

By the Committee on Transportation; and Senator Smith

306-2632-04

1 A bill to be entitled
2 An act relating to driving or boating under the
3 influence; amending s. 316.193, F.S.; revising
4 level of alcohol content in blood or breath at
5 which certain penalties shall apply for the
6 offense of driving under the influence;
7 amending s. 316.656, F.S.; revising level of
8 alcohol content in blood or breath at which the
9 prohibition against accepting plea to lesser
10 offense shall apply; creating s. 322.2715,
11 F.S.; directing the Department of Highway
12 Safety and Motor Vehicles to require placement
13 of a department-approved ignition interlock
14 device on specified vehicles operated by any
15 person convicted of committing certain
16 driving-under-the-influence offenses;
17 specifying the duration of each installation
18 period based upon the number of DUI
19 convictions; directing the department to
20 require installation of the ignition interlock
21 if the court fails to order the mandatory
22 placement of the device or fails to order
23 placement for the applicable period; amending
24 s. 322.292, F.S.; requiring the Department of
25 Highway Safety and Motor Vehicles to approve a
26 DUI program provider to serve a county with
27 fewer than 200 DUI convictions and no permanent
28 satellite office under certain specified
29 conditions; providing that the DUI program
30 provider is not required to have a satellite
31 office in each county in the circuit; amending

1 s. 327.35, F.S.; revising level of alcohol
2 content in blood or breath at which certain
3 penalties shall apply for the offense of
4 boating under the influence; reenacting ss.
5 316.066(3)(a), 316.072(4)(b), 316.1932(3),
6 316.1933(4), 316.1934(1) and (4), 316.1937(1)
7 and (2)(d), 316.1939(1)(b), 318.143(4) and (5),
8 318.17(3), 322.03(2), 322.0602(2)(a),
9 322.21(8), 322.25(5), 322.26(1)(a),
10 322.2615(1), (2), (7), (8)(b), (10)(b), and
11 (14), 322.2616(1)(a), (15), and (19),
12 322.264(1)(b), 322.271(2)(a), (2)(c), and (4),
13 322.28(2), 322.282(2)(a), 322.291(1)(a),
14 322.34(9)(a), 322.44, 322.62(3), 322.63(2)(d)
15 and (6), 322.64(1), (2), (7)(a), (8)(b), (14),
16 and (15), 323.001(4)(f), 327.35(6),
17 397.405(10), 440.02(17)(c), 440.09(7)(b),
18 493.6106(1)(d), 627.758(4), 790.06(2)(f) and
19 (10)(f), 903.36(2), 907.041(4)(c), 938.07,
20 938.21, 938.23(1), 943.05(2)(d), 948.03(8)(b),
21 and 960.03(3)(b), F.S.; incorporating the
22 amendment to s. 316.193, F.S., in references
23 thereto; reenacting ss. 327.352(3),
24 327.35215(1) and (2), 327.353(4), 327.354(1)
25 and (4), 327.355(1)(a) and (4), 327.359(2),
26 327.36, and 938.07, F.S.; incorporating the
27 amendment to s. 327.35, F.S., in references
28 thereto; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Subsection (4) of section 316.193, Florida
2 Statutes, is amended to read:

3 316.193 Driving under the influence; penalties.--

4 (1) A person is guilty of the offense of driving under
5 the influence and is subject to punishment as provided in
6 subsection (2) if the person is driving or in actual physical
7 control of a vehicle within this state and:

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

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

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

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

19 1. By a fine of:

20 a. Not less than \$250 or more than \$500 for a first
21 conviction.

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

24 2. By imprisonment for:

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

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

27 3. For a second conviction, by mandatory placement for
28 a period of at least 1 year, at the convicted person's sole
29 expense, of an ignition interlock device approved by the
30 department in accordance with s. 316.1938 upon all vehicles
31 that are individually or jointly leased or owned and routinely

1 operated by the convicted person, when the convicted person
2 qualifies for a permanent or restricted license. The
3 installation of such device may not occur before July 1, 2003.

4 (b)1. Any person who is convicted of a third violation
5 of this section for an offense that occurs within 10 years
6 after a prior conviction for a violation of this section
7 commits a felony of the third degree, punishable as provided
8 in s. 775.082, s. 775.083, or s. 775.084. In addition, the
9 court shall order the mandatory placement for a period of not
10 less than 2 years, at the convicted person's sole expense, of
11 an ignition interlock device approved by the department in
12 accordance with s. 316.1938 upon all vehicles that are
13 individually or jointly leased or owned and routinely operated
14 by the convicted person, when the convicted person qualifies
15 for a permanent or restricted license. The installation of
16 such device may not occur before July 1, 2003.

17 2. Any person who is convicted of a third violation of
18 this section for an offense that occurs more than 10 years
19 after the date of a prior conviction for a violation of this
20 section shall be punished by a fine of not less than \$1,000 or
21 more than \$2,500 and by imprisonment for not more than 12
22 months. In addition, the court shall order the mandatory
23 placement for a period of at least 2 years, at the convicted
24 person's sole expense, of an ignition interlock device
25 approved by the department in accordance with s. 316.1938 upon
26 all vehicles that are individually or jointly leased or owned
27 and routinely operated by the convicted person, when the
28 convicted person qualifies for a permanent or restricted
29 license. The installation of such device may not occur before
30 July 1, 2003.

31

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

8 (3) Any person:

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

10 (b) Who operates a vehicle; and

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

13 1. Damage to the property or person of another commits
14 a misdemeanor of the first degree, punishable as provided in
15 s. 775.082 or s. 775.083.

16 2. Serious bodily injury to another, as defined in s.
17 316.1933, commits a felony of the third degree, punishable as
18 provided in s. 775.082, s. 775.083, or s. 775.084.

19 3. The death of any human being commits DUI
20 manslaughter, and commits:

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

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

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

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

29 (4) (a) Any person who is convicted of a violation of
30 subsection (1) and who has a blood-alcohol level or
31 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who

1 is convicted of a violation of subsection (1) and who at the
2 time of the offense was accompanied in the vehicle by a person
3 under the age of 18 years, shall be punished:

4 ~~1.(a)~~ By a fine of:

5 ~~a.1.~~ Not less than \$500 or more than \$1,000 for a
6 first conviction.

7 ~~b.2.~~ Not less than \$1,000 or more than \$2,000 for a
8 second conviction.

9 ~~c.3.~~ Not less than \$2,000 for a third or subsequent
10 conviction.

11 ~~2.(b)~~ By imprisonment for:

12 ~~a.1.~~ Not more than 9 months for a first conviction.

13 ~~b.2.~~ Not more than 12 months for a second conviction.

14
15 ~~For the purposes of this subsection, only the instant offense~~
16 ~~is required to be a violation of subsection (1) by a person~~
17 ~~who has a blood alcohol level or breath alcohol level of 0.20~~
18 ~~or higher.~~

19 ~~(b)(c)~~ In addition to the penalties in paragraph
20 ~~paragraphs (a) and (b)~~, the court shall order the mandatory
21 placement, at the convicted person's sole expense, of an
22 ignition interlock device approved by the department in
23 accordance with s. 316.1938 upon all vehicles that are
24 individually or jointly leased or owned and routinely operated
25 by the convicted person for up to 6 months for the first
26 offense and for at least 2 years for a second offense, when
27 the convicted person qualifies for a permanent or restricted
28 license. The installation of such device may not occur before
29 July 1, 2003.

1 For the purposes of this subsection, only the instant offense
2 is required to be a violation of subsection (1) by a person
3 who has a blood-alcohol level or breath-alcohol level of 0.16
4 or higher.

5 (5) The court shall place all offenders convicted of
6 violating this section on monthly reporting probation and
7 shall require completion of a substance abuse course conducted
8 by a DUI program licensed by the department under s. 322.292,
9 which must include a psychosocial evaluation of the offender.

10 If the DUI program refers the offender to an authorized
11 substance abuse treatment provider for substance abuse
12 treatment, in addition to any sentence or fine imposed under
13 this section, completion of all such education, evaluation,
14 and treatment is a condition of reporting probation. The
15 offender shall assume reasonable costs for such education,
16 evaluation, and treatment. The referral to treatment resulting
17 from a psychosocial evaluation shall not be waived without a
18 supporting independent psychosocial evaluation conducted by an
19 authorized substance abuse treatment provider appointed by the
20 court, which shall have access to the DUI program's
21 psychosocial evaluation before the independent psychosocial
22 evaluation is conducted. The court shall review the results
23 and recommendations of both evaluations before determining the
24 request for waiver. The offender shall bear the full cost of
25 this procedure. The term "substance abuse" means the abuse of
26 alcohol or any substance named or described in Schedules I
27 through V of s. 893.03. If an offender referred to treatment
28 under this subsection fails to report for or complete such
29 treatment or fails to complete the DUI program substance abuse
30 education course and evaluation, the DUI program shall notify
31 the court and the department of the failure. Upon receipt of

1 | the notice, the department shall cancel the offender's driving
2 | privilege, notwithstanding the terms of the court order or any
3 | suspension or revocation of the driving privilege. The
4 | department may temporarily reinstate the driving privilege on
5 | a restricted basis upon verification from the DUI program that
6 | the offender is currently participating in treatment and the
7 | DUI education course and evaluation requirement has been
8 | completed. If the DUI program notifies the department of the
9 | second failure to complete treatment, the department shall
10 | reinstate the driving privilege only after notice of
11 | completion of treatment from the DUI program. The organization
12 | that conducts the substance abuse education and evaluation may
13 | not provide required substance abuse treatment unless a waiver
14 | has been granted to that organization by the department. A
15 | waiver may be granted only if the department determines, in
16 | accordance with its rules, that the service provider that
17 | conducts the substance abuse education and evaluation is the
18 | most appropriate service provider and is licensed under
19 | chapter 397 or is exempt from such licensure. A statistical
20 | referral report shall be submitted quarterly to the department
21 | by each organization authorized to provide services under this
22 | section.

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

26 | (a) For the first conviction, the court shall place
27 | the defendant on probation for a period not to exceed 1 year
28 | and, as a condition of such probation, shall order the
29 | defendant to participate in public service or a community work
30 | project for a minimum of 50 hours; or the court may order
31 | instead, that any defendant pay an additional fine of \$10 for

1 | each hour of public service or community work otherwise
2 | required, if, after consideration of the residence or location
3 | of the defendant at the time public service or community work
4 | is required, payment of the fine is in the best interests of
5 | the state. However, the total period of probation and
6 | incarceration may not exceed 1 year. The court must also, as a
7 | condition of probation, order the impoundment or
8 | immobilization of the vehicle that was operated by or in the
9 | actual control of the defendant or any one vehicle registered
10 | in the defendant's name at the time of impoundment or
11 | immobilization, for a period of 10 days or for the unexpired
12 | term of any lease or rental agreement that expires within 10
13 | days. The impoundment or immobilization must not occur
14 | concurrently with the incarceration of the defendant. The
15 | impoundment or immobilization order may be dismissed in
16 | accordance with paragraph (e), paragraph (f), paragraph (g),
17 | or paragraph (h).

18 | (b) For the second conviction for an offense that
19 | occurs within a period of 5 years after the date of a prior
20 | conviction for violation of this section, the court shall
21 | order imprisonment for not less than 10 days. The court must
22 | also, as a condition of probation, order the impoundment or
23 | immobilization of all vehicles owned by the defendant at the
24 | time of impoundment or immobilization, for a period of 30 days
25 | or for the unexpired term of any lease or rental agreement
26 | that expires within 30 days. The impoundment or immobilization
27 | must not occur concurrently with the incarceration of the
28 | defendant and must occur concurrently with the driver's
29 | license revocation imposed under s. 322.28(2)(a)2. The
30 | impoundment or immobilization order may be dismissed in
31 | accordance with paragraph (e), paragraph (f), paragraph (g),

1 or paragraph (h). At least 48 hours of confinement must be
2 consecutive.

3 (c) For the third or subsequent conviction for an
4 offense that occurs within a period of 10 years after the date
5 of a prior conviction for violation of this section, the court
6 shall order imprisonment for not less than 30 days. The court
7 must also, as a condition of probation, order the impoundment
8 or immobilization of all vehicles owned by the defendant at
9 the time of impoundment or immobilization, for a period of 90
10 days or for the unexpired term of any lease or rental
11 agreement that expires within 90 days. The impoundment or
12 immobilization must not occur concurrently with the
13 incarceration of the defendant and must occur concurrently
14 with the driver's license revocation imposed under s.
15 322.28(2)(a)3. The impoundment or immobilization order may be
16 dismissed in accordance with paragraph (e), paragraph (f),
17 paragraph (g), or paragraph (h). At least 48 hours of
18 confinement must be consecutive.

