

## CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the  
2 following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to driving or boating under the influence;  
8 amending s. 316.193, F.S.; requiring the court to order a  
9 person convicted of certain driving under the influence  
10 violations to acquire and use the Florida DUI license  
11 plate; providing for use of the license plate as a  
12 condition of probation; revising level of alcohol content  
13 in blood or breath at which certain penalties shall apply  
14 for the offense of driving under the influence; creating  
15 s. 316.1996, F.S.; providing penalties for failure to use  
16 the Florida DUI license plate as required; amending s.  
17 316.656, F.S.; revising level of alcohol content in blood  
18 or breath at which the prohibition against accepting plea  
19 to lesser offense shall apply; amending s. 320.06, F.S.,  
20 relating to license plate design; providing for the  
21 Florida DUI license plate; creating s. 320.08051, F.S.;  
22 creating the Florida DUI license plate; providing for  
23 fees; providing for issuance of the plate; creating s.

24 | 322.2715, F.S.; requiring the Department of Highway Safety  
 25 | and Motor Vehicles to require installation of ignition  
 26 | interlock devices on certain vehicles driven by persons  
 27 | convicted of specified DUI offenses; amending s. 327.35,  
 28 | F.S.; revising level of alcohol content in blood or breath  
 29 | at which certain penalties shall apply for the offense of  
 30 | boating under the influence; reenacting ss. 316.066(3)(a),  
 31 | 316.072(4)(b), 316.1932(3), 316.1933(4), 316.1934(1) and  
 32 | (4), 316.1937(1) and (2)(d), 316.1939(1)(b), 318.143(4)  
 33 | and (5), 318.17(3), 322.03(2), 322.0602(2)(a), 322.21(8),  
 34 | 322.25(5), 322.26(1)(a), 322.2615(1), (2), (7), (8)(b),  
 35 | (10)(b), and (14), 322.2616(1)(a), (15), and (19),  
 36 | 322.264(1)(b), 322.271(2)(a), (2)(c), and (4), 322.28(2),  
 37 | 322.282(2)(a), 322.291(1)(a), 322.34(9)(a), 322.44,  
 38 | 322.62(3), 322.63(2)(d) and (6), 322.64(1), (2), (7)(a),  
 39 | (8)(b), (14), and (15), 323.001(4)(f), 327.35(6),  
 40 | 397.405(10), 440.02(17)(c), 440.09(7)(b), 493.6106(1)(d),  
 41 | 627.758(4), 790.06(2)(f) and (10)(f), 903.36(2),  
 42 | 907.041(4)(c), 938.07, 938.21, 938.23(1), 943.05(2)(d),  
 43 | 948.03(8)(b), and 960.03(3)(b), F.S.; incorporating the  
 44 | amendment to s. 316.193, F.S., in references thereto;  
 45 | reenacting ss. 327.352(3), 327.35215(1) and (2),  
 46 | 327.353(4), 327.354(1) and (4), 327.355(1)(a) and (4),  
 47 | 327.359(2), 327.36, and 938.07, F.S.; incorporating the  
 48 | amendment to s. 327.35, F.S., in references thereto;  
 49 | providing an effective date.

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

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Section 1. Subsections (2) and (4) of section 316.193, Florida Statutes, are amended to read:

316.193 Driving under the influence; penalties.--

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

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

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

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

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

1. By a fine of:

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

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

2. By imprisonment for:

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

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

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79           3. For a second conviction, by mandatory placement for a  
80 period of at least 1 year, at the convicted person's sole  
81 expense, of an ignition interlock device approved by the  
82 department in accordance with s. 316.1938 upon all vehicles that  
83 are individually or jointly leased or owned and routinely  
84 operated by the convicted person, when the convicted person  
85 qualifies for a permanent or restricted license. In addition,  
86 the court shall order the convicted person to apply for a  
87 Florida DUI license plate as provided in s. 320.08051 to be used  
88 for a period of not less than 1 year, at the convicted person's  
89 sole expense, for all vehicles that are individually or jointly  
90 leased or owned and routinely operated by the convicted person,  
91 when the convicted person qualifies for a permanent or  
92 restricted license. The Florida DUI license plate must be  
93 securely affixed to any such vehicle while being operated by the  
94 convicted person. The convicted person may only operate vehicles  
95 for which a Florida DUI license plate has been issued. For the  
96 length of time a convicted person is placed on probation, a  
97 court order for a Florida DUI license plate may be required as a  
98 condition of probation which runs concurrently with the period  
99 of time the person is required to operate a vehicle with a  
100 Florida DUI license plate. ~~The installation of such device may~~  
101 ~~not occur before July 1, 2003.~~

102           (b)1. Any person who is convicted of a third violation of  
103 this section for an offense that occurs within 10 years after a  
104 prior conviction for a violation of this section commits a  
105 felony of the third degree, punishable as provided in s.

