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A bill to be entitled
 An act relating to driving or boating under the influence of controlled substances; amending s. 316.193, F.S.; providing that persons driving with specified amounts of certain substances in their blood or urine are guilty of the offense of driving under the influence; providing an exception; providing penalties; amending s. 327.35, F.S.; providing that persons operating a vessel with specified amounts of certain substances in their blood or urine are guilty of the offense of boating under the influence; providing an exception; providing penalties; reenacting ss. 316.066, 316.072, 316.1932, 316.1933, 316.1934, 316.1937, 316.1939, 316.656, 318.143, 318.17, 322.03, 322.0602, 322.12, 322.25, 322.26, 322.2615, 322.2616, 322.264, 322.271, 322.28, 322.282, 322.291, 322.34, 322.44, 322.63, 322.64, 493.6106, 627.758, 790.06, 903.36, 907.041, 938.21, 938.23, 943.05, and 960.03, F.S.; incorporating the amendment to s. 316.193, F.S., in references thereto; reenacting ss. 327.352, 327.35215, 327.353, 327.354, 327.355, 327.359, and 327.36, F.S.; incorporating the amendment to s. 327.35, F.S., in references thereto; providing an effective date.

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

Section 1. Section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.--

(1) A person is guilty of the offense of driving under the influence and is subject to punishment as provided in subsection



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31 (2) if the person is driving or in actual physical control of a
 32 vehicle within this state and:

33 (a) The person is under the influence of alcoholic
 34 beverages, any chemical substance set forth in s. 877.111, or
 35 any substance controlled under chapter 893, when affected to the
 36 extent that the person's normal faculties are impaired;

37 (b) The person has a blood-alcohol level of 0.08 or more
 38 grams of alcohol per 100 milliliters of blood; or

39 (c) The person has a breath-alcohol level of 0.08 or more
 40 grams of alcohol per 210 liters of breath.

41 (d) The person's urine contains:

42 1. Five hundred nanograms or more per milliliter of urine
 43 of the following:

44 a. 3,4-Methylenedioxymethamphetamine (MDMA);

45 b. 4-Bromo-2,5-dimethoxyamphetamine;

46 c. 4-Bromo-2,5-dimethoxyphenethylamine;

47 d. 2,5-Dimethoxyamphetamine;

48 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

49 f. N-ethylamphetamine;

50 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

51 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

52 i. 4-methoxyamphetamine;

53 j. 4-methoxymethamphetamine;

54 k. 4-Methyl-2,5-dimethoxyamphetamine;

55 l. 3,4-Methylenedioxy-N-ethylamphetamine;

56 m. 3,4-Methylenedioxyamphetamine;

57 n. N,N-dimethylamphetamine; or

58 o. 3,4,5-Trimethoxyamphetamine;

59 2. One hundred fifty nanograms of cocaine or ecgonine,
 60 including any of their stereoisomers, and any salt, compound,



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61 derivative, or preparation of cocaine or ecgonine, per
62 milliliter of urine;

63 3. Two thousand nanograms of heroin or morphine per
64 milliliter of urine;

65 4. Ten nanograms of 6-monoacetyl morphine per milliliter
66 of urine;

67 5. Twenty-five nanograms of lysergic acid diethylamide
68 (LSD) per milliliter of urine;

69 6. Ten nanograms of cannabis per milliliter of urine; or

70 7. Fifteen grams of cannabis metabolite per milliliter of
71 urine.

72 (e) The person's blood contains:

73 1. One hundred nanograms or more per milliliter of blood
74 of the following:

75 a. 3,4-Methylenedioxyamphetamine (MDMA);

76 b. 4-Bromo-2,5-dimethoxyamphetamine;

77 c. 4-Bromo-2,5-dimethoxyphenethylamine;

78 d. 2,5-Dimethoxyamphetamine;

79 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

80 f. N-ethylamphetamine;

81 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

82 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

83 i. 4-methoxyamphetamine;

84 j. 4-methoxymethamphetamine;

85 k. 4-Methyl-2,5-dimethoxyamphetamine;

86 l. 3,4-Methylenedioxy-N-ethylamphetamine;

87 m. 3,4-Methylenedioxyamphetamine;

88 n. N,N-dimethylamphetamine; or

89 o. 3,4,5-Trimethoxyamphetamine;



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90 2. Fifty nanograms of cocaine or ecgonine, including any
 91 of their stereoisomers, and any salt, compound, derivative, or
 92 preparation of cocaine or ecgonine, per milliliter of blood;

93 3. Fifty nanograms of heroin or morphine per milliliter of
 94 blood;

95 4. Ten nanograms of 6-monoacetyl morphine per milliliter
 96 of blood;

97 5. Ten nanograms of lysergic acid diethylamide (LSD) per
 98 milliliter of blood;

99 6. Two nanograms of cannabis per milliliter of blood; or

100 7. Five grams of cannabis metabolite per milliliter of
 101 blood.

102

103 The provisions of paragraphs (d) and (e) shall not apply to a
 104 person who holds a valid prescription for such controlled
 105 substance.

106 (2)(a) Except as provided in paragraph (b), subsection
 107 (3), or subsection (4), any person who is convicted of a
 108 violation of subsection (1) shall be punished:

109 1. By a fine of:

110 a. Not less than \$250 or more than \$500 for a first
 111 conviction.

112 b. Not less than \$500 or more than \$1,000 for a second
 113 conviction; and

114 2. By imprisonment for:

115 a. Not more than 6 months for a first conviction.

116 b. Not more than 9 months for a second conviction.

117 3. For a second conviction, by mandatory placement for a
 118 period of at least 1 year, at the convicted person's sole
 119 expense, of an ignition interlock device approved by the



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120 department in accordance with s. 316.1938 upon all vehicles that
121 are individually or jointly leased or owned and routinely
122 operated by the convicted person, when the convicted person
123 qualifies for a permanent or restricted license. The
124 installation of such device may not occur before July 1, 2003.

125 (b)1. Any person who is convicted of a third violation of
126 this section for an offense that occurs within 10 years after a
127 prior conviction for a violation of this section commits a
128 felony of the third degree, punishable as provided in s.
129 775.082, s. 775.083, or s. 775.084. In addition, the court shall
130 order the mandatory placement for a period of not less than 2
131 years, at the convicted person's sole expense, of an ignition
132 interlock device approved by the department in accordance with
133 s. 316.1938 upon all vehicles that are individually or jointly
134 leased or owned and routinely operated by the convicted person,
135 when the convicted person qualifies for a permanent or
136 restricted license. The installation of such device may not
137 occur before July 1, 2003.

138 2. Any person who is convicted of a third violation of
139 this section for an offense that occurs more than 10 years after
140 the date of a prior conviction for a violation of this section
141 shall be punished by a fine of not less than \$1,000 or more than
142 \$2,500 and by imprisonment for not more than 12 months. In
143 addition, the court shall order the mandatory placement for a
144 period of at least 2 years, at the convicted person's sole
145 expense, of an ignition interlock device approved by the
146 department in accordance with s. 316.1938 upon all vehicles that
147 are individually or jointly leased or owned and routinely
148 operated by the convicted person, when the convicted person



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149 qualifies for a permanent or restricted license. The
150 installation of such device may not occur before July 1, 2003.

151 3. Any person who is convicted of a fourth or subsequent
152 violation of this section, regardless of when any prior
153 conviction for a violation of this section occurred, commits a
154 felony of the third degree, punishable as provided in s.
155 775.082, s. 775.083, or s. 775.084. However, the fine imposed
156 for such fourth or subsequent violation may be not less than
157 \$1,000.

158 (3) Any person:

159 (a) Who is in violation of subsection (1);

160 (b) Who operates a vehicle; and

161 (c) Who, by reason of such operation, causes or

162 contributes to causing:

163 1. Damage to the property or person of another commits a
164 misdemeanor of the first degree, punishable as provided in s.
165 775.082 or s. 775.083.

166 2. Serious bodily injury to another, as defined in s.
167 316.1933, commits a felony of the third degree, punishable as
168 provided in s. 775.082, s. 775.083, or s. 775.084.

169 3. The death of any human being commits DUI manslaughter,
170 and commits:

171 a. A felony of the second degree, punishable as provided
172 in s. 775.082, s. 775.083, or s. 775.084.

173 b. A felony of the first degree, punishable as provided in
174 s. 775.082, s. 775.083, or s. 775.084, if:

175 (I) At the time of the crash, the person knew, or should
176 have known, that the crash occurred; and

177 (II) The person failed to give information and render aid
178 as required by s. 316.062.



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179 (4) Any person who is convicted of a violation of
180 subsection (1) and who has a blood-alcohol level or breath-
181 alcohol level of 0.20 or higher, or any person who is convicted
182 of a violation of subsection (1) and who at the time of the
183 offense was accompanied in the vehicle by a person under the age
184 of 18 years, shall be punished:

185 (a) By a fine of:

186 1. Not less than \$500 or more than \$1,000 for a first
187 conviction.

188 2. Not less than \$1,000 or more than \$2,000 for a second
189 conviction.

190 3. Not less than \$2,000 for a third or subsequent
191 conviction.

192 (b) By imprisonment for:

193 1. Not more than 9 months for a first conviction.

194 2. Not more than 12 months for a second conviction.

195

196 For the purposes of this subsection, only the instant offense is
197 required to be a violation of subsection (1) by a person who has
198 a blood-alcohol level or breath-alcohol level of 0.20 or higher.

199 (c) In addition to the penalties in paragraphs (a) and
200 (b), the court shall order the mandatory placement, at the
201 convicted person's sole expense, of an ignition interlock device
202 approved by the department in accordance with s. 316.1938 upon
203 all vehicles that are individually or jointly leased or owned
204 and routinely operated by the convicted person for up to 6
205 months for the first offense and for at least 2 years for a
206 second offense, when the convicted person qualifies for a
207 permanent or restricted license. The installation of such device
208 may not occur before July 1, 2003.



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209 (5) The court shall place all offenders convicted of
210 violating this section on monthly reporting probation and shall
211 require completion of a substance abuse course conducted by a
212 DUI program licensed by the department under s. 322.292, which
213 must include a psychosocial evaluation of the offender. If the
214 DUI program refers the offender to an authorized substance abuse
215 treatment provider for substance abuse treatment, in addition to
216 any sentence or fine imposed under this section, completion of
217 all such education, evaluation, and treatment is a condition of
218 reporting probation. The offender shall assume reasonable costs
219 for such education, evaluation, and treatment. The referral to
220 treatment resulting from a psychosocial evaluation shall not be
221 waived without a supporting independent psychosocial evaluation
222 conducted by an authorized substance abuse treatment provider
223 appointed by the court, which shall have access to the DUI
224 program's psychosocial evaluation before the independent
225 psychosocial evaluation is conducted. The court shall review the
226 results and recommendations of both evaluations before
227 determining the request for waiver. The offender shall bear the
228 full cost of this procedure. The term "substance abuse" means
229 the abuse of alcohol or any substance named or described in
230 Schedules I through V of s. 893.03. If an offender referred to
231 treatment under this subsection fails to report for or complete
232 such treatment or fails to complete the DUI program substance
233 abuse education course and evaluation, the DUI program shall
234 notify the court and the department of the failure. Upon receipt
235 of the notice, the department shall cancel the offender's
236 driving privilege, notwithstanding the terms of the court order
237 or any suspension or revocation of the driving privilege. The
238 department may temporarily reinstate the driving privilege on a



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239 restricted basis upon verification from the DUI program that the
240 offender is currently participating in treatment and the DUI
241 education course and evaluation requirement has been completed.
242 If the DUI program notifies the department of the second failure
243 to complete treatment, the department shall reinstate the
244 driving privilege only after notice of completion of treatment
245 from the DUI program. The organization that conducts the
246 substance abuse education and evaluation may not provide
247 required substance abuse treatment unless a waiver has been
248 granted to that organization by the department. A waiver may be
249 granted only if the department determines, in accordance with
250 its rules, that the service provider that conducts the substance
251 abuse education and evaluation is the most appropriate service
252 provider and is licensed under chapter 397 or is exempt from
253 such licensure. A statistical referral report shall be submitted
254 quarterly to the department by each organization authorized to
255 provide services under this section.

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

259 (a) For the first conviction, the court shall place the
260 defendant on probation for a period not to exceed 1 year and, as
261 a condition of such probation, shall order the defendant to
262 participate in public service or a community work project for a
263 minimum of 50 hours; or the court may order instead, that any
264 defendant pay an additional fine of \$10 for each hour of public
265 service or community work otherwise required, if, after
266 consideration of the residence or location of the defendant at
267 the time public service or community work is required, payment
268 of the fine is in the best interests of the state. However, the



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269 total period of probation and incarceration may not exceed 1
270 year. The court must also, as a condition of probation, order
271 the impoundment or immobilization of the vehicle that was
272 operated by or in the actual control of the defendant or any one
273 vehicle registered in the defendant's name at the time of
274 impoundment or immobilization, for a period of 10 days or for
275 the unexpired term of any lease or rental agreement that expires
276 within 10 days. The impoundment or immobilization must not occur
277 concurrently with the incarceration of the defendant. The
278 impoundment or immobilization order may be dismissed in
279 accordance with paragraph (e), paragraph (f), paragraph (g), or
280 paragraph (h).

281 (b) For the second conviction for an offense that occurs
282 within a period of 5 years after the date of a prior conviction
283 for violation of this section, the court shall order
284 imprisonment for not less than 10 days. The court must also, as
285 a condition of probation, order the impoundment or
286 immobilization of all vehicles owned by the defendant at the
287 time of impoundment or immobilization, for a period of 30 days
288 or for the unexpired term of any lease or rental agreement that
289 expires within 30 days. The impoundment or immobilization must
290 not occur concurrently with the incarceration of the defendant
291 and must occur concurrently with the driver's license revocation
292 imposed under s. 322.28(2)(a)2. The impoundment or
293 immobilization order may be dismissed in accordance with
294 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
295 At least 48 hours of confinement must be consecutive.

296 (c) For the third or subsequent conviction for an offense
297 that occurs within a period of 10 years after the date of a
298 prior conviction for violation of this section, the court shall



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299 order imprisonment for not less than 30 days. The court must
300 also, as a condition of probation, order the impoundment or
301 immobilization of all vehicles owned by the defendant at the
302 time of impoundment or immobilization, for a period of 90 days
303 or for the unexpired term of any lease or rental agreement that
304 expires within 90 days. The impoundment or immobilization must
305 not occur concurrently with the incarceration of the defendant
306 and must occur concurrently with the driver's license revocation
307 imposed under s. 322.28(2)(a)3. The impoundment or
308 immobilization order may be dismissed in accordance with
309 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
310 At least 48 hours of confinement must be consecutive.

311 (d) The court must at the time of sentencing the defendant
312 issue an order for the impoundment or immobilization of a
313 vehicle. Within 7 business days after the date that the court
314 issues the order of impoundment or immobilization, the clerk of
315 the court must send notice by certified mail, return receipt
316 requested, to the registered owner of each vehicle, if the
317 registered owner is a person other than the defendant, and to
318 each person of record claiming a lien against the vehicle.

319 (e) A person who owns but was not operating the vehicle
320 when the offense occurred may submit to the court a police
321 report indicating that the vehicle was stolen at the time of the
322 offense or documentation of having purchased the vehicle after
323 the offense was committed from an entity other than the
324 defendant or the defendant's agent. If the court finds that the
325 vehicle was stolen or that the sale was not made to circumvent
326 the order and allow the defendant continued access to the
327 vehicle, the order must be dismissed and the owner of the
328 vehicle will incur no costs. If the court denies the request to



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329 dismiss the order of impoundment or immobilization, the
330 petitioner may request an evidentiary hearing.

331 (f) A person who owns but was not operating the vehicle
332 when the offense occurred, and whose vehicle was stolen or who
333 purchased the vehicle after the offense was committed directly
334 from the defendant or the defendant's agent, may request an
335 evidentiary hearing to determine whether the impoundment or
336 immobilization should occur. If the court finds that either the
337 vehicle was stolen or the purchase was made without knowledge of
338 the offense, that the purchaser had no relationship to the
339 defendant other than through the transaction, and that such
340 purchase would not circumvent the order and allow the defendant
341 continued access to the vehicle, the order must be dismissed and
342 the owner of the vehicle will incur no costs.

