

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 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; conforming provisions to changes made by
18 the act; amending s. 322.2615, F.S.; decreasing the
19 period during which a person whose driver license is
20 suspended for failure to submit to a breath, urine, or
21 blood test is not eligible to receive a license for
22 business or employment purposes only; amending s.
23 322.2715, F.S.; directing the Department of Highway
24 Safety and Motor Vehicles to require placement of an
25 ignition interlock device before issuing a permanent

26 | or restricted driver license to a person who refused
27 | to submit to a lawful test of his or her breath;
28 | requiring the person to install the device at his or
29 | her own expense for a specified period; providing an
30 | effective date.

31 |
32 | Be It Enacted by the Legislature of the State of Florida:
33 |

34 | Section 1. Paragraph (a) of subsection (1) of section
35 | 316.1932, Florida Statutes, is amended to read:

36 | 316.1932 Tests for alcohol, chemical substances, or
37 | controlled substances; implied consent; refusal.—

38 | (1)(a)1.a. A person who accepts the privilege extended by
39 | the laws of this state of operating a motor vehicle within this
40 | state is, by operating such vehicle, deemed to have given his or
41 | her consent to submit to an approved chemical test or physical
42 | test including, but not limited to, an infrared light test of
43 | his or her breath for the purpose of determining the alcoholic
44 | content of his or her blood or breath if the person is lawfully
45 | arrested for any offense allegedly committed while the person
46 | was driving or was in actual physical control of a motor vehicle
47 | while under the influence of alcoholic beverages. The chemical
48 | or physical breath test must be incidental to a lawful arrest
49 | and administered at the request of a law enforcement officer who
50 | has reasonable cause to believe such person was driving or was

51 | in actual physical control of the motor vehicle within this
52 | state while under the influence of alcoholic beverages. The
53 | administration of a breath test does not preclude the
54 | administration of another type of test. The person must ~~shall~~ be
55 | told that his or her failure to submit to any lawful test of his
56 | or her breath will, for a first refusal, result in the
57 | suspension of the person's privilege to operate a motor vehicle
58 | for a period of 1 year and the person will be subject to
59 | mandatory placement for 1 continuous year, at the person's own
60 | expense, of an ignition interlock device approved by the
61 | department in accordance with s. 316.1938 on all vehicles that
62 | are individually or jointly leased or owned and routinely
63 | operated by the person, when the person qualifies for
64 | reinstatement of a permanent or restricted driver license. ~~for a~~
65 | ~~first refusal, or for a period of 18 months~~ If the driving
66 | privilege of such person has been previously suspended or if he
67 | or she has previously been fined under s. 327.35215 as a result
68 | of a refusal to submit to a test or tests required under this
69 | chapter or chapter 327, the person must be told that his or her
70 | failure to submit to any lawful test of his or her breath will
71 | result in the suspension of the person's privilege to operate a
72 | motor vehicle for 18 months and the person will be subject to
73 | mandatory placement for 18 continuous months, at the person's
74 | own expense, of an ignition interlock device approved by the
75 | department in accordance with s. 316.1938 on all vehicles that

76 | are individually or jointly leased or owned and routinely
77 | operated by the person, when the person qualifies for
78 | reinstatement of a permanent or restricted driver license. The
79 | person must ~~and shall~~ also be told that if he or she refuses to
80 | submit to a lawful test of his or her breath and his or her
81 | driving privilege has been previously suspended or if he or she
82 | has previously been fined under s. 327.35215 for a prior refusal
83 | to submit to a lawful test of his or her breath, urine, or blood
84 | as required under this chapter or chapter 327, he or she commits
85 | a misdemeanor of the first degree, punishable as provided in s.
86 | 775.082 or s. 775.083, in addition to any other penalties
87 | provided by law. The refusal to submit to a chemical or physical
88 | breath test upon the request of a law enforcement officer as
89 | provided in this section is admissible into evidence in any
90 | criminal proceeding.

