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2 An act relating to driving under the influence  
3 of alcohol or drugs; amending s. 322.34, F.S.;  
4 providing that a motor vehicle is subject to  
5 forfeiture under the Florida Contraband Act if  
6 the motor vehicle is driven by a person under  
7 the influence of alcohol or drugs and the  
8 person's license is suspended as a result of a  
9 prior conviction for driving under the  
10 influence; requiring that notification of the  
11 impoundment or seizure be sent to the  
12 Department of Highway Safety and Motor  
13 Vehicles; amending s. 932.701, F.S., relating  
14 to definitions with respect to the Florida  
15 Contraband Act; redefining the term "contraband  
16 article" to conform to changes made by the act;  
17 reenacting s. 932.703, F.S., relating to  
18 forfeiture of contraband articles, to  
19 incorporate the amendment to s. 932.701, F.S.,  
20 in references; amending ss. 316.192, 316.193,  
21 322.271, 322.291, F.S.; providing that any  
22 person convicted of driving under the influence  
23 must, in addition to any other penalties  
24 provided by law, complete a substance abuse  
25 education course conducted by a licensed DUI  
26 program, including a psychosocial evaluation,  
27 and, if referred, substance abuse treatment;  
28 providing criteria for temporary reinstatement  
29 of driving privileges by the Department of  
30 Highway Safety and Motor Vehicles; deleting the  
31 requirement that the clerk send a second notice

1 of impoundment or immobilization of a vehicle  
2 to the registered owner; clarifying references  
3 to certain courses; amending s. 318.1451, F.S.;  
4 prohibiting governmental entities or courts  
5 from providing, maintaining, or disclosing  
6 certain information relating to certain schools  
7 or course providers; amending s. 322.292, F.S.;  
8 providing criteria for the granting of DUI  
9 program licenses and deleting obsolete  
10 provisions; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Subsection (9) is added to section 322.34,  
15 Florida Statutes, 1998 Supplement, to read:

16 322.34 Driving while license suspended, revoked,  
17 canceled, or disqualified.--

18 (9)(a) A motor vehicle that is driven by a person  
19 under the influence of alcohol or drugs in violation of s.  
20 316.193 is subject to seizure and forfeiture under ss.  
21 932.701-932.707 and is subject to liens for recovering,  
22 towing, or storing vehicles under s. 713.78 if, at the time of  
23 the offense, the person's driver's license is suspended,  
24 revoked, or canceled as a result of a prior conviction for  
25 driving under the influence.

26 (b) The law enforcement officer shall notify the  
27 Department of Highway Safety and Motor Vehicles of any  
28 impoundment or seizure for violation of paragraph (a) in  
29 accordance with procedures established by the department.

30 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055,  
31 when the seizing agency obtains a final judgment granting

1 forfeiture of the motor vehicle under this section, 30 percent  
2 of the net proceeds from the sale of the motor vehicle shall  
3 be retained by the seizing law enforcement agency and 70  
4 percent shall be deposited in the General Revenue Fund for use  
5 by local WAGES coalitions in providing transportation services  
6 for participants of the WAGES program. In a forfeiture  
7 proceeding under this section, the court may consider the  
8 extent that the family of the owner has other public or  
9 private means of transportation.

10 Section 2. Paragraph (a) of subsection (2) of section  
11 932.701, Florida Statutes, is amended to read:

12 932.701 Short title; definitions.--

13 (2) As used in the Florida Contraband Forfeiture Act:

14 (a) "Contraband article" means:

15 1. Any controlled substance as defined in chapter 893  
16 or any substance, device, paraphernalia, or currency or other  
17 means of exchange that was used, was attempted to be used, or  
18 was intended to be used in violation of any provision of  
19 chapter 893, if the totality of the facts presented by the  
20 state is clearly sufficient to meet the state's burden of  
21 establishing probable cause to believe that a nexus exists  
22 between the article seized and the narcotics activity, whether  
23 or not the use of the contraband article can be traced to a  
24 specific narcotics transaction.

25 2. Any gambling paraphernalia, lottery tickets, money,  
26 currency, or other means of exchange which was used, was  
27 attempted, or intended to be used in violation of the gambling  
28 laws of the state.

29 3. Any equipment, liquid or solid, which was being  
30 used, is being used, was attempted to be used, or intended to  
31

1 be used in violation of the beverage or tobacco laws of the  
2 state.

