

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; deleting the requirement
14 that the clerk send a second notice of
15 impoundment or immobilization of a vehicle to
16 the registered owner; amending s. 322.292,
17 F.S.; providing criteria for the granting of
18 DUI program licenses and deleting obsolete
19 provisions; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (4) of section 316.192, Florida
24 Statutes, is amended to read:

25 316.192 Reckless driving.--

26 (4) In addition to any other penalty provided under
27 this section, if the court has reasonable cause to believe
28 that the use of alcohol, chemical substances set forth in s.
29 877.111, or substances controlled under chapter 893
30 contributed to a violation of this section, the court shall
31 direct the person so convicted to complete a DUI program ~~the~~

1 substance abuse education course and evaluation as provided in
2 s. 316.193(5) within a reasonable period of time specified by
3 the court. If the DUI program agency conducting such course
4 and evaluation refers ~~may refer~~ the person to an authorized
5 substance abuse treatment provider agency for substance abuse
6 evaluation and treatment, ~~the~~ directive of the court
7 requiring completion of such course, evaluation, and treatment
8 shall be enforced as provided in s. 322.245. The referral to
9 treatment resulting from the DUI program evaluation may not be
10 waived without a supporting independent psychosocial
11 evaluation conducted by an authorized substance abuse
12 treatment provider, appointed by the court, which shall have
13 access to the DUI program psychosocial evaluation before the
14 independent psychosocial evaluation is conducted. The court
15 shall review the results and recommendations of both
16 evaluations before determining the request for waiver. The
17 offender shall bear the full cost of this procedure. If a
18 person directed ~~referred~~ to a DUI program substance abuse
19 education course and evaluation or referred to treatment under
20 this subsection fails to report for or complete such course,
21 evaluation, or treatment or education, the agency conducting
22 the DUI program shall notify the court and the department of
23 the failure. Upon receipt of such notice, the department
24 shall cancel the person's driving privilege, notwithstanding
25 the terms of the court order or any suspension or revocation
26 of the driving privilege. The department may shall ~~shall~~ reinstate
27 the driving privilege upon verification from the DUI program
28 that the education, evaluation, and treatment are completed.
29 The department may temporarily reinstate the driving privilege
30 on a restricted basis upon verification that the offender is
31 currently participating in treatment and has completed the DUI

1 education course and evaluation requirement. If the DUI
2 program notifies the department of the second failure to
3 complete treatment, the department shall reinstate the driving
4 privilege only after notice of successful completion of
5 treatment from the DUI program.~~when the person completes the~~
6 ~~substance abuse education course or reenters treatment~~
7 ~~required under this subsection.~~

8 Section 2. Subsections (5) and (6) of section 316.193,
9 Florida Statutes, 1998 Florida Supplement, are amended to
10 read:

11 316.193 Driving under the influence; penalties.--

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

1 have and with access to the DUI program's psychosocial
2 ~~original~~ evaluation before the independent psychosocial
3 evaluation is conducted. The court shall review the results
4 and recommendations of both evaluations before determining the
5 request for waiver. The offender shall bear the full cost of
6 this procedure. The term "substance abuse" means the abuse of
7 alcohol or any substance named or described in Schedules I
8 through V of s. 893.03. If an offender referred to treatment
9 under this subsection fails to report for or complete such
10 treatment or fails to complete the DUI program substance abuse
11 education course and evaluation, the DUI program shall notify
12 the court and the department of the failure. Upon receipt of
13 the notice, the department shall cancel the offender's driving
14 privilege, notwithstanding the terms of the court order or any
15 suspension or revocation of the driving privilege. The
16 department may temporarily ~~shall~~ reinstate the driving
17 privilege on a restricted basis upon verification from the DUI
18 program that the offender is currently participating in
19 treatment and the DUI education course and evaluation
20 requirement has been completed. If the DUI program notifies
21 the department of the second failure to complete treatment,
22 the department shall reinstate the driving privilege only
23 after notice of completion of treatment from the DUI program
24 ~~when the offender completes the substance abuse education~~
25 ~~course or enters treatment required under this subsection.~~
26 The organization that conducts the substance abuse education
27 and evaluation may not provide required substance abuse
28 treatment unless a waiver has been granted to that
29 organization by the department. A waiver may be granted only
30 if the department determines, in accordance with its rules,
31 that the service provider that conducts the substance abuse

1 education and evaluation is the most appropriate service
2 provider and is licensed under chapter 397 or is exempt from
3 such licensure. All DUI ~~treatment~~ programs providing treatment
4 services on January 1, 1994, shall be allowed to continue to
5 provide such services until the department determines whether
6 a waiver should be granted. A statistical referral report
7 shall be submitted quarterly to the department by each
8 organization authorized to provide services under this
9 section.