19 (d) The court must at the time of sentencing the
20 defendant issue an order for the impoundment or immobilization
21 of a vehicle. Within 7 business days after the date that the
22 court issues the order of impoundment or immobilization, the
23 clerk of the court must send notice by certified mail, return
24 receipt requested, to the registered owner of each vehicle, if
25 the registered owner is a person other than the defendant, and
26 to each person of record claiming a lien against the vehicle.

27 (e) A person who owns but was not operating the
28 vehicle when the offense occurred may submit to the court a
29 police report indicating that the vehicle was stolen at the
30 time of the offense or documentation of having purchased the
31 vehicle after the offense was committed from an entity other

1 | than the defendant or the defendant's agent. If the court
2 | finds that the vehicle was stolen or that the sale was not
3 | made to circumvent the order and allow the defendant continued
4 | access to the vehicle, the order must be dismissed and the
5 | owner of the vehicle will incur no costs. If the court denies
6 | the request to dismiss the order of impoundment or
7 | immobilization, the petitioner may request an evidentiary
8 | hearing.

9 | (f) A person who owns but was not operating the
10 | vehicle when the offense occurred, and whose vehicle was
11 | stolen or who purchased the vehicle after the offense was
12 | committed directly from the defendant or the defendant's
13 | agent, may request an evidentiary hearing to determine whether
14 | the impoundment or immobilization should occur. If the court
15 | finds that either the vehicle was stolen or the purchase was
16 | made without knowledge of the offense, that the purchaser had
17 | no relationship to the defendant other than through the
18 | transaction, and that such purchase would not circumvent the
19 | order and allow the defendant continued access to the vehicle,
20 | the order must be dismissed and the owner of the vehicle will
21 | incur no costs.

22 | (g) The court shall also dismiss the order of
23 | impoundment or immobilization of the vehicle if the court
24 | finds that the family of the owner of the vehicle has no other
25 | private or public means of transportation.

26 | (h) The court may also dismiss the order of
27 | impoundment or immobilization of any vehicles that are owned
28 | by the defendant but that are operated solely by the employees
29 | of the defendant or any business owned by the defendant.

30 | (i) All costs and fees for the impoundment or
31 | immobilization, including the cost of notification, must be

1 | paid by the owner of the vehicle or, if the vehicle is leased
2 | or rented, by the person leasing or renting the vehicle,
3 | unless the impoundment or immobilization order is dismissed.
4 | All provisions of s. 713.78 shall apply.

5 | (j) The person who owns a vehicle that is impounded or
6 | immobilized under this paragraph, or a person who has a lien
7 | of record against such a vehicle and who has not requested a
8 | review of the impoundment pursuant to paragraph (e), paragraph
9 | (f), or paragraph (g), may, within 10 days after the date that
10 | person has knowledge of the location of the vehicle, file a
11 | complaint in the county in which the owner resides to
12 | determine whether the vehicle was wrongfully taken or withheld
13 | from the owner or lienholder. Upon the filing of a complaint,
14 | the owner or lienholder may have the vehicle released by
15 | posting with the court a bond or other adequate security equal
16 | to the amount of the costs and fees for impoundment or
17 | immobilization, including towing or storage, to ensure the
18 | payment of such costs and fees if the owner or lienholder does
19 | not prevail. When the bond is posted and the fee is paid as
20 | set forth in s. 28.24, the clerk of the court shall issue a
21 | certificate releasing the vehicle. At the time of release,
22 | after reasonable inspection, the owner or lienholder must give
23 | a receipt to the towing or storage company indicating any loss
24 | or damage to the vehicle or to the contents of the vehicle.

25 | (k) A defendant, in the court's discretion, may be
26 | required to serve all or any portion of a term of imprisonment
27 | to which the defendant has been sentenced pursuant to this
28 | section in a residential alcoholism treatment program or a
29 | residential drug abuse treatment program. Any time spent in
30 | such a program must be credited by the court toward the term
31 | of imprisonment.

1
2 For the purposes of this section, any conviction for a
3 violation of s. 327.35; a previous conviction for the
4 violation of former s. 316.1931, former s. 860.01, or former
5 s. 316.028; or a previous conviction outside this state for
6 driving under the influence, driving while intoxicated,
7 driving with an unlawful blood-alcohol level, driving with an
8 unlawful breath-alcohol level, or any other similar
9 alcohol-related or drug-related traffic offense, is also
10 considered a previous conviction for violation of this
11 section. However, in satisfaction of the fine imposed pursuant
12 to this section, the court may, upon a finding that the
13 defendant is financially unable to pay either all or part of
14 the fine, order that the defendant participate for a specified
15 additional period of time in public service or a community
16 work project in lieu of payment of that portion of the fine
17 which the court determines the defendant is unable to pay. In
18 determining such additional sentence, the court shall consider
19 the amount of the unpaid portion of the fine and the
20 reasonable value of the services to be ordered; however, the
21 court may not compute the reasonable value of services at a
22 rate less than the federal minimum wage at the time of
23 sentencing.

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

26 (8) At the arraignment, or in conjunction with any
27 notice of arraignment provided by the clerk of the court, the
28 clerk shall provide any person charged with a violation of
29 this section with notice that upon conviction the court shall
30 suspend or revoke the offender's driver's license and that the
31 offender should make arrangements for transportation at any

1 proceeding in which the court may take such action. Failure to
2 provide such notice does not affect the court's suspension or
3 revocation of the offender's driver's license.

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

6 (a) Until the person is no longer under the influence
7 of alcoholic beverages, any chemical substance set forth in s.
8 877.111, or any substance controlled under chapter 893 and
9 affected to the extent that his or her normal faculties are
10 impaired;

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

13 (c) Until 8 hours have elapsed from the time the
14 person was arrested.

15 (10) The rulings of the Department of Highway Safety
16 and Motor Vehicles under s. 322.2615 shall not be considered
17 in any trial for a violation of this section. Testimony or
18 evidence from the administrative proceedings or any written
19 statement submitted by a person in his or her request for
20 administrative review is inadmissible into evidence or for any
21 other purpose in any criminal proceeding, unless timely
22 disclosed in criminal discovery pursuant to Rule 3.220,
23 Florida Rules of Criminal Procedure.

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

27 Section 2. Subsection (2) of section 316.656, Florida
28 Statutes, is amended to read:

29 316.656 Mandatory adjudication; prohibition against
30 accepting plea to lesser included offense.--
31

1 (2)(a) No trial judge may accept a plea of guilty to a
2 lesser offense from a person charged under the provisions of
3 this act who has been given a breath or blood test to
4 determine blood or breath alcohol content, the results of
5 which show a blood or breath alcohol content by weight of 0.16
6 ~~0.20~~ percent or more.

7 (b) No trial judge may accept a plea of guilty to a
8 lesser offense from a person charged with a violation of s.
9 316.193(3), manslaughter resulting from the operation of a
10 motor vehicle, or vehicular homicide.

11 Section 3. Section 322.2715, Florida Statutes, is
12 created to read:

13 322.2715 Ignition interlock device.--

14 (1) Before issuing a permanent or restricted driver's
15 license under this chapter, the department shall require the
16 placement of a department-approved ignition interlock device
17 for any person convicted of committing an offense of driving
18 under the influence as specified in subsection (3). An
19 interlock device shall be placed on all vehicles that are
20 individually or jointly leased or owned and routinely operated
21 by the convicted person.

22 (2) For purposes of this section, any conviction for a
23 violation of s. 316.193, a previous conviction for a violation
24 of former s. 316.1931, or a conviction outside this state for
25 driving under the influence, driving while intoxicated,
26 driving with an unlawful blood alcohol level, or any other
27 similar alcohol-related or drug-related traffic offense is a
28 conviction of driving under the influence.

29 (3) If the person is convicted of:

30 (a) A first offense of driving under the influence
31 under s. 316.193 and has an unlawful blood alcohol level or

1 breath alcohol level as specified in s. 316.193(4), or if a
2 person is convicted of a violation of s. 316.193 and was at
3 the time of the offense accompanied in the vehicle by a person
4 under the age of 18 years, the person shall have the ignition
5 interlock device installed for 6 months for the first offense
6 and for at least 2 years for a second offense.

7 (b) A second offense of driving under the influence,
8 the ignition interlock device shall be installed for a period
9 of not less than 1 year.

10 (c) A third offense of driving under the influence
11 which occurs within 10 years after a prior conviction for a
12 violation of s. 316.193, the ignition interlock device shall
13 be installed for a period of not less than 2 years.

14 (d) A third offense of driving under the influence
15 which occurs more than 10 years after the date of a prior
16 conviction, the ignition interlock device shall be installed
17 for a period of not less than 2 years.

18 (4) If the court fails to order the mandatory
19 placement of the ignition interlock device or fails to order
20 for the applicable period the mandatory placement of an
21 ignition interlock device under s. 316.193 or s. 316.1937 at
22 the time of imposing sentence or within 30 days thereafter,
23 the department shall immediately require that the ignition
24 interlock device be installed as provided in this section.
25 This section applies to the reinstatement of the driving
26 privilege from a revocation, suspension, or cancellation based
27 upon an offense of driving under the influence which occurs on
28 or after July 1, 2004.

29 Section 4. Paragraph (c) of subsection (2) of section
30 322.292, Florida Statutes, is amended to read:

31

1 322.292 DUI programs supervision; powers and duties of
2 the department.--

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

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

10 1. A uniform application fee not to exceed \$1,000 but
11 in an amount sufficient to cover the department's
12 administrative costs in processing and evaluating DUI program
13 license applications. The application fee shall not apply to
14 programs that apply for licensure to serve a county that does
15 not have a currently licensed DUI program or where the
16 currently licensed program has relinquished its license.

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

22 a. The increased frequency of classes and availability
23 of locations of services offered by the applicant DUI program.

24 b. Services and fees offered by the applicant DUI
25 program and any existing DUI program.

26 c. The number of DUI clients currently served and
27 historical trends in the number of clients served in the
28 circuit.

29 d. The availability, accessibility, and service
30 history of any existing DUI program services.

31 e. The applicant DUI program's service history.

1 f. The availability of resources, including personnel,
2 demonstrated management capability, and capital and operating
3 expenditures of the applicant DUI program.

4 g. Improved services to minority and special needs
5 clients.

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

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

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

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

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

1 | less than 200. In a county where the total number of DUI
2 | convictions in the most recent calendar year is fewer than 200
3 | and no satellite office is located in a permanent structure in
4 | that county, another program provider, upon the recommendation
5 | of the chief judge of the judicial circuit of that county, if
6 | the applicant meets the criteria of this section, shall be
7 | approved by the department to serve the county, and the
8 | provider is not required to have a satellite office in each
9 | county in the circuit.

10 | c. Have a classroom in each county in the circuit
11 | which is located in a permanent structure that is readily
12 | accessible by public transportation, if public transportation
13 | is available. A classroom is not required in any county where
14 | the total number of DUI convictions in the most recent
15 | calendar year is less than 100. A classroom may not be located
16 | within 250 feet of any business that sells alcoholic
17 | beverages. However, a classroom shall not be required to be
18 | relocated when a business selling alcoholic beverages locates
19 | to within 250 feet of the classroom.

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

25 | e. Employ at least 1 full-time certified addiction
26 | professional for the program at all times.

27 | f. Document support from community agencies involved
28 | in DUI education and substance abuse treatment in the circuit.

29 | g. Have a volunteer board of directors and advisory
30 | committee made up of citizens who reside in the circuit in
31 | which licensure is sought.

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

4 Section 5. Subsection (4) of section 327.35, Florida
5 Statutes, is amended to read:

6 327.35 Boating under the influence; penalties;
7 "designated drivers".--

8 (4) Any person who is convicted of a violation of
9 subsection (1) and who has a blood-alcohol level or
10 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who
11 is convicted of a violation of subsection (1) and who at the
12 time of the offense was accompanied in the vessel by a person
13 under the age of 18 years, shall be punished:

14 (a) By a fine of:

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

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

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

21 (b) By imprisonment for:

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

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

24
25 For the purposes of this subsection, only the instant offense
26 is required to be a violation of subsection (1) by a person
27 who has a blood-alcohol level or breath-alcohol level of 0.16
28 ~~0.20~~ or higher.

29 Section 6. For the purpose of incorporating the
30 amendment to section 316.193, Florida Statutes, in references
31

1 thereto, paragraph (a) of subsection (3) of section 316.066,
2 Florida Statutes, is reenacted to read:

3 316.066 Written reports of crashes.--

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

6 1. Which crash resulted in death or personal injury
7 shall, within 10 days after completing the investigation,
8 forward a written report of the crash to the department or
9 traffic records center.