343 (g) The court shall also dismiss the order of impoundment
344 or immobilization of the vehicle if the court finds that the
345 family of the owner of the vehicle has no other private or
346 public means of transportation.

347 (h) The court may also dismiss the order of impoundment or
348 immobilization of any vehicles that are owned by the defendant
349 but that are operated solely by the employees of the defendant
350 or any business owned by the defendant.

351 (i) All costs and fees for the impoundment or
352 immobilization, including the cost of notification, must be paid
353 by the owner of the vehicle or, if the vehicle is leased or
354 rented, by the person leasing or renting the vehicle, unless the
355 impoundment or immobilization order is dismissed. All provisions
356 of s. 713.78 shall apply.

357 (j) The person who owns a vehicle that is impounded or
358 immobilized under this paragraph, or a person who has a lien of



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359 record against such a vehicle and who has not requested a review
360 of the impoundment pursuant to paragraph (e), paragraph (f), or
361 paragraph (g), may, within 10 days after the date that person
362 has knowledge of the location of the vehicle, file a complaint
363 in the county in which the owner resides to determine whether
364 the vehicle was wrongfully taken or withheld from the owner or
365 lienholder. Upon the filing of a complaint, the owner or
366 lienholder may have the vehicle released by posting with the
367 court a bond or other adequate security equal to the amount of
368 the costs and fees for impoundment or immobilization, including
369 towing or storage, to ensure the payment of such costs and fees
370 if the owner or lienholder does not prevail. When the bond is
371 posted and the fee is paid as set forth in s. 28.24, the clerk
372 of the court shall issue a certificate releasing the vehicle. At
373 the time of release, after reasonable inspection, the owner or
374 lienholder must give a receipt to the towing or storage company
375 indicating any loss or damage to the vehicle or to the contents
376 of the vehicle.

377 (k) A defendant, in the court's discretion, may be
378 required to serve all or any portion of a term of imprisonment
379 to which the defendant has been sentenced pursuant to this
380 section in a residential alcoholism treatment program or a
381 residential drug abuse treatment program. Any time spent in such
382 a program must be credited by the court toward the term of
383 imprisonment.

384
385 For the purposes of this section, any conviction for a violation
386 of s. 327.35; a previous conviction for the violation of former
387 s. 316.1931, former s. 860.01, or former s. 316.028; or a
388 previous conviction outside this state for driving under the



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389 influence, driving while intoxicated, driving with an unlawful
390 blood-alcohol level, driving with an unlawful breath-alcohol
391 level, or any other similar alcohol-related or drug-related
392 traffic offense, is also considered a previous conviction for
393 violation of this section. However, in satisfaction of the fine
394 imposed pursuant to this section, the court may, upon a finding
395 that the defendant is financially unable to pay either all or
396 part of the fine, order that the defendant participate for a
397 specified additional period of time in public service or a
398 community work project in lieu of payment of that portion of the
399 fine which the court determines the defendant is unable to pay.
400 In determining such additional sentence, the court shall
401 consider the amount of the unpaid portion of the fine and the
402 reasonable value of the services to be ordered; however, the
403 court may not compute the reasonable value of services at a rate
404 less than the federal minimum wage at the time of sentencing.

405 (7) A conviction under this section does not bar any civil
406 suit for damages against the person so convicted.

407 (8) At the arraignment, or in conjunction with any notice
408 of arraignment provided by the clerk of the court, the clerk
409 shall provide any person charged with a violation of this
410 section with notice that upon conviction the court shall suspend
411 or revoke the offender's driver's license and that the offender
412 should make arrangements for transportation at any proceeding in
413 which the court may take such action. Failure to provide such
414 notice does not affect the court's suspension or revocation of
415 the offender's driver's license.

416 (9) A person who is arrested for a violation of this
417 section may not be released from custody:



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418 (a) Until the person is no longer under the influence of
419 alcoholic beverages, any chemical substance set forth in s.
420 877.111, or any substance controlled under chapter 893 and
421 affected to the extent that his or her normal faculties are
422 impaired;

423 (b) Until the person's blood-alcohol level or breath-
424 alcohol level is less than 0.05; or

425 (c) Until 8 hours have elapsed from the time the person
426 was arrested.

427 (10) The rulings of the Department of Highway Safety and
428 Motor Vehicles under s. 322.2615 shall not be considered in any
429 trial for a violation of this section. Testimony or evidence
430 from the administrative proceedings or any written statement
431 submitted by a person in his or her request for administrative
432 review is inadmissible into evidence or for any other purpose in
433 any criminal proceeding, unless timely disclosed in criminal
434 discovery pursuant to Rule 3.220, Florida Rules of Criminal
435 Procedure.

436 (11) The Department of Highway Safety and Motor Vehicles
437 is directed to adopt rules providing for the implementation of
438 the use of ignition interlock devices.

439 Section 2. Section 327.35, Florida Statutes, is amended to
440 read:

441 327.35 Boating under the influence; penalties; "designated
442 drivers".--

443 (1) A person is guilty of the offense of boating under the
444 influence and is subject to punishment as provided in subsection

445 (2) if the person is operating a vessel within this state and:

446 (a) The person is under the influence of alcoholic
447 beverages, any chemical substance set forth in s. 877.111, or



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448 any substance controlled under chapter 893, when affected to the
 449 extent that the person's normal faculties are impaired;

450 (b) The person has a blood-alcohol level of 0.08 or more
 451 grams of alcohol per 100 milliliters of blood; or

452 (c) The person has a breath-alcohol level of 0.08 or more
 453 grams of alcohol per 210 liters of breath.

454 (d) The person's urine contains:

455 1. Five hundred nanograms or more per milliliter of urine
 456 of the following:

457 a. 3,4-Methylenedioxymethamphetamine (MDMA);

458 b. 4-Bromo-2,5-dimethoxyamphetamine;

459 c. 4-Bromo-2,5-dimethoxyphenethylamine;

460 d. 2,5-Dimethoxyamphetamine;

461 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

462 f. N-ethylamphetamine;

463 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

464 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

465 i. 4-methoxyamphetamine;

466 j. 4-methoxymethamphetamine;

467 k. 4-Methyl-2,5-dimethoxyamphetamine;

468 l. 3,4-Methylenedioxy-N-ethylamphetamine;

469 m. 3,4-Methylenedioxyamphetamine;

470 n. N,N-dimethylamphetamine; or

471 o. 3,4,5-Trimethoxyamphetamine;

472 2. One hundred fifty nanograms of cocaine or ecgonine,
 473 including any of their stereoisomers, and any salt, compound,
 474 derivative, or preparation of cocaine or ecgonine, per
 475 milliliter of urine;

476 3. Two thousand nanograms of heroin or morphine per
 477 milliliter of urine;



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478 4. Ten nanograms of 6-monoacetyl morphine per milliliter
 479 of urine;

480 5. Twenty-five nanograms of lysergic acid diethylamide
 481 (LSD) per milliliter of urine;

482 6. Ten nanograms of cannabis per milliliter of urine; or

483 7. Fifteen grams of cannabis metabolite per milliliter of
 484 urine.

485 (e) The person's blood contains:

486 1. One hundred nanograms or more per milliliter of blood
 487 of the following:

488 a. 3,4-Methylenedioxymethamphetamine (MDMA);

489 b. 4-Bromo-2,5-dimethoxyamphetamine;

490 c. 4-Bromo-2,5-dimethoxyphenethylamine;

491 d. 2,5-Dimethoxyamphetamine;

492 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

493 f. N-ethylamphetamine;

494 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

495 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

496 i. 4-methoxyamphetamine;

497 j. 4-methoxymethamphetamine;

498 k. 4-Methyl-2,5-dimethoxyamphetamine;

499 l. 3,4-Methylenedioxy-N-ethylamphetamine;

500 m. 3,4-Methylenedioxyamphetamine;

501 n. N,N-dimethylamphetamine; or

502 o. 3,4,5-Trimethoxyamphetamine;

503 2. Fifty nanograms of cocaine or ecgonine, including any
 504 of their stereoisomers, and any salt, compound, derivative, or
 505 preparation of cocaine or ecgonine, per milliliter of blood;

506 3. Fifty nanograms of heroin or morphine per milliliter of
 507 blood;



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508 4. Ten nanograms of 6-monoacetyl morphine per milliliter
509 of blood;

510 5. Ten nanograms of lysergic acid diethylamide (LSD) per
511 milliliter of blood;

512 6. Two nanograms of cannabis per milliliter of blood; or

513 7. Five grams of cannabis metabolite per milliliter of
514 blood.

515
516 The provisions of paragraphs (d) and (e) shall not apply to a
517 person who holds a valid prescription for such controlled
518 substance.

519 (2)(a) Except as provided in paragraph (b), subsection
520 (3), or subsection (4), any person who is convicted of a
521 violation of subsection (1) shall be punished:

522 1. By a fine of:

523 a. Not less than \$250 or more than \$500 for a first
524 conviction.

525 b. Not less than \$500 or more than \$1,000 for a second
526 conviction; and

527 2. By imprisonment for:

528 a. Not more than 6 months for a first conviction.

529 b. Not more than 9 months for a second conviction.

530 (b)1. Any person who is convicted of a third violation of
531 this section for an offense that occurs within 10 years after a
532 prior conviction for a violation of this section commits a
533 felony of the third degree, punishable as provided in s.
534 775.082, s. 775.083, or s. 775.084.

535 2. Any person who is convicted of a third violation of
536 this section for an offense that occurs more than 10 years after
537 the date of a prior conviction for a violation of this section



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538 shall be punished by a fine of not less than \$1,000 or more than
539 \$2,500 and by imprisonment for not more than 12 months.

540 3. Any person who is convicted of a fourth or subsequent
541 violation of this section, regardless of when any prior
542 conviction for a violation of this section occurred, commits a
543 felony of the third degree, punishable as provided in s.
544 775.082, s. 775.083, or s. 775.084.

545

546 However, the fine imposed for such fourth or subsequent
547 violation may not be less than \$1,000.

548 (3) Any person:

549 (a) Who is in violation of subsection (1);

550 (b) Who operates a vessel; and

551 (c) Who, by reason of such operation, causes or
552 contributes to causing:

553 1. Damage to the property or person of another commits a
554 misdemeanor of the first degree, punishable as provided in s.
555 775.082 or s. 775.083.

556 2. Serious bodily injury to another, as defined in s.
557 327.353, commits a felony of the third degree, punishable as
558 provided in s. 775.082, s. 775.083, or s. 775.084.

559 3. The death of any human being commits BUI manslaughter,
560 and commits:

561 a. A felony of the second degree, punishable as provided
562 in s. 775.082, s. 775.083, or s. 775.084.

563 b. A felony of the first degree, punishable as provided in
564 s. 775.082, s. 775.083, or s. 775.084, if:

565 (I) At the time of the accident, the person knew, or
566 should have known, that the accident occurred; and



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567 (II) The person failed to give information and render aid
568 as required by s. 327.30.

569

570 This sub-subparagraph does not require that the person knew that
571 the accident resulted in injury or death.

572 (4) Any person who is convicted of a violation of
573 subsection (1) and who has a blood-alcohol level or breath-
574 alcohol level of 0.20 or higher, or any person who is convicted
575 of a violation of subsection (1) and who at the time of the
576 offense was accompanied in the vessel by a person under the age
577 of 18 years, shall be punished:

578 (a) By a fine of:

579 1. Not less than \$500 or more than \$1,000 for a first
580 conviction.

581 2. Not less than \$1,000 or more than \$2,000 for a second
582 conviction.

583 3. Not less than \$2,000 for a third or subsequent
584 conviction.

585 (b) By imprisonment for:

586 1. Not more than 9 months for a first conviction.

587 2. Not more than 12 months for a second conviction.

588

589 For the purposes of this subsection, only the instant offense is
590 required to be a violation of subsection (1) by a person who has
591 a blood-alcohol level or breath-alcohol level of 0.20 or higher.

592 (5) In addition to any sentence or fine, the court shall
593 place any offender convicted of violating this section on
594 monthly reporting probation and shall require attendance at a
595 substance abuse course specified by the court; and the agency
596 conducting the course may refer the offender to an authorized



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597 service provider for substance abuse evaluation and treatment,
598 in addition to any sentence or fine imposed under this section.
599 The offender shall assume reasonable costs for such education,
600 evaluation, and treatment, with completion of all such
601 education, evaluation, and treatment being a condition of
602 reporting probation. Treatment resulting from a psychosocial
603 evaluation may not be waived without a supporting psychosocial
604 evaluation conducted by an agency appointed by the court and
605 with access to the original evaluation. The offender shall bear
606 the cost of this procedure. The term "substance abuse" means the
607 abuse of alcohol or any substance named or described in
608 Schedules I-V of s. 893.03.

609 (6) With respect to any person convicted of a violation of
610 subsection (1), regardless of any other penalty imposed:

611 (a) For the first conviction, the court shall place the
612 defendant on probation for a period not to exceed 1 year and, as
613 a condition of such probation, shall order the defendant to
614 participate in public service or a community work project for a
615 minimum of 50 hours. The court must also, as a condition of
616 probation, order the impoundment or immobilization of the vessel
617 that was operated by or in the actual control of the defendant
618 or any one vehicle registered in the defendant's name at the
619 time of impoundment or immobilization, for a period of 10 days
620 or for the unexpired term of any lease or rental agreement that
621 expires within 10 days. The impoundment or immobilization must
622 not occur concurrently with the incarceration of the defendant.
623 The impoundment or immobilization order may be dismissed in
624 accordance with paragraph (e) or paragraph (f). The total period
625 of probation and incarceration may not exceed 1 year.



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626 (b) For the second conviction for an offense that occurs
627 within a period of 5 years after the date of a prior conviction
628 for violation of this section, the court shall order
629 imprisonment for not less than 10 days. The court must also, as
630 a condition of probation, order the impoundment or
631 immobilization of the vessel that was operated by or in the
632 actual control of the defendant or any one vehicle registered in
633 the defendant's name at the time of impoundment or
634 immobilization, for a period of 30 days or for the unexpired
635 term of any lease or rental agreement that expires within 30
636 days. The impoundment or immobilization must not occur
637 concurrently with the incarceration of the defendant. The
638 impoundment or immobilization order may be dismissed in
639 accordance with paragraph (e) or paragraph (f). At least 48
640 hours of confinement must be consecutive.

641 (c) For the third or subsequent conviction for an offense
642 that occurs within a period of 10 years after the date of a
643 prior conviction for violation of this section, the court shall
644 order imprisonment for not less than 30 days. The court must
645 also, as a condition of probation, order the impoundment or
646 immobilization of the vessel that was operated by or in the
647 actual control of the defendant or any one vehicle registered in
648 the defendant's name at the time of impoundment or
649 immobilization, for a period of 90 days or for the unexpired
650 term of any lease or rental agreement that expires within 90
651 days. The impoundment or immobilization must not occur
652 concurrently with the incarceration of the defendant. The
653 impoundment or immobilization order may be dismissed in
654 accordance with paragraph (e) or paragraph (f). At least 48
655 hours of confinement must be consecutive.



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656 (d) The court must at the time of sentencing the defendant
657 issue an order for the impoundment or immobilization of a
658 vessel. Within 7 business days after the date that the court
659 issues the order of impoundment, and once again 30 business days
660 before the actual impoundment or immobilization of the vessel,
661 the clerk of the court must send notice by certified mail,
662 return receipt requested, to the registered owner of each
663 vessel, if the registered owner is a person other than the
664 defendant, and to each person of record claiming a lien against
665 the vessel.

666 (e) A person who owns but was not operating the vessel
667 when the offense occurred may submit to the court a police
668 report indicating that the vessel was stolen at the time of the
669 offense or documentation of having purchased the vessel after
670 the offense was committed from an entity other than the
671 defendant or the defendant's agent. If the court finds that the
672 vessel was stolen or that the sale was not made to circumvent
673 the order and allow the defendant continued access to the
674 vessel, the order must be dismissed and the owner of the vessel
675 will incur no costs. If the court denies the request to dismiss
676 the order of impoundment or immobilization, the petitioner may
677 request an evidentiary hearing.

678 (f) A person who owns but was not operating the vessel
679 when the offense occurred, and whose vessel was stolen or who
680 purchased the vessel after the offense was committed directly
681 from the defendant or the defendant's agent, may request an
682 evidentiary hearing to determine whether the impoundment or
683 immobilization should occur. If the court finds that either the
684 vessel was stolen or the purchase was made without knowledge of
685 the offense, that the purchaser had no relationship to the



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686 defendant other than through the transaction, and that such
687 purchase would not circumvent the order and allow the defendant
688 continued access to the vessel, the order must be dismissed and
689 the owner of the vessel will incur no costs.