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

13 (d) The court must at the time of sentencing the
14 defendant issue an order for the impoundment or immobilization
15 of a vehicle. Within 7 business days after the date that the
16 court issues the order of impoundment or immobilization, ~~and~~
17 ~~once again 30 business days before the actual impoundment or~~
18 ~~immobilization of the vehicle,~~ the clerk of the court must
19 send notice by certified mail, return receipt requested, to
20 the registered owner of each vehicle, if the registered owner
21 is a person other than the defendant, and to each person of
22 record claiming a lien against the vehicle.

23 Section 3. Paragraph (a) of subsection (2) of section
24 322.271, Florida Statutes, 1998 Supplement, is amended to
25 read:

26 322.271 Authority to modify revocation, cancellation,
27 or suspension order.--

28 (2)(a) Upon such hearing, the person whose license has
29 been suspended, canceled, or revoked may show that such
30 suspension, cancellation, or revocation of his or her license
31 causes a serious hardship and precludes the person's carrying

1 out his or her normal business occupation, trade, or
2 employment and that the use of the person's license in the
3 normal course of his or her business is necessary to the
4 proper support of the person or his or her family. Except as
5 otherwise provided in this subsection, the department shall
6 require proof of the successful completion of the applicable
7 department ~~an~~ approved driver training course or DUI program
8 substance abuse education course and evaluation as provided in
9 s. 316.193(5). ~~and may require~~ Letters of recommendation from
10 respected business persons in the community, law enforcement
11 officers, or judicial officers may also be required to
12 determine in determining whether such person should be
13 permitted to operate a motor vehicle on a restricted basis for
14 business or employment use only and in determining whether
15 such person can be trusted to so operate a motor vehicle. If a
16 driver's license has been suspended under the point system or
17 pursuant to s. 322.2615, the department shall require proof of
18 enrollment in the applicable department ~~an~~ approved driver
19 training course or licensed DUI program substance abuse
20 education course, including evaluation and treatment, if
21 referred, and may require ~~the~~ letters of recommendation
22 described in this subsection to determine if the driver should
23 be reinstated on a restricted basis. ~~†~~ If such person fails to
24 complete the approved course within 90 days after
25 reinstatement or subsequently fails to complete treatment, if
26 applicable, the department shall cancel his or her driver's
27 license until the course and treatment, if applicable, is
28 successfully completed, notwithstanding the terms of the court
29 order or any suspension or revocation of the driving
30 privilege. The department may temporarily reinstate the
31 driving privilege on a restricted basis upon verification from

1 the DUI program that the offender has reentered and is
2 currently participating in treatment and has completed the DUI
3 education course and evaluation requirement. If the DUI
4 program notifies the department of the second failure to
5 complete treatment, the department shall reinstate the driving
6 privilege only after notice of completion of treatment from
7 the DUI program. The privilege of driving on a limited or
8 restricted basis for business or employment use shall not be
9 granted to a person who has been convicted of a violation of
10 s. 316.193 until completion of the DUI program substance abuse
11 ~~such education or training~~ course and evaluations as provided
12 in s. 316.193(5). Except as provided in paragraph (b), the
13 privilege of driving on a limited or restricted basis for
14 business or employment use shall not be granted to a person
15 whose license is revoked pursuant to s. 322.28 or suspended
16 pursuant to s. 322.2615 and who has been convicted of a
17 violation of s. 316.193 two or more times or whose license has
18 been suspended two or more times for refusal to submit to a
19 test pursuant to s. 322.2615 or former s. 322.261.

