

1                   A bill to be entitled  
2           An act relating to alcohol or drug impairment;  
3           amending s. 316.003, F.S.; defining terms applicable  
4           to the Florida Uniform Traffic Control Law; amending  
5           s. 316.193, F.S.; providing that a person commits the  
6           offense of driving while impaired and is subject to  
7           punishment for such violation if the person is driving  
8           a motor vehicle and satisfies the specified criteria  
9           relating to the consumption of alcohol or controlled  
10          substances; providing that a person commits the  
11          offense of driving while impaired if the person has in  
12          the blood or urine certain controlled substances in  
13          specified circumstances; providing that a person is  
14          entitled to an affirmative defense to the offense of  
15          driving while impaired if, under certain  
16          circumstances, the person charged with the offense  
17          introduced a controlled substance into his or her body  
18          pursuant to a prescription; providing that use of a  
19          nonprescribed substance does not constitute an  
20          affirmative defense; providing that legal use of  
21          alcohol, a chemical substance, a controlled substance,  
22          a medication, or a drug does not constitute a defense  
23          against a charge of driving while impaired under  
24          certain circumstances; amending s. 327.02, F.S.;  
25          defining the term "impaired" as it relates to vessel  
26          safety; amending s. 790.151, F.S.; defining the term  
27          "impaired" as it relates to the use of firearms;  
28          providing that a person commits the offense of use of

29 | a firearm while impaired and is subject to punishment  
 30 | for such violation if the person uses a firearm and  
 31 | satisfies the specified criteria relating to the  
 32 | consumption of alcohol or controlled substances;  
 33 | amending s. 790.157, F.S.; conforming terminology;  
 34 | revising the amount of alcohol concentration that may  
 35 | give rise to a presumption of impairment for purposes  
 36 | of the offense of use of a firearm while impaired;  
 37 | revising provisions relating to chemical analysis of a  
 38 | person's blood or breath; amending ss. 187.201,  
 39 | 261.20, 310.101, 316.027, 316.1932, 316.1933,  
 40 | 316.1934, 316.1937, 316.1939, 318.143, 318.17,  
 41 | 320.055, 320.08, 322.12, 322.25, 322.26, 322.2615,  
 42 | 322.2616, 322.271, 322.2715, 322.28, 322.291, 322.34,  
 43 | 322.61, 322.62, 322.63, 322.64, 324.023, 327.35,  
 44 | 327.352, 327.353, 327.354, 327.355, 327.359, 327.38,  
 45 | 327.391, 328.17, 337.195, 342.07, 401.281, 627.7275,  
 46 | 627.758, 790.153, and 790.155, F.S.; conforming  
 47 | provisions to changes made by the act; providing an  
 48 | effective date.

49 |

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

51 |

52 | Section 1. Subsections (92) and (93) are added to section  
 53 | 316.003, Florida Statutes, to read:

54 | 316.003 Definitions.—The following words and phrases, when  
 55 | used in this chapter, shall have the meanings respectively  
 56 | ascribed to them in this section, except where the context

57 otherwise requires:

58 (92) DRIVE.—To operate or be in actual physical control of  
 59 a vehicle.

60 (93) IMPAIR OR IMPAIRED.—To weaken or diminish any of a  
 61 person's physical or mental abilities, including, but not  
 62 limited to, the person's balance, coordination, reflexes,  
 63 memory, or comprehension or the person's ability to see, hear,  
 64 walk, talk, judge distances, act in an emergency, follow  
 65 directions, multitask, or, in general, perform the many mental  
 66 and physical acts of daily life.

67 Section 2. Section 316.193, Florida Statutes, is amended  
 68 to read:

69 316.193 Driving while impaired, with certain alcohol  
 70 concentrations, or drugged ~~under the influence~~; penalties.—

71 (1) A person commits ~~is guilty of~~ the offense of driving  
 72 while impaired ~~under the influence~~ and is subject to punishment  
 73 as provided in subsection (2) if the person is driving ~~or in~~  
 74 ~~actual physical control of~~ a vehicle anywhere within this state  
 75 and:

76 (a) The person is impaired by an ~~under the influence of~~  
 77 alcoholic beverage ~~beverages~~, a any chemical substance  
 78 identified ~~set forth~~ in s. 877.111, a ~~or any~~ substance  
 79 controlled substance as defined in ~~under~~ chapter 893 or the Code  
 80 of Federal Regulations as of July 1, 2014, or as in effect upon  
 81 the date of the most recent readoption of this section under s.  
 82 11.2421 before the offense, or a combination of these items ~~when~~  
 83 ~~affected to the extent that the person's normal faculties are~~  
 84 ~~impaired;~~

85           (b) The person has an alcohol concentration ~~a blood-~~  
 86 ~~alcohol level~~ of 0.08 or more grams of alcohol per 100  
 87 milliliters of blood or per 210 liters of breath at the time of  
 88 driving or anytime after driving as a result of alcohol consumed  
 89 before or during driving; ~~or~~

90           (c) The person has in the blood or urine a substance  
 91 identified as a controlled substance as defined in Schedule I of  
 92 chapter 893 or the Code of Federal Regulations as of July 1,  
 93 2014, or as in effect upon the date of the most recent  
 94 readoption of this section under s. 11.2421 before the offense;  
 95 or

96           (d)1. The person has in the blood or urine a substance  
 97 identified as a controlled substance in Schedule II, Schedule  
 98 III, or Schedule IV of chapter 893 or the Code of Federal  
 99 Regulations as of July 1, 2014, or as in effect upon the date of  
 100 the most recent readoption of this section under s. 11.2421  
 101 before the offense.

102           2.a. If a person who is charged with violating this  
 103 paragraph introduced into his or her body a controlled substance  
 104 prescribed by a licensed health professional authorized to  
 105 prescribe the controlled substance, consumed the controlled  
 106 substance in accordance with the health professional's  
 107 directions, and submitted to testing of his or her blood or  
 108 urine as described in s. 316.1932 or s. 316.1933, the person is  
 109 entitled to an affirmative defense against any allegation that  
 110 the person violated this paragraph. The introduction of a  
 111 nonprescribed substance into the person's body does not  
 112 constitute an affirmative defense with respect to any

113 | nonprescribed substance.

114 |       b. Except as provided in sub-subparagraph a., the fact

115 | that a person charged with violating this subsection is or was

116 | legally entitled to introduce into the human body alcohol, a

117 | chemical substance, a controlled substance, a medication, or a

118 | drug does not constitute a defense against any charge of

119 | violating this subsection ~~a breath-alcohol level of 0.08 or more~~

120 | ~~grams of alcohol per 210 liters of breath.~~

121 |       (2) (a) Except as provided in paragraph (b), subsection

122 | (3), or subsection (4), a ~~any~~ person who is convicted of a

123 | violation of subsection (1) shall be punished:

124 |       1. By a fine of:

125 |       a. Not less than \$500 or more than \$1,000 for a first

126 | conviction.

127 |       b. Not less than \$1,000 or more than \$2,000 for a second

128 | conviction; and

129 |       2. By imprisonment for:

130 |       a. Not more than 6 months for a first conviction.

131 |       b. Not more than 9 months for a second conviction.

132 |       3. For a second conviction, by mandatory placement for a

133 | period of at least 1 year, at the convicted person's sole

134 | expense, of an ignition interlock device approved by the

135 | department in accordance with s. 316.1938 upon all vehicles that

136 | are individually or jointly leased or owned and routinely

137 | operated by the convicted person, when the convicted person

138 | qualifies for a permanent or restricted license. The

139 | installation of such device may not occur before July 1, 2003.

140 |       (b)1. A ~~Any~~ person who is convicted of a third violation

141 of this section for an offense that occurs within 10 years after  
142 a prior conviction for a violation of this section commits a  
143 felony of the third degree, punishable as provided in s.  
144 775.082, s. 775.083, or s. 775.084. In addition, the court shall  
145 order the mandatory placement for a period of at least ~~not less~~  
146 ~~than~~ 2 years, at the convicted person's sole expense, of an  
147 ignition interlock device approved by the department in  
148 accordance with s. 316.1938 upon all vehicles that are  
149 individually or jointly leased or owned and routinely operated  
150 by the convicted person, when the convicted person qualifies for  
151 a permanent or restricted license. ~~The installation of such~~  
152 ~~device may not occur before July 1, 2003.~~

153 2. A ~~Any~~ person who is convicted of a third violation of  
154 this section for an offense that occurs more than 10 years after  
155 the date of a prior conviction for a violation of this section  
156 shall be punished by a fine of not less than \$2,000 or more than  
157 \$5,000 and by imprisonment for not more than 12 months. In  
158 addition, the court shall order the mandatory placement for a  
159 period of at least 2 years, at the convicted person's sole  
160 expense, of an ignition interlock device approved by the  
161 department in accordance with s. 316.1938 upon all vehicles that  
162 are individually or jointly leased or owned and routinely  
163 operated by the convicted person, when the convicted person  
164 qualifies for a permanent or restricted license. ~~The~~  
165 ~~installation of such device may not occur before July 1, 2003.~~

166 3. A ~~Any~~ person who is convicted of a fourth or subsequent  
167 violation of this section, regardless of when any prior  
168 conviction for a violation of this section occurred, commits a

169 felony of the third degree, punishable as provided in s.  
 170 775.082, s. 775.083, or s. 775.084. ~~However,~~ The fine imposed  
 171 for such fourth or subsequent violation may ~~be~~ not be less than  
 172 \$2,000.

173 (3) A ~~Any~~ person:

174 (a) Who is in violation of subsection (1);

175 (b) Who operates a vehicle; and

176 (c) Who, by reason of such operation, causes or  
 177 contributes to causing:

178 1. Damage to the property or person of another commits a  
 179 misdemeanor of the first degree, punishable as provided in s.  
 180 775.082 or s. 775.083.

181 2. Serious bodily injury to another, as defined in s.  
 182 316.1933, commits a felony of the third degree, punishable as  
 183 provided in s. 775.082, s. 775.083, or s. 775.084.

184 3. The death of a ~~any~~ human being or unborn quick child  
 185 commits DUI manslaughter, and commits:

186 a. A felony of the second degree, punishable as provided  
 187 in s. 775.082, s. 775.083, or s. 775.084.

188 b. A felony of the first degree, punishable as provided in  
 189 s. 775.082, s. 775.083, or s. 775.084, if:

190 (I) At the time of the crash, the person knew, or should  
 191 have known, that the crash occurred; and

192 (II) The person failed to give information and render aid  
 193 as required by s. 316.062.

194

195 For purposes of this subsection, the definition of the term  
 196 "unborn quick child" shall be determined in accordance with the

197 definition of viable fetus as set forth in s. 782.071. A person  
 198 who is convicted of DUI manslaughter shall be sentenced to a  
 199 mandatory minimum term of imprisonment of 4 years.

200 (4) A ~~Any~~ person who is convicted of a violation of  
 201 subsection (1) and who has an alcohol concentration ~~a blood-~~  
 202 ~~alcohol level or breath-alcohol level~~ of 0.15 or higher, or a  
 203 ~~any~~ person who is convicted of a violation of subsection (1) and  
 204 who at the time of the offense was accompanied in the vehicle by  
 205 a person under the age of 18 years, shall be punished:

206 (a) By a fine of:

207 1. Not less than \$1,000 or more than \$2,000 for a first  
 208 conviction.

209 2. Not less than \$2,000 or more than \$4,000 for a second  
 210 conviction.

211 3. Not less than \$4,000 for a third or subsequent  
 212 conviction.

213 (b) By imprisonment for:

214 1. Not more than 9 months for a first conviction.

215 2. Not more than 12 months for a second conviction.

216

217 For the purposes of this subsection, only the instant offense is  
 218 required to be a violation of subsection (1) by a person who has  
 219 an alcohol concentration ~~a blood-alcohol level or breath-alcohol~~  
 220 ~~level~~ of 0.15 or higher.

221 (c) In addition to the penalties in paragraphs (a) and  
 222 (b), the court shall order the mandatory placement, at the  
 223 convicted person's sole expense, of an ignition interlock device  
 224 approved by the department in accordance with s. 316.1938 upon



225 all vehicles that are individually or jointly leased or owned  
226 and routinely operated by the convicted person for at least ~~not~~  
227 ~~less than~~ 6 continuous months for the first offense and for at  
228 least ~~not less than~~ 2 continuous years for a second offense,  
229 when the convicted person qualifies for a permanent or  
230 restricted license.

231 (5) The court shall place all offenders convicted of  
232 violating this section on monthly reporting probation and shall  
233 require completion of a substance abuse course conducted by a  
234 DUI program licensed by the department under s. 322.292, which  
235 must include a psychosocial evaluation of the offender. If the  
236 DUI program refers the offender to an authorized substance abuse  
237 treatment provider for substance abuse treatment, in addition to  
238 any sentence or fine imposed under this section, completion of  
239 all such education, evaluation, and treatment is a condition of  
240 reporting probation. The offender shall assume reasonable costs  
241 for such education, evaluation, and treatment. The referral to  
242 treatment resulting from a psychosocial evaluation may ~~shall~~ not  
243 be waived without a supporting independent psychosocial  
244 evaluation conducted by an authorized substance abuse treatment  
245 provider appointed by the court, which shall have access to the  
246 DUI program's psychosocial evaluation before the independent  
247 psychosocial evaluation is conducted. The court shall review the  
248 results and recommendations of both evaluations before  
249 determining the request for waiver. The offender shall bear the  
250 full cost of this procedure. The term "substance abuse" means  
251 the abuse of alcohol or any substance named or described in  
252 Schedules I through V of s. 893.03. If an offender referred to

253 treatment under this subsection fails to report for or complete  
254 such treatment or fails to complete the DUI program substance  
255 abuse education course and evaluation, the DUI program shall  
256 notify the court and the department of the failure. Upon receipt  
257 of the notice, the department shall cancel the offender's  
258 driving privilege, notwithstanding the terms of the court order  
259 or any suspension or revocation of the driving privilege. The  
260 department may temporarily reinstate the driving privilege on a  
261 restricted basis upon verification from the DUI program that the  
262 offender is currently participating in treatment and the DUI  
263 education course and evaluation requirement has been completed.  
264 If the DUI program notifies the department of the second failure  
265 to complete treatment, the department shall reinstate the  
266 driving privilege only after notice of completion of treatment  
267 from the DUI program. The organization that conducts the  
268 substance abuse education and evaluation may not provide  
269 required substance abuse treatment unless a waiver has been  
270 granted to that organization by the department. A waiver may be  
271 granted only if the department determines, in accordance with  
272 its rules, that the service provider that conducts the substance  
273 abuse education and evaluation is the most appropriate service  
274 provider and is licensed under chapter 397 or is exempt from  
275 such licensure. A statistical referral report shall be submitted  
276 quarterly to the department by each organization authorized to  
277 provide services under this section.

278 (6) With respect to any person convicted of a violation of  
279 subsection (1), regardless of any penalty imposed pursuant to  
280 subsection (2), subsection (3), or subsection (4):

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281 (a) For the first conviction, the court shall place the  
282 defendant on probation for a period not to exceed 1 year and, as  
283 a condition of such probation, shall order the defendant to  
284 participate in public service or a community work project for a  
285 minimum of 50 hours. The court may order a defendant to pay a  
286 fine of \$10 for each hour of public service or community work  
287 otherwise required only if the court finds that the residence or  
288 location of the defendant at the time public service or  
289 community work is required or the defendant's employment  
290 obligations would create an undue hardship for the defendant.  
291 However, the total period of probation and incarceration may not  
292 exceed 1 year. The court must also, as a condition of probation,  
293 order the impoundment or immobilization of the vehicle that was  
294 operated by or in the actual control of the defendant or any one  
295 vehicle registered in the defendant's name at the time of  
296 impoundment or immobilization, for a period of 10 days or for  
297 the unexpired term of any lease or rental agreement that expires  
298 within 10 days. The impoundment or immobilization must not occur  
299 concurrently with the incarceration of the defendant. The  
300 impoundment or immobilization order may be dismissed in  
301 accordance with paragraph (e), paragraph (f), paragraph (g), or  
302 paragraph (h).

303 (b) For the second conviction for an offense that occurs  
304 within a period of 5 years after the date of a prior conviction  
305 for violation of this section, the court shall order  
306 imprisonment for at least ~~not less than~~ 10 days. The court must  
307 also, as a condition of probation, order the impoundment or  
308 immobilization of all vehicles owned by the defendant at the

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309 time of impoundment or immobilization, for a period of 30 days  
310 or for the unexpired term of any lease or rental agreement that  
311 expires within 30 days. The impoundment or immobilization must  
312 not occur concurrently with the incarceration of the defendant  
313 and must occur concurrently with the driver ~~driver's~~ license  
314 revocation imposed under s. 322.28(2)(a)2. The impoundment or  
315 immobilization order may be dismissed in accordance with  
316 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
317 At least 48 hours of confinement must be consecutive.

318 (c) For the third or subsequent conviction for an offense  
319 that occurs within a period of 10 years after the date of a  
320 prior conviction for violation of this section, the court shall  
321 order imprisonment for at least ~~not less than~~ 30 days. The court  
322 must also, as a condition of probation, order the impoundment or  
323 immobilization of all vehicles owned by the defendant at the  
324 time of impoundment or immobilization, for a period of 90 days  
325 or for the unexpired term of any lease or rental agreement that  
326 expires within 90 days. The impoundment or immobilization must  
327 not occur concurrently with the incarceration of the defendant  
328 and must occur concurrently with the driver ~~driver's~~ license  
329 revocation imposed under s. 322.28(2)(a)3. The impoundment or  
330 immobilization order may be dismissed in accordance with  
331 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
332 At least 48 hours of confinement must be consecutive.

333 (d) The court must, at the time of sentencing the  
334 defendant, issue an order for the impoundment or immobilization  
335 of a vehicle. The order of impoundment or immobilization must  
336 include the name and telephone numbers of all immobilization

337 agencies meeting all of the conditions of subsection (13).  
338 Within 7 business days after the date that the court issues the  
339 order of impoundment or immobilization, the clerk of the court  
340 must send notice by certified mail, return receipt requested, to  
341 the registered owner of each vehicle, if the registered owner is  
342 a person other than the defendant, and to each person of record  
343 claiming a lien against the vehicle.

344 (e) A person who owns but was not operating the vehicle  
345 when the offense occurred may submit to the court a police  
346 report indicating that the vehicle was stolen at the time of the  
347 offense or documentation of having purchased the vehicle after  
348 the offense was committed from an entity other than the  
349 defendant or the defendant's agent. If the court finds that the  
350 vehicle was stolen or that the sale was not made to circumvent  
351 the order and allow the defendant continued access to the  
352 vehicle, the order must be dismissed and the owner of the  
353 vehicle will incur no costs. If the court denies the request to  
354 dismiss the order of impoundment or immobilization, the  
355 petitioner may request an evidentiary hearing.

356 (f) A person who owns but was not operating the vehicle  
357 when the offense occurred, and whose vehicle was stolen or who  
358 purchased the vehicle after the offense was committed directly  
359 from the defendant or the defendant's agent, may request an  
360 evidentiary hearing to determine whether the impoundment or  
361 immobilization should occur. If the court finds that ~~either~~ the  
362 vehicle was stolen or the purchase was made without knowledge of  
363 the offense, that the purchaser had no relationship to the  
364 defendant other than through the transaction, and that such

365 purchase would not circumvent the order and allow the defendant  
366 continued access to the vehicle, the order must be dismissed and  
367 the owner of the vehicle will incur no costs.