690 (g) All costs and fees for the impoundment or
691 immobilization, including the cost of notification, must be paid
692 by the owner of the vessel or, if the vessel is leased or
693 rented, by the person leasing or renting the vessel, unless the
694 impoundment or immobilization order is dismissed.

695 (h) The person who owns a vessel that is impounded or
696 immobilized under this paragraph, or a person who has a lien of
697 record against such a vessel and who has not requested a review
698 of the impoundment pursuant to paragraph (e) or paragraph (f),
699 may, within 10 days after the date that person has knowledge of
700 the location of the vessel, file a complaint in the county in
701 which the owner resides to determine whether the vessel was
702 wrongfully taken or withheld from the owner or lienholder. Upon
703 the filing of a complaint, the owner or lienholder may have the
704 vessel released by posting with the court a bond or other
705 adequate security equal to the amount of the costs and fees for
706 impoundment or immobilization, including towing or storage, to
707 ensure the payment of the costs and fees if the owner or
708 lienholder does not prevail. When the bond is posted and the fee
709 is paid as set forth in s. 28.24, the clerk of the court shall
710 issue a certificate releasing the vessel. At the time of
711 release, after reasonable inspection, the owner or lienholder
712 must give a receipt to the towing or storage company indicating
713 any loss or damage to the vessel or to the contents of the
714 vessel.



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715 (i) A defendant, in the court's discretion, may be
716 required to serve all or any portion of a term of imprisonment
717 to which the defendant has been sentenced pursuant to this
718 section in a residential alcoholism treatment program or a
719 residential drug abuse treatment program. Any time spent in such
720 a program must be credited by the court toward the term of
721 imprisonment.

722

723 For the purposes of this section, any conviction for a violation
724 of s. 316.193, a previous conviction for the violation of former
725 s. 316.1931, former s. 860.01, or former s. 316.028, or a
726 previous conviction outside this state for driving under the
727 influence, driving while intoxicated, driving with an unlawful
728 blood-alcohol level, driving with an unlawful breath-alcohol
729 level, or any other similar alcohol-related or drug-related
730 traffic offense, is also considered a previous conviction for
731 violation of this section.

732 (7) A conviction under this section does not bar any civil
733 suit for damages against the person so convicted.

734 (8) A person who is arrested for a violation of this
735 section may not be released from custody:

736 (a) Until the person is no longer under the influence of
737 alcoholic beverages, any chemical substance set forth in s.
738 877.111, or any substance controlled under chapter 893 and
739 affected to the extent that his or her normal faculties are
740 impaired;

741 (b) Until the person's blood-alcohol level or breath-
742 alcohol level is less than 0.05; or

743 (c) Until 8 hours have elapsed from the time the person
744 was arrested.



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745 (9) Notwithstanding any other provision of this section,
746 for any person convicted of a violation of subsection (1), in
747 addition to the fines set forth in subsections (2) and (4), an
748 additional fine of \$60 shall be assessed and collected in the
749 same manner as the fines set forth in subsections (2) and (4).
750 All fines collected under this subsection shall be remitted by
751 the clerk of the court to the Department of Revenue for deposit
752 into the Brain and Spinal Cord Injury Rehabilitation Trust Fund
753 and used for the purposes set forth in s. 381.79, after 5
754 percent is deducted therefrom by the clerk of the court for
755 administrative costs.

756 (10) It is the intent of the Legislature to encourage
757 boaters to have a "designated driver" who does not consume
758 alcoholic beverages.

759 Section 3. For the purpose of incorporating the amendment
760 to section 316.193, Florida Statutes, in references thereto,
761 paragraph (a) of subsection (3) of section 316.066, Florida
762 Statutes, is reenacted to read:

763 316.066 Written reports of crashes.--

764 (3)(a) Every law enforcement officer who in the regular
765 course of duty investigates a motor vehicle crash:

766 1. Which crash resulted in death or personal injury shall,
767 within 10 days after completing the investigation, forward a
768 written report of the crash to the department or traffic records
769 center.

770 2. Which crash involved a violation of s. 316.061(1) or s.
771 316.193 shall, within 10 days after completing the
772 investigation, forward a written report of the crash to the
773 department or traffic records center.



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774 3. In which crash a vehicle was rendered inoperative to a
775 degree which required a wrecker to remove it from traffic may,
776 within 10 days after completing the investigation, forward a
777 written report of the crash to the department or traffic records
778 center if such action is appropriate, in the officer's
779 discretion.

780

781 However, in every case in which a crash report is required by
782 this section and a written report to a law enforcement officer
783 is not prepared, the law enforcement officer shall provide each
784 party involved in the crash a short-form report, prescribed by
785 the state, to be completed by the party. The short-form report
786 must include, but is not limited to: the date, time, and
787 location of the crash; a description of the vehicles involved;
788 the names and addresses of the parties involved; the names and
789 addresses of witnesses; the name, badge number, and law
790 enforcement agency of the officer investigating the crash; and
791 the names of the insurance companies for the respective parties
792 involved in the crash. Each party to the crash shall provide the
793 law enforcement officer with proof of insurance to be included
794 in the crash report. If a law enforcement officer submits a
795 report on the accident, proof of insurance must be provided to
796 the officer by each party involved in the crash. Any party who
797 fails to provide the required information is guilty of an
798 infraction for a nonmoving violation, punishable as provided in
799 chapter 318 unless the officer determines that due to injuries
800 or other special circumstances such insurance information cannot
801 be provided immediately. If the person provides the law
802 enforcement agency, within 24 hours after the crash, proof of



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803 insurance that was valid at the time of the crash, the law
804 enforcement agency may void the citation.

805 Section 4. For the purpose of incorporating the amendment
806 to section 316.193, Florida Statutes, in references thereto,
807 paragraph (b) of subsection (4) of section 316.072, Florida
808 Statutes, is reenacted to read:

809 316.072 Obedience to and effect of traffic laws.--

810 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
811 EXCEPTIONS.--

812 (b) Unless specifically made applicable, the provisions of
813 this chapter, except those contained in ss. 316.192, 316.1925,
814 and 316.193, shall not apply to persons, teams, or motor
815 vehicles and other equipment while actually engaged in work upon
816 the surface of a highway, but shall apply to such persons and
817 vehicles when traveling to or from such work.

818 Section 5. For the purpose of incorporating the amendment
819 to section 316.193, Florida Statutes, in references thereto,
820 subsection (3) of section 316.1932, Florida Statutes, is
821 reenacted to read:

822 316.1932 Breath, blood, and urine tests for alcohol,
823 chemical substances, or controlled substances; implied consent;
824 refusal.--

825 (3) Notwithstanding any provision of law pertaining to the
826 confidentiality of hospital records or other medical records,
827 information relating to the alcoholic content of the blood or
828 breath or the presence of chemical substances or controlled
829 substances in the blood obtained pursuant to this section shall
830 be released to a court, prosecuting attorney, defense attorney,
831 or law enforcement officer in connection with an alleged
832 violation of s. 316.193 upon request for such information.



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833 Section 6. For the purpose of incorporating the amendment
 834 to section 316.193, Florida Statutes, in references thereto,
 835 subsection (4) of section 316.1933, Florida Statutes, is
 836 reenacted to read:

837 316.1933 Blood test for impairment or intoxication in
 838 cases of death or serious bodily injury; right to use reasonable
 839 force.--

840 (4) Notwithstanding any provision of law pertaining to the
 841 confidentiality of hospital records or other medical records,
 842 information relating to the alcoholic content of the blood or
 843 the presence of chemical substances or controlled substances in
 844 the blood obtained pursuant to this section shall be released to
 845 a court, prosecuting attorney, defense attorney, or law
 846 enforcement officer in connection with an alleged violation of
 847 s. 316.193 upon request for such information.

848 Section 7. For the purpose of incorporating the amendment
 849 to section 316.193, Florida Statutes, in references thereto,
 850 subsections (1) and (4) of section 316.1934, Florida Statutes,
 851 are reenacted to read:

852 316.1934 Presumption of impairment; testing methods.--

853 (1) It is unlawful and punishable as provided in chapter
 854 322 and in s. 316.193 for any person who is under the influence
 855 of alcoholic beverages or controlled substances, when affected
 856 to the extent that the person's normal faculties are impaired or
 857 to the extent that the person is deprived of full possession of
 858 normal faculties, to drive or be in actual physical control of
 859 any motor vehicle within this state. Such normal faculties
 860 include, but are not limited to, the ability to see, hear, walk,
 861 talk, judge distances, drive an automobile, make judgments, act



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862 in emergencies, and, in general, normally perform the many
863 mental and physical acts of daily life.

864 (4) Any person charged with a violation of s. 316.193,
865 whether in a municipality or not, is entitled to trial by jury
866 according to the Florida Rules of Criminal Procedure.

867 Section 8. For the purpose of incorporating the amendment
868 to section 316.193, Florida Statutes, in references thereto,
869 section 316.1937, Florida Statutes, is reenacted to read:

870 316.1937 Ignition interlock devices, requiring; unlawful
871 acts.--

872 (1) In addition to any other authorized penalties, the
873 court may require that any person who is convicted of driving
874 under the influence in violation of s. 316.193 shall not operate
875 a motor vehicle unless that vehicle is equipped with a
876 functioning ignition interlock device certified by the
877 department as provided in s. 316.1938, and installed in such a
878 manner that the vehicle will not start if the operator's blood
879 alcohol level is in excess of 0.05 percent or as otherwise
880 specified by the court. The court may require the use of an
881 approved ignition interlock device for a period of not less than
882 6 months, if the person is permitted to operate a motor vehicle,
883 whether or not the privilege to operate a motor vehicle is
884 restricted, as determined by the court. The court, however,
885 shall order placement of an ignition interlock device in those
886 circumstances required by s. 316.193.

887 (2) If the court imposes the use of an ignition interlock
888 device, the court shall:

889 (a) Stipulate on the record the requirement for, and the
890 period of, the use of a certified ignition interlock device.



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891 (b) Order that the records of the department reflect such
892 requirement.

893 (c) Order that an ignition interlock device be installed,
894 as the court may determine necessary, on any vehicle owned or
895 operated by the person.

896 (d) Determine the person's ability to pay for installation
897 of the device if the person claims inability to pay. If the
898 court determines that the person is unable to pay for
899 installation of the device, the court may order that any portion
900 of a fine paid by the person for a violation of s. 316.193 shall
901 be allocated to defray the costs of installing the device.

902 (e) Require proof of installation of the device and
903 periodic reporting to the department for verification of the
904 operation of the device in the person's vehicle.

905 (3) If the court imposes the use of an ignition interlock
906 device on a person whose driving privilege is not suspended or
907 revoked, the court shall require the person to provide proof of
908 compliance to the department within 30 days. If the person fails
909 to provide proof of installation within that period, absent a
910 finding by the court of good cause for that failure which is
911 entered in the court record, the court shall notify the
912 department.

913 (4) If the court imposes the use of an ignition interlock
914 device on a person whose driving privilege is suspended or
915 revoked for a period of less than 3 years, the department shall
916 require proof of compliance before reinstatement of the person's
917 driving privilege.

918 (5)(a) In addition to any other provision of law, upon
919 conviction of a violation of this section the department shall
920 revoke the person's driving privilege for 1 year from the date



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921 of conviction. Upon conviction of a separate violation of this
922 section during the same period of required use of an ignition
923 interlock device, the department shall revoke the person's
924 driving privilege for 5 years from the date of conviction.

925 (b) Any person convicted of a violation of subsection (6)
926 who does not have a driver's license shall, in addition to any
927 other penalty provided by law, pay a fine of not less than \$250
928 or more than \$500 per each such violation. In the event that the
929 person is unable to pay any such fine, the fine shall become a
930 lien against the motor vehicle used in violation of subsection
931 (6) and payment shall be made pursuant to s. 316.3025(4).

932 (6)(a) It is unlawful to tamper with, or to circumvent the
933 operation of, a court-ordered ignition interlock device.

934 (b) It is unlawful for any person whose driving privilege
935 is restricted pursuant to this section to request or solicit any
936 other person to blow into an ignition interlock device or to
937 start a motor vehicle equipped with the device for the purpose
938 of providing the person so restricted with an operable motor
939 vehicle.

940 (c) It is unlawful to blow into an ignition interlock
941 device or to start a motor vehicle equipped with the device for
942 the purpose of providing an operable motor vehicle to a person
943 whose driving privilege is restricted pursuant to this section.

944 (d) It is unlawful to knowingly lease or lend a motor
945 vehicle to a person who has had his or her driving privilege
946 restricted as provided in this section, unless the vehicle is
947 equipped with a functioning, certified ignition interlock
948 device. Any person whose driving privilege is restricted under a
949 condition of probation requiring an ignition interlock device



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950 shall notify any other person who leases or loans a motor
951 vehicle to him or her of such driving restriction.

952 (7) Notwithstanding the provisions of this section, if a
953 person is required to operate a motor vehicle in the course and
954 scope of his or her employment and if the vehicle is owned by
955 the employer, the person may operate that vehicle without
956 installation of an approved ignition interlock device if the
957 employer has been notified of such driving privilege restriction
958 and if proof of that notification is with the vehicle. This
959 employment exemption does not apply, however, if the business
960 entity which owns the vehicle is owned or controlled by the
961 person whose driving privilege has been restricted.

962 (8) In addition to the penalties provided in this section,
963 a violation of this section is a noncriminal traffic infraction,
964 punishable as a nonmoving violation as provided in chapter 318.

965 Section 9. For the purpose of incorporating the amendment
966 to section 316.193, Florida Statutes, in references thereto,
967 section 316.1939, Florida Statutes, is reenacted to read:

968 316.1939 Refusal to submit to testing; penalties.--

969 (1) Any person who has refused to submit to a chemical or
970 physical test of his or her breath, blood, or urine, as
971 described in s. 316.1932, and whose driving privilege was
972 previously suspended for a prior refusal to submit to a lawful
973 test of his or her breath, urine, or blood, and:

974 (a) Who the arresting law enforcement officer had probable
975 cause to believe was driving or in actual physical control of a
976 motor vehicle in this state while under the influence of
977 alcoholic beverages, chemical substances, or controlled
978 substances;



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979 (b) Who was placed under lawful arrest for a violation of
980 s. 316.193 unless such test was requested pursuant to s.
981 316.1932(1)(c);

982 (c) Who was informed that, if he or she refused to submit
983 to such test, his or her privilege to operate a motor vehicle
984 would be suspended for a period of 1 year or, in the case of a
985 second or subsequent refusal, for a period of 18 months;

986 (d) Who was informed that a refusal to submit to a lawful
987 test of his or her breath, urine, or blood, if his or her
988 driving privilege has been previously suspended for a prior
989 refusal to submit to a lawful test of his or her breath, urine,
990 or blood, is a misdemeanor; and

991 (e) Who, after having been so informed, refused to submit
992 to any such test when requested to do so by a law enforcement
993 officer or correctional officer

994

995 commits a misdemeanor of the first degree and is subject to
996 punishment as provided in s. 775.082 or s. 775.083.

997 (2) The disposition of any administrative proceeding that
998 relates to the suspension of a person's driving privilege does
999 not affect a criminal action under this section.

1000 (3) The disposition of a criminal action under this
1001 section does not affect any administrative proceeding that
1002 relates to the suspension of a person's driving privilege. The
1003 department's records showing that a person's license has been
1004 previously suspended for a prior refusal to submit to a lawful
1005 test of his or her breath, urine, or blood shall be admissible
1006 and shall create a rebuttable presumption of such suspension.



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1007 Section 10. For the purpose of incorporating the amendment
 1008 to section 316.193, Florida Statutes, in references thereto,
 1009 section 316.656, Florida Statutes, is reenacted to read:

1010 316.656 Mandatory adjudication; prohibition against
 1011 accepting plea to lesser included offense.--

1012 (1) Notwithstanding the provisions of s. 948.01, no court
 1013 may suspend, defer, or withhold adjudication of guilt or
 1014 imposition of sentence for any violation of s. 316.193, for
 1015 manslaughter resulting from the operation of a motor vehicle, or
 1016 for vehicular homicide.

