

By the Committee on Criminal Justice and Senator Casas

307-1757-99

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.

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

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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~~ shall reinstate
24 the driving privilege upon verification from the DUI program
25 that the education, evaluation, and treatment are completed.
26 The department may temporarily reinstate the driving privilege
27 on a restricted basis upon verification that the offender is
28 currently participating in treatment and has completed the DUI
29 education course and evaluation requirement. If the DUI
30 program notifies the department of the second failure to
31 complete treatment, the department shall reinstate the driving

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

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

7 316.193 Driving under the influence; penalties.--

8 (5) The court shall place all offenders ~~any offender~~
9 convicted of violating this section on monthly reporting
10 probation and shall require completion of ~~attendance at~~ a
11 substance abuse course conducted by a DUI program licensed by
12 the department under s. 322.292, which must include a
13 psychosocial evaluation of the offender. If the DUI program
14 refers licensed by the department; and the agency conducting
15 the course may refer the offender to an authorized substance
16 abuse treatment service provider for substance abuse
17 ~~evaluation and~~ treatment, in addition to any sentence or fine
18 imposed under this section, completion of all such education,
19 evaluation, and treatment is a condition of reporting
20 probation. The offender shall assume reasonable costs for
21 such education, evaluation, and treatment, ~~with completion of~~
22 ~~all such education, evaluation, and treatment being a~~
23 ~~condition of reporting probation.~~ The referral to treatment
24 resulting from a psychosocial evaluation shall ~~may~~ not be
25 waived without a supporting independent psychosocial
26 evaluation conducted by an authorized substance abuse
27 treatment provider ~~agency~~ appointed by the court, which shall
28 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 upon verification from the DUI
14 program that the offender is currently participating in
15 treatment and the DUI education course and evaluation
16 requirement has been completed. If the DUI program notifies
17 the department of the second failure to complete treatment,
18 the department shall reinstate the driving privilege only
19 after notice of completion of treatment from the DUI program
20 ~~when the offender completes the substance abuse education~~
21 ~~course or enters treatment required under this subsection~~.
22 The organization that conducts the substance abuse education
23 and evaluation may not provide required substance abuse
24 treatment unless a waiver has been granted to that
25 organization by the department. A waiver may be granted only
26 if the department determines, in accordance with its rules,
27 that the service provider that conducts the substance abuse
28 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 program
22 substance abuse education course and evaluation as provided in
23 s. 316.193(5). ~~and may require~~ Letters of recommendation from
24 respected business persons in the community, law enforcement
25 officers, or judicial officers may also be required to
26 determine ~~in determining~~ whether such person should be
27 permitted to operate a motor vehicle on a restricted basis for
28 business or employment use only and in determining whether
29 such person can be trusted to so operate a motor vehicle. If a
30 driver's license has been suspended under the point system or
31 pursuant to s. 322.2615, the department shall require proof of

1 enrollment in the applicable department ~~an~~ approved driver
2 training course or licensed DUI program substance abuse
3 education course, including evaluation and treatment, if
4 referred,and may require ~~the~~ letters of recommendation
5 described in this subsection to determine if the driver should
6 be reinstated on a restricted basis.†If such person fails to
7 complete the approved course within 90 days after
8 reinstatement or subsequently fails to complete treatment, if
9 applicable, the department shall cancel his or her driver's
10 license until the course and treatment, if applicable,is
11 successfully completed, notwithstanding the terms of the court
12 order or any suspension or revocation of the driving
13 privilege. The department may temporarily reinstate the
14 driving privilege on a restricted basis upon verification from
15 the DUI program that the offender has reentered and is
16 currently participating in treatment and has completed the DUI
17 education course and evaluation requirement. If the DUI
18 program notifies the department of the second failure to
19 complete treatment, the department shall reinstate the driving
20 privilege only after notice of completion of treatment from
21 the DUI program. The privilege of driving on a limited or
22 restricted basis for business or employment use shall not be
23 granted to a person who has been convicted of a violation of
24 s. 316.193 until completion of the DUI program substance abuse
25 ~~such~~ education ~~or training~~ course and evaluations as provided
26 in s. 316.193(5). Except as provided in paragraph (b), the
27 privilege of driving on a limited or restricted basis for
28 business or employment use shall not be granted to a person
29 whose license is revoked pursuant to s. 322.28 or suspended
30 pursuant to s. 322.2615 and who has been convicted of a
31 violation of s. 316.193 two or more times or whose license has

1 | been suspended two or more times for refusal to submit to a
2 | test pursuant to s. 322.2615 or former s. 322.261.