368 (g) The court shall also dismiss the order of impoundment  
369 or immobilization of the vehicle if the court finds that the  
370 family of the owner of the vehicle has no other private or  
371 public means of transportation.

372 (h) The court may also dismiss the order of impoundment or  
373 immobilization of any vehicles that are owned by the defendant  
374 but that are operated solely by the employees of the defendant  
375 or any business owned by the defendant.

376 (i) All costs and fees for the impoundment or  
377 immobilization, including the cost of notification, must be paid  
378 by the owner of the vehicle or, if the vehicle is leased or  
379 rented, by the person leasing or renting the vehicle, unless the  
380 impoundment or immobilization order is dismissed. All provisions  
381 of s. 713.78 ~~shall~~ apply. The costs and fees for the impoundment  
382 or immobilization must be paid directly to the person impounding  
383 or immobilizing the vehicle.

384 (j) The person who owns a vehicle that is impounded or  
385 immobilized under this paragraph, or a person who has a lien of  
386 record against such a vehicle and who has not requested a review  
387 of the impoundment pursuant to paragraph (e), paragraph (f), or  
388 paragraph (g), may, within 10 days after the date that person  
389 has knowledge of the location of the vehicle, file a complaint  
390 in the county in which the owner resides to determine whether  
391 the vehicle was wrongfully taken or withheld from the owner or  
392 lienholder. Upon the filing of a complaint, the owner or

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393 | lienholder may have the vehicle released by posting with the  
394 | court a bond or other adequate security equal to the amount of  
395 | the costs and fees for impoundment or immobilization, including  
396 | towing or storage, to ensure the payment of such costs and fees  
397 | if the owner or lienholder does not prevail. When the bond is  
398 | posted and the fee is paid as set forth in s. 28.24, the clerk  
399 | of the court shall issue a certificate releasing the vehicle. At  
400 | the time of release, after reasonable inspection, the owner or  
401 | lienholder must give a receipt to the towing or storage company  
402 | indicating any loss or damage to the vehicle or to the contents  
403 | of the vehicle.

404 |       (k) A defendant, ~~in the court's discretion,~~ may be  
405 | required to serve all or any portion of a term of imprisonment  
406 | to which the defendant has been sentenced pursuant to this  
407 | section in a residential alcoholism treatment program or a  
408 | residential drug abuse treatment program. Any time spent in such  
409 | a program must be credited by the court toward the term of  
410 | imprisonment.

411 |  
412 | For the purposes of this section, a ~~any~~ conviction for a  
413 | violation of s. 327.35; a previous conviction for the violation  
414 | of former s. 316.1931, former s. 860.01, or former s. 316.028;  
415 | or a previous conviction outside this state for driving while  
416 | impaired, driving under the influence, driving while  
417 | intoxicated, driving with an unlawful alcohol concentration,  
418 | driving with an unlawful blood-alcohol level, driving with an  
419 | unlawful breath-alcohol level, or any other similar alcohol-  
420 | related or drug-related traffic offense, ~~is also considered a~~

421 previous conviction for violation of this section. However, in  
 422 satisfaction of the fine imposed pursuant to this section, the  
 423 court may, upon a finding that the defendant is financially  
 424 unable to pay ~~either~~ all or part of the fine, order that the  
 425 defendant participate for a specified additional period ~~of time~~  
 426 in public service or a community work project in lieu of payment  
 427 of that portion of the fine which the court determines the  
 428 defendant is unable to pay. In determining the ~~such~~ additional  
 429 sentence, the court shall consider the amount of the unpaid  
 430 portion of the fine and the reasonable value of the services to  
 431 be ordered; however, the court may not compute the reasonable  
 432 value of services at a rate less than the federal minimum wage  
 433 at the time of sentencing.

434 (7) A conviction under this section does not bar any civil  
 435 suit for damages against the person so convicted.

436 (8) At the arraignment, or in conjunction with any notice  
 437 of arraignment provided by the clerk of the court, the clerk  
 438 shall provide any person charged with a violation of this  
 439 section with notice that upon conviction the court shall suspend  
 440 or revoke the offender's driver ~~driver's~~ license and that the  
 441 offender should make arrangements for transportation at any  
 442 proceeding in which the court may take such action. Failure to  
 443 provide such notice does not affect the court's suspension or  
 444 revocation of the offender's driver ~~driver's~~ license.

445 (9) A person who is arrested for a violation of this  
 446 section may not be released from custody:

447 (a) Until the person is no longer impaired by an ~~under the~~  
 448 ~~influence of~~ alcoholic beverage ~~beverages~~, a ~~any~~ chemical



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449 substance identified set forth in s. 877.111, or a any substance  
450 controlled substance as defined in under chapter 893 or the Code  
451 of Federal Regulations as of July 1, 2014, or as in effect upon  
452 the date of the most recent readoption of this section under s.  
453 11.2421 before the offense, and affected to the extent that he  
454 or she is his or her normal faculties are impaired;

455 (b) Until the person's alcohol concentration ~~blood-alcohol~~  
456 ~~level or breath-alcohol level~~ is less than 0.05; or

457 (c) Until 8 hours have elapsed from the time the person  
458 was arrested.

459 (10) The rulings of the Department of Highway Safety and  
460 Motor Vehicles under s. 322.2615 may ~~shall~~ not be considered in  
461 any trial for a violation of this section. Testimony or evidence  
462 from the administrative proceedings or any written statement  
463 submitted by a person in his or her request for administrative  
464 review is inadmissible into evidence or for any other purpose in  
465 any criminal proceeding, unless timely disclosed in criminal  
466 discovery pursuant to Rule 3.220, Florida Rules of Criminal  
467 Procedure.

468 (11) The Department of Highway Safety and Motor Vehicles  
469 shall ~~is directed to~~ adopt rules providing for the  
470 implementation of the use of ignition interlock devices.

471 (12) If the records of the Department of Highway Safety  
472 and Motor Vehicles show that the defendant has been previously  
473 convicted of the offense of driving while impaired or under the  
474 influence, that evidence is sufficient by itself to establish  
475 the ~~that~~ prior conviction for driving while impaired or under  
476 the influence. However, such evidence may be contradicted or

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477 rebutted by other evidence. This presumption may be considered  
478 along with any other evidence presented in deciding whether the  
479 defendant has been previously convicted of the offense of  
480 driving while impaired or under the influence.

481 (13) If personnel of the circuit court or the sheriff do  
482 not immobilize vehicles, only immobilization agencies that meet  
483 the conditions of this subsection shall immobilize vehicles in  
484 that judicial circuit.

485 (a) The immobilization agency responsible for immobilizing  
486 vehicles in that judicial circuit is ~~shall be~~ subject to strict  
487 compliance with all of the following conditions and  
488 restrictions:

489 1. Any immobilization agency engaged in the business of  
490 immobilizing vehicles shall provide to the clerk of the court a  
491 signed affidavit attesting that the agency:

492 a. Has verifiable experience in immobilizing vehicles;

493 b. Maintains accurate and complete records of all payments  
494 for the immobilization, copies of all documents pertaining to  
495 the court's order of impoundment or immobilization, and any  
496 other documents relevant to each immobilization. Such records  
497 must be maintained by the immobilization agency for at least 3  
498 years; and

499 c. Employs and assigns persons to immobilize vehicles who  
500 ~~that~~ meet the requirements established in subparagraph 2.

501 2. The person who immobilizes a vehicle must:

502 a. Not have been adjudicated incapacitated under s.  
503 744.331, or a similar statute in another state, unless his or  
504 her capacity has been judicially restored; not have been

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505 involuntarily placed in a treatment facility for the mentally  
506 ill under chapter 394, or a similar law in any other state,  
507 unless his or her competency has been judicially restored; or  
508 not have been diagnosed as having an incapacitating mental  
509 illness unless a psychologist or psychiatrist licensed in this  
510 state certifies that he or she does not currently suffer from  
511 the mental illness.

512 b. Not be a chronic and habitual user of alcoholic  
513 beverages to the extent that he or she is ~~his or her normal~~  
514 ~~faculties are~~ impaired; not have been committed under chapter  
515 397, former chapter 396, or a similar law in any other state;  
516 not have been found to be a habitual offender under s.  
517 856.011(3), or a similar law in any other state; or not have had  
518 any conviction ~~convictions~~ under this section, or a similar law  
519 in any other state, within 2 years before the affidavit is  
520 submitted.

521 c. Not have been committed for controlled substance abuse  
522 or have been found guilty of a crime under chapter 893, or a  
523 similar law in any other state, relating to controlled  
524 substances in any other state.

525 d. Not have been found guilty of or entered a plea of  
526 guilty or nolo contendere to, regardless of adjudication, or  
527 been convicted of a felony, unless his or her civil rights have  
528 been restored.

529 e. Be a citizen or legal resident alien of the United  
530 States or have been granted authorization to seek employment in  
531 this country by the United States Bureau of Citizenship and  
532 Immigration Services.

533 (b) The immobilization agency shall conduct a state  
534 criminal history check through the ~~Florida~~ Department of Law  
535 Enforcement to ensure that the person hired to immobilize a  
536 vehicle meets the requirements in sub-subparagraph (a)2.d.

537 (c) A person who violates paragraph (a) commits a  
538 misdemeanor of the first degree, punishable as provided in s.  
539 775.082 or s. 775.083.

540 (14) As used in this chapter, the term:

541 (a) "Immobilization," "immobilizing," or "immobilize"  
542 means the act of installing a vehicle antitheft device on the  
543 steering wheel of a vehicle, the act of placing a tire lock or  
544 wheel clamp on a vehicle, or a governmental agency's act of  
545 taking physical possession of the license tag and vehicle  
546 registration rendering a vehicle legally inoperable to prevent  
547 any person from operating the vehicle pursuant to an order of  
548 impoundment or immobilization under subsection (6).

549 (b) "Immobilization agency" or "immobilization agencies"  
550 means any person, firm, company, agency, organization,  
551 partnership, corporation, association, trust, or other business  
552 entity of any kind whatsoever that meets all of the conditions  
553 of subsection (13).

554 (c) "Impoundment," "impounding," or "impound" means the  
555 act of storing a vehicle at a storage facility pursuant to an  
556 order of impoundment or immobilization under subsection (6)  
557 where the person impounding the vehicle exercises control,  
558 supervision, and responsibility over the vehicle.

559 (d) "Person" means any individual, firm, company, agency,  
560 organization, partnership, corporation, association, trust, or

561 other business entity of any kind whatsoever.

562 Section 3. Subsections (14) through (40) of section  
 563 327.02, Florida Statutes, are renumbered as subsections (15)  
 564 through (41), respectively, and a new subsection (14) is added  
 565 to that section to read:

566 327.02 Definitions.—As used in this chapter and in chapter  
 567 328, unless the context clearly requires a different meaning,  
 568 the term:

569 (14) "Impaired" has the same meaning as provided in s.  
 570 316.003.

571 Section 4. Section 790.151, Florida Statutes, is amended  
 572 to read:

573 790.151 Using firearm while impaired by ~~under the~~  
 574 ~~influence~~ of alcoholic beverages, chemical substances, or  
 575 controlled substances; penalties.—

576 (1) As used in ss. 790.151-790.157, the term: ~~to~~

577 (a) "Impaired" has the same meaning as provided in s.  
 578 316.003.

579 (b) "Use a firearm" means to discharge a firearm or to  
 580 have a firearm readily accessible for immediate discharge.

581 (2) For the purposes of this section, "readily accessible  
 582 for immediate discharge" means loaded and in a person's hand.

583 (3) It is unlawful and punishable as provided in  
 584 subsection (4) for any person who is impaired by ~~under the~~  
 585 ~~influence of~~ alcoholic beverages, any chemical substance set  
 586 forth in s. 877.111, or any substance controlled under chapter  
 587 893, ~~when affected to the extent that his or her normal~~  
 588 ~~faculties are impaired,~~ to use a firearm in this state.

589 (4) Any person who violates subsection (3) commits a  
 590 misdemeanor of the second degree, punishable as provided in s.  
 591 775.082 or s. 775.083.

592 (5) This section does not apply to persons exercising  
 593 lawful self-defense or defense of one's property.

594 Section 5. Section 790.157, Florida Statutes, is amended  
 595 to read:

596 790.157 Presumption of impairment; testing methods.-

597 (1) It is unlawful and punishable as provided in s.  
 598 790.151 for any person who is impaired by ~~under the influence of~~  
 599 alcoholic beverages or controlled substances, ~~when affected to~~  
 600 ~~the extent that his or her normal faculties are impaired,~~ to use  
 601 a firearm in this state.

602 (2) Upon the trial of any civil or criminal action or  
 603 proceeding arising out of acts alleged to have been committed by  
 604 any person while using a firearm while impaired by ~~under the~~  
 605 ~~influence of~~ alcoholic beverages or controlled substances, ~~when~~  
 606 ~~affected to the extent that his or her normal faculties were~~  
 607 ~~impaired or to the extent that the person was deprived of full~~  
 608 ~~possession of his or her normal faculties,~~ the results of any  
 609 test administered in accordance with s. 790.153 or s. 790.155  
 610 and this section shall be admissible into evidence when  
 611 otherwise admissible, and the amount of alcohol in the person's  
 612 blood at the time alleged, as shown by chemical analysis of the  
 613 person's blood or chemical or physical analysis of the person's  
 614 breath, shall give rise to the following presumptions:

615 (a) If there was at that time an alcohol concentration of  
 616 0.05 grams per 100 milliliters of blood or per 210 liters of

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617 ~~breath percent or less by weight of alcohol in the person's~~  
618 ~~blood, it shall be presumed that the person was not impaired by~~  
619 ~~under the influence of alcoholic beverages to the extent that~~  
620 ~~his or her normal faculties were impaired.~~

621 (b) If there was at that time an alcohol concentration in  
622 excess of 0.05 grams percent but less than 0.08 grams per 100  
623 milliliters of blood or per 210 liters of breath ~~0.10 percent by~~  
624 ~~weight of alcohol in the person's blood, such fact shall not~~  
625 ~~give rise to any presumption that the person was or was not~~  
626 ~~under the influence of alcoholic beverages to the extent that~~  
627 ~~his or her normal faculties were impaired by alcoholic~~  
628 ~~beverages, but such fact may be considered with other competent~~  
629 ~~evidence in determining whether the person was impaired by ~~under~~~~  
630 ~~the influence of alcoholic beverages to the extent that his or~~  
631 ~~her normal faculties were impaired.~~

632 (c) If there was at that time an alcohol concentration of  
633 0.08 grams per 100 milliliters of blood or per 210 liters of  
634 breath ~~0.10 percent or more by weight of alcohol in the person's~~  
635 ~~blood, that fact shall be prima facie evidence that the person~~  
636 ~~was impaired by ~~under the influence of alcoholic beverages to~~~~  
637 ~~the extent that his or her normal faculties were impaired.~~

638  
639 ~~The percent by weight of alcohol in the blood shall be based~~  
640 ~~upon grams of alcohol per 100 milliliters of blood. The~~  
641 ~~foregoing provisions of This subsection does not limit shall not~~  
642 ~~be construed as limiting the introduction of any other competent~~  
643 ~~evidence bearing upon the question of whether the person was~~  
644 ~~impaired by ~~under the influence of alcoholic beverages to the~~~~

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645 ~~extent that his or her normal faculties were impaired.~~

646 (3) A chemical analysis of a person's blood to determine  
647 its alcohol concentration ~~alcoholic content~~ or a chemical or  
648 physical analysis of a person's breath, in order to be  
649 considered valid under ~~the provisions of~~ this section, must have  
650 been performed substantially in accordance with rules adopted  
651 ~~methods approved~~ by the ~~Florida~~ Department of Law Enforcement  
652 and by an individual possessing a valid permit issued by the  
653 department for this purpose. Any insubstantial difference  
654 ~~differences~~ between approved methods and procedures ~~techniques~~  
655 and actual testing methods and procedures in an individual case  
656 does ~~shall~~ not render the test or test results invalid. The  
657 ~~Florida~~ Department of Law Enforcement may approve satisfactory  
658 ~~techniques or methods~~ and procedures, ascertain the  
659 qualification and competence of individuals to conduct such  
660 analyses, and issue permits which shall be subject to  
661 termination or revocation in accordance with rules adopted by  
662 the department.

663 (4) Any person charged with using a firearm while impaired  
664 by ~~under the influence of~~ alcoholic beverages or controlled  
665 substances ~~to the extent that his or her normal faculties were~~  
666 ~~impaired~~, whether in a municipality or not, shall be entitled to  
667 trial by jury according to the Florida Rules of Criminal  
668 Procedure.

669 Section 6. Paragraph (b) of subsection (6) of section  
670 187.201, Florida Statutes, is amended to read:

671 187.201 State Comprehensive Plan adopted.—The Legislature  
672 hereby adopts as the State Comprehensive Plan the following



673 specific goals and policies:

674 (6) PUBLIC SAFETY.—

675 (b) *Policies.*—

676 1. Maintain safe and secure prisons and other correctional  
677 facilities with the required number of well-trained staff.

678 2. Provide effective alternatives to incarceration for  
679 appropriate offenders and encourage victim restitution.

680 3. Make the corrections system as financially cost-  
681 effective as possible through prison industries and other inmate  
682 work programs and through contractual agreements with public and  
683 private vendors.

684 4. Continue to monitor educational and vocational training  
685 of inmates to increase the likelihood of successful  
686 reintegration into the community.

687 5. Provide all inmates with access to adequate health  
688 care, including diagnostic and treatment programs for offenders  
689 suffering from substance abuse or psychological disorders.

690 6. Provide incentives to attract and retain high-quality  
691 law enforcement and correctional officers.

692 7. Emphasize the reduction of serious crime, particularly  
693 violent, organized, economic, and drug-related crimes.

694 8. Increase the level of training and technical assistance  
695 provided to law enforcement agencies.

696 9. Increase crime prevention efforts to enhance the  
697 protection of individual personal safety and property.

698 10. Emphasize and protect the rights of crime victims.

699 11. Continue to implement coordinated and integrated  
700 strategies to combat organized crime, economic crime, and drug

701 trafficking.

702 12. Expand the state's provisions for the protection of  
703 witnesses in criminal cases, especially organized crime cases.

704 13. Strengthen the state's commitment to pursue, both  
705 criminally and civilly, those individuals who profit from  
706 economic crimes, in a manner that keeps pace with the level and  
707 sophistication of these criminal activities.

708 14. Improve the efficiency of law enforcement through the  
709 establishment of a close communication and coordination system  
710 among agencies and a comprehensive reporting system for such  
711 types of criminal activities as forcible felonies and organized,  
712 economic, and drug crimes.

713 15. Improve the effectiveness of the delinquent juvenile  
714 justice system commitment programs to reduce recidivism of  
715 juveniles who would otherwise be recommitted to state  
716 supervision.

717 16. Utilize alternative sentencing and dispute resolution  
718 when appropriate, particularly in civil disputes and minor  
719 criminal violations.

720 17. Increase the state's commitment to stringent  
721 enforcement of laws against drunken or drugged driving.

