

By Senator Casas

39-605A-99

1                                   A bill to be entitled  
 2           An act relating to driving under the influence;  
 3           amending ss. 316.192, 316.193, 322.271,  
 4           322.291, F.S.; providing that any person  
 5           convicted of driving under the influence must,  
 6           in addition to any other penalties provided by  
 7           law, complete a substance abuse education  
 8           course conducted by a licensed DUI program,  
 9           including a psychosocial evaluation, and, if  
 10          referred, substance abuse treatment; providing  
 11          criteria for temporary reinstatement of driving  
 12          privileges by the Department of Highway Safety  
 13          and Motor Vehicles; amending s. 322.292, F.S.;  
 14          providing criteria for the granting of DUI  
 15          program licenses and deleting obsolete  
 16          provisions; providing an effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Subsection (4) of section 316.192, Florida  
 21 Statutes, is amended to read:

22           316.192 Reckless driving.--  
 23           (4) In addition to any other penalty provided under  
 24 this section, if the court has reasonable cause to believe  
 25 that the use of alcohol, chemical substances set forth in s.  
 26 877.111, or substances controlled under chapter 893  
 27 contributed to a violation of this section, the court shall  
 28 direct the person so convicted to complete a DUI program ~~the~~  
 29 substance abuse education course and evaluation as provided in  
 30 s. 316.193(5) within a reasonable period of time specified by  
 31 the court. If the DUI program ~~agency~~ conducting such course

1 and evaluation refers ~~may refer~~ the person to an authorized  
2 substance abuse treatment provider ~~agency~~ for substance abuse  
3 evaluation and treatment, ~~the~~ directive of the court  
4 requiring completion of such course, evaluation, and treatment  
5 shall be enforced as provided in s. 322.245. The referral to  
6 treatment resulting from the DUI program evaluation may not be  
7 waived without a supporting independent psychosocial  
8 evaluation conducted by an authorized substance abuse  
9 treatment provider appointed by the court, which shall have  
10 access to the DUI program psychosocial evaluation before the  
11 independent psychosocial evaluation is conducted. The court  
12 shall review the results and recommendations of both  
13 evaluations before determining the request for waiver. The  
14 offender shall bear the full cost of this procedure. If a  
15 person directed ~~referred~~ to a DUI program substance abuse  
16 education course and evaluation or referred to treatment under  
17 this subsection fails to report for or complete such course,  
18 evaluation, or treatment ~~or education~~, the ~~agency~~ conducting  
19 ~~the~~ DUI program shall notify the court and the department of  
20 the failure. Upon receipt of such notice, the department  
21 shall cancel the person's driving privilege, notwithstanding  
22 the terms of the court order or any suspension or revocation  
23 of the driving privilege. The department may temporarily  
24 ~~shall~~ reinstate the driving privilege on a restricted basis  
25 upon verification from the DUI program that the education,  
26 evaluation, and treatment are completed. The department may  
27 temporarily reinstate the driving privilege on a restricted  
28 basis for a period not to exceed 90 days upon verification  
29 that the offender has entered treatment and has completed the  
30 DUI education course and evaluation requirement. If the DUI  
31 program notifies the department of the second failure to

1 complete treatment, the department shall reinstate the driving  
2 privilege only after notice of successful completion of  
3 treatment from the DUI program.~~when the person completes the~~  
4 ~~substance abuse education course or reenters treatment~~  
5 ~~required under this subsection.~~