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

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

126 | under this chapter or chapter 327, he or she commits a
127 | misdemeanor of the first degree, punishable as provided in s.
128 | 775.082 or s. 775.083, in addition to any other penalties
129 | provided by law. The refusal to submit to a urine test upon the
130 | request of a law enforcement officer as provided in this section
131 | is admissible into evidence in any criminal proceeding.

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

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

150 | b. Have the authority to permit breath test operators,

151 agency inspectors, instructors, blood analysts, and instruments.

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

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

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

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

162 g. Have the authority to approve or disapprove breath test
163 instruments and accompanying paraphernalia for use pursuant to
164 the driving and boating under the influence provisions and
165 related provisions located in this chapter and chapters 322 and
166 327.

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

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

175 j. Enforce compliance with this section through civil or

176 administrative proceedings.

177 k. Make recommendations concerning any matter within the
 178 purview of this section, this chapter, chapter 322, or chapter
 179 327.

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

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

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

188 o. Have the authority to specify techniques and methods
 189 for breath alcohol testing and blood testing used ~~utilized~~ under
 190 the driving and boating under the influence provisions and
 191 related provisions located in this chapter and chapters 322 and
 192 327.

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

196
 197 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede
 198 provisions in this chapter and chapters 322 and 327. The
 199 specifications in this section are derived from the power and
 200 authority previously and currently possessed by the Department

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

203 Section 2. Section 316.1939, Florida Statutes, is amended
204 to read:

205 316.1939 Refusal to submit to testing; penalties.—

206 (1) A person who refuses to submit to a lawful test of his
207 or her breath as required under s. 316.1932(1)(a)1.a. is subject
208 to mandatory placement, at the person's own expense, of an
209 ignition interlock device approved by the department in
210 accordance with s. 316.1938 on all vehicles individually or
211 jointly leased or owned and routinely operated by the person for
212 1 continuous year for a first refusal, or 18 continuous months
213 for a second or subsequent refusal, when the person qualifies
214 for reinstatement of a permanent or restricted driver license.
215 This subsection applies in addition to any other penalties
216 authorized by this section.

217 (2)~~(1)~~ A person who has refused to submit to a chemical or
218 physical test of his or her breath or urine, as described in s.
219 316.1932, and whose driving privilege was previously suspended
220 or who was previously fined under s. 327.35215 for a prior
221 refusal to submit to a lawful test of his or her breath, urine,
222 or blood required under this chapter or chapter 327, and:

223 (a) Who the arresting law enforcement officer had probable
224 cause to believe was driving or in actual physical control of a
225 motor vehicle in this state while under the influence of

226 | alcoholic beverages, chemical substances, or controlled
 227 | substances;

228 | (b) Who was placed under lawful arrest for a violation of
 229 | s. 316.193 unless such test was requested pursuant to s.
 230 | 316.1932(1)(c);

231 | (c) Who was informed that:7

232 | 1. If he or she refused to submit to a lawful test of his
 233 | or her breath, his or her privilege to operate a motor vehicle
 234 | would be suspended for 1 year for a first refusal or 18 months
 235 | for a second or subsequent refusal, and that he or she would be
 236 | subject to mandatory placement, at his or her own expense, of an
 237 | ignition interlock device approved by the department in
 238 | accordance with s. 316.1938, for 1 continuous year for a first
 239 | refusal, or 18 continuous months for a second or subsequent
 240 | refusal, on all vehicles that he or she individually or jointly
 241 | leases or owns and routinely operates, when he or she qualifies
 242 | for reinstatement of a permanent or restricted driver license;
 243 | or

244 | 2. If he or she refused to submit to a lawful ~~such~~ test of
 245 | his or her urine, his or her privilege to operate a motor
 246 | vehicle would be suspended for a ~~period of~~ 1 year for a first
 247 | refusal or, in the case of a second or subsequent refusal, for a
 248 | ~~period of~~ 18 months for a second or subsequent refusal;

249 | (d) Who was informed that a refusal to submit to a lawful
 250 | test of his or her breath or urine, if his or her driving

251 | privilege has been previously suspended or if he or she has
 252 | previously been fined under s. 327.35215 for a prior refusal to
 253 | submit to a lawful test of his or her breath, urine, or blood as
 254 | required under this chapter or chapter 327, is a misdemeanor of
 255 | the first degree, punishable as provided in s. 775.082 or s.
 256 | 775.083, in addition to any other penalties provided by law; and

257 | (e) Who, after having been so informed, refused to submit
 258 | to any such test when requested to do so by a law enforcement
 259 | officer or correctional officer

260 |
 261 | commits a misdemeanor of the first degree and is subject to
 262 | punishment as provided in s. 775.082 or s. 775.083.

