

Council Substitute for
Committee Substitute for House Bill No. 1057

An act relating to driving or boating under the influence of alcohol or controlled substances; amending s. 316.193, F.S.; reducing the number of convictions required for a felony DUI; requiring mandatory placement of an ignition interlock device under certain circumstances; revising conditions for conviction in cases of accident, serious bodily injury, or death; removing a cross reference; amending s. 316.1932, F.S.; requiring a law enforcement officer to inform a person that refusal to submit to certain tests is a misdemeanor; amending s. 316.1933, F.S.; requiring a person to submit to a blood test under certain circumstances; amending s. 316.1937, F.S.; requiring placement of an ignition interlock device under certain circumstances; providing for supervision and reporting to the department; directing the court regarding requirements for ignition interlock devices; creating s. 316.1939, F.S.; providing a penalty for refusing to submit to a chemical or physical test of breath, urine, or blood; providing application; amending s. 327.35, F.S.; reducing the number of convictions required for a felony BUI; revising conditions for conviction in cases of accident, serious bodily injury, or death; conforming cross references; amending s. 327.352, F.S.; providing for notification that refusal to submit to a test of breath, blood, or urine under certain circumstances is a misdemeanor; amending s. 327.353, F.S.; requiring a person to submit to a blood test under certain circumstances; providing that the test need not be incidental to a lawful arrest; creating s. 327.359, F.S.; providing a penalty for refusing to submit to a chemical or physical test of breath, urine, or blood; providing application; amending s. 921.0022, F.S.; revising provisions relating to certain DUI offenses; including certain BUI offenses within the offense severity ranking chart; amending s. 938.07, F.S.; providing for application of a fee to persons found guilty of boating under the influence; conforming a cross reference; amending s. 943.05, F.S.; providing for adoption of rules and forms for making DUI arrests; providing an appropriation; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 316.193, Florida Statutes, are amended, and subsection (11) is added to said section, to read:

316.193 Driving under the influence; penalties.—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

- a. Not less than \$250 or more than \$500 for a first conviction.
 - b. Not less than \$500 or more than \$1,000 for a second conviction.
 - ~~e. Not less than \$1,000 or more than \$2,500 for a third conviction; and~~
2. By imprisonment for:
 - a. Not more than 6 months for a first conviction.
 - b. Not more than 9 months for a second conviction.
 - ~~e. Not more than 12 months for a third conviction.~~

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

~~(b)1. Any person who is convicted of a third fourth or subsequent violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.~~

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$1,000 or more than \$2,500 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.; However, the fine imposed for such fourth or subsequent violation may be not less than \$1,000.

- (3) Any person:

- (a) Who is in violation of subsection (1);
- (b) Who operates a vehicle; and
- (c) Who, by reason of such operation, causes or contributes to causing:

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

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

3. The death of any human being commits DUI manslaughter, and commits:

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

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

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

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

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

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

2. Not less than \$1,000 or more than \$2,000 for a second conviction.

3. Not less than \$2,000 ~~or more than \$5,000~~ for a third or subsequent conviction.

(b) By imprisonment for:

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

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

~~3. Not more than 12 months for a third conviction.~~

For the purposes of this subsection, ~~any conviction for a violation of s. 327.35,~~ only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for up to 6 months for the first offense and for at least 2 years for a second offense, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

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

Section 2. Section 316.1932, Florida Statutes, is amended to read:

316.1932 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; refusal right to refuse.—

(1)(a)1. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so 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, and to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances, 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, chemical substances, or controlled substances. 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 in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of one type of test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath or urine, or both, will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath or urine, or both, and his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, he or she commits a misde-

meanor in addition to any other penalties. The refusal to submit to a chemical or physical breath test or to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program shall:

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

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

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

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

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

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

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

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 which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with the provisions of 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. 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 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 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.

Nothing in this section 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.

(b)1. The blood-alcohol level must be based upon grams of alcohol per 100 milliliters of blood. The breath-alcohol level must be based upon grams of alcohol per 210 liters of breath.

2. An analysis of a person's breath, in order to be considered valid under this section, must have been performed substantially according to methods approved by the Department of Law Enforcement. For this purpose, the department may approve satisfactory techniques or methods. Any insubstantial differences between approved techniques and actual testing procedures in any individual case do not render the test or test results invalid.

