

By the Committee on Crime & Punishment and Representatives Sindler, Casey, Feeney, Murman, Betancourt, Fischer, Merchant, Saunders, Rojas, Melvin, Safley, Littlefield, Wise, Heyman and Fasano

1 A bill to be entitled
2 An act relating to liabilities for driving
3 offenses; amending s. 316.066, F.S., relating
4 to written reports of accidents; removing
5 provisions under which an accident report or
6 statements to a law enforcement officer made by
7 a person involved in an accident are without
8 prejudice to the person and may not be used as
9 trial evidence absent exceptional
10 circumstances; abrogating the accident report
11 privilege; providing for lack of privilege,
12 nonconfidentiality, and use as evidence in any
13 trial of administrative hearing of certain
14 reports or statements with respect to accidents
15 resulting in personal injury or death or
16 property damage; providing that results of
17 breath, urine, and blood tests, made for
18 certain purposes of determining whether a
19 person has been driving under the influence of
20 alcohol or a chemical substance or controlled
21 substance, are not privileged; prohibiting use
22 for commercial solicitation purposes of an
23 accident report made by persons involved in a
24 crash; providing for construction; amending s.
25 316.193, F.S., relating to the offense of
26 driving under the influence and penalties;
27 providing third degree felony penalties for a
28 third or subsequent conviction for driving
29 under the influence; conforming provisions with
30 respect to fine amounts and prison terms;
31 removing surplusage to improve clarity and

1 facilitate correct interpretation; providing
2 that a person commits the offense of driving
3 under the influence by driving or being in
4 physical control of a vehicle when any amount
5 of a harmful chemical substance specified under
6 s. 877.111, F.S., or a controlled substance, is
7 present in the person's blood or urine,
8 regardless of the presence of alcohol in the
9 person's breath or blood; providing a defense;
10 providing penalties; reenacting s. 318.143(1),
11 (4), and (5), F.S., relating to sanctions for
12 infractions by minors, s. 318.17(3) and (8),
13 F.S., relating to excepted offenses, s.
14 322.03(2), F.S., relating to driver's license
15 requirement and penalties for violation of
16 requirement, s. 322.0602(2)(a), F.S., relating
17 to Youthful Drunk Driver Visitation Program, s.
18 322.12(2), F.S., relating to examination of
19 driver's license applicants, s. 322.25(5),
20 F.S., relating to forwarding of surrendered
21 licenses and reporting of certain convictions,
22 s. 322.2615(1), (2), (7), (8)(b), (10)(b), and
23 (14), F.S., relating to suspension of license
24 and right to review, s. 322.2616(1)(a), (15),
25 and (18), F.S., relating to suspension of
26 license of person under 21 years of age and
27 right to review, s. 322.264(1)(b), F.S.,
28 relating to definition of "habitual traffic
29 offender," s. 322.271(2)(a) and (c) and (4),
30 F.S., relating to authority to modify
31 revocation, cancellation, or suspension order,

1 s. 322.282(2)(a), F.S., relating to procedure
2 when court revokes or suspends license or
3 driving privilege and orders reinstatement, s.
4 322.291, F.S., relating to driver improvement
5 school course requirements for certain
6 violators, s. 322.44, F.S., relating to Driver
7 License Compact, s. 322.62(3), F.S., relating
8 to driving-under-the-influence violations by
9 commercial motor vehicle operators, s.
10 322.63(2)(d) and (6), F.S., relating to alcohol
11 or drug testing of commercial motor vehicle
12 operators, s. 322.64(1), (2), (7)(a), (8)(b),
13 (14), and (15), F.S., relating to driving with
14 unlawful blood-alcohol level and refusal to
15 submit to breath, urine, or blood test by
16 holder of commercial driver's license, s.
17 327.35(6), F.S., relating to
18 boating-under-the-influence offenses and
19 penalties, s. 397.405(10), F.S., relating to
20 certain licensure exemptions, s. 440.09(7)(b),
21 F.S., relating to worker's compensation
22 coverage, s. 493.6101(1)(d), F.S., relating to
23 certain license requirements, s. 627.758(4),
24 F.S., relating to conditions and limit for
25 surety on auto club traffic arrest bond and
26 bail bond; s. 790.06(2)(f) and (10)(f), F.S.,
27 relating to license to carry concealed weapon
28 or firearm, s. 903.36(2), F.S., relating to
29 guaranteed arrest bond certificates as cash
30 bail, s. 921.0022(3), (g), (h), and (i), F.S.,
31 relating to the Criminal Punishment Code

1 offense severity ranking chart, s. 938.07,
2 F.S., relating to court costs for the offense
3 of driving under the influence, s. 938.21,
4 F.S., relating to alcohol and drug abuse
5 programs, s. 938.23(1), F.S., relating to
6 assistance grants for alcohol and other drug
7 abuse programs, and s. 960.03(3)(b), F.S.,
8 relating to certain definitions with respect to
9 crimes compensation, to incorporate said
10 amendment in references; amending s. 921.0022,
11 F.S.; conforming provisions in the Criminal
12 Punishment Code offense severity ranking chart;
13 providing an effective date.
14

15 Be It Enacted by the Legislature of the State of Florida:
16

17 Section 1. Subsection (4) of section 316.066, Florida
18 Statutes, is amended to read:

19 316.066 Written reports of accidents.--

20 (4)(a) The accident report privilege is hereby
21 abrogated. Reports or statements required by this section or
22 s. 316.062 are not confidential or privileged and may be used
23 as evidence in any civil or criminal trial or administrative
24 hearing, subject to the applicable rules of evidence.~~Except~~
25 ~~as specified in this subsection, each accident report made by~~
26 ~~a person involved in an accident and any statement made by~~
27 ~~such person to a law enforcement officer for the purpose of~~
28 ~~completing an accident report required by this section shall~~
29 ~~be without prejudice to the individual so reporting. No such~~
30 ~~report or statement shall be used as evidence in any trial,~~
31 ~~civil or criminal. However, subject to the applicable rules~~

1 ~~of evidence, a law enforcement officer at a criminal trial may~~
2 ~~testify as to any statement made to the officer by the person~~
3 ~~involved in the accident if that person's privilege against~~
4 ~~self-incrimination is not violated.~~

5 **(b)** The results of breath, urine, and blood tests
6 administered as provided in s. 316.1932 or s. 316.1933 are not
7 confidential or privileged and shall be admissible into
8 evidence in accordance with the provisions of s. 316.1934(2).

9 **(c)** Accident reports made by persons involved in a
10 crash ~~accidents~~ shall not be used for commercial solicitation
11 purposes; provided, however, that use of a crash ~~an accident~~
12 report for purposes of publication in a newspaper or other
13 news periodical or a radio or television broadcast shall not
14 be construed as "commercial purpose."

15 Section 2. Subsections (1), (2), and (4) of section
16 316.193, Florida Statutes, are amended to read:

17 316.193 Driving under the influence; penalties.--

18 (1) A person is guilty of the offense of driving under
19 the influence and is subject to punishment as provided in
20 subsection (2) if the person is driving or in actual physical
21 control of a vehicle within this state and:

22 (a) The person is under the influence of alcoholic
23 beverages, any chemical substance set forth in s. 877.111, or
24 any substance controlled under chapter 893, when affected to
25 the extent that the person's normal faculties are impaired;

26 (b) The person has a blood-alcohol level of 0.08 or
27 more grams of alcohol per 100 milliliters of blood; ~~or~~

28 (c) The person has a breath-alcohol level of 0.08 or
29 more grams of alcohol per 210 liters of breath; ~~or-~~

30 **(d)** There is any amount of a chemical substance set
31 forth in s. 877.111, or any substance the possession of which

1 is unlawful pursuant to s. 893.13, present in the person's
2 blood or urine, or both, including the metabolites and
3 derivatives of each or both, without regard to whether or not
4 any alcohol is present in the person's breath or blood. It is
5 a defense to this paragraph that the person consumed the
6 chemical substance or controlled substance under a valid
7 prescription or order made in the course of a licensed
8 practitioner's professional practice.

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

12 1. By a fine of:

13 a. Not less than \$250 or more than \$500 for a first
14 conviction; ~~or-~~

15 b. Not less than \$500 or more than \$1,000 for a second
16 conviction; ~~and-~~

17 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
18 ~~third conviction; and~~

19 2. By imprisonment for:

20 a. Not more than 6 months for a first conviction.

21 b. Not more than 9 months for a second conviction.

22 ~~c. Not more than 12 months for a third conviction.~~

23 (b) Any person who is convicted of a third ~~fourth~~ or
24 subsequent violation of this section is guilty of a felony of
25 the third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084; however, the fine imposed for such
27 third ~~fourth~~ or subsequent violation may be not less than
28 \$1,000.

29 (3) Any person:

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

31 (b) Who operates a vehicle; and

- 1 (c) Who, by reason of such operation, causes:
- 2 1. Damage to the property or person of another commits
- 3 a misdemeanor of the first degree, punishable as provided in
- 4 s. 775.082 or s. 775.083.
- 5 2. Serious bodily injury to another, as defined in s.
- 6 316.1933, commits a felony of the third degree, punishable as
- 7 provided in s. 775.082, s. 775.083, or s. 775.084.
- 8 3. The death of any human being commits DUI
- 9 manslaughter, and commits:
- 10 a. A felony of the second degree, punishable as
- 11 provided in s. 775.082, s. 775.083, or s. 775.084.
- 12 b. A felony of the first degree, punishable as
- 13 provided in s. 775.082, s. 775.083, or s. 775.084, if:
- 14 (I) At the time of the accident, the person knew, or
- 15 should have known, that the accident occurred; and
- 16 (II) The person failed to give information and render
- 17 aid as required by s. 316.062.
- 18 (4) Any person who is convicted of a violation of
- 19 subsection (1) and who has a blood-alcohol level or
- 20 breath-alcohol level of 0.20 or higher, or any person who is
- 21 convicted of a violation of subsection (1) and who at the time
- 22 of the offense was accompanied in the vehicle by a person
- 23 under the age of 18 years, shall be punished:
- 24 (a) By a fine of:
- 25 1. Not less than \$500 or more than \$1,000 for a first
- 26 conviction.
- 27 2. Not less than \$1,000 or more than \$2,000 for a
- 28 second conviction.
- 29 3. Not less than \$2,000 or more than \$5,000 for a
- 30 third conviction.
- 31 (b) By imprisonment for:

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

4
5 For the purposes of this subsection, ~~any conviction for a~~
6 ~~violation of s. 327.35,~~ only the instant offense is required
7 to be a violation of subsection (1) by a person who has a
8 blood-alcohol level or breath-alcohol level of 0.20 or higher.