106 775.082, s. 775.083, or s. 775.084. In addition, the court  
107 shall:

108 a. Order the mandatory placement for a period of not less  
109 than 2 years, at the convicted person's sole expense, of an  
110 ignition interlock device approved by the department in  
111 accordance with s. 316.1938 upon all vehicles that are  
112 individually or jointly leased or owned and routinely operated  
113 by the convicted person, when the convicted person qualifies for  
114 a permanent or restricted license.

115 b. Order the convicted person to apply for a Florida DUI  
116 license plate as provided in s. 320.08051 to be used for a  
117 period of not less than 2 years, at the convicted person's sole  
118 expense, for all vehicles that are individually or jointly  
119 leased or owned and routinely operated by the convicted person,  
120 when the convicted person qualifies for a permanent or  
121 restricted license. The Florida DUI license plate must be  
122 securely affixed to any such vehicle while being operated by the  
123 convicted person. The convicted person may only operate vehicles  
124 for which a Florida DUI license plate has been issued. For the  
125 length of time a convicted person is placed on probation, a  
126 court order for a Florida DUI license plate may be required as a  
127 condition of probation which runs concurrently with the period  
128 of time the person is required to operate a vehicle with a  
129 Florida DUI license plate. ~~The installation of such device may~~  
130 ~~not occur before July 1, 2003.~~

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

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134 shall be punished by a fine of not less than \$1,000 or more than  
135 \$2,500 and by imprisonment for not more than 12 months. In  
136 addition, the court shall:

137 a. Order the mandatory placement for a period of not less  
138 than ~~at least~~ 2 years, at the convicted person's sole expense,  
139 of an ignition interlock device approved by the department in  
140 accordance with s. 316.1938 upon all vehicles that are  
141 individually or jointly leased or owned and routinely operated  
142 by the convicted person, when the convicted person qualifies for  
143 a permanent or restricted license.

144 b. Order the convicted person to apply for a Florida DUI  
145 license plate as provided in s. 320.08051 to be used for a  
146 period of not less than 2 years, at the convicted person's sole  
147 expense, for all vehicles that are individually or jointly  
148 leased or owned and routinely operated by the convicted person,  
149 when the convicted person qualifies for a permanent or  
150 restricted license. The Florida DUI license plate must be  
151 securely affixed to any such vehicle while being operated by the  
152 convicted person. The convicted person may only operate vehicles  
153 for which a Florida DUI license plate has been issued. For the  
154 length of time a convicted person is placed on probation, a  
155 court order for a Florida DUI license plate may be required as a  
156 condition of probation which runs concurrently with the period  
157 of time the person is required to operate a vehicle with a  
158 Florida DUI license plate. The installation of such device may  
159 ~~not occur before July 1, 2003.~~

160 3. Any person who is convicted of a fourth or subsequent  
161 violation of this section, regardless of when any prior

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162 conviction for a violation of this section occurred, commits a  
 163 felony of the third degree, punishable as provided in s.  
 164 775.082, s. 775.083, or s. 775.084. However, the fine imposed  
 165 for such fourth or subsequent violation may be not less than  
 166 \$1,000.

167 (3) Any person:

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

169 (b) Who operates a vehicle; and

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

172 1. Damage to the property or person of another commits a  
 173 misdemeanor of the first degree, punishable as provided in s.  
 174 775.082 or s. 775.083.

175 2. Serious bodily injury to another, as defined in s.  
 176 316.1933, commits a felony of the third degree, punishable as  
 177 provided in s. 775.082, s. 775.083, or s. 775.084.

