

By Senator DiCeglie

18-00283-24

2024260__

A bill to be entitled

An act relating to refusal to submit to a breath, urine, or blood test; amending s. 316.1932, F.S.; requiring a person arrested for driving under the influence who refuses to submit to a lawful test of his or her breath to be told that he or she is subject to mandatory placement, at his or her own expense and for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; making technical changes; amending s. 316.1939, F.S.; requiring a person who refuses to submit to a lawful test of his or her breath to be subject to mandatory placement, at his or her expense and for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; providing applicability; conforming provisions to changes made by the act; amending s. 322.2615, F.S.; requiring certain information to be contained in a notice of suspension; decreasing the period during which a person whose driver license is suspended for failure to submit to a breath, urine, or blood test is not eligible to receive a license for business or employment purposes only; waiving the requirement to install an ignition interlock device under certain circumstances; amending s. 322.2616, F.S.; requiring certain information to be contained in a notice of suspension; waiving the requirement to install an

18-00283-24

2024260__

ignition interlock device under certain circumstances;
amending s. 322.2715, F.S.; directing the Department
of Highway Safety and Motor Vehicles to require
placement of an ignition interlock device before
issuing a permanent or restricted driver license to a
person who refused to submit to a lawful test of his
or her breath; requiring the person to install the
device at his or her own expense for a specified
period; providing an effective date.

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

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

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

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

18-00283-24

2024260__

in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will, for a first refusal, result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year and the person will be subject to mandatory placement for 1 continuous year, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 on all vehicles that are individually or jointly leased or owned and routinely operated by the person, when the person qualifies for reinstatement of a permanent or restricted driver license. ~~for a first refusal, or for a period of 18 months~~ If the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, the person must be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for 18 months and the person will be subject to mandatory placement for 18 continuous months, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 on all vehicles that are individually or jointly leased or owned and routinely operated by the person, when the person qualifies for reinstatement of a permanent or restricted driver license. The person must ~~and shall~~ also be told that if he or she refuses to

18-00283-24

2024260__

88 submit to a lawful test of his or her breath and his or her
89 driving privilege has been previously suspended or if he or she
90 has previously been fined under s. 327.35215 for a prior refusal
91 to submit to a lawful test of his or her breath, urine, or blood
92 as required under this chapter or chapter 327, he or she commits
93 a misdemeanor of the first degree, punishable as provided in s.
94 775.082 or s. 775.083, in addition to any other penalties
95 provided by law. The refusal to submit to a chemical or physical
96 breath test upon the request of a law enforcement officer as
97 provided in this section is admissible into evidence in any
98 criminal proceeding.

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

18-00283-24

2024260__

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

140 2. The Alcohol Testing Program within the Department of Law
141 Enforcement is responsible for the regulation of the operation,
142 inspection, and registration of breath test instruments used
143 ~~utilized~~ under the driving and boating under the influence
144 provisions and related provisions located in this chapter and
145 chapters 322 and 327. The program is responsible for the

18-00283-24

2024260__

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

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

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

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

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

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

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

170 g. Have the authority to approve or disapprove breath test
171 instruments and accompanying paraphernalia for use pursuant to
172 the driving and boating under the influence provisions and
173 related provisions located in this chapter and chapters 322 and
174 327.

18-00283-24

2024260__

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

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

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

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

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

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

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

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

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

18-00283-24

2024260__

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

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

316.1939 Refusal to submit to testing; penalties.—

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

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

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

18-00283-24

2024260__

alcoholic beverages, chemical substances, or controlled substances;

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

(c) Who was informed that:~~7~~

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

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

(d) Who was informed that a refusal to submit to a lawful test of his or her breath or urine, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of

18-00283-24

2024260__

the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and

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

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

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

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

Section 3. Present subsections (12) through (16) of section 322.2615, Florida Statutes, are redesignated as subsections (13) through (17), respectively, a new subsection (12) is added to that section, and subsection (1) and paragraph (a) of subsection (10) of that section are amended, to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who is driving or in actual physical

18-00283-24

2024260__

control of a motor vehicle and who has an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, or of a person who has refused to submit to a urine test or a test of his or her breath-alcohol or blood-alcohol level. The officer shall take the person's driver license and issue the person a 10-day temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the officer or the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person's driver license pursuant to subsection (3).