9 (5) The court shall place any offender convicted of
10 violating this section on monthly reporting probation and
11 shall require attendance at a substance abuse course licensed
12 by the department; and the agency conducting the course may
13 refer the offender to an authorized service provider for
14 substance abuse evaluation and treatment, in addition to any
15 sentence or fine imposed under this section. The offender
16 shall assume reasonable costs for such education, evaluation,
17 and treatment, with completion of all such education,
18 evaluation, and treatment being a condition of reporting
19 probation. Treatment resulting from a psychosocial evaluation
20 may not be waived without a supporting psychosocial evaluation
21 conducted by an agency appointed by the court and with access
22 to the original evaluation. The offender shall bear the cost
23 of this procedure. The term "substance abuse" means the abuse
24 of alcohol or any substance named or described in Schedules I
25 through V of s. 893.03. If an offender referred to treatment
26 under this subsection fails to report for or complete such
27 treatment or fails to complete the substance abuse education
28 course, the DUI program shall notify the court and the
29 department of the failure. Upon receipt of the notice, the
30 department shall cancel the offender's driving privilege. The
31 department shall reinstate the driving privilege when the

1 offender completes the substance abuse education course or
2 enters treatment required under this subsection. The
3 organization that conducts the substance abuse education and
4 evaluation may not provide required substance abuse treatment
5 unless a waiver has been granted to that organization by the
6 department. A waiver may be granted only if the department
7 determines, in accordance with its rules, that the service
8 provider that conducts the substance abuse education and
9 evaluation is the most appropriate service provider and is
10 licensed under chapter 397 or is exempt from such licensure.
11 All DUI treatment programs providing treatment services on
12 January 1, 1994, shall be allowed to continue to provide such
13 services until the department determines whether a waiver
14 should be granted. A statistical referral report shall be
15 submitted quarterly to the department by each organization
16 authorized to provide services under this section.

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

20 (a) For the first conviction, the court shall place
21 the defendant on probation for a period not to exceed 1 year
22 and, as a condition of such probation, shall order the
23 defendant to participate in public service or a community work
24 project for a minimum of 50 hours; or the court may order
25 instead, that any defendant pay an additional fine of \$10 for
26 each hour of public service or community work otherwise
27 required, if, after consideration of the residence or location
28 of the defendant at the time public service or community work
29 is required, payment of the fine is in the best interests of
30 the state. However, the total period of probation and
31 incarceration may not exceed 1 year.

1 (b) For the second conviction for an offense that
2 occurs within a period of 5 years after the date of a prior
3 conviction for violation of this section, the court shall
4 order imprisonment for not less than 10 days. At least 48
5 hours of confinement must be consecutive.

6 (c) For the third or subsequent conviction for an
7 offense that occurs within a period of 10 years after the date
8 of a prior conviction for violation of this section, the court
9 shall order imprisonment for not less than 30 days. At least
10 48 hours of confinement must be consecutive.

11 (d) In addition to the penalty imposed under paragraph
12 (a), paragraph (b), or paragraph (c), the court shall also
13 order the impoundment or immobilization of the vehicle that
14 was driven by, or in the actual physical control of, the
15 offender, unless the court finds that the family of the owner
16 of the vehicle has no other public or private means of
17 transportation. The period of impoundment or immobilization is
18 10 days, or, for the second conviction within 3 years, 30
19 days, or, for the third conviction within 5 years, 90 days and
20 may not be concurrent with probation or imprisonment. If the
21 vehicle is leased or rented, the period of impoundment or
22 immobilization may not extend beyond the expiration of the
23 lease or rental agreement. Within 7 business days after the
24 date that the court issues the order of impoundment or
25 immobilization, the clerk of the court shall send notice by
26 certified mail, return receipt requested, to the registered
27 owner of the vehicle if the registered owner is a person other
28 than the offender and to each person of record claiming a lien
29 against the vehicle. All costs and fees for the impoundment or
30 immobilization, including the cost of notification, must be
31 paid by the owner of the vehicle or, if the vehicle is leased

1 or rented, by the person leasing or renting the vehicle. The
2 person who owns a vehicle that is impounded or immobilized
3 under this paragraph, or a person who has a lien of record
4 against such a vehicle, may, within 10 days after the date
5 that person has knowledge of the location of the vehicle, file
6 a complaint in the county in which the owner resides to
7 determine whether the vehicle was wrongfully taken or withheld
8 from the owner or lienholder. Upon the filing of a complaint,
9 the owner or lienholder may have the vehicle released by
10 posting with the court a bond or other adequate security equal
11 to the amount of the costs and fees for impoundment or
12 immobilization, including towing or storage, to ensure the
13 payment of such costs and fees if the owner or lienholder does
14 not prevail. When the bond is posted and the fee is paid as
15 set forth in s. 28.24, the clerk of the court shall issue a
16 certificate releasing the vehicle. At the time of release,
17 after reasonable inspection, the owner or lienholder must give
18 a receipt to the towing or storage company indicating any loss
19 or damage to the vehicle or to the contents of the vehicle.

20 (e) A defendant, in the court's discretion, may be
21 required to serve all or any portion of a term of imprisonment
22 to which the defendant has been sentenced pursuant to this
23 section in a residential alcoholism treatment program or a
24 residential drug abuse treatment program. Any time spent in
25 such a program must be credited by the court toward the term
26 of imprisonment.

27
28 For the purposes of this section, any conviction for a
29 violation of s. 327.35; a previous conviction for the
30 violation of former s. 316.1931, former s. 860.01, or former
31 s. 316.028; or a previous conviction outside this state for

1 driving under the influence, driving while intoxicated,
2 driving with an unlawful blood-alcohol level, driving with an
3 unlawful breath-alcohol level, or any other similar
4 alcohol-related or drug-related traffic offense, is also
5 considered a previous conviction for violation of this
6 section. However, in satisfaction of the fine imposed pursuant
7 to this section, the court may, upon a finding that the
8 defendant is financially unable to pay either all or part of
9 the fine, order that the defendant participate for a specified
10 additional period of time in public service or a community
11 work project in lieu of payment of that portion of the fine
12 which the court determines the defendant is unable to pay. In
13 determining such additional sentence, the court shall consider
14 the amount of the unpaid portion of the fine and the
15 reasonable value of the services to be ordered; however, the
16 court may not compute the reasonable value of services at a
17 rate less than the federal minimum wage at the time of
18 sentencing.

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

21 (8) At the arraignment, or in conjunction with any
22 notice of arraignment provided by the clerk of the court, the
23 clerk shall provide any person charged with a violation of
24 this section with notice that upon conviction the court shall
25 suspend or revoke the offender's driver's license and that the
26 offender should make arrangements for transportation at any
27 proceeding in which the court may take such action. Failure
28 to provide such notice does not affect the court's suspension
29 or revocation of the offender's driver's license.

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

1 (a) Until the person is no longer under the influence
2 of alcoholic beverages, any chemical substance set forth in s.
3 877.111, or any substance controlled under chapter 893 and
4 affected to the extent that his or her normal faculties are
5 impaired;

6 (b) Until the person's blood-alcohol level or
7 breath-alcohol level is less than 0.05; or

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

10 (10) The rulings of the Department of Highway Safety
11 and Motor Vehicles under s. 322.2615 shall not be considered
12 in any trial for a violation of this section. Testimony or
13 evidence from the administrative proceedings or any written
14 statement submitted by a person in his or her request for
15 administrative review is inadmissible into evidence or for any
16 other purpose in any criminal proceeding, unless timely
17 disclosed in criminal discovery pursuant to Rule 3.220,
18 Florida Rules of Criminal Procedure.

19 Section 3. For the purpose of incorporating the
20 amendment to section 316.193, Florida Statutes, in references
21 thereto, the following sections or subdivisions of Florida
22 Statutes are reenacted to read:

23 318.143 Sanctions for infractions by minors.--

24 (1) If the court finds that a minor has committed a
25 violation of any of the provisions of chapter 316, the court
26 may also impose one or more of the following sanctions:

27 (a) The court may reprimand or counsel the minor and
28 his or her parents or guardian.

29 (b) The court may require the minor to attend, for a
30 reasonable period, a traffic school conducted by a public
31 authority.

1 (c) The court may order the minor to remit to the
2 general fund of the local governmental body a sum not
3 exceeding the maximum fine applicable to an adult for a like
4 offense.

5 (d) The court may order the minor to participate in
6 public service or a community work project for a minimum
7 number of hours. A minor who participates in such a work
8 program is considered an employee of the state for the
9 purposes of chapter 440.

10 (e) The court may impose a curfew or other restriction
11 on the liberty of the minor for a period not to exceed 6
12 months.

13 (4) For the first conviction for a violation of s.
14 316.193, the court may order the Department of Highway Safety
15 and Motor Vehicles to revoke the minor's driver's license
16 until the minor is 18 years of age. For a second or subsequent
17 conviction for such a violation, the court may order the
18 Department of Highway Safety and Motor Vehicles to revoke the
19 minor's driver's license until the minor is 21 years of age.