178 3. The death of any human being commits DUI manslaughter,  
 179 and commits:

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

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

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

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

188 (4)(a) Any person who is convicted of a violation of  
 189 subsection (1) and who has a blood-alcohol level or breath-

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190 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is  
 191 convicted of a violation of subsection (1) and who at the time  
 192 of the offense was accompanied in the vehicle by a person under  
 193 the age of 18 years, shall be punished:

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

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

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

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

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

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

203 ~~b.2.~~ Not more than 12 months for a second conviction.  
 204

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

208 ~~(b)(e)~~ In addition to the penalties in paragraph  
 209 ~~paragraphs (a) and (b)~~, the court shall:

210 1. Order the mandatory placement, at the convicted  
 211 person's sole expense, of an ignition interlock device approved  
 212 by the department in accordance with s. 316.1938 upon all  
 213 vehicles that are individually or jointly leased or owned and  
 214 routinely operated by the convicted person for up to 6 months  
 215 for the first offense and for not less than ~~at least~~ 2 years for  
 216 a second offense, when the convicted person qualifies for a  
 217 permanent or restricted license.



218        2. Order the convicted person to apply for a Florida DUI  
 219 license plate as provided in s. 320.08051, at the convicted  
 220 person's sole expense, for all vehicles that are individually or  
 221 jointly leased or owned and routinely operated by the convicted  
 222 person, to be used for up to 6 months for the first offense and  
 223 for not less than 2 years for a second or third offense, when  
 224 the convicted person qualifies for a permanent or restricted  
 225 license. The Florida DUI license plate must be securely affixed  
 226 to any such vehicle while being operated by the convicted  
 227 person. The convicted person may only operate vehicles for which  
 228 a Florida DUI license plate has been issued. For the length of  
 229 time a convicted person is placed on probation, a court order  
 230 for a Florida DUI license plate may be required as a condition  
 231 of probation which runs concurrently with the period of time the  
 232 person is required to operate a vehicle with a Florida DUI  
 233 license plate. ~~The installation of such device may not occur~~  
 234 ~~before July 1, 2003.~~

235  
 236 For the purposes of this subsection, only the instant offense is  
 237 required to be a violation of subsection (1) by a person who has  
 238 a blood-alcohol level or breath-alcohol level of 0.16 or higher.

239        (5) The court shall place all offenders convicted of  
 240 violating this section on monthly reporting probation and shall  
 241 require completion of a substance abuse course conducted by a  
 242 DUI program licensed by the department under s. 322.292, which  
 243 must include a psychosocial evaluation of the offender. If the  
 244 DUI program refers the offender to an authorized substance abuse  
 245 treatment provider for substance abuse treatment, in addition to

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246 any sentence or fine imposed under this section, completion of  
247 all such education, evaluation, and treatment is a condition of  
248 reporting probation. The offender shall assume reasonable costs  
249 for such education, evaluation, and treatment. The referral to  
250 treatment resulting from a psychosocial evaluation shall not be  
251 waived without a supporting independent psychosocial evaluation  
252 conducted by an authorized substance abuse treatment provider  
253 appointed by the court, which shall have access to the DUI  
254 program's psychosocial evaluation before the independent  
255 psychosocial evaluation is conducted. The court shall review the  
256 results and recommendations of both evaluations before  
257 determining the request for waiver. The offender shall bear the  
258 full cost of this procedure. The term "substance abuse" means  
259 the abuse of alcohol or any substance named or described in  
260 Schedules I through V of s. 893.03. If an offender referred to  
261 treatment under this subsection fails to report for or complete  
262 such treatment or fails to complete the DUI program substance  
263 abuse education course and evaluation, the DUI program shall  
264 notify the court and the department of the failure. Upon receipt  
265 of the notice, the department shall cancel the offender's  
266 driving privilege, notwithstanding the terms of the court order  
267 or any suspension or revocation of the driving privilege. The  
268 department may temporarily reinstate the driving privilege on a  
269 restricted basis upon verification from the DUI program that the  
270 offender is currently participating in treatment and the DUI  
271 education course and evaluation requirement has been completed.  
272 If the DUI program notifies the department of the second failure  
273 to complete treatment, the department shall reinstate the

274 driving privilege only after notice of completion of treatment  
 275 from the DUI program. The organization that conducts the  
 276 substance abuse education and evaluation may not provide  
 277 required substance abuse treatment unless a waiver has been  
 278 granted to that organization by the department. A waiver may be  
 279 granted only if the department determines, in accordance with  
 280 its rules, that the service provider that conducts the substance  
 281 abuse education and evaluation is the most appropriate service  
 282 provider and is licensed under chapter 397 or is exempt from  
 283 such licensure. A statistical referral report shall be submitted  
 284 quarterly to the department by each organization authorized to  
 285 provide services under this section.