722 18. Expand public awareness campaigns that will emphasize  
723 the dangers of driving while impaired by ~~under the influence of~~  
724 alcohol or drugs.

725 19. Promote efforts to encourage the use of personal  
726 safety restraint devices for all persons traveling in motor  
727 vehicles.

728 20. Improve the enforcement of and compliance with safe

729 highway speed limits.

730 21. Provide effective and efficient driver licensing  
 731 systems, including a reliable testing system designed to  
 732 preclude unqualified drivers from receiving driver ~~driver's~~  
 733 licenses.

734 22. Require local governments, in cooperation with  
 735 regional and state agencies, to prepare advance plans for the  
 736 safe evacuation of coastal residents.

737 23. Require local governments, in cooperation with  
 738 regional and state agencies, to adopt plans and policies to  
 739 protect public and private property and human lives from the  
 740 effects of natural disasters.

741 Section 7. Paragraph (b) of subsection (5) of section  
 742 261.20, Florida Statutes, is amended to read:

743 261.20 Operations of off-highway vehicles on public lands;  
 744 restrictions; safety courses; required equipment; prohibited  
 745 acts; penalties.—

746 (5) It is a violation of this section:

747 (b) To operate an off-highway vehicle while impaired by an  
 748 alcoholic beverage ~~under the influence of alcohol~~, a controlled  
 749 substance, or a ~~any~~ prescription or over-the-counter drug that  
 750 impairs vision or motor condition.

751 Section 8. Paragraph (m) of subsection (1) of section  
 752 310.101, Florida Statutes, is amended to read:

753 310.101 Grounds for disciplinary action by the board.—

754 (1) Any act of misconduct, inattention to duty,  
 755 negligence, or incompetence; any willful violation of any law or  
 756 rule, including the rules of the road, applicable to a licensed

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757 state pilot or certificated deputy pilot; or any failure to  
758 exercise that care which a reasonable and prudent licensed state  
759 pilot or certificated deputy pilot would exercise under the same  
760 or similar circumstances may result in disciplinary action.  
761 Examples of acts by a licensed state pilot or certificated  
762 deputy pilot which constitute grounds for disciplinary action  
763 include, but are not limited to:

764 (m) Having a license to operate a motor vehicle revoked,  
765 suspended, or otherwise acted against by any jurisdiction,  
766 including its agencies or subdivisions, for operating the  
767 vehicle while impaired by ~~under the influence of~~ alcohol or  
768 drugs. The jurisdiction's acceptance of a relinquishment of  
769 license, stipulation, consent order, plea of nolo contendere,  
770 penalty in any form, or other settlement offered in response to  
771 or in anticipation of the filing of charges related to the  
772 license to operate a motor vehicle shall be construed as action  
773 against the license.

774 Section 9. Paragraph (b) of subsection (1) of section  
775 316.027, Florida Statutes, is amended to read:

776 316.027 Crash involving death or personal injuries.—

777 (1)

778 (b) The driver of any vehicle involved in a crash  
779 occurring on public or private property that results in the  
780 death of any person must immediately stop the vehicle at the  
781 scene of the crash, or as close thereto as possible, and must  
782 remain at the scene of the crash until he or she has fulfilled  
783 the requirements of s. 316.062. A person who is arrested for a  
784 violation of this paragraph and who has previously been

785 convicted of a violation of this section, s. 316.061, s.  
 786 316.191, or s. 316.193, or a felony violation of s. 322.34,  
 787 shall be held in custody until brought before the court for  
 788 admittance to bail in accordance with chapter 903. Any person  
 789 who willfully violates this paragraph commits a felony of the  
 790 first degree, punishable as provided in s. 775.082, s. 775.083,  
 791 or s. 775.084. Any person who willfully commits such a violation  
 792 while driving impaired ~~under the influence~~ as set forth in s.  
 793 316.193(1) shall be sentenced to a mandatory minimum term of  
 794 imprisonment of 2 years.

795 Section 10. Section 316.1932, Florida Statutes, is amended  
 796 to read:

797 316.1932 Tests for alcohol, chemical substances, or  
 798 controlled substances; implied consent; refusal.—

799 (1) (a) 1.a. A ~~Any~~ person who accepts the privilege extended  
 800 by the laws of this state of operating a motor vehicle within  
 801 this state is, by ~~so~~ operating such vehicle, deemed to have  
 802 given ~~his or her~~ consent to submit to an approved chemical ~~test~~  
 803 or physical breath test, including, but not limited to, an  
 804 infrared light test of his or her breath to determine ~~for the~~  
 805 ~~purpose of determining~~ the alcohol concentration ~~alcoholic~~  
 806 ~~content~~ of the ~~his or her~~ blood or breath if the person is  
 807 lawfully arrested for an ~~any~~ offense allegedly committed while  
 808 the person was driving or was in actual physical control of a  
 809 motor vehicle while impaired by an ~~under the influence of~~  
 810 alcoholic beverage ~~beverages~~. The chemical or physical breath  
 811 test must be incidental to a lawful arrest and administered at  
 812 the request of a law enforcement officer who has reasonable

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813 | cause to believe that the ~~such~~ person was driving or was in  
814 | actual physical control of the motor vehicle within this state  
815 | while impaired by an ~~under the influence of~~ alcoholic beverage  
816 | ~~beverages~~. The administration of the ~~a~~ breath test does not  
817 | preclude the administration of another type of test. The person  
818 | shall be told that ~~his or her~~ failure to submit to a ~~any~~ lawful  
819 | breath test ~~of his or her breath~~ will result in the suspension  
820 | of his or her ~~the person's~~ privilege to operate a motor vehicle  
821 | for a period of 1 year for a first refusal, or for a period of  
822 | 18 months if the driving privilege ~~of such person~~ has been  
823 | previously suspended as a result of a refusal to submit to a  
824 | lawful breath, blood, or urine test. The person ~~such a test or~~  
825 | ~~tests, and~~ shall also be told that if he or she refuses to  
826 | submit to a lawful breath test ~~of his or her breath~~ and if his  
827 | or her driving privilege has been previously suspended as a  
828 | result of ~~for a prior~~ refusal to submit to a lawful breath,  
829 | blood, or urine test ~~of his or her breath, urine, or blood,~~ he  
830 | or she commits a misdemeanor in addition to any other penalty  
831 | ~~penalties~~. The refusal to submit to a chemical or physical  
832 | breath test upon the request of a law enforcement officer as  
833 | provided in this section is admissible into evidence in any  
834 | criminal proceeding.

835 |       b. A ~~Any~~ person who accepts the privilege extended by the  
836 | laws of this state of operating a motor vehicle within this  
837 | state is, by ~~se~~ operating such vehicle, deemed to have given ~~his~~  
838 | ~~or her~~ consent to submit to a urine test to detect ~~for the~~  
839 | ~~purpose of detecting~~ the presence of a chemical substance  
840 | ~~substances~~ as set forth in s. 877.111 or a controlled substance

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841 ~~substances~~ if the person is lawfully arrested for an ~~any~~ offense  
842 allegedly committed while the person was driving or was in  
843 actual physical control of a motor vehicle while impaired by a  
844 ~~under the influence of~~ chemical ~~substances~~ or controlled  
845 substance ~~substances~~. The urine test must be incidental to a  
846 lawful arrest and administered at a detention facility or any  
847 other facility, mobile or otherwise, which is equipped to  
848 administer such test ~~tests~~ at the request of a law enforcement  
849 officer who has reasonable cause to believe that the ~~such~~ person  
850 was driving or was in actual physical control of a motor vehicle  
851 within this state while impaired by a ~~under the influence of~~  
852 chemical ~~substances~~ or controlled substance ~~substances~~. The  
853 urine test shall be administered ~~at a detention facility or any~~  
854 ~~other facility, mobile or otherwise, which is equipped to~~  
855 ~~administer such test~~ in a reasonable manner that will ensure the  
856 accuracy of the specimen and maintain the privacy of the person  
857 ~~individual~~ involved. The administration of the ~~a~~ urine test does  
858 not preclude the administration of another type of test. The  
859 person shall be told that ~~his or her~~ failure to submit to a ~~any~~  
860 lawful urine test ~~of his or her urine~~ will result in the  
861 suspension of his or her ~~the person's~~ privilege to operate a  
862 motor vehicle for a period of 1 year for the first refusal, or  
863 for a period of 18 months if the driving privilege ~~of such~~  
864 ~~person~~ has been previously suspended as a result of a refusal to  
865 submit to a lawful breath, blood, or urine test. ~~The person such~~  
866 ~~a test or tests, and~~ shall also be told that if he or she  
867 refuses to submit to a lawful urine test ~~of his or her urine~~ and  
868 if his or her driving privilege has been previously suspended as

869 | a result of ~~for a prior~~ refusal to submit to a lawful breath,  
 870 | blood, or urine test ~~of his or her breath, urine, or blood,~~ he  
 871 | or she commits a misdemeanor in addition to any other penalty  
 872 | ~~penalties~~. The refusal to submit to a urine test upon the  
 873 | request of a law enforcement officer as provided in this section  
 874 | is admissible into evidence in any criminal proceeding.

875 |         2. The Alcohol Testing Program within the Department of  
 876 | Law Enforcement is responsible for the regulation of the  
 877 | operation, inspection, and registration of breath test  
 878 | instruments that are used ~~utilized~~ under the provisions relating  
 879 | to driving and boating while impaired ~~under the influence~~  
 880 | ~~provisions and related provisions located~~ in this chapter and  
 881 | chapters 322 and 327. The program is responsible for the  
 882 | regulation of the individuals who operate, inspect, and instruct  
 883 | on the breath test instruments that are used under the  
 884 | provisions relating to ~~utilized in the~~ driving and boating while  
 885 | impaired ~~under the influence provisions and related provisions~~  
 886 | ~~located~~ in this chapter and chapters 322 and 327. The program is  
 887 | further responsible for the regulation of blood analysts who  
 888 | conduct blood alcohol testing that is used ~~to be utilized~~ under  
 889 | such ~~the driving and boating under the influence provisions and~~  
 890 | ~~related provisions located in this chapter and chapters 322 and~~  
 891 | ~~327~~. The program shall:

892 |             a. Establish uniform criteria for the issuance of permits  
 893 | to breath test operators, agency inspectors, instructors, blood  
 894 | analysts, and instruments.

895 |             b. Have the authority to issue permits for ~~permit~~ breath  
 896 | test operators, agency inspectors, instructors, blood analysts,



897 and instruments.

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

901 d. Establish uniform requirements for instruction and  
902 curricula for the operation and inspection of approved  
903 instruments.

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

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

908 g. Have the authority to approve or disapprove breath test  
909 instruments and accompanying paraphernalia for use pursuant to  
910 the provisions relating to driving and boating while impaired  
911 ~~under the influence provisions and related provisions located in~~  
912 this chapter and chapters 322 and 327.

913 h. With the approval of the executive director of the  
914 Department of Law Enforcement, make and enter into contracts and  
915 agreements with other agencies, organizations, associations,  
916 corporations, individuals, or federal agencies as are necessary,  
917 expedient, or incidental to the performance of duties.

918 i. Issue final orders that ~~which~~ include findings of fact  
919 and conclusions of law and that ~~which~~ constitute final agency  
920 action for the purpose of chapter 120.

921 j. Enforce compliance with ~~the provisions of~~ this section  
922 through civil or administrative proceedings.

923 k. Make recommendations concerning any matter within the  
924 purview of this section, this chapter, chapter 322, or chapter

925 327.

926 1. Adopt ~~Promulgate~~ rules for the administration and  
 927 implementation of this section, including definitions of terms.

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

930 n. Have the authority to approve the breath and ~~type of~~  
 931 blood alcohol test to be used under the provisions relating to  
 932 ~~utilized under the driving and boating while impaired under the~~  
 933 ~~influence provisions and related provisions located in this~~  
 934 chapter and chapters 322 and 327.

935 o. Have the authority to approve ~~specify techniques and~~  
 936 ~~methods and procedures~~ for breath ~~alcohol testing~~ and blood  
 937 alcohol testing to be used under the provisions relating to  
 938 ~~utilized under the driving and boating while impaired under the~~  
 939 ~~influence provisions and related provisions located in this~~  
 940 chapter and chapters 322 and 327.

941 p. Have the authority to approve repair facilities for the  
 942 approved breath test instruments, including the authority to set  
 943 criteria for approval.

944  
 945 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
 946 provisions in this chapter and chapters 322 and 327. The  
 947 specifications in this section are derived from the power and  
 948 authority previously and currently possessed by the Department  
 949 of Law Enforcement and are enumerated to conform with the  
 950 mandates of chapter 99-379, Laws of Florida.

951 (b)1. The alcohol concentration ~~blood-alcohol level~~ must  
 952 be based upon grams of alcohol per 100 milliliters of blood or-

953 | ~~The breath-alcohol level must be based upon grams of alcohol per~~  
 954 | ~~210 liters of breath.~~

955 |         2. An analysis of a person's breath, in order to be  
 956 | considered valid under this section, must have been performed  
 957 | substantially according to rules adopted ~~methods approved~~ by the  
 958 | Department of Law Enforcement. For this purpose, the department  
 959 | may approve satisfactory ~~techniques or methods~~ and procedures.  
 960 | Any insubstantial difference ~~differences~~ between approved  
 961 | methods and procedures ~~techniques~~ and actual testing procedures  
 962 | in an ~~any~~ individual case does ~~de~~ not render the test or test  
 963 | results invalid.

964 |         (c) A ~~Any~~ person who accepts the privilege extended by the  
 965 | laws of this state of operating a motor vehicle within this  
 966 | state is, by operating such vehicle, deemed to have given ~~his or~~  
 967 | ~~her~~ consent to submit to an approved blood test to determine ~~for~~  
 968 | ~~the purpose of determining~~ the alcohol concentration ~~alcoholic~~  
 969 | ~~content~~ of the blood or a blood test to determine ~~for the~~  
 970 | ~~purpose of determining~~ the presence of a ~~chemical substances~~ or  
 971 | controlled substance ~~substances~~ as provided in this section if  
 972 | there is reasonable cause to believe that the person was driving  
 973 | or was in actual physical control of a motor vehicle while  
 974 | impaired by an ~~under the influence of~~ alcoholic beverage  
 975 | ~~beverages~~ or a chemical or controlled substance ~~substances~~ and  
 976 | if the person appears for treatment at a hospital, clinic, or  
 977 | other medical facility and the administration of a breath or  
 978 | urine test is impractical or impossible. As used in this  
 979 | paragraph, the term "other medical facility" includes an  
 980 | ambulance or other medical emergency vehicle. The blood test

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981 shall be performed in a reasonable manner. A ~~Any~~ person who is  
982 incapable of refusal by reason of unconsciousness or other  
983 mental or physical condition is deemed not to have withdrawn ~~his~~  
984 ~~or her~~ consent to such test. A blood test may be administered  
985 regardless of whether ~~or not~~ the person is told that ~~his or her~~  
986 failure to submit to ~~such~~ a lawful blood test will result in the  
987 suspension of his or her ~~the person's~~ privilege to operate a  
988 motor vehicle upon the public highways of this state and that a  
989 refusal to submit to a lawful blood test is a misdemeanor ~~of his~~  
990 ~~or her blood,~~ if his or her driving privilege has been  
991 previously suspended as a result of a ~~for~~ refusal to submit to a  
992 lawful breath, blood, or urine test ~~of his or her breath, urine,~~  
993 ~~or blood, is a misdemeanor.~~ A ~~Any~~ person who is capable of  
994 refusal shall be told that ~~his or her~~ failure to submit to ~~such~~  
995 a lawful blood test will result in the suspension of his or her  
996 ~~the person's~~ privilege to operate a motor vehicle for a period  
997 of 1 year for a first refusal, or for a period of 18 months if  
998 the driving privilege ~~of the person~~ has been suspended  
999 previously as a result of a refusal to submit to a lawful  
1000 breath, blood, or urine test ~~such a test or tests,~~ and that a  
1001 refusal to submit to a lawful blood test is a misdemeanor ~~of his~~  
1002 ~~or her blood,~~ if the ~~his or her~~ driving privilege has been  
1003 previously suspended as a result of ~~for~~ a ~~prior~~ refusal to  
1004 submit to a lawful breath, blood, or urine test ~~of his or her~~  
1005 ~~breath, urine, or blood, is a misdemeanor.~~ The refusal to submit  
1006 to a blood test upon the request of a law enforcement officer is  
1007 admissible in evidence in any criminal proceeding.

1008 (d) If the arresting officer does not request a chemical

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1009 or physical breath test of the person arrested for an ~~any~~  
1010 offense allegedly committed while the person was driving or was  
1011 in actual physical control of a motor vehicle while impaired by  
1012 an ~~under the influence of~~ alcoholic beverage ~~beverages~~ or a  
1013 chemical or controlled substance ~~substances~~, the ~~such~~ person may  
1014 request the arresting officer to have a chemical or physical  
1015 breath test performed on ~~made of~~ the arrested person ~~person's~~  
1016 ~~breath~~ or a urine or blood test to determine ~~of the urine or~~  
1017 ~~blood for the purpose of determining~~ the alcohol concentration  
1018 ~~alcoholic content~~ of his or her ~~the person's~~ blood or breath or  
1019 the presence of a chemical ~~substances~~ or controlled substance.  
1020 ~~substances; and,~~ If so requested, the arresting officer shall  
1021 have the test performed.

1022 (e)1. By applying for a driver ~~driver's~~ license and by  
1023 accepting and using a driver ~~driver's~~ license, the person  
1024 holding the driver ~~driver's~~ license is deemed to have given  
1025 ~~expressed his or her~~ consent to the provisions of this section.

1026 2. A nonresident or any other person driving in a status  
1027 exempt from the requirements of the driver ~~driver's~~ license law,  
1028 by the ~~his or her~~ act of driving in such exempt status, is  
1029 deemed to have given ~~expressed his or her~~ consent to the  
1030 provisions of this section.

1031 3. A warning of the consent provisions ~~provision~~ of this  
1032 section shall be printed on each new or renewed driver ~~driver's~~  
1033 license.

1034 (f)1. The tests determining the amount ~~weight~~ of alcohol  
1035 in a person's ~~the defendant's~~ blood or breath shall be  
1036 administered at the request of a law enforcement officer

1037 substantially in accordance with rules of the Department of Law  
 1038 Enforcement. Such rules must specify precisely the alcohol test  
 1039 or tests that are approved by the Department of Law Enforcement  
 1040 for reliability of result and ease of administration, and must  
 1041 provide an approved procedure ~~method of administration~~ which  
 1042 must be followed in all ~~such~~ tests given under this section.  
 1043 However, the failure of a law enforcement officer to request the  
 1044 withdrawal of blood does not affect the admissibility of a test  
 1045 of blood withdrawn for medical purposes.

1046 2.a. Only a physician, certified paramedic, registered  
 1047 nurse, licensed practical nurse, other personnel authorized by a  
 1048 hospital to draw blood, or duly licensed clinical laboratory  
 1049 director, supervisor, technologist, or technician, acting at the  
 1050 request of a law enforcement officer, may withdraw blood to  
 1051 determine ~~for the purpose of determining~~ its alcohol  
 1052 concentration ~~alcoholic content~~ or the presence of a chemical  
 1053 ~~substances~~ or controlled substance ~~substances~~ therein. However,  
 1054 the failure of a law enforcement officer to request the  
 1055 withdrawal of blood does not affect the admissibility of a test  
 1056 of blood withdrawn for medical purposes.