(c) Any 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 blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or

her consent to such test. A blood test may be administered whether or not the person is told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle upon the public highways of this state and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of the person has been suspended previously as a result of a refusal to submit to such a test or tests, and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. The refusal to submit to a blood test upon the request of a law enforcement officer is admissible in evidence in any criminal proceeding.

(d) If the arresting officer does not request a chemical or physical breath test of the person 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 or controlled substances, such person may request the arresting officer to have a chemical or physical test made of the arrested person's breath or a test of the urine or blood for the purpose of determining the alcoholic content of the person's blood or breath or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

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

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

3. A warning of the consent provision of this section shall be printed above the signature line on each new or renewed driver's license.

(f)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. Such rules must specify precisely the test or tests that are approved by the Department of Law Enforcement for reliability of result and ease of administration, and must provide an approved method of administration which must be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

2.a. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or

duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining its alcoholic content or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

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

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

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

e. A civil, criminal, or administrative action may not be brought against any person or health care provider participating in good faith in the provision of notice or failure to provide notice as provided in this section. Any person or health care provider participating in the provision of notice or failure to provide notice as provided in this section shall be immune from any civil or criminal liability and from any professional disciplinary action with respect to the provision of notice or failure to provide notice under this section. Any such participant has the same immunity with respect to participating in any judicial proceedings resulting from the notice or failure to provide notice.

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his or her own choosing administer an independent test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath. The failure

or inability to obtain an independent test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney.

5. A hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer does not incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

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

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or breath or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 316.193 upon request for such information.

Section 3. Subsection (1) of section 316.1933, Florida Statutes, is amended to read:

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

(1)(a) ~~Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 316.1932 or any recognized power to revoke the implied consent to such tests,~~ If a law enforcement officer has probable cause to believe that a motor vehicle driven by or in the actual physical control of a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, ~~such person shall submit, upon the request of a law enforcement officer~~ shall require the person driving or in actual physical control of the motor vehicle to submit, to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood

test. The blood test shall be performed in a reasonable manner. Notwithstanding s. 316.1932, the testing required by this paragraph need not be incidental to a lawful arrest of the person.

(b) The term “serious bodily injury” means an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 4. Section 316.1937, Florida Statutes, is amended to read:

316.1937 Ignition interlock devices, requiring; unlawful acts.—

(1) In addition to any other authorized penalties, the court may require that any person who is convicted of driving under the influence in violation of s. 316.193, ~~and who is granted probation,~~ shall not operate a motor vehicle ~~during the period of probation~~ unless that vehicle is equipped with a functioning ignition interlock device certified by the department as provided in s. 316.1938, and installed in such a manner that the vehicle will not start if the operator’s blood alcohol level is in excess of 0.05 percent or as otherwise specified by the court. The court may require the use of an approved ignition interlock device for ~~a the period of probation, said period to be for~~ not less than 6 months, if the person is permitted to operate a motor vehicle, whether or not the privilege to operate a motor vehicle is restricted ~~or not,~~ as determined by the court. The court, however, shall order placement of an ignition interlock device in those circumstances required by s. 316.193.

(2) If the court imposes the use of an ignition interlock device ~~as a condition of probation,~~ the court shall:

(a) Stipulate on the record the requirement for, and the period of, the use of a certified ignition interlock device.

(b) Order that the records of the department reflect such requirement.

(c) Order that an ignition interlock device be installed, as the court may determine necessary, on any vehicle owned or operated by the person probationer.

(d) Determine the person’s probationer’s ability to pay for installation of the device if the person probationer claims inability to pay. If the court determines that the person probationer is unable to pay for installation of the device, the court may order that any portion of a fine paid by the person probationer for a violation of s. 316.193 shall be allocated to defray the costs of installing the device.

(e) Require proof of installation of the device and periodic reporting to the department probation officer for verification of the operation of the device in the person’s probationer’s vehicle.

(3) If the court imposes the use of an ignition interlock device ~~as a term of probation~~ on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance to the

department probation officer within 30 days. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall notify the department ~~revoke or terminate the person's probation.~~

(4) If the court imposes the use of an ignition interlock device ~~as a term of probation~~ on a person whose driving privilege is suspended or revoked for a period of less than 3 years, the department shall require proof of compliance before reinstatement of the person's driving privilege.

(5)(a) In addition to any other provision of law, upon conviction of a violation of this section the department shall revoke the person's driving privilege for 1 year from the date of conviction. Upon conviction of a separate violation of this section during the same period of required use of an ignition interlock device, the department shall revoke the person's driving privilege for 5 years from the date of conviction.