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

1.a. The driver refused to submit to a lawful breath, ~~blood, or urine~~ test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal, or 18 continuous months for a second or subsequent refusal, on all vehicles that he or she individually or jointly leases or owns and routinely operates, when he or she qualifies for reinstatement of a permanent or

18-00283-24

2024260__

320 restricted driver license;

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

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

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

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

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

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

344 (10) A person whose driver license is suspended under
345 subsection (1) or subsection (3) may apply for issuance of a
346 license for business or employment purposes only if the person
347 is otherwise eligible for the driving privilege pursuant to s.
348 322.271.

18-00283-24

2024260__

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

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

Section 4. Present subsections (13) through (19) of section 322.2616, Florida Statutes, are redesignated as subsections (14) through (20), respectively, a new subsection (13) is added to that section, and subsection (2) of that section is amended, to read:

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

(2)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of such person if the person has a blood-alcohol or breath-alcohol level of 0.02 or higher. The officer shall also

18-00283-24

2024260__

suspend, on behalf of the department, the driving privilege of a person who has refused to submit to a test as provided by paragraph (b). The officer shall take the person's driver license and issue the person a 10-day temporary driving permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension.

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

1.a. The driver refused to submit to a lawful breath test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as provided in this section as a result of a refusal to submit to a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal, or 18 continuous months for a second or subsequent refusal, on all vehicles that he or she individually or jointly leases or owns and routinely operates, when he or she qualifies for reinstatement of a permanent or restricted driver license; or

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

18-00283-24

2024260__

407 a motor vehicle with a blood-alcohol or breath-alcohol level of
408 0.02 or higher.

409 2. The suspension period commences on the date of issuance
410 of the notice of suspension.

411 3. The driver may request a formal or informal review of
412 the suspension by the department within 10 days after the
413 issuance of the notice of suspension.

414 4. A temporary permit issued at the time of the issuance of
415 the notice of suspension shall not become effective until after
416 12 hours have elapsed and will expire at midnight of the 10th
417 day following the date of issuance.

418 5. The driver may submit to the department any materials
419 relevant to the suspension of his or her license.

420 (c) When a driver subject to this section has a blood-
421 alcohol or breath-alcohol level of 0.05 or higher, the
422 suspension shall remain in effect until such time as the driver
423 has completed a substance abuse course offered by a DUI program
424 licensed by the department. The driver shall assume the
425 reasonable costs for the substance abuse course. As part of the
426 substance abuse course, the program shall conduct a substance
427 abuse evaluation of the driver, and notify the parents or legal
428 guardians of drivers under the age of 19 years of the results of
429 the evaluation. The term "substance abuse" means the abuse of
430 alcohol or any substance named or described in Schedules I
431 through V of s. 893.03. If a driver fails to complete the
432 substance abuse education course and evaluation, the driver
433 license shall not be reinstated by the department.

434 (d) A minor under the age of 18 years proven to be driving
435 with a blood-alcohol or breath-alcohol level of 0.02 or higher

18-00283-24

2024260__

may be taken by a law enforcement officer to the addictions receiving facility in the county in which the minor is found to be so driving, if the county makes the addictions receiving facility available for such purpose.

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

Section 5. Present subsection (5) of section 322.2715, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (1) of that section is amended, to read:

322.2715 Ignition interlock device.—

(1) Before issuing a permanent or restricted driver license under this chapter, the department shall require the placement of a department-approved ignition interlock device for any person convicted of committing an offense of driving under the influence as specified in subsection (3), or for any person who refused to submit to a lawful test of his or her breath as specified in subsection (5), except that consideration may be given to those individuals having a documented medical condition that would prohibit the device from functioning normally. If a medical waiver has been granted for a ~~convicted~~ person seeking a restricted license, the ~~convicted~~ person shall not be entitled to a restricted license until the required ignition interlock device installation period under subsection (3) or subsection (5) expires, in addition to the time requirements under s.

18-00283-24

2024260__

322.271. If a medical waiver has been approved for a ~~convicted~~ person seeking permanent reinstatement of the driver license, the ~~convicted~~ person must be restricted to an employment-purposes-only license and be supervised by a licensed DUI program until the required ignition interlock device installation period under subsection (3) or subsection (5) expires. An interlock device shall be placed on all vehicles that are individually or jointly leased or owned and routinely operated by the ~~convicted~~ person.

(5) If a person refused to submit to a lawful test of his or her breath as required by s. 316.1932(1)(a)1.a., he or she must install, at his or her own expense, an ignition interlock device on all vehicles individually or jointly leased or owned and routinely operated by the person, for 1 continuous year for a first refusal or for 18 continuous months for a second or subsequent refusal, upon reinstatement of a permanent or restricted driver license.

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