6 Section 2. Subsection (5) of section 316.193, Florida  
7 Statutes, 1998 Supplement, is amended to read:

8 316.193 Driving under the influence; penalties.--

9 (5) The court shall place all offenders ~~any offender~~  
10 convicted of violating this section on monthly reporting  
11 probation and shall require attendance at a substance abuse  
12 course conducted by a DUI program licensed by the department  
13 under s. 322.292, which must include a psychosocial evaluation  
14 of the offender. If the DUI program refers ~~licensed by the~~  
15 ~~department; and the agency conducting the course may refer the~~  
16 offender to an authorized substance abuse treatment service  
17 provider for substance abuse evaluation and treatment, in  
18 addition to any sentence or fine imposed under this section,  
19 completion of all such education, evaluation, and treatment is  
20 a condition of reporting probation. The offender shall assume  
21 reasonable costs for such education, evaluation, and  
22 treatment, ~~with completion of all such education, evaluation,~~  
23 ~~and treatment being a condition of reporting probation. The~~  
24 referral to treatment resulting from a psychosocial evaluation  
25 shall may not be waived without a supporting independent  
26 psychosocial evaluation conducted by an authorized substance  
27 abuse treatment provider ~~agency~~ appointed by the court, which  
28 shall have ~~and with~~ access to the DUI program's psychosocial  
29 original evaluation before the independent psychosocial  
30 evaluation is conducted. The court shall review the results  
31 and recommendations of both evaluations before determining the

1 request for waiver. The offender shall bear the full cost of  
2 this procedure. The term "substance abuse" means the abuse of  
3 alcohol or any substance named or described in Schedules I  
4 through V of s. 893.03. If an offender referred to treatment  
5 under this subsection fails to report for or complete such  
6 treatment or fails to complete the DUI program substance abuse  
7 education course and evaluation, the DUI program shall notify  
8 the court and the department of the failure. Upon receipt of  
9 the notice, the department shall cancel the offender's driving  
10 privilege, notwithstanding the terms of the court order or any  
11 suspension or revocation of the driving privilege. The  
12 department may temporarily ~~shall~~ reinstate the driving  
13 privilege on a restricted basis for a period not to exceed 90  
14 days upon verification from the DUI program that the offender  
15 has entered treatment and the DUI education course and  
16 evaluation requirement has been completed. If the DUI program  
17 notifies the department of the second failure to complete  
18 treatment, the department shall reinstate the driving  
19 privilege only after notice of completion of treatment from  
20 the DUI program ~~when the offender completes the substance~~  
21 ~~abuse education course or enters treatment required under this~~  
22 ~~subsection~~. The organization that conducts the substance  
23 abuse education and evaluation may not provide required  
24 substance abuse treatment unless a waiver has been granted to  
25 that organization by the department. A waiver may be granted  
26 only if the department determines, in accordance with its  
27 rules, that the service provider that conducts the substance  
28 abuse education and evaluation is the most appropriate service  
29 provider and is licensed under chapter 397 or is exempt from  
30 such licensure. All DUI treatment programs providing treatment  
31 services on January 1, 1994, shall be allowed to continue to

1 provide such services until the department determines whether  
2 a waiver should be granted. A statistical referral report  
3 shall be submitted quarterly to the department by each  
4 organization authorized to provide services under this  
5 section.

6 Section 3. Paragraph (a) of subsection (2) of section  
7 322.271, Florida Statutes, 1998 Supplement, is amended to  
8 read:

9 322.271 Authority to modify revocation, cancellation,  
10 or suspension order.--

11 (2)(a) Upon such hearing, the person whose license has  
12 been suspended, canceled, or revoked may show that such  
13 suspension, cancellation, or revocation of his or her license  
14 causes a serious hardship and precludes the person's carrying  
15 out his or her normal business occupation, trade, or  
16 employment and that the use of the person's license in the  
17 normal course of his or her business is necessary to the  
18 proper support of the person or his or her family. Except as  
19 otherwise provided in this subsection, the department shall  
20 require proof of the successful completion of the applicable  
21 department ~~an~~ approved driver training course or DUI substance  
22 abuse education course, which shall include a psychosocial  
23 evaluation and treatment, if referred, and may require letters  
24 of recommendation from respected business persons in the  
25 community, law enforcement officers, or judicial officers in  
26 determining whether such person should be permitted to operate  
27 a motor vehicle on a restricted basis for business or  
28 employment use only and in determining whether such person can  
29 be trusted to so operate a motor vehicle. The referral to  
30 treatment resulting from the psychosocial evaluation shall not  
31 be waived without a supporting independent psychosocial