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

14 3. In which crash a vehicle was rendered inoperative
15 to a degree which required a wrecker to remove it from traffic
16 may, within 10 days after completing the investigation,
17 forward a written report of the crash to the department or
18 traffic records center if such action is appropriate, in the
19 officer's discretion.

20
21 However, in every case in which a crash report is required by
22 this section and a written report to a law enforcement officer
23 is not prepared, the law enforcement officer shall provide
24 each party involved in the crash a short-form report,
25 prescribed by the state, to be completed by the party. The
26 short-form report must include, but is not limited to: the
27 date, time, and location of the crash; a description of the
28 vehicles involved; the names and addresses of the parties
29 involved; the names and addresses of witnesses; the name,
30 badge number, and law enforcement agency of the officer
31 investigating the crash; and the names of the insurance

1 | companies for the respective parties involved in the crash.
2 | Each party to the crash shall provide the law enforcement
3 | officer with proof of insurance to be included in the crash
4 | report. If a law enforcement officer submits a report on the
5 | accident, proof of insurance must be provided to the officer
6 | by each party involved in the crash. Any party who fails to
7 | provide the required information is guilty of an infraction
8 | for a nonmoving violation, punishable as provided in chapter
9 | 318 unless the officer determines that due to injuries or
10 | other special circumstances such insurance information cannot
11 | be provided immediately. If the person provides the law
12 | enforcement agency, within 24 hours after the crash, proof of
13 | insurance that was valid at the time of the crash, the law
14 | enforcement agency may void the citation.

15 | Section 7. For the purpose of incorporating the
16 | amendment to section 316.193, Florida Statutes, in references
17 | thereto, paragraph (b) of subsection (4) of section 316.072,
18 | Florida Statutes, is reenacted to read:

19 | 316.072 Obedience to and effect of traffic laws.--

20 | (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
21 | EXCEPTIONS.--

22 | (b) Unless specifically made applicable, the
23 | provisions of this chapter, except those contained in ss.
24 | 316.192, 316.1925, and 316.193, shall not apply to persons,
25 | teams, or motor vehicles and other equipment while actually
26 | engaged in work upon the surface of a highway, but shall apply
27 | to such persons and vehicles when traveling to or from such
28 | work.

29 | Section 8. For the purpose of incorporating the
30 | amendment to section 316.193, Florida Statutes, in references

31 |

1 thereto, subsection (3) of section 316.1932, Florida Statutes,
2 is reenacted to read:

3 316.1932 Tests for alcohol, chemical substances, or
4 controlled substances; implied consent; refusal.--

5 (3) Notwithstanding any provision of law pertaining to
6 the confidentiality of hospital records or other medical
7 records, information relating to the alcoholic content of the
8 blood or breath or the presence of chemical substances or
9 controlled substances in the blood obtained pursuant to this
10 section shall be released to a court, prosecuting attorney,
11 defense attorney, or law enforcement officer in connection
12 with an alleged violation of s. 316.193 upon request for such
13 information.

14 Section 9. For the purpose of incorporating the
15 amendment to section 316.193, Florida Statutes, in references
16 thereto, subsection (4) of section 316.1933, Florida Statutes,
17 is reenacted to read:

18 316.1933 Blood test for impairment or intoxication in
19 cases of death or serious bodily injury; right to use
20 reasonable force.--

21 (4) Notwithstanding any provision of law pertaining to
22 the confidentiality of hospital records or other medical
23 records, information relating to the alcoholic content of the
24 blood or the presence of chemical substances or controlled
25 substances in the blood obtained pursuant to this section
26 shall be released to a court, prosecuting attorney, defense
27 attorney, or law enforcement officer in connection with an
28 alleged violation of s. 316.193 upon request for such
29 information.

30 Section 10. For the purpose of incorporating the
31 amendment to section 316.193, Florida Statutes, in references

1 thereto, subsections (1) and (4) of section 316.1934, Florida
2 Statutes, are reenacted to read:

3 316.1934 Presumption of impairment; testing methods.--

4 (1) It is unlawful and punishable as provided in
5 chapter 322 and in s. 316.193 for any person who is under the
6 influence of alcoholic beverages or controlled substances,
7 when affected to the extent that the person's normal faculties
8 are impaired or to the extent that the person is deprived of
9 full possession of normal faculties, to drive or be in actual
10 physical control of any motor vehicle within this state. Such
11 normal faculties include, but are not limited to, the ability
12 to see, hear, walk, talk, judge distances, drive an
13 automobile, make judgments, act in emergencies, and, in
14 general, normally perform the many mental and physical acts of
15 daily life.

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

19 Section 11. For the purpose of incorporating the
20 amendment to section 316.193, Florida Statutes, in references
21 thereto, subsection (1) and paragraph (d) of subsection (2) of
22 section 316.1937, Florida Statutes, are reenacted to read:

23 316.1937 Ignition interlock devices, requiring;
24 unlawful acts.--

25 (1) In addition to any other authorized penalties, the
26 court may require that any person who is convicted of driving
27 under the influence in violation of s. 316.193 shall not
28 operate a motor vehicle unless that vehicle is equipped with a
29 functioning ignition interlock device certified by the
30 department as provided in s. 316.1938, and installed in such a
31 manner that the vehicle will not start if the operator's blood

1 alcohol level is in excess of 0.05 percent or as otherwise
2 specified by the court. The court may require the use of an
3 approved ignition interlock device for a period of not less
4 than 6 months, if the person is permitted to operate a motor
5 vehicle, whether or not the privilege to operate a motor
6 vehicle is restricted, as determined by the court. The court,
7 however, shall order placement of an ignition interlock device
8 in those circumstances required by s. 316.193.

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

11 (d) Determine the person's ability to pay for
12 installation of the device if the person claims inability to
13 pay. If the court determines that the person is unable to pay
14 for installation of the device, the court may order that any
15 portion of a fine paid by the person for a violation of s.
16 316.193 shall be allocated to defray the costs of installing
17 the device.

18 Section 12. For the purpose of incorporating the
19 amendment to section 316.193, Florida Statutes, in references
20 thereto, paragraph (b) of subsection (1) of section 316.1939,
21 Florida Statutes, is reenacted to read:

22 316.1939 Refusal to submit to testing; penalties.--

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

28 (b) Who was placed under lawful arrest for a violation
29 of s. 316.193 unless such test was requested pursuant to s.
30 316.1932(1)(c);

31

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

3 Section 13. For the purpose of incorporating the
4 amendment to section 316.193, Florida Statutes, in references
5 thereto, subsections (4) and (5) of section 318.143, Florida
6 Statutes, are reenacted to read:

7 318.143 Sanctions for infractions by minors.--

8 (4) For the first conviction for a violation of s.
9 316.193, the court may order the Department of Highway Safety
10 and Motor Vehicles to revoke the minor's driver's license
11 until the minor is 18 years of age. For a second or subsequent
12 conviction for such a violation, the court may order the
13 Department of Highway Safety and Motor Vehicles to revoke the
14 minor's driver's license until the minor is 21 years of age.

15 (5) A minor who is arrested for a violation of s.
16 316.193 may be released from custody as soon as:

17 (a) The minor is no longer under the influence of
18 alcoholic beverages, of any chemical substance set forth in s.
19 877.111, or of any substance controlled under chapter 893, and
20 is not affected to the extent that his or her normal faculties
21 are impaired;

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

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

25 Section 14. For the purpose of incorporating the
26 amendment to section 316.193, Florida Statutes, in references
27 thereto, subsection (3) of section 318.17, Florida Statutes,
28 is reenacted to read:

29 318.17 Offenses excepted.--No provision of this
30 chapter is available to a person who is charged with any of
31 the following offenses:

1 (3) Driving, or being in actual physical control of,
2 any vehicle while under the influence of alcoholic beverages,
3 any chemical substance set forth in s. 877.111, or any
4 substance controlled under chapter 893, in violation of s.
5 316.193, or driving with an unlawful blood-alcohol level;

6 Section 15. For the purpose of incorporating the
7 amendment to section 316.193, Florida Statutes, in references
8 thereto, subsection (2) of section 322.03, Florida Statutes,
9 is reenacted to read:

10 322.03 Drivers must be licensed; penalties.--

11 (2) Prior to issuing a driver's license, the
12 department shall require any person who has been convicted two
13 or more times of a violation of s. 316.193 or of a
14 substantially similar alcohol-related or drug-related offense
15 outside this state within the preceding 5 years, or who has
16 been convicted of three or more such offenses within the
17 preceding 10 years, to present proof of successful completion
18 of or enrollment in a department-approved substance abuse
19 education course. If the person fails to complete such
20 education course within 90 days after issuance, the department
21 shall cancel the license. Further, prior to issuing the
22 driver's license the department shall require such person to
23 present proof of financial responsibility as provided in s.
24 324.031. For the purposes of this paragraph, a previous
25 conviction for violation of former s. 316.028, former s.
26 316.1931, or former s. 860.01 shall be considered a previous
27 conviction for violation of s. 316.193.

28 Section 16. For the purpose of incorporating the
29 amendment to section 316.193, Florida Statutes, in references
30 thereto, paragraph (a) of subsection (2) of section 322.0602,
31 Florida Statutes, is reenacted to read:

1 | 322.0602 Youthful Drunk Driver Visitation Program.--

2 | (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE
3 | FOR PARTICIPATION.--

4 | (a) If a person is convicted of a violation of s.
5 | 316.193, the court may order, as a term and condition of
6 | probation in addition to any other term or condition required
7 | or authorized by law, that the probationer participate in the
8 | Youthful Drunk Driver Visitation Program.

9 | Section 17. For the purpose of incorporating the
10 | amendment to section 316.193, Florida Statutes, in references
11 | thereto, subsection (8) of section 322.21, Florida Statutes,
12 | is reenacted to read:

13 | 322.21 License fees; procedure for handling and
14 | collecting fees.--

15 | (8) Any person who applies for reinstatement following
16 | the suspension or revocation of the person's driver's license
17 | shall pay a service fee of \$35 following a suspension, and \$60
18 | following a revocation, which is in addition to the fee for a
19 | license. Any person who applies for reinstatement of a
20 | commercial driver's license following the disqualification of
21 | the person's privilege to operate a commercial motor vehicle
22 | shall pay a service fee of \$60, which is in addition to the
23 | fee for a license. The department shall collect all of these
24 | fees at the time of reinstatement. The department shall issue
25 | proper receipts for such fees and shall promptly transmit all
26 | funds received by it as follows:

27 | (a) Of the \$35 fee received from a licensee for
28 | reinstatement following a suspension, the department shall
29 | deposit \$15 in the General Revenue Fund and \$20 in the Highway
30 | Safety Operating Trust Fund.
31 |

1 (b) Of the \$60 fee received from a licensee for
2 reinstatement following a revocation or disqualification, the
3 department shall deposit \$35 in the General Revenue Fund and
4 \$25 in the Highway Safety Operating Trust Fund.

5
6 If the revocation or suspension of the driver's license was
7 for a violation of s. 316.193, or for refusal to submit to a
8 lawful breath, blood, or urine test, an additional fee of \$115
9 must be charged. However, only one \$115 fee may be collected
10 from one person convicted of violations arising out of the
11 same incident. The department shall collect the \$115 fee and
12 deposit the fee into the Highway Safety Operating Trust Fund
13 at the time of reinstatement of the person's driver's license,
14 but the fee may not be collected if the suspension or
15 revocation is overturned.

16 Section 18. For the purpose of incorporating the
17 amendment to section 316.193, Florida Statutes, in references
18 thereto, subsection (5) of section 322.25, Florida Statutes,
19 is reenacted to read:

20 322.25 When court to forward license to department and
21 report convictions; temporary reinstatement of driving
22 privileges.--

23 (5) For the purpose of this chapter, the entrance of a
24 plea of nolo contendere by the defendant to a charge of
25 driving while intoxicated, driving under the influence,
26 driving with an unlawful blood-alcohol level, or any other
27 alcohol-related or drug-related traffic offense similar to the
28 offenses specified in s. 316.193, accepted by the court and
29 under which plea the court has entered a fine or sentence,
30 whether in this state or any other state or country, shall be
31 equivalent to a conviction.

1 Section 19. For the purpose of incorporating the
2 amendment to section 316.193, Florida Statutes, in references
3 thereto, paragraph (a) of subsection (1) of section 322.26,
4 Florida Statutes, is reenacted to read:

5 322.26 Mandatory revocation of license by
6 department.--The department shall forthwith revoke the license
7 or driving privilege of any person upon receiving a record of
8 such person's conviction of any of the following offenses:

9 (1)(a) Murder resulting from the operation of a motor
10 vehicle, DUI manslaughter where the conviction represents a
11 subsequent DUI-related conviction, or a fourth violation of s.
12 316.193 or former s. 316.1931. For such cases, the revocation
13 of the driver's license or driving privilege shall be
14 permanent.