1057 b. Notwithstanding any provision of law pertaining to the  
 1058 confidentiality of hospital records or other medical records, if  
 1059 a health care provider, who is providing medical care in a  
 1060 health care facility to a person injured in a motor vehicle  
 1061 crash, becomes aware, as a result of a ~~any~~ blood test performed  
 1062 in the course of that medical treatment, that the person's  
 1063 alcohol concentration ~~blood-alcohol level~~ meets or exceeds the  
 1064 concentration proscribed ~~blood-alcohol level specified~~ in s.

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1065 316.193(1)(b), the health care provider may notify a ~~any~~ law  
1066 enforcement officer or law enforcement agency. Any such notice  
1067 must be given within a reasonable time after the health care  
1068 provider receives the test result. Any such notice shall be used  
1069 only for the purpose of providing the law enforcement officer  
1070 with reasonable cause to request the withdrawal of a blood  
1071 sample pursuant to this section.

1072 c. The notice shall consist only of the name of the person  
1073 being treated, the name of the person who drew the blood, the  
1074 alcohol concentration ~~blood-alcohol level~~ indicated by the test,  
1075 and the date and time of the administration of the test.

1076 d. Nothing contained in s. 395.3025(4), s. 456.057, or any  
1077 applicable practice act affects the authority to provide notice  
1078 under this section, and the health care provider is not  
1079 considered to have breached any duty owed to the person under s.  
1080 395.3025(4), s. 456.057, or any applicable practice act by  
1081 providing notice or failing to provide notice. It is not deemed  
1082 ~~shall not be~~ a breach of an ~~any~~ ethical, moral, or legal duty  
1083 for a health care provider to provide notice or fail to provide  
1084 notice.

1085 e. A civil, criminal, or administrative action may not be  
1086 brought against a ~~any~~ person or health care provider  
1087 participating in good faith in the provision of notice or  
1088 failing ~~failure~~ to provide notice as provided in this section. A  
1089 ~~Any~~ person or health care provider participating in the  
1090 provision of notice or failing ~~failure~~ to provide notice as  
1091 provided in this section is ~~shall be~~ immune from any civil or  
1092 criminal liability and from any professional disciplinary action

1093 | with respect to the provision of notice or failure to provide  
 1094 | notice under this section. Any such participant has the same  
 1095 | immunity with respect to participating in any judicial  
 1096 | proceedings resulting from the notice or failure to provide  
 1097 | notice.

1098 |         3. The person tested may, at his or her own expense, have  
 1099 | a physician, registered nurse, other personnel authorized by a  
 1100 | hospital to draw blood, or duly licensed clinical laboratory  
 1101 | director, supervisor, technologist, or technician, or other  
 1102 | person of his or her own choosing administer an independent test  
 1103 | in addition to the test administered at the direction of the law  
 1104 | enforcement officer to determine ~~for the purpose of determining~~  
 1105 | the amount of alcohol in the person's blood or breath or the  
 1106 | presence of a chemical substances or controlled substance  
 1107 | ~~substances~~ at the time alleged, as shown by chemical analysis of  
 1108 | his or her blood or urine, or by chemical or physical test of  
 1109 | his or her breath. The failure or inability to obtain an  
 1110 | independent test by a person does not preclude the admissibility  
 1111 | in evidence of the test taken at the direction of the law  
 1112 | enforcement officer. The law enforcement officer may ~~shall~~ not  
 1113 | interfere with the person's opportunity to obtain the  
 1114 | independent test and shall provide the person with timely  
 1115 | telephone access to secure the test, but the burden is on the  
 1116 | person to arrange and secure the test at his or her ~~the person's~~  
 1117 | ~~own~~ expense.

1118 |         4. Upon the request of the person tested, full information  
 1119 | concerning the results of the test taken at the direction of the  
 1120 | law enforcement officer shall be made available to the person or



1121 his or her attorney. Full information is limited to the  
 1122 following:  
 1123       a. The type of test administered and the procedures  
 1124 followed.  
 1125       b. The time of the collection of the blood or breath  
 1126 sample analyzed.  
 1127       c. The numerical results of the test indicating the  
 1128 alcohol concentration ~~content~~ of the blood or ~~and~~ breath.  
 1129       d. The type and status of any permit issued by the  
 1130 Department of Law Enforcement which was held by the person who  
 1131 performed the test.  
 1132       e. If the test was administered by means of a breath test  
 1133 ~~testing~~ instrument, the date of performance of the most recent  
 1134 required inspection of the ~~such~~ instrument.

1135  
 1136 Full information does not include manuals, schematics, or  
 1137 software of the instrument used to test the person or any other  
 1138 material that is not in the actual possession of the state.  
 1139 Additionally, full information does not include information in  
 1140 the possession of the manufacturer of the test instrument.

1141       5. A hospital, clinical laboratory, medical clinic, or  
 1142 similar medical institution; a ~~or~~ physician, certified  
 1143 paramedic, registered nurse, licensed practical nurse, or other  
 1144 personnel authorized by a hospital to draw blood; a ~~or~~ duly  
 1145 licensed clinical laboratory director, supervisor, technologist,  
 1146 or technician; or ~~or~~ any other person assisting a law enforcement  
 1147 officer does not incur any civil or criminal liability as a  
 1148 result of the withdrawal or analysis of a blood or urine

1149 specimen, or the chemical or physical test of a person's breath  
 1150 pursuant to accepted medical standards when requested by a law  
 1151 enforcement officer, regardless of whether ~~or not~~ the subject  
 1152 resisted the administration of the test.

1153 (2) The results of a ~~any~~ test administered pursuant to  
 1154 this section to detect ~~for the purpose of detecting~~ the presence  
 1155 of a ~~any~~ controlled substance are ~~shall~~ not ~~be~~ admissible as  
 1156 evidence in a criminal prosecution for the possession of a  
 1157 controlled substance.

1158 (3) Notwithstanding any ~~provision of~~ law pertaining to the  
 1159 confidentiality of hospital records or other medical records,  
 1160 information relating to the alcohol concentration ~~alcoholic~~  
 1161 ~~content~~ of the blood or breath or the presence of a chemical  
 1162 ~~substances~~ or controlled substance ~~substances~~ in the blood or  
 1163 urine obtained pursuant to this section shall be released to a  
 1164 court, prosecuting attorney, defense attorney, or law  
 1165 enforcement officer in connection with an alleged violation of  
 1166 s. 316.193 upon request for such information.

1167 Section 11. Paragraph (a) of subsection (1) and paragraph  
 1168 (a) of subsection (2) of section 316.1933, Florida Statutes, are  
 1169 amended to read:

1170 316.1933 Blood test for impairment or intoxication in  
 1171 cases of death or serious bodily injury; right to use reasonable  
 1172 force.—

1173 (1) (a) If a law enforcement officer has probable cause to  
 1174 believe that a motor vehicle driven by or in the actual physical  
 1175 control of a person who is impaired by an ~~under the influence of~~  
 1176 alcoholic beverage ~~beverages~~, a ~~any~~ chemical substance

1177 | ~~substances, or a~~ any ~~controlled substance~~ substances has caused  
 1178 | the death or serious bodily injury of a human being, the ~~a~~ law  
 1179 | enforcement officer shall require the person driving or in  
 1180 | actual physical control of the motor vehicle to submit to a  
 1181 | blood test to determine ~~of the person's blood for the purpose of~~  
 1182 | ~~determining~~ the alcohol concentration ~~alcoholic content~~ thereof  
 1183 | or the presence of a chemical substance ~~substances~~ as set forth  
 1184 | in s. 877.111 or a controlled ~~any~~ substance as defined in  
 1185 | ~~controlled under~~ chapter 893 or the Code of Federal Regulations  
 1186 | as of July 1, 2014, or as in effect upon the date of the most  
 1187 | recent readoption of this section under s. 11.2421 before the  
 1188 | offense. The law enforcement officer may use reasonable force if  
 1189 | necessary to require the ~~such~~ person to submit to the  
 1190 | administration of the blood test. The blood test shall be  
 1191 | performed in a reasonable manner. Notwithstanding s. 316.1932,  
 1192 | the testing required by this paragraph need not be incidental to  
 1193 | a lawful arrest of the person.

1194 | (2) (a) Only a physician, certified paramedic, registered  
 1195 | nurse, licensed practical nurse, other personnel authorized by a  
 1196 | hospital to draw blood, or duly licensed clinical laboratory  
 1197 | director, supervisor, technologist, or technician, acting at the  
 1198 | request of a law enforcement officer, may withdraw blood to  
 1199 | determine ~~for the purpose of determining~~ the alcohol  
 1200 | concentration ~~alcoholic content~~ thereof or the presence of  
 1201 | chemical substances or controlled substances therein. However,  
 1202 | the failure of a law enforcement officer to request the  
 1203 | withdrawal of blood does ~~shall~~ not affect the admissibility of a  
 1204 | test of blood withdrawn for medical purposes.

1205 1. Notwithstanding any provision of law pertaining to the  
 1206 confidentiality of hospital records or other medical records, if  
 1207 a health care provider, who is providing medical care in a  
 1208 health care facility to a person injured in a motor vehicle  
 1209 crash, becomes aware, as a result of any blood test performed in  
 1210 the course of that medical treatment, that the person's alcohol  
 1211 concentration ~~blood-alcohol level~~ meets or exceeds the  
 1212 concentration proscribed ~~blood-alcohol level specified~~ in s.  
 1213 316.193(1)(b), the health care provider may notify any law  
 1214 enforcement officer or law enforcement agency. Any such notice  
 1215 must be given within a reasonable time after the health care  
 1216 provider receives the test result. Any such notice must only  
 1217 ~~shall~~ be used ~~only~~ for the purpose of providing the law  
 1218 enforcement officer with reasonable cause to request the  
 1219 withdrawal of a blood sample pursuant to this section.

1220 2. The notice shall consist only of the name of the person  
 1221 being treated, the name of the person who drew the blood, the  
 1222 alcohol concentration ~~blood-alcohol level~~ indicated by the test,  
 1223 and the date and time of the administration of the test.

1224 3. Nothing contained in s. 395.3025(4), s. 456.057, or any  
 1225 applicable practice act affects the authority to provide notice  
 1226 under this section, and the health care provider is not  
 1227 considered to have breached any duty owed to the person under s.  
 1228 395.3025(4), s. 456.057, or any applicable practice act by  
 1229 providing notice or failing to provide notice. It is ~~shall~~ not  
 1230 ~~be~~ a breach of any ethical, moral, or legal duty for a health  
 1231 care provider to provide notice or fail to provide notice.

1232 4. A civil, criminal, or administrative action may not be

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1233 brought against any person or health care provider participating  
1234 in good faith in the provision of notice or failure to provide  
1235 notice as provided in this section. Any person or health care  
1236 provider participating in the provision of notice or failure to  
1237 provide notice as provided in this section is ~~shall be~~ immune  
1238 from any civil or criminal liability and from any professional  
1239 disciplinary action with respect to the provision of notice or  
1240 failure to provide notice under this section. Any such  
1241 participant has the same immunity with respect to participating  
1242 in any judicial proceedings resulting from the notice or failure  
1243 to provide notice.

1244 Section 12. Subsections (1) and (2) of section 316.1934,  
1245 Florida Statutes, are amended to read:

1246 316.1934 Presumption of impairment; testing methods.—

1247 (1) It is unlawful and punishable as provided in ~~chapter~~  
1248 ~~322 and in~~ s. 316.193 for a any person who is impaired by an  
1249 ~~under the influence of alcoholic beverage beverages or a~~  
1250 ~~controlled substance substances, when affected to the extent~~  
1251 ~~that the person's normal faculties are impaired or to the extent~~  
1252 ~~that the person is deprived of full possession of normal~~  
1253 ~~faculties,~~ to drive or be in actual physical control of a any  
1254 motor vehicle within this state. ~~Such normal faculties include,~~  
1255 ~~but are not limited to, the ability to see, hear, walk, talk,~~  
1256 ~~judge distances, drive an automobile, make judgments, act in~~  
1257 ~~emergencies, and, in general, normally perform the many mental~~  
1258 ~~and physical acts of daily life.~~

1259 (2) At the trial of any civil or criminal action or  
1260 proceeding arising out of an act ~~acts~~ alleged to have been

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1261 committed by a any person while driving, ~~or in actual physical~~  
1262 ~~control of,~~ a vehicle while impaired ~~under the influence of~~  
1263 ~~alcoholic beverages or controlled substances, when affected to~~  
1264 ~~the extent that the person's normal faculties were impaired or~~  
1265 ~~to the extent that he or she was deprived of full possession of~~  
1266 ~~his or her normal faculties,~~ the results of any test  
1267 administered in accordance with s. 316.1932 or s. 316.1933 and  
1268 this section are admissible into evidence when otherwise  
1269 admissible, and the amount of alcohol in the person's blood or  
1270 breath at the time alleged, as shown by chemical analysis of the  
1271 ~~person's~~ blood, or by chemical or physical test of the ~~person's~~  
1272 breath, gives rise to the following presumptions:

1273 (a) If the person's alcohol concentration was ~~there was at~~  
1274 ~~that time a blood-alcohol level or breath-alcohol level of 0.05~~  
1275 ~~or less, it is presumed that the person was not~~ impaired by an  
1276 ~~under the influence of alcoholic beverage beverages to the~~  
1277 ~~extent that his or her normal faculties were impaired.~~

1278 (b) If the person's alcohol concentration exceeded ~~there~~  
1279 ~~was at that time a blood-alcohol level or breath-alcohol level~~  
1280 ~~in excess of 0.05 but~~ was less than 0.08, that fact does not  
1281 give rise to any presumption that the person was or was not  
1282 impaired by an ~~under the influence of alcoholic beverage~~  
1283 ~~beverages to the extent that his or her normal faculties were~~  
1284 ~~impaired~~ but may be considered with other competent evidence in  
1285 determining whether the person was impaired by an ~~under the~~  
1286 ~~influence of alcoholic beverage beverages to the extent that his~~  
1287 ~~or her normal faculties were impaired.~~

1288 (c) If the person's alcohol concentration was ~~there was at~~

1289 ~~that time a blood-alcohol level or breath-alcohol level of 0.08~~  
 1290 ~~or higher, that fact is prima facie evidence that the person was~~  
 1291 impaired by an ~~under the influence of alcoholic beverage~~  
 1292 ~~beverages to the extent that his or her normal faculties were~~  
 1293 ~~impaired.~~ Moreover, a ~~such~~ person who has an alcohol  
 1294 concentration ~~a blood-alcohol level or breath-alcohol level~~ of  
 1295 0.08 or higher commits the offense ~~is guilty~~ of driving, or  
 1296 being in actual physical control of, a motor vehicle, ~~with an~~  
 1297 ~~unlawful~~ alcohol concentration ~~blood-alcohol level or breath-~~  
 1298 ~~alcohol level.~~

1299  
 1300 The presumptions provided in this subsection do not limit the  
 1301 introduction of any other competent evidence bearing upon the  
 1302 question of whether the person was impaired by an ~~under the~~  
 1303 ~~influence of alcoholic beverage~~ beverages to the extent that his  
 1304 ~~or her normal faculties were impaired.~~

1305 Section 13. Subsection (1) of section 316.1937, Florida  
 1306 Statutes, is amended to read:

1307 316.1937 Ignition interlock devices, requiring; unlawful  
 1308 acts.—

1309 (1) In addition to any other authorized penalty ~~penalties~~,  
 1310 the court may require that a ~~any~~ person who is convicted of  
 1311 driving while impaired ~~under the influence~~ in violation of s.  
 1312 316.193 ~~shall~~ not operate a motor vehicle unless the ~~that~~  
 1313 vehicle is equipped with a functioning ignition interlock device  
 1314 certified by the department as provided in s. 316.1938, ~~and~~  
 1315 installed in such a manner that the vehicle will not start if  
 1316 the operator's alcohol concentration exceeds ~~blood-alcohol level~~

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1317 ~~is in excess of~~ 0.025 percent or as otherwise specified by the  
1318 court. The court may require the use of an approved ignition  
1319 interlock device for ~~a period of~~ at least 6 continuous months,  
1320 if the person is permitted to operate a motor vehicle,  
1321 regardless of whether ~~or not~~ the privilege to operate a motor  
1322 vehicle is restricted, as determined by the court. The court,  
1323 however, shall order placement of an ignition interlock device  
1324 in those circumstances required by s. 316.193.

1325 Section 14. Subsection (1) of section 316.1939, Florida  
1326 Statutes, is amended to read:

1327 316.1939 Refusal to submit to testing; penalties.—

1328 (1) A ~~Any~~ person who has refused to submit to a chemical  
1329 or physical test of his or her breath, blood, or urine, as  
1330 described in s. 316.1932, ~~and~~ whose driving privilege was  
1331 previously suspended for a ~~prior~~ refusal to submit to a lawful  
1332 breath, blood, or urine test of his or her breath, urine, or  
1333 ~~blood~~, and:

1334 (a) Who the arresting law enforcement officer had probable  
1335 cause to believe was driving ~~or in actual physical control of~~ a  
1336 motor vehicle in this state while impaired by an ~~under the~~  
1337 ~~influence of~~ alcoholic beverage ~~beverages~~, chemical substance  
1338 ~~substances~~, or controlled substance ~~substances~~;

1339 (b) Who was placed under lawful arrest for a violation of  
1340 s. 316.193 unless such test was requested pursuant to s.  
1341 316.1932(1)(c);

1342 (c) Who was informed that, if he or she refused to submit  
1343 to such test, his or her privilege to operate a motor vehicle  
1344 would be suspended for a period of 1 year or, in the case of a



1345 second or subsequent refusal, for a period of 18 months;  
 1346 (d) Who was informed that a refusal to submit to a lawful  
 1347 breath, blood, or urine test ~~of his or her breath, urine, or~~  
 1348 ~~blood~~, if his or her driving privilege has been previously  
 1349 suspended for a ~~prior~~ refusal to submit to a lawful breath,  
 1350 blood, or urine test ~~of his or her breath, urine, or blood~~, is a  
 1351 misdemeanor; and

1352 (e) Who, after having been so informed, refused to submit  
 1353 to any such test when requested to do so by a law enforcement  
 1354 officer or correctional officer  
 1355  
 1356 commits a misdemeanor of the first degree, punishable ~~and is~~  
 1357 ~~subject to punishment~~ as provided in s. 775.082 or s. 775.083.

