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A bill to be entitled  
 An act relating to driving or boating under the influence;  
 amending s. 316.193, F.S.; revising level of alcohol  
 content in blood or breath at which certain penalties  
 shall apply for the offense of driving under the  
 influence; amending s. 316.656, F.S.; revising level of  
 alcohol content in blood or breath at which the  
 prohibition against accepting plea to lesser offense shall  
 apply; amending s. 327.35, F.S.; revising level of alcohol  
 content in blood or breath at which certain penalties  
 shall apply for the offense of boating under the  
 influence; reenacting ss. 316.066(3)(a), 316.072(4)(b),  
 316.1932(3), 316.1933(4), 316.1934(1) and (4), 316.1937(1)  
 and (2)(d), 316.1939(1)(b), 318.143(4) and (5), 318.17(3),  
 322.03(2), 322.0602(2)(a), 322.21(8), 322.25(5),  
 322.26(1)(a), 322.2615(1), (2), (7), (8)(b), (10)(b), and  
 (14), 322.2616(1)(a), (15), and (19), 322.264(1)(b),  
 322.271(2)(a), (2)(c), and (4), 322.28(2), 322.282(2)(a),  
 322.291(1)(a), 322.34(9)(a), 322.44, 322.62(3),  
 322.63(2)(d) and (6), 322.64(1), (2), (7)(a), (8)(b),  
 (14), and (15), 323.001(4)(f), 327.35(6), 397.405(10),  
 440.02(17)(c), 440.09(7)(b), 493.6106(1)(d), 627.758(4),  
 790.06(2)(f) and (10)(f), 903.36(2), 907.041(4)(c),  
 938.07, 938.21, 938.23(1), 943.05(2)(d), 948.03(8)(b), and  
 960.03(3)(b), F.S.; incorporating the amendment to s.  
 316.193, F.S., in references thereto; reenacting ss.  
 327.352(3), 327.35215(1) and (2), 327.353(4), 327.354(1)  
 and (4), 327.355(1)(a) and (4), 327.359(2), 327.36, and  
 938.07, F.S.; incorporating the amendment to s. 327.35,

HB 0307

2004

30 F.S., in references thereto; providing an effective date.

31

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

33

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

36 316.193 Driving under the influence; penalties.--

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

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

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

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

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

52 1. By a fine of:

53 a. Not less than \$250 or more than \$500 for a first  
 54 conviction.

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

57 2. By imprisonment for:

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

HB 0307

2004

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

60           3. For a second conviction, by mandatory placement for a  
 61 period of at least 1 year, at the convicted person's sole  
 62 expense, of an ignition interlock device approved by the  
 63 department in accordance with s. 316.1938 upon all vehicles that  
 64 are individually or jointly leased or owned and routinely  
 65 operated by the convicted person, when the convicted person  
 66 qualifies for a permanent or restricted license. The  
 67 installation of such device may not occur before July 1, 2003.

68           (b)1. Any person who is convicted of a third violation of  
 69 this section for an offense that occurs within 10 years after a  
 70 prior conviction for a violation of this section commits a  
 71 felony of the third degree, punishable as provided in s.  
 72 775.082, s. 775.083, or s. 775.084. In addition, the court shall  
 73 order the mandatory placement for a period of not less than 2  
 74 years, at the convicted person's sole expense, of an ignition  
 75 interlock device approved by the department in accordance with  
 76 s. 316.1938 upon all vehicles that are individually or jointly  
 77 leased or owned and routinely operated by the convicted person,  
 78 when the convicted person qualifies for a permanent or  
 79 restricted license. The installation of such device may not  
 80 occur before July 1, 2003.

81           2. Any person who is convicted of a third violation of  
 82 this section for an offense that occurs more than 10 years after  
 83 the date of a prior conviction for a violation of this section  
 84 shall be punished by a fine of not less than \$1,000 or more than  
 85 \$2,500 and by imprisonment for not more than 12 months. In  
 86 addition, the court shall order the mandatory placement for a  
 87 period of at least 2 years, at the convicted person's sole

HB 0307

2004

88 expense, of an ignition interlock device approved by the  
 89 department in accordance with s. 316.1938 upon all vehicles that  
 90 are individually or jointly leased or owned and routinely  
 91 operated by the convicted person, when the convicted person  
 92 qualifies for a permanent or restricted license. The  
 93 installation of such device may not occur before July 1, 2003.

94 3. Any person who is convicted of a fourth or subsequent  
 95 violation of this section, regardless of when any prior  
 96 conviction for a violation of this section occurred, commits a  
 97 felony of the third degree, punishable as provided in s.  
 98 775.082, s. 775.083, or s. 775.084. However, the fine imposed  
 99 for such fourth or subsequent violation may be not less than  
 100 \$1,000.

101 (3) Any person:

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

103 (b) Who operates a vehicle; and

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

106 1. Damage to the property or person of another commits a  
 107 misdemeanor of the first degree, punishable as provided in s.  
 108 775.082 or s. 775.083.

109 2. Serious bodily injury to another, as defined in s.  
 110 316.1933, commits a felony of the third degree, punishable as  
 111 provided in s. 775.082, s. 775.083, or s. 775.084.

112 3. The death of any human being commits DUI manslaughter,  
 113 and commits:

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

HB 0307

2004

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

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

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

122 (4)(a) Any person who is convicted of a violation of  
 123 subsection (1) and who has a blood-alcohol level or breath-  
 124 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is  
 125 convicted of a violation of subsection (1) and who at the time  
 126 of the offense was accompanied in the vehicle by a person under  
 127 the age of 18 years, shall be punished:

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

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

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

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

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

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

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

138

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

142 ~~(b)(e)~~ In addition to the penalties in paragraph  
 143 ~~paragraphs (a) and (b)~~, the court shall order the mandatory  
 144 placement, at the convicted person's sole expense, of an

HB 0307

2004

145 ignition interlock device approved by the department in  
 146 accordance with s. 316.1938 upon all vehicles that are  
 147 individually or jointly leased or owned and routinely operated  
 148 by the convicted person for up to 6 months for the first offense  
 149 and for at least 2 years for a second offense, when the  
 150 convicted person qualifies for a permanent or restricted  
 151 license. The installation of such device may not occur before  
 152 July 1, 2003.

153  
 154 For the purposes of this subsection, only the instant offense is  
 155 required to be a violation of subsection (1) by a person who has  
 156 a blood-alcohol level or breath-alcohol level of 0.16 or higher.

157 (5) The court shall place all offenders convicted of  
 158 violating this section on monthly reporting probation and shall  
 159 require completion of a substance abuse course conducted by a  
 160 DUI program licensed by the department under s. 322.292, which  
 161 must include a psychosocial evaluation of the offender. If the  
 162 DUI program refers the offender to an authorized substance abuse  
 163 treatment provider for substance abuse treatment, in addition to  
 164 any sentence or fine imposed under this section, completion of  
 165 all such education, evaluation, and treatment is a condition of  
 166 reporting probation. The offender shall assume reasonable costs  
 167 for such education, evaluation, and treatment. The referral to  
 168 treatment resulting from a psychosocial evaluation shall not be  
 169 waived without a supporting independent psychosocial evaluation  
 170 conducted by an authorized substance abuse treatment provider  
 171 appointed by the court, which shall have access to the DUI  
 172 program's psychosocial evaluation before the independent  
 173 psychosocial evaluation is conducted. The court shall review the

HB 0307

2004

174 results and recommendations of both evaluations before  
175 determining the request for waiver. The offender shall bear the  
176 full cost of this procedure. The term "substance abuse" means  
177 the abuse of alcohol or any substance named or described in  
178 Schedules I through V of s. 893.03. If an offender referred to  
179 treatment under this subsection fails to report for or complete  
180 such treatment or fails to complete the DUI program substance  
181 abuse education course and evaluation, the DUI program shall  
182 notify the court and the department of the failure. Upon receipt  
183 of the notice, the department shall cancel the offender's  
184 driving privilege, notwithstanding the terms of the court order  
185 or any suspension or revocation of the driving privilege. The  
186 department may temporarily reinstate the driving privilege on a  
187 restricted basis upon verification from the DUI program that the  
188 offender is currently participating in treatment and the DUI  
189 education course and evaluation requirement has been completed.  
190 If the DUI program notifies the department of the second failure  
191 to complete treatment, the department shall reinstate the  
192 driving privilege only after notice of completion of treatment  
193 from the DUI program. The organization that conducts the  
194 substance abuse education and evaluation may not provide  
195 required substance abuse treatment unless a waiver has been  
196 granted to that organization by the department. A waiver may be  
197 granted only if the department determines, in accordance with  
198 its rules, that the service provider that conducts the substance  
199 abuse education and evaluation is the most appropriate service  
200 provider and is licensed under chapter 397 or is exempt from  
201 such licensure. A statistical referral report shall be submitted

HB 0307

2004

202 | quarterly to the department by each organization authorized to  
 203 | provide services under this section.

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

207 |         (a) For the first conviction, the court shall place the  
 208 | defendant on probation for a period not to exceed 1 year and, as  
 209 | a condition of such probation, shall order the defendant to  
 210 | participate in public service or a community work project for a  
 211 | minimum of 50 hours; or the court may order instead, that any  
 212 | defendant pay an additional fine of \$10 for each hour of public  
 213 | service or community work otherwise required, if, after  
 214 | consideration of the residence or location of the defendant at  
 215 | the time public service or community work is required, payment  
 216 | of the fine is in the best interests of the state. However, the  
 217 | total period of probation and incarceration may not exceed 1  
 218 | year. The court must also, as a condition of probation, order  
 219 | the impoundment or immobilization of the vehicle that was  
 220 | operated by or in the actual control of the defendant or any one  
 221 | vehicle registered in the defendant's name at the time of  
 222 | impoundment or immobilization, for a period of 10 days or for  
 223 | the unexpired term of any lease or rental agreement that expires  
 224 | within 10 days. The impoundment or immobilization must not occur  
 225 | concurrently with the incarceration of the defendant. The  
 226 | impoundment or immobilization order may be dismissed in  
 227 | accordance with paragraph (e), paragraph (f), paragraph (g), or  
 228 | paragraph (h).

229 |         (b) For the second conviction for an offense that occurs  
 230 | within a period of 5 years after the date of a prior conviction



HB 0307

2004

231 for violation of this section, the court shall order  
 232 imprisonment for not less than 10 days. The court must also, as  
 233 a condition of probation, order the impoundment or  
 234 immobilization of all vehicles owned by the defendant at the  
 235 time of impoundment or immobilization, for a period of 30 days  
 236 or for the unexpired term of any lease or rental agreement that  
 237 expires within 30 days. The impoundment or immobilization must  
 238 not occur concurrently with the incarceration of the defendant  
 239 and must occur concurrently with the driver's license revocation  
 240 imposed under s. 322.28(2)(a)2. The impoundment or  
 241 immobilization order may be dismissed in accordance with  
 242 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
 243 At least 48 hours of confinement must be consecutive.

244 (c) For the third or subsequent conviction for an offense  
 245 that occurs within a period of 10 years after the date of a  
 246 prior conviction for violation of this section, the court shall  
 247 order imprisonment for not less than 30 days. The court must  
 248 also, as a condition of probation, order the impoundment or  
 249 immobilization of all vehicles owned by the defendant at the  
 250 time of impoundment or immobilization, for a period of 90 days  
 251 or for the unexpired term of any lease or rental agreement that  
 252 expires within 90 days. The impoundment or immobilization must  
 253 not occur concurrently with the incarceration of the defendant  
 254 and must occur concurrently with the driver's license revocation  
 255 imposed under s. 322.28(2)(a)3. The impoundment or  
 256 immobilization order may be dismissed in accordance with  
 257 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
 258 At least 48 hours of confinement must be consecutive.

HB 0307

2004

259 (d) The court must at the time of sentencing the defendant  
260 issue an order for the impoundment or immobilization of a  
261 vehicle. Within 7 business days after the date that the court  
262 issues the order of impoundment or immobilization, the clerk of  
263 the court must send notice by certified mail, return receipt  
264 requested, to the registered owner of each vehicle, if the  
265 registered owner is a person other than the defendant, and to  
266 each person of record claiming a lien against the vehicle.

267 (e) A person who owns but was not operating the vehicle  
268 when the offense occurred may submit to the court a police  
269 report indicating that the vehicle was stolen at the time of the  
270 offense or documentation of having purchased the vehicle after  
271 the offense was committed from an entity other than the  
272 defendant or the defendant's agent. If the court finds that the  
273 vehicle was stolen or that the sale was not made to circumvent  
274 the order and allow the defendant continued access to the  
275 vehicle, the order must be dismissed and the owner of the  
276 vehicle will incur no costs. If the court denies the request to  
277 dismiss the order of impoundment or immobilization, the  
278 petitioner may request an evidentiary hearing.

279 (f) A person who owns but was not operating the vehicle  
280 when the offense occurred, and whose vehicle was stolen or who  
281 purchased the vehicle after the offense was committed directly  
282 from the defendant or the defendant's agent, may request an  
283 evidentiary hearing to determine whether the impoundment or  
284 immobilization should occur. If the court finds that either the  
285 vehicle was stolen or the purchase was made without knowledge of  
286 the offense, that the purchaser had no relationship to the  
287 defendant other than through the transaction, and that such

HB 0307

2004

288 purchase would not circumvent the order and allow the defendant  
289 continued access to the vehicle, the order must be dismissed and  
290 the owner of the vehicle will incur no costs.

291 (g) The court shall also dismiss the order of impoundment  
292 or immobilization of the vehicle if the court finds that the  
293 family of the owner of the vehicle has no other private or  
294 public means of transportation.