(b) Any person convicted of a violation of subsection (6) who does not have a driver's license shall, in addition to any other penalty provided by law, pay a fine of not less than \$250 or more than \$500 per each such violation. In the event that the person is unable to pay any such fine, the fine shall become a lien against the motor vehicle used in violation of subsection (6) and payment shall be made pursuant to s. 316.3025(4).

(6)(a) It is unlawful to tamper with, or to circumvent the operation of, a court-ordered ignition interlock device.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to this section to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to this section.

(d) It is unlawful to knowingly lease or lend a motor vehicle to a person who has had his or her driving privilege restricted ~~under a condition of probation~~ as provided in this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted under a condition of probation requiring an ignition interlock device shall notify any other person who leases or loans a motor vehicle to him or her of such driving restriction.

(7) Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of his or her employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not

apply, however, if the business entity which owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

(8) In addition to the penalties provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 5. Section 316.1939, Florida Statutes, is created to read:

316.1939 Refusal to submit to testing; penalties.—

(1) Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, 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 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, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath, urine, or blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor; 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.

(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 this section.

(3) The disposition of a criminal action under 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 shall be admissible and shall create a rebuttable presumption of such suspension.

Section 6. Subsections (2), (3), and (4) of section 327.35, Florida Statutes, are amended to read:

327.35 Boating under the influence; penalties; “designated drivers”.—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:
 - a. Not less than \$250 or more than \$500 for a first conviction.
 - b. Not less than \$500 or more than \$1,000 for a second conviction.
 - ~~e. Not less than \$1,000 or more than \$2,500 for a third conviction;~~ and
2. By imprisonment for:
 - a. Not more than 6 months for a first conviction.
 - b. Not more than 9 months for a second conviction.
 - ~~e. Not more than 12 months for a third conviction.~~

~~(b)1. Any person who is convicted of a third fourth or subsequent violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$1,000 or more than \$2,500 and by imprisonment for not more than 12 months.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

However, the fine imposed for such fourth or subsequent violation may not be less than \$1,000.

- (3) Any person:
 - (a) Who is in violation of subsection (1);
 - (b) Who operates a vessel; and
 - (c) Who, by reason of such operation, causes or contributes to causing:
 1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
 2. Serious bodily injury to another, as defined in s. ~~327.353~~ ~~316.1933~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being commits BUI manslaughter, and commits:

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

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

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

(II) The person failed to give information and render aid as required by s. 327.30 ~~316.062~~.

This sub-subparagraph does not require that the person knew that the accident resulted in injury or death.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$500 or more than \$1,000 for a first conviction.
2. Not less than \$1,000 or more than \$2,000 for a second conviction.
3. Not less than \$2,000 ~~or more than \$5,000~~ for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.
3. ~~Not more than 12 months for a third conviction.~~

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

Section 7. Section 327.352, Florida Statutes, is amended to read:

327.352 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; refusal ~~right to refuse~~.—

(1)(a) The Legislature declares that the operation of a vessel is a privilege that must be exercised in a reasonable manner. In order to protect the public health and safety, it is essential that a lawful and effective means of reducing the incidence of boating while impaired or intoxicated be established.

Therefore, any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by so operating such vessel, 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, and to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances, if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages, chemical substances, or controlled substances. 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 operating the vessel within this state while under the influence of alcoholic beverages. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was operating a vessel within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of one type of test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath or urine, or both, will result in a civil penalty of \$500, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath or urine, or both, and he or she has been previously fined for refusal to submit to any lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor in addition to any other penalties. The refusal to submit to a chemical or physical breath or urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

(b)1. The blood-alcohol level must be based upon grams of alcohol per 100 milliliters of blood. The breath-alcohol level must be based upon grams of alcohol per 210 liters of breath.

2. An analysis of a person's breath, in order to be considered valid under this section, must have been performed substantially according to methods approved by the Department of Law Enforcement. Any insubstantial differences between approved techniques and actual testing procedures in any individual case do not render the test or test results invalid.

3. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322. The program is further responsible for the regulation of blood analysts who

conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322. The program shall:

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

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

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

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

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

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

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322.

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 which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

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

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 316, or chapter 322.

l. 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 utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under

the influence provisions and related provisions located in this chapter and chapters 316 and 322.

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

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 316 and 322. 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.