1358 Section 15. Subsection (5) of section 318.143, Florida  
 1359 Statutes, is amended to read:

1360 318.143 Sanctions for infractions by minors.—

1361 (5) A minor who is arrested for a violation of s. 316.193  
 1362 may be released from custody as soon as:

1363 (a) The minor is no longer impaired by an ~~under the~~  
 1364 ~~influence of~~ alcoholic beverage ~~beverages~~, a ~~of any~~ chemical  
 1365 substance set forth in s. 877.111, or a ~~of any~~ substance  
 1366 controlled substance as defined in ~~under~~ chapter 893 or the Code  
 1367 of Federal Regulations as of July 1, 2014, or as in effect upon  
 1368 the date of the most recent readoption of this section under s.  
 1369 11.2421 before the offense, ~~and is not affected to the extent~~  
 1370 ~~that his or her normal faculties are impaired;~~

1371 (b) The minor's alcohol concentration ~~blood-alcohol level~~  
 1372 is less than 0.05 ~~percent~~; or

1373 (c) Six hours have elapsed after the minor's arrest.  
 1374 Section 16. Section 318.17, Florida Statutes, is amended  
 1375 to read:

1376 318.17 Offenses excepted.—The provisions ~~No provision~~ of  
 1377 this chapter are not ~~is~~ available to a person who is charged  
 1378 with any of the following offenses:

1379 (1) Fleeing or attempting to elude a police officer, in  
 1380 violation of s. 316.1935;

1381 (2) Leaving the scene of a crash, in violation of ss.  
 1382 316.027 and 316.061;

1383 (3) Driving, or being in actual physical control of, a any  
 1384 vehicle while impaired by an ~~under the influence of~~ alcoholic  
 1385 beverage beverages, a any chemical substance set forth in s.  
 1386 877.111, or a any substance controlled substance as defined in  
 1387 under chapter 893 or the Code of Federal Regulations as of July  
 1388 1, 2014, or as in effect upon the date of the most recent  
 1389 readoption of this section under s. 11.2421 before the offense,  
 1390 in violation of s. 316.193, or driving with an unlawful alcohol  
 1391 concentration ~~blood-alcohol level~~;

1392 (4) Reckless driving, in violation of s. 316.192;

1393 (5) Making a false crash report ~~reports~~, in violation of  
 1394 s. 316.067;

1395 (6) Willfully failing or refusing to comply with a any  
 1396 lawful order or direction of a any police officer or member of  
 1397 the fire department, in violation of s. 316.072(3);

1398 (7) Obstructing an officer, in violation of s. 316.545(1);  
 1399 or

1400 (8) Any other offense in chapter 316 which is classified

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1401 as a criminal violation.

1402 Section 17. Paragraph (c) of subsection (1) of section  
1403 320.055, Florida Statutes, is amended to read:

1404 320.055 Registration periods; renewal periods.—The  
1405 following registration periods and renewal periods are  
1406 established:

1407 (1)

1408 (c) Notwithstanding the requirements of paragraph (a), the  
1409 owner of a motor vehicle subject to paragraph (a) who has had  
1410 his or her driver ~~driver's~~ license suspended pursuant to a  
1411 violation of s. 316.193 or pursuant to s. 322.26(2) for driving  
1412 while impaired ~~under the influence~~ must obtain a 6-month  
1413 registration as a condition of reinstating the license, subject  
1414 to renewal during the 3-year period that financial  
1415 responsibility requirements apply. The registration period  
1416 begins the first day of the birth month of the owner and ends  
1417 the last day of the fifth month immediately following the  
1418 owner's birth month. For such vehicles, the department shall  
1419 issue a vehicle registration certificate that is valid for 6  
1420 months and shall issue a validation sticker that displays an  
1421 expiration date of 6 months after the date of issuance. The  
1422 license tax required by s. 320.08 and all other applicable  
1423 license taxes shall be one-half of the amount otherwise  
1424 required, except that the service charge required by s. 320.04  
1425 shall be paid in full for each 6-month registration. A vehicle  
1426 required to be registered under this paragraph is not eligible  
1427 for the extended registration period under paragraph (b).

1428 Section 18. Paragraph (d) of subsection (5) of section

1429 320.08, Florida Statutes, is amended to read:

1430 320.08 License taxes.—Except as otherwise provided herein,  
 1431 there are hereby levied and imposed annual license taxes for the  
 1432 operation of motor vehicles, mopeds, motorized bicycles as  
 1433 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,  
 1434 and mobile homes, as defined in s. 320.01, which shall be paid  
 1435 to and collected by the department or its agent upon the  
 1436 registration or renewal of registration of the following:

1437 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;  
 1438 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

1439 (d) A wrecker, as defined in s. 320.01, which is used to  
 1440 tow a vessel as defined in s. 327.02(39), a disabled, abandoned,  
 1441 stolen-recovered, or impounded motor vehicle as defined in s.  
 1442 320.01, or a replacement motor vehicle as defined in s. 320.01:  
 1443 \$41 flat, of which \$11 shall be deposited into the General  
 1444 Revenue Fund.

1445 Section 19. Subsections (3) and (4) of section 322.12,  
 1446 Florida Statutes, are amended to read:

1447 322.12 Examination of applicants.—

1448 (3) For an applicant for a Class E driver ~~driver's~~  
 1449 license, the ~~such~~ examination must ~~shall~~ include a test of the  
 1450 applicant's eyesight given by the driver ~~driver's~~ license  
 1451 examiner designated by the department or by a licensed  
 1452 ophthalmologist, optometrist, or physician and a test of the  
 1453 applicant's hearing given by a driver ~~driver's~~ license examiner  
 1454 or a licensed physician. The examination must ~~shall~~ also include  
 1455 a test of the applicant's ability to read and understand highway  
 1456 signs regulating, warning, and directing traffic; his or her

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1457 knowledge of the traffic laws of this state, including laws  
1458 regulating driving while impaired by ~~under the influence of~~  
1459 alcohol or a controlled substance ~~substances~~, driving with an  
1460 unlawful alcohol concentration ~~blood-alcohol level~~, and driving  
1461 while intoxicated; and his or her knowledge of the effects of  
1462 alcohol and controlled substances upon persons and the dangers  
1463 of driving a motor vehicle while impaired by ~~under the influence~~  
1464 ~~of~~ alcohol or a controlled substance ~~substances~~ and must ~~shall~~  
1465 include an actual demonstration of the applicant's ability to  
1466 exercise ordinary and reasonable control in the operation of a  
1467 motor vehicle.

1468 (4) The examination for an applicant for a commercial  
1469 driver ~~driver's~~ license must ~~shall~~ include a test of the  
1470 applicant's eyesight given by a driver ~~driver's~~ license examiner  
1471 designated by the department or by a licensed ophthalmologist,  
1472 optometrist, or physician and a test of the applicant's hearing  
1473 given by a driver ~~driver's~~ license examiner or a licensed  
1474 physician. The examination must ~~shall~~ also include a test of the  
1475 applicant's ability to read and understand highway signs  
1476 regulating, warning, and directing traffic; his or her knowledge  
1477 of the traffic laws of this state pertaining to the class of  
1478 motor vehicle which he or she is applying to be licensed to  
1479 operate, including laws regulating driving while impaired by  
1480 ~~under the influence of~~ alcohol or a controlled substance  
1481 ~~substances~~, driving with an unlawful alcohol concentration  
1482 ~~blood-alcohol level~~, and driving while intoxicated; his or her  
1483 knowledge of the effects of alcohol and controlled substances  
1484 and the dangers of driving a motor vehicle after having consumed

1485 alcohol or a controlled substance ~~substances~~; and his or her  
 1486 knowledge of any special skills, requirements, or precautions  
 1487 necessary for the safe operation of the class of vehicle which  
 1488 he or she is applying to be licensed to operate. In addition,  
 1489 the examination must ~~shall~~ include an actual demonstration of  
 1490 the applicant's ability to exercise ordinary and reasonable  
 1491 control in the safe operation of a motor vehicle or combination  
 1492 of vehicles of the type covered by the license classification  
 1493 which the applicant is seeking, including an examination of the  
 1494 applicant's ability to perform an inspection of his or her  
 1495 vehicle.

1496 (a) The portion of the examination which tests an  
 1497 applicant's safe driving ability shall be administered by the  
 1498 department or by an entity authorized by the department to  
 1499 administer such examination, pursuant to s. 322.56. Such  
 1500 examination shall be administered at a location approved by the  
 1501 department.

1502 (b) A person who seeks to retain a hazardous-materials  
 1503 endorsement must, upon renewal, pass the test for such  
 1504 endorsement as specified in s. 322.57(1)(d), if the person has  
 1505 not taken and passed the hazardous-materials test within 2 years  
 1506 preceding his or her application for a commercial driver  
 1507 ~~driver's~~ license in this state.

1508 Section 20. Subsection (5) of section 322.25, Florida  
 1509 Statutes, is amended to read:

1510 322.25 When court to forward license to department and  
 1511 report convictions.—

1512 (5) For the purpose of this chapter, the entrance of a

1513 plea of nolo contendere by the defendant to a charge of driving  
 1514 while intoxicated, driving while impaired ~~under the influence~~,  
 1515 driving with an unlawful alcohol concentration ~~blood-alcohol~~  
 1516 ~~level~~, or any other alcohol-related or drug-related traffic  
 1517 offense similar to the offenses specified in s. 316.193,  
 1518 accepted by the court and under which plea the court has entered  
 1519 a fine or sentence, whether in this state or any other state or  
 1520 country, shall be equivalent to a conviction.

1521 Section 21. Subsection (2) of section 322.26, Florida  
 1522 Statutes, is amended to read:

1523 322.26 Mandatory revocation of license by department.—The  
 1524 department shall forthwith revoke the license or driving  
 1525 privilege of any person upon receiving a record of such person's  
 1526 conviction of any of the following offenses:

1527 (2) Driving a motor vehicle or being in actual physical  
 1528 control thereof, or entering a plea of nolo contendere, said  
 1529 plea being accepted by the court and said court entering a fine  
 1530 or sentence to a charge of driving, while impaired by an ~~under~~  
 1531 ~~the influence of~~ alcoholic beverage ~~beverages~~ or a ~~substance~~  
 1532 controlled substance as defined in ~~under~~ chapter 893 or the Code  
 1533 of Federal Regulations as of July 1, 2014, or as in effect upon  
 1534 the date of the most recent readoption of this section under s.  
 1535 11.2421 before the offense, or being in actual physical control  
 1536 of a motor vehicle while under the influence of an alcoholic  
 1537 beverage ~~beverages~~ or a ~~substance~~ controlled substance as  
 1538 defined in ~~under~~ chapter 893 or the Code of Federal Regulations  
 1539 as of July 1, 2014, or as in effect upon the date of the most  
 1540 recent readoption of this section under s. 11.2421 before the

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1541 offense. ~~If In any case where~~ DUI manslaughter occurs and the  
1542 person has no prior conviction ~~convictions~~ for a DUI-related  
1543 offense ~~offenses~~, the revocation of the license or driving  
1544 privilege is ~~shall be~~ permanent, except as provided ~~for~~ in s.  
1545 322.271(4).

1546 Section 22. Paragraph (a) of subsection (2) and subsection  
1547 (7) of section 322.2615, Florida Statutes, are amended to read:

1548 322.2615 Suspension of license; right to review.—

1549 (2)(a) Except as provided in paragraph (1)(a), the law  
1550 enforcement officer shall forward to the department, within 5  
1551 days after issuing the notice of suspension, the driver license;  
1552 an affidavit stating the officer's grounds for belief that the  
1553 person was driving or was in actual physical control of a motor  
1554 vehicle while impaired by an ~~under the influence of~~ alcoholic  
1555 beverage ~~beverages~~ or a chemical or controlled substance  
1556 ~~substances~~; the results of any breath or blood test or an  
1557 affidavit stating that a breath, blood, or urine test was  
1558 requested by a law enforcement officer or correctional officer  
1559 and that the person refused to submit; the officer's description  
1560 of the person's field sobriety test, if any; and the notice of  
1561 suspension. The failure of the officer to submit materials  
1562 within the 5-day period specified in this subsection and in  
1563 subsection (1) does not affect the department's ability to  
1564 consider any evidence submitted at or before ~~prior to~~ the  
1565 hearing.

1566 (7) In a formal review hearing under subsection (6) or an  
1567 informal review hearing under subsection (4), the hearing  
1568 officer shall determine by a preponderance of the evidence



1569 whether sufficient cause exists to sustain, amend, or invalidate  
 1570 the suspension. The scope of the review is ~~shall be~~ limited to  
 1571 the following issues:

1572 (a) If the license was suspended for driving with an  
 1573 unlawful alcohol concentration ~~blood-alcohol level or breath-~~  
 1574 ~~alcohol level~~ of 0.08 or higher:

1575 1. Whether the law enforcement officer had probable cause  
 1576 to believe that the person whose license was suspended was  
 1577 driving or was in actual physical control of a motor vehicle in  
 1578 this state while impaired by an ~~under the influence of~~ alcoholic  
 1579 beverage ~~beverages~~ or a chemical or controlled substance  
 1580 ~~substances~~.

1581 2. Whether the person whose license was suspended had an  
 1582 unlawful alcohol concentration ~~blood-alcohol level or breath-~~  
 1583 ~~alcohol level~~ of 0.08 or higher as provided in s. 316.193.

1584 (b) If the license was suspended for refusal to submit to  
 1585 a breath, blood, or urine test:

1586 1. Whether the law enforcement officer had probable cause  
 1587 to believe that the person whose license was suspended was  
 1588 driving or was in actual physical control of a motor vehicle in  
 1589 this state while impaired by an ~~under the influence of~~ alcoholic  
 1590 beverage ~~beverages~~ or a chemical or controlled substance  
 1591 ~~substances~~.

1592 2. Whether the person whose license was suspended refused  
 1593 to submit to any such test after being requested to do so by a  
 1594 law enforcement officer or correctional officer.

1595 3. Whether the person whose license was suspended was told  
 1596 that if he or she refused to submit to such test, his or her

1597 | privilege to operate a motor vehicle would be suspended for a  
 1598 | period of 1 year or, in the case of a second or subsequent  
 1599 | refusal, for a period of 18 months.

1600 |         Section 23. Paragraph (b) of subsection (1) of section  
 1601 | 322.2616, Florida Statutes, is amended to read:

1602 |             322.2616 Suspension of license; persons under 21 years of  
 1603 | age; right to review.—

1604 |             (1)

1605 |             (b) A law enforcement officer who has probable cause to  
 1606 | believe that a motor vehicle is being driven by or is in the  
 1607 | actual physical control of a person who is under the age of 21  
 1608 | and who is impaired by or ~~while~~ under the influence of an  
 1609 | alcoholic beverage ~~beverages~~ or ~~who~~ has any alcohol  
 1610 | concentration ~~blood-alcohol or breath-alcohol level~~ may lawfully  
 1611 | detain such a person and may request that the person ~~to~~ submit  
 1612 | to a test to determine his or her alcohol concentration ~~blood-~~  
 1613 | ~~alcohol or breath-alcohol level.~~

1614 |         Section 24. Paragraph (d) of subsection (2) and subsection  
 1615 | (7) of section 322.271, Florida Statutes, are amended to read:

1616 |             322.271 Authority to modify revocation, cancellation, or  
 1617 | suspension order.—

1618 |             (2) At such hearing, the person whose license has been  
 1619 | suspended, canceled, or revoked may show that such suspension,  
 1620 | cancellation, or revocation causes a serious hardship and  
 1621 | precludes the person from carrying out his or her normal  
 1622 | business occupation, trade, or employment and that the use of  
 1623 | the person's license in the normal course of his or her business  
 1624 | is necessary to the proper support of the person or his or her

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1625 family.

1626 (d) For the purpose of this section, a previous conviction  
1627 of driving while impaired, driving under the influence, driving  
1628 while intoxicated, driving with an unlawful alcohol  
1629 concentration, driving with an unlawful blood-alcohol level, or  
1630 any other similar alcohol-related or drug-related offense  
1631 outside this state or a previous conviction of former s.  
1632 316.1931, former s. 316.028, or former s. 860.01 is considered a  
1633 previous conviction for violation of s. 316.193.

1634 (7) Notwithstanding ~~the provisions of~~ s. 322.2615(10)(a)  
1635 and (b), a person who has never previously had a driver license  
1636 suspended under s. 322.2615, who has never been disqualified  
1637 under s. 322.64, who has never been convicted of a violation of  
1638 s. 316.193, and whose driving privilege is now suspended under  
1639 s. 322.2615 is eligible for a restricted driving privilege  
1640 pursuant to a hearing under subsection (2).

1641 (a) For purposes of this subsection, a previous conviction  
1642 outside of this state for driving under the influence, driving  
1643 while intoxicated, driving with an unlawful blood-alcohol level  
1644 or alcohol concentration, driving while impaired, or any other  
1645 alcohol-related or drug-related traffic offense similar to the  
1646 offense of driving while impaired ~~under the influence~~ as  
1647 provided in s. 316.193 will be considered a previous conviction  
1648 for a violation of s. 316.193, and a conviction for violation of  
1649 former s. 316.028, former s. 316.1931, or former s. 860.01 is  
1650 considered a conviction for a violation of s. 316.193.

1651 (b) The reinstatement shall be restricted to business  
1652 purposes only, as defined in this section, for the duration of

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1653 the suspension imposed under s. 322.2615.

1654 (c) Acceptance of the reinstated driving privilege as  
1655 provided in this subsection is deemed a waiver of the right to  
1656 formal and informal review under s. 322.2615. The waiver may not  
1657 be used as evidence in any other proceeding.

1658 Section 25. Section 322.2715, Florida Statutes, is amended  
1659 to read:

1660 322.2715 Ignition interlock device.—

1661 (1) Before issuing a permanent or restricted driver  
1662 license under this chapter, the department shall require the  
1663 placement of a department-approved ignition interlock device for  
1664 any person convicted of committing an offense of driving while  
1665 impaired ~~under the influence~~ as specified in subsection (3),  
1666 except that consideration may be given to those individuals  
1667 having a documented medical condition that would prohibit the  
1668 device from functioning normally. If a medical waiver has been  
1669 granted for a convicted person seeking a restricted license, the  
1670 convicted person shall not be entitled to a restricted license  
1671 until the required ignition interlock device installation period  
1672 under subsection (3) expires, in addition to the time  
1673 requirements under s. 322.271. If a medical waiver has been  
1674 approved for a convicted person seeking permanent reinstatement  
1675 of the driver license, the convicted person must be restricted  
1676 to an employment-purposes-only license and be supervised by a  
1677 licensed DUI program until the required ignition interlock  
1678 device installation period under subsection (3) expires. An  
1679 interlock device shall be placed on all vehicles that are  
1680 individually or jointly leased or owned and routinely operated

1681 by the convicted person.

1682 (2) For purposes of this section, any conviction for a  
1683 violation of s. 316.193, a previous conviction for a violation  
1684 of former s. 316.1931, or a conviction outside this state for  
1685 driving while impaired, driving under the influence, driving  
1686 while intoxicated, driving with an unlawful alcohol  
1687 concentration, driving with an unlawful blood-alcohol level, or  
1688 any other similar alcohol-related or drug-related traffic  
1689 offense is a conviction of driving while impaired ~~under the~~  
1690 ~~influence~~.

1691 (3) If the person is convicted of:

1692 (a) A first offense of driving while impaired ~~under the~~  
1693 ~~influence~~ under s. 316.193 and has an unlawful alcohol  
1694 concentration ~~blood-alcohol level or breath-alcohol level~~ as  
1695 specified in s. 316.193(4), or if a person is convicted of a  
1696 violation of s. 316.193 and was at the time of the offense  
1697 accompanied in the vehicle by a person younger than 18 years of  
1698 age, the person shall have the ignition interlock device  
1699 installed for at least 6 continuous months for the first offense  
1700 and for at least 2 continuous years for a second offense.