3 | Section 4. Section 322.291, Florida Statutes, is
4 | amended to read:

5 | 322.291 Driver improvement schools or DUI programs;
6 | required in certain suspension and revocation cases.--Except
7 | as provided 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, was suspended for a violation of s. 316.193(1), or
3 was suspended for refusing to submit to a lawful breath,
4 blood, or urine test as provided in s. 322.2615

5
6 shall, before the driving privilege may be reinstated, present
7 to the department proof of enrollment in a department-approved
8 advanced driver improvement course or a substance abuse
9 education course conducted by a DUI program licensed pursuant
10 to s. 322.292, which shall include a psychosocial evaluation
11 and treatment, if referred. If the person fails to complete
12 such course or evaluation within 90 days after reinstatement,
13 or subsequently fails to complete treatment, if referred, the
14 DUI program shall notify the department of the failure. Upon
15 receipt of the notice, the department shall cancel the
16 offender's driving privilege, notwithstanding the expiration
17 of the suspension or revocation of the driving privilege. The
18 department may temporarily reinstate the driving privilege
19 upon verification from the DUI program that the offender has
20 completed the education course and evaluation requirement and
21 has reentered and is currently participating in treatment. If
22 the DUI program notifies the department of the second failure
23 to complete treatment, the department shall reinstate the
24 driving privilege only after notice of completion of treatment
25 from the DUI program.~~the driver's license shall be canceled~~
26 ~~by the department until such course is successfully completed.~~

27 Section 5. Section 322.292, Florida Statutes, is
28 amended to read:

29 322.292 DUI programs supervision; powers and duties of
30 the department.--

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1 (1) The Department of Highway Safety and Motor
2 Vehicles shall license and regulate all DUI programs, which
3 regulation shall include the certification of instructors,
4 evaluators, clinical supervisors, and special supervision
5 services evaluators ~~evaluator supervisors~~. The department
6 shall, after consultation with the chief judge of the affected
7 judicial circuit, establish requirements regarding the number
8 of programs to be offered within a judicial circuit. Such
9 requirements shall address the number of clients currently
10 served in the circuit as well as improvements in service that
11 may be derived from operation of an additional DUI program.
12 DUI program education and evaluation services are exempt from
13 licensure under chapter ~~chapters 396 and~~ 397. However,
14 treatment programs must continue to be licensed under chapter
15 ~~chapters 396 and~~ 397.

16 (2) The department shall adopt rules to implement its
17 supervisory authority over DUI programs in accordance with the
18 procedures of chapter 120, including the establishment of
19 uniform standards of operation for DUI programs and the method
20 for setting and approving fees, as follows:

21 (a) Adopt rules ~~Establish minimum standards~~ for
22 statutorily required education, evaluation, and supervision of
23 DUI offenders. ~~Such minimum standards previously adopted by~~
24 ~~the Traffic Court Review Committee of the Supreme Court of~~
25 ~~Florida shall remain in effect unless modified by the~~
26 ~~department.~~

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

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

4 2. Rules ~~Standards~~ for financial reporting that
5 require data on DUI programs expenditures in sufficient detail
6 to support reasonable and informed decisions concerning the
7 fees that are to be assessed those attending DUI programs.
8 The department shall perform financial audits of DUI programs
9 required under this section or require that financial audits
10 of the programs be performed by certified public accountants
11 at program expense and submitted directly from the auditor to
12 the department.

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

16 4. Such other rules ~~standards~~ as the department deems
17 appropriate and necessary for the effective oversight of the
18 DUI programs.

