

By Representatives Casey, Morroni, Boyd, Smith, Wiles, Crady, Logan, Tobin, Wasserman Schultz, Sindler, Melvin, Andrews, Albright, Betancourt, Wise, Jones, Mackenzie, Cosgrove, Rodriguez-Chomat, Thrasher, Chestnut and Brennan

1                                   A bill to be entitled  
2           An act relating to funding for the  
3           rehabilitation of persons with brain or spinal  
4           cord injuries; amending s. 316.193, F.S.;  
5           assessing an additional fine for driving under  
6           the influence, to be deposited in the Brain and  
7           Spinal Cord Rehabilitation Trust Fund; amending  
8           s. 327.35, F.S.; assessing an additional fine  
9           for boating while under the influence, to be  
10          deposited in the Brain and Spinal Cord  
11          Rehabilitation Trust Fund; providing an  
12          effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. Subsection (6) of section 316.193, Florida  
17 Statutes, 1996 Supplement, is amended to read:

18           316.193 Driving under the influence; penalties.--

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

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

1 the state. However, the total period of probation and  
2 incarceration may not exceed 1 year.

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

8 (c) For the third or subsequent conviction for an  
9 offense that occurs within a period of 10 years after the date  
10 of a prior conviction for violation of this section, the court  
11 shall order imprisonment for not less than 30 days. At least  
12 48 hours of confinement must be consecutive.

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

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

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

29

30 For the purposes of this section, any conviction for a  
31 violation of s. 327.35; a previous conviction for the

1 violation of former s. 316.1931, former s. 860.01, or former  
2 s. 316.028; or a previous conviction outside this state for  
3 driving under the influence, driving while intoxicated,  
4 driving with an unlawful blood-alcohol level, driving with an  
5 unlawful breath-alcohol level, or any other similar  
6 alcohol-related or drug-related traffic offense, is also  
7 considered a previous conviction for violation of this  
8 section. Notwithstanding any other provision of this section,  
9 ~~\$135~~\$100 shall be added to any fine imposed pursuant to this  
10 section, of which \$25 ~~one-quarter~~ shall be deposited in the  
11 Emergency Medical Services Trust Fund, \$50 ~~one-half~~ shall be  
12 deposited in the Criminal Justice Standards and Training Trust  
13 Fund of the Department of Law Enforcement to be used for  
14 operational expenses of the Division of Local Law Enforcement  
15 Assistance in conducting the statewide criminal analysis  
16 laboratory system established in s. 943.32, and \$60  
17 ~~one-quarter~~ shall be deposited in the Brain and Spinal Cord  
18 Injury Rehabilitation Trust Fund and used for the purposes set  
19 forth ~~created~~ in s. 413.613. However, in satisfaction of the  
20 fine imposed pursuant to this section, the court may, upon a  
21 finding that the defendant is financially unable to pay either  
22 all or part of the fine, order that the defendant participate  
23 for a specified additional period of time in public service or  
24 a community work project in lieu of payment of that portion of  
25 the fine which the court determines the defendant is unable to  
26 pay. In determining such additional sentence, the court shall  
27 consider the amount of the unpaid portion of the fine and the  
28 reasonable value of the services to be ordered; however, the  
29 court may not compute the reasonable value of services at a  
30 rate less than the federal minimum wage at the time of  
31 sentencing.