1701 (b) A second offense of driving while impaired or under  
1702 the influence, the ignition interlock device shall be installed  
1703 for a period of at least 1 continuous year.

1704 (c) A third offense of driving while impaired or under the  
1705 influence which occurs within 10 years after a prior conviction  
1706 for a violation of s. 316.193, the ignition interlock device  
1707 shall be installed for a period of at least 2 continuous years.

1708 (d) A third offense of driving while impaired or under the

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1709 | influence which occurs more than 10 years after the date of a  
1710 | prior conviction, the ignition interlock device shall be  
1711 | installed for a period of at least 2 continuous years.

1712 |       (e) A fourth or subsequent offense of driving while  
1713 | impaired or under the influence, the ignition interlock device  
1714 | shall be installed for a period of at least 5 years.

1715 |       (4) If the court fails to order the mandatory placement of  
1716 | the ignition interlock device or fails to order for the  
1717 | applicable period the mandatory placement of an ignition  
1718 | interlock device under s. 316.193 or s. 316.1937 at the time of  
1719 | imposing sentence or within 30 days thereafter, the department  
1720 | shall immediately require that the ignition interlock device be  
1721 | installed as provided in this section, except that consideration  
1722 | may be given to those individuals having a documented medical  
1723 | condition that would prohibit the device from functioning  
1724 | normally. This subsection applies to the reinstatement of the  
1725 | driving privilege following a revocation, suspension, or  
1726 | cancellation that is based upon a conviction for the offense of  
1727 | driving while impaired or under the influence which occurs on or  
1728 | after July 1, 2005.

1729 |       (5) In addition to any fee ~~fees~~ authorized by rule for the  
1730 | installation and maintenance of the ignition interlock device,  
1731 | the authorized installer of the device shall collect and remit  
1732 | \$12 for each installation to the department, which shall be  
1733 | deposited into the Highway Safety Operating Trust Fund to be  
1734 | used for the operation of the Ignition Interlock Device Program.

1735 |       Section 26. Subsection (1) and paragraphs (a), (c), and  
1736 | (d) of subsection (2) of section 322.28, Florida Statutes, are

1737 amended to read:

1738 322.28 Period of suspension or revocation.—

1739 (1) Unless otherwise provided by this section, the  
 1740 department may ~~shall~~ not suspend a license for a period of more  
 1741 than 1 year and, upon revoking a license, in any case except in  
 1742 a prosecution for the offense of driving a motor vehicle while  
 1743 impaired by an ~~under the influence of~~ alcoholic beverage  
 1744 ~~beverages~~, a chemical substance ~~substances~~ as set forth in s.  
 1745 877.111, or a controlled substance ~~substances~~, may ~~shall~~ not in  
 1746 any event grant a new license until the expiration of 1 year  
 1747 after such revocation.

1748 (2) In a prosecution for a violation of s. 316.193 or  
 1749 former s. 316.1931, the following provisions apply:

1750 (a) Upon conviction of the driver, the court, along with  
 1751 imposing sentence, shall revoke the driver license or driving  
 1752 privilege of the person so convicted, effective on the date of  
 1753 conviction, and shall prescribe the period of ~~such~~ revocation in  
 1754 accordance with the following provisions:

1755 1. Upon a first conviction for a violation of ~~the~~  
 1756 ~~provisions of~~ s. 316.193, except a violation resulting in death,  
 1757 the driver license or driving privilege shall be revoked for at  
 1758 least 180 days but not more than 1 year.

1759 2. Upon a second conviction for an offense that occurs  
 1760 within ~~a period of~~ 5 years after ~~the date of~~ a prior conviction  
 1761 for a violation ~~of the provisions~~ of s. 316.193 or former s.  
 1762 316.1931 or a combination of these ~~such~~ sections, the driver  
 1763 license or driving privilege shall be revoked for at least 5  
 1764 years.

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1765 3. Upon a third conviction for an offense that occurs  
1766 within ~~a period of~~ 10 years after ~~the date of~~ a prior conviction  
1767 for the violation ~~of the provisions~~ of s. 316.193 or former s.  
1768 316.1931 or a combination of these ~~such~~ sections, the driver  
1769 license or driving privilege shall be revoked for at least 10  
1770 years.

1771  
1772 For the purposes of this paragraph, a previous conviction  
1773 outside this state for driving under the influence, driving  
1774 while impaired, driving while intoxicated, driving with an  
1775 unlawful alcohol concentration, driving with an unlawful blood-  
1776 alcohol level, or any other alcohol-related or drug-related  
1777 traffic offense similar to the offense of driving while impaired  
1778 ~~under the influence~~ as proscribed by s. 316.193 ~~is~~ ~~will be~~  
1779 considered a previous conviction for violation of s. 316.193,  
1780 and a conviction for violation of former s. 316.028, former s.  
1781 316.1931, or former s. 860.01 is considered a conviction for  
1782 violation of s. 316.193.

1783 (c) The forfeiture of bail bond, not vacated within 20  
1784 days, in any prosecution for the offense of driving while  
1785 impaired by an ~~under the influence of~~ alcoholic beverage  
1786 ~~beverages~~, a chemical substance ~~substances~~, or a controlled  
1787 substance ~~substances~~ to the extent of depriving the defendant of  
1788 his or her abilities ~~normal faculties~~ shall be deemed equivalent  
1789 to a conviction for the purposes of this paragraph, and the  
1790 department shall immediately ~~forthwith~~ revoke the defendant's  
1791 driver license or driving privilege for the maximum period  
1792 applicable under paragraph (a) for a first conviction and for



1793 the minimum period applicable under paragraph (a) for a second  
 1794 or subsequent conviction; however, if the defendant is later  
 1795 convicted of the charge, the period of revocation imposed by the  
 1796 department for such conviction may ~~shall~~ not exceed the  
 1797 difference between the applicable maximum for a first conviction  
 1798 or minimum for a second or subsequent conviction and the  
 1799 revocation period under this subsection that has actually  
 1800 elapsed. ~~†~~ Upon conviction of such charge, the court may impose  
 1801 revocation for a period ~~of time as~~ specified in paragraph (a).  
 1802 This paragraph does not apply if an appropriate motion  
 1803 contesting the forfeiture is filed within the 20-day period.

1804 (d) The court shall permanently revoke the driver license  
 1805 or driving privilege of a person who has been convicted four  
 1806 times for violation of s. 316.193 or former s. 316.1931 or a  
 1807 combination of these ~~such~~ sections. The court shall permanently  
 1808 revoke the driver license or driving privilege of a ~~any~~ person  
 1809 who has been convicted of DUI manslaughter in violation of s.  
 1810 316.193. If the court has not permanently revoked such driver  
 1811 license or driving privilege within 30 days after imposing  
 1812 sentence, the department shall permanently revoke the driver  
 1813 license or driving privilege pursuant to this paragraph. The  
 1814 person may not be issued or granted a ~~No~~ driver license or  
 1815 driving privilege ~~may be issued or granted to any such person.~~  
 1816 This paragraph applies only if at least one of the convictions  
 1817 for violation of s. 316.193 or former s. 316.1931 was for a  
 1818 violation that occurred after July 1, 1982. For the purposes of  
 1819 this paragraph, a conviction for violation of former s. 316.028,  
 1820 former s. 316.1931, or former s. 860.01 is also considered a

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1821 conviction for violation of s. 316.193. ~~Also,~~ A conviction of  
 1822 driving under the influence, driving while intoxicated, driving  
 1823 while impaired, driving with an unlawful alcohol concentration,  
 1824 driving with an unlawful blood-alcohol level, or any other  
 1825 similar alcohol-related or drug-related traffic offense outside  
 1826 this state is also considered a conviction for the purposes of  
 1827 this paragraph.

1828 Section 27. Section 322.291, Florida Statutes, is amended  
 1829 to read:

1830 322.291 Driver improvement schools or DUI programs;  
 1831 required in certain suspension and revocation cases.—Except as  
 1832 provided in s. 322.03(2), a ~~any~~ person:

1833 (1) Whose driving privilege has been revoked:

1834 (a) Upon conviction for:

1835 1. Driving, or being in actual physical control of, a ~~any~~  
 1836 vehicle while impaired by an ~~under the influence of~~ alcoholic  
 1837 beverage ~~beverages,~~ a ~~any~~ chemical substance set forth in s.  
 1838 877.111, or a ~~any~~ substance controlled under chapter 893, in  
 1839 violation of s. 316.193;

1840 2. Driving with an unlawful alcohol concentration ~~blood-~~  
 1841 ~~or breath-alcohol level;~~

1842 3. Manslaughter resulting from the operation of a motor  
 1843 vehicle;

1844 4. Failure to stop and render aid as required under the  
 1845 laws of this state in the event of a motor vehicle crash  
 1846 resulting in the death or personal injury of another; or

1847 5. Reckless driving; ~~or~~

1848 (b) As a habitual offender; or

1849 (c) Upon direction of the court, if the court feels that  
 1850 the seriousness of the offense and the circumstances surrounding  
 1851 the conviction warrant the revocation of the licensee's driving  
 1852 privilege; or

1853 (2) Whose license was suspended under the point system,  
 1854 was suspended for driving with an unlawful blood-alcohol level  
 1855 of 0.10 percent or higher before January 1, 1994, was suspended  
 1856 for driving with an unlawful blood-alcohol level of 0.08 percent  
 1857 or higher after December 31, 1993, was suspended for a violation  
 1858 of s. 316.193(1), or was suspended for refusing to submit to a  
 1859 lawful breath, blood, or urine test as provided in s. 322.2615

1860  
 1861 shall, before the driving privilege may be reinstated, present  
 1862 to the department proof of enrollment in an advanced driver-  
 1863 improvement course that is approved by the department and a  
 1864 ~~department-approved advanced driver improvement course~~ operating  
 1865 pursuant to s. 318.1451 or a substance abuse education course  
 1866 conducted by a DUI program licensed pursuant to s. 322.292,  
 1867 which must ~~shall~~ include a psychosocial evaluation and  
 1868 treatment, if referred. Additionally, for a third or subsequent  
 1869 violation of requirements for installation of an ignition  
 1870 interlock device, a person must complete treatment as determined  
 1871 by a licensed treatment agency following a referral by a DUI  
 1872 program and have the duration of the ignition interlock device  
 1873 requirement extended by at least 1 month up to the time ~~period~~  
 1874 required to complete treatment. If the person fails to complete  
 1875 such course or evaluation within 90 days after reinstatement, or  
 1876 subsequently fails to complete treatment, if referred, the DUI

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1877 program shall notify the department of the failure. Upon receipt  
1878 of the notice, the department shall cancel the person's  
1879 ~~offender's~~ driving privilege, notwithstanding the expiration of  
1880 the suspension or revocation of the driving privilege. The  
1881 department may temporarily reinstate the driving privilege upon  
1882 verification from the DUI program that the person ~~offender~~ has  
1883 completed the education course and evaluation requirement and  
1884 has reentered and is currently participating in treatment. If  
1885 the DUI program notifies the department of the second failure to  
1886 complete treatment, the department shall reinstate the driving  
1887 privilege only after notice of completion of treatment from the  
1888 DUI program.

1889 Section 28. Paragraph (a) of subsection (9) of section  
1890 322.34, Florida Statutes, is amended to read:

1891 322.34 Driving while license suspended, revoked, canceled,  
1892 or disqualified.-

1893 (9) (a) A motor vehicle that is driven by a person who is  
1894 impaired by ~~under the influence of~~ alcohol or a controlled  
1895 substance ~~drugs~~ in violation of s. 316.193 is subject to seizure  
1896 and forfeiture under ss. 932.701-932.706 and is subject to liens  
1897 for recovering, towing, or storing vehicles under s. 713.78 if,  
1898 at the time of the offense, the person's driver ~~driver's~~ license  
1899 is suspended, revoked, or canceled as a result of a prior  
1900 conviction for driving under the influence or driving while  
1901 impaired.

1902 Section 29. Paragraph (b) of subsection (3) of section  
1903 322.61, Florida Statutes, is amended to read:

1904 322.61 Disqualification from operating a commercial motor

1905 vehicle.-

1906 (3)

1907 (b) Except as provided in subsection (4), any holder of a  
 1908 commercial driver license or commercial learner's permit who is  
 1909 convicted of one of the offenses listed in this paragraph while  
 1910 operating a noncommercial motor vehicle shall, in addition to  
 1911 any other applicable penalties, be disqualified from operating a  
 1912 commercial motor vehicle for a period of 1 year:

1913 1. Driving a motor vehicle while he or she is impaired by  
 1914 ~~under the influence of~~ alcohol or a controlled substance;

1915 2. Driving a commercial motor vehicle while the alcohol  
 1916 concentration of his or her blood, breath, or urine is 0.04 ~~.04~~  
 1917 ~~percent~~ or higher;

1918 3. Leaving the scene of a crash involving a motor vehicle  
 1919 driven by such person;

1920 4. Using a motor vehicle in the commission of a felony;

1921 5. Refusing to submit to a test to determine his or her  
 1922 alcohol concentration while driving a motor vehicle;

1923 6. Driving a commercial motor vehicle when, as a result of  
 1924 prior violations committed operating a commercial motor vehicle,  
 1925 his or her commercial driver license or commercial learner's  
 1926 permit is revoked, suspended, or canceled, or he or she is  
 1927 disqualified from operating a commercial motor vehicle; or

1928 7. Causing a fatality through the negligent operation of a  
 1929 commercial motor vehicle.

1930 Section 30. Section 322.62, Florida Statutes, is amended  
 1931 to read:

1932 322.62 Driving while impaired ~~under the influence~~;

1933 commercial motor vehicle operators.-

1934 (1) A person who has ~~any~~ alcohol in his or her body may  
 1935 not drive or be in actual physical control of a commercial motor  
 1936 vehicle in this state. A ~~Any~~ person who violates this section  
 1937 commits ~~is guilty of~~ a moving violation, punishable as provided  
 1938 in s. 318.18.

1939 (2) (a) In addition to the penalty provided in subsection  
 1940 (1), a person who violates this section shall be immediately  
 1941 placed out of service ~~out-of-service immediately~~ for a period of  
 1942 24 hours.

1943 (b) In addition to the penalty provided in subsection (1),  
 1944 a person who violates this section and who has an alcohol  
 1945 concentration ~~a blood-alcohol level~~ of 0.04 or more grams of  
 1946 alcohol per 100 milliliters of blood, ~~or a breath-alcohol level~~  
 1947 ~~of~~ 0.04 or more grams of alcohol per 210 liters of breath is  
 1948 subject to the penalty provided in s. 322.61.

1949 (3) This section does not supersede s. 316.193. ~~Nothing in~~  
 1950 This section does not prohibit ~~prohibits~~ the prosecution of a  
 1951 person who drives a commercial motor vehicle for driving while  
 1952 impaired by ~~under the influence of~~ alcohol or a controlled  
 1953 substance, regardless of ~~substances~~ whether the ~~or not~~ such  
 1954 person is also prosecuted for a violation of this section.

1955 Section 31. Subsection (3) of section 322.63, Florida  
 1956 Statutes, is amended to read:

1957 322.63 Alcohol or drug testing; commercial motor vehicle  
 1958 operators.-

1959 (3) (a) The breath and blood alcohol tests authorized in  
 1960 this section shall be administered substantially in accordance

1961 with rules adopted by the Department of Law Enforcement.

1962 (b) The Alcohol Testing Program within the Department of

1963 Law Enforcement is responsible for the regulation of the

1964 operation, inspection, and registration of breath test

1965 instruments that are used ~~utilized~~ under the provisions relating

1966 to driving and boating while impaired ~~under the influence~~

1967 ~~provisions and related provisions located~~ in this chapter and

1968 chapters 316 and 327. The program is responsible for the

1969 regulation of the individuals who operate, inspect, and instruct

1970 on the breath test instruments that are used ~~under utilized in~~

1971 the provisions relating to driving and boating while impaired

1972 ~~under the influence provisions and related provisions located~~ in

1973 this chapter and chapters 316 and 327. The program is further

1974 responsible for the regulation of blood analysts who conduct

1975 blood alcohol testing that is used ~~to be utilized~~ under such

1976 provisions ~~the driving and boating under the influence~~

1977 ~~provisions and related provisions located in this chapter and~~

1978 ~~chapters 316 and 327~~. The program shall:

1979 1. Establish uniform criteria for the issuance of permits

1980 to breath test operators, agency inspectors, instructors, blood

1981 analysts, and instruments.

1982 2. Have the authority to issue permits for ~~permit~~ breath

1983 test operators, agency inspectors, instructors, blood analysts,

1984 and instruments.

1985 3. Have the authority to discipline and suspend, revoke,

1986 or renew the permits of breath test operators, agency

1987 inspectors, instructors, blood analysts, and instruments.

1988 4. Establish uniform requirements for instruction and

1989 | curricula for the operation and inspection of approved  
 1990 | instruments.

1991 |         5. Have the authority to specify one approved curriculum  
 1992 | for the operation and inspection of approved instruments.

1993 |         6. Establish a procedure for the approval of breath test  
 1994 | operator and agency inspector classes.

1995 |         7. Have the authority to approve or disapprove breath test  
 1996 | instruments and accompanying paraphernalia for use pursuant to  
 1997 | the provisions relating to driving and boating while impaired  
 1998 | ~~under the influence provisions and related provisions located in~~  
 1999 | this chapter and chapters 316 and 327.

2000 |         8. With the approval of the executive director of the  
 2001 | Department of Law Enforcement, make and enter into contracts and  
 2002 | agreements with other agencies, organizations, associations,  
 2003 | corporations, individuals, or federal agencies as are necessary,  
 2004 | expedient, or incidental to the performance of duties.

2005 |         9. Issue final orders that ~~which~~ include findings of fact  
 2006 | and conclusions of law and that ~~which~~ constitute final agency  
 2007 | action for the purpose of chapter 120.

2008 |         10. Enforce compliance with ~~the provisions of~~ this section  
 2009 | through civil or administrative proceedings.

2010 |         11. Make recommendations concerning any matter within the  
 2011 | purview of this section, this chapter, chapter 316, or chapter  
 2012 | 327.

2013 |         12. Adopt ~~Promulgate~~ rules for the administration and  
 2014 | implementation of this section, including definitions of terms.

2015 |         13. Consult and cooperate with other entities for the  
 2016 | purpose of implementing the mandates of this section.



2017 14. Have the authority to approve the breath and type of  
 2018 blood alcohol test to be used ~~utilized~~ under the provisions  
 2019 relating to driving and boating while impaired ~~under the~~  
 2020 ~~influence provisions and related provisions located in this~~  
 2021 chapter and chapters 316 and 327.

2022 15. Have the authority to approve ~~specify techniques and~~  
 2023 ~~methods and procedures~~ for breath ~~alcohol testing~~ and blood  
 2024 alcohol testing to be used ~~utilized~~ under the provisions  
 2025 relating to driving and boating while impaired ~~under the~~  
 2026 ~~influence provisions and related provisions located in this~~  
 2027 chapter and chapters 316 and 327.

2028 16. Have the authority to approve repair facilities for  
 2029 the approved breath test instruments, including the authority to  
 2030 set criteria for approval.