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

289 (a) For the first conviction, the court shall place the  
 290 defendant on probation for a period not to exceed 1 year and, as  
 291 a condition of such probation, shall order the defendant to  
 292 participate in public service or a community work project for a  
 293 minimum of 50 hours; or the court may order instead, that any  
 294 defendant pay an additional fine of \$10 for each hour of public  
 295 service or community work otherwise required, if, after  
 296 consideration of the residence or location of the defendant at  
 297 the time public service or community work is required, payment  
 298 of the fine is in the best interests of the state. However, the  
 299 total period of probation and incarceration may not exceed 1  
 300 year. The court must also, as a condition of probation, order  
 301 the impoundment or immobilization of the vehicle that was

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302 | operated by or in the actual control of the defendant or any one  
303 | vehicle registered in the defendant's name at the time of  
304 | impoundment or immobilization, for a period of 10 days or for  
305 | the unexpired term of any lease or rental agreement that expires  
306 | within 10 days. The impoundment or immobilization must not occur  
307 | concurrently with the incarceration of the defendant. The  
308 | impoundment or immobilization order may be dismissed in  
309 | accordance with paragraph (e), paragraph (f), paragraph (g), or  
310 | paragraph (h).

311 |       (b) For the second conviction for an offense that occurs  
312 | within a period of 5 years after the date of a prior conviction  
313 | for violation of this section, the court shall order  
314 | imprisonment for not less than 10 days. The court must also, as  
315 | a condition of probation, order the impoundment or  
316 | immobilization of all vehicles owned by the defendant at the  
317 | time of impoundment or immobilization, for a period of 30 days  
318 | or for the unexpired term of any lease or rental agreement that  
319 | expires within 30 days. The impoundment or immobilization must  
320 | not occur concurrently with the incarceration of the defendant  
321 | and must occur concurrently with the driver's license revocation  
322 | imposed under s. 322.28(2)(a)2. The impoundment or  
323 | immobilization order may be dismissed in accordance with  
324 | paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
325 | At least 48 hours of confinement must be consecutive.

326 |       (c) For the third or subsequent conviction for an offense  
327 | that occurs within a period of 10 years after the date of a  
328 | prior conviction for violation of this section, the court shall  
329 | order imprisonment for not less than 30 days. The court must

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330 also, as a condition of probation, order the impoundment or  
331 immobilization of all vehicles owned by the defendant at the  
332 time of impoundment or immobilization, for a period of 90 days  
333 or for the unexpired term of any lease or rental agreement that  
334 expires within 90 days. The impoundment or immobilization must  
335 not occur concurrently with the incarceration of the defendant  
336 and must occur concurrently with the driver's license revocation  
337 imposed under s. 322.28(2)(a)3. The impoundment or  
338 immobilization order may be dismissed in accordance with  
339 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
340 At least 48 hours of confinement must be consecutive.

341 (d) The court must at the time of sentencing the defendant  
342 issue an order for the impoundment or immobilization of a  
343 vehicle. Within 7 business days after the date that the court  
344 issues the order of impoundment or immobilization, the clerk of  
345 the court must send notice by certified mail, return receipt  
346 requested, to the registered owner of each vehicle, if the  
347 registered owner is a person other than the defendant, and to  
348 each person of record claiming a lien against the vehicle.

349 (e) A person who owns but was not operating the vehicle  
350 when the offense occurred may submit to the court a police  
351 report indicating that the vehicle was stolen at the time of the  
352 offense or documentation of having purchased the vehicle after  
353 the offense was committed from an entity other than the  
354 defendant or the defendant's agent. If the court finds that the  
355 vehicle was stolen or that the sale was not made to circumvent  
356 the order and allow the defendant continued access to the  
357 vehicle, the order must be dismissed and the owner of the

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358 | vehicle will incur no costs. If the court denies the request to  
359 | dismiss the order of impoundment or immobilization, the  
360 | petitioner may request an evidentiary hearing.

