he or she individually  
379 or jointly leases or owns and routinely operates when he or she  
380 qualifies for reinstatement of a permanent or restricted driver  
381 license; or

382       b. The driver was under the age of 21 and was driving or  
383 in actual physical control of a motor vehicle while having a  
384 blood-alcohol or breath-alcohol level of 0.02 or higher; and the  
385 person's driving privilege is suspended for ~~a period of~~ 6 months  
386 for a first violation, or for ~~a period of~~ 1 year if his or her  
387 driving privilege has been previously suspended as provided in  
388 this section for driving or being in actual physical control of  
389 a motor vehicle with a blood-alcohol or breath-alcohol level of  
390 0.02 or higher.

391       2. The suspension period commences on the date of issuance  
392 of the notice of suspension.

393       3. The driver may request a formal or informal review of  
394 the suspension by the department within 10 days after the  
395 issuance of the notice of suspension.

396       4. A temporary permit issued at the time of the issuance  
397 of the notice of suspension shall not become effective until  
398 after 12 hours have elapsed and will expire at midnight of the  
399 10th day following the date of issuance.

400       5. The driver may submit to the department any materials

401 relevant to the suspension of his or her license.

402 (c) When a driver subject to this section has a blood-  
403 alcohol or breath-alcohol level of 0.05 or higher, the  
404 suspension shall remain in effect until such time as the driver  
405 has completed a substance abuse course offered by a DUI program  
406 licensed by the department. The driver shall assume the  
407 reasonable costs for the substance abuse course. As part of the  
408 substance abuse course, the program shall conduct a substance  
409 abuse evaluation of the driver, and notify the parents or legal  
410 guardians of drivers under the age of 19 years of the results of  
411 the evaluation. The term "substance abuse" means the abuse of  
412 alcohol or any substance named or described in Schedules I  
413 through V of s. 893.03. If a driver fails to complete the  
414 substance abuse education course and evaluation, the driver  
415 license shall not be reinstated by the department.

416 (d) A minor under the age of 18 years proven to be driving  
417 with a blood-alcohol or breath-alcohol level of 0.02 or higher  
418 may be taken by a law enforcement officer to the addictions  
419 receiving facility in the county in which the minor is found to  
420 be so driving, if the county makes the addictions receiving  
421 facility available for such purpose.

422 (13) If a person whose driver license is suspended for  
423 refusal to submit to a lawful breath test has such suspension  
424 invalidated for any reason under this section, the requirement  
425 that he or she install an ignition interlock device for refusal

426 to submit to a lawful test of his or her breath under s.  
 427 316.1939(1) is waived.

428 Section 5. Subsection (5) of section 322.2715, Florida  
 429 Statutes, is renumbered as subsection (6), subsection (1) is  
 430 amended, and a new subsection (5) is added to that section, to  
 431 read:

432 322.2715 Ignition interlock device.—

433 (1) Before issuing a permanent or restricted driver  
 434 license under this chapter, the department shall require the  
 435 placement of a department-approved ignition interlock device for  
 436 any person convicted of committing an offense of driving under  
 437 the influence as specified in subsection (3), or for any person  
 438 who refused to submit to a lawful test of his or her breath as  
 439 specified in subsection (5), except that consideration may be  
 440 given to those individuals having a documented medical condition  
 441 that would prohibit the device from functioning normally. If a  
 442 medical waiver has been granted for a ~~convicted~~ person seeking a  
 443 restricted license, the ~~convicted~~ person shall not be entitled  
 444 to a restricted license until the required ignition interlock  
 445 device installation period under subsection (3) or subsection  
 446 (5) expires, in addition to the time requirements under s.  
 447 322.271. If a medical waiver has been approved for a ~~convicted~~  
 448 person seeking permanent reinstatement of the driver license,  
 449 the ~~convicted~~ person must be restricted to an employment-  
 450 purposes-only license and be supervised by a licensed DUI

451 program until the required ignition interlock device  
452 installation period under subsection (3) or subsection (5)  
453 expires. An interlock device shall be placed on all vehicles  
454 that are individually or jointly leased or owned and routinely  
455 operated by the ~~convicted~~ person.

456 (5) If a person refused to submit to a lawful test of his  
457 or her breath as required by s. 316.1932(1)(a)1.a., he or she  
458 must install, at his or her own expense, an ignition interlock  
459 device on all vehicles individually or jointly leased or owned  
460 and routinely operated by the person for 1 continuous year for a  
461 first refusal upon reinstatement of a permanent or restricted  
462 driver license.

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