15 Section 20. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, subsections (1), (2), and (7), paragraph (b) of
18 subsection (8), paragraph (b) of subsection (10), and
19 subsection (14) of section 322.2615, Florida Statutes, are
20 reenacted to read:

21 322.2615 Suspension of license; right to review.--

22 (1)(a) A law enforcement officer or correctional
23 officer shall, on behalf of the department, suspend the
24 driving privilege of a person who has been arrested by a law
25 enforcement officer for a violation of s. 316.193, relating to
26 unlawful blood-alcohol level or breath-alcohol level, or of a
27 person who has refused to submit to a breath, urine, or blood
28 test authorized by s. 316.1932. The officer shall take the
29 person's driver's license and issue the person a 10-day
30 temporary permit if the person is otherwise eligible for the
31 driving privilege and shall issue the person a notice of

1 suspension. If a blood test has been administered, the results
2 of which are not available to the officer at the time of the
3 arrest, the agency employing the officer shall transmit such
4 results to the department within 5 days after receipt of the
5 results. If the department then determines that the person was
6 arrested for a violation of s. 316.193 and that the person had
7 a blood-alcohol level or breath-alcohol level of 0.08 or
8 higher, the department shall suspend the person's driver's
9 license pursuant to subsection (3).

10 (b) The suspension under paragraph (a) shall be
11 pursuant to, and the notice of suspension shall inform the
12 driver of, the following:

13 1.a. The driver refused to submit to a lawful breath,
14 blood, or urine test and his or her driving privilege is
15 suspended for a period of 1 year for a first refusal or for a
16 period of 18 months if his or her driving privilege has been
17 previously suspended as a result of a refusal to submit to
18 such a test; or

19 b. The driver violated s. 316.193 by driving with an
20 unlawful blood-alcohol level as provided in that section and
21 his or her driving privilege is suspended for a period of 6
22 months for a first offense or for a period of 1 year if his or
23 her driving privilege has been previously suspended for a
24 violation of s. 316.193.

25 2. The suspension period shall commence on the date of
26 arrest or issuance of the notice of suspension, whichever is
27 later.

28 3. The driver may request a formal or informal review
29 of the suspension by the department within 10 days after the
30 date of arrest or issuance of the notice of suspension,
31 whichever is later.

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

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

7 (2) Except as provided in paragraph (1)(a), the law
8 enforcement officer shall forward to the department, within 5
9 days after the date of the arrest, a copy of the notice of
10 suspension, the driver's license of the person arrested, and a
11 report of the arrest, including an affidavit stating the
12 officer's grounds for belief that the person arrested was in
13 violation of s. 316.193; the results of any breath or blood
14 test or an affidavit stating that a breath, blood, or urine
15 test was requested by a law enforcement officer or
16 correctional officer and that the person arrested refused to
17 submit; a copy of the citation issued to the person arrested;
18 and the officer's description of the person's field sobriety
19 test, if any. The failure of the officer to submit materials
20 within the 5-day period specified in this subsection and in
21 subsection (1) shall not affect the department's ability to
22 consider any evidence submitted at or prior to the hearing.
23 The officer may also submit a copy of a videotape of the field
24 sobriety test or the attempt to administer such test.

25 (7) In a formal review hearing under subsection (6) or
26 an informal review hearing under subsection (4), the hearing
27 officer shall determine by a preponderance of the evidence
28 whether sufficient cause exists to sustain, amend, or
29 invalidate the suspension. The scope of the review shall be
30 limited to the following issues:
31

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

3 1. Whether the arresting law enforcement officer had
4 probable cause to believe that the person was driving or in
5 actual physical control of a motor vehicle in this state while
6 under the influence of alcoholic beverages or controlled
7 substances.

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

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

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

14 1. Whether the arresting law enforcement officer had
15 probable cause to believe that the person was driving or in
16 actual physical control of a motor vehicle in this state while
17 under the influence of alcoholic beverages or controlled
18 substances.

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

21 3. Whether the person refused to submit to any such
22 test after being requested to do so by a law enforcement
23 officer or correctional officer.

24 4. Whether the person was told that if he or she
25 refused to submit to such test his or her privilege to operate
26 a motor vehicle would be suspended for a period of 1 year or,
27 in the case of a second or subsequent refusal, for a period of
28 18 months.

29 (8) Based on the determination of the hearing officer
30 pursuant to subsection (7) for both informal hearings under
31

1 subsection (4) and formal hearings under subsection (6), the
2 department shall:

3 (b) Sustain the suspension of the person's driving
4 privilege for a period of 6 months for a violation of s.
5 316.193, or for a period of 1 year if the driving privilege of
6 such person has been previously suspended as a result of a
7 violation of s. 316.193. The suspension period commences on
8 the date of the arrest or issuance of the notice of
9 suspension, whichever is later.

10 (10) A person whose driver's license is suspended
11 under subsection (1) or subsection (3) may apply for issuance
12 of a license for business or employment purposes only if the
13 person is otherwise eligible for the driving privilege
14 pursuant to s. 322.271.

15 (b) If the suspension of the driver's license of the
16 person arrested for a violation of s. 316.193, relating to
17 unlawful blood-alcohol level, is sustained, the person is not
18 eligible to receive a license for business or employment
19 purposes only pursuant to s. 322.271 until 30 days have
20 elapsed after the expiration of the last temporary permit
21 issued. If the driver is not issued a 10-day permit pursuant
22 to this section or s. 322.64 because he or she is ineligible
23 for the permit and the suspension for a violation of s.
24 316.193, relating to unlawful blood-alcohol level, is not
25 invalidated by the department, the driver is not eligible to
26 receive a business or employment license pursuant to s.
27 322.271 until 30 days have elapsed from the date of the
28 arrest.

29 (14) The decision of the department under this section
30 shall not be considered in any trial for a violation of s.
31 316.193, nor shall any written statement submitted by a person

1 | in his or her request for departmental review under this
2 | section be admissible into evidence against him or her in any
3 | such trial. The disposition of any related criminal
4 | proceedings shall not affect a suspension imposed pursuant to
5 | this section.

6 | Section 21. For the purpose of incorporating the
7 | amendment to section 316.193, Florida Statutes, in references
8 | thereto, paragraph (a) of subsection (1) and subsections (15)
9 | and (19) of section 322.2616, Florida Statutes, are reenacted
10 | to read:

11 | 322.2616 Suspension of license; persons under 21 years
12 | of age; right to review.--

13 | (1)(a) Notwithstanding s. 316.193, it is unlawful for
14 | a person under the age of 21 who has a blood-alcohol or
15 | breath-alcohol level of 0.02 or higher to drive or be in
16 | actual physical control of a motor vehicle.

17 | (15) The decision of the department under this section
18 | shall not be considered in any trial for a violation of s.
19 | 316.193, nor shall any written statement submitted by a person
20 | in his or her request for departmental review under this
21 | section be admissible into evidence against him or her in any
22 | such trial. The disposition of any related criminal
23 | proceedings shall not affect a suspension imposed under this
24 | section.

25 | (19) A violation of this section is neither a traffic
26 | infraction nor a criminal offense, nor does being detained
27 | pursuant to this section constitute an arrest. A violation of
28 | this section is subject to the administrative action
29 | provisions of this section, which are administered by the
30 | department through its administrative processes.
31 | Administrative actions taken pursuant to this section shall be

1 | recorded in the motor vehicle records maintained by the
2 | department. This section does not bar prosecution under s.
3 | 316.193. However, if the department suspends a person's
4 | license under s. 322.2615 for a violation of s. 316.193, it
5 | may not also suspend the person's license under this section
6 | for the same episode that was the basis for the suspension
7 | under s. 322.2615.

8 | Section 22. For the purpose of incorporating the
9 | amendment to section 316.193, Florida Statutes, in references
10 | thereto, paragraph (b) of subsection (1) of section 322.264,
11 | Florida Statutes, is reenacted to read:

12 | 322.264 "Habitual traffic offender" defined.--A
13 | "habitual traffic offender" is any person whose record, as
14 | maintained by the Department of Highway Safety and Motor
15 | Vehicles, shows that such person has accumulated the specified
16 | number of convictions for offenses described in subsection (1)
17 | or subsection (2) within a 5-year period:

18 | (1) Three or more convictions of any one or more of
19 | the following offenses arising out of separate acts:

20 | (b) Any violation of s. 316.193, former s. 316.1931,
21 | or former s. 860.01;

22 |
23 | Any violation of any federal law, any law of another state or
24 | country, or any valid ordinance of a municipality or county of
25 | another state similar to a statutory prohibition specified in
26 | subsection (1) or subsection (2) shall be counted as a
27 | violation of such prohibition. In computing the number of
28 | convictions, all convictions during the 5 years previous to
29 | July 1, 1972, will be used, provided at least one conviction
30 | occurs after that date. The fact that previous convictions may
31 | have resulted in suspension, revocation, or disqualification

1 | under another section does not exempt them from being used for
2 | suspension or revocation under this section as a habitual
3 | offender.

4 | Section 23. For the purpose of incorporating the
5 | amendment to section 316.193, Florida Statutes, in references
6 | thereto, paragraphs (a) and (c) of subsection (2) and
7 | subsection (4) of section 322.271, Florida Statutes, are
8 | reenacted to read:

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

11 | (2)(a) Upon such hearing, the person whose license has
12 | been suspended, canceled, or revoked may show that such
13 | suspension, cancellation, or revocation of his or her license
14 | causes a serious hardship and precludes the person's carrying
15 | out his or her normal business occupation, trade, or
16 | employment and that the use of the person's license in the
17 | normal course of his or her business is necessary to the
18 | proper support of the person or his or her family. Except as
19 | otherwise provided in this subsection, the department shall
20 | require proof of the successful completion of the applicable
21 | department-approved driver training course operating pursuant
22 | to s. 318.1451 or DUI program substance abuse education course
23 | and evaluation as provided in s. 316.193(5). Letters of
24 | recommendation from respected business persons in the
25 | community, law enforcement officers, or judicial officers may
26 | also be required to determine whether such person should be
27 | permitted to operate a motor vehicle on a restricted basis for
28 | business or employment use only and in determining whether
29 | such person can be trusted to so operate a motor vehicle. If a
30 | driver's license has been suspended under the point system or
31 | pursuant to s. 322.2615, the department shall require proof of

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

1 times for refusal to submit to a test pursuant to s. 322.2615
2 or former s. 322.261.

3 (c) For the purpose of this section, a previous
4 conviction of driving under the influence, driving while
5 intoxicated, driving with an unlawful blood-alcohol level, or
6 any other similar alcohol-related or drug-related offense
7 outside this state or a previous conviction of former s.
8 316.1931, former s. 316.028, or former s. 860.01 shall be
9 considered a previous conviction for violation of s. 316.193.

10 (4) Notwithstanding the provisions of s. 322.28(2)(e),
11 a person whose driving privilege has been permanently revoked
12 because he or she has been convicted of DUI manslaughter in
13 violation of s. 316.193 and has no prior convictions for
14 DUI-related offenses may, upon the expiration of 5 years after
15 the date of such revocation or the expiration of 5 years after
16 the termination of any term of incarceration under s. 316.193
17 or former s. 316.1931, whichever date is later, petition the
18 department for reinstatement of his or her driving privilege.

19 (a) Within 30 days after the receipt of such a
20 petition, the department shall afford the petitioner an
21 opportunity for a hearing. At the hearing, the petitioner must
22 demonstrate to the department that he or she:

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

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

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

29 4. Has completed a DUI program licensed by the
30 department.

31

1 (b) At such hearing, the department shall determine
2 the petitioner's qualification, fitness, and need to drive.
3 Upon such determination, the department may, in its
4 discretion, reinstate the driver's license of the petitioner.
5 Such reinstatement must be made subject to the following
6 qualifications:

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

9 2. Such person must be supervised by a DUI program
10 licensed by the department and report to the program for such
11 supervision and education at least four times a year or
12 additionally as required by the program for the remainder of
13 the revocation period. Such supervision shall include
14 evaluation, education, referral into treatment, and other
15 activities required by the department.

16 (c) Such person must assume the reasonable costs of
17 supervision. If such person fails to comply with the required
18 supervision, the program shall report the failure to the
19 department, and the department shall cancel such person's
20 driving privilege.

21 (d) If, after reinstatement, such person is convicted
22 of an offense for which mandatory revocation of his or her
23 license is required, the department shall revoke his or her
24 driving privilege.