1017 (2)(a) No trial judge may accept a plea of guilty to a
 1018 lesser offense from a person charged under the provisions of
 1019 this act who has been given a breath or blood test to determine
 1020 blood or breath alcohol content, the results of which show a
 1021 blood or breath alcohol content by weight of 0.20 percent or
 1022 more.

1023 (b) No trial judge may accept a plea of guilty to a lesser
 1024 offense from a person charged with a violation of s. 316.193(3),
 1025 manslaughter resulting from the operation of a motor vehicle, or
 1026 vehicular homicide.

1027 Section 11. For the purpose of incorporating the amendment
 1028 to section 316.193, Florida Statutes, in references thereto,
 1029 subsections (4) and (5) of section 318.143, Florida Statutes,
 1030 are reenacted to read:

1031 318.143 Sanctions for infractions by minors.--

1032 (4) For the first conviction for a violation of s.
 1033 316.193, the court may order the Department of Highway Safety
 1034 and Motor Vehicles to revoke the minor's driver's license until
 1035 the minor is 18 years of age. For a second or subsequent
 1036 conviction for such a violation, the court may order the



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1037 Department of Highway Safety and Motor Vehicles to revoke the
 1038 minor's driver's license until the minor is 21 years of age.

1039 (5) A minor who is arrested for a violation of s. 316.193
 1040 may be released from custody as soon as:

1041 (a) The minor is no longer under the influence of
 1042 alcoholic beverages, of any chemical substance set forth in s.
 1043 877.111, or of any substance controlled under chapter 893, and
 1044 is not affected to the extent that his or her normal faculties
 1045 are impaired;

1046 (b) The minor's blood-alcohol level is less than 0.05
 1047 percent; or

1048 (c) Six hours have elapsed after the minor's arrest.

1049 Section 12. For the purpose of incorporating the amendment
 1050 to section 316.193, Florida Statutes, in references thereto,
 1051 subsection (3) of section 318.17, Florida Statutes, is reenacted
 1052 to read:

1053 318.17 Offenses excepted.--No provision of this chapter is
 1054 available to a person who is charged with any of the following
 1055 offenses:

1056 (3) Driving, or being in actual physical control of, any
 1057 vehicle while under the influence of alcoholic beverages, any
 1058 chemical substance set forth in s. 877.111, or any substance
 1059 controlled under chapter 893, in violation of s. 316.193, or
 1060 driving with an unlawful blood-alcohol level;

1061 Section 13. For the purpose of incorporating the amendment
 1062 to section 316.193, Florida Statutes, in references thereto,
 1063 subsection (2) of section 322.03, Florida Statutes, is reenacted
 1064 to read:

1065 322.03 Drivers must be licensed; penalties.--



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1066 (2) Prior to issuing a driver's license, the department
1067 shall require any person who has been convicted two or more
1068 times of a violation of s. 316.193 or of a substantially similar
1069 alcohol-related or drug-related offense outside this state
1070 within the preceding 5 years, or who has been convicted of three
1071 or more such offenses within the preceding 10 years, to present
1072 proof of successful completion of or enrollment in a department-
1073 approved substance abuse education course. If the person fails
1074 to complete such education course within 90 days after issuance,
1075 the department shall cancel the license. Further, prior to
1076 issuing the driver's license the department shall require such
1077 person to present proof of financial responsibility as provided
1078 in s. 324.031. For the purposes of this paragraph, a previous
1079 conviction for violation of former s. 316.028, former s.
1080 316.1931, or former s. 860.01 shall be considered a previous
1081 conviction for violation of s. 316.193.

1082 Section 14. For the purpose of incorporating the amendment
1083 to section 316.193, Florida Statutes, in references thereto,
1084 paragraph (a) of subsection (2) of section 322.0602, Florida
1085 Statutes, is reenacted to read:

1086 322.0602 Youthful Drunk Driver Visitation Program.--

1087 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR
1088 PARTICIPATION.--

1089 (a) If a person is convicted of a violation of s. 316.193,
1090 the court may order, as a term and condition of probation in
1091 addition to any other term or condition required or authorized
1092 by law, that the probationer participate in the Youthful Drunk
1093 Driver Visitation Program.

1094 Section 15. For the purpose of incorporating the amendment
1095 to section 316.193, Florida Statutes, in references thereto,



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1096 subsection (2) of section 322.12, Florida Statutes, is reenacted
1097 to read:

1098 322.12 Examination of applicants.--

1099 (2) The department shall examine every applicant for a
1100 driver's license, including an applicant who is licensed in
1101 another state or country, except as otherwise provided in this
1102 chapter. A person who holds a learner's driver's license as
1103 provided for in s. 322.1615 is not required to pay a fee for
1104 successfully completing the examination showing his or her
1105 ability to operate a motor vehicle as provided for herein and
1106 need not pay the fee for a replacement license as provided in s.
1107 322.17(2). Any person who applies for reinstatement following
1108 the suspension or revocation of his or her driver's license
1109 shall pay a service fee of \$25 following a suspension, and \$50
1110 following a revocation, which is in addition to the fee for a
1111 license. Any person who applies for reinstatement of a
1112 commercial driver's license following the disqualification of
1113 his or her privilege to operate a commercial motor vehicle shall
1114 pay a service fee of \$50, which is in addition to the fee for a
1115 license. The department shall collect all of these fees at the
1116 time of reinstatement. The department shall issue proper
1117 receipts for such fees and shall promptly transmit all funds
1118 received by it as follows:

1119 (a) Of the \$25 fee received from a licensee for
1120 reinstatement following a suspension, the department shall
1121 deposit \$15 in the General Revenue Fund and the remaining \$10 in
1122 the Highway Safety Operating Trust Fund.

1123 (b) Of the \$50 fee received from a licensee for
1124 reinstatement following a revocation or disqualification, the



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1125 department shall deposit \$35 in the General Revenue Fund and the
 1126 remaining \$15 in the Highway Safety Operating Trust Fund.

1127
 1128 If the revocation or suspension of the driver's license was for
 1129 a violation of s. 316.193, or for refusal to submit to a lawful
 1130 breath, blood, or urine test, an additional fee of \$105 must be
 1131 charged. However, only one such \$105 fee is to be collected from
 1132 one person convicted of such violations arising out of the same
 1133 incident. The department shall collect the \$105 fee and deposit
 1134 it into the Highway Safety Operating Trust Fund at the time of
 1135 reinstatement of the person's driver's license, but the fee must
 1136 not be collected if the suspension or revocation was overturned.

1137 Section 16. For the purpose of incorporating the amendment
 1138 to section 316.193, Florida Statutes, in references thereto,
 1139 section 322.25, Florida Statutes, is reenacted to read:

1140 322.25 When court to forward license to department and
 1141 report convictions; temporary reinstatement of driving
 1142 privileges.--

1143 (1) Whenever any person is convicted of any offense for
 1144 which this chapter makes mandatory the revocation of the
 1145 driver's license of such person by the department, the court in
 1146 which such conviction is had shall require the surrender to it
 1147 of all driver's licenses then held by the person so convicted,
 1148 and the court shall thereupon forward the same, together with a
 1149 record of such conviction, to the department.

1150 (2) Every court having jurisdiction over offenses
 1151 committed under this chapter, or any other law of this state
 1152 regulating the operation of motor vehicles on highways, shall
 1153 forward to the department a record of the conviction of any
 1154 person in said court for a violation of any said laws, and shall



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1155 suspend or revoke in accordance with the provisions of this
1156 chapter the driver's license of the person so convicted.

1157 (3) There shall be no notation made upon a license of
1158 either an arrest or warning until the holder of the license has
1159 been duly convicted or has forfeited bond.

1160 (4) For the purpose of this chapter, a forfeiture of bail
1161 or collateral deposited to secure a defendant's appearance in
1162 court, which forfeiture has not been vacated, shall be
1163 equivalent to a conviction.

1164 (5) For the purpose of this chapter, the entrance of a
1165 plea of nolo contendere by the defendant to a charge of driving
1166 while intoxicated, driving under the influence, driving with an
1167 unlawful blood-alcohol level, or any other alcohol-related or
1168 drug-related traffic offense similar to the offenses specified
1169 in s. 316.193, accepted by the court and under which plea the
1170 court has entered a fine or sentence, whether in this state or
1171 any other state or country, shall be equivalent to a conviction.

1172 (6) The report of a judicial disposition of an offense
1173 committed under this chapter or of any traffic violation,
1174 including parking on a roadway outside the limits of a
1175 municipality, or of a violation of any law of this state
1176 regulating the operation of motor vehicles on highways shall be
1177 made by the court to the department on a standard form
1178 prescribed by the department. In addition, the court shall so
1179 report to the department any conviction of a person for felony
1180 possession of a controlled substance if such person was driving
1181 or in actual physical control of a motor vehicle at the time of
1182 such possession. The form shall be a copy of the uniform traffic
1183 citation and complaint as prescribed by s. 316.650 and shall
1184 include a place for the court to indicate clearly whether it



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1185 recommends suspension or revocation of the offender's driving
1186 privilege. The report shall be signed by the judge or by
1187 facsimile signature. The clerks of the court may submit
1188 disposition data to the department in an automated fashion, in a
1189 form prescribed by the department.

1190 (7) Any licensed driver convicted of driving, or being in
1191 the actual physical control of, a vehicle within this state
1192 while under the influence of alcoholic beverages, any chemical
1193 substance set forth in s. 877.111, or any substance controlled
1194 under chapter 893, when affected to the extent that his or her
1195 normal faculties are impaired, and whose license and driving
1196 privilege have been revoked as provided in subsection (1) may be
1197 issued a court order for reinstatement of a driving privilege on
1198 a temporary basis; provided that, as a part of the penalty, upon
1199 conviction, the defendant is required to enroll in and complete
1200 a driver improvement course for the rehabilitation of drinking
1201 drivers and the driver is otherwise eligible for reinstatement
1202 of the driving privilege as provided by s. 322.282. The court
1203 order for reinstatement shall be on a form provided by the
1204 department and must be taken by the person convicted to a
1205 Florida driver's license examining office, where a temporary
1206 driving permit may be issued. The period of time for which a
1207 temporary permit issued in accordance with this subsection is
1208 valid shall be deemed to be part of the period of revocation
1209 imposed by the court.

1210 Section 17. For the purpose of incorporating the amendment
1211 to section 316.193, Florida Statutes, in references thereto,
1212 paragraph (a) of subsection (1) and subsection (2) of section
1213 322.26, Florida Statutes, are reenacted to read:



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1214 322.26 Mandatory revocation of license by department.--The
 1215 department shall forthwith revoke the license or driving
 1216 privilege of any person upon receiving a record of such person's
 1217 conviction of any of the following offenses:

1218 (1)(a) Murder resulting from the operation of a motor
 1219 vehicle, DUI manslaughter where the conviction represents a
 1220 subsequent DUI-related conviction, or a fourth violation of s.
 1221 316.193 or former s. 316.1931. For such cases, the revocation of
 1222 the driver's license or driving privilege shall be permanent.

1223 (2) Driving a motor vehicle or being in actual physical
 1224 control thereof, or entering a plea of nolo contendere, said
 1225 plea being accepted by the court and said court entering a fine
 1226 or sentence to a charge of driving, while under the influence of
 1227 alcoholic beverages or a substance controlled under chapter 893,
 1228 or being in actual physical control of a motor vehicle while
 1229 under the influence of alcoholic beverages or a substance
 1230 controlled under chapter 893. In any case where DUI manslaughter
 1231 occurs and the person has no prior convictions for DUI-related
 1232 offenses, the revocation of the license or driving privilege
 1233 shall be permanent, except as provided for in s. 322.271(4).

1234 Section 18. For the purpose of incorporating the amendment
 1235 to section 316.193, Florida Statutes, in references thereto,
 1236 subsections (1), (2), (7), (8), and (14) of section 322.2615,
 1237 Florida Statutes, are reenacted to read:

1238 322.2615 Suspension of license; right to review.--

1239 (1)(a) A law enforcement officer or correctional officer
 1240 shall, on behalf of the department, suspend the driving
 1241 privilege of a person who has been arrested by a law enforcement
 1242 officer for a violation of s. 316.193, relating to unlawful
 1243 blood-alcohol level or breath-alcohol level, or of a person who



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1244 has refused to submit to a breath, urine, or blood test
1245 authorized by s. 316.1932. The officer shall take the person's
1246 driver's license and issue the person a 10-day temporary permit
1247 if the person is otherwise eligible for the driving privilege
1248 and shall issue the person a notice of suspension. If a blood
1249 test has been administered, the results of which are not
1250 available to the officer at the time of the arrest, the agency
1251 employing the officer shall transmit such results to the
1252 department within 5 days after receipt of the results. If the
1253 department then determines that the person was arrested for a
1254 violation of s. 316.193 and that the person had a blood-alcohol
1255 level or breath-alcohol level of 0.08 or higher, the department
1256 shall suspend the person's driver's license pursuant to
1257 subsection (3).

1258 (b) The suspension under paragraph (a) shall be pursuant
1259 to, and the notice of suspension shall inform the driver of, the
1260 following:

1261 1.a. The driver refused to submit to a lawful breath,
1262 blood, or urine test and his or her driving privilege is
1263 suspended for a period of 1 year for a first refusal or for a
1264 period of 18 months if his or her driving privilege has been
1265 previously suspended as a result of a refusal to submit to such
1266 a test; or

1267 b. The driver violated s. 316.193 by driving with an
1268 unlawful blood-alcohol level as provided in that section and his
1269 or her driving privilege is suspended for a period of 6 months
1270 for a first offense or for a period of 1 year if his or her
1271 driving privilege has been previously suspended for a violation
1272 of s. 316.193.



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1273 2. The suspension period shall commence on the date of
1274 arrest or issuance of the notice of suspension, whichever is
1275 later.

1276 3. The driver may request a formal or informal review of
1277 the suspension by the department within 10 days after the date
1278 of arrest or issuance of the notice of suspension, whichever is
1279 later.

1280 4. The temporary permit issued at the time of arrest will
1281 expire at midnight of the 10th day following the date of arrest
1282 or issuance of the notice of suspension, whichever is later.

1283 5. The driver may submit to the department any materials
1284 relevant to the arrest.

1285 (2) Except as provided in paragraph (1)(a), the law
1286 enforcement officer shall forward to the department, within 5
1287 days after the date of the arrest, a copy of the notice of
1288 suspension, the driver's license of the person arrested, and a
1289 report of the arrest, including an affidavit stating the
1290 officer's grounds for belief that the person arrested was in
1291 violation of s. 316.193; the results of any breath or blood test
1292 or an affidavit stating that a breath, blood, or urine test was
1293 requested by a law enforcement officer or correctional officer
1294 and that the person arrested refused to submit; a copy of the
1295 citation issued to the person arrested; and the officer's
1296 description of the person's field sobriety test, if any. The
1297 failure of the officer to submit materials within the 5-day
1298 period specified in this subsection and in subsection (1) shall
1299 not affect the department's ability to consider any evidence
1300 submitted at or prior to the hearing. The officer may also
1301 submit a copy of a videotape of the field sobriety test or the
1302 attempt to administer such test.



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1303 (7) In a formal review hearing under subsection (6) or an
1304 informal review hearing under subsection (4), the hearing
1305 officer shall determine by a preponderance of the evidence
1306 whether sufficient cause exists to sustain, amend, or invalidate
1307 the suspension. The scope of the review shall be limited to the
1308 following issues:

1309 (a) If the license was suspended for driving with an
1310 unlawful blood-alcohol level in violation of s. 316.193:

1311 1. Whether the arresting law enforcement officer had
1312 probable cause to believe that the person was driving or in
1313 actual physical control of a motor vehicle in this state while
1314 under the influence of alcoholic beverages or controlled
1315 substances.

1316 2. Whether the person was placed under lawful arrest for a
1317 violation of s. 316.193.

1318 3. Whether the person had an unlawful blood-alcohol level
1319 as provided in s. 316.193.

1320 (b) If the license was suspended for refusal to submit to
1321 a breath, blood, or urine test:

1322 1. Whether the arresting law enforcement officer had
1323 probable cause to believe that the person was driving or in
1324 actual physical control of a motor vehicle in this state while
1325 under the influence of alcoholic beverages or controlled
1326 substances.

1327 2. Whether the person was placed under lawful arrest for a
1328 violation of s. 316.193.