295 (h) The court may also dismiss the order of impoundment or  
296 immobilization of any vehicles that are owned by the defendant  
297 but that are operated solely by the employees of the defendant  
298 or any business owned by the defendant.

299 (i) All costs and fees for the impoundment or  
300 immobilization, including the cost of notification, must be paid  
301 by the owner of the vehicle or, if the vehicle is leased or  
302 rented, by the person leasing or renting the vehicle, unless the  
303 impoundment or immobilization order is dismissed. All provisions  
304 of s. 713.78 shall apply.

305 (j) The person who owns a vehicle that is impounded or  
306 immobilized under this paragraph, or a person who has a lien of  
307 record against such a vehicle and who has not requested a review  
308 of the impoundment pursuant to paragraph (e), paragraph (f), or  
309 paragraph (g), may, within 10 days after the date that person  
310 has knowledge of the location of the vehicle, file a complaint  
311 in the county in which the owner resides to determine whether  
312 the vehicle was wrongfully taken or withheld from the owner or  
313 lienholder. Upon the filing of a complaint, the owner or  
314 lienholder may have the vehicle released by posting with the  
315 court a bond or other adequate security equal to the amount of  
316 the costs and fees for impoundment or immobilization, including

HB 0307

2004

317 towing or storage, to ensure the payment of such costs and fees  
 318 if the owner or lienholder does not prevail. When the bond is  
 319 posted and the fee is paid as set forth in s. 28.24, the clerk  
 320 of the court shall issue a certificate releasing the vehicle. At  
 321 the time of release, after reasonable inspection, the owner or  
 322 lienholder must give a receipt to the towing or storage company  
 323 indicating any loss or damage to the vehicle or to the contents  
 324 of the vehicle.

325 (k) A defendant, in the court's discretion, may be  
 326 required to serve all or any portion of a term of imprisonment  
 327 to which the defendant has been sentenced pursuant to this  
 328 section in a residential alcoholism treatment program or a  
 329 residential drug abuse treatment program. Any time spent in such  
 330 a program must be credited by the court toward the term of  
 331 imprisonment.

332  
 333 For the purposes of this section, any conviction for a violation  
 334 of s. 327.35; a previous conviction for the violation of former  
 335 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
 336 previous conviction outside this state for driving under the  
 337 influence, driving while intoxicated, driving with an unlawful  
 338 blood-alcohol level, driving with an unlawful breath-alcohol  
 339 level, or any other similar alcohol-related or drug-related  
 340 traffic offense, is also considered a previous conviction for  
 341 violation of this section. However, in satisfaction of the fine  
 342 imposed pursuant to this section, the court may, upon a finding  
 343 that the defendant is financially unable to pay either all or  
 344 part of the fine, order that the defendant participate for a  
 345 specified additional period of time in public service or a

HB 0307

2004

346 community work project in lieu of payment of that portion of the  
 347 fine which the court determines the defendant is unable to pay.  
 348 In determining such additional sentence, the court shall  
 349 consider the amount of the unpaid portion of the fine and the  
 350 reasonable value of the services to be ordered; however, the  
 351 court may not compute the reasonable value of services at a rate  
 352 less than the federal minimum wage at the time of sentencing.

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

355 (8) At the arraignment, or in conjunction with any notice  
 356 of arraignment provided by the clerk of the court, the clerk  
 357 shall provide any person charged with a violation of this  
 358 section with notice that upon conviction the court shall suspend  
 359 or revoke the offender's driver's license and that the offender  
 360 should make arrangements for transportation at any proceeding in  
 361 which the court may take such action. Failure to provide such  
 362 notice does not affect the court's suspension or revocation of  
 363 the offender's driver's license.

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

366 (a) Until the person is no longer under the influence of  
 367 alcoholic beverages, any chemical substance set forth in s.  
 368 877.111, or any substance controlled under chapter 893 and  
 369 affected to the extent that his or her normal faculties are  
 370 impaired;

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

373 (c) Until 8 hours have elapsed from the time the person  
 374 was arrested.

HB 0307

2004

375 (10) The rulings of the Department of Highway Safety and  
 376 Motor Vehicles under s. 322.2615 shall not be considered in any  
 377 trial for a violation of this section. Testimony or evidence  
 378 from the administrative proceedings or any written statement  
 379 submitted by a person in his or her request for administrative  
 380 review is inadmissible into evidence or for any other purpose in  
 381 any criminal proceeding, unless timely disclosed in criminal  
 382 discovery pursuant to Rule 3.220, Florida Rules of Criminal  
 383 Procedure.

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

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

389 316.656 Mandatory adjudication; prohibition against  
 390 accepting plea to lesser included offense.--

391 (1) Notwithstanding the provisions of s. 948.01, no court  
 392 may suspend, defer, or withhold adjudication of guilt or  
 393 imposition of sentence for any violation of s. 316.193, for  
 394 manslaughter resulting from the operation of a motor vehicle, or  
 395 for vehicular homicide.

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

402 (b) No trial judge may accept a plea of guilty to a lesser  
 403 offense from a person charged with a violation of s. 316.193(3),

HB 0307

2004

404 manslaughter resulting from the operation of a motor vehicle, or  
 405 vehicular homicide.

406 Section 3. Subsection (4) of section 327.35, Florida  
 407 Statutes, is amended to read:

408 327.35 Boating under the influence; penalties; "designated  
 409 drivers".--

410 (4) Any person who is convicted of a violation of  
 411 subsection (1) and who has a blood-alcohol level or breath-  
 412 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is  
 413 convicted of a violation of subsection (1) and who at the time  
 414 of the offense was accompanied in the vessel by a person under  
 415 the age of 18 years, shall be punished:

416 (a) By a fine of:

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

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

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

423 (b) By imprisonment for:

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

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

426

427 For the purposes of this subsection, only the instant offense is  
 428 required to be a violation of subsection (1) by a person who has  
 429 a blood-alcohol level or breath-alcohol level of 0.16 ~~0.20~~ or  
 430 higher.

431 Section 4. For the purpose of incorporating the amendment  
 432 to section 316.193, Florida Statutes, in references thereto,

HB 0307

2004

433 paragraph (a) of subsection (3) of section 316.066, Florida  
 434 Statutes, is reenacted to read:

435 316.066 Written reports of crashes.--

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

438 1. Which crash resulted in death or personal injury shall,  
 439 within 10 days after completing the investigation, forward a  
 440 written report of the crash to the department or traffic records  
 441 center.

442 2. Which crash involved a violation of s. 316.061(1) or s.  
 443 316.193 shall, within 10 days after completing the  
 444 investigation, forward a written report of the crash to the  
 445 department or traffic records center.

446 3. In which crash a vehicle was rendered inoperative to a  
 447 degree which required a wrecker to remove it from traffic may,  
 448 within 10 days after completing the investigation, forward a  
 449 written report of the crash to the department or traffic records  
 450 center if such action is appropriate, in the officer's  
 451 discretion.

452  
 453 However, in every case in which a crash report is required by  
 454 this section and a written report to a law enforcement officer  
 455 is not prepared, the law enforcement officer shall provide each  
 456 party involved in the crash a short-form report, prescribed by  
 457 the state, to be completed by the party. The short-form report  
 458 must include, but is not limited to: the date, time, and  
 459 location of the crash; a description of the vehicles involved;  
 460 the names and addresses of the parties involved; the names and  
 461 addresses of witnesses; the name, badge number, and law



HB 0307

2004

462 enforcement agency of the officer investigating the crash; and  
 463 the names of the insurance companies for the respective parties  
 464 involved in the crash. Each party to the crash shall provide the  
 465 law enforcement officer with proof of insurance to be included  
 466 in the crash report. If a law enforcement officer submits a  
 467 report on the accident, proof of insurance must be provided to  
 468 the officer by each party involved in the crash. Any party who  
 469 fails to provide the required information is guilty of an  
 470 infraction for a nonmoving violation, punishable as provided in  
 471 chapter 318 unless the officer determines that due to injuries  
 472 or other special circumstances such insurance information cannot  
 473 be provided immediately. If the person provides the law  
 474 enforcement agency, within 24 hours after the crash, proof of  
 475 insurance that was valid at the time of the crash, the law  
 476 enforcement agency may void the citation.

477 Section 5. For the purpose of incorporating the amendment  
 478 to section 316.193, Florida Statutes, in references thereto,  
 479 paragraph (b) of subsection (4) of section 316.072, Florida  
 480 Statutes, is reenacted to read:

481 316.072 Obedience to and effect of traffic laws.--

482 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;  
 483 EXCEPTIONS.--

484 (b) Unless specifically made applicable, the provisions of  
 485 this chapter, except those contained in ss. 316.192, 316.1925,  
 486 and 316.193, shall not apply to persons, teams, or motor  
 487 vehicles and other equipment while actually engaged in work upon  
 488 the surface of a highway, but shall apply to such persons and  
 489 vehicles when traveling to or from such work.

HB 0307

2004

490 Section 6. For the purpose of incorporating the amendment  
 491 to section 316.193, Florida Statutes, in references thereto,  
 492 subsection (3) of section 316.1932, Florida Statutes, is  
 493 reenacted to read:

494 316.1932 Tests for alcohol, chemical substances, or  
 495 controlled substances; implied consent; refusal.--

496 (3) Notwithstanding any provision of law pertaining to the  
 497 confidentiality of hospital records or other medical records,  
 498 information relating to the alcoholic content of the blood or  
 499 breath or the presence of chemical substances or controlled  
 500 substances in the blood obtained pursuant to this section shall  
 501 be released to a court, prosecuting attorney, defense attorney,  
 502 or law enforcement officer in connection with an alleged  
 503 violation of s. 316.193 upon request for such information.

504 Section 7. For the purpose of incorporating the amendment  
 505 to section 316.193, Florida Statutes, in references thereto,  
 506 subsection (4) of section 316.1933, Florida Statutes, is  
 507 reenacted to read:

508 316.1933 Blood test for impairment or intoxication in  
 509 cases of death or serious bodily injury; right to use reasonable  
 510 force.--

511 (4) Notwithstanding any provision of law pertaining to the  
 512 confidentiality of hospital records or other medical records,  
 513 information relating to the alcoholic content of the blood or  
 514 the presence of chemical substances or controlled substances in  
 515 the blood obtained pursuant to this section shall be released to  
 516 a court, prosecuting attorney, defense attorney, or law  
 517 enforcement officer in connection with an alleged violation of  
 518 s. 316.193 upon request for such information.

HB 0307

2004

519 Section 8. For the purpose of incorporating the amendment  
 520 to section 316.193, Florida Statutes, in references thereto,  
 521 subsections (1) and (4) of section 316.1934, Florida Statutes,  
 522 are reenacted to read:

523 316.1934 Presumption of impairment; testing methods.--

524 (1) It is unlawful and punishable as provided in chapter  
 525 322 and in s. 316.193 for any person who is under the influence  
 526 of alcoholic beverages or controlled substances, when affected  
 527 to the extent that the person's normal faculties are impaired or  
 528 to the extent that the person is deprived of full possession of  
 529 normal faculties, to drive or be in actual physical control of  
 530 any motor vehicle within this state. Such normal faculties  
 531 include, but are not limited to, the ability to see, hear, walk,  
 532 talk, judge distances, drive an automobile, make judgments, act  
 533 in emergencies, and, in general, normally perform the many  
 534 mental and physical acts of daily life.

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

538 Section 9. For the purpose of incorporating the amendment  
 539 to section 316.193, Florida Statutes, in references thereto,  
 540 subsection (1) and paragraph (d) of subsection (2) of section  
 541 316.1937, Florida Statutes, are reenacted to read:

542 316.1937 Ignition interlock devices, requiring; unlawful  
 543 acts.--

544 (1) In addition to any other authorized penalties, the  
 545 court may require that any person who is convicted of driving  
 546 under the influence in violation of s. 316.193 shall not operate  
 547 a motor vehicle unless that vehicle is equipped with a

HB 0307

2004

548 functioning ignition interlock device certified by the  
 549 department as provided in s. 316.1938, and installed in such a  
 550 manner that the vehicle will not start if the operator's blood  
 551 alcohol level is in excess of 0.05 percent or as otherwise  
 552 specified by the court. The court may require the use of an  
 553 approved ignition interlock device for a period of not less than  
 554 6 months, if the person is permitted to operate a motor vehicle,  
 555 whether or not the privilege to operate a motor vehicle is  
 556 restricted, as determined by the court. The court, however,  
 557 shall order placement of an ignition interlock device in those  
 558 circumstances required by s. 316.193.

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

561 (d) Determine the person's ability to pay for installation  
 562 of the device if the person claims inability to pay. If the  
 563 court determines that the person is unable to pay for  
 564 installation of the device, the court may order that any portion  
 565 of a fine paid by the person for a violation of s. 316.193 shall  
 566 be allocated to defray the costs of installing the device.

567 Section 10. For the purpose of incorporating the amendment  
 568 to section 316.193, Florida Statutes, in references thereto,  
 569 paragraph (b) of subsection (1) of section 316.1939, Florida  
 570 Statutes, is reenacted to read:

571 316.1939 Refusal to submit to testing; penalties.--

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

HB 0307

2004

577 (b) Who was placed under lawful arrest for a violation of  
 578 s. 316.193 unless such test was requested pursuant to s.  
 579 316.1932(1)(c);

580  
 581 commits a misdemeanor of the first degree and is subject to  
 582 punishment as provided in s. 775.082 or s. 775.083.

583 Section 11. For the purpose of incorporating the amendment  
 584 to section 316.193, Florida Statutes, in references thereto,  
 585 subsections (4) and (5) of section 318.143, Florida Statutes,  
 586 are reenacted to read:

587 318.143 Sanctions for infractions by minors.--

588 (4) For the first conviction for a violation of s.  
 589 316.193, the court may order the Department of Highway Safety  
 590 and Motor Vehicles to revoke the minor's driver's license until  
 591 the minor is 18 years of age. For a second or subsequent  
 592 conviction for such a violation, the court may order the  
 593 Department of Highway Safety and Motor Vehicles to revoke the  
 594 minor's driver's license until the minor is 21 years of age.