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

28 Section 24. For the purpose of incorporating the
29 amendment to section 316.193, Florida Statutes, in references
30 thereto, subsection (2) of section 322.28, Florida Statutes,
31 is reenacted to read:

1 322.28 Period of suspension or revocation.--

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

4 (a) Upon conviction of the driver, the court, along
5 with imposing sentence, shall revoke the driver's license or
6 driving privilege of the person so convicted, effective on the
7 date of conviction, and shall prescribe the period of such
8 revocation in accordance with the following provisions:

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

13 2. Upon a second conviction for an offense that occurs
14 within a period of 5 years after the date of a prior
15 conviction for a violation of the provisions of s. 316.193 or
16 former s. 316.1931 or a combination of such sections, the
17 driver's license or driving privilege shall be revoked for not
18 less than 5 years.

19 3. Upon a third conviction for an offense that occurs
20 within a period of 10 years after the date of a prior
21 conviction for the violation of the provisions of s. 316.193
22 or former s. 316.1931 or a combination of such sections, the
23 driver's license or driving privilege shall be revoked for not
24 less than 10 years.

25
26 For the purposes of this paragraph, a previous conviction
27 outside this state for driving under the influence, driving
28 while intoxicated, driving with an unlawful blood-alcohol
29 level, or any other alcohol-related or drug-related traffic
30 offense similar to the offense of driving under the influence
31 as proscribed by s. 316.193 will be considered a previous

1 conviction for violation of s. 316.193, and a conviction for
2 violation of former s. 316.028, former s. 316.1931, or former
3 s. 860.01 is considered a conviction for violation of s.
4 316.193.

5 (b) If the period of revocation was not specified by
6 the court at the time of imposing sentence or within 30 days
7 thereafter, and is not otherwise specified by law, the
8 department shall forthwith revoke the driver's license or
9 driving privilege for the maximum period applicable under
10 paragraph (a) for a first conviction and for the minimum
11 period applicable under paragraph (a) for any subsequent
12 convictions. The driver may, within 30 days after such
13 revocation by the department, petition the court for further
14 hearing on the period of revocation, and the court may reopen
15 the case and determine the period of revocation within the
16 limits specified in paragraph (a).

17 (c) The forfeiture of bail bond, not vacated within 20
18 days, in any prosecution for the offense of driving while
19 under the influence of alcoholic beverages, chemical
20 substances, or controlled substances to the extent of
21 depriving the defendant of his or her normal faculties shall
22 be deemed equivalent to a conviction for the purposes of this
23 paragraph, and the department shall forthwith revoke the
24 defendant's driver's license or driving privilege for the
25 maximum period applicable under paragraph (a) for a first
26 conviction and for the minimum period applicable under
27 paragraph (a) for a second or subsequent conviction; however,
28 if the defendant is later convicted of the charge, the period
29 of revocation imposed by the department for such conviction
30 shall not exceed the difference between the applicable maximum
31 for a first conviction or minimum for a second or subsequent

1 conviction and the revocation period under this subsection
2 that has actually elapsed; upon conviction of such charge, the
3 court may impose revocation for a period of time as specified
4 in paragraph (a). This paragraph does not apply if an
5 appropriate motion contesting the forfeiture is filed within
6 the 20-day period.

7 (d) When any driver's license or driving privilege has
8 been revoked pursuant to the provisions of this section, the
9 department shall not grant a new license, except upon
10 reexamination of the licensee after the expiration of the
11 period of revocation so prescribed. However, the court may, in
12 its sound discretion, issue an order of reinstatement on a
13 form furnished by the department which the person may take to
14 any driver's license examining office for reinstatement by the
15 department pursuant to s. 322.282.

16 (e) The court shall permanently revoke the driver's
17 license or driving privilege of a person who has been
18 convicted four times for violation of s. 316.193 or former s.
19 316.1931 or a combination of such sections. The court shall
20 permanently revoke the driver's license or driving privilege
21 of any person who has been convicted of DUI manslaughter in
22 violation of s. 316.193. If the court has not permanently
23 revoked such driver's license or driving privilege within 30
24 days after imposing sentence, the department shall permanently
25 revoke the driver's license or driving privilege pursuant to
26 this paragraph. No driver's license or driving privilege may
27 be issued or granted to any such person. This paragraph
28 applies only if at least one of the convictions for violation
29 of s. 316.193 or former s. 316.1931 was for a violation that
30 occurred after July 1, 1982. For the purposes of this
31 paragraph, a conviction for violation of former s. 316.028,

1 former s. 316.1931, or former s. 860.01 is also considered a
2 conviction for violation of s. 316.193. Also, a conviction of
3 driving under the influence, driving while intoxicated,
4 driving with an unlawful blood-alcohol level, or any other
5 similar alcohol-related or drug-related traffic offense
6 outside this state is considered a conviction for the purposes
7 of this paragraph.

8 Section 25. For the purpose of incorporating the
9 amendment to section 316.193, Florida Statutes, in references
10 thereto, paragraph (a) of subsection (2) of section 322.282,
11 Florida Statutes, is reenacted to read:

12 322.282 Procedure when court revokes or suspends
13 license or driving privilege and orders reinstatement.--When a
14 court suspends or revokes a person's license or driving
15 privilege and, in its discretion, orders reinstatement as
16 provided by s. 322.28(2)(d) or former s. 322.261(5):

17 (2)(a) The court shall issue an order of
18 reinstatement, on a form to be furnished by the department,
19 which the person may take to any driver's license examining
20 office. The department shall issue a temporary driver's permit
21 to a licensee who presents the court's order of reinstatement,
22 proof of completion of a department-approved driver training
23 or substance abuse education course, and a written request for
24 a hearing under s. 322.271. The permit shall not be issued if
25 a record check by the department shows that the person has
26 previously been convicted for a violation of s. 316.193,
27 former s. 316.1931, former s. 316.028, former s. 860.01, or a
28 previous conviction outside this state for driving under the
29 influence, driving while intoxicated, driving with an unlawful
30 blood-alcohol level, or any similar alcohol-related or
31 drug-related traffic offense; that the person's driving

1 | privilege has been previously suspended for refusal to submit
2 | to a lawful test of breath, blood, or urine; or that the
3 | person is otherwise not entitled to issuance of a driver's
4 | license. This paragraph shall not be construed to prevent the
5 | reinstatement of a license or driving privilege that is
6 | presently suspended for driving with an unlawful blood-alcohol
7 | level or a refusal to submit to a breath, urine, or blood test
8 | and is also revoked for a conviction for a violation of s.
9 | 316.193 or former s. 316.1931, if the suspension and
10 | revocation arise out of the same incident.

11 | Section 26. For the purpose of incorporating the
12 | amendment to section 316.193, Florida Statutes, in references
13 | thereto, paragraph (a) of subsection (1) of section 322.291,
14 | Florida Statutes, is reenacted to read:

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

18 | (1) Whose driving privilege has been revoked:

19 | (a) Upon conviction for:

20 | 1. Driving, or being in actual physical control of,
21 | any vehicle while under the influence of alcoholic beverages,
22 | any chemical substance set forth in s. 877.111, or any
23 | substance controlled under chapter 893, in violation of s.
24 | 316.193;

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

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

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

1 5. Reckless driving; or
2
3 shall, before the driving privilege may be reinstated, present
4 to the department proof of enrollment in a department-approved
5 advanced driver improvement course operating pursuant to s.
6 318.1451 or a substance abuse education course conducted by a
7 DUI program licensed pursuant to s. 322.292, which shall
8 include a psychosocial evaluation and treatment, if referred.
9 If the person fails to complete such course or evaluation
10 within 90 days after reinstatement, or subsequently fails to
11 complete treatment, if referred, the DUI program shall notify
12 the department of the failure. Upon receipt of the notice, the
13 department shall cancel the offender's driving privilege,
14 notwithstanding the expiration of the suspension or revocation
15 of the driving privilege. The department may temporarily
16 reinstate the driving privilege upon verification from the DUI
17 program that the offender has completed the education course
18 and evaluation requirement and has reentered and is currently
19 participating in treatment. If the DUI program notifies the
20 department of the second failure to complete treatment, the
21 department shall reinstate the driving privilege only after
22 notice of completion of treatment from the DUI program.

23 Section 27. For the purpose of incorporating the
24 amendment to section 316.193, Florida Statutes, in references
25 thereto, paragraph (a) of subsection (9) of section 322.34,
26 Florida Statutes, is reenacted to read:

27 322.34 Driving while license suspended, revoked,
28 canceled, or disqualified.--

29 (9)(a) A motor vehicle that is driven by a person
30 under the influence of alcohol or drugs in violation of s.
31 316.193 is subject to seizure and forfeiture under ss.

1 932.701-932.707 and is subject to liens for recovering,
2 towing, or storing vehicles under s. 713.78 if, at the time of
3 the offense, the person's driver's license is suspended,
4 revoked, or canceled as a result of a prior conviction for
5 driving under the influence.

6 Section 28. For the purpose of incorporating the
7 amendment to section 316.193, Florida Statutes, in references
8 thereto, section 322.44, Florida Statutes, is reenacted to
9 read:

10 322.44 Driver License Compact.--The Driver License
11 Compact is hereby enacted into law and entered into with all
12 other jurisdictions legally joining therein in the form
13 substantially as follows:

14
15 ARTICLE I

16
17 FINDINGS AND DECLARATION OF POLICY.--

18 (1) The party states find that:

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

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

26 (c) The continuance in force of a license to drive is
27 predicated upon compliance with laws and ordinances relating
28 to the operation of motor vehicles, in whichever jurisdiction
29 the vehicle is operated.

30 (2) It is the policy of each of the party states to:
31

1 (a) Promote compliance with the laws, ordinances, and
2 administrative rules and regulations relating to the operation
3 of motor vehicles by their operators in each of the
4 jurisdictions where such operators drive motor vehicles;

5 (b) Make the reciprocal recognition of licenses to
6 drive and eligibility therefor more just and equitable by
7 considering the overall compliance with motor vehicle laws,
8 ordinances, and administrative rules and regulations as a
9 condition precedent to the continuance or issuance of any
10 license by reason of which the licensee is authorized or
11 permitted to operate a motor vehicle in any of the party
12 states.

13
14 ARTICLE II

15
16 DEFINITIONS.--As used in this compact:

17 (1) "State" means a state, territory or possession of
18 the United States, the District of Columbia, or the
19 Commonwealth of Puerto Rico.

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

23 (3) "Conviction" means a conviction of any offense
24 related to the use or operation of a motor vehicle which is
25 prohibited by state law, municipal ordinance, or
26 administrative rule or regulation, or a forfeiture of bail,
27 bond, or other security deposited to secure appearance by a
28 person charged with having committed any such offense, and
29 which conviction or forfeiture is required to be reported to
30 the licensing authority.
31

1 ARTICLE III

2
3 REPORTS OF CONVICTION.--The licensing authority of a
4 party state shall report each conviction of a person from
5 another party state occurring within its jurisdiction to the
6 licensing authority of the home state of the licensee. Such
7 report shall clearly identify the person convicted; describe
8 the violation specifying the section of the statute, code, or
9 ordinance violated; identify the court in which action was
10 taken; indicate whether a plea of guilty or not guilty was
11 entered or the conviction was a result of the forfeiture of
12 bail, bond, or other security; and shall include any special
13 findings made in connection therewith.

14
15 ARTICLE IV

16
17 EFFECT OF CONVICTION.--

18 (1) The licensing authority in the home state, for the
19 purposes of suspension, revocation, or limitation of the
20 license to operate a motor vehicle, shall give the same effect
21 to the conduct reported, pursuant to article III, as it would
22 if such conduct had occurred in the home state, in the case of
23 convictions for:

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

27 (b) Driving a motor vehicle while under the influence
28 of alcoholic beverages or a narcotic drug, or under the
29 influence of any other drug to a degree which renders the
30 driver incapable of safely driving a motor vehicle, as
31 provided by s. 316.193;

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

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

6 (2) As to other convictions, reported pursuant to
7 article III, the licensing authority in the home state shall
8 give such effect to the conduct as is provided by the laws of
9 the home state.

10
11 ARTICLE V

12
13 APPLICATIONS FOR NEW LICENSES.--Upon application for a
14 license to drive, the licensing authority in a party state
15 shall ascertain whether the applicant has ever held, or is the
16 holder of, a license to drive issued by any other party state.
17 The licensing authority in the state where application is made
18 shall not issue a license to drive to the applicant if:

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

22 (2) The applicant has held such a license, but the
23 same has been revoked by reason, in whole or in part, of a
24 violation and if such revocation has not terminated, except
25 that after the expiration of 1 year from the date the license
26 was revoked, such person may make application for a new
27 license if permitted by law. The licensing authority may
28 refuse to issue a license to any such applicant if, after
29 investigation, the licensing authority determines that it will
30 not be safe to grant to such person the privilege of driving a
31 motor vehicle on the public highways.