3 4. Any motor fuel upon which the motor fuel tax has  
4 not been paid as required by law.

5 5. Any personal property, including, but not limited  
6 to, any vessel, aircraft, item, object, tool, substance,  
7 device, weapon, machine, vehicle of any kind, money,  
8 securities, books, records, research, negotiable instruments,  
9 or currency, which was used or was attempted to be used as an  
10 instrumentality in the commission of, or in aiding or abetting  
11 in the commission of, any felony, whether or not comprising an  
12 element of the felony, or which is acquired by proceeds  
13 obtained as a result of a violation of the Florida Contraband  
14 Forfeiture Act.

15 6. Any real property, including any right, title,  
16 leasehold, or other interest in the whole of any lot or tract  
17 of land, which was used, is being used, or was attempted to be  
18 used as an instrumentality in the commission of, or in aiding  
19 or abetting in the commission of, any felony, or which is  
20 acquired by proceeds obtained as a result of a violation of  
21 the Florida Contraband Forfeiture Act.

22 7. Any personal property, including, but not limited  
23 to, equipment, money, securities, books, records, research,  
24 negotiable instruments, currency, or any vessel, aircraft,  
25 item, object, tool, substance, device, weapon, machine, or  
26 vehicle of any kind in the possession of or belonging to any  
27 person who takes aquaculture products in violation of s.  
28 812.014(2)(c).

29 8. Any motor vehicle used during the course of  
30 committing an offense in violation of s. 322.34(9)(a).

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1           Section 3. For purposes of incorporating the amendment  
2 to section 932.701, Florida Statutes, in references thereto,  
3 section 932.703, Florida Statutes, is reenacted to read:

4           932.703 Forfeiture of contraband article;  
5 exceptions.--

6           (1)(a) Any contraband article, vessel, motor vehicle,  
7 aircraft, other personal property, or real property used in  
8 violation of any provision of the Florida Contraband  
9 Forfeiture Act, or in, upon, or by means of which any  
10 violation of the Florida Contraband Forfeiture Act has taken  
11 or is taking place, may be seized and shall be forfeited  
12 subject to the provisions of the Florida Contraband Forfeiture  
13 Act.

14           (b) Notwithstanding any other provision of the Florida  
15 Contraband Forfeiture Act, except the provisions of paragraph  
16 (a), contraband articles set forth in s. 932.701(2)(a)7. used  
17 in violation of any provision of the Florida Contraband  
18 Forfeiture Act, or in, upon, or by means of which any  
19 violation of the Florida Contraband Forfeiture Act has taken  
20 or is taking place, shall be seized and shall be forfeited  
21 subject to the provisions of the Florida Contraband Forfeiture  
22 Act.

23           (c) All rights to, interest in, and title to  
24 contraband articles used in violation of s. 932.702 shall  
25 immediately vest in the seizing law enforcement agency upon  
26 seizure.

27           (d) The seizing agency may not use the seized property  
28 for any purpose until the rights to, interest in, and title to  
29 the seized property are perfected in accordance with the  
30 Florida Contraband Forfeiture Act. This section does not  
31 prohibit use or operation necessary for reasonable maintenance

1 of seized property. Reasonable efforts shall be made to  
2 maintain seized property in such a manner as to minimize loss  
3 of value.

4 (2)(a) Personal property may be seized at the time of  
5 the violation or subsequent to the violation, if the person  
6 entitled to notice is notified at the time of the seizure or  
7 by certified mail, return receipt requested, that there is a  
8 right to an adversarial preliminary hearing after the seizure  
9 to determine whether probable cause exists to believe that  
10 such property has been or is being used in violation of the  
11 Florida Contraband Forfeiture Act. Seizing agencies shall make  
12 a diligent effort to notify the person entitled to notice of  
13 the seizure. Notice provided by certified mail must be mailed  
14 within 5 working days after the seizure and must state that a  
15 person entitled to notice may request an adversarial  
16 preliminary hearing within 15 days after receiving such  
17 notice. When a postseizure, adversarial preliminary hearing  
18 as provided in this section is desired, a request must be made  
19 in writing by certified mail, return receipt requested, to the  
20 seizing agency. The seizing agency shall set and notice the  
21 hearing, which must be held within 10 days after the request  
22 is received or as soon as practicable thereafter.