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

597 (a) The minor is no longer under the influence of  
 598 alcoholic beverages, of any chemical substance set forth in s.  
 599 877.111, or of any substance controlled under chapter 893, and  
 600 is not affected to the extent that his or her normal faculties  
 601 are impaired;

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

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

HB 0307

2004

605 Section 12. For the purpose of incorporating the amendment  
 606 to section 316.193, Florida Statutes, in references thereto,  
 607 subsection (3) of section 318.17, Florida Statutes, is reenacted  
 608 to read:

609 318.17 Offenses excepted.--No provision of this chapter is  
 610 available to a person who is charged with any of the following  
 611 offenses:

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

617 Section 13. For the purpose of incorporating the amendment  
 618 to section 316.193, Florida Statutes, in references thereto,  
 619 subsection (2) of section 322.03, Florida Statutes, is reenacted  
 620 to read:

621 322.03 Drivers must be licensed; penalties.--

622 (2) Prior to issuing a driver's license, the department  
 623 shall require any person who has been convicted two or more  
 624 times of a violation of s. 316.193 or of a substantially similar  
 625 alcohol-related or drug-related offense outside this state  
 626 within the preceding 5 years, or who has been convicted of three  
 627 or more such offenses within the preceding 10 years, to present  
 628 proof of successful completion of or enrollment in a department-  
 629 approved substance abuse education course. If the person fails  
 630 to complete such education course within 90 days after issuance,  
 631 the department shall cancel the license. Further, prior to  
 632 issuing the driver's license the department shall require such  
 633 person to present proof of financial responsibility as provided

HB 0307

2004

634 in s. 324.031. For the purposes of this paragraph, a previous  
 635 conviction for violation of former s. 316.028, former s.  
 636 316.1931, or former s. 860.01 shall be considered a previous  
 637 conviction for violation of s. 316.193.

638 Section 14. For the purpose of incorporating the amendment  
 639 to section 316.193, Florida Statutes, in references thereto,  
 640 paragraph (a) of subsection (2) of section 322.0602, Florida  
 641 Statutes, is reenacted to read:

642 322.0602 Youthful Drunk Driver Visitation Program.--

643 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR  
 644 PARTICIPATION.--

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

650 Section 15. For the purpose of incorporating the amendment  
 651 to section 316.193, Florida Statutes, in references thereto,  
 652 subsection (8) of section 322.21, Florida Statutes, is reenacted  
 653 to read:

654 322.21 License fees; procedure for handling and collecting  
 655 fees.--

656 (8) Any person who applies for reinstatement following the  
 657 suspension or revocation of the person's driver's license shall  
 658 pay a service fee of \$35 following a suspension, and \$60  
 659 following a revocation, which is in addition to the fee for a  
 660 license. Any person who applies for reinstatement of a  
 661 commercial driver's license following the disqualification of  
 662 the person's privilege to operate a commercial motor vehicle

HB 0307

2004

663 shall pay a service fee of \$60, which is in addition to the fee  
 664 for a license. The department shall collect all of these fees at  
 665 the time of reinstatement. The department shall issue proper  
 666 receipts for such fees and shall promptly transmit all funds  
 667 received by it as follows:

668 (a) Of the \$35 fee received from a licensee for  
 669 reinstatement following a suspension, the department shall  
 670 deposit \$15 in the General Revenue Fund and \$20 in the Highway  
 671 Safety Operating Trust Fund.

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

676  
 677 If the revocation or suspension of the driver's license was for  
 678 a violation of s. 316.193, or for refusal to submit to a lawful  
 679 breath, blood, or urine test, an additional fee of \$115 must be  
 680 charged. However, only one \$115 fee may be collected from one  
 681 person convicted of violations arising out of the same incident.  
 682 The department shall collect the \$115 fee and deposit the fee  
 683 into the Highway Safety Operating Trust Fund at the time of  
 684 reinstatement of the person's driver's license, but the fee may  
 685 not be collected if the suspension or revocation is overturned.

686 Section 16. For the purpose of incorporating the amendment  
 687 to section 316.193, Florida Statutes, in references thereto,  
 688 subsection (5) of section 322.25, Florida Statutes, is reenacted  
 689 to read:



HB 0307

2004

690 322.25 When court to forward license to department and  
 691 report convictions; temporary reinstatement of driving  
 692 privileges.--

693 (5) For the purpose of this chapter, the entrance of a  
 694 plea of nolo contendere by the defendant to a charge of driving  
 695 while intoxicated, driving under the influence, driving with an  
 696 unlawful blood-alcohol level, or any other alcohol-related or  
 697 drug-related traffic offense similar to the offenses specified  
 698 in s. 316.193, accepted by the court and under which plea the  
 699 court has entered a fine or sentence, whether in this state or  
 700 any other state or country, shall be equivalent to a conviction.

701 Section 17. For the purpose of incorporating the amendment  
 702 to section 316.193, Florida Statutes, in references thereto,  
 703 paragraph (a) of subsection (1) of section 322.26, Florida  
 704 Statutes, is reenacted to read:

705 322.26 Mandatory revocation of license by department.--The  
 706 department shall forthwith revoke the license or driving  
 707 privilege of any person upon receiving a record of such person's  
 708 conviction of any of the following offenses:

709 (1)(a) Murder resulting from the operation of a motor  
 710 vehicle, DUI manslaughter where the conviction represents a  
 711 subsequent DUI-related conviction, or a fourth violation of s.  
 712 316.193 or former s. 316.1931. For such cases, the revocation of  
 713 the driver's license or driving privilege shall be permanent.

714 Section 18. For the purpose of incorporating the amendment  
 715 to section 316.193, Florida Statutes, in references thereto,  
 716 subsections (1), (2), and (7), paragraph (b) of subsection (8),  
 717 paragraph (b) of subsection (10), and subsection (14) of section  
 718 322.2615, Florida Statutes, are reenacted to read:

HB 0307

2004

719           322.2615   Suspension of license; right to review.--  
 720           (1)(a)   A law enforcement officer or correctional officer  
 721   shall, on behalf of the department, suspend the driving  
 722   privilege of a person who has been arrested by a law enforcement  
 723   officer for a violation of s. 316.193, relating to unlawful  
 724   blood-alcohol level or breath-alcohol level, or of a person who  
 725   has refused to submit to a breath, urine, or blood test  
 726   authorized by s. 316.1932. The officer shall take the person's  
 727   driver's license and issue the person a 10-day temporary permit  
 728   if the person is otherwise eligible for the driving privilege  
 729   and shall issue the person a notice of suspension. If a blood  
 730   test has been administered, the results of which are not  
 731   available to the officer at the time of the arrest, the agency  
 732   employing the officer shall transmit such results to the  
 733   department within 5 days after receipt of the results. If the  
 734   department then determines that the person was arrested for a  
 735   violation of s. 316.193 and that the person had a blood-alcohol  
 736   level or breath-alcohol level of 0.08 or higher, the department  
 737   shall suspend the person's driver's license pursuant to  
 738   subsection (3).  
 739           (b)   The suspension under paragraph (a) shall be pursuant  
 740   to, and the notice of suspension shall inform the driver of, the  
 741   following:  
 742           1.a.   The driver refused to submit to a lawful breath,  
 743   blood, or urine test and his or her driving privilege is  
 744   suspended for a period of 1 year for a first refusal or for a  
 745   period of 18 months if his or her driving privilege has been  
 746   previously suspended as a result of a refusal to submit to such  
 747   a test; or

HB 0307

2004

748           b. The driver violated s. 316.193 by driving with an  
 749 unlawful blood-alcohol level as provided in that section and his  
 750 or her driving privilege is suspended for a period of 6 months  
 751 for a first offense or for a period of 1 year if his or her  
 752 driving privilege has been previously suspended for a violation  
 753 of s. 316.193.

754           2. The suspension period shall commence on the date of  
 755 arrest or issuance of the notice of suspension, whichever is  
 756 later.

757           3. The driver may request a formal or informal review of  
 758 the suspension by the department within 10 days after the date  
 759 of arrest or issuance of the notice of suspension, whichever is  
 760 later.

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

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

766           (2) Except as provided in paragraph (1)(a), the law  
 767 enforcement officer shall forward to the department, within 5  
 768 days after the date of the arrest, a copy of the notice of  
 769 suspension, the driver's license of the person arrested, and a  
 770 report of the arrest, including an affidavit stating the  
 771 officer's grounds for belief that the person arrested was in  
 772 violation of s. 316.193; the results of any breath or blood test  
 773 or an affidavit stating that a breath, blood, or urine test was  
 774 requested by a law enforcement officer or correctional officer  
 775 and that the person arrested refused to submit; a copy of the  
 776 citation issued to the person arrested; and the officer's

HB 0307

2004

777 description of the person's field sobriety test, if any. The  
 778 failure of the officer to submit materials within the 5-day  
 779 period specified in this subsection and in subsection (1) shall  
 780 not affect the department's ability to consider any evidence  
 781 submitted at or prior to the hearing. The officer may also  
 782 submit a copy of a videotape of the field sobriety test or the  
 783 attempt to administer such test.

784 (7) In a formal review hearing under subsection (6) or an  
 785 informal review hearing under subsection (4), the hearing  
 786 officer shall determine by a preponderance of the evidence  
 787 whether sufficient cause exists to sustain, amend, or invalidate  
 788 the suspension. The scope of the review shall be limited to the  
 789 following issues:

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

792 1. Whether the arresting law enforcement officer had  
 793 probable cause to believe that the person was driving or in  
 794 actual physical control of a motor vehicle in this state while  
 795 under the influence of alcoholic beverages or controlled  
 796 substances.

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

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

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

803 1. Whether the arresting law enforcement officer had  
 804 probable cause to believe that the person was driving or in  
 805 actual physical control of a motor vehicle in this state while

HB 0307

2004

806 under the influence of alcoholic beverages or controlled  
 807 substances.

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

810 3. Whether the person refused to submit to any such test  
 811 after being requested to do so by a law enforcement officer or  
 812 correctional officer.

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

818 (8) Based on the determination of the hearing officer  
 819 pursuant to subsection (7) for both informal hearings under  
 820 subsection (4) and formal hearings under subsection (6), the  
 821 department shall:

822 (b) Sustain the suspension of the person's driving  
 823 privilege for a period of 6 months for a violation of s.  
 824 316.193, or for a period of 1 year if the driving privilege of  
 825 such person has been previously suspended as a result of a  
 826 violation of s. 316.193. The suspension period commences on the  
 827 date of the arrest or issuance of the notice of suspension,  
 828 whichever is later.

829 (10) A person whose driver's license is suspended under  
 830 subsection (1) or subsection (3) may apply for issuance of a  
 831 license for business or employment purposes only if the person  
 832 is otherwise eligible for the driving privilege pursuant to s.  
 833 322.271.

HB 0307

2004

834 (b) If the suspension of the driver's license of the  
835 person arrested for a violation of s. 316.193, relating to  
836 unlawful blood-alcohol level, is sustained, the person is not  
837 eligible to receive a license for business or employment  
838 purposes only pursuant to s. 322.271 until 30 days have elapsed  
839 after the expiration of the last temporary permit issued. If the  
840 driver is not issued a 10-day permit pursuant to this section or  
841 s. 322.64 because he or she is ineligible for the permit and the  
842 suspension for a violation of s. 316.193, relating to unlawful  
843 blood-alcohol level, is not invalidated by the department, the  
844 driver is not eligible to receive a business or employment  
845 license pursuant to s. 322.271 until 30 days have elapsed from  
846 the date of the arrest.

847 (14) The decision of the department under this section  
848 shall not be considered in any trial for a violation of s.  
849 316.193, nor shall any written statement submitted by a person  
850 in his or her request for departmental review under this section  
851 be admissible into evidence against him or her in any such  
852 trial. The disposition of any related criminal proceedings shall  
853 not affect a suspension imposed pursuant to this section.

854 Section 19. For the purpose of incorporating the amendment  
855 to section 316.193, Florida Statutes, in references thereto,  
856 paragraph (a) of subsection (1) and subsections (15) and (19) of  
857 section 322.2616, Florida Statutes, are reenacted to read:

858 322.2616 Suspension of license; persons under 21 years of  
859 age; right to review.--

860 (1)(a) Notwithstanding s. 316.193, it is unlawful for a  
861 person under the age of 21 who has a blood-alcohol or breath-

HB 0307

2004

862 alcohol level of 0.02 or higher to drive or be in actual  
 863 physical control of a motor vehicle.

864 (15) The decision of the department under this section  
 865 shall not be considered in any trial for a violation of s.  
 866 316.193, nor shall any written statement submitted by a person  
 867 in his or her request for departmental review under this section  
 868 be admissible into evidence against him or her in any such  
 869 trial. The disposition of any related criminal proceedings shall  
 870 not affect a suspension imposed under this section.

871 (19) A violation of this section is neither a traffic  
 872 infraction nor a criminal offense, nor does being detained  
 873 pursuant to this section constitute an arrest. A violation of  
 874 this section is subject to the administrative action provisions  
 875 of this section, which are administered by the department  
 876 through its administrative processes. Administrative actions  
 877 taken pursuant to this section shall be recorded in the motor  
 878 vehicle records maintained by the department. This section does  
 879 not bar prosecution under s. 316.193. However, if the department  
 880 suspends a person's license under s. 322.2615 for a violation of  
 881 s. 316.193, it may not also suspend the person's license under  
 882 this section for the same episode that was the basis for the  
 883 suspension under s. 322.2615.