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

4 (2) Any party state may withdraw from this compact by
5 enacting a statute repealing the same, but no such withdrawal
6 shall take effect until 6 months after the executive head of
7 the withdrawing state has given notice of the withdrawal to
8 the executive heads of all other party states. No withdrawal
9 shall affect the validity or applicability by the licensing
10 authorities of states remaining party to the compact of any
11 report of conviction occurring prior to the withdrawal.

12
13 ARTICLE IX
14

15 CONSTRUCTION AND SEVERABILITY.--This compact shall be
16 liberally construed so as to effectuate the purposes thereof.
17 The provisions of this compact shall be severable; and if any
18 phrase, clause, sentence, or provision of this compact is
19 declared to be contrary to the constitution of any party state
20 or of the United States or the applicability thereof to any
21 government, agency, person, or circumstance is held invalid,
22 the validity of the remainder of this compact and the
23 applicability thereof to any government, agency, person, or
24 circumstance shall not be affected thereby. If this compact
25 shall be held contrary to the constitution of any state party
26 thereto, the compact shall remain in full force and effect as
27 to the remaining states and in full force and effect as to the
28 state affected as to all severable matters.

29 Section 29. For the purpose of incorporating the
30 amendment to section 316.193, Florida Statutes, in references
31

1 thereto, subsection (3) of section 322.62, Florida Statutes,
2 is reenacted to read:

3 322.62 Driving under the influence; commercial motor
4 vehicle operators.--

5 (3) This section does not supersede s. 316.193.
6 Nothing in this section prohibits the prosecution of a person
7 who drives a commercial motor vehicle for driving under the
8 influence of alcohol or controlled substances whether or not
9 such person is also prosecuted for a violation of this
10 section.

11 Section 30. For the purpose of incorporating the
12 amendment to section 316.193, Florida Statutes, in references
13 thereto, paragraph (d) of subsection (2) and subsection (6) of
14 section 322.63, Florida Statutes, are reenacted to read:

15 322.63 Alcohol or drug testing; commercial motor
16 vehicle operators.--

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

22 (d) The administration of one test under paragraph
23 (a), paragraph (b), or paragraph (c) shall not preclude the
24 administration of a different test under paragraph (a),
25 paragraph (b), or paragraph (c). However, a urine test may not
26 be used to determine alcohol concentration and a breath test
27 may not be used to determine the presence of controlled
28 substances or chemical substances in a person's body.
29 Notwithstanding the provisions of this paragraph, in the event
30 a Florida licensee has been convicted in another state for an
31 offense substantially similar to s. 316.193 or to s. 322.62,

1 | which conviction was based upon evidence of test results
2 | prohibited by this paragraph, that out-of-state conviction
3 | shall constitute a conviction for the purposes of this
4 | chapter.

5 | (6) Notwithstanding any provision of law pertaining to
6 | the confidentiality of hospital records or other medical
7 | records, information relating to the alcohol content of a
8 | person's blood or the presence of chemical substances or
9 | controlled substances in a person's blood obtained pursuant to
10 | this section shall be released to a court, prosecuting
11 | attorney, defense attorney, or law enforcement officer in
12 | connection with an alleged violation of s. 316.193 or s.
13 | 322.62 upon request for such information.

14 | Section 31. For the purpose of incorporating the
15 | amendment to section 316.193, Florida Statutes, in references
16 | thereto, subsections (1) and (2), paragraph (a) of subsection
17 | (7), paragraph (b) of subsection (8), and subsections (14) and
18 | (15) of section 322.64, Florida Statutes, are reenacted to
19 | read:

20 | 322.64 Holder of commercial driver's license; driving
21 | with unlawful blood-alcohol level; refusal to submit to
22 | breath, urine, or blood test.--

23 | (1)(a) A law enforcement officer or correctional
24 | officer shall, on behalf of the department, disqualify from
25 | operating any commercial motor vehicle a person who while
26 | operating or in actual physical control of a commercial motor
27 | vehicle is arrested for a violation of s. 316.193, relating to
28 | unlawful blood-alcohol level or breath-alcohol level, or a
29 | person who has refused to submit to a breath, urine, or blood
30 | test authorized by s. 322.63 arising out of the operation or
31 | actual physical control of a commercial motor vehicle. Upon

1 | disqualification of the person, the officer shall take the
2 | person's driver's license and issue the person a 10-day
3 | temporary permit if the person is otherwise eligible for the
4 | driving privilege and shall issue the person a notice of
5 | disqualification. If the person has been given a blood,
6 | breath, or urine test, the results of which are not available
7 | to the officer at the time of the arrest, the agency employing
8 | the officer shall transmit such results to the department
9 | within 5 days after receipt of the results. If the department
10 | then determines that the person was arrested for a violation
11 | of s. 316.193 and that the person had a blood-alcohol level or
12 | breath-alcohol level of 0.08 or higher, the department shall
13 | disqualify the person from operating a commercial motor
14 | vehicle pursuant to subsection (3).

15 | (b) The disqualification under paragraph (a) shall be
16 | pursuant to, and the notice of disqualification shall inform
17 | the driver of, the following:

18 | 1.a. The driver refused to submit to a lawful breath,
19 | blood, or urine test and he or she is disqualified from
20 | operating a commercial motor vehicle for a period of 1 year,
21 | for a first refusal, or permanently, if he or she has
22 | previously been disqualified as a result of a refusal to
23 | submit to such a test; or

24 | b. The driver violated s. 316.193 by driving with an
25 | unlawful blood-alcohol level and he or she is disqualified
26 | from operating a commercial motor vehicle for a period of 6
27 | months for a first offense or for a period of 1 year if he or
28 | she has previously been disqualified, or his or her driving
29 | privilege has been previously suspended, for a violation of s.
30 | 316.193.

31 |

1 2. The disqualification period shall commence on the
2 date of arrest or issuance of notice of disqualification,
3 whichever is later.

4 3. The driver may request a formal or informal review
5 of the disqualification by the department within 10 days after
6 the date of arrest or issuance of notice of disqualification,
7 whichever is later.

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

11 5. The driver may submit to the department any
12 materials relevant to the arrest.

13 (2) Except as provided in paragraph (1)(a), the law
14 enforcement officer shall forward to the department, within 5
15 days after the date of the arrest or the issuance of the
16 notice of disqualification, whichever is later, a copy of the
17 notice of disqualification, the driver's license of the person
18 arrested, and a report of the arrest, including, if
19 applicable, an affidavit stating the officer's grounds for
20 belief that the person arrested was in violation of s.
21 316.193; the results of any breath or blood test or an
22 affidavit stating that a breath, blood, or urine test was
23 requested by a law enforcement officer or correctional officer
24 and that the person arrested refused to submit; a copy of the
25 citation issued to the person arrested; and the officer's
26 description of the person's field sobriety test, if any. The
27 failure of the officer to submit materials within the 5-day
28 period specified in this subsection or subsection (1) shall
29 not affect the department's ability to consider any evidence
30 submitted at or prior to the hearing. The officer may also
31

1 submit a copy of a videotape of the field sobriety test or the
2 attempt to administer such test.

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

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

12 1. Whether the arresting law enforcement officer had
13 probable cause to believe that the person was driving or in
14 actual physical control of a commercial motor vehicle in this
15 state while he or she had any alcohol, chemical substances, or
16 controlled substances in his or her body.

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

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

21 (8) Based on the determination of the hearing officer
22 pursuant to subsection (7) for both informal hearings under
23 subsection (4) and formal hearings under subsection (6), the
24 department shall:

25 (b) Sustain the disqualification for a period of 6
26 months for a violation of s. 316.193 or for a period of 1 year
27 if the person has been previously disqualified from operating
28 a commercial motor vehicle or his or her driving privilege has
29 been previously suspended as a result of a violation of s.
30 316.193. The disqualification period commences on the date of
31

1 | the arrest or issuance of the notice of disqualification,
2 | whichever is later.

3 | (14) The decision of the department under this section
4 | shall not be considered in any trial for a violation of s.
5 | 316.193, s. 322.61, or s. 322.62, nor shall any written
6 | statement submitted by a person in his or her request for
7 | departmental review under this section be admissible into
8 | evidence against him or her in any such trial. The disposition
9 | of any related criminal proceedings shall not affect a
10 | disqualification imposed pursuant to this section.

11 | (15) This section does not preclude the suspension of
12 | the driving privilege pursuant to s. 322.2615. The driving
13 | privilege of a person who has been disqualified from operating
14 | a commercial motor vehicle also may be suspended for a
15 | violation of s. 316.193.

16 | Section 32. For the purpose of incorporating the
17 | amendment to section 316.193, Florida Statutes, in references
18 | thereto, paragraph (f) of subsection (4) of section 323.001,
19 | Florida Statutes, is reenacted to read:

20 | 323.001 Wrecker operator storage facilities; vehicle
21 | holds.--

22 | (4) The requirements for a written hold apply when the
23 | following conditions are present:

24 | (f) The vehicle is impounded or immobilized pursuant
25 | to s. 316.193 or s. 322.34; or

26 | Section 33. For the purpose of incorporating the
27 | amendment to section 316.193, Florida Statutes, in references
28 | thereto, subsection (6) of section 327.35, Florida Statutes,
29 | is reenacted to read:

30 | 327.35 Boating under the influence; penalties;
31 | "designated drivers".--

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

4 (a) For the first conviction, the court shall place
5 the defendant on probation for a period not to exceed 1 year
6 and, as a condition of such probation, shall order the
7 defendant to participate in public service or a community work
8 project for a minimum of 50 hours. The court must also, as a
9 condition of probation, order the impoundment or
10 immobilization of the vessel that was operated by or in the
11 actual control of the defendant or any one vehicle registered
12 in the defendant's name at the time of impoundment or
13 immobilization, for a period of 10 days or for the unexpired
14 term of any lease or rental agreement that expires within 10
15 days. The impoundment or immobilization must not occur
16 concurrently with the incarceration of the defendant. The
17 impoundment or immobilization order may be dismissed in
18 accordance with paragraph (e) or paragraph (f). The total
19 period of probation and incarceration may not exceed 1 year.

20 (b) For the second conviction for an offense that
21 occurs within a period of 5 years after the date of a prior
22 conviction for violation of this section, the court shall
23 order imprisonment for not less than 10 days. The court must
24 also, as a condition of probation, order the impoundment or
25 immobilization of the vessel that was operated by or in the
26 actual control of the defendant or any one vehicle registered
27 in the defendant's name at the time of impoundment or
28 immobilization, for a period of 30 days or for the unexpired
29 term of any lease or rental agreement that expires within 30
30 days. The impoundment or immobilization must not occur
31 concurrently with the incarceration of the defendant. The

1 | impoundment or immobilization order may be dismissed in
2 | accordance with paragraph (e) or paragraph (f). At least 48
3 | hours of confinement must be consecutive.

4 | (c) For the third or subsequent conviction for an
5 | offense that occurs within a period of 10 years after the date
6 | of a prior conviction for violation of this section, the court
7 | shall order imprisonment for not less than 30 days. The court
8 | must also, as a condition of probation, order the impoundment
9 | or immobilization of the vessel that was operated by or in the
10 | actual control of the defendant or any one vehicle registered
11 | in the defendant's name at the time of impoundment or
12 | immobilization, for a period of 90 days or for the unexpired
13 | term of any lease or rental agreement that expires within 90
14 | days. The impoundment or immobilization must not occur
15 | concurrently with the incarceration of the defendant. The
16 | impoundment or immobilization order may be dismissed in
17 | accordance with paragraph (e) or paragraph (f). At least 48
18 | hours of confinement must be consecutive.

19 | (d) The court must at the time of sentencing the
20 | defendant issue an order for the impoundment or immobilization
21 | of a vessel. Within 7 business days after the date that the
22 | court issues the order of impoundment, and once again 30
23 | business days before the actual impoundment or immobilization
24 | of the vessel, the clerk of the court must send notice by
25 | certified mail, return receipt requested, to the registered
26 | owner of each vessel, if the registered owner is a person
27 | other than the defendant, and to each person of record
28 | claiming a lien against the vessel.

29 | (e) A person who owns but was not operating the vessel
30 | when the offense occurred may submit to the court a police
31 | report indicating that the vessel was stolen at the time of

1 | the offense or documentation of having purchased the vessel
2 | after the offense was committed from an entity other than the
3 | defendant or the defendant's agent. If the court finds that
4 | the vessel was stolen or that the sale was not made to
5 | circumvent the order and allow the defendant continued access
6 | to the vessel, the order must be dismissed and the owner of
7 | the vessel will incur no costs. If the court denies the
8 | request to dismiss the order of impoundment or immobilization,
9 | the petitioner may request an evidentiary hearing.