1 evaluation conducted by an authorized substance abuse  
2 treatment provider appointed by the department, which shall  
3 have access to the DUI program psychosocial evaluation before  
4 the independent psychosocial evaluation is conducted. The  
5 department shall review the results and recommendations of  
6 both evaluations before determining the request for waiver.  
7 The offender must bear the full cost of this procedure. If a  
8 driver's license has been suspended under the point system or  
9 pursuant to s. 322.2615, the department shall require proof of  
10 enrollment in the applicable department ~~an~~ approved driver  
11 training course or licensed DUI program substance abuse  
12 education course, including evaluation and treatment, if  
13 referred, and may require ~~the~~ letters of recommendation  
14 described in this subsection to determine if the driver should  
15 be reinstated on a restricted basis; if such person fails to  
16 complete the approved course within 90 days after  
17 reinstatement or subsequently fails to complete treatment, if  
18 applicable, the department shall cancel his or her driver's  
19 license until the course and treatment, if applicable, is  
20 successfully completed, notwithstanding the terms of the court  
21 order or any suspension or revocation of the driving  
22 privilege. The department may temporarily reinstate the  
23 driving privilege on a restricted basis for a period not to  
24 exceed 90 days upon verification from the DUI program that the  
25 offender has entered treatment and has completed the DUI  
26 education course and evaluation requirement. If the DUI  
27 program notifies the department of the second failure to  
28 complete treatment, the department shall reinstate the driving  
29 privilege only after notice of completion of treatment from  
30 the DUI program. The privilege of driving on a limited or  
31 restricted basis for business or employment use shall not be

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

12 Section 4. Section 322.291, Florida Statutes, is  
13 amended to read:

14 322.291 Driver improvement schools or DUI programs;  
15 required in certain suspension and revocation cases.--Except  
16 as provided in s. 322.03(2), any person:

17 (1) Whose driving privilege has been revoked:

18 (a) Upon conviction for:

19 1. Driving, or being in actual physical control of,  
20 any vehicle while under the influence of alcoholic beverages,  
21 any chemical substance set forth in s. 877.111, or any  
22 substance controlled under chapter 893, in violation of s.  
23 316.193;

24 2. Driving with an unlawful blood- or breath-alcohol  
25 level;

26 3. Manslaughter resulting from the operation of a  
27 motor vehicle;

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

31 5. Reckless driving; or

1 (b) As an habitual offender;

2 (c) Upon direction of the court, if the court feels  
3 that the seriousness of the offense and the circumstances  
4 surrounding the conviction warrant the revocation of the  
5 licensee's driving privilege; or

6 (2) Whose license was suspended under the point  
7 system, was suspended for driving with an unlawful  
8 blood-alcohol level of 0.10 percent or higher before January  
9 1, 1994, was suspended for driving with an unlawful  
10 blood-alcohol level of 0.08 percent or higher after December  
11 31, 1993, was suspended for a violation of s. 316.193(1), or  
12 was suspended for refusing to submit to a lawful breath,  
13 blood, or urine test as provided in s. 322.2615

14  
15 shall, before the driving privilege may be reinstated, present  
16 to the department proof of enrollment in a department-approved  
17 advanced driver improvement course or DUI program substance  
18 abuse education course, which shall include a psychosocial  
19 evaluation and treatment, if referred. If the person fails to  
20 complete such course or evaluation within 90 days after  
21 reinstatement, or subsequently fails to complete treatment, if  
22 referred, the DUI program shall notify the department of the  
23 failure. Upon receipt of the notice, the department shall  
24 cancel the offender's driving privilege, notwithstanding the  
25 expiration of the suspension or revocation of the driving  
26 privilege. The department may temporarily reinstate the  
27 driving privilege on a restricted basis for a period not to  
28 exceed 90 days upon verification from the DUI program that the  
29 offender has completed the education course and evaluation  
30 requirement and has entered treatment. If the DUI program  
31 notifies the department of the second failure to complete