263 | (3)~~(2)~~ The disposition of any administrative proceeding
 264 | that relates to the suspension of a person's driving privilege
 265 | does not affect a criminal action under subsection (2) ~~this~~
 266 | ~~section~~.

267 | (4)~~(3)~~ The disposition of a criminal action under
 268 | subsection (2) ~~this section~~ does not affect any administrative
 269 | proceeding that relates to the suspension of a person's driving
 270 | privilege. The department's records showing that a person's
 271 | license has been previously suspended for a prior refusal to
 272 | submit to a lawful test of his or her breath, urine, or blood is
 273 | ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable
 274 | presumption of such suspension.

275 | Section 3. Paragraph (a) of subsection (10) of section

276 | 322.2615, Florida Statutes, is amended to read:

277 | 322.2615 Suspension of license; right to review.—

278 | (10) A person whose driver license is suspended under
 279 | subsection (1) or subsection (3) may apply for issuance of a
 280 | license for business or employment purposes only if the person
 281 | is otherwise eligible for the driving privilege pursuant to s.
 282 | 322.271.

283 | (a) If the suspension of the driver license of the person
 284 | for failure to submit to a breath, urine, or blood test is
 285 | sustained, the person is not eligible to receive a license for
 286 | business or employment purposes only, pursuant to s. 322.271,
 287 | until 30 ~~90~~ days have elapsed after the expiration of the last
 288 | temporary permit issued. If the driver is not issued a 10-day
 289 | permit pursuant to this section or s. 322.64 because he or she
 290 | is ineligible for the permit and the suspension for failure to
 291 | submit to a breath, urine, or blood test is not invalidated by
 292 | the department, the driver is not eligible to receive a business
 293 | or employment license pursuant to s. 322.271 until 30 ~~90~~ days
 294 | have elapsed from the date of the suspension.

295 | Section 4. Subsection (5) of section 322.2715, Florida
 296 | Statutes, is renumbered as subsection (6), subsection (1) is
 297 | amended, and a new subsection (5) is added to that section, to
 298 | read:

299 | 322.2715 Ignition interlock device.—

300 | (1) Before issuing a permanent or restricted driver

301 license under this chapter, the department shall require the
302 placement of a department-approved ignition interlock device for
303 any person convicted of committing an offense of driving under
304 the influence as specified in subsection (3), or for any person
305 who refused to submit to a lawful test of his or her breath as
306 specified in subsection (5), except that consideration may be
307 given to those individuals having a documented medical condition
308 that would prohibit the device from functioning normally. If a
309 medical waiver has been granted for a ~~convicted~~ person seeking a
310 restricted license, the ~~convicted~~ person shall not be entitled
311 to a restricted license until the required ignition interlock
312 device installation period under subsection (3) or subsection
313 (5) expires, in addition to the time requirements under s.
314 322.271. If a medical waiver has been approved for a ~~convicted~~
315 person seeking permanent reinstatement of the driver license,
316 the ~~convicted~~ person must be restricted to an employment-
317 purposes-only license and be supervised by a licensed DUI
318 program until the required ignition interlock device
319 installation period under subsection (3) or subsection (5)
320 expires. An interlock device shall be placed on all vehicles
321 that are individually or jointly leased or owned and routinely
322 operated by the ~~convicted~~ person.

323 (5) If a person refused to submit to a lawful test of his
324 or her breath as required by s. 316.1932(1)(a)1.a., he or she
325 must install, at his or her own expense, an ignition interlock

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326 | device on all vehicles individually or jointly leased or owned
327 | and routinely operated by the person for 1 continuous year for a
328 | first refusal or for 18 continuous months for a second or
329 | subsequent refusal.

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