884 Section 20. For the purpose of incorporating the amendment  
 885 to section 316.193, Florida Statutes, in references thereto,  
 886 paragraph (b) of subsection (1) of section 322.264, Florida  
 887 Statutes, is reenacted to read:

888 322.264 "Habitual traffic offender" defined.--A "habitual  
 889 traffic offender" is any person whose record, as maintained by  
 890 the Department of Highway Safety and Motor Vehicles, shows that

HB 0307

2004

891 such person has accumulated the specified number of convictions  
 892 for offenses described in subsection (1) or subsection (2)  
 893 within a 5-year period:

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

896 (b) Any violation of s. 316.193, former s. 316.1931, or  
 897 former s. 860.01;

898  
 899 Any violation of any federal law, any law of another state or  
 900 country, or any valid ordinance of a municipality or county of  
 901 another state similar to a statutory prohibition specified in  
 902 subsection (1) or subsection (2) shall be counted as a violation  
 903 of such prohibition. In computing the number of convictions, all  
 904 convictions during the 5 years previous to July 1, 1972, will be  
 905 used, provided at least one conviction occurs after that date.  
 906 The fact that previous convictions may have resulted in  
 907 suspension, revocation, or disqualification under another  
 908 section does not exempt them from being used for suspension or  
 909 revocation under this section as a habitual offender.

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

914 322.271 Authority to modify revocation, cancellation, or  
 915 suspension order.--

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



HB 0307

2004

920 out his or her normal business occupation, trade, or employment  
 921 and that the use of the person's license in the normal course of  
 922 his or her business is necessary to the proper support of the  
 923 person or his or her family. Except as otherwise provided in  
 924 this subsection, the department shall require proof of the  
 925 successful completion of the applicable department-approved  
 926 driver training course operating pursuant to s. 318.1451 or DUI  
 927 program substance abuse education course and evaluation as  
 928 provided in s. 316.193(5). Letters of recommendation from  
 929 respected business persons in the community, law enforcement  
 930 officers, or judicial officers may also be required to determine  
 931 whether such person should be permitted to operate a motor  
 932 vehicle on a restricted basis for business or employment use  
 933 only and in determining whether such person can be trusted to so  
 934 operate a motor vehicle. If a driver's license has been  
 935 suspended under the point system or pursuant to s. 322.2615, the  
 936 department shall require proof of enrollment in the applicable  
 937 department-approved driver training course or licensed DUI  
 938 program substance abuse education course, including evaluation  
 939 and treatment, if referred, and may require letters of  
 940 recommendation described in this subsection to determine if the  
 941 driver should be reinstated on a restricted basis. If such  
 942 person fails to complete the approved course within 90 days  
 943 after reinstatement or subsequently fails to complete treatment,  
 944 if applicable, the department shall cancel his or her driver's  
 945 license until the course and treatment, if applicable, is  
 946 successfully completed, notwithstanding the terms of the court  
 947 order or any suspension or revocation of the driving privilege.  
 948 The department may temporarily reinstate the driving privilege

HB 0307

2004

949 on a restricted basis upon verification from the DUI program  
 950 that the offender has reentered and is currently participating  
 951 in treatment and has completed the DUI education course and  
 952 evaluation requirement. If the DUI program notifies the  
 953 department of the second failure to complete treatment, the  
 954 department shall reinstate the driving privilege only after  
 955 notice of completion of treatment from the DUI program. The  
 956 privilege of driving on a limited or restricted basis for  
 957 business or employment use shall not be granted to a person who  
 958 has been convicted of a violation of s. 316.193 until completion  
 959 of the DUI program substance abuse education course and  
 960 evaluations as provided in s. 316.193(5). Except as provided in  
 961 paragraph (b), the privilege of driving on a limited or  
 962 restricted basis for business or employment use shall not be  
 963 granted to a person whose license is revoked pursuant to s.  
 964 322.28 or suspended pursuant to s. 322.2615 and who has been  
 965 convicted of a violation of s. 316.193 two or more times or  
 966 whose license has been suspended two or more times for refusal  
 967 to submit to a test pursuant to s. 322.2615 or former s.  
 968 322.261.

969 (c) For the purpose of this section, a previous conviction  
 970 of driving under the influence, driving while intoxicated,  
 971 driving with an unlawful blood-alcohol level, or any other  
 972 similar alcohol-related or drug-related offense outside this  
 973 state or a previous conviction of former s. 316.1931, former s.  
 974 316.028, or former s. 860.01 shall be considered a previous  
 975 conviction for violation of s. 316.193.

976 (4) Notwithstanding the provisions of s. 322.28(2)(e), a  
 977 person whose driving privilege has been permanently revoked

HB 0307

2004

978 because he or she has been convicted of DUI manslaughter in  
 979 violation of s. 316.193 and has no prior convictions for DUI-  
 980 related offenses may, upon the expiration of 5 years after the  
 981 date of such revocation or the expiration of 5 years after the  
 982 termination of any term of incarceration under s. 316.193 or  
 983 former s. 316.1931, whichever date is later, petition the  
 984 department for reinstatement of his or her driving privilege.

985 (a) Within 30 days after the receipt of such a petition,  
 986 the department shall afford the petitioner an opportunity for a  
 987 hearing. At the hearing, the petitioner must demonstrate to the  
 988 department that he or she:

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

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

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

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

996 (b) At such hearing, the department shall determine the  
 997 petitioner's qualification, fitness, and need to drive. Upon  
 998 such determination, the department may, in its discretion,  
 999 reinstate the driver's license of the petitioner. Such  
 1000 reinstatement must be made subject to the following  
 1001 qualifications:

1002 1. The license must be restricted for employment purposes  
 1003 for not less than 1 year; and

1004 2. Such person must be supervised by a DUI program  
 1005 licensed by the department and report to the program for such  
 1006 supervision and education at least four times a year or

HB 0307

2004

1007 additionally as required by the program for the remainder of the  
 1008 revocation period. Such supervision shall include evaluation,  
 1009 education, referral into treatment, and other activities  
 1010 required by the department.

1011 (c) Such person must assume the reasonable costs of  
 1012 supervision. If such person fails to comply with the required  
 1013 supervision, the program shall report the failure to the  
 1014 department, and the department shall cancel such person's  
 1015 driving privilege.

1016 (d) If, after reinstatement, such person is convicted of  
 1017 an offense for which mandatory revocation of his or her license  
 1018 is required, the department shall revoke his or her driving  
 1019 privilege.

1020 (e) The department shall adopt rules regulating the  
 1021 providing of services by DUI programs pursuant to this section.

1022 Section 22. For the purpose of incorporating the amendment  
 1023 to section 316.193, Florida Statutes, in references thereto,  
 1024 subsection (2) of section 322.28, Florida Statutes, is reenacted  
 1025 to read:

1026 322.28 Period of suspension or revocation.--

1027 (2) In a prosecution for a violation of s. 316.193 or  
 1028 former s. 316.1931, the following provisions apply:

1029 (a) Upon conviction of the driver, the court, along with  
 1030 imposing sentence, shall revoke the driver's license or driving  
 1031 privilege of the person so convicted, effective on the date of  
 1032 conviction, and shall prescribe the period of such revocation in  
 1033 accordance with the following provisions:

1034 1. Upon a first conviction for a violation of the  
 1035 provisions of s. 316.193, except a violation resulting in death,

HB 0307

2004

1036 the driver's license or driving privilege shall be revoked for  
 1037 not less than 180 days or more than 1 year.

1038 2. Upon a second conviction for an offense that occurs  
 1039 within a period of 5 years after the date of a prior conviction  
 1040 for a violation of the provisions of s. 316.193 or former s.  
 1041 316.1931 or a combination of such sections, the driver's license  
 1042 or driving privilege shall be revoked for not less than 5 years.

1043 3. Upon a third conviction for an offense that occurs  
 1044 within a period of 10 years after the date of a prior conviction  
 1045 for the violation of the provisions of s. 316.193 or former s.  
 1046 316.1931 or a combination of such sections, the driver's license  
 1047 or driving privilege shall be revoked for not less than 10  
 1048 years.

1049  
 1050 For the purposes of this paragraph, a previous conviction  
 1051 outside this state for driving under the influence, driving  
 1052 while intoxicated, driving with an unlawful blood-alcohol level,  
 1053 or any other alcohol-related or drug-related traffic offense  
 1054 similar to the offense of driving under the influence as  
 1055 proscribed by s. 316.193 will be considered a previous  
 1056 conviction for violation of s. 316.193, and a conviction for  
 1057 violation of former s. 316.028, former s. 316.1931, or former s.  
 1058 860.01 is considered a conviction for violation of s. 316.193.

1059 (b) If the period of revocation was not specified by the  
 1060 court at the time of imposing sentence or within 30 days  
 1061 thereafter, and is not otherwise specified by law, the  
 1062 department shall forthwith revoke the driver's license or  
 1063 driving privilege for the maximum period applicable under  
 1064 paragraph (a) for a first conviction and for the minimum period

HB 0307

2004

1065 applicable under paragraph (a) for any subsequent convictions.  
 1066 The driver may, within 30 days after such revocation by the  
 1067 department, petition the court for further hearing on the period  
 1068 of revocation, and the court may reopen the case and determine  
 1069 the period of revocation within the limits specified in  
 1070 paragraph (a).

1071 (c) The forfeiture of bail bond, not vacated within 20  
 1072 days, in any prosecution for the offense of driving while under  
 1073 the influence of alcoholic beverages, chemical substances, or  
 1074 controlled substances to the extent of depriving the defendant  
 1075 of his or her normal faculties shall be deemed equivalent to a  
 1076 conviction for the purposes of this paragraph, and the  
 1077 department shall forthwith revoke the defendant's driver's  
 1078 license or driving privilege for the maximum period applicable  
 1079 under paragraph (a) for a first conviction and for the minimum  
 1080 period applicable under paragraph (a) for a second or subsequent  
 1081 conviction; however, if the defendant is later convicted of the  
 1082 charge, the period of revocation imposed by the department for  
 1083 such conviction shall not exceed the difference between the  
 1084 applicable maximum for a first conviction or minimum for a  
 1085 second or subsequent conviction and the revocation period under  
 1086 this subsection that has actually elapsed; upon conviction of  
 1087 such charge, the court may impose revocation for a period of  
 1088 time as specified in paragraph (a). This paragraph does not  
 1089 apply if an appropriate motion contesting the forfeiture is  
 1090 filed within the 20-day period.

1091 (d) When any driver's license or driving privilege has  
 1092 been revoked pursuant to the provisions of this section, the  
 1093 department shall not grant a new license, except upon

HB 0307

2004

1094 reexamination of the licensee after the expiration of the period  
 1095 of revocation so prescribed. However, the court may, in its  
 1096 sound discretion, issue an order of reinstatement on a form  
 1097 furnished by the department which the person may take to any  
 1098 driver's license examining office for reinstatement by the  
 1099 department pursuant to s. 322.282.

1100 (e) The court shall permanently revoke the driver's  
 1101 license or driving privilege of a person who has been convicted  
 1102 four times for violation of s. 316.193 or former s. 316.1931 or  
 1103 a combination of such sections. The court shall permanently  
 1104 revoke the driver's license or driving privilege of any person  
 1105 who has been convicted of DUI manslaughter in violation of s.  
 1106 316.193. If the court has not permanently revoked such driver's  
 1107 license or driving privilege within 30 days after imposing  
 1108 sentence, the department shall permanently revoke the driver's  
 1109 license or driving privilege pursuant to this paragraph. No  
 1110 driver's license or driving privilege may be issued or granted  
 1111 to any such person. This paragraph applies only if at least one  
 1112 of the convictions for violation of s. 316.193 or former s.  
 1113 316.1931 was for a violation that occurred after July 1, 1982.  
 1114 For the purposes of this paragraph, a conviction for violation  
 1115 of former s. 316.028, former s. 316.1931, or former s. 860.01 is  
 1116 also considered a conviction for violation of s. 316.193. Also,  
 1117 a conviction of driving under the influence, driving while  
 1118 intoxicated, driving with an unlawful blood-alcohol level, or  
 1119 any other similar alcohol-related or drug-related traffic  
 1120 offense outside this state is considered a conviction for the  
 1121 purposes of this paragraph.

HB 0307

2004

1122 Section 23. For the purpose of incorporating the amendment  
 1123 to section 316.193, Florida Statutes, in references thereto,  
 1124 paragraph (a) of subsection (2) of section 322.282, Florida  
 1125 Statutes, is reenacted to read:

1126 322.282 Procedure when court revokes or suspends license  
 1127 or driving privilege and orders reinstatement.--When a court  
 1128 suspends or revokes a person's license or driving privilege and,  
 1129 in its discretion, orders reinstatement as provided by s.  
 1130 322.28(2)(d) or former s. 322.261(5):

1131 (2)(a) The court shall issue an order of reinstatement, on  
 1132 a form to be furnished by the department, which the person may  
 1133 take to any driver's license examining office. The department  
 1134 shall issue a temporary driver's permit to a licensee who  
 1135 presents the court's order of reinstatement, proof of completion  
 1136 of a department-approved driver training or substance abuse  
 1137 education course, and a written request for a hearing under s.  
 1138 322.271. The permit shall not be issued if a record check by the  
 1139 department shows that the person has previously been convicted  
 1140 for a violation of s. 316.193, former s. 316.1931, former s.  
 1141 316.028, former s. 860.01, or a previous conviction outside this  
 1142 state for driving under the influence, driving while  
 1143 intoxicated, driving with an unlawful blood-alcohol level, or  
 1144 any similar alcohol-related or drug-related traffic offense;  
 1145 that the person's driving privilege has been previously  
 1146 suspended for refusal to submit to a lawful test of breath,  
 1147 blood, or urine; or that the person is otherwise not entitled to  
 1148 issuance of a driver's license. This paragraph shall not be  
 1149 construed to prevent the reinstatement of a license or driving  
 1150 privilege that is presently suspended for driving with an



HB 0307

2004

1151 unlawful blood-alcohol level or a refusal to submit to a breath,  
 1152 urine, or blood test and is also revoked for a conviction for a  
 1153 violation of s. 316.193 or former s. 316.1931, if the suspension  
 1154 and revocation arise out of the same incident.