23 (b) Real property may not be seized or restrained,  
24 other than by lis pendens, subsequent to a violation of the  
25 Florida Contraband Forfeiture Act until the persons entitled  
26 to notice are afforded the opportunity to attend the  
27 pre-seizure adversarial preliminary hearing. A lis pendens may  
28 be obtained by any method authorized by law. Notice of the  
29 adversarial preliminary hearing shall be by certified mail,  
30 return receipt requested. The purpose of the adversarial  
31 preliminary hearing is to determine whether probable cause

1 exists to believe that such property has been used in  
2 violation of the Florida Contraband Forfeiture Act. The  
3 seizing agency shall make a diligent effort to notify any  
4 person entitled to notice of the seizure. The pre-seizure  
5 adversarial preliminary hearing provided herein shall be held  
6 within 10 days of the filing of the lis pendens or as soon as  
7 practicable.

8 (c) When an adversarial preliminary hearing is held,  
9 the court shall review the verified affidavit and any other  
10 supporting documents and take any testimony to determine  
11 whether there is probable cause to believe that the property  
12 was used, is being used, was attempted to be used, or was  
13 intended to be used in violation of the Florida Contraband  
14 Forfeiture Act. If probable cause is established, the court  
15 shall authorize the seizure or continued seizure of the  
16 subject contraband. A copy of the findings of the court shall  
17 be provided to any person entitled to notice.

18 (d) If the court determines that probable cause exists  
19 to believe that such property was used in violation of the  
20 Florida Contraband Forfeiture Act, the court shall order the  
21 property restrained by the least restrictive means to protect  
22 against disposal, waste, or continued illegal use of such  
23 property pending disposition of the forfeiture proceeding.  
24 The court may order the claimant to post a bond or other  
25 adequate security equivalent to the value of the property.

26 (3) Neither replevin nor any other action to recover  
27 any interest in such property shall be maintained in any  
28 court, except as provided in this act; however, such action  
29 may be maintained if forfeiture proceedings are not initiated  
30 within 45 days after the date of seizure. However, if good  
31

1 cause is shown, the court may extend the aforementioned  
2 prohibition to 60 days.

3 (4) In any incident in which possession of any  
4 contraband article defined in s. 932.701(2)(a) constitutes a  
5 felony, the vessel, motor vehicle, aircraft, other personal  
6 property, or real property in or on which such contraband  
7 article is located at the time of seizure shall be contraband  
8 subject to forfeiture. It shall be presumed in the manner  
9 provided in s. 90.302(2) that the vessel, motor vehicle,  
10 aircraft, other personal property, or real property in which  
11 or on which such contraband article is located at the time of  
12 seizure is being used or was attempted or intended to be used  
13 in a manner to facilitate the transportation, carriage,  
14 conveyance, concealment, receipt, possession, purchase, sale,  
15 barter, exchange, or giving away of a contraband article  
16 defined in s. 932.701(2).

17 (5) The court shall order the forfeiture of any other  
18 property of a claimant, excluding lienholders, up to the value  
19 of any property subject to forfeiture under this section if  
20 any of the property described in this section:

21 (a) Cannot be located;

22 (b) Has been transferred to, sold to, or deposited  
23 with, a third party;

24 (c) Has been placed beyond the jurisdiction of the  
25 court;

26 (d) Has been substantially diminished in value by any  
27 act or omission of the person in possession of the property;  
28 or

29 (e) Has been commingled with any property which cannot  
30 be divided without difficulty.

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1           (6)(a) Property may not be forfeited under the Florida  
2 Contraband Forfeiture Act unless the seizing agency  
3 establishes by a preponderance of the evidence that the owner  
4 either knew, or should have known after a reasonable inquiry,  
5 that the property was being employed or was likely to be  
6 employed in criminal activity.

7           (b) A bona fide lienholder's interest that has been  
8 perfected in the manner prescribed by law prior to the seizure  
9 may not be forfeited under the Florida Contraband Forfeiture  
10 Act unless the seizing agency establishes by a preponderance  
11 of the evidence that the lienholder had actual knowledge, at  
12 the time the lien was made, that the property was being  
13 employed or was likely to be employed in criminal activity.  
14 If a lienholder's interest is not subject to forfeiture under  
15 the requirements of this section, such interest shall be  
16 preserved by the court by ordering the lienholder's interest  
17 to be paid as provided in s. 932.7055.