1329 3. Whether the person refused to submit to any such test
1330 after being requested to do so by a law enforcement officer or
1331 correctional officer.



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1332 4. Whether the person was told that if he or she refused
1333 to submit to such test his or her privilege to operate a motor
1334 vehicle would be suspended for a period of 1 year or, in the
1335 case of a second or subsequent refusal, for a period of 18
1336 months.

1337 (8) Based on the determination of the hearing officer
1338 pursuant to subsection (7) for both informal hearings under
1339 subsection (4) and formal hearings under subsection (6), the
1340 department shall:

1341 (a) Sustain the suspension of the person's driving
1342 privilege for a period of 1 year for a first refusal, or for a
1343 period of 18 months if the driving privilege of such person has
1344 been previously suspended as a result of a refusal to submit to
1345 such tests, if the arrested person refused to submit to a lawful
1346 breath, blood, or urine test. The suspension period commences on
1347 the date of the arrest or issuance of the notice of suspension,
1348 whichever is later.

1349 (b) Sustain the suspension of the person's driving
1350 privilege for a period of 6 months for a violation of s.
1351 316.193, or for a period of 1 year if the driving privilege of
1352 such person has been previously suspended as a result of a
1353 violation of s. 316.193. The suspension period commences on the
1354 date of the arrest or issuance of the notice of suspension,
1355 whichever is later.

1356 (14) The decision of the department under this section
1357 shall not be considered in any trial for a violation of s.
1358 316.193, nor shall any written statement submitted by a person
1359 in his or her request for departmental review under this section
1360 be admissible into evidence against him or her in any such



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1361 trial. The disposition of any related criminal proceedings shall
 1362 not affect a suspension imposed pursuant to this section.

1363 Section 19. For the purpose of incorporating the amendment
 1364 to section 316.193, Florida Statutes, in references thereto,
 1365 subsection (19) of section 322.2616, Florida Statutes, is
 1366 reenacted to read:

1367 322.2616 Suspension of license; persons under 21 years of
 1368 age; right to review.--

1369 (19) A violation of this section is neither a traffic
 1370 infraction nor a criminal offense, nor does being detained
 1371 pursuant to this section constitute an arrest. A violation of
 1372 this section is subject to the administrative action provisions
 1373 of this section, which are administered by the department
 1374 through its administrative processes. Administrative actions
 1375 taken pursuant to this section shall be recorded in the motor
 1376 vehicle records maintained by the department. This section does
 1377 not bar prosecution under s. 316.193. However, if the department
 1378 suspends a person's license under s. 322.2615 for a violation of
 1379 s. 316.193, it may not also suspend the person's license under
 1380 this section for the same episode that was the basis for the
 1381 suspension under s. 322.2615.

1382 Section 20. For the purpose of incorporating the amendment
 1383 to section 316.193, Florida Statutes, in references thereto,
 1384 paragraph (b) of subsection (1) of section 322.264, Florida
 1385 Statutes, is reenacted to read:

1386 322.264 "Habitual traffic offender" defined.--A "habitual
 1387 traffic offender" is any person whose record, as maintained by
 1388 the Department of Highway Safety and Motor Vehicles, shows that
 1389 such person has accumulated the specified number of convictions



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1390 for offenses described in subsection (1) or subsection (2)
 1391 within a 5-year period:

1392 (1) Three or more convictions of any one or more of the
 1393 following offenses arising out of separate acts:

1394 (b) Any violation of s. 316.193, former s. 316.1931, or
 1395 former s. 860.01;

1396
 1397 Any violation of any federal law, any law of another state or
 1398 country, or any valid ordinance of a municipality or county of
 1399 another state similar to a statutory prohibition specified in
 1400 subsection (1) or subsection (2) shall be counted as a violation
 1401 of such prohibition. In computing the number of convictions, all
 1402 convictions during the 5 years previous to July 1, 1972, will be
 1403 used, provided at least one conviction occurs after that date.
 1404 The fact that previous convictions may have resulted in
 1405 suspension, revocation, or disqualification under another
 1406 section does not exempt them from being used for suspension or
 1407 revocation under this section as a habitual offender.

1408 Section 21. For the purpose of incorporating the amendment
 1409 to section 316.193, Florida Statutes, in references thereto,
 1410 paragraphs (a) and (c) of subsection (2) and subsection (4) of
 1411 section 322.271, Florida Statutes, are reenacted to read:

1412 322.271 Authority to modify revocation, cancellation, or
 1413 suspension order.--

1414 (2)(a) Upon such hearing, the person whose license has
 1415 been suspended, canceled, or revoked may show that such
 1416 suspension, cancellation, or revocation of his or her license
 1417 causes a serious hardship and precludes the person's carrying
 1418 out his or her normal business occupation, trade, or employment
 1419 and that the use of the person's license in the normal course of



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1420 his or her business is necessary to the proper support of the
1421 person or his or her family. Except as otherwise provided in
1422 this subsection, the department shall require proof of the
1423 successful completion of the applicable department-approved
1424 driver training course operating pursuant to s. 318.1451 or DUI
1425 program substance abuse education course and evaluation as
1426 provided in s. 316.193(5). Letters of recommendation from
1427 respected business persons in the community, law enforcement
1428 officers, or judicial officers may also be required to determine
1429 whether such person should be permitted to operate a motor
1430 vehicle on a restricted basis for business or employment use
1431 only and in determining whether such person can be trusted to so
1432 operate a motor vehicle. If a driver's license has been
1433 suspended under the point system or pursuant to s. 322.2615, the
1434 department shall require proof of enrollment in the applicable
1435 department-approved driver training course or licensed DUI
1436 program substance abuse education course, including evaluation
1437 and treatment, if referred, and may require letters of
1438 recommendation described in this subsection to determine if the
1439 driver should be reinstated on a restricted basis. If such
1440 person fails to complete the approved course within 90 days
1441 after reinstatement or subsequently fails to complete treatment,
1442 if applicable, the department shall cancel his or her driver's
1443 license until the course and treatment, if applicable, is
1444 successfully completed, notwithstanding the terms of the court
1445 order or any suspension or revocation of the driving privilege.
1446 The department may temporarily reinstate the driving privilege
1447 on a restricted basis upon verification from the DUI program
1448 that the offender has reentered and is currently participating
1449 in treatment and has completed the DUI education course and



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1450 evaluation requirement. If the DUI program notifies the
1451 department of the second failure to complete treatment, the
1452 department shall reinstate the driving privilege only after
1453 notice of completion of treatment from the DUI program. The
1454 privilege of driving on a limited or restricted basis for
1455 business or employment use shall not be granted to a person who
1456 has been convicted of a violation of s. 316.193 until completion
1457 of the DUI program substance abuse education course and
1458 evaluations as provided in s. 316.193(5). Except as provided in
1459 paragraph (b), the privilege of driving on a limited or
1460 restricted basis for business or employment use shall not be
1461 granted to a person whose license is revoked pursuant to s.
1462 322.28 or suspended pursuant to s. 322.2615 and who has been
1463 convicted of a violation of s. 316.193 two or more times or
1464 whose license has been suspended two or more times for refusal
1465 to submit to a test pursuant to s. 322.2615 or former s.
1466 322.261.

1467 (c) For the purpose of this section, a previous conviction
1468 of driving under the influence, driving while intoxicated,
1469 driving with an unlawful blood-alcohol level, or any other
1470 similar alcohol-related or drug-related offense outside this
1471 state or a previous conviction of former s. 316.1931, former s.
1472 316.028, or former s. 860.01 shall be considered a previous
1473 conviction for violation of s. 316.193.

1474 (4) Notwithstanding the provisions of s. 322.28(2)(e), a
1475 person whose driving privilege has been permanently revoked
1476 because he or she has been convicted of DUI manslaughter in
1477 violation of s. 316.193 and has no prior convictions for DUI-
1478 related offenses may, upon the expiration of 5 years after the
1479 date of such revocation or the expiration of 5 years after the



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1480 termination of any term of incarceration under s. 316.193 or
 1481 former s. 316.1931, whichever date is later, petition the
 1482 department for reinstatement of his or her driving privilege.

1483 (a) Within 30 days after the receipt of such a petition,
 1484 the department shall afford the petitioner an opportunity for a
 1485 hearing. At the hearing, the petitioner must demonstrate to the
 1486 department that he or she:

1487 1. Has not been arrested for a drug-related offense during
 1488 the 5 years preceding the filing of the petition;

1489 2. Has not driven a motor vehicle without a license for at
 1490 least 5 years prior to the hearing;

1491 3. Has been drug-free for at least 5 years prior to the
 1492 hearing; and

1493 4. Has completed a DUI program licensed by the department.

1494 (b) At such hearing, the department shall determine the
 1495 petitioner's qualification, fitness, and need to drive. Upon
 1496 such determination, the department may, in its discretion,
 1497 reinstate the driver's license of the petitioner. Such
 1498 reinstatement must be made subject to the following
 1499 qualifications:

1500 1. The license must be restricted for employment purposes
 1501 for not less than 1 year; and

1502 2. Such person must be supervised by a DUI program
 1503 licensed by the department and report to the program for such
 1504 supervision and education at least four times a year or
 1505 additionally as required by the program for the remainder of the
 1506 revocation period. Such supervision shall include evaluation,
 1507 education, referral into treatment, and other activities
 1508 required by the department.



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1509 (c) Such person must assume the reasonable costs of
1510 supervision. If such person fails to comply with the required
1511 supervision, the program shall report the failure to the
1512 department, and the department shall cancel such person's
1513 driving privilege.

1514 (d) If, after reinstatement, such person is convicted of
1515 an offense for which mandatory revocation of his or her license
1516 is required, the department shall revoke his or her driving
1517 privilege.

1518 (e) The department shall adopt rules regulating the
1519 providing of services by DUI programs pursuant to this section.

1520 Section 22. For the purpose of incorporating the amendment
1521 to section 316.193, Florida Statutes, in references thereto,
1522 subsection (2) and paragraph (a) of subsection (4) of section
1523 322.28, Florida Statutes, are reenacted to read:

1524 322.28 Period of suspension or revocation.--

1525 (2) In a prosecution for a violation of s. 316.193 or
1526 former s. 316.1931, the following provisions apply:

1527 (a) Upon conviction of the driver, the court, along with
1528 imposing sentence, shall revoke the driver's license or driving
1529 privilege of the person so convicted, effective on the date of
1530 conviction, and shall prescribe the period of such revocation in
1531 accordance with the following provisions:

1532 1. Upon a first conviction for a violation of the
1533 provisions of s. 316.193, except a violation resulting in death,
1534 the driver's license or driving privilege shall be revoked for
1535 not less than 180 days or more than 1 year.

1536 2. Upon a second conviction for an offense that occurs
1537 within a period of 5 years after the date of a prior conviction
1538 for a violation of the provisions of s. 316.193 or former s.



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1539 316.1931 or a combination of such sections, the driver's license
1540 or driving privilege shall be revoked for not less than 5 years.

1541 3. Upon a third conviction for an offense that occurs
1542 within a period of 10 years after the date of a prior conviction
1543 for the violation of the provisions of s. 316.193 or former s.
1544 316.1931 or a combination of such sections, the driver's license
1545 or driving privilege shall be revoked for not less than 10
1546 years.

1547

1548 For the purposes of this paragraph, a previous conviction
1549 outside this state for driving under the influence, driving
1550 while intoxicated, driving with an unlawful blood-alcohol level,
1551 or any other alcohol-related or drug-related traffic offense
1552 similar to the offense of driving under the influence as
1553 proscribed by s. 316.193 will be considered a previous
1554 conviction for violation of s. 316.193, and a conviction for
1555 violation of former s. 316.028, former s. 316.1931, or former s.
1556 860.01 is considered a conviction for violation of s. 316.193.

1557 (b) If the period of revocation was not specified by the
1558 court at the time of imposing sentence or within 30 days
1559 thereafter, and is not otherwise specified by law, the
1560 department shall forthwith revoke the driver's license or
1561 driving privilege for the maximum period applicable under
1562 paragraph (a) for a first conviction and for the minimum period
1563 applicable under paragraph (a) for any subsequent convictions.
1564 The driver may, within 30 days after such revocation by the
1565 department, petition the court for further hearing on the period
1566 of revocation, and the court may reopen the case and determine
1567 the period of revocation within the limits specified in
1568 paragraph (a).



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1569 (c) The forfeiture of bail bond, not vacated within 20
1570 days, in any prosecution for the offense of driving while under
1571 the influence of alcoholic beverages, chemical substances, or
1572 controlled substances to the extent of depriving the defendant
1573 of his or her normal faculties shall be deemed equivalent to a
1574 conviction for the purposes of this paragraph, and the
1575 department shall forthwith revoke the defendant's driver's
1576 license or driving privilege for the maximum period applicable
1577 under paragraph (a) for a first conviction and for the minimum
1578 period applicable under paragraph (a) for a second or subsequent
1579 conviction; however, if the defendant is later convicted of the
1580 charge, the period of revocation imposed by the department for
1581 such conviction shall not exceed the difference between the
1582 applicable maximum for a first conviction or minimum for a
1583 second or subsequent conviction and the revocation period under
1584 this subsection that has actually elapsed; upon conviction of
1585 such charge, the court may impose revocation for a period of
1586 time as specified in paragraph (a). This paragraph does not
1587 apply if an appropriate motion contesting the forfeiture is
1588 filed within the 20-day period.

1589 (d) When any driver's license or driving privilege has
1590 been revoked pursuant to the provisions of this section, the
1591 department shall not grant a new license, except upon
1592 reexamination of the licensee after the expiration of the period
1593 of revocation so prescribed. However, the court may, in its
1594 sound discretion, issue an order of reinstatement on a form
1595 furnished by the department which the person may take to any
1596 driver's license examining office for reinstatement by the
1597 department pursuant to s. 322.282.



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1598 (e) The court shall permanently revoke the driver's
1599 license or driving privilege of a person who has been convicted
1600 four times for violation of s. 316.193 or former s. 316.1931 or
1601 a combination of such sections. The court shall permanently
1602 revoke the driver's license or driving privilege of any person
1603 who has been convicted of DUI manslaughter in violation of s.
1604 316.193. If the court has not permanently revoked such driver's
1605 license or driving privilege within 30 days after imposing
1606 sentence, the department shall permanently revoke the driver's
1607 license or driving privilege pursuant to this paragraph. No
1608 driver's license or driving privilege may be issued or granted
1609 to any such person. This paragraph applies only if at least one
1610 of the convictions for violation of s. 316.193 or former s.
1611 316.1931 was for a violation that occurred after July 1, 1982.
1612 For the purposes of this paragraph, a conviction for violation
1613 of former s. 316.028, former s. 316.1931, or former s. 860.01 is
1614 also considered a conviction for violation of s. 316.193. Also,
1615 a conviction of driving under the influence, driving while
1616 intoxicated, driving with an unlawful blood-alcohol level, or
1617 any other similar alcohol-related or drug-related traffic
1618 offense outside this state is considered a conviction for the
1619 purposes of this paragraph.

1620 (4)(a) Upon a conviction for a violation of s.
1621 316.193(3)(c)2., involving serious bodily injury, a conviction
1622 of manslaughter resulting from the operation of a motor vehicle,
1623 or a conviction of vehicular homicide, the court shall revoke
1624 the driver's license of the person convicted for a minimum
1625 period of 3 years. If a conviction under s. 316.193(3)(c)2.,
1626 involving serious bodily injury, is also a subsequent conviction
1627 as described under paragraph (2)(a), the court shall revoke the



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1628 driver's license or driving privilege of the person convicted
1629 for the period applicable as provided in paragraph (2)(a) or
1630 paragraph (2)(e).