10 | (f) A person who owns but was not operating the vessel
11 | when the offense occurred, and whose vessel was stolen or who
12 | purchased the vessel after the offense was committed directly
13 | from the defendant or the defendant's agent, may request an
14 | evidentiary hearing to determine whether the impoundment or
15 | immobilization should occur. If the court finds that either
16 | the vessel was stolen or the purchase was made without
17 | knowledge of the offense, that the purchaser had no
18 | relationship to the defendant other than through the
19 | transaction, and that such purchase would not circumvent the
20 | order and allow the defendant continued access to the vessel,
21 | the order must be dismissed and the owner of the vessel will
22 | incur no costs.

23 | (g) All costs and fees for the impoundment or
24 | immobilization, including the cost of notification, must be
25 | paid by the owner of the vessel or, if the vessel is leased or
26 | rented, by the person leasing or renting the vessel, unless
27 | the impoundment or immobilization order is dismissed.

28 | (h) The person who owns a vessel that is impounded or
29 | immobilized under this paragraph, or a person who has a lien
30 | of record against such a vessel and who has not requested a
31 | review of the impoundment pursuant to paragraph (e) or

1 paragraph (f), may, within 10 days after the date that person
2 has knowledge of the location of the vessel, file a complaint
3 in the county in which the owner resides to determine whether
4 the vessel was wrongfully taken or withheld from the owner or
5 lienholder. Upon the filing of a complaint, the owner or
6 lienholder may have the vessel released by posting with the
7 court a bond or other adequate security equal to the amount of
8 the costs and fees for impoundment or immobilization,
9 including towing or storage, to ensure the payment of the
10 costs and fees if the owner or lienholder does not prevail.
11 When the bond is posted and the fee is paid as set forth in s.
12 28.24, the clerk of the court shall issue a certificate
13 releasing the vessel. At the time of release, after reasonable
14 inspection, the owner or lienholder must give a receipt to the
15 towing or storage company indicating any loss or damage to the
16 vessel or to the contents of the vessel.

17 (i) A defendant, in the court's discretion, may be
18 required to serve all or any portion of a term of imprisonment
19 to which the defendant has been sentenced pursuant to this
20 section in a residential alcoholism treatment program or a
21 residential drug abuse treatment program. Any time spent in
22 such a program must be credited by the court toward the term
23 of imprisonment.

24
25 For the purposes of this section, any conviction for a
26 violation of s. 316.193, a previous conviction for the
27 violation of former s. 316.1931, former s. 860.01, or former
28 s. 316.028, or a previous conviction outside this state for
29 driving under the influence, driving while intoxicated,
30 driving with an unlawful blood-alcohol level, driving with an
31 unlawful breath-alcohol level, or any other similar

1 alcohol-related or drug-related traffic offense, is also
2 considered a previous conviction for violation of this
3 section.

4 Section 34. For the purpose of incorporating the
5 amendment to section 316.193, Florida Statutes, in references
6 thereto, subsection (10) of section 397.405, Florida Statutes,
7 is reenacted to read:

8 397.405 Exemptions from licensure.--The following are
9 exempt from the licensing provisions of this chapter:

10 (10) DUI education and screening services provided
11 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and
12 322.291. Persons or entities providing treatment services must
13 be licensed under this chapter unless exempted from licensing
14 as provided in this section.

15
16 The exemptions from licensure in this section do not apply to
17 any service provider that receives an appropriation, grant, or
18 contract from the state to operate as a service provider as
19 defined in this chapter or to any substance abuse program
20 regulated pursuant to s. 397.406. Furthermore, this chapter
21 may not be construed to limit the practice of a physician
22 licensed under chapter 458 or chapter 459, a psychologist
23 licensed under chapter 490, or a psychotherapist licensed
24 under chapter 491 who provides substance abuse treatment, so
25 long as the physician, psychologist, or psychotherapist does
26 not represent to the public that he or she is a licensed
27 service provider and does not provide services to clients
28 pursuant to part V of this chapter. Failure to comply with any
29 requirement necessary to maintain an exempt status under this
30 section is a misdemeanor of the first degree, punishable as
31 provided in s. 775.082 or s. 775.083.

1 Section 35. For the purpose of incorporating the
2 amendment to section 316.193, Florida Statutes, in references
3 thereto, paragraph (c) of subsection (17) of section 440.02,
4 Florida Statutes, is reenacted to read:

5 440.02 Definitions.--When used in this chapter, unless
6 the context clearly requires otherwise, the following terms
7 shall have the following meanings:

8 (17)

9 (c) "Employment" does not include service performed by
10 or as:

11 1. Domestic servants in private homes.

12 2. Agricultural labor performed on a farm in the
13 employ of a bona fide farmer, or association of farmers, that
14 employs 5 or fewer regular employees and that employs fewer
15 than 12 other employees at one time for seasonal agricultural
16 labor that is completed in less than 30 days, provided such
17 seasonal employment does not exceed 45 days in the same
18 calendar year. The term "farm" includes stock, dairy, poultry,
19 fruit, fur-bearing animals, fish, and truck farms, ranches,
20 nurseries, and orchards. The term "agricultural labor"
21 includes field foremen, timekeepers, checkers, and other farm
22 labor supervisory personnel.

23 3. Professional athletes, such as professional boxers,
24 wrestlers, baseball, football, basketball, hockey, polo,
25 tennis, jai alai, and similar players, and motorsports teams
26 competing in a motor racing event as defined in s. 549.08.

27 4. Labor under a sentence of a court to perform
28 community services as provided in s. 316.193.

29 5. State prisoners or county inmates, except those
30 performing services for private employers or those enumerated
31 in s. 948.03(8)(a).

1 Section 36. For the purpose of incorporating the
2 amendment to section 316.193, Florida Statutes, in references
3 thereto, paragraph (b) of subsection (7) of section 440.09,
4 Florida Statutes, is reenacted to read:

5 440.09 Coverage.--

6 (7)

7 (b) If the employee has, at the time of the injury, a
8 blood alcohol level equal to or greater than the level
9 specified in s. 316.193, or if the employee has a positive
10 confirmation of a drug as defined in this act, it is presumed
11 that the injury was occasioned primarily by the intoxication
12 of, or by the influence of the drug upon, the employee. If the
13 employer has implemented a drug-free workplace, this
14 presumption may be rebutted only by evidence that there is no
15 reasonable hypothesis that the intoxication or drug influence
16 contributed to the injury. In the absence of a drug-free
17 workplace program, this presumption may be rebutted by clear
18 and convincing evidence that the intoxication or influence of
19 the drug did not contribute to the injury. Percent by weight
20 of alcohol in the blood must be based upon grams of alcohol
21 per 100 milliliters of blood. If the results are positive, the
22 testing facility must maintain the specimen for a minimum of
23 90 days. Blood serum may be used for testing purposes under
24 this chapter; however, if this test is used, the presumptions
25 under this section do not arise unless the blood alcohol level
26 is proved to be medically and scientifically equivalent to or
27 greater than the comparable blood alcohol level that would
28 have been obtained if the test were based on percent by weight
29 of alcohol in the blood. However, if, before the accident, the
30 employer had actual knowledge of and expressly acquiesced in
31 the employee's presence at the workplace while under the

1 | influence of such alcohol or drug, the presumptions specified
2 | in this subsection do not apply.

3 | Section 37. For the purpose of incorporating the
4 | amendment to section 316.193, Florida Statutes, in references
5 | thereto, paragraph (d) of subsection (1) of section 493.6106,
6 | Florida Statutes, is reenacted to read:

7 | 493.6106 License requirements; posting.--

8 | (1) Each individual licensed by the department must:

9 | (d) Not be a chronic and habitual user of alcoholic
10 | beverages to the extent that her or his normal faculties are
11 | impaired; not have been committed under chapter 397, former
12 | chapter 396, or a similar law in any other state; not have
13 | been found to be a habitual offender under s. 856.011(3) or a
14 | similar law in any other state; and not have had two or more
15 | convictions under s. 316.193 or a similar law in any other
16 | state within the 3-year period immediately preceding the date
17 | the application was filed, unless the individual establishes
18 | that she or he is not currently impaired and has successfully
19 | completed a rehabilitation course.

20 | Section 38. For the purpose of incorporating the
21 | amendment to section 316.193, Florida Statutes, in references
22 | thereto, subsection (4) of section 627.758, Florida Statutes,
23 | is reenacted to read:

24 | 627.758 Surety on auto club traffic arrest bond;
25 | conditions, limit; bail bond.--

26 | (4) Notwithstanding the provisions of s. 626.311 or
27 | chapter 648, any surety insurer identified in a guaranteed
28 | traffic arrest bond certificate or any licensed general lines
29 | agent of the surety insurer may execute a bail bond for the
30 | automobile club or association member identified in the
31 | guaranteed traffic arrest bond certificate in an amount not in

1 excess of \$5,000 for any violation of chapter 316 or any
2 similar traffic law or ordinance except for driving under the
3 influence of alcoholic beverages, chemical substances, or
4 controlled substances, as prohibited by s. 316.193.

5 Section 39. For the purpose of incorporating the
6 amendment to section 316.193, Florida Statutes, in references
7 thereto, paragraph (f) of subsection (2) and paragraph (f) of
8 subsection (10) of section 790.06, Florida Statutes, are
9 reenacted to read:

10 790.06 License to carry concealed weapon or firearm.--

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

13 (f) Does not chronically and habitually use alcoholic
14 beverages or other substances to the extent that his or her
15 normal faculties are impaired. It shall be presumed that an
16 applicant chronically and habitually uses alcoholic beverages
17 or other substances to the extent that his or her normal
18 faculties are impaired if the applicant has been committed
19 under chapter 397 or under the provisions of former chapter
20 396 or has been convicted under s. 790.151 or has been deemed
21 a habitual offender under s. 856.011(3), or has had two or
22 more convictions under s. 316.193 or similar laws of any other
23 state, within the 3-year period immediately preceding the date
24 on which the application is submitted;

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

27 (f) Is convicted of a second violation of s. 316.193,
28 or a similar law of another state, within 3 years of a
29 previous conviction of such section, or similar law of another
30 state, even though the first violation may have occurred prior
31 to the date on which the application was submitted;

1 Section 40. For the purpose of incorporating the
2 amendment to section 316.193, Florida Statutes, in references
3 thereto, subsection (2) of section 903.36, Florida Statutes,
4 is reenacted to read:

5 903.36 Guaranteed arrest bond certificates as cash
6 bail.--

7 (2) The execution of a bail bond by a licensed general
8 lines agent of a surety insurer for the automobile club or
9 association member identified in the guaranteed traffic arrest
10 bond certificate, as provided in s. 627.758(4), shall be
11 accepted as bail in an amount not to exceed \$5,000 for the
12 appearance of the person named in the certificate in any court
13 to answer for the violation of a provision of chapter 316 or a
14 similar traffic law or ordinance, except driving under the
15 influence of alcoholic beverages, chemical substances, or
16 controlled substances, as prohibited by s. 316.193.
17 Presentation of the guaranteed traffic arrest bond certificate
18 and a power of attorney from the surety insurer for its
19 licensed general lines agents is authorization for such agent
20 to execute the bail bond.

21 Section 41. For the purpose of incorporating the
22 amendment to section 316.193, Florida Statutes, in references
23 thereto, paragraph (c) of subsection (4) of section 907.041,
24 Florida Statutes, is reenacted to read:

25 907.041 Pretrial detention and release.--

26 (4) PRETRIAL DETENTION.--

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

1 1. The defendant has previously violated conditions of
2 release and that no further conditions of release are
3 reasonably likely to assure the defendant's appearance at
4 subsequent proceedings;

5 2. The defendant, with the intent to obstruct the
6 judicial process, has threatened, intimidated, or injured any
7 victim, potential witness, juror, or judicial officer, or has
8 attempted or conspired to do so, and that no condition of
9 release will reasonably prevent the obstruction of the
10 judicial process;

11 3. The defendant is charged with trafficking in
12 controlled substances as defined by s. 893.135, that there is
13 a substantial probability that the defendant has committed the
14 offense, and that no conditions of release will reasonably
15 assure the defendant's appearance at subsequent criminal
16 proceedings; or

17 4. The defendant is charged with DUI manslaughter, as
18 defined by s. 316.193, and that there is a substantial
19 probability that the defendant committed the crime and that
20 the defendant poses a threat of harm to the community;
21 conditions that would support a finding by the court pursuant
22 to this subparagraph that the defendant poses a threat of harm
23 to the community include, but are not limited to, any of the
24 following:

25 a. The defendant has previously been convicted of any
26 crime under s. 316.193, or of any crime in any other state or
27 territory of the United States that is substantially similar
28 to any crime under s. 316.193;

29 b. The defendant was driving with a suspended driver's
30 license when the charged crime was committed; or
31

1 c. The defendant has previously been found guilty of,
2 or has had adjudication of guilt withheld for, driving while
3 the defendant's driver's license was suspended or revoked in
4 violation of s. 322.34;

5 5. The defendant poses the threat of harm to the
6 community. The court may so conclude, if it finds that the
7 defendant is presently charged with a dangerous crime, that
8 there is a substantial probability that the defendant
9 committed such crime, that the factual circumstances of the
10 crime indicate a disregard for the safety of the community,
11 and that there are no conditions of release reasonably
12 sufficient to protect the community from the risk of physical
13 harm to persons.