20 (5) A minor who is arrested for a violation of s.
21 316.193 may be released from custody as soon as:

22 (a) The minor is no longer under the influence of
23 alcoholic beverages, of any chemical substance set forth in s.
24 877.111, or of any substance controlled under chapter 893, and
25 is not affected to the extent that his or her normal faculties
26 are impaired;

27 (b) The minor's blood-alcohol level is less than 0.05
28 percent; or

29 (c) Six hours have elapsed after the minor's arrest.
30
31

1 318.17 Offenses excepted.--No provision of this
2 chapter is available to a person who is charged with any of
3 the following offenses:

4 (3) Driving, or being in actual physical control of,
5 any vehicle while under the influence of alcoholic beverages,
6 any chemical substance set forth in s. 877.111, or any
7 substance controlled under chapter 893, in violation of s.
8 316.193, or driving with an unlawful blood-alcohol level;

9 (8) Any other offense in chapter 316 which is
10 classified as a criminal violation.

11 322.03 Drivers must be licensed; penalties.--

12 (2) Prior to issuing a driver's license, the
13 department shall require any person who has been convicted two
14 or more times of a violation of s. 316.193 or of a
15 substantially similar alcohol-related or drug-related offense
16 outside this state within the preceding 5 years, or who has
17 been convicted of three or more such offenses within the
18 preceding 10 years, to present proof of successful completion
19 of or enrollment in a department-approved substance abuse
20 education course. If the person fails to complete such
21 education course within 90 days after issuance, the department
22 shall cancel the license. Further, prior to issuing the
23 driver's license the department shall require such person to
24 present proof of financial responsibility as provided in s.
25 324.031. For the purposes of this paragraph, a previous
26 conviction for violation of former s. 316.028, former s.
27 316.1931, or former s. 860.01 shall be considered a previous
28 conviction for violation of s. 316.193.

29 322.0602 Youthful Drunk Driver Visitation Program.--

30 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE
31 FOR PARTICIPATION.--

1 (a) If a person is convicted of a violation of s.
2 316.193, the court may order, as a term and condition of
3 probation in addition to any other term or condition required
4 or authorized by law, that the probationer participate in the
5 Youthful Drunk Driver Visitation Program.

6 322.12 Examination of applicants.--

7 (2) The department shall examine every applicant for a
8 driver's license, including an applicant who is licensed in
9 another state or country, except as otherwise provided in this
10 chapter. A person who holds a learner's driver's license as
11 provided for in s. 322.161 is not required to pay a fee for
12 successfully completing the examination showing his or her
13 ability to operate a motor vehicle as provided for herein and
14 need not pay the fee for a replacement license as provided in
15 s. 322.17(2). Any person who applies for reinstatement
16 following the suspension or revocation of his or her driver's
17 license shall pay a service fee of \$25 following a suspension,
18 and \$50 following a revocation, which is in addition to the
19 fee for a license. Any person who applies for reinstatement of
20 a commercial driver's license following the disqualification
21 of his or her privilege to operate a commercial motor vehicle
22 shall pay a service fee of \$50, which is in addition to the
23 fee for a license. The department shall collect all of these
24 fees at the time of reinstatement. The department shall issue
25 proper receipts for such fees and shall promptly transmit all
26 funds received by it as follows:

27 (a) Of the \$25 fee received from a licensee for
28 reinstatement following a suspension, the department shall
29 deposit \$15 in the General Revenue Fund and the remaining \$10
30 in the Highway Safety Operating Trust Fund.

31

1 (b) Of the \$50 fee received from a licensee for
2 reinstatement following a revocation or disqualification, the
3 department shall deposit \$35 in the General Revenue Fund and
4 the remaining \$15 in the Highway Safety Operating Trust Fund.

5
6 If the revocation or suspension of the driver's license was
7 for a violation of s. 316.193, or for refusal to submit to a
8 lawful breath, blood, or urine test, an additional fee of \$105
9 must be charged. However, only one such \$105 fee is to be
10 collected from one person convicted of such violations arising
11 out of the same incident. The department shall collect the
12 \$105 fee and deposit it into the Highway Safety Operating
13 Trust Fund at the time of reinstatement of the person's
14 driver's license, but the fee must not be collected if the
15 suspension or revocation was overturned.

16 322.25 When court to forward license to department and
17 report convictions; temporary reinstatement of driving
18 privileges.--

19 (5) For the purpose of this chapter, the entrance of a
20 plea of nolo contendere by the defendant to a charge of
21 driving while intoxicated, driving under the influence,
22 driving with an unlawful blood-alcohol level, or any other
23 alcohol-related or drug-related traffic offense similar to the
24 offenses specified in s. 316.193, accepted by the court and
25 under which plea the court has entered a fine or sentence,
26 whether in this state or any other state or country, shall be
27 equivalent to a conviction.

28 322.2615 Suspension of license; right to review.--

29 (1)(a) A law enforcement officer or correctional
30 officer shall, on behalf of the department, suspend the
31 driving privilege of a person who has been arrested by a law

1 enforcement officer for a violation of s. 316.193, relating to
2 unlawful blood-alcohol level or breath-alcohol level, or of a
3 person who has refused to submit to a breath, urine, or blood
4 test authorized by s. 316.1932. The officer shall take the
5 person's driver's license and issue the person a 30-day
6 temporary permit if the person is otherwise eligible for the
7 driving privilege and shall issue the person a notice of
8 suspension. If a blood test has been administered, the results
9 of which are not available to the officer at the time of the
10 arrest, the agency employing the officer shall transmit such
11 results to the department within 5 days after receipt of the
12 results. If the department then determines that the person
13 was arrested for a violation of s. 316.193 and that the person
14 had a blood-alcohol level or breath-alcohol level of 0.08 or
15 higher, the department shall suspend the person's driver's
16 license pursuant to subsection (3).

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

20 1.a. The driver refused to submit to a lawful breath,
21 blood, or urine test and his or her driving privilege is
22 suspended for a period of 1 year for a first refusal or for a
23 period of 18 months if his or her driving privilege has been
24 previously suspended as a result of a refusal to submit to
25 such a test; or

26 b. The driver violated s. 316.193 by driving with an
27 unlawful blood-alcohol level as provided in that section and
28 his or her driving privilege is suspended for a period of 6
29 months for a first offense or for a period of 1 year if his or
30 her driving privilege has been previously suspended for a
31 violation of s. 316.193.

1 2. The suspension period shall commence on the date of
2 arrest or issuance of the notice of suspension, whichever is
3 later.

4 3. The driver may request a formal or informal review
5 of the suspension by the department within 10 days after the
6 date of arrest or issuance of the notice of suspension,
7 whichever is later.

8 4. The temporary permit issued at the time of arrest
9 will expire at midnight of the 30th day following the date of
10 arrest or issuance of the notice of suspension, whichever is
11 later.

12 5. The driver may submit to the department any
13 materials relevant to the arrest.

14 (2) Except as provided in paragraph (1)(a), the law
15 enforcement officer shall forward to the department, within 5
16 days after the date of the arrest, a copy of the notice of
17 suspension, the driver's license of the person arrested, and a
18 report of the arrest, including an affidavit stating the
19 officer's grounds for belief that the person arrested was in
20 violation of s. 316.193; the results of any breath or blood
21 test or an affidavit stating that a breath, blood, or urine
22 test was requested by a law enforcement officer or
23 correctional officer and that the person arrested refused to
24 submit; a copy of the citation issued to the person arrested;
25 and the officer's description of the person's field sobriety
26 test, if any. The failure of the officer to submit materials
27 within the 5-day period specified in this subsection and in
28 subsection (1) shall not affect the department's ability to
29 consider any evidence submitted at or prior to the hearing.
30 The officer may also submit a copy of a videotape of the field
31 sobriety test or the attempt to administer such test.

1 (7) In a formal review hearing under subsection (6) or
2 an informal review hearing under subsection (4), the hearing
3 officer shall determine by a preponderance of the evidence
4 whether sufficient cause exists to sustain, amend, or
5 invalidate the suspension. The scope of the review shall be
6 limited to the following issues:

7 (a) If the license was suspended for driving with an
8 unlawful blood-alcohol level in violation of s. 316.193:

9 1. Whether the arresting law enforcement officer had
10 probable cause to believe that the person was driving or in
11 actual physical control of a motor vehicle in this state while
12 under the influence of alcoholic beverages or controlled
13 substances.

14 2. Whether the person was placed under lawful arrest
15 for a violation of s. 316.193.

16 3. Whether the person had an unlawful blood-alcohol
17 level as provided in s. 316.193.

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

20 1. Whether the arresting law enforcement officer had
21 probable cause to believe that the person was driving or in
22 actual physical control of a motor vehicle in this state while
23 under the influence of alcoholic beverages or controlled
24 substances.

25 2. Whether the person was placed under lawful arrest
26 for a violation of s. 316.193.

27 3. Whether the person refused to submit to any such
28 test after being requested to do so by a law enforcement
29 officer or correctional officer.

30 4. Whether the person was told that if he or she
31 refused to submit to such test his or her privilege to operate

1 a motor vehicle would be suspended for a period of 1 year or,
2 in the case of a second or subsequent refusal, for a period of
3 18 months.

4 (8) Based on the determination of the hearing officer
5 pursuant to subsection (7) for both informal hearings under
6 subsection (4) and formal hearings under subsection (6), the
7 department shall:

8 (b) Sustain the suspension of the person's driving
9 privilege for a period of 6 months for a violation of s.
10 316.193, or for a period of 1 year if the driving privilege of
11 such person has been previously suspended as a result of a
12 violation of s. 316.193. The suspension period commences on
13 the date of the arrest or issuance of the notice of
14 suspension, whichever is later.

15 (10) A person whose driver's license is suspended
16 under subsection (1) or subsection (3) may apply for issuance
17 of a license for business or employment purposes only if the
18 person is otherwise eligible for the driving privilege
19 pursuant to s. 322.271.