361 |       (f) A person who owns but was not operating the vehicle  
362 | when the offense occurred, and whose vehicle was stolen or who  
363 | purchased the vehicle after the offense was committed directly  
364 | from the defendant or the defendant's agent, may request an  
365 | evidentiary hearing to determine whether the impoundment or  
366 | immobilization should occur. If the court finds that either the  
367 | vehicle was stolen or the purchase was made without knowledge of  
368 | the offense, that the purchaser had no relationship to the  
369 | defendant other than through the transaction, and that such  
370 | purchase would not circumvent the order and allow the defendant  
371 | continued access to the vehicle, the order must be dismissed and  
372 | the owner of the vehicle will incur no costs.

373 |       (g) The court shall also dismiss the order of impoundment  
374 | or immobilization of the vehicle if the court finds that the  
375 | family of the owner of the vehicle has no other private or  
376 | public means of transportation.

377 |       (h) The court may also dismiss the order of impoundment or  
378 | immobilization of any vehicles that are owned by the defendant  
379 | but that are operated solely by the employees of the defendant  
380 | or any business owned by the defendant.

381 |       (i) All costs and fees for the impoundment or  
382 | immobilization, including the cost of notification, must be paid  
383 | by the owner of the vehicle or, if the vehicle is leased or  
384 | rented, by the person leasing or renting the vehicle, unless the

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385 | impoundment or immobilization order is dismissed. All provisions  
386 | of s. 713.78 shall apply.

387 |       (j) The person who owns a vehicle that is impounded or  
388 | immobilized under this paragraph, or a person who has a lien of  
389 | record against such a vehicle and who has not requested a review  
390 | of the impoundment pursuant to paragraph (e), paragraph (f), or  
391 | paragraph (g), may, within 10 days after the date that person  
392 | has knowledge of the location of the vehicle, file a complaint  
393 | in the county in which the owner resides to determine whether  
394 | the vehicle was wrongfully taken or withheld from the owner or  
395 | lienholder. Upon the filing of a complaint, the owner or  
396 | lienholder may have the vehicle released by posting with the  
397 | court a bond or other adequate security equal to the amount of  
398 | the costs and fees for impoundment or immobilization, including  
399 | towing or storage, to ensure the payment of such costs and fees  
400 | if the owner or lienholder does not prevail. When the bond is  
401 | posted and the fee is paid as set forth in s. 28.24, the clerk  
402 | of the court shall issue a certificate releasing the vehicle. At  
403 | the time of release, after reasonable inspection, the owner or  
404 | lienholder must give a receipt to the towing or storage company  
405 | indicating any loss or damage to the vehicle or to the contents  
406 | of the vehicle.

407 |       (k) A defendant, in the court's discretion, may be  
408 | required to serve all or any portion of a term of imprisonment  
409 | to which the defendant has been sentenced pursuant to this  
410 | section in a residential alcoholism treatment program or a  
411 | residential drug abuse treatment program. Any time spent in such

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412 a program must be credited by the court toward the term of  
413 imprisonment.

414  
415 For the purposes of this section, any conviction for a violation  
416 of s. 327.35; a previous conviction for the violation of former  
417 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
418 previous conviction outside this state for driving under the  
419 influence, driving while intoxicated, driving with an unlawful  
420 blood-alcohol level, driving with an unlawful breath-alcohol  
421 level, or any other similar alcohol-related or drug-related  
422 traffic offense, is also considered a previous conviction for  
423 violation of this section. However, in satisfaction of the fine  
424 imposed pursuant to this section, the court may, upon a finding  
425 that the defendant is financially unable to pay either all or  
426 part of the fine, order that the defendant participate for a  
427 specified additional period of time in public service or a  
428 community work project in lieu of payment of that portion of the  
429 fine which the court determines the defendant is unable to pay.  
430 In determining such additional sentence, the court shall  
431 consider the amount of the unpaid portion of the fine and the  
432 reasonable value of the services to be ordered; however, the  
433 court may not compute the reasonable value of services at a rate  
434 less than the federal minimum wage at the time of sentencing.

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

437 (8) At the arraignment, or in conjunction with any notice  
438 of arraignment provided by the clerk of the court, the clerk  
439 shall provide any person charged with a violation of this



440 section with notice that upon conviction the court shall suspend  
 441 or revoke the offender's driver's license and that the offender  
 442 should make arrangements for transportation at any proceeding in  
 443 which the court may take such action. Failure to provide such  
 444 notice does not affect the court's suspension or revocation of  
 445 the offender's driver's license.