1 treatment, the department shall reinstate the driving  
2 privilege only after notice of completion of treatment from  
3 the DUI program. The referral to treatment resulting from the  
4 psychosocial evaluation shall not be waived without a  
5 supporting independent evaluation to be conducted by an  
6 authorized substance abuse treatment provider appointed by the  
7 department, which shall have access to the DUI program  
8 psychosocial evaluation before the independent psychosocial  
9 evaluation is conducted. The department shall review the  
10 results and recommendations of both evaluations before  
11 determining the request for waiver. The offender must bear the  
12 full cost of this procedure.~~the driver's license shall be~~  
13 ~~canceled by the department until such course is successfully~~  
14 ~~completed.~~

15 Section 5. Section 322.292, Florida Statutes, is  
16 amended to read:

17 322.292 DUI programs supervision; powers and duties of  
18 the department.--

19 (1) The Department of Highway Safety and Motor  
20 Vehicles shall license and regulate all DUI programs, which  
21 regulation shall include the certification of instructors,  
22 evaluators, clinical supervisors, and evaluator supervisors.  
23 The department shall, after consultation with the chief judge  
24 of the affected judicial circuit, establish requirements  
25 regarding the number of programs to be offered within a  
26 judicial circuit. Such requirements shall address the number  
27 of clients currently served in the circuit as well as  
28 improvements in service that may be derived from operation of  
29 an additional DUI program. DUI program education and  
30 evaluation services are exempt from licensure under chapter  
31

1 ~~chapters 396 and~~ 397. However, treatment programs must  
2 continue to be licensed under chapter ~~chapters 396 and~~ 397.

3 (2) The department shall adopt rules to implement its  
4 supervisory authority over DUI programs in accordance with the  
5 procedures of chapter 120, including the establishment of  
6 uniform standards of operation for DUI programs and the method  
7 for setting and approving fees, as follows:

8 (a) Adopt rules ~~Establish minimum standards~~ for  
9 statutorily required education, evaluation, and supervision of  
10 DUI offenders. ~~Such minimum standards previously adopted by~~  
11 ~~the Traffic Court Review Committee of the Supreme Court of~~  
12 ~~Florida shall remain in effect unless modified by the~~  
13 ~~department.~~

14 (b) Adopt rules ~~Establish minimum standards~~ for the  
15 administration and financial management of DUI programs,  
16 including, but not limited to:

17 1. Rules ~~Standards~~ governing the types of expenditures  
18 that may be made by DUI programs from funds paid by persons  
19 attending such programs.

20 2. Rules ~~Standards~~ for financial reporting that  
21 require data on DUI programs expenditures in sufficient detail  
22 to support reasonable and informed decisions concerning the  
23 fees that are to be assessed those attending DUI programs.  
24 The department shall perform financial audits of DUI programs  
25 required under this section or require that financial audits  
26 of the programs be performed by certified public accountants  
27 at program expense and submitted directly from the auditor to  
28 the department.

29 3. Rules for ~~Standards of~~ reciprocity in relation to  
30 DUI programs in other states or countries that have programs  
31 similar to the DUI programs licensed by the department.

1           4. Such other rules ~~standards~~ as the department deems  
2 appropriate and necessary for the effective oversight of the  
3 DUI programs.

4           (c) Implement procedures for the granting and revoking  
5 of licenses for DUI programs, including:

6           1. A uniform application fee in an amount sufficient  
7 to cover the department's administrative costs in processing  
8 and evaluating DUI program license applications. The  
9 application fee shall not apply to programs that apply for  
10 licensure to serve a county that does not have a currently  
11 licensed DUI program or where the currently licensed program  
12 has relinquished its license.

13           2. Criteria for evaluating the need for additional  
14 licensed DUI programs serving the same geographic area,  
15 including:

16           a. The availability, quality of services,  
17 accessibility, and adequacy of currently licensed providers.