18           (c) Property titled or registered between husband and  
19 wife jointly by the use of the conjunctives "and," "and/or,"  
20 or "or," in the manner prescribed by law prior to the seizure,  
21 may not be forfeited under the Florida Contraband Forfeiture  
22 Act unless the seizing agency establishes by a preponderance  
23 of the evidence that the coowner either knew or had reason to  
24 know, after reasonable inquiry, that such property was  
25 employed or was likely to be employed in criminal activity.

26           (d) A vehicle that is rented or leased from a company  
27 engaged in the business of renting or leasing vehicles, which  
28 vehicle was rented or leased in the manner prescribed by law  
29 prior to the seizure, may not be forfeited under the Florida  
30 Contraband Forfeiture Act unless the seizing agency  
31 establishes by preponderance of the evidence that the renter

1 or lessor had actual knowledge, at the time the vehicle was  
2 rented or leased, that the vehicle was being employed or was  
3 likely to be employed in criminal activity. When a vehicle  
4 that is rented or leased from a company engaged in the  
5 business of renting or leasing vehicles is seized under the  
6 Florida Contraband Forfeiture Act, upon learning the address  
7 or phone number of the company, the seizing law enforcement  
8 agency shall, as soon as practicable, inform the company that  
9 the vehicle has been seized and is available for the company  
10 to take possession.

11 (7) Any interest in, title to, or right to property  
12 titled or registered jointly by the use of the conjunctives  
13 "and," "and/or," or "or" held by a coowner, other than  
14 property held jointly between husband and wife, may not be  
15 forfeited unless the seizing agency establishes by a  
16 preponderance of the evidence that the coowner either knew, or  
17 had reason to know, after reasonable inquiry, that the  
18 property was employed or was likely to be employed in criminal  
19 activity. When the interests of each culpable coowner are  
20 forfeited, any remaining coowners shall be afforded the  
21 opportunity to purchase the forfeited interest in, title to,  
22 or right to the property from the seizing law enforcement  
23 agency. If any remaining coowner does not purchase such  
24 interest, the seizing agency may hold the property in  
25 coownership, sell its interest in the property, liquidate its  
26 interest in the property, or dispose of its interest in the  
27 property in any other reasonable manner.

28 (8) It is an affirmative defense to a forfeiture  
29 proceeding that the nexus between the property sought to be  
30 forfeited and the commission of any underlying violation was  
31 incidental or entirely accidental. The value of the property

1 sought to be forfeited in proportion to any other factors must  
2 not be considered in any determination as to this affirmative  
3 defense.

4 Section 4. Subsection (4) of section 316.192, Florida  
5 Statutes, is amended to read:

6 316.192 Reckless driving.--

7 (4) In addition to any other penalty provided under  
8 this section, if the court has reasonable cause to believe  
9 that the use of alcohol, chemical substances set forth in s.  
10 877.111, or substances controlled under chapter 893  
11 contributed to a violation of this section, the court shall  
12 direct the person so convicted to complete a DUI program ~~the~~  
13 substance abuse education course and evaluation as provided in  
14 s. 316.193(5) within a reasonable period of time specified by  
15 the court. If the DUI program agency conducting such course  
16 and evaluation refers ~~may refer~~ the person to an authorized  
17 substance abuse treatment provider agency for substance abuse  
18 evaluation and treatment, ~~the directive of the court~~  
19 requiring completion of such course, evaluation, and treatment  
20 shall be enforced as provided in s. 322.245. The referral to  
21 treatment resulting from the DUI program evaluation may not be  
22 waived without a supporting independent psychosocial  
23 evaluation conducted by an authorized substance abuse  
24 treatment provider, appointed by the court, which shall have  
25 access to the DUI program psychosocial evaluation before the  
26 independent psychosocial evaluation is conducted. The court  
27 shall review the results and recommendations of both  
28 evaluations before determining the request for waiver. The  
29 offender shall bear the full cost of this procedure. If a  
30 person directed ~~referred~~ to a DUI program substance abuse  
31 education course and evaluation or referred to treatment under