20 Section 4. Section 322.291, Florida Statutes, is
21 amended to read:

22 322.291 Driver improvement schools or DUI programs;
23 required in certain suspension and revocation cases.--Except
24 as provided in s. 322.03(2), any person:

25 (1) Whose driving privilege has been revoked:

26 (a) Upon conviction for:

27 1. Driving, or being in actual physical control of,
28 any vehicle while under the influence of alcoholic beverages,
29 any chemical substance set forth in s. 877.111, or any
30 substance controlled under chapter 893, in violation of s.
31 316.193;

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

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

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

8 5. Reckless driving; or

9 (b) As an habitual offender;

10 (c) Upon direction of the court, if the court feels
11 that the seriousness of the offense and the circumstances
12 surrounding the conviction warrant the revocation of the
13 licensee's driving privilege; or

14 (2) Whose license was suspended under the point
15 system, was suspended for driving with an unlawful
16 blood-alcohol level of 0.10 percent or higher before January
17 1, 1994, was suspended for driving with an unlawful
18 blood-alcohol level of 0.08 percent or higher after December
19 31, 1993, was suspended for a violation of s. 316.193(1), or
20 was suspended for refusing to submit to a lawful breath,
21 blood, or urine test as provided in s. 322.2615
22

23 shall, before the driving privilege may be reinstated, present
24 to the department proof of enrollment in a department-approved
25 advanced driver improvement course or a substance abuse
26 education course conducted by a DUI program licensed pursuant
27 to s. 322.292, which shall include a psychosocial evaluation
28 and treatment, if referred. If the person fails to complete
29 such course or evaluation within 90 days after reinstatement,
30 or subsequently fails to complete treatment, if referred, the
31 DUI program shall notify the department of the failure. Upon

1 receipt of the notice, the department shall cancel the
2 offender's driving privilege, notwithstanding the expiration
3 of the suspension or revocation of the driving privilege. The
4 department may temporarily reinstate the driving privilege
5 upon verification from the DUI program that the offender has
6 completed the education course and evaluation requirement and
7 has reentered and is currently participating in treatment. If
8 the DUI program notifies the department of the second failure
9 to complete treatment, the department shall reinstate the
10 driving privilege only after notice of completion of treatment
11 from the DUI program.~~the driver's license shall be canceled~~
12 ~~by the department until such course is successfully completed.~~

13 Section 5. Section 322.292, Florida Statutes, is
14 amended to read:

15 322.292 DUI programs supervision; powers and duties of
16 the department.--

17 (1) The Department of Highway Safety and Motor
18 Vehicles shall license and regulate all DUI programs, which
19 regulation shall include the certification of instructors,
20 evaluators, clinical supervisors, and special supervision
21 services evaluators ~~evaluator supervisors~~. The department
22 shall, after consultation with the chief judge of the affected
23 judicial circuit, establish requirements regarding the number
24 of programs to be offered within a judicial circuit. Such
25 requirements shall address the number of clients currently
26 served in the circuit as well as improvements in service that
27 may be derived from operation of an additional DUI program.
28 DUI program education and evaluation services are exempt from
29 licensure under chapter ~~chapters 396 and~~ 397. However,
30 treatment programs must continue to be licensed under chapter
31 ~~chapters 396 and~~ 397.

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

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

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

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

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

27 3. Rules for ~~Standards of~~ reciprocity in relation to
28 DUI programs in other states or countries that have programs
29 similar to the DUI programs licensed by the department.
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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 not to exceed \$1,000 but
7 in an amount sufficient to cover the department's
8 administrative costs in processing and evaluating DUI program
9 license applications. The application fee shall not apply to
10 programs that apply for licensure to serve a county that does
11 not have a currently licensed DUI program or where the
12 currently licensed program has relinquished its license.

13 2. In considering an application for approval of a DUI
14 program, the department shall determine whether improvements
15 in service may be derived from the operation of the DUI
16 program and the number of clients currently served in the
17 circuit. The department shall apply the following criteria:

18 (a) The increased frequency of classes and
19 availability of locations of services offered by the applicant
20 DUI program.

21 (b) Services and fees offered by the applicant DUI
22 program and any existing DUI program.

23 (c) The number of DUI clients currently served and
24 historical trends in the number of clients served in the
25 circuit.