1631 Section 23. For the purpose of incorporating the amendment
1632 to section 316.193, Florida Statutes, in references thereto,
1633 paragraph (a) of subsection (2) of section 322.282, Florida
1634 Statutes, is reenacted to read:

1635 322.282 Procedure when court revokes or suspends license
1636 or driving privilege and orders reinstatement.--When a court
1637 suspends or revokes a person's license or driving privilege and,
1638 in its discretion, orders reinstatement as provided by s.
1639 322.28(2)(d) or former s. 322.261(5):

1640 (2)(a) The court shall issue an order of reinstatement, on
1641 a form to be furnished by the department, which the person may
1642 take to any driver's license examining office. The department
1643 shall issue a temporary driver's permit to a licensee who
1644 presents the court's order of reinstatement, proof of completion
1645 of a department-approved driver training or substance abuse
1646 education course, and a written request for a hearing under s.
1647 322.271. The permit shall not be issued if a record check by the
1648 department shows that the person has previously been convicted
1649 for a violation of s. 316.193, former s. 316.1931, former s.
1650 316.028, former s. 860.01, or a previous conviction outside this
1651 state for driving under the influence, driving while
1652 intoxicated, driving with an unlawful blood-alcohol level, or
1653 any similar alcohol-related or drug-related traffic offense;
1654 that the person's driving privilege has been previously
1655 suspended for refusal to submit to a lawful test of breath,
1656 blood, or urine; or that the person is otherwise not entitled to
1657 issuance of a driver's license. This paragraph shall not be



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1658 construed to prevent the reinstatement of a license or driving
 1659 privilege that is presently suspended for driving with an
 1660 unlawful blood-alcohol level or a refusal to submit to a breath,
 1661 urine, or blood test and is also revoked for a conviction for a
 1662 violation of s. 316.193 or former s. 316.1931, if the suspension
 1663 and revocation arise out of the same incident.

1664 Section 24. For the purpose of incorporating the amendment
 1665 to section 316.193, Florida Statutes, in references thereto,
 1666 section 322.291, Florida Statutes, is reenacted to read:

1667 322.291 Driver improvement schools or DUI programs;
 1668 required in certain suspension and revocation cases.--Except as
 1669 provided in s. 322.03(2), any person:

1670 (1) Whose driving privilege has been revoked:

1671 (a) Upon conviction for:

1672 1. Driving, or being in actual physical control of, any
 1673 vehicle while under the influence of alcoholic beverages, any
 1674 chemical substance set forth in s. 877.111, or any substance
 1675 controlled under chapter 893, in violation of s. 316.193;

1676 2. Driving with an unlawful blood- or breath-alcohol
 1677 level;

1678 3. Manslaughter resulting from the operation of a motor
 1679 vehicle;

1680 4. Failure to stop and render aid as required under the
 1681 laws of this state in the event of a motor vehicle crash
 1682 resulting in the death or personal injury of another;

1683 5. Reckless driving; or

1684 (b) As an habitual offender;

1685 (c) Upon direction of the court, if the court feels that
 1686 the seriousness of the offense and the circumstances surrounding



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1687 the conviction warrant the revocation of the licensee's driving
1688 privilege; or

1689 (2) Whose license was suspended under the point system,
1690 was suspended for driving with an unlawful blood-alcohol level
1691 of 0.10 percent or higher before January 1, 1994, was suspended
1692 for driving with an unlawful blood-alcohol level of 0.08 percent
1693 or higher after December 31, 1993, was suspended for a violation
1694 of s. 316.193(1), or was suspended for refusing to submit to a
1695 lawful breath, blood, or urine test as provided in s. 322.2615

1696

1697 shall, before the driving privilege may be reinstated, present
1698 to the department proof of enrollment in a department-approved
1699 advanced driver improvement course operating pursuant to s.
1700 318.1451 or a substance abuse education course conducted by a
1701 DUI program licensed pursuant to s. 322.292, which shall include
1702 a psychosocial evaluation and treatment, if referred. If the
1703 person fails to complete such course or evaluation within 90
1704 days after reinstatement, or subsequently fails to complete
1705 treatment, if referred, the DUI program shall notify the
1706 department of the failure. Upon receipt of the notice, the
1707 department shall cancel the offender's driving privilege,
1708 notwithstanding the expiration of the suspension or revocation
1709 of the driving privilege. The department may temporarily
1710 reinstate the driving privilege upon verification from the DUI
1711 program that the offender has completed the education course and
1712 evaluation requirement and has reentered and is currently
1713 participating in treatment. If the DUI program notifies the
1714 department of the second failure to complete treatment, the
1715 department shall reinstate the driving privilege only after
1716 notice of completion of treatment from the DUI program.



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1717 Section 25. For the purpose of incorporating the amendment
 1718 to section 316.193, Florida Statutes, in references thereto,
 1719 paragraph (a) of subsection (9) of section 322.34, Florida
 1720 Statutes, is reenacted to read:

1721 322.34 Driving while license suspended, revoked, canceled,
 1722 or disqualified.--

1723 (9)(a) A motor vehicle that is driven by a person under
 1724 the influence of alcohol or drugs in violation of s. 316.193 is
 1725 subject to seizure and forfeiture under ss. 932.701-932.707 and
 1726 is subject to liens for recovering, towing, or storing vehicles
 1727 under s. 713.78 if, at the time of the offense, the person's
 1728 driver's license is suspended, revoked, or canceled as a result
 1729 of a prior conviction for driving under the influence.

1730 Section 26. For the purpose of incorporating the amendment
 1731 to section 316.193, Florida Statutes, in references thereto,
 1732 section 322.44, Florida Statutes, is reenacted to read:

1733 322.44 Driver License Compact.--The Driver License Compact
 1734 is hereby enacted into law and entered into with all other
 1735 jurisdictions legally joining therein in the form substantially
 1736 as follows:

1737

1738 ARTICLE I

1739

1740 FINDINGS AND DECLARATION OF POLICY.--

1741 (1) The party states find that:

1742 (a) The safety of their streets and highways is materially
 1743 affected by the degree of compliance with state laws and local
 1744 ordinances relating to the operation of motor vehicles;



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1745 (b) Violation of such a law or ordinance is evidence that
 1746 the violator engages in conduct which is likely to endanger the
 1747 safety of persons and property;

1748 (c) The continuance in force of a license to drive is
 1749 predicated upon compliance with laws and ordinances relating to
 1750 the operation of motor vehicles, in whichever jurisdiction the
 1751 vehicle is operated.

1752 (2) It is the policy of each of the party states to:

1753 (a) Promote compliance with the laws, ordinances, and
 1754 administrative rules and regulations relating to the operation
 1755 of motor vehicles by their operators in each of the
 1756 jurisdictions where such operators drive motor vehicles;

1757 (b) Make the reciprocal recognition of licenses to drive
 1758 and eligibility therefor more just and equitable by considering
 1759 the overall compliance with motor vehicle laws, ordinances, and
 1760 administrative rules and regulations as a condition precedent to
 1761 the continuance or issuance of any license by reason of which
 1762 the licensee is authorized or permitted to operate a motor
 1763 vehicle in any of the party states.

1764
 1765 ARTICLE II
 1766

1767 DEFINITIONS.--As used in this compact:

1768 (1) "State" means a state, territory or possession of the
 1769 United States, the District of Columbia, or the Commonwealth of
 1770 Puerto Rico.

1771 (2) "Home state" means the state which has issued and has
 1772 the power to suspend or revoke the use of the license or permit
 1773 to operate a motor vehicle.



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1774 (3) "Conviction" means a conviction of any offense related
1775 to the use or operation of a motor vehicle which is prohibited
1776 by state law, municipal ordinance, or administrative rule or
1777 regulation, or a forfeiture of bail, bond, or other security
1778 deposited to secure appearance by a person charged with having
1779 committed any such offense, and which conviction or forfeiture
1780 is required to be reported to the licensing authority.

1781
1782 ARTICLE III

1783
1784 REPORTS OF CONVICTION.--The licensing authority of a party
1785 state shall report each conviction of a person from another
1786 party state occurring within its jurisdiction to the licensing
1787 authority of the home state of the licensee. Such report shall
1788 clearly identify the person convicted; describe the violation
1789 specifying the section of the statute, code, or ordinance
1790 violated; identify the court in which action was taken; indicate
1791 whether a plea of guilty or not guilty was entered or the
1792 conviction was a result of the forfeiture of bail, bond, or
1793 other security; and shall include any special findings made in
1794 connection therewith.

1795
1796 ARTICLE IV

1797
1798 EFFECT OF CONVICTION.--

1799 (1) The licensing authority in the home state, for the
1800 purposes of suspension, revocation, or limitation of the license
1801 to operate a motor vehicle, shall give the same effect to the
1802 conduct reported, pursuant to article III, as it would if such



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1803 conduct had occurred in the home state, in the case of
1804 convictions for:

1805 (a) Manslaughter or negligent homicide resulting from the
1806 operation of a motor vehicle, as provided by ss. 316.193 and
1807 322.26;

1808 (b) Driving a motor vehicle while under the influence of
1809 alcoholic beverages or a narcotic drug, or under the influence
1810 of any other drug to a degree which renders the driver incapable
1811 of safely driving a motor vehicle, as provided by s. 316.193;

1812 (c) Any felony in the commission of which a motor vehicle
1813 is used, as provided by s. 322.26; or

1814 (d) Failure to stop and render aid in the event of a motor
1815 vehicle crash resulting in the death or personal injury of
1816 another, as provided by s. 322.26.

1817 (2) As to other convictions, reported pursuant to article
1818 III, the licensing authority in the home state shall give such
1819 effect to the conduct as is provided by the laws of the home
1820 state.

1821

1822 ARTICLE V

1823

1824 APPLICATIONS FOR NEW LICENSES.--Upon application for a
1825 license to drive, the licensing authority in a party state shall
1826 ascertain whether the applicant has ever held, or is the holder
1827 of, a license to drive issued by any other party state. The
1828 licensing authority in the state where application is made shall
1829 not issue a license to drive to the applicant if:

1830 (1) The applicant has held such a license, but the same
1831 has been suspended by reason, in whole or in part, of a
1832 violation and if such suspension period has not terminated.



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1833 (2) The applicant has held such a license, but the same
1834 has been revoked by reason, in whole or in part, of a violation
1835 and if such revocation has not terminated, except that after the
1836 expiration of 1 year from the date the license was revoked, such
1837 person may make application for a new license if permitted by
1838 law. The licensing authority may refuse to issue a license to
1839 any such applicant if, after investigation, the licensing
1840 authority determines that it will not be safe to grant to such
1841 person the privilege of driving a motor vehicle on the public
1842 highways.

1843 (3) The applicant is the holder of a license to drive
1844 issued by another party state and currently in force unless the
1845 applicant surrenders such license.

1846

ARTICLE VI

1848

1849 APPLICABILITY OF OTHER LAWS.--Except as expressly required
1850 by provisions of this compact, nothing contained herein shall be
1851 construed to affect the right of any party state to apply any of
1852 its other laws relating to licenses to drive to any person or
1853 circumstance, nor to invalidate or prevent any driver license
1854 agreement or other cooperative arrangement between a party state
1855 and a nonparty state.

1856

ARTICLE VII

1858

1859 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

1860 (1) The head of the licensing authority of each party
1861 state shall be the administrator of this compact for his or her
1862 state. The administrators, acting jointly, shall have the power



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1863 to formulate all necessary and proper procedures for the
 1864 exchange of information under this compact.

1865 (2) The administrator of each party state shall furnish to
 1866 the administrator of each other party state any information or
 1867 documents reasonably necessary to facilitate the administration
 1868 of this compact.

1870 ARTICLE VIII

1872 ENTRY INTO FORCE AND WITHDRAWAL.--

1873 (1) This compact shall enter into force and become
 1874 effective as to any state when it has enacted the same into law.

1875 (2) Any party state may withdraw from this compact by
 1876 enacting a statute repealing the same, but no such withdrawal
 1877 shall take effect until 6 months after the executive head of the
 1878 withdrawing state has given notice of the withdrawal to the
 1879 executive heads of all other party states. No withdrawal shall
 1880 affect the validity or applicability by the licensing
 1881 authorities of states remaining party to the compact of any
 1882 report of conviction occurring prior to the withdrawal.

1884 ARTICLE IX

1886 CONSTRUCTION AND SEVERABILITY.--This compact shall be
 1887 liberally construed so as to effectuate the purposes thereof.
 1888 The provisions of this compact shall be severable; and if any
 1889 phrase, clause, sentence, or provision of this compact is
 1890 declared to be contrary to the constitution of any party state
 1891 or of the United States or the applicability thereof to any
 1892 government, agency, person, or circumstance is held invalid, the



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1893 validity of the remainder of this compact and the applicability
 1894 thereof to any government, agency, person, or circumstance shall
 1895 not be affected thereby. If this compact shall be held contrary
 1896 to the constitution of any state party thereto, the compact
 1897 shall remain in full force and effect as to the remaining states
 1898 and in full force and effect as to the state affected as to all
 1899 severable matters.

1900 Section 27. For the purpose of incorporating the amendment
 1901 to section 316.193, Florida Statutes, in references thereto,
 1902 paragraph (d) of subsection (2) and subsection (6) of section
 1903 322.63, Florida Statutes, are reenacted to read:

1904 322.63 Alcohol or drug testing; commercial motor vehicle
 1905 operators.--

1906 (2) The chemical and physical tests authorized by this
 1907 section shall only be required if a law enforcement officer has
 1908 reasonable cause to believe that a person driving a commercial
 1909 motor vehicle has any alcohol, chemical substance, or controlled
 1910 substance in his or her body.

1911 (d) The administration of one test under paragraph (a),
 1912 paragraph (b), or paragraph (c) shall not preclude the
 1913 administration of a different test under paragraph (a),
 1914 paragraph (b), or paragraph (c). However, a urine test may not
 1915 be used to determine alcohol concentration and a breath test may
 1916 not be used to determine the presence of controlled substances
 1917 or chemical substances in a person's body. Notwithstanding the
 1918 provisions of this paragraph, in the event a Florida licensee
 1919 has been convicted in another state for an offense substantially
 1920 similar to s. 316.193 or to s. 322.62, which conviction was
 1921 based upon evidence of test results prohibited by this



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1922 paragraph, that out-of-state conviction shall constitute a
 1923 conviction for the purposes of this chapter.

1924 (6) Notwithstanding any provision of law pertaining to the
 1925 confidentiality of hospital records or other medical records,
 1926 information relating to the alcohol content of a person's blood
 1927 or the presence of chemical substances or controlled substances
 1928 in a person's blood obtained pursuant to this section shall be
 1929 released to a court, prosecuting attorney, defense attorney, or
 1930 law enforcement officer in connection with an alleged violation
 1931 of s. 316.193 or s. 322.62 upon request for such information.

1932 Section 28. For the purpose of incorporating the amendment
 1933 to section 316.193, Florida Statutes, in references thereto,
 1934 section 322.64, Florida Statutes, is reenacted to read:

1935 322.64 Holder of commercial driver's license; driving with
 1936 unlawful blood-alcohol level; refusal to submit to breath,
 1937 urine, or blood test.--

1938 (1)(a) A law enforcement officer or correctional officer
 1939 shall, on behalf of the department, disqualify from operating
 1940 any commercial motor vehicle a person who while operating or in
 1941 actual physical control of a commercial motor vehicle is
 1942 arrested for a violation of s. 316.193, relating to unlawful
 1943 blood-alcohol level or breath-alcohol level, or a person who has
 1944 refused to submit to a breath, urine, or blood test authorized
 1945 by s. 322.63 arising out of the operation or actual physical
 1946 control of a commercial motor vehicle. Upon disqualification of
 1947 the person, the officer shall take the person's driver's license
 1948 and issue the person a 10-day temporary permit if the person is
 1949 otherwise eligible for the driving privilege and shall issue the
 1950 person a notice of disqualification. If the person has been
 1951 given a blood, breath, or urine test, the results of which are



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1952 not available to the officer at the time of the arrest, the
1953 agency employing the officer shall transmit such results to the
1954 department within 5 days after receipt of the results. If the
1955 department then determines that the person was arrested for a
1956 violation of s. 316.193 and that the person had a blood-alcohol
1957 level or breath-alcohol level of 0.08 or higher, the department
1958 shall disqualify the person from operating a commercial motor
1959 vehicle pursuant to subsection (3).

1960 (b) The disqualification under paragraph (a) shall be
1961 pursuant to, and the notice of disqualification shall inform the
1962 driver of, the following:

1963 1.a. The driver refused to submit to a lawful breath,
1964 blood, or urine test and he or she is disqualified from
1965 operating a commercial motor vehicle for a period of 1 year, for
1966 a first refusal, or permanently, if he or she has previously
1967 been disqualified as a result of a refusal to submit to such a
1968 test; or

1969 b. The driver violated s. 316.193 by driving with an
1970 unlawful blood-alcohol level and he or she is disqualified from
1971 operating a commercial motor vehicle for a period of 6 months
1972 for a first offense or for a period of 1 year if he or she has
1973 previously been disqualified, or his or her driving privilege
1974 has been previously suspended, for a violation of s. 316.193.