1 this subsection fails to report for or complete such course,  
2 evaluation, or treatment ~~or education~~, the ~~agency conducting~~  
3 ~~the~~ DUI program shall notify the court and the department of  
4 the failure. Upon receipt of such notice, the department  
5 shall cancel the person's driving privilege, notwithstanding  
6 the terms of the court order or any suspension or revocation  
7 of the driving privilege. The department ~~may~~ shall reinstate  
8 the driving privilege upon verification from the DUI program  
9 that the education, evaluation, and treatment are completed.  
10 The department may temporarily reinstate the driving privilege  
11 on a restricted basis upon verification that the offender is  
12 currently participating in treatment and has completed the DUI  
13 education course and evaluation requirement. If the DUI  
14 program notifies the department of the second failure to  
15 complete treatment, the department shall reinstate the driving  
16 privilege only after notice of successful completion of  
17 treatment from the DUI program.~~when the person completes the~~  
18 ~~substance abuse education course or reenters treatment~~  
19 ~~required under this subsection.~~

20 Section 5. Subsections (5) and (6) of section 316.193,  
21 Florida Statutes, 1998 Florida Supplement, are amended to  
22 read:

23 316.193 Driving under the influence; penalties.--  
24 (5) The court shall place all offenders ~~any offender~~  
25 convicted of violating this section on monthly reporting  
26 probation and shall require completion of attendance at a  
27 substance abuse course conducted by a DUI program licensed by  
28 the department under s. 322.292, which must include a  
29 psychosocial evaluation of the offender. If the DUI program  
30 refers licensed by the department; and the agency conducting  
31 ~~the course may refer~~ the offender to an authorized substance

1 ~~abuse treatment service~~ provider for substance abuse  
2 ~~evaluation and~~ treatment, in addition to any sentence or fine  
3 imposed under this section, completion of all such education,  
4 evaluation, and treatment is a condition of reporting  
5 probation. The offender shall assume reasonable costs for  
6 such education, evaluation, and treatment, ~~with completion of~~  
7 ~~all such education, evaluation, and treatment being a~~  
8 ~~condition of reporting probation.~~ The referral to treatment  
9 resulting from a psychosocial evaluation shall ~~may~~ not be  
10 waived without a supporting independent psychosocial  
11 evaluation conducted by an authorized substance abuse  
12 treatment provider agency appointed by the court, which shall  
13 have ~~and with~~ access to the DUI program's psychosocial  
14 original evaluation before the independent psychosocial  
15 evaluation is conducted. The court shall review the results  
16 and recommendations of both evaluations before determining the  
17 request for waiver. The offender shall bear the full cost of  
18 this procedure. The term "substance abuse" means the abuse of  
19 alcohol or any substance named or described in Schedules I  
20 through V of s. 893.03. If an offender referred to treatment  
21 under this subsection fails to report for or complete such  
22 treatment or fails to complete the DUI program substance abuse  
23 education course and evaluation, the DUI program shall notify  
24 the court and the department of the failure. Upon receipt of  
25 the notice, the department shall cancel the offender's driving  
26 privilege, notwithstanding the terms of the court order or any  
27 suspension or revocation of the driving privilege. The  
28 department may temporarily ~~shall~~ reinstate the driving  
29 privilege on a restricted basis upon verification from the DUI  
30 program that the offender is currently participating in  
31 treatment and the DUI education course and evaluation

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

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

25 (d) The court must at the time of sentencing the  
26 defendant issue an order for the impoundment or immobilization  
27 of a vehicle. Within 7 business days after the date that the  
28 court issues the order of impoundment or immobilization, ~~and~~  
29 ~~once again 30 business days before the actual impoundment or~~  
30 ~~immobilization of the vehicle,~~ the clerk of the court must  
31 send notice by certified mail, return receipt requested, to

1 the registered owner of each vehicle, if the registered owner  
2 is a person other than the defendant, and to each person of  
3 record claiming a lien against the vehicle.

4 Section 6. Effective June 1, 2000, subsection (6) is  
5 added to section 318.1451, Florida Statutes, is amended to  
6 read:

7 318.1451 Driver improvement schools.--

8 (6)(a) No governmental entity or court shall provide,  
9 issue or maintain any information or orders regarding driver  
10 improvement schools or course providers, with the exception of  
11 directing inquiries or request to the local telephone  
12 directory heading of driving instruction or the traffic school  
13 reference guide.

14 (b) The department shall prepare for any governmental  
15 entity to distribute, a traffic school reference guide which  
16 shall list the benefits of attending a driver improvement  
17 school, but under no circumstance may any list of course  
18 providers or schools be included, and shall refer further  
19 inquiries to the telephone directory under driving  
20 instruction.