26 (d) The availability, accessibility, and service
27 history of any existing DUI program services.

28 (e) The applicant DUI program's service history.

29 (f) The availability of resources, including
30 personnel, demonstrated management capability, and capital and
31 operating expenditures of the applicant DUI program.

1 (g) Improved services to minority and special needs
2 clients.

3 3. Authority for competing applicants and currently
4 licensed DUI programs serving the same geographic area to
5 request an administrative hearing under chapter 120 to contest
6 the department's determination of need for an additional
7 licensed DUI program in that area.

8 4. A requirement that the department revoke the
9 license of any DUI program that does not provide the services
10 specified in its application within 45 days after licensure
11 and notify the chief judge of that circuit of such revocation.

12 5. A requirement that all applicants for initial
13 licensure as a DUI program in a particular circuit on and
14 after the effective date of this act must, at a minimum,
15 satisfy each of the following criteria:

16 a. Maintain a primary business office in the circuit
17 which is located in a permanent structure that is readily
18 accessible by public transportation, if public transportation
19 is available. The primary business office must be adequately
20 staffed and equipped to provide all DUI program support
21 services, including registration and a file for each person
22 who registers for the program.

23 b. Have a satellite office for registration of DUI
24 offenders in each county in the circuit which is located in a
25 permanent structure that is readily accessible by public
26 transportation, if public transportation is available. A
27 satellite office is not required in any county where the total
28 number of DUI convictions in the most recent calendar year is
29 less than 200.

30 c. Have a classroom in each county in the circuit
31 which is located in a permanent structure that is readily

1 accessible by public transportation, if public transportation
2 is available. A classroom is not required in any county where
3 the total number of DUI convictions in the most recent
4 calendar year is less than 100. A classroom may not be located
5 within 250 feet of any business that sells alcoholic
6 beverages.

7 d. Have a plan for conducting all DUI education
8 courses, evaluation services, and other services required by
9 the department. The level I DUI education course must be
10 taught in four segments, with no more than 6 hours of
11 classroom instruction provided to any offender each day.

12 e. Employ at least 1 full-time certified addiction
13 professional for the program at all times.

14 f. Document support from community agencies involved
15 in DUI education and substance abuse treatment in the circuit.

16 g. Have a volunteer board of directors and advisory
17 committee made up of citizens who reside in the circuit in
18 which licensure is sought.

19 h. Submit documentation of compliance with all
20 applicable federal, state, and local laws, including, but not
21 limited to, the Americans with Disabilities Act.

22 (d) Establish a fee structure for the various programs
23 offered by the DUI programs, based only on the reasonable and
24 necessary costs for operating the programs throughout the
25 state. The department shall approve, modify, or reduce fees as
26 necessary. ~~The DUI programs fees that are in effect on January~~
27 ~~1, 1994, shall remain in effect until the department adopts a~~
28 ~~fee schedule for the DUI programs system. After the adoption~~
29 ~~of the schedule, the programs shall adjust their fees to~~
30 ~~conform with the established amounts.~~

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

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

15 (g) Investigate complaints about the DUI programs and
16 resolve problems in the provision of services to DUI
17 offenders, as needed.

18 ~~(3) All DUI programs and certified program personnel~~
19 ~~providing DUI programs services that meet the department's~~
20 ~~standards and that are operating on January 1, 1994, may~~
21 ~~remain in operation until the department's license procedures~~
22 ~~are in place. At that time the DUI programs and certified~~
23 ~~program personnel may apply for relicensure.~~

24 (3)~~(4)~~ DUI programs shall be either governmental
25 programs or not-for-profit corporations.

26 ~~(5) The department shall report to the Supreme Court~~
27 ~~by December 1, 1994, and by December 31 of each succeeding~~
28 ~~year through 1996, on the general status of the statewide~~
29 ~~program. This report must include programmatic and statistical~~
30 ~~information regarding the number of licensed programs,~~
31 ~~enrollment and referral figures, program monitoring and~~

1 ~~evaluation activities, and findings, and the general steps~~
2 ~~taken by the department to implement the provisions of this~~
3 ~~section.~~

4 Section 6. This act shall take effect upon becoming a
5 law.

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