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

21 1. A uniform application fee in an amount sufficient
22 to cover the department's administrative costs in processing
23 and evaluating DUI program license applications. The
24 application fee shall not apply to programs that apply for
25 licensure to serve a county that does not have a currently
26 licensed DUI program or where the currently licensed program
27 has relinquished its license.

28 2. Criteria for evaluating the need for additional
29 licensed DUI programs serving the same geographic area,
30 including:

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1 a. The availability, quality of services,
2 accessibility, and adequacy of currently licensed providers.

3 b. The ability of the applicant to provide quality DUI
4 program services and the applicant's record of providing DUI
5 services in other areas of the state.

6 c. The availability of resources, including
7 appropriately trained and certified personnel employed by or
8 under contract with the applicant, and adequate applicant
9 funds for capital and operating expenses.

10 d. The applicant's ability to offer higher quality,
11 more frequent or more accessible DUI program services, and the
12 applicant's ability to offer improved services to persons with
13 special needs.

14 e. The immediate and long-term financial feasibility
15 of the applicant.

16 f. The probable impact of an additional licensed DUI
17 program on existing DUI services in the same geographic area
18 in terms of the availability, quality, accessibility, and
19 adequacy of existing DUI services. To assist the department in
20 evaluating an application, the department shall request that
21 licensees furnish information concerning the impact of an
22 additional program on existing DUI services.

23 3. Competing applicants and currently licensed DUI
24 programs serving the same geographic area may request an
25 administrative hearing under chapter 120 to contest the
26 department's determination of need for an additional licensed
27 DUI program in that area.

28 4. The department shall revoke the license of any DUI
29 program that does not provide the services specified in its
30 application within 45 days after licensure, and notify the
31 chief judge of that circuit of such revocation.

1 (d) Establish a fee structure for the various programs
2 offered by the DUI programs, based only on the reasonable and
3 necessary costs for operating the programs throughout the
4 state. The department shall approve, modify, or reduce fees as
5 necessary. ~~The DUI programs fees that are in effect on January~~
6 ~~1, 1994, shall remain in effect until the department adopts a~~
7 ~~fee schedule for the DUI programs system. After the adoption~~
8 ~~of the schedule, the programs shall adjust their fees to~~
9 ~~conform with the established amounts.~~

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

13 (f) The department shall oversee an ongoing evaluation
14 to assess the effectiveness of the DUI programs. This
15 evaluation shall be performed by an independent group and
16 shall evaluate the curriculum, client treatment referrals,
17 recidivism rates, and any other relevant matters. ~~The~~
18 ~~department shall report to the Legislature by January 1, 1995,~~
19 ~~on the status of the evaluation, including its design and~~
20 ~~schedule for completion.~~The department may use funds received
21 under s. 322.293 to retain the services and reimburse expenses
22 of such private persons or professional consultants as are
23 required for monitoring and evaluating DUI programs.

24 (g) Investigate complaints about the DUI programs and
25 resolve problems in the provision of services to DUI
26 offenders, as needed.

27 ~~(3) All DUI programs and certified program personnel~~
28 ~~providing DUI programs services that meet the department's~~
29 ~~standards and that are operating on January 1, 1994, may~~
30 ~~remain in operation until the department's license procedures~~

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1 ~~are in place. At that time the DUI programs and certified~~
2 ~~program personnel may apply for relicensure.~~

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

5 ~~(5) The department shall report to the Supreme Court~~
6 ~~by December 1, 1994, and by December 31 of each succeeding~~
7 ~~year through 1996, on the general status of the statewide~~
8 ~~program. This report must include programmatic and statistical~~
9 ~~information regarding the number of licensed programs,~~
10 ~~enrollment and referral figures, program monitoring and~~
11 ~~evaluation activities, and findings, and the general steps~~
12 ~~taken by the department to implement the provisions of this~~
13 ~~section.~~

14 Section 6. This act shall take effect upon becoming a
15 law.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 Senate Bill 1056

- 20 1. Removes a provision in two sections of the bill that
21 would allow the department, rather than the court, to
22 waive an offender's treatment after reviewing the
23 evaluations.
24 2. Makes technical and "clean-up" changes throughout the
25 bill.
26 3. Changes the effective date from October 1, 1999 to "upon
27 becoming a law."
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