1975 2. The disqualification period shall commence on the date
1976 of arrest or issuance of notice of disqualification, whichever
1977 is later.

1978 3. The driver may request a formal or informal review of
1979 the disqualification by the department within 10 days after the
1980 date of arrest or issuance of notice of disqualification,
1981 whichever is later.



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1982 4. The temporary permit issued at the time of arrest or
1983 disqualification will expire at midnight of the 10th day
1984 following the date of disqualification.

1985 5. The driver may submit to the department any materials
1986 relevant to the arrest.

1987 (2) Except as provided in paragraph (1)(a), the law
1988 enforcement officer shall forward to the department, within 5
1989 days after the date of the arrest or the issuance of the notice
1990 of disqualification, whichever is later, a copy of the notice of
1991 disqualification, the driver's license of the person arrested,
1992 and a report of the arrest, including, if applicable, an
1993 affidavit stating the officer's grounds for belief that the
1994 person arrested was in violation of s. 316.193; the results of
1995 any breath or blood test or an affidavit stating that a breath,
1996 blood, or urine test was requested by a law enforcement officer
1997 or correctional officer and that the person arrested refused to
1998 submit; a copy of the citation issued to the person arrested;
1999 and the officer's description of the person's field sobriety
2000 test, if any. The failure of the officer to submit materials
2001 within the 5-day period specified in this subsection or
2002 subsection (1) shall not affect the department's ability to
2003 consider any evidence submitted at or prior to the hearing. The
2004 officer may also submit a copy of a videotape of the field
2005 sobriety test or the attempt to administer such test.

2006 (3) If the department determines that the person arrested
2007 should be disqualified from operating a commercial motor vehicle
2008 pursuant to this section and if the notice of disqualification
2009 has not already been served upon the person by a law enforcement
2010 officer or correctional officer as provided in subsection (1),
2011 the department shall issue a notice of disqualification and,



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2012 unless the notice is mailed pursuant to s. 322.251, a temporary
2013 permit which expires 10 days after the date of issuance if the
2014 driver is otherwise eligible.

2015 (4) If the person arrested requests an informal review
2016 pursuant to subparagraph (1)(b)3., the department shall conduct
2017 the informal review by a hearing officer employed by the
2018 department. Such informal review hearing shall consist solely of
2019 an examination by the department of the materials submitted by a
2020 law enforcement officer or correctional officer and by the
2021 person arrested, and the presence of an officer or witness is
2022 not required.

2023 (5) After completion of the informal review, notice of the
2024 department's decision sustaining, amending, or invalidating the
2025 disqualification must be provided to the person. Such notice
2026 must be mailed to the person at the last known address shown on
2027 the department's records, and to the address provided in the law
2028 enforcement officer's report if such address differs from the
2029 address of record, within 21 days after the expiration of the
2030 temporary permit issued pursuant to subsection (1) or subsection
2031 (3).

2032 (6)(a) If the person arrested requests a formal review,
2033 the department must schedule a hearing to be held within 30 days
2034 after such request is received by the department and must notify
2035 the person of the date, time, and place of the hearing.

2036 (b) Such formal review hearing shall be held before a
2037 hearing officer employed by the department, and the hearing
2038 officer shall be authorized to administer oaths, examine
2039 witnesses and take testimony, receive relevant evidence, issue
2040 subpoenas, regulate the course and conduct of the hearing, and
2041 make a ruling on the disqualification. The department and the



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2042 person arrested may subpoena witnesses, and the party requesting
2043 the presence of a witness shall be responsible for the payment
2044 of any witness fees. If the person who requests a formal review
2045 hearing fails to appear and the hearing officer finds such
2046 failure to be without just cause, the right to a formal hearing
2047 is waived and the department shall conduct an informal review of
2048 the disqualification under subsection (4).

2049 (c) A party may seek enforcement of a subpoena under
2050 paragraph (b) by filing a petition for enforcement in the
2051 circuit court of the judicial circuit in which the person
2052 failing to comply with the subpoena resides. A failure to comply
2053 with an order of the court shall result in a finding of contempt
2054 of court. However, a person shall not be in contempt while a
2055 subpoena is being challenged.

2056 (d) The department must, within 7 days after a formal
2057 review hearing, send notice to the person of the hearing
2058 officer's decision as to whether sufficient cause exists to
2059 sustain, amend, or invalidate the disqualification.

2060 (7) In a formal review hearing under subsection (6) or an
2061 informal review hearing under subsection (4), the hearing
2062 officer shall determine by a preponderance of the evidence
2063 whether sufficient cause exists to sustain, amend, or invalidate
2064 the disqualification. The scope of the review shall be limited
2065 to the following issues:

2066 (a) If the person was disqualified from operating a
2067 commercial motor vehicle for driving with an unlawful blood-
2068 alcohol level in violation of s. 316.193:

2069 1. Whether the arresting law enforcement officer had
2070 probable cause to believe that the person was driving or in
2071 actual physical control of a commercial motor vehicle in this



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2072 state while he or she had any alcohol, chemical substances, or
 2073 controlled substances in his or her body.

2074 2. Whether the person was placed under lawful arrest for a
 2075 violation of s. 316.193.

2076 3. Whether the person had an unlawful blood-alcohol level
 2077 as provided in s. 316.193.

2078 (b) If the person was disqualified from operating a
 2079 commercial motor vehicle for refusal to submit to a breath,
 2080 blood, or urine test:

2081 1. Whether the law enforcement officer had probable cause
 2082 to believe that the person was driving or in actual physical
 2083 control of a commercial motor vehicle in this state while he or
 2084 she had any alcohol, chemical substances, or controlled
 2085 substances in his or her body.

2086 2. Whether the person refused to submit to the test after
 2087 being requested to do so by a law enforcement officer or
 2088 correctional officer.

2089 3. Whether the person was told that if he or she refused
 2090 to submit to such test he or she would be disqualified from
 2091 operating a commercial motor vehicle for a period of 1 year or,
 2092 in the case of a second refusal, permanently.

2093 (8) Based on the determination of the hearing officer
 2094 pursuant to subsection (7) for both informal hearings under
 2095 subsection (4) and formal hearings under subsection (6), the
 2096 department shall:

2097 (a) Sustain the disqualification for a period of 1 year
 2098 for a first refusal, or permanently if such person has been
 2099 previously disqualified from operating a commercial motor
 2100 vehicle as a result of a refusal to submit to such tests. The



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2101 disqualification period commences on the date of the arrest or
2102 issuance of the notice of disqualification, whichever is later.

2103 (b) Sustain the disqualification for a period of 6 months
2104 for a violation of s. 316.193 or for a period of 1 year if the
2105 person has been previously disqualified from operating a
2106 commercial motor vehicle or his or her driving privilege has
2107 been previously suspended as a result of a violation of s.
2108 316.193. The disqualification period commences on the date of
2109 the arrest or issuance of the notice of disqualification,
2110 whichever is later.

2111 (9) A request for a formal review hearing or an informal
2112 review hearing shall not stay the disqualification. If the
2113 department fails to schedule the formal review hearing to be
2114 held within 30 days after receipt of the request therefor, the
2115 department shall invalidate the disqualification. If the
2116 scheduled hearing is continued at the department's initiative,
2117 the department shall issue a temporary driving permit which
2118 shall be valid until the hearing is conducted if the person is
2119 otherwise eligible for the driving privilege. Such permit shall
2120 not be issued to a person who sought and obtained a continuance
2121 of the hearing. The permit issued under this subsection shall
2122 authorize driving for business or employment use only.

2123 (10) A person who is disqualified from operating a
2124 commercial motor vehicle under subsection (1) or subsection (3)
2125 is eligible for issuance of a license for business or employment
2126 purposes only under s. 322.271 if the person is otherwise
2127 eligible for the driving privilege. However, such business or
2128 employment purposes license shall not authorize the driver to
2129 operate a commercial motor vehicle.



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2130 (11) The formal review hearing may be conducted upon a
2131 review of the reports of a law enforcement officer or a
2132 correctional officer, including documents relating to the
2133 administration of a breath test or blood test or the refusal to
2134 take either test. However, as provided in subsection (6), the
2135 driver may subpoena the officer or any person who administered
2136 or analyzed a breath or blood test.

2137 (12) The formal review hearing and the informal review
2138 hearing are exempt from the provisions of chapter 120. The
2139 department is authorized to adopt rules for the conduct of
2140 reviews under this section.

2141 (13) A person may appeal any decision of the department
2142 sustaining the disqualification from operating a commercial
2143 motor vehicle by a petition for writ of certiorari to the
2144 circuit court in the county wherein such person resides or
2145 wherein a formal or informal review was conducted pursuant to s.
2146 322.31. However, an appeal shall not stay the disqualification.
2147 This subsection shall not be construed to provide for a de novo
2148 appeal.

2149 (14) The decision of the department under this section
2150 shall not be considered in any trial for a violation of s.
2151 316.193, s. 322.61, or s. 322.62, nor shall any written
2152 statement submitted by a person in his or her request for
2153 departmental review under this section be admissible into
2154 evidence against him or her in any such trial. The disposition
2155 of any related criminal proceedings shall not affect a
2156 disqualification imposed pursuant to this section.

2157 (15) This section does not preclude the suspension of the
2158 driving privilege pursuant to s. 322.2615. The driving privilege
2159 of a person who has been disqualified from operating a



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2160 commercial motor vehicle also may be suspended for a violation
 2161 of s. 316.193.

2162 Section 29. For the purpose of incorporating the amendment
 2163 to section 316.193, Florida Statutes, in references thereto,
 2164 paragraph (d) of subsection (1) of section 493.6106, Florida
 2165 Statutes, is reenacted to read:

2166 493.6106 License requirements; posting.--

2167 (1) Each individual licensed by the department must:

2168 (d) Not be a chronic and habitual user of alcoholic
 2169 beverages to the extent that her or his normal faculties are
 2170 impaired; not have been committed under chapter 397, former
 2171 chapter 396, or a similar law in any other state; not have been
 2172 found to be a habitual offender under s. 856.011(3) or a similar
 2173 law in any other state; and not have had two or more convictions
 2174 under s. 316.193 or a similar law in any other state within the
 2175 3-year period immediately preceding the date the application was
 2176 filed, unless the individual establishes that she or he is not
 2177 currently impaired and has successfully completed a
 2178 rehabilitation course.

2179 Section 30. For the purpose of incorporating the amendment
 2180 to section 316.193, Florida Statutes, in references thereto,
 2181 subsection (4) of section 627.758, Florida Statutes, is
 2182 reenacted to read:

2183 627.758 Surety on auto club traffic arrest bond;
 2184 conditions, limit; bail bond.--

2185 (4) Notwithstanding the provisions of s. 626.311 or
 2186 chapter 648, any surety insurer identified in a guaranteed
 2187 traffic arrest bond certificate or any licensed general lines
 2188 agent of the surety insurer may execute a bail bond for the
 2189 automobile club or association member identified in the



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2190 guaranteed traffic arrest bond certificate in an amount not in
 2191 excess of \$5,000 for any violation of chapter 316 or any similar
 2192 traffic law or ordinance except for driving under the influence
 2193 of alcoholic beverages, chemical substances, or controlled
 2194 substances, as prohibited by s. 316.193.

2195 Section 31. For the purpose of incorporating the amendment
 2196 to section 316.193, Florida Statutes, in references thereto,
 2197 paragraph (f) of subsection (2) and paragraph (f) of subsection
 2198 (10) of section 790.06, Florida Statutes, are reenacted to read:

2199 790.06 License to carry concealed weapon or firearm.--

2200 (2) The Department of Agriculture and Consumer Services
 2201 shall issue a license if the applicant:

2202 (f) Does not chronically and habitually use alcoholic
 2203 beverages or other substances to the extent that his or her
 2204 normal faculties are impaired. It shall be presumed that an
 2205 applicant chronically and habitually uses alcoholic beverages or
 2206 other substances to the extent that his or her normal faculties
 2207 are impaired if the applicant has been committed under chapter
 2208 397 or under the provisions of former chapter 396 or has been
 2209 convicted under s. 790.151 or has been deemed a habitual
 2210 offender under s. 856.011(3), or has had two or more convictions
 2211 under s. 316.193 or similar laws of any other state, within the
 2212 3-year period immediately preceding the date on which the
 2213 application is submitted;

2214 (10) A license issued under this section shall be
 2215 suspended or revoked pursuant to chapter 120 if the licensee:

2216 (f) Is convicted of a second violation of s. 316.193, or a
 2217 similar law of another state, within 3 years of a previous
 2218 conviction of such section, or similar law of another state,



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2219 even though the first violation may have occurred prior to the
 2220 date on which the application was submitted;

2221 Section 32. For the purpose of incorporating the amendment
 2222 to section 316.193, Florida Statutes, in references thereto,
 2223 subsection (2) of section 903.36, Florida Statutes, is reenacted
 2224 to read:

2225 903.36 Guaranteed arrest bond certificates as cash bail.--

2226 (2) The execution of a bail bond by a licensed general
 2227 lines agent of a surety insurer for the automobile club or
 2228 association member identified in the guaranteed traffic arrest
 2229 bond certificate, as provided in s. 627.758(4), shall be
 2230 accepted as bail in an amount not to exceed \$5,000 for the
 2231 appearance of the person named in the certificate in any court
 2232 to answer for the violation of a provision of chapter 316 or a
 2233 similar traffic law or ordinance, except driving under the
 2234 influence of alcoholic beverages, chemical substances, or
 2235 controlled substances, as prohibited by s. 316.193. Presentation
 2236 of the guaranteed traffic arrest bond certificate and a power of
 2237 attorney from the surety insurer for its licensed general lines
 2238 agents is authorization for such agent to execute the bail bond.

2239 Section 33. For the purpose of incorporating the amendment
 2240 to section 316.193, Florida Statutes, in references thereto,
 2241 paragraph (c) of subsection (4) of section 907.041, Florida
 2242 Statutes, is reenacted to read:

2243 907.041 Pretrial detention and release.--

2244 (4) PRETRIAL DETENTION.--

2245 (c) The court may order pretrial detention if it finds a
 2246 substantial probability, based on a defendant's past and present
 2247 patterns of behavior, the criteria in s. 903.046, and any other
 2248 relevant facts, that any of the following circumstances exists:



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2249 1. The defendant has previously violated conditions of
2250 release and that no further conditions of release are reasonably
2251 likely to assure the defendant's appearance at subsequent
2252 proceedings;

2253 2. The defendant, with the intent to obstruct the judicial
2254 process, has threatened, intimidated, or injured any victim,
2255 potential witness, juror, or judicial officer, or has attempted
2256 or conspired to do so, and that no condition of release will
2257 reasonably prevent the obstruction of the judicial process;

2258 3. The defendant is charged with trafficking in controlled
2259 substances as defined by s. 893.135, that there is a substantial
2260 probability that the defendant has committed the offense, and
2261 that no conditions of release will reasonably assure the
2262 defendant's appearance at subsequent criminal proceedings; or

2263 4. The defendant is charged with DUI manslaughter, as
2264 defined by s. 316.193, and that there is a substantial
2265 probability that the defendant committed the crime and that the
2266 defendant poses a threat of harm to the community; conditions
2267 that would support a finding by the court pursuant to this
2268 subparagraph that the defendant poses a threat of harm to the
2269 community include, but are not limited to, any of the following:

2270 a. The defendant has previously been convicted of any
2271 crime under s. 316.193, or of any crime in any other state or
2272 territory of the United States that is substantially similar to
2273 any crime under s. 316.193;

2274 b. The defendant was driving with a suspended driver's
2275 license when the charged crime was committed; or

2276 c. The defendant has previously been found guilty of, or
2277 has had adjudication of guilt withheld for, driving while the



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2278 defendant's driver's license was suspended or revoked in
2279 violation of s. 322.34;

2280 5. The defendant poses the threat of harm to the
2281 community. The court may so conclude, if it finds that the
2282 defendant is presently charged with a dangerous crime, that
2283 there is a substantial probability that the defendant committed
2284 such crime, that the factual circumstances of the crime indicate
2285 a disregard for the safety of the community, and that there are
2286 no conditions of release reasonably sufficient to protect the
2287 community from the risk of physical harm to persons.