21 Section 7. Paragraph (a) of subsection (2) of section  
22 322.271, Florida Statutes, 1998 Supplement, is amended to  
23 read:

24 322.271 Authority to modify revocation, cancellation,  
25 or suspension order.--

26 (2)(a) Upon such hearing, the person whose license has  
27 been suspended, canceled, or revoked may show that such  
28 suspension, cancellation, or revocation of his or her license  
29 causes a serious hardship and precludes the person's carrying  
30 out his or her normal business occupation, trade, or  
31 employment and that the use of the person's license in the

1 normal course of his or her business is necessary to the  
2 proper support of the person or his or her family. Except as  
3 otherwise provided in this subsection, the department shall  
4 require proof of the successful completion of the applicable  
5 department ~~an~~ approved driver training course operating  
6 pursuant to s. 318.1451 or DUI program substance abuse  
7 education course and evaluation as provided in s. 316.193(5).  
8 ~~and may require~~ Letters of recommendation from respected  
9 business persons in the community, law enforcement officers,  
10 or judicial officers may also be required to determine in  
11 ~~determining~~ whether such person should be permitted to operate  
12 a motor vehicle on a restricted basis for business or  
13 employment use only and in determining whether such person can  
14 be trusted to so operate a motor vehicle. If a driver's  
15 license has been suspended under the point system or pursuant  
16 to s. 322.2615, the department shall require proof of  
17 enrollment in the applicable department ~~an~~ approved driver  
18 training course or licensed DUI program substance abuse  
19 education course, including evaluation and treatment, if  
20 referred, and may require ~~the~~ letters of recommendation  
21 described in this subsection to determine if the driver should  
22 be reinstated on a restricted basis. ~~†~~If such person fails to  
23 complete the approved course within 90 days after  
24 reinstatement or subsequently fails to complete treatment, if  
25 applicable, the department shall cancel his or her driver's  
26 license until the course and treatment, if applicable, is  
27 successfully completed, notwithstanding the terms of the court  
28 order or any suspension or revocation of the driving  
29 privilege. The department may temporarily reinstate the  
30 driving privilege on a restricted basis upon verification from  
31 the DUI program that the offender has reentered and is



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

19 Section 8. Section 322.291, Florida Statutes, is  
20 amended to read:

21 322.291 Driver improvement schools or DUI programs;  
22 required in certain suspension and revocation cases.--Except  
23 as provided in s. 322.03(2), any person:

24 (1) Whose driving privilege has been revoked:

25 (a) Upon conviction for:

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

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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 operating pursuant to s.  
26 318.1451 or a substance abuse education course conducted by a  
27 DUI program licensed pursuant to s. 322.292, which shall  
28 include a psychosocial evaluation and treatment, if referred.  
29 If the person fails to complete such course or evaluation  
30 within 90 days after reinstatement, or subsequently fails to  
31 complete treatment, if referred, the DUI program shall notify

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

14 Section 9. Section 322.292, Florida Statutes, is  
15 amended to read:

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

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

1 treatment programs must continue to be licensed under chapter  
2 ~~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 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. However, a classroom shall not be required to be  
7 relocated when a business selling alcoholic beverages locates  
8 to within 250 feet of the classroom.

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

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

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

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

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

24 (d) Establish a fee structure for the various programs  
25 offered by the DUI programs, based only on the reasonable and  
26 necessary costs for operating the programs throughout the  
27 state. The department shall approve, modify, or reduce fees as  
28 necessary. ~~The DUI programs fees that are in effect on January~~  
29 ~~1, 1994, shall remain in effect until the department adopts a~~  
30 ~~fee schedule for the DUI programs system. After the adoption~~  
31

1 ~~of the schedule, the programs shall adjust their fees to~~  
2 ~~conform with the established amounts.~~

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

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

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

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

26 (3)~~(4)~~ DUI programs shall be either governmental  
27 programs or not-for-profit corporations.

28 ~~(5) The department shall report to the Supreme Court~~  
29 ~~by December 1, 1994, and by December 31 of each succeeding~~  
30 ~~year through 1996, on the general status of the statewide~~  
31 ~~program. This report must include programmatic and statistical~~



1 ~~information regarding the number of licensed programs,~~  
2 ~~enrollment and referral figures, program monitoring and~~  
3 ~~evaluation activities, and findings, and the general steps~~  
4 ~~taken by the department to implement the provisions of this~~  
5 ~~section.~~

6           Section 10. This act shall take effect January 1,  
7 2000.

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