20 (b) If the suspension of the driver's license of the
21 person arrested for a violation of s. 316.193, relating to
22 unlawful blood-alcohol level, is sustained, the person is not
23 eligible to receive a license for business or employment
24 purposes only pursuant to s. 322.271 until 30 days have
25 elapsed after the expiration of the 30-day temporary permit
26 issued pursuant to this section or s. 322.64. If the driver
27 is not issued a 30-day permit pursuant to this section or s.
28 322.64 because he or she is ineligible for the permit and the
29 suspension for a violation of s. 316.193, relating to unlawful
30 blood-alcohol level, is not invalidated by the department, the
31 driver is not eligible to receive a business or employment

1 license pursuant to s. 322.271 until 30 days have elapsed from
2 the date of the arrest.

3 (14) The decision of the department under this section
4 shall not be considered in any trial for a violation of s.
5 316.193, nor shall any written statement submitted by a person
6 in his or her request for departmental review under this
7 section be admissible into evidence against him or her in any
8 such trial. The disposition of any related criminal
9 proceedings shall not affect a suspension imposed pursuant to
10 this section.

11 322.2616 Suspension of license; persons under 21 years
12 of age; right to review.--

13 (1)(a) Notwithstanding s. 316.193, it is unlawful for
14 a person under the age of 21 who has a breath-alcohol level of
15 0.02 percent or higher to drive or be in actual physical
16 control of a motor vehicle.

17 (15) The decision of the department under this section
18 shall not be considered in any trial for a violation of s.
19 316.193, nor shall any written statement submitted by a person
20 in his or her request for departmental review under this
21 section be admissible into evidence against him or her in any
22 such trial. The disposition of any related criminal
23 proceedings shall not affect a suspension imposed under this
24 section.

25 (18) A violation of this section is neither a traffic
26 infraction nor a criminal offense, nor does being detained
27 pursuant to this section constitute an arrest. A violation of
28 this section is subject to the administrative action
29 provisions of this section, which are administered by the
30 department through its administrative processes.
31 Administrative actions taken pursuant to this section shall be

1 recorded in the motor vehicle records maintained by the
2 department. This section does not bar prosecution under s.
3 316.193. However, if the department suspends a person's
4 license under s. 322.2615 for a violation of s. 316.193, it
5 may not also suspend the person's license under this section
6 for the same episode that was the basis for the suspension
7 under s. 322.2615.

8 322.264 "Habitual traffic offender" defined.--A
9 "habitual traffic offender" is any person whose record, as
10 maintained by the Department of Highway Safety and Motor
11 Vehicles, shows that such person has accumulated the specified
12 number of convictions for offenses described in subsection (1)
13 or subsection (2) within a 5-year period:

14 (1) Three or more convictions of any one or more of
15 the following offenses arising out of separate acts:

16 (b) Any violation of s. 316.193, former s. 316.1931,
17 or former s. 860.01;

18
19 Any violation of any federal law, any law of another state or
20 country, or any valid ordinance of a municipality or county of
21 another state similar to a statutory prohibition specified in
22 subsection (1) or subsection (2) shall be counted as a
23 violation of such prohibition. In computing the number of
24 convictions, all convictions during the 5 years previous to
25 July 1, 1972, will be used, provided at least one conviction
26 occurs after that date. The fact that previous convictions
27 may have resulted in suspension, revocation, or
28 disqualification under another section does not exempt them
29 from being used for suspension or revocation under this
30 section as a habitual offender.

31

1 322.271 Authority to modify revocation, cancellation,
2 or suspension order.--
3 (2)(a) Upon such hearing, the person whose license has
4 been suspended, canceled, or revoked may show that such
5 suspension, cancellation, or revocation of his or her license
6 causes a serious hardship and precludes the person's carrying
7 out his or her normal business occupation, trade, or
8 employment and that the use of the person's license in the
9 normal course of his or her business is necessary to the
10 proper support of the person or his or her family. Except as
11 otherwise provided in this subsection, the department shall
12 require proof of the successful completion of an approved
13 driver training or substance abuse education course and may
14 require letters of recommendation from respected business
15 persons in the community, law enforcement officers, or
16 judicial officers in determining whether such person should be
17 permitted to operate a motor vehicle on a restricted basis for
18 business or employment use only and in determining whether
19 such person can be trusted to so operate a motor vehicle. If a
20 driver's license has been suspended under the point system or
21 pursuant to s. 322.2615, the department shall require proof of
22 enrollment in an approved driver training course or substance
23 abuse education course, and may require the letters of
24 recommendation described in this subsection to determine if
25 the driver should be reinstated on a restricted basis; if such
26 person fails to complete the approved course within 90 days
27 after reinstatement, the department shall cancel his or her
28 driver's license until the course is successfully completed.
29 The privilege of driving on a limited or restricted basis for
30 business or employment use shall not be granted to a person
31 who has been convicted of a violation of s. 316.193 until

1 completion of such education or training course. Except as
2 provided in paragraph (b), the privilege of driving on a
3 limited or restricted basis for business or employment use
4 shall not be granted to a person whose license is revoked
5 pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and
6 who has been convicted of a violation of s. 316.193 two or
7 more times or whose license has been suspended two or more
8 times for refusal to submit to a test pursuant to s. 322.2615
9 or former s. 322.261.

10 (c) For the purpose of this section, a previous
11 conviction of driving under the influence, driving while
12 intoxicated, driving with an unlawful blood-alcohol level, or
13 any other similar alcohol-related or drug-related offense
14 outside this state or a previous conviction of former s.
15 316.1931, former s. 316.028, or former s. 860.01 shall be
16 considered a previous conviction for violation of s. 316.193.

17 (4) Notwithstanding the provisions of s. 322.28(2)(e),
18 a person whose driving privilege has been permanently revoked
19 because he or she has been convicted four times of violating
20 s. 316.193 or former s. 316.1931 or because he or she has been
21 convicted of DUI manslaughter in violation of s. 316.193 may,
22 upon the expiration of 5 years after the date of such
23 revocation or the expiration of 5 years after the termination
24 of any term of incarceration under s. 316.193 or former s.
25 316.1931, whichever date is later, petition the department for
26 reinstatement of his or her driving privilege.

27 (a) Within 30 days after the receipt of such a
28 petition, the department shall afford the petitioner an
29 opportunity for a hearing. At the hearing, the petitioner
30 must demonstrate to the department that he or she:

31

1 1. Has not been arrested for a drug-related offense
2 during the 5 years preceding the filing of the petition;
3 2. Has not driven a motor vehicle without a license
4 for at least 5 years prior to the hearing;
5 3. Has been drug-free for at least 5 years prior to
6 the hearing; and
7 4. Has completed a DUI program licensed by the
8 department.
9 (b) At such hearing, the department shall determine
10 the petitioner's qualification, fitness, and need to drive.
11 Upon such determination, the department may, in its
12 discretion, reinstate the driver's license of the petitioner.
13 Such reinstatement must be made subject to the following
14 qualifications:
15 1. The license must be restricted for employment
16 purposes for not less than 1 year; and
17 2. Such person must be supervised by a DUI program
18 licensed by the department and report to the program for such
19 supervision and education at least four times a year or
20 additionally as required by the program for the remainder of
21 the revocation period. Such supervision shall include
22 evaluation, education, referral into treatment, and other
23 activities required by the department.
24 (c) Such person must assume the reasonable costs of
25 supervision. If such person fails to comply with the required
26 supervision, the program shall report the failure to the
27 department, and the department shall cancel such person's
28 driving privilege.
29 (d) If, after reinstatement, such person is convicted
30 of an offense for which mandatory revocation of his or her
31

1 license is required, the department shall revoke his or her
2 driving privilege.

3 (e) The department shall adopt rules regulating the
4 providing of services by DUI programs pursuant to this
5 section.

6 322.282 Procedure when court revokes or suspends
7 license or driving privilege and orders reinstatement.--When a
8 court suspends or revokes a person's license or driving
9 privilege and, in its discretion, orders reinstatement as
10 provided by s. 322.28(2)(d) or former s. 322.261(5):

11 (2)(a) The court shall issue an order of
12 reinstatement, on a form to be furnished by the department,
13 which the person may take to any driver's license examining
14 office. The department shall issue a temporary driver's
15 permit to a licensee who presents the court's order of
16 reinstatement, proof of completion of a department-approved
17 driver training or substance abuse education course, and a
18 written request for a hearing under s. 322.271. The permit
19 shall not be issued if a record check by the department shows
20 that the person has previously been convicted for a violation
21 of s. 316.193, former s. 316.1931, former s. 316.028, former
22 s. 860.01, or a previous conviction outside this state for
23 driving under the influence, driving while intoxicated,
24 driving with an unlawful blood-alcohol level, or any similar
25 alcohol-related or drug-related traffic offense; that the
26 person's driving privilege has been previously suspended for
27 refusal to submit to a lawful test of breath, blood, or urine;
28 or that the person is otherwise not entitled to issuance of a
29 driver's license. This paragraph shall not be construed to
30 prevent the reinstatement of a license or driving privilege
31 that is presently suspended for driving with an unlawful

1 blood-alcohol level or a refusal to submit to a breath, urine,
2 or blood test and is also revoked for a conviction for a
3 violation of s. 316.193 or former s. 316.1931, if the
4 suspension and revocation arise out of the same incident.