1155 Section 24. For the purpose of incorporating the amendment  
 1156 to section 316.193, Florida Statutes, in references thereto,  
 1157 paragraph (a) of subsection (1) of section 322.291, Florida  
 1158 Statutes, is reenacted to read:

1159 322.291 Driver improvement schools or DUI programs;  
 1160 required in certain suspension and revocation cases.--Except as  
 1161 provided in s. 322.03(2), any person:

1162 (1) Whose driving privilege has been revoked:

1163 (a) Upon conviction for:

1164 1. Driving, or being in actual physical control of, any  
 1165 vehicle while under the influence of alcoholic beverages, any  
 1166 chemical substance set forth in s. 877.111, or any substance  
 1167 controlled under chapter 893, in violation of s. 316.193;

1168 2. Driving with an unlawful blood- or breath-alcohol  
 1169 level;

1170 3. Manslaughter resulting from the operation of a motor  
 1171 vehicle;

1172 4. Failure to stop and render aid as required under the  
 1173 laws of this state in the event of a motor vehicle crash  
 1174 resulting in the death or personal injury of another;

1175 5. Reckless driving; or

1176  
 1177 shall, before the driving privilege may be reinstated, present  
 1178 to the department proof of enrollment in a department-approved  
 1179 advanced driver improvement course operating pursuant to s.

HB 0307

2004

1180 318.1451 or a substance abuse education course conducted by a  
 1181 DUI program licensed pursuant to s. 322.292, which shall include  
 1182 a psychosocial evaluation and treatment, if referred. If the  
 1183 person fails to complete such course or evaluation within 90  
 1184 days after reinstatement, or subsequently fails to complete  
 1185 treatment, if referred, the DUI program shall notify the  
 1186 department of the failure. Upon receipt of the notice, the  
 1187 department shall cancel the offender's driving privilege,  
 1188 notwithstanding the expiration of the suspension or revocation  
 1189 of the driving privilege. The department may temporarily  
 1190 reinstate the driving privilege upon verification from the DUI  
 1191 program that the offender has completed the education course and  
 1192 evaluation requirement and has reentered and is currently  
 1193 participating in treatment. If the DUI program notifies the  
 1194 department of the second failure to complete treatment, the  
 1195 department shall reinstate the driving privilege only after  
 1196 notice of completion of treatment from the DUI program.

1197 Section 25. For the purpose of incorporating the amendment  
 1198 to section 316.193, Florida Statutes, in references thereto,  
 1199 paragraph (a) of subsection (9) of section 322.34, Florida  
 1200 Statutes, is reenacted to read:

1201 322.34 Driving while license suspended, revoked, canceled,  
 1202 or disqualified.--

1203 (9)(a) A motor vehicle that is driven by a person under  
 1204 the influence of alcohol or drugs in violation of s. 316.193 is  
 1205 subject to seizure and forfeiture under ss. 932.701-932.707 and  
 1206 is subject to liens for recovering, towing, or storing vehicles  
 1207 under s. 713.78 if, at the time of the offense, the person's

HB 0307

2004

1208 driver's license is suspended, revoked, or canceled as a result  
 1209 of a prior conviction for driving under the influence.

1210 Section 26. For the purpose of incorporating the amendment  
 1211 to section 316.193, Florida Statutes, in references thereto,  
 1212 section 322.44, Florida Statutes, is reenacted to read:

1213 322.44 Driver License Compact.--The Driver License Compact  
 1214 is hereby enacted into law and entered into with all other  
 1215 jurisdictions legally joining therein in the form substantially  
 1216 as follows:

1217  
 1218 ARTICLE I

1219  
 1220 FINDINGS AND DECLARATION OF POLICY.--

1221 (1) The party states find that:

1222 (a) The safety of their streets and highways is materially  
 1223 affected by the degree of compliance with state laws and local  
 1224 ordinances relating to the operation of motor vehicles;

1225 (b) Violation of such a law or ordinance is evidence that  
 1226 the violator engages in conduct which is likely to endanger the  
 1227 safety of persons and property;

1228 (c) The continuance in force of a license to drive is  
 1229 predicated upon compliance with laws and ordinances relating to  
 1230 the operation of motor vehicles, in whichever jurisdiction the  
 1231 vehicle is operated.

1232 (2) It is the policy of each of the party states to:

1233 (a) Promote compliance with the laws, ordinances, and  
 1234 administrative rules and regulations relating to the operation  
 1235 of motor vehicles by their operators in each of the  
 1236 jurisdictions where such operators drive motor vehicles;

HB 0307

2004

1237 (b) Make the reciprocal recognition of licenses to drive  
 1238 and eligibility therefor more just and equitable by considering  
 1239 the overall compliance with motor vehicle laws, ordinances, and  
 1240 administrative rules and regulations as a condition precedent to  
 1241 the continuance or issuance of any license by reason of which  
 1242 the licensee is authorized or permitted to operate a motor  
 1243 vehicle in any of the party states.

1244

1245 ARTICLE II

1246

1247 DEFINITIONS.--As used in this compact:

1248 (1) "State" means a state, territory or possession of the  
 1249 United States, the District of Columbia, or the Commonwealth of  
 1250 Puerto Rico.

1251 (2) "Home state" means the state which has issued and has  
 1252 the power to suspend or revoke the use of the license or permit  
 1253 to operate a motor vehicle.

1254 (3) "Conviction" means a conviction of any offense related  
 1255 to the use or operation of a motor vehicle which is prohibited  
 1256 by state law, municipal ordinance, or administrative rule or  
 1257 regulation, or a forfeiture of bail, bond, or other security  
 1258 deposited to secure appearance by a person charged with having  
 1259 committed any such offense, and which conviction or forfeiture  
 1260 is required to be reported to the licensing authority.

1261

1262 ARTICLE III

1263

1264 REPORTS OF CONVICTION.--The licensing authority of a party  
 1265 state shall report each conviction of a person from another

HB 0307

2004

1266 party state occurring within its jurisdiction to the licensing  
 1267 authority of the home state of the licensee. Such report shall  
 1268 clearly identify the person convicted; describe the violation  
 1269 specifying the section of the statute, code, or ordinance  
 1270 violated; identify the court in which action was taken; indicate  
 1271 whether a plea of guilty or not guilty was entered or the  
 1272 conviction was a result of the forfeiture of bail, bond, or  
 1273 other security; and shall include any special findings made in  
 1274 connection therewith.

1276 ARTICLE IV

1278 EFFECT OF CONVICTION.--

1279 (1) The licensing authority in the home state, for the  
 1280 purposes of suspension, revocation, or limitation of the license  
 1281 to operate a motor vehicle, shall give the same effect to the  
 1282 conduct reported, pursuant to article III, as it would if such  
 1283 conduct had occurred in the home state, in the case of  
 1284 convictions for:

1285 (a) Manslaughter or negligent homicide resulting from the  
 1286 operation of a motor vehicle, as provided by ss. 316.193 and  
 1287 322.26;

1288 (b) Driving a motor vehicle while under the influence of  
 1289 alcoholic beverages or a narcotic drug, or under the influence  
 1290 of any other drug to a degree which renders the driver incapable  
 1291 of safely driving a motor vehicle, as provided by s. 316.193;

1292 (c) Any felony in the commission of which a motor vehicle  
 1293 is used, as provided by s. 322.26; or

HB 0307

2004

1294 (d) Failure to stop and render aid in the event of a motor  
 1295 vehicle crash resulting in the death or personal injury of  
 1296 another, as provided by s. 322.26.

1297 (2) As to other convictions, reported pursuant to article  
 1298 III, the licensing authority in the home state shall give such  
 1299 effect to the conduct as is provided by the laws of the home  
 1300 state.

1301

1302 ARTICLE V

1303

1304 APPLICATIONS FOR NEW LICENSES.--Upon application for a  
 1305 license to drive, the licensing authority in a party state shall  
 1306 ascertain whether the applicant has ever held, or is the holder  
 1307 of, a license to drive issued by any other party state. The  
 1308 licensing authority in the state where application is made shall  
 1309 not issue a license to drive to the applicant if:

1310 (1) The applicant has held such a license, but the same  
 1311 has been suspended by reason, in whole or in part, of a  
 1312 violation and if such suspension period has not terminated.

1313 (2) The applicant has held such a license, but the same  
 1314 has been revoked by reason, in whole or in part, of a violation  
 1315 and if such revocation has not terminated, except that after the  
 1316 expiration of 1 year from the date the license was revoked, such  
 1317 person may make application for a new license if permitted by  
 1318 law. The licensing authority may refuse to issue a license to  
 1319 any such applicant if, after investigation, the licensing  
 1320 authority determines that it will not be safe to grant to such  
 1321 person the privilege of driving a motor vehicle on the public  
 1322 highways.

HB 0307

2004

1323 (3) The applicant is the holder of a license to drive  
 1324 issued by another party state and currently in force unless the  
 1325 applicant surrenders such license.

1326

1327 ARTICLE VI

1328

1329 APPLICABILITY OF OTHER LAWS.--Except as expressly required  
 1330 by provisions of this compact, nothing contained herein shall be  
 1331 construed to affect the right of any party state to apply any of  
 1332 its other laws relating to licenses to drive to any person or  
 1333 circumstance, nor to invalidate or prevent any driver license  
 1334 agreement or other cooperative arrangement between a party state  
 1335 and a nonparty state.

1336

1337 ARTICLE VII

1338

1339 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

1340 (1) The head of the licensing authority of each party  
 1341 state shall be the administrator of this compact for his or her  
 1342 state. The administrators, acting jointly, shall have the power  
 1343 to formulate all necessary and proper procedures for the  
 1344 exchange of information under this compact.

1345 (2) The administrator of each party state shall furnish to  
 1346 the administrator of each other party state any information or  
 1347 documents reasonably necessary to facilitate the administration  
 1348 of this compact.

1349

1350 ARTICLE VIII

1351

HB 0307

2004

1352 ENTRY INTO FORCE AND WITHDRAWAL.--

1353 (1) This compact shall enter into force and become  
 1354 effective as to any state when it has enacted the same into law.

1355 (2) Any party state may withdraw from this compact by  
 1356 enacting a statute repealing the same, but no such withdrawal  
 1357 shall take effect until 6 months after the executive head of the  
 1358 withdrawing state has given notice of the withdrawal to the  
 1359 executive heads of all other party states. No withdrawal shall  
 1360 affect the validity or applicability by the licensing  
 1361 authorities of states remaining party to the compact of any  
 1362 report of conviction occurring prior to the withdrawal.

1363

1364 ARTICLE IX

1365

1366 CONSTRUCTION AND SEVERABILITY.--This compact shall be  
 1367 liberally construed so as to effectuate the purposes thereof.  
 1368 The provisions of this compact shall be severable; and if any  
 1369 phrase, clause, sentence, or provision of this compact is  
 1370 declared to be contrary to the constitution of any party state  
 1371 or of the United States or the applicability thereof to any  
 1372 government, agency, person, or circumstance is held invalid, the  
 1373 validity of the remainder of this compact and the applicability  
 1374 thereof to any government, agency, person, or circumstance shall  
 1375 not be affected thereby. If this compact shall be held contrary  
 1376 to the constitution of any state party thereto, the compact  
 1377 shall remain in full force and effect as to the remaining states  
 1378 and in full force and effect as to the state affected as to all  
 1379 severable matters.



HB 0307

2004

1380 Section 27. For the purpose of incorporating the amendment  
 1381 to section 316.193, Florida Statutes, in references thereto,  
 1382 subsection (3) of section 322.62, Florida Statutes, is reenacted  
 1383 to read:

1384 322.62 Driving under the influence; commercial motor  
 1385 vehicle operators.--

1386 (3) This section does not supersede s. 316.193. Nothing in  
 1387 this section prohibits the prosecution of a person who drives a  
 1388 commercial motor vehicle for driving under the influence of  
 1389 alcohol or controlled substances whether or not such person is  
 1390 also prosecuted for a violation of this section.

1391 Section 28. For the purpose of incorporating the amendment  
 1392 to section 316.193, Florida Statutes, in references thereto,  
 1393 paragraph (d) of subsection (2) and subsection (6) of section  
 1394 322.63, Florida Statutes, are reenacted to read:

1395 322.63 Alcohol or drug testing; commercial motor vehicle  
 1396 operators.--

1397 (2) The chemical and physical tests authorized by this  
 1398 section shall only be required if a law enforcement officer has  
 1399 reasonable cause to believe that a person driving a commercial  
 1400 motor vehicle has any alcohol, chemical substance, or controlled  
 1401 substance in his or her body.

1402 (d) The administration of one test under paragraph (a),  
 1403 paragraph (b), or paragraph (c) shall not preclude the  
 1404 administration of a different test under paragraph (a),  
 1405 paragraph (b), or paragraph (c). However, a urine test may not  
 1406 be used to determine alcohol concentration and a breath test may  
 1407 not be used to determine the presence of controlled substances  
 1408 or chemical substances in a person's body. Notwithstanding the

HB 0307

2004

1409 provisions of this paragraph, in the event a Florida licensee  
1410 has been convicted in another state for an offense substantially  
1411 similar to s. 316.193 or to s. 322.62, which conviction was  
1412 based upon evidence of test results prohibited by this  
1413 paragraph, that out-of-state conviction shall constitute a  
1414 conviction for the purposes of this chapter.