2031  
 2032 ~~Nothing in~~ This section does not ~~shall be construed to~~ supersede  
 2033 provisions in this chapter and chapters 316 and 327. The  
 2034 specifications in this section are derived from the power and  
 2035 authority previously and currently possessed by the Department  
 2036 of Law Enforcement and are enumerated to conform with the  
 2037 mandates of chapter 99-379, Laws of Florida.

2038 (c) Any insubstantial difference ~~differences~~ between  
 2039 approved methods and procedures ~~techniques~~ and actual testing  
 2040 methods and procedures in an ~~any~~ individual case does not render  
 2041 the test or tests results invalid.

2042 (d) Notwithstanding any other provision of this section,  
 2043 the failure of a law enforcement officer to request the  
 2044 withdrawal of blood does ~~shall~~ not affect the admissibility of a

2045 | test of blood withdrawn for medical purposes.

2046 | Section 32. Paragraphs (a) and (c) of subsection (1),  
 2047 | paragraph (a) of subsection (2), and paragraph (a) of subsection  
 2048 | (7) of section 322.64, Florida Statutes, are amended to read:

2049 | 322.64 Holder of commercial driver license; persons  
 2050 | operating a commercial motor vehicle; driving with unlawful  
 2051 | alcohol concentration ~~blood-alcohol level~~; refusal to submit to  
 2052 | breath, urine, or blood test.—

2053 | (1) (a) A law enforcement officer or correctional officer  
 2054 | shall, on behalf of the department, disqualify from operating  
 2055 | any commercial motor vehicle a person who while operating or in  
 2056 | actual physical control of a commercial motor vehicle is  
 2057 | arrested for a violation of s. 316.193, relating to unlawful  
 2058 | blood-alcohol concentration ~~level~~ or breath-alcohol  
 2059 | concentration ~~level~~, or a person who has refused to submit to a  
 2060 | breath, urine, or blood test authorized by s. 322.63 or s.  
 2061 | 316.1932 arising out of the operation or actual physical control  
 2062 | of a commercial motor vehicle. A law enforcement officer or  
 2063 | correctional officer shall, on behalf of the department,  
 2064 | disqualify the holder of a commercial driver license from  
 2065 | operating any commercial motor vehicle if the licenseholder,  
 2066 | while operating or in actual physical control of a motor  
 2067 | vehicle, is arrested for a violation of s. 316.193, relating to  
 2068 | unlawful blood-alcohol concentration ~~level~~ or breath-alcohol  
 2069 | concentration ~~level~~, or refused to submit to a breath, urine, or  
 2070 | blood test authorized by s. 322.63 or s. 316.1932. Upon  
 2071 | disqualification of the person, the officer shall take the  
 2072 | person's driver license and issue the person a 10-day temporary

2073 permit for the operation of noncommercial vehicles only if the  
 2074 person is otherwise eligible for the driving privilege and shall  
 2075 issue the person a notice of disqualification. If the person has  
 2076 been given a blood, breath, or urine test, the results of which  
 2077 are not available to the officer at the time of the arrest, the  
 2078 agency employing the officer shall transmit such results to the  
 2079 department within 5 days after receipt of the results. If the  
 2080 department then determines that the person had a blood-alcohol  
 2081 concentration level or breath-alcohol concentration level of  
 2082 0.08 or higher, the department shall disqualify the person from  
 2083 operating a commercial motor vehicle pursuant to subsection (3).

2084 (c) The disqualification under paragraph (a) shall be  
 2085 pursuant to, and the notice of disqualification shall inform the  
 2086 driver of, the following:

2087 1.a. The driver refused to submit to a lawful breath,  
 2088 blood, or urine test and he or she is disqualified from  
 2089 operating a commercial motor vehicle for the time period  
 2090 specified in 49 C.F.R. s. 383.51; or

2091 b. The driver had an unlawful blood-alcohol concentration  
 2092 ~~level~~ of 0.08 or higher while driving or in actual physical  
 2093 control of a commercial motor vehicle, or any motor vehicle if  
 2094 the driver holds a commercial driver license, and his or her  
 2095 driving privilege is disqualified for the time period specified  
 2096 in 49 C.F.R. s. 383.51.

2097 2. The disqualification period for operating commercial  
 2098 vehicles shall commence on the date of issuance of the notice of  
 2099 disqualification.

2100 3. The driver may request a formal or informal review of

2101 | the disqualification by the department within 10 days after the  
 2102 | date of issuance of the notice of disqualification.

2103 |         4. The temporary permit issued at the time of  
 2104 | disqualification expires at midnight of the 10th day following  
 2105 | the date of disqualification.

2106 |         5. The driver may submit to the department any materials  
 2107 | relevant to the disqualification.

2108 |         (2) (a) Except as provided in paragraph (1) (a), the law  
 2109 | enforcement officer shall forward to the department, within 5  
 2110 | days after the date of the issuance of the notice of  
 2111 | disqualification, a copy of the notice of disqualification, the  
 2112 | driver license of the person disqualified, and an affidavit  
 2113 | stating the officer's grounds for belief that the person  
 2114 | disqualified was operating or in actual physical control of a  
 2115 | commercial motor vehicle, or holds a commercial driver license,  
 2116 | and had an unlawful blood-alcohol or breath-alcohol  
 2117 | concentration level; the results of any breath or blood or urine  
 2118 | test or an affidavit stating that a breath, blood, or urine test  
 2119 | was requested by a law enforcement officer or correctional  
 2120 | officer and that the person arrested refused to submit; a copy  
 2121 | of the notice of disqualification issued to the person; and the  
 2122 | officer's description of the person's field sobriety test, if  
 2123 | any. The failure of the officer to submit materials within the  
 2124 | 5-day period specified in this subsection or subsection (1) does  
 2125 | not affect the department's ability to consider any evidence  
 2126 | submitted at or prior to the hearing.

2127 |         (7) In a formal review hearing under subsection (6) or an  
 2128 | informal review hearing under subsection (4), the hearing

2129 officer shall determine by a preponderance of the evidence  
 2130 whether sufficient cause exists to sustain, amend, or invalidate  
 2131 the disqualification. The scope of the review shall be limited  
 2132 to the following issues:

2133 (a) If the person was disqualified from operating a  
 2134 commercial motor vehicle for driving with an unlawful blood-  
 2135 alcohol level:

2136 1. Whether the law enforcement officer had probable cause  
 2137 to believe that the person was driving or in actual physical  
 2138 control of a commercial motor vehicle, or any motor vehicle if  
 2139 the driver holds a commercial driver license, in this state  
 2140 while he or she had any alcohol, chemical substances, or  
 2141 controlled substances in his or her body.

2142 2. Whether the person had an unlawful blood-alcohol  
 2143 concentration level or breath-alcohol concentration level of  
 2144 0.08 or higher.

2145 Section 33. Section 324.023, Florida Statutes, is amended  
 2146 to read:

2147 324.023 Financial responsibility for bodily injury or  
 2148 death.—In addition to any other financial responsibility  
 2149 required by law, every owner or operator of a motor vehicle that  
 2150 is required to be registered in this state, or that is located  
 2151 within this state, and who, regardless of adjudication of guilt,  
 2152 has been found guilty of or entered a plea of guilty or nolo  
 2153 contendere to a charge of driving while impaired or under the  
 2154 influence under s. 316.193 after October 1, 2007, shall, by one  
 2155 of the methods established in s. 324.031(1) or (2), establish  
 2156 and maintain the ability to respond in damages for liability on

2157 account of accidents arising out of the use of a motor vehicle  
 2158 in the amount of \$100,000 because of bodily injury to, or death  
 2159 of, one person in any one crash and, subject to such limits for  
 2160 one person, in the amount of \$300,000 because of bodily injury  
 2161 to, or death of, two or more persons in any one crash and in the  
 2162 amount of \$50,000 because of property damage in any one crash.  
 2163 If the owner or operator chooses to establish and maintain such  
 2164 ability by furnishing a certificate of deposit pursuant to s.  
 2165 324.031(2), the amount of the ~~such~~ certificate of deposit must  
 2166 be at least \$350,000. Such higher limits must be carried for a  
 2167 minimum period of 3 years. If the owner or operator has not been  
 2168 convicted of driving while impaired ~~under the influence~~ or of a  
 2169 felony traffic offense for a period of 3 years after ~~from~~ the  
 2170 date of reinstatement of driving privileges for a violation of  
 2171 s. 316.193, the owner or operator is ~~shall be~~ exempt from this  
 2172 section.

2173 Section 34. Subsection (1) and paragraph (a) of subsection  
 2174 (8) of section 327.35, Florida Statutes, is amended to read:

2175 327.35 Boating while impaired ~~under the influence~~;  
 2176 penalties; "designated drivers".-

2177 (1) A person commits ~~is guilty of~~ the offense of boating  
 2178 while impaired ~~under the influence~~ and is subject to punishment  
 2179 as provided in subsection (2) if the person is operating a  
 2180 vessel within this state and:

2181 (a) The person is impaired by ~~under the influence of~~  
 2182 alcoholic beverages, any chemical substance set forth in s.  
 2183 877.111, or any substance controlled under chapter 893, ~~when~~  
 2184 ~~affected to the extent that the person's normal faculties are~~

2185 ~~impaired;~~

2186 (b) The person has a blood-alcohol concentration level of  
 2187 0.08 or more grams of alcohol per 100 milliliters of blood; or

2188 (c) The person has a breath-alcohol concentration level of  
 2189 0.08 or more grams of alcohol per 210 liters of breath.

2190 (8) A person who is arrested for a violation of this  
 2191 section may not be released from custody:

2192 (a) Until the person is no longer impaired by ~~under the~~  
 2193 ~~influence of~~ alcoholic beverages, any chemical substance set  
 2194 forth in s. 877.111, or any substance controlled under chapter  
 2195 893 ~~and affected to the extent that his or her normal faculties~~  
 2196 ~~are impaired;~~

2197 Section 35. Paragraphs (a), (c), and (d) of subsection (1)  
 2198 of section 327.352, Florida Statutes, are amended to read:

2199 327.352 Tests for alcohol, chemical substances, or  
 2200 controlled substances; implied consent; refusal.-

2201 (1)(a)1. The Legislature declares that the operation of a  
 2202 vessel is a privilege that must be exercised in a reasonable  
 2203 manner. In order to protect the public health and safety, it is  
 2204 essential that a lawful and effective means of reducing the  
 2205 incidence of boating while impaired or intoxicated be  
 2206 established. Therefore, any person who accepts the privilege  
 2207 extended by the laws of this state of operating a vessel within  
 2208 this state is, by so operating such vessel, deemed to have given  
 2209 his or her consent to submit to an approved chemical test or  
 2210 physical test including, but not limited to, an infrared light  
 2211 test of his or her breath to determine ~~for the purpose of~~  
 2212 ~~determining~~ the alcohol concentration ~~alcoholic content~~ of his

2213 or her blood or breath if the person is lawfully arrested for  
 2214 any offense allegedly committed while the person was operating a  
 2215 vessel while impaired by ~~under the influence of~~ alcoholic  
 2216 beverages. The chemical or physical breath test must be  
 2217 incidental to a lawful arrest and administered at the request of  
 2218 a law enforcement officer who has reasonable cause to believe  
 2219 such person was operating the vessel within this state while  
 2220 impaired by ~~under the influence of~~ alcoholic beverages. The  
 2221 administration of a breath test does not preclude the  
 2222 administration of another type of test. The person shall be told  
 2223 that his or her failure to submit to any lawful test of his or  
 2224 her breath will result in a civil penalty of \$500, and shall  
 2225 also be told that if he or she refuses to submit to a lawful  
 2226 test of his or her breath and he or she has been previously  
 2227 fined for refusal to submit to any lawful test of his or her  
 2228 breath, urine, or blood, he or she commits a misdemeanor in  
 2229 addition to any other penalties. The refusal to submit to a  
 2230 chemical or physical breath test upon the request of a law  
 2231 enforcement officer as provided in this section is admissible  
 2232 into evidence in any criminal proceeding.

2233 2. Any person who accepts the privilege extended by the  
 2234 laws of this state of operating a vessel within this state is,  
 2235 by so operating such vessel, deemed to have given his or her  
 2236 consent to submit to a urine test to detect ~~for the purpose of~~  
 2237 ~~detecting~~ the presence of chemical substances as set forth in s.  
 2238 877.111 or controlled substances if the person is lawfully  
 2239 arrested for any offense allegedly committed while the person  
 2240 was operating a vessel while impaired by ~~under the influence of~~



2241 chemical substances or controlled substances. The urine test  
 2242 must be incidental to a lawful arrest and administered at a  
 2243 detention facility or any other facility, mobile or otherwise,  
 2244 which is equipped to administer such tests at the request of a  
 2245 law enforcement officer who has reasonable cause to believe such  
 2246 person was operating a vessel within this state while impaired  
 2247 ~~by under the influence of~~ chemical substances or controlled  
 2248 substances. The urine test shall be administered at a detention  
 2249 facility or any other facility, mobile or otherwise, which is  
 2250 equipped to administer such test in a reasonable manner that  
 2251 will ensure the accuracy of the specimen and maintain the  
 2252 privacy of the individual involved. The administration of a  
 2253 urine test does not preclude the administration of another type  
 2254 of test. The person shall be told that his or her failure to  
 2255 submit to any lawful test of his or her urine will result in a  
 2256 civil penalty of \$500, and shall also be told that if he or she  
 2257 refuses to submit to a lawful test of his or her urine and he or  
 2258 she has been previously fined for refusal to submit to any  
 2259 lawful test of his or her breath, urine, or blood, he or she  
 2260 commits a misdemeanor in addition to any other penalties. The  
 2261 refusal to submit to a urine test upon the request of a law  
 2262 enforcement officer as provided in this section is admissible  
 2263 into evidence in any criminal proceeding.

2264 (c) Any person who accepts the privilege extended by the  
 2265 laws of this state of operating a vessel within this state is,  
 2266 by operating such vessel, deemed to have given his or her  
 2267 consent to submit to an approved blood test to determine ~~for the~~  
 2268 ~~purpose of determining~~ the alcohol concentration ~~alcoholic~~

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2269 | ~~content~~ of the blood or a blood test to determine ~~for the~~  
2270 | ~~purpose of determining~~ the presence of chemical substances or  
2271 | controlled substances as provided in this section if there is  
2272 | reasonable cause to believe the person was operating a vessel  
2273 | while impaired by ~~under the influence of~~ alcoholic beverages or  
2274 | chemical or controlled substances and the person appears for  
2275 | treatment at a hospital, clinic, or other medical facility and  
2276 | the administration of a breath or urine test is impractical or  
2277 | impossible. As used in this paragraph, the term "other medical  
2278 | facility" includes an ambulance or other medical emergency  
2279 | vehicle. The blood test shall be performed in a reasonable  
2280 | manner. Any person who is incapable of refusal by reason of  
2281 | unconsciousness or other mental or physical condition is deemed  
2282 | not to have withdrawn his or her consent to such test. Any  
2283 | person who is capable of refusal shall be told that his or her  
2284 | failure to submit to such a blood test will result in a civil  
2285 | penalty of \$500 and that a refusal to submit to a lawful test of  
2286 | his or her blood, if he or she has previously been fined for  
2287 | refusal to submit to any lawful test of his or her breath,  
2288 | urine, or blood, is a misdemeanor. The refusal to submit to a  
2289 | blood test upon the request of a law enforcement officer shall  
2290 | be admissible in evidence in any criminal proceeding.

2291 | (d) If the arresting officer does not request a chemical  
2292 | or physical breath test of the person arrested for any offense  
2293 | allegedly committed while the person was operating a vessel  
2294 | while impaired by ~~under the influence of~~ alcoholic beverages or  
2295 | controlled substances, the person may request the arresting  
2296 | officer to have a chemical or physical test made of the arrested

2297 | person's breath or a test of the urine or blood to determine ~~for~~  
 2298 | ~~the purpose of determining~~ the alcohol concentration ~~alcoholic~~  
 2299 | ~~content~~ of the person's blood or breath or the presence of  
 2300 | chemical substances or controlled substances; and, if so  
 2301 | requested, the arresting officer shall have the test performed.

2302 | Section 36. Paragraph (a) of subsection (1) of section  
 2303 | 327.353, Florida Statutes, is amended to read:

2304 | 327.353 Blood test for impairment ~~or intoxication~~ in cases  
 2305 | of death or serious bodily injury; right to use reasonable  
 2306 | force.—

2307 | (1) (a) If a law enforcement officer has probable cause to  
 2308 | believe that a vessel operated by a person impaired by ~~under the~~  
 2309 | ~~influence of~~ alcoholic beverages, any chemical substances, or  
 2310 | any controlled substances has caused the death or serious bodily  
 2311 | injury of a human being, a law enforcement officer shall require  
 2312 | the person operating ~~or in actual physical control of~~ the vessel  
 2313 | to submit to a test of the person's blood to determine ~~for the~~  
 2314 | ~~purpose of determining~~ the alcohol concentration ~~alcoholic~~  
 2315 | ~~content~~ thereof or the presence of chemical substances as set  
 2316 | forth in s. 877.111 or any substance controlled under chapter  
 2317 | 893. The law enforcement officer may use reasonable force if  
 2318 | necessary to require the person to submit to the administration  
 2319 | of the blood test. The blood test shall be performed in a  
 2320 | reasonable manner. Notwithstanding s. 327.352, the testing  
 2321 | required by this paragraph need not be incidental to a lawful  
 2322 | arrest of the person.

2323 | Section 37. Subsections (1) and (2) of section 327.354,  
 2324 | Florida Statutes, are amended to read:

2325           327.354 Presumption of impairment; testing methods.-  
 2326           (1) It is unlawful and punishable as provided in s. 327.35  
 2327 for any person who is impaired by ~~under the influence of~~  
 2328 alcoholic beverages or controlled substances, ~~when affected to~~  
 2329 ~~the extent that the person's normal faculties are impaired or to~~  
 2330 ~~the extent that the person is deprived of full possession of~~  
 2331 ~~normal faculties,~~ to operate any vessel within this state. Such  
 2332 ~~normal faculties include, but are not limited to, the ability to~~  
 2333 ~~see, hear, walk, talk, judge distances, drive an automobile,~~  
 2334 ~~make judgments, act in emergencies, and, in general, normally~~  
 2335 ~~perform the many mental and physical acts of daily life.~~  
 2336           (2) At the trial of any civil or criminal action or  
 2337 proceeding arising out of acts alleged to have been committed by  
 2338 any person while operating a vessel while impaired by ~~under the~~  
 2339 ~~influence of~~ alcoholic beverages or controlled substances, ~~when~~  
 2340 ~~affected to the extent that the person's normal faculties were~~  
 2341 ~~impaired or to the extent that he or she was deprived of full~~  
 2342 ~~possession of his or her normal faculties,~~ the results of any  
 2343 test administered in accordance with s. 327.352 or s. 327.353  
 2344 and this section are admissible into evidence when otherwise  
 2345 admissible, and the amount of alcohol in the person's blood or  
 2346 breath at the time alleged, as shown by chemical analysis of the  
 2347 person's blood, or by chemical or physical test of the person's  
 2348 breath, gives rise to the following presumptions:  
 2349           (a) If there was at that time a blood-alcohol  
 2350 concentration level ~~or~~ breath-alcohol concentration level ~~of~~  
 2351 0.05 or less, it is presumed that the person was not impaired by  
 2352 ~~under the influence of~~ alcoholic beverages ~~to the extent that~~

2353 ~~his or her normal faculties were impaired.~~

2354 (b) If there was at that time a blood-alcohol  
 2355 concentration level ~~or breath-alcohol concentration level~~ in  
 2356 excess of 0.05 but less than 0.08, that fact does not give rise  
 2357 to any presumption that the person was or was not impaired by  
 2358 ~~under the influence of alcoholic beverages to the extent that~~  
 2359 ~~his or her normal faculties were impaired~~ but may be considered  
 2360 with other competent evidence in determining whether the person  
 2361 was impaired by ~~under the influence of alcoholic beverages to~~  
 2362 ~~the extent that his or her normal faculties were impaired.~~

2363 (c) If there was at that time a blood-alcohol  
 2364 concentration level ~~or breath-alcohol concentration level~~ of  
 2365 0.08 or higher, that fact is prima facie evidence that the  
 2366 person was impaired by ~~under the influence of alcoholic~~  
 2367 ~~beverages to the extent that his or her normal faculties were~~  
 2368 ~~impaired.~~ Any person who operates a vessel and who has a blood-  
 2369 alcohol concentration level ~~or breath-alcohol concentration~~  
 2370 ~~level~~ of 0.08 or higher commits the offense ~~is guilty~~ of  
 2371 operating a vessel with an unlawful blood-alcohol concentration  
 2372 ~~level~~ or breath-alcohol concentration level.

