

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; 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 upon reinstatement of a restricted or  
330 | permanent license.

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