1415 (6) Notwithstanding any provision of law pertaining to the  
1416 confidentiality of hospital records or other medical records,  
1417 information relating to the alcohol content of a person's blood  
1418 or the presence of chemical substances or controlled substances  
1419 in a person's blood obtained pursuant to this section shall be  
1420 released to a court, prosecuting attorney, defense attorney, or  
1421 law enforcement officer in connection with an alleged violation  
1422 of s. 316.193 or s. 322.62 upon request for such information.

1423 Section 29. For the purpose of incorporating the amendment  
1424 to section 316.193, Florida Statutes, in references thereto,  
1425 subsections (1) and (2), paragraph (a) of subsection (7),  
1426 paragraph (b) of subsection (8), and subsections (14) and (15)  
1427 of section 322.64, Florida Statutes, are reenacted to read:

1428 322.64 Holder of commercial driver's license; driving with  
1429 unlawful blood-alcohol level; refusal to submit to breath,  
1430 urine, or blood test.--

1431 (1)(a) A law enforcement officer or correctional officer  
1432 shall, on behalf of the department, disqualify from operating  
1433 any commercial motor vehicle a person who while operating or in  
1434 actual physical control of a commercial motor vehicle is  
1435 arrested for a violation of s. 316.193, relating to unlawful  
1436 blood-alcohol level or breath-alcohol level, or a person who has  
1437 refused to submit to a breath, urine, or blood test authorized

HB 0307

2004

1438 by s. 322.63 arising out of the operation or actual physical  
 1439 control of a commercial motor vehicle. Upon disqualification of  
 1440 the person, the officer shall take the person's driver's license  
 1441 and issue the person a 10-day temporary permit if the person is  
 1442 otherwise eligible for the driving privilege and shall issue the  
 1443 person a notice of disqualification. If the person has been  
 1444 given a blood, breath, or urine test, the results of which are  
 1445 not available to the officer at the time of the arrest, the  
 1446 agency employing the officer shall transmit such results to the  
 1447 department within 5 days after receipt of the results. If the  
 1448 department then determines that the person was arrested for a  
 1449 violation of s. 316.193 and that the person had a blood-alcohol  
 1450 level or breath-alcohol level of 0.08 or higher, the department  
 1451 shall disqualify the person from operating a commercial motor  
 1452 vehicle pursuant to subsection (3).

1453 (b) The disqualification under paragraph (a) shall be  
 1454 pursuant to, and the notice of disqualification shall inform the  
 1455 driver of, the following:

1456 1.a. The driver refused to submit to a lawful breath,  
 1457 blood, or urine test and he or she is disqualified from  
 1458 operating a commercial motor vehicle for a period of 1 year, for  
 1459 a first refusal, or permanently, if he or she has previously  
 1460 been disqualified as a result of a refusal to submit to such a  
 1461 test; or

1462 b. The driver violated s. 316.193 by driving with an  
 1463 unlawful blood-alcohol level and he or she is disqualified from  
 1464 operating a commercial motor vehicle for a period of 6 months  
 1465 for a first offense or for a period of 1 year if he or she has

HB 0307

2004

1466 previously been disqualified, or his or her driving privilege  
 1467 has been previously suspended, for a violation of s. 316.193.

1468 2. The disqualification period shall commence on the date  
 1469 of arrest or issuance of notice of disqualification, whichever  
 1470 is later.

1471 3. The driver may request a formal or informal review of  
 1472 the disqualification by the department within 10 days after the  
 1473 date of arrest or issuance of notice of disqualification,  
 1474 whichever is later.

1475 4. The temporary permit issued at the time of arrest or  
 1476 disqualification will expire at midnight of the 10th day  
 1477 following the date of disqualification.

1478 5. The driver may submit to the department any materials  
 1479 relevant to the arrest.

1480 (2) Except as provided in paragraph (1)(a), the law  
 1481 enforcement officer shall forward to the department, within 5  
 1482 days after the date of the arrest or the issuance of the notice  
 1483 of disqualification, whichever is later, a copy of the notice of  
 1484 disqualification, the driver's license of the person arrested,  
 1485 and a report of the arrest, including, if applicable, an  
 1486 affidavit stating the officer's grounds for belief that the  
 1487 person arrested was in violation of s. 316.193; the results of  
 1488 any breath or blood test or an affidavit stating that a breath,  
 1489 blood, or urine test was requested by a law enforcement officer  
 1490 or correctional officer and that the person arrested refused to  
 1491 submit; a copy of the citation issued to the person arrested;  
 1492 and the officer's description of the person's field sobriety  
 1493 test, if any. The failure of the officer to submit materials  
 1494 within the 5-day period specified in this subsection or

HB 0307

2004

1495 subsection (1) shall not affect the department's ability to  
 1496 consider any evidence submitted at or prior to the hearing. The  
 1497 officer may also submit a copy of a videotape of the field  
 1498 sobriety test or the attempt to administer such test.

1499 (7) In a formal review hearing under subsection (6) or an  
 1500 informal review hearing under subsection (4), the hearing  
 1501 officer shall determine by a preponderance of the evidence  
 1502 whether sufficient cause exists to sustain, amend, or invalidate  
 1503 the disqualification. The scope of the review shall be limited  
 1504 to the following issues:

1505 (a) If the person was disqualified from operating a  
 1506 commercial motor vehicle for driving with an unlawful blood-  
 1507 alcohol level in violation of s. 316.193:

1508 1. Whether the arresting law enforcement officer had  
 1509 probable cause to believe that the person was driving or in  
 1510 actual physical control of a commercial motor vehicle in this  
 1511 state while he or she had any alcohol, chemical substances, or  
 1512 controlled substances in his or her body.

1513 2. Whether the person was placed under lawful arrest for a  
 1514 violation of s. 316.193.

1515 3. Whether the person had an unlawful blood-alcohol level  
 1516 as provided in s. 316.193.

1517 (8) Based on the determination of the hearing officer  
 1518 pursuant to subsection (7) for both informal hearings under  
 1519 subsection (4) and formal hearings under subsection (6), the  
 1520 department shall:

1521 (b) Sustain the disqualification for a period of 6 months  
 1522 for a violation of s. 316.193 or for a period of 1 year if the  
 1523 person has been previously disqualified from operating a

HB 0307

2004

1524 commercial motor vehicle or his or her driving privilege has  
 1525 been previously suspended as a result of a violation of s.  
 1526 316.193. The disqualification period commences on the date of  
 1527 the arrest or issuance of the notice of disqualification,  
 1528 whichever is later.

1529 (14) The decision of the department under this section  
 1530 shall not be considered in any trial for a violation of s.  
 1531 316.193, s. 322.61, or s. 322.62, nor shall any written  
 1532 statement submitted by a person in his or her request for  
 1533 departmental review under this section be admissible into  
 1534 evidence against him or her in any such trial. The disposition  
 1535 of any related criminal proceedings shall not affect a  
 1536 disqualification imposed pursuant to this section.

1537 (15) This section does not preclude the suspension of the  
 1538 driving privilege pursuant to s. 322.2615. The driving privilege  
 1539 of a person who has been disqualified from operating a  
 1540 commercial motor vehicle also may be suspended for a violation  
 1541 of s. 316.193.

1542 Section 30. For the purpose of incorporating the amendment  
 1543 to section 316.193, Florida Statutes, in references thereto,  
 1544 paragraph (f) of subsection (4) of section 323.001, Florida  
 1545 Statutes, is reenacted to read:

1546 323.001 Wrecker operator storage facilities; vehicle  
 1547 holds.--

1548 (4) The requirements for a written hold apply when the  
 1549 following conditions are present:

1550 (f) The vehicle is impounded or immobilized pursuant to s.  
 1551 316.193 or s. 322.34; or

HB 0307

2004

1552 Section 31. For the purpose of incorporating the amendment  
 1553 to section 316.193, Florida Statutes, in references thereto,  
 1554 subsection (6) of section 327.35, Florida Statutes, is reenacted  
 1555 to read:

1556 327.35 Boating under the influence; penalties; "designated  
 1557 drivers".--

1558 (6) With respect to any person convicted of a violation of  
 1559 subsection (1), regardless of any other penalty imposed:

1560 (a) For the first conviction, the court shall place the  
 1561 defendant on probation for a period not to exceed 1 year and, as  
 1562 a condition of such probation, shall order the defendant to  
 1563 participate in public service or a community work project for a  
 1564 minimum of 50 hours. The court must also, as a condition of  
 1565 probation, order the impoundment or immobilization of the vessel  
 1566 that was operated by or in the actual control of the defendant  
 1567 or any one vehicle registered in the defendant's name at the  
 1568 time of impoundment or immobilization, for a period of 10 days  
 1569 or for the unexpired term of any lease or rental agreement that  
 1570 expires within 10 days. The impoundment or immobilization must  
 1571 not occur concurrently with the incarceration of the defendant.  
 1572 The impoundment or immobilization order may be dismissed in  
 1573 accordance with paragraph (e) or paragraph (f). The total period  
 1574 of probation and incarceration may not exceed 1 year.

1575 (b) For the second conviction for an offense that occurs  
 1576 within a period of 5 years after the date of a prior conviction  
 1577 for violation of this section, the court shall order  
 1578 imprisonment for not less than 10 days. The court must also, as  
 1579 a condition of probation, order the impoundment or  
 1580 immobilization of the vessel that was operated by or in the

HB 0307

2004

1581 actual control of the defendant or any one vehicle registered in  
 1582 the defendant's name at the time of impoundment or  
 1583 immobilization, for a period of 30 days or for the unexpired  
 1584 term of any lease or rental agreement that expires within 30  
 1585 days. The impoundment or immobilization must not occur  
 1586 concurrently with the incarceration of the defendant. The  
 1587 impoundment or immobilization order may be dismissed in  
 1588 accordance with paragraph (e) or paragraph (f). At least 48  
 1589 hours of confinement must be consecutive.

1590 (c) For the third or subsequent conviction for an offense  
 1591 that occurs within a period of 10 years after the date of a  
 1592 prior conviction for violation of this section, the court shall  
 1593 order imprisonment for not less than 30 days. The court must  
 1594 also, as a condition of probation, order the impoundment or  
 1595 immobilization of the vessel that was operated by or in the  
 1596 actual control of the defendant or any one vehicle registered in  
 1597 the defendant's name at the time of impoundment or  
 1598 immobilization, for a period of 90 days or for the unexpired  
 1599 term of any lease or rental agreement that expires within 90  
 1600 days. The impoundment or immobilization must not occur  
 1601 concurrently with the incarceration of the defendant. The  
 1602 impoundment or immobilization order may be dismissed in  
 1603 accordance with paragraph (e) or paragraph (f). At least 48  
 1604 hours of confinement must be consecutive.

1605 (d) The court must at the time of sentencing the defendant  
 1606 issue an order for the impoundment or immobilization of a  
 1607 vessel. Within 7 business days after the date that the court  
 1608 issues the order of impoundment, and once again 30 business days  
 1609 before the actual impoundment or immobilization of the vessel,



HB 0307

2004

1610 the clerk of the court must send notice by certified mail,  
 1611 return receipt requested, to the registered owner of each  
 1612 vessel, if the registered owner is a person other than the  
 1613 defendant, and to each person of record claiming a lien against  
 1614 the vessel.

1615 (e) A person who owns but was not operating the vessel  
 1616 when the offense occurred may submit to the court a police  
 1617 report indicating that the vessel was stolen at the time of the  
 1618 offense or documentation of having purchased the vessel after  
 1619 the offense was committed from an entity other than the  
 1620 defendant or the defendant's agent. If the court finds that the  
 1621 vessel was stolen or that the sale was not made to circumvent  
 1622 the order and allow the defendant continued access to the  
 1623 vessel, the order must be dismissed and the owner of the vessel  
 1624 will incur no costs. If the court denies the request to dismiss  
 1625 the order of impoundment or immobilization, the petitioner may  
 1626 request an evidentiary hearing.

1627 (f) A person who owns but was not operating the vessel  
 1628 when the offense occurred, and whose vessel was stolen or who  
 1629 purchased the vessel after the offense was committed directly  
 1630 from the defendant or the defendant's agent, may request an  
 1631 evidentiary hearing to determine whether the impoundment or  
 1632 immobilization should occur. If the court finds that either the  
 1633 vessel was stolen or the purchase was made without knowledge of  
 1634 the offense, that the purchaser had no relationship to the  
 1635 defendant other than through the transaction, and that such  
 1636 purchase would not circumvent the order and allow the defendant  
 1637 continued access to the vessel, the order must be dismissed and  
 1638 the owner of the vessel will incur no costs.

HB 0307

2004

1639 (g) All costs and fees for the impoundment or  
 1640 immobilization, including the cost of notification, must be paid  
 1641 by the owner of the vessel or, if the vessel is leased or  
 1642 rented, by the person leasing or renting the vessel, unless the  
 1643 impoundment or immobilization order is dismissed.

1644 (h) The person who owns a vessel that is impounded or  
 1645 immobilized under this paragraph, or a person who has a lien of  
 1646 record against such a vessel and who has not requested a review  
 1647 of the impoundment pursuant to paragraph (e) or paragraph (f),  
 1648 may, within 10 days after the date that person has knowledge of  
 1649 the location of the vessel, file a complaint in the county in  
 1650 which the owner resides to determine whether the vessel was  
 1651 wrongfully taken or withheld from the owner or lienholder. Upon  
 1652 the filing of a complaint, the owner or lienholder may have the  
 1653 vessel released by posting with the court a bond or other  
 1654 adequate security equal to the amount of the costs and fees for  
 1655 impoundment or immobilization, including towing or storage, to  
 1656 ensure the payment of the costs and fees if the owner or  
 1657 lienholder does not prevail. When the bond is posted and the fee  
 1658 is paid as set forth in s. 28.24, the clerk of the court shall  
 1659 issue a certificate releasing the vessel. At the time of  
 1660 release, after reasonable inspection, the owner or lienholder  
 1661 must give a receipt to the towing or storage company indicating  
 1662 any loss or damage to the vessel or to the contents of the  
 1663 vessel.