18           b. The ability of the applicant to provide quality DUI  
19 program services and the applicant's record of providing DUI  
20 services in other areas of the state.

21           c. The availability of resources, including  
22 appropriately trained and certified personnel employed by or  
23 under contract with the applicant, and adequate applicant  
24 funds for capital and operating expenses.

25           d. The applicant's ability to offer higher quality,  
26 more frequent or more accessible DUI program services, and the  
27 applicant's ability to offer improved services to persons with  
28 special needs.

29           e. The immediate and long-term financial feasibility  
30 of the applicant.

31

1           f. The probable impact of an additional licensed DUI  
2 program on existing DUI services in the same geographic area  
3 in terms of the availability, quality, accessibility, and  
4 adequacy of existing DUI services. To assist the department in  
5 evaluating an application, the department shall request that  
6 licensees furnish information concerning the impact of an  
7 additional program on existing DUI services.

8           3. Competing applicants and currently licensed DUI  
9 programs serving the same geographic area may request an  
10 administrative hearing under chapter 120 to contest the  
11 department's determination of need for an additional licensed  
12 DUI program in that area.

13           4. The department shall revoke the license of any DUI  
14 program that does not provide the services specified in its  
15 application within 45 days after licensure.

16           (d) Establish a fee structure for the various programs  
17 offered by the DUI programs, based only on the reasonable and  
18 necessary costs for operating the programs throughout the  
19 state. The department shall approve, modify, or reduce fees as  
20 necessary. ~~The DUI programs fees that are in effect on January~~  
21 ~~1, 1994, shall remain in effect until the department adopts a~~  
22 ~~fee schedule for the DUI programs system. After the adoption~~  
23 ~~of the schedule, the programs shall adjust their fees to~~  
24 ~~conform with the established amounts.~~

25           (e) Establish policies and procedures for monitoring  
26 DUI programs compliance with all rules adopted ~~minimum~~  
27 ~~standards established~~ by the department.

28           (f) The department shall oversee an ongoing evaluation  
29 to assess the effectiveness of the DUI programs. This  
30 evaluation shall be performed by an independent group and  
31 shall evaluate the curriculum, client treatment referrals,

1 recidivism rates, and any other relevant matters. ~~The~~  
2 ~~department shall report to the Legislature by January 1, 1995,~~  
3 ~~on the status of the evaluation, including its design and~~  
4 ~~schedule for completion.~~The department may use funds received  
5 under s. 322.293 to retain the services and reimburse expenses  
6 of such private persons or professional consultants as are  
7 required for monitoring and evaluating DUI programs.

8 (g) Investigate complaints about the DUI programs and  
9 resolve problems in the provision of services to DUI  
10 offenders, as needed.

11 ~~(3) All DUI programs and certified program personnel~~  
12 ~~providing DUI programs services that meet the department's~~  
13 ~~standards and that are operating on January 1, 1994, may~~  
14 ~~remain in operation until the department's license procedures~~  
15 ~~are in place. At that time the DUI programs and certified~~  
16 ~~program personnel may apply for relicensure.~~

17 (3)~~(4)~~ DUI programs shall be either governmental  
18 programs or not-for-profit corporations.

19 ~~(5) The department shall report to the Supreme Court~~  
20 ~~by December 1, 1994, and by December 31 of each succeeding~~  
21 ~~year through 1996, on the general status of the statewide~~  
22 ~~program. This report must include programmatic and statistical~~  
23 ~~information regarding the number of licensed programs,~~  
24 ~~enrollment and referral figures, program monitoring and~~  
25 ~~evaluation activities, and findings, and the general steps~~  
26 ~~taken by the department to implement the provisions of this~~  
27 ~~section.~~

28 Section 6. This act shall take effect October 1, 1999.  
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SENATE SUMMARY

Provides standards for DUI program substance abuse education courses and requires psychosocial evaluations. Provides for the temporary reinstatement of driving privileges. Provides criteria for the licensing of DUI programs.