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

448 (a) Until the person is no longer under the influence of  
 449 alcoholic beverages, any chemical substance set forth in s.  
 450 877.111, or any substance controlled under chapter 893 and  
 451 affected to the extent that his or her normal faculties are  
 452 impaired;

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

455 (c) Until 8 hours have elapsed from the time the person  
 456 was arrested.

457 (10) The rulings of the Department of Highway Safety and  
 458 Motor Vehicles under s. 322.2615 shall not be considered in any  
 459 trial for a violation of this section. Testimony or evidence  
 460 from the administrative proceedings or any written statement  
 461 submitted by a person in his or her request for administrative  
 462 review is inadmissible into evidence or for any other purpose in  
 463 any criminal proceeding, unless timely disclosed in criminal  
 464 discovery pursuant to Rule 3.220, Florida Rules of Criminal  
 465 Procedure.

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

469 Section 2. Section 316.1996, Florida Statutes, is created  
470 to read:

471 316.1996 Failure to attach required Florida DUI license  
472 plate.--It is unlawful for any person who has been ordered  
473 pursuant to s. 316.193 to operate a vehicle only while a Florida  
474 DUI license plate is securely attached to such vehicle to  
475 operate such vehicle without having the Florida DUI license  
476 plate attached or to wholly or partially cover any identifying  
477 characteristic of such license plate while said license plate is  
478 attached. Any person who violates this section commits a  
479 noncriminal traffic infraction, punishable as a nonmoving  
480 violation as provided in chapter 318. In the event that any  
481 person who violates this section commits the infraction while on  
482 probation for a violation of s. 316.193, the noncriminal  
483 infraction provided in this section shall be in addition to any  
484 punishment for any violation of probation.

485 Section 3. Subsection (2) of section 316.656, Florida  
486 Statutes, is amended to read:

487 316.656 Mandatory adjudication; prohibition against  
488 accepting plea to lesser included offense.--

489 (1) Notwithstanding the provisions of s. 948.01, no court  
490 may suspend, defer, or withhold adjudication of guilt or  
491 imposition of sentence for any violation of s. 316.193, for  
492 manslaughter resulting from the operation of a motor vehicle, or  
493 for vehicular homicide.

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

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

504 Section 4. Paragraph (a) of subsection (3) of section  
 505 320.06, Florida Statutes, is amended to read:

506 320.06 Registration certificates, license plates, and  
 507 validation stickers generally.--

508 (3)(a) Registration license plates shall be of metal  
 509 specially treated with a retroreflective material, as specified  
 510 by the department. The registration license plate is designed to  
 511 increase nighttime visibility and legibility and shall be at  
 512 least 6 inches wide and not less than 12 inches in length,  
 513 unless a plate with reduced dimensions is deemed necessary by  
 514 the department to accommodate motorcycles, mopeds, or similar  
 515 smaller vehicles. Validation stickers shall be treated with a  
 516 retroreflective material, shall be of such size as specified by  
 517 the department, and shall adhere to the license plate. The  
 518 registration license plate shall be imprinted with a combination  
 519 of bold letters and numerals or numerals, not to exceed seven  
 520 digits, to identify the registration license plate number. The  
 521 license plate shall also be imprinted with the word "Florida" at

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522 | the top and the name of the county in which it is sold at the  
 523 | bottom, except that apportioned license plates shall have the  
 524 | word "Apportioned" at the bottom and license plates issued for  
 525 | vehicles taxed under s. 320.08(3)(d), (4)(m) or (n), (5)(b) or  
 526 | (c), or (14) shall have the word "Restricted" at the bottom.  
 527 | License plates issued for vehicles taxed under s. 320.08(12)  
 528 | must be imprinted with the word "Florida" at the top and the  
 529 | word "Dealer" at the bottom. Manufacturer license plates issued  
 530 | for vehicles taxed under s. 320.08(12) must be imprinted with  
 531 | the word "Florida" at the top and the word "Manufacturer" at the  
 532 | bottom. License plates issued for vehicles taxed under s.  
 533 | 320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at  
 534 | the bottom. License plates issued pursuant to s. 320.08051 shall  
 535 | have the word "Florida" at the top and the term "DUI Offender"  
 536 | at the bottom. Any county may, upon majority vote of the county  
 537 | commission, elect to have the county name removed from the  
 538 | license plates sold in that county. The words "Sunshine State"  
 539 | shall be printed in lieu thereof. In those counties where the  
 540 | county commission has not removed the county name from the  
 541 | license plate, the tax collector may, in addition to issuing  
 542 | license plates with the county name printed on the license  
 543 | plate, also issue license plates with the words "Sunshine State"  
 544 | printed on the license plate subject to the approval of the  
 545 | department and a legislative appropriation for the additional  
 546 | license plates. A license plate issued for a vehicle taxed under  
 547 | s. 320.08(6) may not be assigned a registration license number,  
 548 | or be issued with any other distinctive character or