1664 (i) A defendant, in the court's discretion, may be  
 1665 required to serve all or any portion of a term of imprisonment  
 1666 to which the defendant has been sentenced pursuant to this  
 1667 section in a residential alcoholism treatment program or a

HB 0307

2004

1668 residential drug abuse treatment program. Any time spent in such  
 1669 a program must be credited by the court toward the term of  
 1670 imprisonment.

1671  
 1672 For the purposes of this section, any conviction for a violation  
 1673 of s. 316.193, a previous conviction for the violation of former  
 1674 s. 316.1931, former s. 860.01, or former s. 316.028, or a  
 1675 previous conviction outside this state for driving under the  
 1676 influence, driving while intoxicated, driving with an unlawful  
 1677 blood-alcohol level, driving with an unlawful breath-alcohol  
 1678 level, or any other similar alcohol-related or drug-related  
 1679 traffic offense, is also considered a previous conviction for  
 1680 violation of this section.

1681 Section 32. For the purpose of incorporating the amendment  
 1682 to section 316.193, Florida Statutes, in references thereto,  
 1683 subsection (10) of section 397.405, Florida Statutes, is  
 1684 reenacted to read:

1685 397.405 Exemptions from licensure.--The following are  
 1686 exempt from the licensing provisions of this chapter:

1687 (10) DUI education and screening services provided  
 1688 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.  
 1689 Persons or entities providing treatment services must be  
 1690 licensed under this chapter unless exempted from licensing as  
 1691 provided in this section.

1692  
 1693 The exemptions from licensure in this section do not apply to  
 1694 any service provider that receives an appropriation, grant, or  
 1695 contract from the state to operate as a service provider as  
 1696 defined in this chapter or to any substance abuse program

HB 0307

2004

1697 regulated pursuant to s. 397.406. Furthermore, this chapter may  
 1698 not be construed to limit the practice of a physician licensed  
 1699 under chapter 458 or chapter 459, a psychologist licensed under  
 1700 chapter 490, or a psychotherapist licensed under chapter 491 who  
 1701 provides substance abuse treatment, so long as the physician,  
 1702 psychologist, or psychotherapist does not represent to the  
 1703 public that he or she is a licensed service provider and does  
 1704 not provide services to clients pursuant to part V of this  
 1705 chapter. Failure to comply with any requirement necessary to  
 1706 maintain an exempt status under this section is a misdemeanor of  
 1707 the first degree, punishable as provided in s. 775.082 or s.  
 1708 775.083.

1709 Section 33. For the purpose of incorporating the amendment  
 1710 to section 316.193, Florida Statutes, in references thereto,  
 1711 paragraph (c) of subsection (17) of section 440.02, Florida  
 1712 Statutes, is reenacted to read:

1713 440.02 Definitions.--When used in this chapter, unless the  
 1714 context clearly requires otherwise, the following terms shall  
 1715 have the following meanings:

1716 (17)

1717 (c) "Employment" does not include service performed by or  
 1718 as:

- 1719 1. Domestic servants in private homes.
- 1720 2. Agricultural labor performed on a farm in the employ of  
 1721 a bona fide farmer, or association of farmers, that employs 5 or  
 1722 fewer regular employees and that employs fewer than 12 other  
 1723 employees at one time for seasonal agricultural labor that is  
 1724 completed in less than 30 days, provided such seasonal  
 1725 employment does not exceed 45 days in the same calendar year.

HB 0307

2004

1726 The term "farm" includes stock, dairy, poultry, fruit, fur-  
 1727 bearing animals, fish, and truck farms, ranches, nurseries, and  
 1728 orchards. The term "agricultural labor" includes field foremen,  
 1729 timekeepers, checkers, and other farm labor supervisory  
 1730 personnel.

1731 3. Professional athletes, such as professional boxers,  
 1732 wrestlers, baseball, football, basketball, hockey, polo, tennis,  
 1733 jai alai, and similar players, and motorsports teams competing  
 1734 in a motor racing event as defined in s. 549.08.

1735 4. Labor under a sentence of a court to perform community  
 1736 services as provided in s. 316.193.

1737 5. State prisoners or county inmates, except those  
 1738 performing services for private employers or those enumerated in  
 1739 s. 948.03(8)(a).

1740 Section 34. For the purpose of incorporating the amendment  
 1741 to section 316.193, Florida Statutes, in references thereto,  
 1742 paragraph (b) of subsection (7) of section 440.09, Florida  
 1743 Statutes, is reenacted to read:

1744 440.09 Coverage.--

1745 (7)

1746 (b) If the employee has, at the time of the injury, a  
 1747 blood alcohol level equal to or greater than the level specified  
 1748 in s. 316.193, or if the employee has a positive confirmation of  
 1749 a drug as defined in this act, it is presumed that the injury  
 1750 was occasioned primarily by the intoxication of, or by the  
 1751 influence of the drug upon, the employee. If the employer has  
 1752 implemented a drug-free workplace, this presumption may be  
 1753 rebutted only by evidence that there is no reasonable hypothesis  
 1754 that the intoxication or drug influence contributed to the

HB 0307

2004

1755 injury. In the absence of a drug-free workplace program, this  
 1756 presumption may be rebutted by clear and convincing evidence  
 1757 that the intoxication or influence of the drug did not  
 1758 contribute to the injury. Percent by weight of alcohol in the  
 1759 blood must be based upon grams of alcohol per 100 milliliters of  
 1760 blood. If the results are positive, the testing facility must  
 1761 maintain the specimen for a minimum of 90 days. Blood serum may  
 1762 be used for testing purposes under this chapter; however, if  
 1763 this test is used, the presumptions under this section do not  
 1764 arise unless the blood alcohol level is proved to be medically  
 1765 and scientifically equivalent to or greater than the comparable  
 1766 blood alcohol level that would have been obtained if the test  
 1767 were based on percent by weight of alcohol in the blood.  
 1768 However, if, before the accident, the employer had actual  
 1769 knowledge of and expressly acquiesced in the employee's presence  
 1770 at the workplace while under the influence of such alcohol or  
 1771 drug, the presumptions specified in this subsection do not  
 1772 apply.

1773 Section 35. For the purpose of incorporating the amendment  
 1774 to section 316.193, Florida Statutes, in references thereto,  
 1775 paragraph (d) of subsection (1) of section 493.6106, Florida  
 1776 Statutes, is reenacted to read:

1777 493.6106 License requirements; posting.--

1778 (1) Each individual licensed by the department must:

1779 (d) Not be a chronic and habitual user of alcoholic  
 1780 beverages to the extent that her or his normal faculties are  
 1781 impaired; not have been committed under chapter 397, former  
 1782 chapter 396, or a similar law in any other state; not have been  
 1783 found to be a habitual offender under s. 856.011(3) or a similar

HB 0307

2004

1784 law in any other state; and not have had two or more convictions  
 1785 under s. 316.193 or a similar law in any other state within the  
 1786 3-year period immediately preceding the date the application was  
 1787 filed, unless the individual establishes that she or he is not  
 1788 currently impaired and has successfully completed a  
 1789 rehabilitation course.

1790 Section 36. For the purpose of incorporating the amendment  
 1791 to section 316.193, Florida Statutes, in references thereto,  
 1792 subsection (4) of section 627.758, Florida Statutes, is  
 1793 reenacted to read:

1794 627.758 Surety on auto club traffic arrest bond;  
 1795 conditions, limit; bail bond.--

1796 (4) Notwithstanding the provisions of s. 626.311 or  
 1797 chapter 648, any surety insurer identified in a guaranteed  
 1798 traffic arrest bond certificate or any licensed general lines  
 1799 agent of the surety insurer may execute a bail bond for the  
 1800 automobile club or association member identified in the  
 1801 guaranteed traffic arrest bond certificate in an amount not in  
 1802 excess of \$5,000 for any violation of chapter 316 or any similar  
 1803 traffic law or ordinance except for driving under the influence  
 1804 of alcoholic beverages, chemical substances, or controlled  
 1805 substances, as prohibited by s. 316.193.

1806 Section 37. For the purpose of incorporating the amendment  
 1807 to section 316.193, Florida Statutes, in references thereto,  
 1808 paragraph (f) of subsection (2) and paragraph (f) of subsection  
 1809 (10) of section 790.06, Florida Statutes, are reenacted to read:

1810 790.06 License to carry concealed weapon or firearm.--

1811 (2) The Department of Agriculture and Consumer Services  
 1812 shall issue a license if the applicant:

HB 0307

2004

1813 (f) Does not chronically and habitually use alcoholic  
 1814 beverages or other substances to the extent that his or her  
 1815 normal faculties are impaired. It shall be presumed that an  
 1816 applicant chronically and habitually uses alcoholic beverages or  
 1817 other substances to the extent that his or her normal faculties  
 1818 are impaired if the applicant has been committed under chapter  
 1819 397 or under the provisions of former chapter 396 or has been  
 1820 convicted under s. 790.151 or has been deemed a habitual  
 1821 offender under s. 856.011(3), or has had two or more convictions  
 1822 under s. 316.193 or similar laws of any other state, within the  
 1823 3-year period immediately preceding the date on which the  
 1824 application is submitted;

1825 (10) A license issued under this section shall be  
 1826 suspended or revoked pursuant to chapter 120 if the licensee:

1827 (f) Is convicted of a second violation of s. 316.193, or a  
 1828 similar law of another state, within 3 years of a previous  
 1829 conviction of such section, or similar law of another state,  
 1830 even though the first violation may have occurred prior to the  
 1831 date on which the application was submitted;

1832 Section 38. For the purpose of incorporating the amendment  
 1833 to section 316.193, Florida Statutes, in references thereto,  
 1834 subsection (2) of section 903.36, Florida Statutes, is reenacted  
 1835 to read:

1836 903.36 Guaranteed arrest bond certificates as cash bail.--

1837 (2) The execution of a bail bond by a licensed general  
 1838 lines agent of a surety insurer for the automobile club or  
 1839 association member identified in the guaranteed traffic arrest  
 1840 bond certificate, as provided in s. 627.758(4), shall be  
 1841 accepted as bail in an amount not to exceed \$5,000 for the



HB 0307

2004

1842 appearance of the person named in the certificate in any court  
 1843 to answer for the violation of a provision of chapter 316 or a  
 1844 similar traffic law or ordinance, except driving under the  
 1845 influence of alcoholic beverages, chemical substances, or  
 1846 controlled substances, as prohibited by s. 316.193. Presentation  
 1847 of the guaranteed traffic arrest bond certificate and a power of  
 1848 attorney from the surety insurer for its licensed general lines  
 1849 agents is authorization for such agent to execute the bail bond.

1850 Section 39. For the purpose of incorporating the amendment  
 1851 to section 316.193, Florida Statutes, in references thereto,  
 1852 paragraph (c) of subsection (4) of section 907.041, Florida  
 1853 Statutes, is reenacted to read:

1854 907.041 Pretrial detention and release.--

1855 (4) PRETRIAL DETENTION.--

1856 (c) The court may order pretrial detention if it finds a  
 1857 substantial probability, based on a defendant's past and present  
 1858 patterns of behavior, the criteria in s. 903.046, and any other  
 1859 relevant facts, that any of the following circumstances exists:

1860 1. The defendant has previously violated conditions of  
 1861 release and that no further conditions of release are reasonably  
 1862 likely to assure the defendant's appearance at subsequent  
 1863 proceedings;

1864 2. The defendant, with the intent to obstruct the judicial  
 1865 process, has threatened, intimidated, or injured any victim,  
 1866 potential witness, juror, or judicial officer, or has attempted  
 1867 or conspired to do so, and that no condition of release will  
 1868 reasonably prevent the obstruction of the judicial process;

1869 3. The defendant is charged with trafficking in controlled  
 1870 substances as defined by s. 893.135, that there is a substantial

HB 0307

2004

1871 probability that the defendant has committed the offense, and  
 1872 that no conditions of release will reasonably assure the  
 1873 defendant's appearance at subsequent criminal proceedings; or

1874 4. The defendant is charged with DUI manslaughter, as  
 1875 defined by s. 316.193, and that there is a substantial  
 1876 probability that the defendant committed the crime and that the  
 1877 defendant poses a threat of harm to the community; conditions  
 1878 that would support a finding by the court pursuant to this  
 1879 subparagraph that the defendant poses a threat of harm to the  
 1880 community include, but are not limited to, any of the following:

1881 a. The defendant has previously been convicted of any  
 1882 crime under s. 316.193, or of any crime in any other state or  
 1883 territory of the United States that is substantially similar to  
 1884 any crime under s. 316.193;

1885 b. The defendant was driving with a suspended driver's  
 1886 license when the charged crime was committed; or

1887 c. The defendant has previously been found guilty of, or  
 1888 has had adjudication of guilt withheld for, driving while the  
 1889 defendant's driver's license was suspended or revoked in  
 1890 violation of s. 322.34;

1891 5. The defendant poses the threat of harm to the  
 1892 community. The court may so conclude, if it finds that the  
 1893 defendant is presently charged with a dangerous crime, that  
 1894 there is a substantial probability that the defendant committed  
 1895 such crime, that the factual circumstances of the crime indicate  
 1896 a disregard for the safety of the community, and that there are  
 1897 no conditions of release reasonably sufficient to protect the  
 1898 community from the risk of physical harm to persons.