(c) Any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by operating such vessel, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was operating a vessel while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in a civil penalty of \$500 and that a refusal to submit to a lawful test of his or her blood, if he or she has previously been fined for refusal to submit to any lawful test of his or her breath, urine, or blood, is a misdemeanor. The refusal to submit to a blood test upon the request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

(d) If the arresting officer does not request a chemical or physical breath test of the person arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages or controlled substances, the person may request the arresting officer to have a chemical or physical test made of the arrested person's breath or a test of the urine or blood for the purpose of determining the alcoholic content of the person's blood or breath or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

(e)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

2. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly

licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining its alcoholic content or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his or her own choosing administer an independent test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath. The failure or inability to obtain an independent test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney.

5. A hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer does not incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

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

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or breath or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 327.35 upon request for such information.

Section 8. Subsection (1) of section 327.353, Florida Statutes, is amended to read:

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

~~(1)(a) Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 327.352 or any recognized power to revoke the implied consent to such tests,~~ If a law enforcement officer has probable cause to believe that a vessel operated by a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, ~~the person shall submit, upon the request of a law enforcement officer~~ shall require the person operating or in actual physical control of the vessel to submit, to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893. The law enforcement officer may use reasonable force if necessary to require the person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner. Notwithstanding s. 327.352, the testing required by this paragraph need not be incidental to a lawful arrest of the person.

(b) The term “serious bodily injury” means an injury to any person, including the operator, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 9. Section 327.359, Florida Statutes, is created to read:

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

(1) Who the arresting law enforcement officer had probable cause to believe was operating or in actual physical control of a vessel in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(2) Who was placed under lawful arrest for a violation of s. 327.35 unless such test was requested pursuant to s. 327.352(1)(c);

(3) Who was informed that if he or she refused to submit to such test he or she is subject to a fine of \$500;

(4) Who was informed that a refusal to submit to a lawful test of his or her breath, urine, or blood, if he or she has been previously fined for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor; and

(5) 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.

Section 10. Paragraphs (c) and (i) of subsection (3) of section 921.0022, Florida Statutes, as amended by chapter 2001-358, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
<u>316.193(2)(b)</u>	<u>3rd</u>	<u>Felony DUI, 3rd conviction.</u>
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
<u>327.35(2)(b)</u>	<u>3rd</u>	<u>Felony BUI.</u>
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.

Florida Statute	Felony Degree	Description
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8)&(9)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of public housing facility.

Florida Statute	Felony Degree	Description
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
(i) LEVEL 9		
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
<u>327.35(3)(c)3.b.</u>	<u>1st</u>	<u>BUI manslaughter; failing to render aid or give information.</u>
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
755.0844	1st	Aggravated white collar crime.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

Florida Statute	Felony Degree	Description
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.

Florida Statute	Felony Degree	Description
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135 (1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(j)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

Section 11. Section 938.07, Florida Statutes, is amended to read:

938.07 Driving or boating under the influence.—Notwithstanding any other provision of s. 316.193 or s. 327.35, a court cost of \$135 shall be added to any fine imposed pursuant to s. 316.193 or s. 327.35. The clerks shall

remit the funds to the Department of Revenue, \$25 of which shall be deposited in the Emergency Medical Services Trust Fund, \$50 shall be deposited in the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses in conducting the statewide criminal analysis laboratory system established in s. 943.32, and \$60 shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 381.79.

Section 12. Paragraph (d) of subsection (2) of section 943.05, Florida Statutes, is amended to read:

943.05 Criminal Justice Information Program; duties; crime reports.—

(2) The program shall:

(d) Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the automated fingerprint identification system and uniform offense reports and arrest reports. The rules shall be considered minimum requirements and shall not preclude a criminal justice agency from implementing its own enhancements. However, rules and forms prescribing uniform arrest or probable cause affidavits and alcohol influence reports to be used by all law enforcement agencies in making DUI arrests under s. 316.193 shall be adopted, and shall be used by all law enforcement agencies in this state. The rules and forms prescribing such uniform affidavits and reports shall be adopted and implemented by July 1, 2004. Failure to use these uniform affidavits and reports, however, shall not prohibit prosecution under s. 316.193.

Section 13. The sum of \$216,062 is appropriated for fiscal year 2002-2003 from recurring general revenue to the Department of Corrections to be used for the purpose of implementing this act.

Section 14. This act shall take effect July 1, 2002.

Approved by the Governor May 15, 2002.

Filed in Office Secretary of State May 15, 2002.