5 322.291 Driver improvement schools; required in
6 certain suspension and revocation cases.--Except as provided
7 in s. 322.03(2), any person:

8 (1) Whose driving privilege has been revoked:

9 (a) Upon conviction for:

10 1. Driving, or being in actual physical control of,
11 any vehicle while under the influence of alcoholic beverages,
12 any chemical substance set forth in s. 877.111, or any
13 substance controlled under chapter 893, in violation of s.
14 316.193;

15 2. Driving with an unlawful blood- or breath-alcohol
16 level;

17 3. Manslaughter resulting from the operation of a
18 motor vehicle;

19 4. Failure to stop and render aid as required under
20 the laws of this state in the event of a motor vehicle
21 accident resulting in the death or personal injury of another;

22 5. Reckless driving; or

23 (b) As an habitual offender;

24 (c) Upon direction of the court, if the court feels
25 that the seriousness of the offense and the circumstances
26 surrounding the conviction warrant the revocation of the
27 licensee's driving privilege; or

28 (2) Whose license was suspended under the point
29 system, was suspended for driving with an unlawful
30 blood-alcohol level of 0.10 percent or higher before January
31 1, 1994, was suspended for driving with an unlawful

1 blood-alcohol level of 0.08 percent or higher after December
2 31, 1993, or was suspended for refusing to submit to a lawful
3 breath, blood, or urine test as provided in s. 322.2615

4
5 shall, before the driving privilege may be reinstated, present
6 to the department proof of enrollment in a department-approved
7 advanced driver improvement course or substance abuse
8 education course. If the person fails to complete such course
9 within 90 days after reinstatement, the driver's license shall
10 be canceled by the department until such course is
11 successfully completed.

12 322.44 Driver License Compact.--The Driver License
13 Compact is hereby enacted into law and entered into with all
14 other jurisdictions legally joining therein in the form
15 substantially as follows:

16
17 ARTICLE I

18
19 FINDINGS AND DECLARATION OF POLICY.--

20 (1) The party states find that:

21 (a) The safety of their streets and highways is
22 materially affected by the degree of compliance with state
23 laws and local ordinances relating to the operation of motor
24 vehicles;

25 (b) Violation of such a law or ordinance is evidence
26 that the violator engages in conduct which is likely to
27 endanger the safety of persons and property;

28 (c) The continuance in force of a license to drive is
29 predicated upon compliance with laws and ordinances relating
30 to the operation of motor vehicles, in whichever jurisdiction
31 the vehicle is operated.

- 1 (2) It is the policy of each of the party states to:
2 (a) Promote compliance with the laws, ordinances, and
3 administrative rules and regulations relating to the operation
4 of motor vehicles by their operators in each of the
5 jurisdictions where such operators drive motor vehicles;
6 (b) Make the reciprocal recognition of licenses to
7 drive and eligibility therefor more just and equitable by
8 considering the overall compliance with motor vehicle laws,
9 ordinances, and administrative rules and regulations as a
10 condition precedent to the continuance or issuance of any
11 license by reason of which the licensee is authorized or
12 permitted to operate a motor vehicle in any of the party
13 states.

14
15 ARTICLE II
16

17 DEFINITIONS.--As used in this compact:

- 18 (1) "State" means a state, territory or possession of
19 the United States, the District of Columbia, or the
20 Commonwealth of Puerto Rico.
21 (2) "Home state" means the state which has issued and
22 has the power to suspend or revoke the use of the license or
23 permit to operate a motor vehicle.
24 (3) "Conviction" means a conviction of any offense
25 related to the use or operation of a motor vehicle which is
26 prohibited by state law, municipal ordinance, or
27 administrative rule or regulation, or a forfeiture of bail,
28 bond, or other security deposited to secure appearance by a
29 person charged with having committed any such offense, and
30 which conviction or forfeiture is required to be reported to
31 the licensing authority.

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ARTICLE III

REPORTS OF CONVICTION.--The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

EFFECT OF CONVICTION.--

(1) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III, as it would if such conduct had occurred in the home state, in the case of convictions for:

(a) Manslaughter or negligent homicide resulting from the operation of a motor vehicle, as provided by ss. 316.193 and 322.26;

(b) Driving a motor vehicle while under the influence of alcoholic beverages or a narcotic drug, or under the influence of any other drug to a degree which renders the

1 driver incapable of safely driving a motor vehicle, as
2 provided by s. 316.193;

3 (c) Any felony in the commission of which a motor
4 vehicle is used, as provided by s. 322.26; or

5 (d) Failure to stop and render aid in the event of a
6 motor vehicle accident resulting in the death or personal
7 injury of another, as provided by s. 322.26.

8 (2) As to other convictions, reported pursuant to
9 article III, the licensing authority in the home state shall
10 give such effect to the conduct as is provided by the laws of
11 the home state.

12
13 ARTICLE V
14

15 APPLICATIONS FOR NEW LICENSES.--Upon application for a
16 license to drive, the licensing authority in a party state
17 shall ascertain whether the applicant has ever held, or is the
18 holder of, a license to drive issued by any other party state.
19 The licensing authority in the state where application is made
20 shall not issue a license to drive to the applicant if:

21 (1) The applicant has held such a license, but the
22 same has been suspended by reason, in whole or in part, of a
23 violation and if such suspension period has not terminated.

24 (2) The applicant has held such a license, but the
25 same has been revoked by reason, in whole or in part, of a
26 violation and if such revocation has not terminated, except
27 that after the expiration of 1 year from the date the license
28 was revoked, such person may make application for a new
29 license if permitted by law. The licensing authority may
30 refuse to issue a license to any such applicant if, after
31 investigation, the licensing authority determines that it will

1 not be safe to grant to such person the privilege of driving a
2 motor vehicle on the public highways.

3 (3) The applicant is the holder of a license to drive
4 issued by another party state and currently in force unless
5 the applicant surrenders such license.

6

7

ARTICLE VI

8

9 APPLICABILITY OF OTHER LAWS.--Except as expressly
10 required by provisions of this compact, nothing contained
11 herein shall be construed to affect the right of any party
12 state to apply any of its other laws relating to licenses to
13 drive to any person or circumstance, nor to invalidate or
14 prevent any driver license agreement or other cooperative
15 arrangement between a party state and a nonparty state.

16

17

ARTICLE VII

18

19 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

20 (1) The head of the licensing authority of each party
21 state shall be the administrator of this compact for his or
22 her state. The administrators, acting jointly, shall have the
23 power to formulate all necessary and proper procedures for the
24 exchange of information under this compact.

25

26 (2) The administrator of each party state shall
27 furnish to the administrator of each other party state any
28 information or documents reasonably necessary to facilitate
the administration of this compact.

29

30

ARTICLE VIII

31

1 ENTRY INTO FORCE AND WITHDRAWAL.--

2 (1) This compact shall enter into force and become
3 effective as to any state when it has enacted the same into
4 law.

5 (2) Any party state may withdraw from this compact by
6 enacting a statute repealing the same, but no such withdrawal
7 shall take effect until 6 months after the executive head of
8 the withdrawing state has given notice of the withdrawal to
9 the executive heads of all other party states. No withdrawal
10 shall affect the validity or applicability by the licensing
11 authorities of states remaining party to the compact of any
12 report of conviction occurring prior to the withdrawal.

13

14 ARTICLE IX

15

16 CONSTRUCTION AND SEVERABILITY.--This compact shall be
17 liberally construed so as to effectuate the purposes thereof.
18 The provisions of this compact shall be severable; and if any
19 phrase, clause, sentence, or provision of this compact is
20 declared to be contrary to the constitution of any party state
21 or of the United States or the applicability thereof to any
22 government, agency, person, or circumstance is held invalid,
23 the validity of the remainder of this compact and the
24 applicability thereof to any government, agency, person, or
25 circumstance shall not be affected thereby. If this compact
26 shall be held contrary to the constitution of any state party
27 thereto, the compact shall remain in full force and effect as
28 to the remaining states and in full force and effect as to the
29 state affected as to all severable matters.

30 322.62 Driving under the influence; commercial motor
31 vehicle operators.--

1 (3) This section does not supersede s. 316.193.
2 Nothing in this section prohibits the prosecution of a person
3 who drives a commercial motor vehicle for driving under the
4 influence of alcohol or controlled substances whether or not
5 such person is also prosecuted for a violation of this
6 section.

7 322.63 Alcohol or drug testing; commercial motor
8 vehicle operators.--

9 (2) The chemical and physical tests authorized by this
10 section shall only be required if a law enforcement officer
11 has reasonable cause to believe that a person driving a
12 commercial motor vehicle has any alcohol, chemical substance,
13 or controlled substance in his or her body.

14 (d) The administration of one test under paragraph
15 (a), paragraph (b), or paragraph (c) shall not preclude the
16 administration of a different test under paragraph (a),
17 paragraph (b), or paragraph (c). However, a urine test may
18 not be used to determine alcohol concentration and a breath
19 test may not be used to determine the presence of controlled
20 substances or chemical substances in a person's body.
21 Notwithstanding the provisions of this paragraph, in the event
22 a Florida licensee has been convicted in another state for an
23 offense substantially similar to s. 316.193 or to s. 322.62,
24 which conviction was based upon evidence of test results
25 prohibited by this paragraph, that out-of-state conviction
26 shall constitute a conviction for the purposes of this
27 chapter.

28 (6) Notwithstanding any provision of law pertaining to
29 the confidentiality of hospital records or other medical
30 records, information relating to the alcohol content of a
31 person's blood or the presence of chemical substances or

1 controlled substances in a person's blood obtained pursuant to
2 this section shall be released to a court, prosecuting
3 attorney, defense attorney, or law enforcement officer in
4 connection with an alleged violation of s. 316.193 or s.
5 322.62 upon request for such information.

6 322.64 Holder of commercial driver's license; driving
7 with unlawful blood-alcohol level; refusal to submit to
8 breath, urine, or blood test.--

9 (1)(a) A law enforcement officer or correctional
10 officer shall, on behalf of the department, disqualify from
11 operating any commercial motor vehicle a person who while
12 operating or in actual physical control of a commercial motor
13 vehicle is arrested for a violation of s. 316.193, relating to
14 unlawful blood-alcohol level or breath-alcohol level, or a
15 person who has refused to submit to a breath, urine, or blood
16 test authorized by s. 322.63 arising out of the operation or
17 actual physical control of a commercial motor vehicle. Upon
18 disqualification of the person, the officer shall take the
19 person's driver's license and issue the person a 30-day
20 temporary permit if the person is otherwise eligible for the
21 driving privilege and shall issue the person a notice of
22 disqualification. If the person has been given a blood,
23 breath, or urine test, the results of which are not available
24 to the officer at the time of the arrest, the agency employing
25 the officer shall transmit such results to the department
26 within 5 days after receipt of the results. If the department
27 then determines that the person was arrested for a violation
28 of s. 316.193 and that the person had a blood-alcohol level or
29 breath-alcohol level of 0.08 or higher, the department shall
30 disqualify the person from operating a commercial motor
31 vehicle pursuant to subsection (3).