HB 0307

2004

1899           6. The defendant was on probation, parole, or other  
 1900 release pending completion of sentence or on pretrial release  
 1901 for a dangerous crime at the time the current offense was  
 1902 committed; or

1903           7. The defendant has violated one or more conditions of  
 1904 pretrial release or bond for the offense currently before the  
 1905 court and the violation, in the discretion of the court,  
 1906 supports a finding that no conditions of release can reasonably  
 1907 protect the community from risk of physical harm to persons or  
 1908 assure the presence of the accused at trial.

1909           Section 40. For the purpose of incorporating the  
 1910 amendments to sections 316.193 and 327.35, Florida Statutes, in  
 1911 references thereto, section 938.07, Florida Statutes, is  
 1912 reenacted to read:

1913           938.07 Driving or boating under the influence.--  
 1914 Notwithstanding any other provision of s. 316.193 or s. 327.35,  
 1915 a court cost of \$135 shall be added to any fine imposed pursuant  
 1916 to s. 316.193 or s. 327.35. The clerks shall remit the funds to  
 1917 the Department of Revenue, \$25 of which shall be deposited in  
 1918 the Emergency Medical Services Trust Fund, \$50 shall be  
 1919 deposited in the Criminal Justice Standards and Training Trust  
 1920 Fund of the Department of Law Enforcement to be used for  
 1921 operational expenses in conducting the statewide criminal  
 1922 analysis laboratory system established in s. 943.32, and \$60  
 1923 shall be deposited in the Brain and Spinal Cord Injury  
 1924 Rehabilitation Trust Fund created in s. 381.79.

1925           Section 41. For the purpose of incorporating the amendment  
 1926 to section 316.193, Florida Statutes, in references thereto,  
 1927 section 938.21, Florida Statutes, is reenacted to read:

HB 0307

2004

1928           938.21 Alcohol and drug abuse programs.--Notwithstanding  
 1929 any provision to the contrary of the laws of this state, the  
 1930 court may assess for alcohol and other drug abuse programs as  
 1931 provided in s. 893.165 any defendant who pleads guilty or nolo  
 1932 contendere to, or is convicted of, a violation of any provision  
 1933 of chapter 893 or which involves a criminal violation of s.  
 1934 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or  
 1935 chapter 568, in addition to any fine and other penalty provided  
 1936 by law, a court cost in an amount up to the amount of the fine  
 1937 authorized for the violation. The court is authorized to order a  
 1938 defendant to pay an additional assessment if it finds that the  
 1939 defendant has the ability to pay the fine and the additional  
 1940 assessment and will not be prevented thereby from being  
 1941 rehabilitated or from making restitution.

1942           Section 42. For the purpose of incorporating the amendment  
 1943 to section 316.193, Florida Statutes, in references thereto,  
 1944 subsection (1) of section 938.23, Florida Statutes, is reenacted  
 1945 to read:

1946           938.23 Assistance grants for alcohol and other drug abuse  
 1947 programs.--

1948           (1) In addition to any fine imposed by law for any  
 1949 criminal offense under chapter 893 or for any criminal violation  
 1950 of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter  
 1951 567, or chapter 568, the court shall be authorized, pursuant to  
 1952 the requirements of s. 938.21, to impose an additional  
 1953 assessment in an amount up to the amount of the fine authorized  
 1954 for the offense. Such additional assessments shall be deposited  
 1955 for the purpose of providing assistance grants to drug abuse

HB 0307

2004

1956 treatment or alcohol treatment or education programs as provided  
 1957 in s. 893.165.

1958 Section 43. For the purpose of incorporating the amendment  
 1959 to section 316.193, Florida Statutes, in references thereto,  
 1960 paragraph (d) of subsection (2) of section 943.05, Florida  
 1961 Statutes, is reenacted to read:

1962 943.05 Criminal Justice Information Program; duties; crime  
 1963 reports.--

1964 (2) The program shall:

1965 (d) Adopt rules to effectively and efficiently implement,  
 1966 administer, manage, maintain, and use the automated fingerprint  
 1967 identification system and uniform offense reports and arrest  
 1968 reports. The rules shall be considered minimum requirements and  
 1969 shall not preclude a criminal justice agency from implementing  
 1970 its own enhancements. However, rules and forms prescribing  
 1971 uniform arrest or probable cause affidavits and alcohol  
 1972 influence reports to be used by all law enforcement agencies in  
 1973 making DUI arrests under s. 316.193 shall be adopted, and shall  
 1974 be used by all law enforcement agencies in this state. The rules  
 1975 and forms prescribing such uniform affidavits and reports shall  
 1976 be adopted and implemented by July 1, 2004. Failure to use these  
 1977 uniform affidavits and reports, however, shall not prohibit  
 1978 prosecution under s. 316.193.

1979 Section 44. For the purpose of incorporating the amendment  
 1980 to section 316.193, Florida Statutes, in references thereto,  
 1981 paragraph (b) of subsection (8) of section 948.03, Florida  
 1982 Statutes, is reenacted to read:

1983 948.03 Terms and conditions of probation or community  
 1984 control.--

HB 0307

2004

1985 (8)  
 1986 (b) In determining the average weekly wage, unless  
 1987 otherwise determined by a specific funding program, all  
 1988 remuneration received from the employer shall be considered a  
 1989 gratuity, and the offender shall not be entitled to any benefits  
 1990 otherwise payable under s. 440.15, regardless of whether the  
 1991 offender may be receiving wages and remuneration from other  
 1992 employment with another employer and regardless of his or her  
 1993 future wage-earning capacity. The provisions of this subsection  
 1994 do not apply to any person performing labor under a sentence of  
 1995 a court to perform community services as provided in s. 316.193.

1996 Section 45. For the purpose of incorporating the amendment  
 1997 to section 316.193, Florida Statutes, in references thereto,  
 1998 paragraph (b) of subsection (3) of section 960.03, Florida  
 1999 Statutes, is reenacted to read:

2000 960.03 Definitions; ss. 960.01-960.28.--As used in ss.  
 2001 960.01-960.28, unless the context otherwise requires, the term:

2002 (3) "Crime" means:

2003 (b) A violation of s. 316.193, s. 316.027(1), s.  
 2004 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in  
 2005 physical injury or death; however, no other act involving the  
 2006 operation of a motor vehicle, boat, or aircraft which results in  
 2007 injury or death shall constitute a crime for the purpose of this  
 2008 chapter unless the injury or death was intentionally inflicted  
 2009 through the use of such vehicle, boat, or aircraft or unless  
 2010 such vehicle, boat, or aircraft is an implement of a crime to  
 2011 which this act applies.

2012 Section 46. For the purpose of incorporating the amendment  
 2013 to section 327.35, Florida Statutes, in references thereto,

HB 0307

2004

2014 subsection (3) of section 327.352, Florida Statutes, is  
 2015 reenacted to read:

2016 327.352 Tests for alcohol, chemical substances, or  
 2017 controlled substances; implied consent; refusal.--

2018 (3) Notwithstanding any provision of law pertaining to the  
 2019 confidentiality of hospital records or other medical records,  
 2020 information relating to the alcoholic content of the blood or  
 2021 breath or the presence of chemical substances or controlled  
 2022 substances in the blood obtained pursuant to this section shall  
 2023 be released to a court, prosecuting attorney, defense attorney,  
 2024 or law enforcement officer in connection with an alleged  
 2025 violation of s. 327.35 upon request for such information.

2026 Section 47. For the purpose of incorporating the amendment  
 2027 to section 327.35, Florida Statutes, in references thereto,  
 2028 subsections (1) and (2) of section 327.35215, Florida Statutes,  
 2029 are reenacted to read:

2030 327.35215 Penalty for failure to submit to test.--

2031 (1) A person who is lawfully arrested for an alleged  
 2032 violation of s. 327.35 and who refuses to submit to a blood  
 2033 test, breath test, or urine test pursuant to s. 327.352 is  
 2034 subject to a civil penalty of \$500.

2035 (2) When a person refuses to submit to a blood test,  
 2036 breath test, or urine test pursuant to s. 327.352, a law  
 2037 enforcement officer who is authorized to make arrests for  
 2038 violations of this chapter shall file with the clerk of the  
 2039 court, on a form provided by the department, a certified  
 2040 statement that probable cause existed to arrest the person for a  
 2041 violation of s. 327.35 and that the person refused to submit to  
 2042 a test as required by s. 327.352. Along with the statement, the

HB 0307

2004

2043 officer must also submit a sworn statement on a form provided by  
 2044 the department that the person has been advised of both the  
 2045 penalties for failure to submit to the blood, breath, or urine  
 2046 test and the procedure for requesting a hearing.

2047 Section 48. For the purpose of incorporating the amendment  
 2048 to section 327.35, Florida Statutes, in references thereto,  
 2049 subsection (4) of section 327.353, Florida Statutes, is  
 2050 reenacted to read:

2051 327.353 Blood test for impairment or intoxication in cases  
 2052 of death or serious bodily injury; right to use reasonable  
 2053 force.--

2054 (4) Notwithstanding any provision of law pertaining to the  
 2055 confidentiality of hospital records or other medical records,  
 2056 information relating to the alcoholic content of the blood or  
 2057 the presence of chemical substances or controlled substances in  
 2058 the blood obtained pursuant to this section shall be released to  
 2059 a court, prosecuting attorney, defense attorney, or law  
 2060 enforcement officer in connection with an alleged violation of  
 2061 s. 327.35 upon request for such information.

2062 Section 49. For the purpose of incorporating the amendment  
 2063 to section 327.35, Florida Statutes, in references thereto,  
 2064 subsections (1) and (4) of section 327.354, Florida Statutes,  
 2065 are reenacted to read:

2066 327.354 Presumption of impairment; testing methods.--

2067 (1) It is unlawful and punishable as provided in s. 327.35  
 2068 for any person who is under the influence of alcoholic beverages  
 2069 or controlled substances, when affected to the extent that the  
 2070 person's normal faculties are impaired or to the extent that the  
 2071 person is deprived of full possession of normal faculties, to



HB 0307

2004

2072 operate any vessel within this state. Such normal faculties  
 2073 include, but are not limited to, the ability to see, hear, walk,  
 2074 talk, judge distances, drive an automobile, make judgments, act  
 2075 in emergencies, and, in general, normally perform the many  
 2076 mental and physical acts of daily life.

2077 (4) Any person charged with a violation of s. 327.35 is  
 2078 entitled to trial by jury according to the Florida Rules of  
 2079 Criminal Procedure.

2080 Section 50. For the purpose of incorporating the amendment  
 2081 to section 327.35, Florida Statutes, in references thereto,  
 2082 paragraph (a) of subsection (1) and subsection (4) of section  
 2083 327.355, Florida Statutes, are reenacted to read:

2084 327.355 Operation of vessels by persons under 21 years of  
 2085 age who have consumed alcoholic beverages.--

2086 (1)(a) Notwithstanding s. 327.35, it is unlawful for a  
 2087 person under the age of 21 who has a breath-alcohol level of  
 2088 0.02 or higher to operate or be in actual physical control of a  
 2089 vessel.

2090 (4) A violation of this section is a noncriminal  
 2091 infraction, and being detained pursuant to this section does not  
 2092 constitute an arrest. This section does not bar prosecution  
 2093 under s. 327.35, and the penalties provided herein shall be  
 2094 imposed in addition to any other penalty provided for boating  
 2095 under the influence or for refusal to submit to testing.

2096 Section 51. For the purpose of incorporating the amendment  
 2097 to section 327.35, Florida Statutes, in references thereto,  
 2098 subsection (2) of section 327.359, Florida Statutes, is  
 2099 reenacted to read:

HB 0307

2004

2100 327.359 Refusal to submit to testing; penalties.--Any  
 2101 person who has refused to submit to a chemical or physical test  
 2102 of his or her breath, blood, or urine, as described in s.  
 2103 327.352, and who has been previously fined for refusal to submit  
 2104 to a lawful test of his or her breath, urine, or blood, and:

2105 (2) Who was placed under lawful arrest for a violation of  
 2106 s. 327.35 unless such test was requested pursuant to s.  
 2107 327.352(1)(c);

2108  
 2109 commits a misdemeanor of the first degree and is subject to  
 2110 punishment as provided in s. 775.082 or s. 775.083.

2111 Section 52. For the purpose of incorporating the amendment  
 2112 to section 327.35, Florida Statutes, in references thereto,  
 2113 section 327.36, Florida Statutes, is reenacted to read:

2114 327.36 Mandatory adjudication; prohibition against  
 2115 accepting plea to lesser included offense.--

2116 (1) Notwithstanding the provisions of s. 948.01, no court  
 2117 may suspend, defer, or withhold adjudication of guilt or  
 2118 imposition of sentence for any violation of s. 327.35, for  
 2119 manslaughter resulting from the operation of a vessel, or for  
 2120 vessel homicide.

2121 (2)(a) No trial judge may accept a plea of guilty to a  
 2122 lesser offense from a person who is charged with a violation of  
 2123 s. 327.35, manslaughter resulting from the operation of a  
 2124 vessel, or vessel homicide and who has been given a breath or  
 2125 blood test to determine blood or breath alcohol content, the  
 2126 results of which show a blood-alcohol level or breath-alcohol  
 2127 level of 0.16 or more.

HB 0307

2004

2128           (b) A trial judge may not accept a plea of guilty to a  
2129 lesser offense from a person charged with a felony violation of  
2130 s. 327.35, manslaughter resulting from the operation of a  
2131 vessel, or vessel homicide.

2132           Section 53. This act shall take effect October 1, 2004.

2133