2288 6. The defendant was on probation, parole, or other
2289 release pending completion of sentence or on pretrial release
2290 for a dangerous crime at the time the current offense was
2291 committed; or

2292 7. The defendant has violated one or more conditions of
2293 pretrial release or bond for the offense currently before the
2294 court and the violation, in the discretion of the court,
2295 supports a finding that no conditions of release can reasonably
2296 protect the community from risk of physical harm to persons or
2297 assure the presence of the accused at trial.

2298 Section 34. For the purpose of incorporating the amendment
2299 to section 316.193, Florida Statutes, in references thereto,
2300 section 938.21, Florida Statutes, is reenacted to read:

2301 938.21 Alcohol and drug abuse programs.--Notwithstanding
2302 any provision to the contrary of the laws of this state, the
2303 court may assess for alcohol and other drug abuse programs as
2304 provided in s. 893.165 any defendant who pleads guilty or nolo
2305 contendere to, or is convicted of, a violation of any provision
2306 of chapter 893 or which involves a criminal violation of s.
2307 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or



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2308 chapter 568, in addition to any fine and other penalty provided
 2309 by law, a court cost in an amount up to the amount of the fine
 2310 authorized for the violation. The court is authorized to order a
 2311 defendant to pay an additional assessment if it finds that the
 2312 defendant has the ability to pay the fine and the additional
 2313 assessment and will not be prevented thereby from being
 2314 rehabilitated or from making restitution.

2315 Section 35. For the purpose of incorporating the amendment
 2316 to section 316.193, Florida Statutes, in references thereto,
 2317 subsection (1) of section 938.23, Florida Statutes, is reenacted
 2318 to read:

2319 938.23 Assistance grants for alcohol and other drug abuse
 2320 programs.--

2321 (1) In addition to any fine imposed by law for any
 2322 criminal offense under chapter 893 or for any criminal violation
 2323 of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter
 2324 567, or chapter 568, the court shall be authorized, pursuant to
 2325 the requirements of s. 938.21, to impose an additional
 2326 assessment in an amount up to the amount of the fine authorized
 2327 for the offense. Such additional assessments shall be deposited
 2328 for the purpose of providing assistance grants to drug abuse
 2329 treatment or alcohol treatment or education programs as provided
 2330 in s. 893.165.

2331 Section 36. For the purpose of incorporating the amendment
 2332 to section 316.193, Florida Statutes, in references thereto,
 2333 paragraph (d) of subsection (2) of section 943.05, Florida
 2334 Statutes, is reenacted to read:

2335 943.05 Criminal Justice Information Program; duties; crime
 2336 reports.--

2337 (2) The program shall:



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2338 (d) Adopt rules to effectively and efficiently implement,
 2339 administer, manage, maintain, and use the automated fingerprint
 2340 identification system and uniform offense reports and arrest
 2341 reports. The rules shall be considered minimum requirements and
 2342 shall not preclude a criminal justice agency from implementing
 2343 its own enhancements. However, rules and forms prescribing
 2344 uniform arrest or probable cause affidavits and alcohol
 2345 influence reports to be used by all law enforcement agencies in
 2346 making DUI arrests under s. 316.193 shall be adopted, and shall
 2347 be used by all law enforcement agencies in this state. The rules
 2348 and forms prescribing such uniform affidavits and reports shall
 2349 be adopted and implemented by July 1, 2004. Failure to use these
 2350 uniform affidavits and reports, however, shall not prohibit
 2351 prosecution under s. 316.193.

2352 Section 37. For the purpose of incorporating the amendment
 2353 to section 316.193, Florida Statutes, in references thereto,
 2354 paragraph (b) of subsection (3) of section 960.03, Florida
 2355 Statutes, is reenacted to read:

2356 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
 2357 960.01-960.28, unless the context otherwise requires, the term:

2358 (3) "Crime" means:

2359 (b) A violation of s. 316.193, s. 316.027(1), s.
 2360 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in
 2361 physical injury or death; however, no other act involving the
 2362 operation of a motor vehicle, boat, or aircraft which results in
 2363 injury or death shall constitute a crime for the purpose of this
 2364 chapter unless the injury or death was intentionally inflicted
 2365 through the use of such vehicle, boat, or aircraft or unless
 2366 such vehicle, boat, or aircraft is an implement of a crime to
 2367 which this act applies.



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2368 Section 38. For the purpose of incorporating the amendment
 2369 to section 327.35, Florida Statutes, in references thereto,
 2370 subsection (3) of section 327.352, Florida Statutes, is
 2371 reenacted to read:

2372 327.352 Breath, blood, and urine tests for alcohol,
 2373 chemical substances, or controlled substances; implied consent;
 2374 refusal.--

2375 (3) Notwithstanding any provision of law pertaining to the
 2376 confidentiality of hospital records or other medical records,
 2377 information relating to the alcoholic content of the blood or
 2378 breath or the presence of chemical substances or controlled
 2379 substances in the blood obtained pursuant to this section shall
 2380 be released to a court, prosecuting attorney, defense attorney,
 2381 or law enforcement officer in connection with an alleged
 2382 violation of s. 327.35 upon request for such information.

2383 Section 39. For the purpose of incorporating the amendment
 2384 to section 327.35, Florida Statutes, in references thereto,
 2385 section 327.35215, Florida Statutes, is reenacted to read:

2386 327.35215 Penalty for failure to submit to test.--

2387 (1) A person who is lawfully arrested for an alleged
 2388 violation of s. 327.35 and who refuses to submit to a blood
 2389 test, breath test, or urine test pursuant to s. 327.352 is
 2390 subject to a civil penalty of \$500.

2391 (2) When a person refuses to submit to a blood test,
 2392 breath test, or urine test pursuant to s. 327.352, a law
 2393 enforcement officer who is authorized to make arrests for
 2394 violations of this chapter shall file with the clerk of the
 2395 court, on a form provided by the department, a certified
 2396 statement that probable cause existed to arrest the person for a
 2397 violation of s. 327.35 and that the person refused to submit to



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2398 a test as required by s. 327.352. Along with the statement, the
2399 officer must also submit a sworn statement on a form provided by
2400 the department that the person has been advised of both the
2401 penalties for failure to submit to the blood, breath, or urine
2402 test and the procedure for requesting a hearing.

2403 (3) A person who has been advised of the penalties
2404 pursuant to subsection (2) may, within 30 days afterwards,
2405 request a hearing before a county court judge. A request for a
2406 hearing tolls the period for payment of the civil penalty, and,
2407 if assessment of the civil penalty is sustained by the hearing
2408 and any subsequent judicial review, the civil penalty must be
2409 paid within 30 days after final disposition. The clerk of the
2410 court shall notify the department of the final disposition of
2411 all actions filed under this section.

2412 (4) It is unlawful for any person who has not paid a civil
2413 penalty imposed pursuant to this section, or who has not
2414 requested a hearing with respect to the civil penalty, within 30
2415 calendar days after receipt of notice of the civil penalty to
2416 operate a vessel upon the waters of this state. Violation of
2417 this subsection is a misdemeanor of the first degree, punishable
2418 as provided in s. 775.082 or s. 775.083.

2419 (5) Moneys collected by the clerk of the court pursuant to
2420 this section shall be disposed of in the following manner:

2421 (a) If the arresting officer was employed or appointed by
2422 a state law enforcement agency except as a wildlife enforcement
2423 officer or a freshwater fisheries enforcement officer of the
2424 Fish and Wildlife Conservation Commission, the moneys shall be
2425 deposited into the Marine Resources Conservation Trust Fund.



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2426 (b) If the arresting officer was employed or appointed by
 2427 a county or municipal law enforcement agency, the moneys shall
 2428 be deposited into the law enforcement trust fund of that agency.

2429 (c) If the arresting officer was employed or appointed by
 2430 the Fish and Wildlife Conservation Commission as a wildlife
 2431 enforcement officer or a freshwater fisheries enforcement
 2432 officer, the money shall be deposited into the State Game Trust
 2433 Fund.

2434 Section 40. For the purpose of incorporating the amendment
 2435 to section 327.35, Florida Statutes, in references thereto,
 2436 subsection (4) of section 327.353, Florida Statutes, is
 2437 reenacted to read:

2438 327.353 Blood test for impairment or intoxication in cases
 2439 of death or serious bodily injury; right to use reasonable
 2440 force.--

2441 (4) Notwithstanding any provision of law pertaining to the
 2442 confidentiality of hospital records or other medical records,
 2443 information relating to the alcoholic content of the blood or
 2444 the presence of chemical substances or controlled substances in
 2445 the blood obtained pursuant to this section shall be released to
 2446 a court, prosecuting attorney, defense attorney, or law
 2447 enforcement officer in connection with an alleged violation of
 2448 s. 327.35 upon request for such information.

2449 Section 41. For the purpose of incorporating the amendment
 2450 to section 327.35, Florida Statutes, in references thereto,
 2451 section 327.354, Florida Statutes, is reenacted to read:

2452 327.354 Presumption of impairment; testing methods.--

2453 (1) It is unlawful and punishable as provided in s. 327.35
 2454 for any person who is under the influence of alcoholic beverages
 2455 or controlled substances, when affected to the extent that the



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2456 person's normal faculties are impaired or to the extent that the
 2457 person is deprived of full possession of normal faculties, to
 2458 operate any vessel within this state. Such normal faculties
 2459 include, but are not limited to, the ability to see, hear, walk,
 2460 talk, judge distances, drive an automobile, make judgments, act
 2461 in emergencies, and, in general, normally perform the many
 2462 mental and physical acts of daily life.

2463 (2) At the trial of any civil or criminal action or
 2464 proceeding arising out of acts alleged to have been committed by
 2465 any person while operating a vessel while under the influence of
 2466 alcoholic beverages or controlled substances, when affected to
 2467 the extent that the person's normal faculties were impaired or
 2468 to the extent that he or she was deprived of full possession of
 2469 his or her normal faculties, the results of any test
 2470 administered in accordance with s. 327.352 or s. 327.353 and
 2471 this section are admissible into evidence when otherwise
 2472 admissible, and the amount of alcohol in the person's blood or
 2473 breath at the time alleged, as shown by chemical analysis of the
 2474 person's blood, or by chemical or physical test of the person's
 2475 breath, gives rise to the following presumptions:

2476 (a) If there was at that time a blood-alcohol level or
 2477 breath-alcohol level of 0.05 or less, it is presumed that the
 2478 person was not under the influence of alcoholic beverages to the
 2479 extent that his or her normal faculties were impaired.

2480 (b) If there was at that time a blood-alcohol level or
 2481 breath-alcohol level in excess of 0.05 but less than 0.08, that
 2482 fact does not give rise to any presumption that the person was
 2483 or was not under the influence of alcoholic beverages to the
 2484 extent that his or her normal faculties were impaired but may be
 2485 considered with other competent evidence in determining whether



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2486 the person was under the influence of alcoholic beverages to the
2487 extent that his or her normal faculties were impaired.

2488 (c) If there was at that time a blood-alcohol level or
2489 breath-alcohol level of 0.08 or higher, that fact is prima facie
2490 evidence that the person was under the influence of alcoholic
2491 beverages to the extent that his or her normal faculties were
2492 impaired. Any person who operates a vessel and who has a blood-
2493 alcohol level or breath-alcohol level of 0.08 or higher is
2494 guilty of operating a vessel with an unlawful blood-alcohol
2495 level or breath-alcohol level.

2496

2497 The presumptions provided in this subsection do not limit the
2498 introduction of any other competent evidence bearing upon the
2499 question of whether the person was under the influence of
2500 alcoholic beverages to the extent that his or her normal
2501 faculties were impaired.

2502 (3) A chemical analysis of a person's blood to determine
2503 alcoholic content or a chemical or physical test of a person's
2504 breath, in order to be considered valid under this section, must
2505 have been performed substantially in accordance with methods
2506 approved by the Department of Law Enforcement and by an
2507 individual possessing a valid permit issued by the department
2508 for this purpose. Insubstantial differences between approved
2509 techniques and actual testing procedures or insubstantial
2510 defects concerning the permit issued by the department, in any
2511 individual case, do not render the test or test results invalid.
2512 The Department of Law Enforcement may approve satisfactory
2513 techniques or methods, ascertain the qualifications and
2514 competence of individuals to conduct such analyses, and issue



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2515 permits subject to termination or revocation in accordance with
2516 rules adopted by the department.

2517 (4) Any person charged with a violation of s. 327.35 is
2518 entitled to trial by jury according to the Florida Rules of
2519 Criminal Procedure.

2520 (5) An affidavit containing the results of any test of a
2521 person's blood or breath to determine its alcohol content, as
2522 authorized by s. 327.352 or s. 327.353, is admissible in
2523 evidence under the exception to the hearsay rule in s. 90.803(8)
2524 for public records and reports. The affidavit is admissible
2525 without further authentication and is presumptive proof of the
2526 results of an authorized test to determine alcohol content of
2527 the blood or breath if the affidavit discloses:

2528 (a) The type of test administered and the procedures
2529 followed;

2530 (b) The time of the collection of the blood or breath
2531 sample analyzed;

2532 (c) The numerical results of the test indicating the
2533 alcohol content of the blood or breath;

2534 (d) The type and status of any permit issued by the
2535 Department of Law Enforcement which was held by the person who
2536 performed the test; and

2537 (e) If the test was administered by means of a breath
2538 testing instrument, the date of performance of the most recent
2539 required maintenance on such instrument.

2540

2541 The Department of Law Enforcement shall provide a form for the
2542 affidavit. Admissibility of the affidavit does not abrogate the
2543 right of the person tested to subpoena the person who



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2544 administered the test for examination as an adverse witness at a
 2545 civil or criminal trial or other proceeding.

2546 Section 42. For the purpose of incorporating the amendment
 2547 to section 327.35, Florida Statutes, in references thereto,
 2548 subsection (4) of section 327.355, Florida Statutes, is
 2549 reenacted to read:

2550 327.355 Operation of vessels by persons under 21 years of
 2551 age who have consumed alcoholic beverages.--

2552 (4) A violation of this section is a noncriminal
 2553 infraction, and being detained pursuant to this section does not
 2554 constitute an arrest. This section does not bar prosecution
 2555 under s. 327.35, and the penalties provided herein shall be
 2556 imposed in addition to any other penalty provided for boating
 2557 under the influence or for refusal to submit to testing.

2558 Section 43. For the purpose of incorporating the amendment
 2559 to section 327.35, Florida Statutes, in references thereto,
 2560 subsection (2) of section 327.359, Florida Statutes, is
 2561 reenacted to read:

2562 327.359 Refusal to submit to testing; penalties.--Any
 2563 person who has refused to submit to a chemical or physical test
 2564 of his or her breath, blood, or urine, as described in s.
 2565 327.352, and who has been previously fined for refusal to submit
 2566 to a lawful test of his or her breath, urine, or blood, and:

2567 (2) Who was placed under lawful arrest for a violation of
 2568 s. 327.35 unless such test was requested pursuant to s.
 2569 327.352(1)(c);

2570
 2571 commits a misdemeanor of the first degree and is subject to
 2572 punishment as provided in s. 775.082 or s. 775.083.



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2573 Section 44. For the purpose of incorporating the amendment
 2574 to section 327.35, Florida Statutes, in references thereto,
 2575 section 327.36, Florida Statutes, is reenacted to read:

2576 327.36 Mandatory adjudication; prohibition against
 2577 accepting plea to lesser included offense.--

2578 (1) Notwithstanding the provisions of s. 948.01, no court
 2579 may suspend, defer, or withhold adjudication of guilt or
 2580 imposition of sentence for any violation of s. 327.35, for
 2581 manslaughter resulting from the operation of a vessel, or for
 2582 vessel homicide.

2583 (2)(a) No trial judge may accept a plea of guilty to a
 2584 lesser offense from a person who is charged with a violation of
 2585 s. 327.35, manslaughter resulting from the operation of a
 2586 vessel, or vessel homicide and who has been given a breath or
 2587 blood test to determine blood or breath alcohol content, the
 2588 results of which show a blood-alcohol level or breath-alcohol
 2589 level of 0.16 or more.

2590 (b) A trial judge may not accept a plea of guilty to a
 2591 lesser offense from a person charged with a felony violation of
 2592 s. 327.35, manslaughter resulting from the operation of a
 2593 vessel, or vessel homicide.

2594 Section 45. This act shall take effect upon becoming a
 2595 law.