1 (b) The disqualification under paragraph (a) shall be
2 pursuant to, and the notice of disqualification shall inform
3 the driver of, the following:

4 1.a. The driver refused to submit to a lawful breath,
5 blood, or urine test and he or she is disqualified from
6 operating a commercial motor vehicle for a period of 1 year,
7 for a first refusal, or permanently, if he or she has
8 previously been disqualified as a result of a refusal to
9 submit to such a test; or

10 b. The driver violated s. 316.193 by driving with an
11 unlawful blood-alcohol level and he or she is disqualified
12 from operating a commercial motor vehicle for a period of 6
13 months for a first offense or for a period of 1 year if he or
14 she has previously been disqualified, or his or her driving
15 privilege has been previously suspended, for a violation of s.
16 316.193.

17 2. The disqualification period shall commence on the
18 date of arrest or issuance of notice of disqualification,
19 whichever is later.

20 3. The driver may request a formal or informal review
21 of the disqualification by the department within 10 days after
22 the date of arrest or issuance of notice of disqualification,
23 whichever is later.

24 4. The temporary permit issued at the time of arrest
25 or disqualification will expire at midnight of the 30th day
26 following the date of disqualification.

27 5. The driver may submit to the department any
28 materials relevant to the arrest.

29 (2) Except as provided in paragraph (1)(a), the law
30 enforcement officer shall forward to the department, within 5
31 days after the date of the arrest or the issuance of the

1 notice of disqualification, whichever is later, a copy of the
2 notice of disqualification, the driver's license of the person
3 arrested, and a report of the arrest, including, if
4 applicable, an affidavit stating the officer's grounds for
5 belief that the person arrested was in violation of s.
6 316.193; the results of any breath or blood test or an
7 affidavit stating that a breath, blood, or urine test was
8 requested by a law enforcement officer or correctional officer
9 and that the person arrested refused to submit; a copy of the
10 citation issued to the person arrested; and the officer's
11 description of the person's field sobriety test, if any. The
12 failure of the officer to submit materials within the 5-day
13 period specified in this subsection or subsection (1) shall
14 not affect the department's ability to consider any evidence
15 submitted at or prior to the hearing. The officer may also
16 submit a copy of a videotape of the field sobriety test or the
17 attempt to administer such test.

18 (7) In a formal review hearing under subsection (6) or
19 an informal review hearing under subsection (4), the hearing
20 officer shall determine by a preponderance of the evidence
21 whether sufficient cause exists to sustain, amend, or
22 invalidate the disqualification. The scope of the review
23 shall be limited to the following issues:

24 (a) If the person was disqualified from operating a
25 commercial motor vehicle for driving with an unlawful
26 blood-alcohol level in violation of s. 316.193:

27 1. Whether the arresting law enforcement officer had
28 probable cause to believe that the person was driving or in
29 actual physical control of a commercial motor vehicle in this
30 state while he or she had any alcohol, chemical substances, or
31 controlled substances in his or her body.

1 2. Whether the person was placed under lawful arrest
2 for a violation of s. 316.193.

3 3. Whether the person had an unlawful blood-alcohol
4 level as provided in s. 316.193.

5 (8) Based on the determination of the hearing officer
6 pursuant to subsection (7) for both informal hearings under
7 subsection (4) and formal hearings under subsection (6), the
8 department shall:

9 (b) Sustain the disqualification for a period of 6
10 months for a violation of s. 316.193 or for a period of 1 year
11 if the person has been previously disqualified from operating
12 a commercial motor vehicle or his or her driving privilege has
13 been previously suspended as a result of a violation of s.
14 316.193. The disqualification period commences on the date of
15 the arrest or issuance of the notice of disqualification,
16 whichever is later.

17 (14) The decision of the department under this section
18 shall not be considered in any trial for a violation of s.
19 316.193, s. 322.61, or s. 322.62, nor shall any written
20 statement submitted by a person in his or her request for
21 departmental review under this section be admissible into
22 evidence against him or her in any such trial. The
23 disposition of any related criminal proceedings shall not
24 affect a disqualification imposed pursuant to this section.

25 (15) This section does not preclude the suspension of
26 the driving privilege pursuant to s. 322.2615. The driving
27 privilege of a person who has been disqualified from operating
28 a commercial motor vehicle also may be suspended for a
29 violation of s. 316.193.

30 327.35 Boating under the influence; penalties.--
31

1 (6) With respect to any person convicted of a
2 violation of subsection (1), regardless of any other penalty
3 imposed:

4 (a) For the first conviction, the court shall place
5 the defendant on probation for a period not to exceed 1 year
6 and, as a condition of such probation, shall order the
7 defendant to participate in public service or a community work
8 project for a minimum of 50 hours. The total period of
9 probation and incarceration may not exceed 1 year.

10 (b) For the second conviction for an offense that
11 occurs within a period of 5 years after the date of a prior
12 conviction for violation of this section, the court shall
13 order imprisonment for not less than 10 days. At least 48
14 hours of confinement must be consecutive.

15 (c) For the third or subsequent conviction for an
16 offense that occurs within a period of 10 years after the date
17 of a prior conviction for violation of this section, the court
18 shall order imprisonment for not less than 30 days. At least
19 48 hours of confinement must be consecutive.

20 (d) In addition to any other penalty imposed, the
21 court shall also order the impoundment or immobilization of
22 the vessel that was operated by, or in the actual physical
23 control of, the offender. The period of impoundment or
24 immobilization is 10 days, or, for the second conviction
25 within 3 years, 30 days, or, for the third conviction within 5
26 years, 90 days and may not be concurrent with probation or
27 imprisonment. If the vessel is leased or rented, the period of
28 impoundment or immobilization may not extend beyond the
29 expiration of the lease or rental agreement. Within 7 business
30 days after the date that the court issues the order of
31 impoundment or immobilization, the clerk of the court shall

1 send notice by certified mail, return receipt requested, to
2 the registered owner of the vessel if the registered owner is
3 a person other than the offender and to each person of record
4 claiming a lien against the vessel. All costs and fees for the
5 impoundment or immobilization, including the cost of
6 notification, must be paid by the owner of the vessel or, if
7 the vessel is leased or rented, by the person leasing or
8 renting the vessel. The person who owns a vessel that is
9 impounded or immobilized under this paragraph, or a person who
10 has a lien of record against such a vessel, may, within 10
11 days after the date that person has knowledge of the location
12 of the vessel, file a complaint in the county in which the
13 owner resides to determine whether the vessel was wrongfully
14 taken or withheld from the owner or lienholder. Upon the
15 filing of a complaint, the owner or lienholder may have the
16 vessel released by posting with the court a bond or other
17 adequate security equal to the amount of the costs and fees
18 for impoundment or immobilization, including towing or
19 storage, to ensure the payment of the costs and fees if the
20 owner or lienholder does not prevail. When the bond is posted
21 and the fee is paid as set forth in s. 28.24, the clerk of the
22 court shall issue a certificate releasing the vessel. At the
23 time of release, after reasonable inspection, the owner or
24 lienholder must give a receipt to the towing or storage
25 company indicating any loss or damage to the vessel or to the
26 contents of the vessel.

27 (e) A defendant, in the court's discretion, may be
28 required to serve all or any portion of a term of imprisonment
29 to which the defendant has been sentenced pursuant to this
30 section in a residential alcoholism treatment program or a
31 residential drug abuse treatment program. Any time spent in

1 such a program must be credited by the court toward the term
2 of imprisonment.

3

4 For the purposes of this section, any conviction for a
5 violation of s. 316.193, a previous conviction for the
6 violation of former s. 316.1931, former s. 860.01, or former
7 s. 316.028, or a previous conviction outside this state for
8 driving under the influence, driving while intoxicated,
9 driving with an unlawful blood-alcohol level, driving with an
10 unlawful breath-alcohol level, or any other similar
11 alcohol-related or drug-related traffic offense, is also
12 considered a previous conviction for violation of this
13 section.

14 397.405 Exemptions from licensure.--The following are
15 exempt from the licensing provisions of this chapter:

16 (10) DUI education and screening services required to
17 be attended pursuant to ss. 316.192, 316.193, 322.095,
18 322.271, and 322.291 are exempt from licensure under this
19 chapter. Treatment programs must continue to be licensed
20 under this chapter.

21

22 The exemptions from licensure in this section do not apply to
23 any facility or entity which receives an appropriation, grant,
24 or contract from the state to operate as a service provider as
25 defined in this chapter or to any substance abuse program
26 regulated pursuant to s. 397.406. No provision of this
27 chapter shall be construed to limit the practice of a
28 physician licensed under chapter 458 or chapter 459, a
29 psychologist licensed under chapter 490, or a psychotherapist
30 licensed under chapter 491, providing outpatient or inpatient
31 substance abuse treatment to a voluntary patient, so long as

1 the physician, psychologist, or psychotherapist does not
2 represent to the public that he or she is a licensed service
3 provider under this act. Failure to comply with any
4 requirement necessary to maintain an exempt status under this
5 section is a misdemeanor of the first degree, punishable as
6 provided in s. 775.082 or s. 775.083.