2373  
 2374 The presumptions provided in this subsection do not limit the  
 2375 introduction of any other competent evidence bearing upon the  
 2376 question of whether the person was impaired by ~~under the~~  
 2377 ~~influence of alcoholic beverages to the extent that his or her~~  
 2378 ~~normal faculties were impaired.~~

2379 Section 38. Subsection (1) of section 327.355, Florida  
 2380 Statutes, is amended to read:

2381 327.355 Operation of vessels by persons under 21 years of  
 2382 age who have consumed alcoholic beverages.—

2383 (1) (a) Notwithstanding s. 327.35, it is unlawful for a  
 2384 person under the age of 21 who has a breath-alcohol  
 2385 concentration level of 0.02 or higher to operate ~~or be in actual~~  
 2386 ~~physical control of~~ a vessel.

2387 (b) A law enforcement officer who has probable cause to  
 2388 believe that a vessel is being operated by ~~or is in the actual~~  
 2389 ~~physical control of~~ a person who is under the age of 21 while  
 2390 impaired by ~~under the influence of~~ alcoholic beverages or who  
 2391 has any breath-alcohol concentration level may lawfully detain  
 2392 such a person and may request that person to submit to a test to  
 2393 determine his or her breath-alcohol concentration level. If the  
 2394 person under the age of 21 refuses to submit to such testing,  
 2395 the law enforcement officer shall warn the person that failure  
 2396 to submit to the breath test will result in the required  
 2397 performance of 50 hours of public service and that his or her  
 2398 vessel operating privilege will be suspended until the public  
 2399 service is performed. Failure or refusal to submit to a breath  
 2400 test after this warning is a violation of this section.

2401 Section 39. Subsection (1) of section 327.359, Florida  
 2402 Statutes, is amended to read:

2403 327.359 Refusal to submit to testing; penalties.—Any  
 2404 person who has refused to submit to a chemical or physical test  
 2405 of his or her breath, blood, or urine, as described in s.  
 2406 327.352, and who has been previously fined for refusal to submit  
 2407 to a lawful test of his or her breath, urine, or blood, and:

2408 (1) Who the arresting law enforcement officer had probable

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2409 | cause to believe was operating ~~or in actual physical control of~~  
 2410 | a vessel in this state while impaired by ~~under the influence of~~  
 2411 | alcoholic beverages, chemical substances, or controlled  
 2412 | substances;

2413 |  
 2414 | commits a misdemeanor of the first degree and is subject to  
 2415 | punishment as provided in s. 775.082 or s. 775.083.

2416 | Section 40. Section 327.38, Florida Statutes, is amended  
 2417 | to read:

2418 | 327.38 Skiing prohibited while intoxicated or under  
 2419 | influence of drugs.—A ~~No~~ person may not ~~shall~~ manipulate any  
 2420 | water skis, aquaplane, or similar device from a vessel while  
 2421 | intoxicated or impaired by ~~under the influence of~~ any narcotic  
 2422 | drug, barbiturate, or marijuana, ~~to the extent that the person's~~  
 2423 | ~~normal faculties are impaired.~~

2424 | Section 41. Subsection (1) of section 327.391, Florida  
 2425 | Statutes, is amended to read:

2426 | 327.391 Airboats regulated.—

2427 | (1) The exhaust of every internal combustion engine used  
 2428 | on any airboat operated on the waters of this state shall be  
 2429 | provided with an automotive-style factory muffler, underwater  
 2430 | exhaust, or other manufactured device capable of adequately  
 2431 | muffling the sound of the exhaust of the engine as described in  
 2432 | s. 327.02~~(24)~~. The use of cutouts or flex pipe as the sole  
 2433 | source of muffling is prohibited, except as provided in  
 2434 | subsection (4). Any person who violates this subsection commits  
 2435 | a noncriminal infraction punishable as provided in s. 327.73(1).

2436 | Section 42. Subsection (4) of section 328.17, Florida

2437 Statutes, is amended to read:

2438 328.17 Nonjudicial sale of vessels.—

2439 (4) A marina, as defined in s. 327.02~~(20)~~, shall have:

2440 (a) A possessory lien upon any vessel for storage fees,  
2441 dockage fees, repairs, improvements, or other work-related  
2442 storage charges, and for expenses necessary for preservation of  
2443 the vessel or expenses reasonably incurred in the sale or other  
2444 disposition of the vessel. The possessory lien shall attach as  
2445 of the date the vessel is brought to the marina or as of the  
2446 date the vessel first occupies rental space at the marina  
2447 facility.

2448 (b) A possessory lien upon any vessel in a wrecked,  
2449 junked, or substantially dismantled condition, which has been  
2450 left abandoned at a marina, for expenses reasonably incurred in  
2451 the removal and disposal of the vessel. The possessory lien  
2452 shall attach as of the date the vessel arrives at the marina or  
2453 as of the date the vessel first occupies rental space at the  
2454 marina facility. If the funds recovered from the sale of the  
2455 vessel, or from the scrap or salvage value of the vessel, are  
2456 insufficient to cover the expenses reasonably incurred by the  
2457 marina in removing and disposing of the vessel, all costs in  
2458 excess of recovery shall be recoverable against the owner of the  
2459 vessel. For a vessel damaged as a result of a named storm, the  
2460 provisions of this paragraph shall be suspended for 60 days  
2461 following the date the vessel is damaged in the named storm. The  
2462 operation of the provisions specified in this paragraph run  
2463 concurrently with, and do not extend, the 60-day notice periods  
2464 provided in subsections (5) and (7).



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2465 Section 43. Subsection (1) of section 337.195, Florida  
 2466 Statutes, is amended to read:

2467 337.195 Limits on liability.—

2468 (1) In a civil action for the death of or injury to a  
 2469 person, or for damage to property, against the Department of  
 2470 Transportation or its agents, consultants, or contractors for  
 2471 work performed on a highway, road, street, bridge, or other  
 2472 transportation facility when the death, injury, or damage  
 2473 resulted from a motor vehicle crash within a construction zone  
 2474 in which the driver of one of the vehicles was impaired by or  
 2475 under the influence of an alcoholic beverage ~~beverages~~ as set  
 2476 forth in s. 316.193, by a ~~under the influence of any~~ chemical  
 2477 substance as set forth in s. 877.111, or by a ~~illegally under~~  
 2478 ~~the influence of any~~ substance controlled under chapter 893 to  
 2479 the extent that her or his abilities ~~normal faculties~~ were  
 2480 impaired or that she or he operated a vehicle recklessly as  
 2481 defined in s. 316.192, it is presumed that the driver's  
 2482 operation of the vehicle was the sole proximate cause of her or  
 2483 his own death, injury, or damage. This presumption can be  
 2484 overcome if the gross negligence or intentional misconduct of  
 2485 the Department of Transportation, or of its agents, consultants,  
 2486 or contractors, was a proximate cause of the driver's death,  
 2487 injury, or damage.

2488 Section 44. Subsection (2) of section 342.07, Florida  
 2489 Statutes, is amended to read:

2490 342.07 Recreational and commercial working waterfronts;  
 2491 legislative findings; definitions.—

2492 (2) As used in this section, the term "recreational and

2493 commercial working waterfront" means a parcel or parcels of real  
 2494 property that provide access for water-dependent commercial  
 2495 activities, including hotels and motels as defined in s.  
 2496 509.242(1), or provide access for the public to the navigable  
 2497 waters of the state. Recreational and commercial working  
 2498 waterfronts require direct access to or a location on, over, or  
 2499 adjacent to a navigable body of water. The term includes water-  
 2500 dependent facilities that are open to the public and offer  
 2501 public access by vessels to the waters of the state or that are  
 2502 support facilities for recreational, commercial, research, or  
 2503 governmental vessels. These facilities include public lodging  
 2504 establishments, docks, wharfs, lifts, wet and dry marinas, boat  
 2505 ramps, boat hauling and repair facilities, commercial fishing  
 2506 facilities, boat construction facilities, and other support  
 2507 structures over the water. As used in this section, the term  
 2508 "vessel" has the same meaning as in s. 327.02~~(39)~~. Seaports are  
 2509 excluded from the definition.

2510 Section 45. Subsection (1) of section 401.281, Florida  
 2511 Statutes, is amended to read:

2512 401.281 Drivers.—

2513 (1) Each licensee is responsible for assuring that its  
 2514 vehicles are driven only by trained, experienced, and otherwise  
 2515 qualified personnel. The licensee must, at a minimum, document  
 2516 that each of its drivers:

- 2517 (a) Is at least 18 years of age;
- 2518 (b) Certifies under oath that he or she is not addicted to  
 2519 alcohol or any controlled substance;
- 2520 (c) Certifies under oath that he or she is free from any

2521 physical or mental defect or disease that might impair his or  
 2522 her ability to drive an ambulance;

2523 (d) Upon initial designation as a driver, has not, within  
 2524 the past 3 years, been convicted of driving while impaired by or  
 2525 under the influence of alcohol or a controlled substance  
 2526 ~~substances~~ and has not had a driver ~~driver's~~ license suspended  
 2527 under the point system provided for in chapter 322;

2528 (e) Possesses a valid driver ~~driver's~~ license issued under  
 2529 chapter 322, is trained in the safe operation of emergency  
 2530 vehicles, and has completed an emergency vehicle operator's  
 2531 course or the reasonable equivalent as approved by the  
 2532 department; however, this paragraph applies only to a driver of  
 2533 a land vehicle;

2534 (f) Possesses a valid American Red Cross or National  
 2535 Safety Council standard first aid course card or its equivalent;  
 2536 and

2537 (g) Possesses a valid American Red Cross or American Heart  
 2538 Association cardiopulmonary resuscitation card.

2539 Section 46. Paragraph (a) of subsection (2) of section  
 2540 627.7275, Florida Statutes, is amended to read:

2541 627.7275 Motor vehicle liability.—

2542 (2) (a) Insurers writing motor vehicle insurance in this  
 2543 state shall make available, subject to the insurers' usual  
 2544 underwriting restrictions:

2545 1. Coverage under policies as described in subsection (1)  
 2546 to any applicant for private passenger motor vehicle insurance  
 2547 coverage who is seeking the coverage in order to reinstate the  
 2548 applicant's driving privileges in this state when the driving

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2549 | privileges were revoked or suspended pursuant to s. 316.646 or  
2550 | s. 324.0221 due to the failure of the applicant to maintain  
2551 | required security.

2552 |       2. Coverage under policies as described in subsection (1),  
2553 | which also provides liability coverage for bodily injury, death,  
2554 | and property damage arising out of the ownership, maintenance,  
2555 | or use of the motor vehicle in an amount not less than the  
2556 | limits described in s. 324.021(7) and conforms to the  
2557 | requirements of s. 324.151, to any applicant for private  
2558 | passenger motor vehicle insurance coverage who is seeking the  
2559 | coverage in order to reinstate the applicant's driving  
2560 | privileges in this state after such privileges were revoked or  
2561 | suspended under s. 316.193 or s. 322.26(2) for driving while  
2562 | impaired or under the influence.

2563 |       Section 47. Subsection (4) of section 627.758, Florida  
2564 | Statutes, is amended to read:

2565 |       627.758 Surety on auto club traffic arrest bond;  
2566 | conditions, limit; bail bond.—

2567 |       (4) Notwithstanding the provisions of s. 626.311 or  
2568 | chapter 648, any surety insurer identified in a guaranteed  
2569 | traffic arrest bond certificate or any licensed general lines  
2570 | agent of the surety insurer may execute a bail bond for the  
2571 | automobile club or association member identified in the  
2572 | guaranteed traffic arrest bond certificate in an amount not in  
2573 | excess of \$5,000 for any violation of chapter 316 or any similar  
2574 | traffic law or ordinance except for driving while impaired by  
2575 | ~~under the influence of~~ alcoholic beverages, chemical substances,  
2576 | or controlled substances, as prohibited by s. 316.193.

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2577 Section 48. Section 790.153, Florida Statutes, is amended  
2578 to read:

2579 790.153 Tests for impairment ~~or intoxication~~; right to  
2580 refuse.—

2581 (1) (a) Any person who uses a firearm within this state  
2582 shall submit to an approved chemical or physical breath test to  
2583 determine the alcohol concentration ~~alcoholic content~~ of the  
2584 blood and to a urine test to detect the presence of controlled  
2585 substances, if there is probable cause to believe that the  
2586 person was using a firearm while impaired by ~~under the influence~~  
2587 ~~of~~ alcoholic beverages or controlled substances or that the  
2588 person is lawfully arrested for any offense allegedly committed  
2589 while he or she was using a firearm while impaired by ~~under the~~  
2590 ~~influence of~~ alcoholic beverages or controlled substances. The  
2591 breath test shall be incidental to a lawful arrest and  
2592 administered at the request of a law enforcement officer who has  
2593 probable cause to believe such person was using the firearm  
2594 within this state while impaired by ~~under the influence of~~  
2595 alcoholic beverages. The urine test shall be incidental to a  
2596 lawful arrest and administered at a detention facility, mobile  
2597 or otherwise, which is equipped to administer such tests at the  
2598 request of a law enforcement officer who has probable cause to  
2599 believe such person was using a firearm within this state while  
2600 impaired by ~~under the influence of~~ controlled substances. The  
2601 urine test shall be administered at a detention facility or any  
2602 other facility, mobile or otherwise, which is equipped to  
2603 administer such tests in a reasonable manner that will ensure  
2604 the accuracy of the specimen and maintain the privacy of the

2605 individual involved. The administration of either test shall not  
 2606 preclude the administration of the other test. The refusal to  
 2607 submit to a chemical or physical breath or urine test upon the  
 2608 request of a law enforcement officer as provided in this section  
 2609 shall be admissible into evidence in any criminal proceeding.  
 2610 This section shall not hinder the taking of a mandatory blood  
 2611 test as outlined in s. 790.155.

2612 (b) If the arresting officer does not request a chemical  
 2613 or physical test of the person arrested for any offense  
 2614 allegedly committed while the person was using a firearm while  
 2615 impaired by ~~under the influence of~~ alcoholic beverages or  
 2616 controlled substances, such person may request the arresting  
 2617 officer to have a chemical or physical test made of the arrested  
 2618 person's breath to determine ~~for the purpose of determining~~ the  
 2619 alcohol concentration ~~alcoholic content~~ of the person's blood or  
 2620 a chemical test of urine or blood to determine ~~for the purpose~~  
 2621 ~~of determining~~ the presence of controlled substances, ~~and~~ if  
 2622 so requested, the arresting officer shall have the test  
 2623 performed.

2624 (c) The provisions of s. 316.1932(1)(f) ~~relating to~~  
 2625 administration of tests for determining the amount ~~weight~~ of  
 2626 alcohol in the defendant's blood, additional tests at the  
 2627 defendant's expense, availability of test information to the  
 2628 defendant or the defendant's attorney, and liability of medical  
 2629 institutions and persons administering such tests are  
 2630 incorporated into this section ~~act~~.

2631 (2) The results of any test administered pursuant to this  
 2632 section to detect ~~for the purpose of detecting~~ the presence of

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2633 any controlled substance are not ~~shall not be~~ admissible as  
2634 evidence in a criminal prosecution for the possession of a  
2635 controlled substance.

2636 (3) Notwithstanding any provision of law pertaining to the  
2637 confidentiality of hospital records or other medical records,  
2638 information obtained pursuant to this section shall be released  
2639 to a court, prosecuting attorney, defense attorney, or law  
2640 enforcement officer in connection with an alleged violation of  
2641 s. 790.151 upon request for such information.

2642 Section 49. Section 790.155, Florida Statutes, is amended  
2643 to read:

2644 790.155 Blood test for impairment ~~or intoxication~~ in cases  
2645 of death or serious bodily injury; right to use reasonable  
2646 force.—

2647 (1) (a) Notwithstanding any recognized ability to refuse to  
2648 submit to the tests provided in s. 790.153, if a law enforcement  
2649 officer has probable cause to believe that a firearm used by a  
2650 person who was impaired by ~~under the influence of~~ alcoholic  
2651 beverages or controlled substances has caused the death or  
2652 serious bodily injury of a human being, such person shall  
2653 submit, upon the request of a law enforcement officer, to a test  
2654 of his or her blood to determine ~~for the purpose of determining~~  
2655 the alcohol concentration ~~alcoholic content~~ thereof or the  
2656 presence of controlled substances therein. The law enforcement  
2657 officer may use reasonable force if necessary to require such  
2658 person to submit to the administration of the blood test. The  
2659 blood test shall be performed in a reasonable manner.

2660 (b) The term "serious bodily injury" means a physical

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2661 condition which creates a substantial risk of death, serious  
2662 personal disfigurement, or protracted loss or impairment of the  
2663 function of any bodily member or organ.

2664 (2) The provisions of s. 316.1933(2),~~r~~ relating to blood  
2665 tests for impairment or intoxication,~~r~~ are incorporated into this  
2666 section ~~act~~.

2667 (3) (a) Any criminal charge resulting from the incident  
2668 giving rise to the officer's demand for testing should be tried  
2669 concurrently with a charge of any violation of s. 790.151. If  
2670 such charges are tried separately, the fact that such person  
2671 refused, resisted, obstructed, or opposed testing is ~~shall be~~  
2672 admissible at the trial of the criminal offense which gave rise  
2673 to the demand for testing.

2674 (b) The results of any test administered pursuant to this  
2675 section to detect ~~for the purpose of detecting~~ the presence of  
2676 any controlled substance are not ~~shall not be~~ admissible as  
2677 evidence in a criminal prosecution for the possession of a  
2678 controlled substance.

2679 (4) Notwithstanding any provision of law pertaining to the  
2680 confidentiality of hospital records or other medical records,  
2681 information obtained pursuant to this section shall be released  
2682 to a court, prosecuting attorney, defense attorney, or law  
2683 enforcement officer in connection with an alleged violation of  
2684 s. 790.151 upon request for such information.

2685 Section 50. This act shall take effect July 1, 2014.