14 6. The defendant was on probation, parole, or other
15 release pending completion of sentence or on pretrial release
16 for a dangerous crime at the time the current offense was
17 committed; or

18 7. The defendant has violated one or more conditions
19 of pretrial release or bond for the offense currently before
20 the court and the violation, in the discretion of the court,
21 supports a finding that no conditions of release can
22 reasonably protect the community from risk of physical harm to
23 persons or assure the presence of the accused at trial.

24 Section 42. For the purpose of incorporating the
25 amendments to sections 316.193 and 327.35, Florida Statutes,
26 in references thereto, section 938.07, Florida Statutes, is
27 reenacted to read:

28 938.07 Driving or boating under the
29 influence.--Notwithstanding any other provision of s. 316.193
30 or s. 327.35, a court cost of \$135 shall be added to any fine
31 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall

1 remit the funds to the Department of Revenue, \$25 of which
2 shall be deposited in the Emergency Medical Services Trust
3 Fund, \$50 shall be deposited in the Criminal Justice Standards
4 and Training Trust Fund of the Department of Law Enforcement
5 to be used for operational expenses in conducting the
6 statewide criminal analysis laboratory system established in
7 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
8 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

9 Section 43. For the purpose of incorporating the
10 amendment to section 316.193, Florida Statutes, in references
11 thereto, section 938.21, Florida Statutes, is reenacted to
12 read:

13 938.21 Alcohol and drug abuse
14 programs.--Notwithstanding any provision to the contrary of
15 the laws of this state, the court may assess for alcohol and
16 other drug abuse programs as provided in s. 893.165 any
17 defendant who pleads guilty or nolo contendere to, or is
18 convicted of, a violation of any provision of chapter 893 or
19 which involves a criminal violation of s. 316.193, s. 856.011,
20 s. 856.015, or chapter 562, chapter 567, or chapter 568, in
21 addition to any fine and other penalty provided by law, a
22 court cost in an amount up to the amount of the fine
23 authorized for the violation. The court is authorized to order
24 a defendant to pay an additional assessment if it finds that
25 the defendant has the ability to pay the fine and the
26 additional assessment and will not be prevented thereby from
27 being rehabilitated or from making restitution.

28 Section 44. For the purpose of incorporating the
29 amendment to section 316.193, Florida Statutes, in references
30 thereto, subsection (1) of section 938.23, Florida Statutes,
31 is reenacted to read:

1 938.23 Assistance grants for alcohol and other drug
2 abuse programs.--

3 (1) In addition to any fine imposed by law for any
4 criminal offense under chapter 893 or for any criminal
5 violation of s. 316.193, s. 856.011, s. 856.015, or chapter
6 562, chapter 567, or chapter 568, the court shall be
7 authorized, pursuant to the requirements of s. 938.21, to
8 impose an additional assessment in an amount up to the amount
9 of the fine authorized for the offense. Such additional
10 assessments shall be deposited for the purpose of providing
11 assistance grants to drug abuse treatment or alcohol treatment
12 or education programs as provided in s. 893.165.

13 Section 45. For the purpose of incorporating the
14 amendment to section 316.193, Florida Statutes, in references
15 thereto, paragraph (d) of subsection (2) of section 943.05,
16 Florida Statutes, is reenacted to read:

17 943.05 Criminal Justice Information Program; duties;
18 crime reports.--

19 (2) The program shall:

20 (d) Adopt rules to effectively and efficiently
21 implement, administer, manage, maintain, and use the automated
22 fingerprint identification system and uniform offense reports
23 and arrest reports. The rules shall be considered minimum
24 requirements and shall not preclude a criminal justice agency
25 from implementing its own enhancements. However, rules and
26 forms prescribing uniform arrest or probable cause affidavits
27 and alcohol influence reports to be used by all law
28 enforcement agencies in making DUI arrests under s. 316.193
29 shall be adopted, and shall be used by all law enforcement
30 agencies in this state. The rules and forms prescribing such
31 uniform affidavits and reports shall be adopted and

1 | implemented by July 1, 2004. Failure to use these uniform
2 | affidavits and reports, however, shall not prohibit
3 | prosecution under s. 316.193.

4 | Section 46. For the purpose of incorporating the
5 | amendment to section 316.193, Florida Statutes, in references
6 | thereto, paragraph (b) of subsection (8) of section 948.03,
7 | Florida Statutes, is reenacted to read:

8 | 948.03 Terms and conditions of probation or community
9 | control.--

10 | (8)

11 | (b) In determining the average weekly wage, unless
12 | otherwise determined by a specific funding program, all
13 | remuneration received from the employer shall be considered a
14 | gratuity, and the offender shall not be entitled to any
15 | benefits otherwise payable under s. 440.15, regardless of
16 | whether the offender may be receiving wages and remuneration
17 | from other employment with another employer and regardless of
18 | his or her future wage-earning capacity. The provisions of
19 | this subsection do not apply to any person performing labor
20 | under a sentence of a court to perform community services as
21 | provided in s. 316.193.

22 | Section 47. For the purpose of incorporating the
23 | amendment to section 316.193, Florida Statutes, in references
24 | thereto, paragraph (b) of subsection (3) of section 960.03,
25 | Florida Statutes, is reenacted to read:

26 | 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
27 | 960.01-960.28, unless the context otherwise requires, the
28 | term:

29 | (3) "Crime" means:

30 | (b) A violation of s. 316.193, s. 316.027(1), s.
31 | 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results

1 | in physical injury or death; however, no other act involving
2 | the operation of a motor vehicle, boat, or aircraft which
3 | results in injury or death shall constitute a crime for the
4 | purpose of this chapter unless the injury or death was
5 | intentionally inflicted through the use of such vehicle, boat,
6 | or aircraft or unless such vehicle, boat, or aircraft is an
7 | implement of a crime to which this act applies.

8 | Section 48. For the purpose of incorporating the
9 | amendment to section 327.35, Florida Statutes, in references
10 | thereto, subsection (3) of section 327.352, Florida Statutes,
11 | is reenacted to read:

12 | 327.352 Tests for alcohol, chemical substances, or
13 | controlled substances; implied consent; refusal.--

14 | (3) Notwithstanding any provision of law pertaining to
15 | the confidentiality of hospital records or other medical
16 | records, information relating to the alcoholic content of the
17 | blood or breath or the presence of chemical substances or
18 | controlled substances in the blood obtained pursuant to this
19 | section shall be released to a court, prosecuting attorney,
20 | defense attorney, or law enforcement officer in connection
21 | with an alleged violation of s. 327.35 upon request for such
22 | information.

23 | Section 49. For the purpose of incorporating the
24 | amendment to section 327.35, Florida Statutes, in references
25 | thereto, subsections (1) and (2) of section 327.35215, Florida
26 | Statutes, are reenacted to read:

27 | 327.35215 Penalty for failure to submit to test.--

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

1 (2) When a person refuses to submit to a blood test,
2 breath test, or urine test pursuant to s. 327.352, a law
3 enforcement officer who is authorized to make arrests for
4 violations of this chapter shall file with the clerk of the
5 court, on a form provided by the department, a certified
6 statement that probable cause existed to arrest the person for
7 a violation of s. 327.35 and that the person refused to submit
8 to a test as required by s. 327.352. Along with the statement,
9 the officer must also submit a sworn statement on a form
10 provided by the department that the person has been advised of
11 both the penalties for failure to submit to the blood, breath,
12 or urine test and the procedure for requesting a hearing.

13 Section 50. For the purpose of incorporating the
14 amendment to section 327.35, Florida Statutes, in references
15 thereto, subsection (4) of section 327.353, Florida Statutes,
16 is reenacted to read:

17 327.353 Blood test for impairment or intoxication in
18 cases of death or serious bodily injury; right to use
19 reasonable force.--

20 (4) Notwithstanding any provision of law pertaining to
21 the confidentiality of hospital records or other medical
22 records, information relating to the alcoholic content of the
23 blood or the presence of chemical substances or controlled
24 substances in the blood obtained pursuant to this section
25 shall be released to a court, prosecuting attorney, defense
26 attorney, or law enforcement officer in connection with an
27 alleged violation of s. 327.35 upon request for such
28 information.

29 Section 51. For the purpose of incorporating the
30 amendment to section 327.35, Florida Statutes, in references
31

1 thereto, subsections (1) and (4) of section 327.354, Florida
2 Statutes, are reenacted to read:

3 327.354 Presumption of impairment; testing methods.--

4 (1) It is unlawful and punishable as provided in s.
5 327.35 for any person who is under the influence of alcoholic
6 beverages or controlled substances, when affected to the
7 extent that the person's normal faculties are impaired or to
8 the extent that the person is deprived of full possession of
9 normal faculties, to operate any vessel within this state.
10 Such normal faculties include, but are not limited to, the
11 ability to see, hear, walk, talk, judge distances, drive an
12 automobile, make judgments, act in emergencies, and, in
13 general, normally perform the many mental and physical acts of
14 daily life.

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

18 Section 52. For the purpose of incorporating the
19 amendment to section 327.35, Florida Statutes, in references
20 thereto, paragraph (a) of subsection (1) and subsection (4) of
21 section 327.355, Florida Statutes, are reenacted to read:

22 327.355 Operation of vessels by persons under 21 years
23 of age who have consumed alcoholic beverages.--

24 (1)(a) Notwithstanding s. 327.35, it is unlawful for a
25 person under the age of 21 who has a breath-alcohol level of
26 0.02 or higher to operate or be in actual physical control of
27 a vessel.

28 (4) A violation of this section is a noncriminal
29 infraction, and being detained pursuant to this section does
30 not constitute an arrest. This section does not bar
31 prosecution under s. 327.35, and the penalties provided herein

1 shall be imposed in addition to any other penalty provided for
2 boating under the influence or for refusal to submit to
3 testing.

4 Section 53. For the purpose of incorporating the
5 amendment to section 327.35, Florida Statutes, in references
6 thereto, subsection (2) of section 327.359, Florida Statutes,
7 is reenacted to read:

8 327.359 Refusal to submit to testing; penalties.--Any
9 person who has refused to submit to a chemical or physical
10 test of his or her breath, blood, or urine, as described in s.
11 327.352, and who has been previously fined for refusal to
12 submit to a lawful test of his or her breath, urine, or blood,
13 and:

14 (2) Who was placed under lawful arrest for a violation
15 of s. 327.35 unless such test was requested pursuant to s.
16 327.352(1)(c);

17
18 commits a misdemeanor of the first degree and is subject to
19 punishment as provided in s. 775.082 or s. 775.083.

20 Section 54. For the purpose of incorporating the
21 amendment to section 327.35, Florida Statutes, in references
22 thereto, section 327.36, Florida Statutes, is reenacted to
23 read:

24 327.36 Mandatory adjudication; prohibition against
25 accepting plea to lesser included offense.--

26 (1) Notwithstanding the provisions of s. 948.01, no
27 court may suspend, defer, or withhold adjudication of guilt or
28 imposition of sentence for any violation of s. 327.35, for
29 manslaughter resulting from the operation of a vessel, or for
30 vessel homicide.

31

1 (2)(a) No trial judge may accept a plea of guilty to a
2 lesser offense from a person who is charged with a violation
3 of s. 327.35, manslaughter resulting from the operation of a
4 vessel, or vessel homicide and who has been given a breath or
5 blood test to determine blood or breath alcohol content, the
6 results of which show a blood-alcohol level or breath-alcohol
7 level of 0.16 or more.

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

12 Section 55. This act shall take effect October 1,
13 2004.

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 2030

18 The CS requires the Department of Highway Safety and Motor
19 Vehicles (department) to approve a DUI program provider, who
20 has met certain criteria, to serve a county with fewer than
21 200 DUI convictions and no permanent satellite office, if the
chief judge of the circuit recommends it. It also provides the
provider is not required to have a satellite office in each
county in the circuit.

22 In addition, the CS mandates the department to require the
23 placement of an approved ignition interlock device on
24 specified DUI offenders' vehicles prior to issuing such person
25 a permanent or restricted driver's license. It also mandates
26 the department to immediately require the device be installed
if the court fails to so order such installation on an
offender's vehicle. Finally, the CS specifies the duration of
each installation period based upon the number of DUI
convictions.