7 440.09 Coverage.--

8 (7)

9 (b) If the employee has, at the time of the injury, a
10 blood alcohol level equal to or greater than the level
11 specified in s. 316.193, or if the employee has a positive
12 confirmation of a drug as defined in this act, it is presumed
13 that the injury was occasioned primarily by the intoxication
14 of, or by the influence of the drug upon, the employee. In the
15 absence of a drug-free workplace program, this presumption may
16 be rebutted by clear and convincing evidence that the
17 intoxication or influence of the drug did not contribute to
18 the injury. Percent by weight of alcohol in the blood must be
19 based upon grams of alcohol per 100 milliliters of blood. If
20 the results are positive, the testing facility must maintain
21 the specimen for a minimum of 90 days. Blood serum may be used
22 for testing purposes under this chapter; however, if this test
23 is used, the presumptions under this section do not arise
24 unless the blood alcohol level is proved to be medically and
25 scientifically equivalent to or greater than the comparable
26 blood alcohol level that would have been obtained if the test
27 were based on percent by weight of alcohol in the blood.
28 However, if, before the accident, the employer had actual
29 knowledge of and expressly acquiesced in the employee's
30 presence at the workplace while under the influence of such
31

1 alcohol or drug, the presumptions specified in this subsection
2 do not apply.

3 493.6106 License requirements; posting.--

4 (1) Each individual licensed by the department must:

5 (d) Not be a chronic and habitual user of alcoholic
6 beverages to the extent that her or his normal faculties are
7 impaired; not have been committed under chapter 397, former
8 chapter 396, or a similar law in any other state; not have
9 been found to be a habitual offender under s. 856.011(3) or a
10 similar law in any other state; and not have had two or more
11 convictions under s. 316.193 or a similar law in any other
12 state within the 3-year period immediately preceding the date
13 the application was filed, unless the individual establishes
14 that she or he is not currently impaired and has successfully
15 completed a rehabilitation course.

16 627.758 Surety on auto club traffic arrest bond;
17 conditions, limit; bail bond.--

18 (4) Notwithstanding the provisions of s. 626.311 or
19 chapter 648, any surety insurer identified in a guaranteed
20 traffic arrest bond certificate or any licensed general lines
21 agent of the surety insurer may execute a bail bond for the
22 automobile club or association member identified in the
23 guaranteed traffic arrest bond certificate in an amount not in
24 excess of \$5,000 for any violation of chapter 316 or any
25 similar traffic law or ordinance except for driving under the
26 influence of alcoholic beverages, chemical substances, or
27 controlled substances, as prohibited by s. 316.193.

28 790.06 License to carry concealed weapon or firearm.--

29 (2) The Department of State shall issue a license if
30 the applicant:

31

1 (f) Does not chronically and habitually use alcoholic
2 beverages or other substances to the extent that his or her
3 normal faculties are impaired. It shall be presumed that an
4 applicant chronically and habitually uses alcoholic beverages
5 or other substances to the extent that his or her normal
6 faculties are impaired if the applicant has been committed
7 under chapter 397 or under the provisions of former chapter
8 396 or has been convicted under s. 790.151 or has been deemed
9 a habitual offender under s. 856.011(3), or has had two or
10 more convictions under s. 316.193 or similar laws of any other
11 state, within the 3-year period immediately preceding the date
12 on which the application is submitted;

13 (10) A license issued under this section shall be
14 suspended or revoked pursuant to chapter 120 if the licensee:

15 (f) Is convicted of a second violation of s. 316.193,
16 or a similar law of another state, within 3 years of a
17 previous conviction of such section, or similar law of another
18 state, even though the first violation may have occurred prior
19 to the date on which the application was submitted;

20 903.36 Guaranteed arrest bond certificates as cash
21 bail.--

22 (2) The execution of a bail bond by a licensed general
23 lines agent of a surety insurer for the automobile club or
24 association member identified in the guaranteed traffic arrest
25 bond certificate, as provided in s. 627.758(4), shall be
26 accepted as bail in an amount not to exceed \$5,000 for the
27 appearance of the person named in the certificate in any court
28 to answer for the violation of a provision of chapter 316 or a
29 similar traffic law or ordinance, except driving under the
30 influence of alcoholic beverages, chemical substances, or
31 controlled substances, as prohibited by s. 316.193.

1 Presentation of the guaranteed traffic arrest bond certificate
2 and a power of attorney from the surety insurer for its
3 licensed general lines agents is authorization for such agent
4 to execute the bail bond.

5 921.0022 Criminal Punishment Code; offense severity
6 ranking chart.--

7 (3) OFFENSE SEVERITY RANKING CHART

9 Florida Statute	Felony Degree	Description
		(g) LEVEL 7
13 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
15 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
17 409.920(2)	3rd	Medicaid provider fraud.
18 494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
24 782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
28 782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).

1	782.072	3rd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	790.07(4)	1st	Specified weapons violation
24			subsequent to previous conviction
25			of s. 790.07(1) or (2).
26	790.16(1)	1st	Discharge of a machine gun under
27			specified circumstances.
28	796.03	2nd	Procuring any person under 16
29			years for prostitution.
30			
31			

1	800.04	2nd	Handle, fondle, or assault child
2			under 16 years in lewd,
3			lascivious, or indecent manner.
4	806.01(2)	2nd	Maliciously damage structure by
5			fire or explosive.
6	810.02(3)(a)	2nd	Burglary of occupied dwelling;
7			unarmed; no assault or battery.
8	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
9			unarmed; no assault or battery.
10	810.02(3)(d)	2nd	Burglary of occupied conveyance;
11			unarmed; no assault or battery.
12	812.014(2)(a)	1st	Property stolen, valued at
13			\$100,000 or more; property stolen
14			while causing other property
15			damage; 1st degree grand theft.
16	812.019(2)	1st	Stolen property; initiates,
17			organizes, plans, etc., the theft
18			of property and traffics in
19			stolen property.
20	812.133(2)(b)	1st	Carjacking; no firearm, deadly
21			weapon, or other weapon.
22	825.102(3)(b)	2nd	Neglecting an elderly person or
23			disabled adult causing great
24			bodily harm, disability, or
25			disfigurement.
26	825.1025(2)	2nd	Lewd or lascivious battery upon
27			an elderly person or disabled
28			adult.
29			
30			
31			

1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(4)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	872.06	2nd	Abuse of a dead human body.
12	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), or (2)(b) drugs) within
16			1,000 feet of a school.
17	893.13(4)(a)	1st	Deliver to minor cocaine (or
18			other s. 893.03(1)(a), (1)(b),
19			(1)(d), (2)(a), or (2)(b) drugs).
20	893.135(1)(a)1.	1st	Trafficking in cannabis, more
21			than 50 lbs., less than 2,000
22			lbs.
23	893.135		
24	(1)(b)1.a.	1st	Trafficking in cocaine, more than
25			28 grams, less than 200 grams.
26	893.135		
27	(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
30			
31			

1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11			(h) LEVEL 8
12	316.193		
13	(3)(c)3.a.	2nd	DUI manslaughter.
14	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
15	777.03(2)(a)	1st	Accessory after the fact, capital
16			felony.
17	782.04(4)	2nd	Killing of human without design
18			when engaged in act or attempt of
19			any felony other than arson,
20			sexual battery, robbery,
21			burglary, kidnapping, aircraft
22			piracy, or unlawfully discharging
23			bomb.
24	782.071(2)	2nd	Committing vehicular homicide and
25			failing to render aid or give
26			information.
27	782.072(2)	2nd	Committing vessel homicide and
28			failing to render aid or give
29			information.
30			
31			

1	790.161(3)	1st	Discharging a destructive device
2			which results in bodily harm or
3			property damage.
4	794.011(5)	2nd	Sexual battery, victim 12 years
5			or over, offender does not use
6			physical force likely to cause
7			serious injury.
8	806.01(1)	1st	Maliciously damage dwelling or
9			structure by fire or explosive,
10			believing person in structure.
11	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
12	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
13			or dangerous weapon.
14	810.02(2)(c)	1st	Burglary of a dwelling or
15			structure causing structural
16			damage or \$1,000 or more property
17			damage.
18	812.13(2)(b)	1st	Robbery with a weapon.
19	812.135(2)	1st	Home-invasion robbery.
20	825.102(2)	2nd	Aggravated abuse of an elderly
21			person or disabled adult.
22	825.103(2)(a)	1st	Exploiting an elderly person or
23			disabled adult and property is
24			valued at \$100,000 or more.
25	827.03(2)	2nd	Aggravated child abuse.
26	860.121(2)(c)	1st	Shooting at or throwing any
27			object in path of railroad
28			vehicle resulting in great bodily
29			harm.
30	860.16	1st	Aircraft piracy.
31			

1	893.13(1)(b)	1st	Sell or deliver in excess of 10
2			grams of any substance specified
3			in s. 893.03(1)(a) or (b).
4	893.13(2)(b)	1st	Purchase in excess of 10 grams of
5			any substance specified in s.
6			893.03(1)(a) or (b).
7	893.13(6)(c)	1st	Possess in excess of 10 grams of
8			any substance specified in s.
9			893.03(1)(a) or (b).
10	893.135(1)(a)2.	1st	Trafficking in cannabis, more
11			than 2,000 lbs., less than 10,000
12			lbs.
13	893.135		
14	(1)(b)1.b.	1st	Trafficking in cocaine, more than
15			200 grams, less than 400 grams.
16	893.135		
17	(1)(c)1.b.	1st	Trafficking in illegal drugs,
18			more than 14 grams, less than 28
19			grams.
20	893.135		
21	(1)(d)1.b.	1st	Trafficking in phencyclidine,
22			more than 200 grams, less than
23			400 grams.
24	893.135		
25	(1)(e)1.b.	1st	Trafficking in methaqualone, more
26			than 5 kilograms, less than 25
27			kilograms.
28	893.135		
29	(1)(f)1.b.	1st	Trafficking in amphetamine, more
30			than 28 grams, less than 200
31			grams.

1	895.03(1)	1st	Use or invest proceeds derived
2			from pattern of racketeering
3			activity.
4	895.03(2)	1st	Acquire or maintain through
5			racketeering activity any
6			interest in or control of any
7			enterprise or real property.
8	895.03(3)	1st	Conduct or participate in any
9			enterprise through pattern of
10			racketeering activity.
11			(i) LEVEL 9
12	316.193		
13	(3)(c)3.b.	1st	DUI manslaughter; failing to
14			render aid or give information.
15	782.04(1)	1st	Attempt, conspire, or solicit to
16			commit premeditated murder.
17	782.04(3)	1st,PBL	Accomplice to murder in
18			connection with arson, sexual
19			battery, robbery, burglary, and
20			other specified felonies.
21	782.07(2)	1st	Aggravated manslaughter of an
22			elderly person or disabled adult.
23	782.07(3)	1st	Aggravated manslaughter of a
24			child.
25	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
26			reward or as a shield or hostage.
27	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
28			or facilitate commission of any
29			felony.
30			
31			

1	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
2			interfere with performance of any
3			governmental or political
4			function.
5	787.02(3)(a)	1st	False imprisonment; child under
6			age 13; perpetrator also commits
7			child abuse, sexual battery,
8			lewd, or lascivious act, etc.
9	790.161	1st	Attempted capital destructive
10			device offense.
11	794.011(2)	1st	Attempted sexual battery; victim
12			less than 12 years of age.
13	794.011(2)	Life	Sexual battery; offender younger
14			than 18 years and commits sexual
15			battery on a person less than 12
16			years.
17	794.011(4)	1st	Sexual battery; victim 12 years
18			or older, certain circumstances.
19	794.011(8)(b)	1st	Sexual battery; engage in sexual
20			conduct with minor 12 to 18 years
21			by person in familial or
22			custodial authority.
23	812.13(2)(a)	1st,PBL	Robbery with firearm or other
24			deadly weapon.
25	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
26			deadly weapon.
27	847.0145(1)	1st	Selling, or otherwise
28			transferring custody or control,
29			of a minor.
30			
31			

1	847.0145(2)	1st	Purchasing, or otherwise
2			obtaining custody or control, of
3			a minor.
4	859.01	1st	Poisoning food, drink, medicine,
5			or water with intent to kill or
6			injure another person.
7	893.135	1st	Attempted capital trafficking
8			offense.
9	893.135(1)(a)3.	1st	Trafficking in cannabis, more
10			than 10,000 lbs.
11	893.135		
12	(1)(b)1.c.	1st	Trafficking in cocaine, more than
13			400 grams, less than 150
14			kilograms.
15	893.135		
16	(1)(c)1.c.	1st	Trafficking in illegal drugs,
17			more than 28 grams, less than 30
18			kilograms.
19	893.135		
20	(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135		
23	(1)(e)1.c.	1st	Trafficking in methaqualone, more
24			than 25 kilograms.
25	893.135		
26	(1)(f)1.c.	1st	Trafficking in amphetamine, more
27			than 200 grams.
28	938.07		Driving under the influence.--Notwithstanding
29			any other provision of s. 316.193, a court cost of \$135 shall
30			be added to any fine imposed pursuant to s. 316.193, of which
31			\$25 shall be deposited in the Emergency Medical Services Trust

1 Fund, \$50 shall be deposited in the Criminal Justice Standards
2 and Training Trust Fund of the Department of Law Enforcement
3 to be used for operational expenses of the Division of Local
4 Law Enforcement Assistance in conducting the statewide
5 criminal analysis laboratory system established in s. 943.32,
6 and \$60 shall be deposited in the Brain and Spinal Cord Injury
7 Rehabilitation Trust Fund created in s. 413.613.

8 938.21 Alcohol and drug abuse
9 programs.--Notwithstanding any provision to the contrary of
10 the laws of this state, the court may assess for alcohol and
11 other drug abuse programs as provided in s. 893.165 any
12 defendant who pleads guilty or nolo contendere to, or is
13 convicted of, a violation of any provision of chapter 893 or
14 which involves a criminal violation of s. 316.193, s. 856.011,
15 s. 856.015, or chapter 562, chapter 567, or chapter 568, in
16 addition to any fine and other penalty provided by law, a
17 court cost in an amount up to the amount of the fine
18 authorized for the violation. The court is authorized to order
19 a defendant to pay an additional assessment if it finds that
20 the defendant has the ability to pay the fine and the
21 additional assessment and will not be prevented thereby from
22 being rehabilitated or from making restitution.

23 938.23 Assistance grants for alcohol and other drug
24 abuse programs.--

25 (1) In addition to any fine imposed by law for any
26 criminal offense under chapter 893 or for any criminal
27 violation of s. 316.193, s. 856.011, s. 856.015, or chapter
28 562, chapter 567, or chapter 568, the court shall be
29 authorized, pursuant to the requirements of s. 938.21, to
30 impose an additional assessment in an amount up to the amount
31 of the fine authorized for the offense. Such additional

1 assessments shall be deposited for the purpose of providing
2 assistance grants to drug abuse treatment or alcohol treatment
3 or education programs as provided in s. 893.165.

4 960.03 Definitions.--As used in ss. 960.01-960.28,
5 unless the context otherwise requires, the term:

6 (3) "Crime" means:

7 (b) A violation of s. 316.193, s. 316.027(1), or s.
8 782.071(2), which results in physical injury or death;
9 however, no other act involving the operation of a motor
10 vehicle, boat, or aircraft which results in injury or death
11 shall constitute a crime for the purpose of this chapter
12 unless the injury or death was intentionally inflicted through
13 the use of such vehicle, boat, or aircraft or unless such
14 vehicle, boat, or aircraft is an implement of a crime to which
15 this act applies.

16 Section 4. Paragraph (f) of subsection (3) of section
17 921.0022, Florida Statutes, is amended to read:

18 921.0022 Criminal Punishment Code; offense severity
19 ranking chart.--

20 (3) OFFENSE SEVERITY RANKING CHART

21	22	23	24
	Florida	Felony	
	Statute	Degree	Description
25			(f) LEVEL 6
26	316.027(1)(b)	2nd	Accident involving death, failure
27			to stop; leaving scene.
28	316.193(2)(b)	3rd	Felony DUI, <u>3rd</u> 4th or subsequent
29			conviction.
30	775.0875(1)	3rd	Taking firearm from law
31			enforcement officer.

1	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
2			without intent to kill.
3	784.021(1)(b)	3rd	Aggravated assault; intent to
4			commit felony.
5	784.048(3)	3rd	Aggravated stalking; credible
6			threat.
7	784.07(2)(c)	2nd	Aggravated assault on law
8			enforcement officer.
9	784.08(2)(b)	2nd	Aggravated assault on a person 65
10			years of age or older.
11	784.081(2)	2nd	Aggravated assault on specified
12			official or employee.
13	784.082(2)	2nd	Aggravated assault by detained
14			person on visitor or other
15			detainee.
16	787.02(2)	3rd	False imprisonment; restraining
17			with purpose other than those in
18			s. 787.01.
19	790.115(2)(d)	2nd	Discharging firearm or weapon on
20			school property.
21	790.161(2)	2nd	Make, possess, or throw
22			destructive device with intent to
23			do bodily harm or damage
24			property.
25	790.164(1)	2nd	False report of deadly explosive
26			or act of arson or violence to
27			state property.
28	790.19	2nd	Shooting or throwing deadly
29			missiles into dwellings, vessels,
30			or vehicles.
31			

1	794.011(8)(a)	3rd	Solicitation of minor to
2			participate in sexual activity by
3			custodial adult.
4	794.05(1)	2nd	Unlawful sexual activity with
5			specified minor.
6	806.031(2)	2nd	Arson resulting in great bodily
7			harm to firefighter or any other
8			person.
9	810.02(3)(c)	2nd	Burglary of occupied structure;
10			unarmed; no assault or battery.
11	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
12			but less than \$100,000, grand
13			theft in 2nd degree.
14	812.13(2)(c)	2nd	Robbery, no firearm or other
15			weapon (strong-arm robbery).
16	817.034(4)(a)1.	1st	Communications fraud, value
17			greater than \$50,000.
18	817.4821(5)	2nd	Possess cloning paraphernalia
19			with intent to create cloned
20			cellular telephones.
21	825.102(1)	3rd	Abuse of an elderly person or
22			disabled adult.
23	825.102(3)(c)	3rd	Neglect of an elderly person or
24			disabled adult.
25	825.1025(3)	3rd	Lewd or lascivious molestation of
26			an elderly person or disabled
27			adult.
28	825.103(2)(c)	3rd	Exploiting an elderly person or
29			disabled adult and property is
30			valued at \$100 or more, but less
31			than \$20,000.

1	827.03(1)	3rd	Abuse of a child.
2	827.03(3)(c)	3rd	Neglect of a child.
3	827.071(2)&(3)	2nd	Use or induce a child in a sexual
4			performance, or promote or direct
5			such performance.
6	836.05	2nd	Threats; extortion.
7	836.10	2nd	Written threats to kill or do
8			bodily injury.
9	843.12	3rd	Aids or assists person to escape.
10	914.23	2nd	Retaliation against a witness,
11			victim, or informant, with bodily
12			injury.
13	944.35(3)(a)2.	3rd	Committing malicious battery upon
14			or inflicting cruel or inhuman
15			treatment on an inmate or
16			offender on community
17			supervision, resulting in great
18			bodily harm.
19	944.40	2nd	Escapes.
20	944.46	3rd	Harboring, concealing, aiding
21			escaped prisoners.
22	944.47(1)(a)5.	2nd	Introduction of contraband
23			(firearm, weapon, or explosive)
24			into correctional facility.
25	951.22(1)	3rd	Intoxicating drug, firearm, or
26			weapon introduced into county
27			facility.

28
29 Section 5. This act shall take effect October 1 of the
30 year in which enacted.
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