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549 designation, that distinguishes the motor vehicle as a for-hire  
550 motor vehicle.

551 Section 5. Section 320.08051, Florida Statutes, is created  
552 to read:

553 320.08051 Florida DUI license plates.--Upon application  
554 and payment of the fees and taxes required by this section, the  
555 department shall issue a Florida DUI license plate to any person  
556 required to display such plate in compliance with s. 316.193(2)  
557 or (4). If, at the time of application, the applicant's vehicle  
558 is validly registered in this state, the applicant shall not be  
559 required to pay the license tax set forth in s. 320.08 but shall  
560 pay all other applicable fees, taxes, and surcharges provided  
561 for by this chapter, including the fee set forth in s.  
562 320.0607(5). If the vehicle is not validly registered at the  
563 time of application, the applicant shall pay the applicable  
564 license tax set forth in s. 320.08 and all other applicable  
565 fees, taxes, and surcharges provided for by this chapter,  
566 including the fee set forth in s. 320.0607(5). Once issued, the  
567 Florida DUI license plate shall be subject to renewal as is any  
568 other plate issued under this chapter. The Florida DUI license  
569 plate shall have a yellow background and red lettering to  
570 distinguish it from the other license plates issued under this  
571 chapter and shall have the word "Florida" at the top and the  
572 term "DUI Offender" at the bottom.

573 Section 6. Section 322.2715, Florida Statutes, is created  
574 to read:

575 322.2715 Ignition interlock device.--

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576 (1) Prior to issuing a permanent or restricted driver  
577 license pursuant to this chapter to any person convicted of  
578 committing any DUI infraction as specified in subsection (3),  
579 the department shall require the placement of a department-  
580 approved ignition interlock device upon all vehicles that are  
581 individually or jointly leased or owned and routinely operated  
582 by the convicted person.

583 (2) For the purpose of this section, any conviction for a  
584 violation of s. 316.193, a previous conviction for a violation  
585 of former s. 316.1931, or a conviction outside this state for  
586 driving under the influence, driving while intoxicated, driving  
587 with an unlawful blood alcohol level, or any other similar  
588 alcohol-related or drug-related traffic offense is considered a  
589 conviction for DUI.

590 (3) If the person:

591 (a) Is convicted of a first offense of driving under the  
592 influence under s. 316.193 and, at the time of the offense, has  
593 a blood-alcohol level or breath-alcohol level as specified in s.  
594 316.193(4), or is convicted of a violation of s. 316.193 and, at  
595 the time of the offense, was accompanied in the vehicle by a  
596 person under 18 years of age, the ignition interlock device  
597 shall be required for a period of 6 months for the first offense  
598 and for a period of not less than 2 years for a second offense.

599 (b) Is convicted of a second offense of driving under the  
600 influence, the ignition interlock device shall be required for a  
601 period of not less than 1 year.

602 (c) Is convicted of a third offense of driving under the  
603 influence within 10 years after a prior conviction for a

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604 violation of s. 316.193, the ignition interlock device shall be  
 605 required for a period of not less than 2 years.

606 (d) Is convicted of a third offense of driving under the  
 607 influence more than 10 years after the date of a prior  
 608 conviction, the ignition interlock device shall be required for  
 609 a period of not less than 2 years.

610 (4) If the court fails to specify the mandatory placement  
 611 of the ignition interlock device or the period for the mandatory  
 612 placement of an ignition interlock device under s. 316.193 or s.  
 613 316.1937 at the time of imposing sentence or within 30 days  
 614 thereafter, the department shall require that the ignition  
 615 interlock device be installed as provided in this section. This  
 616 requirement shall apply to reinstatements of the driving  
 617 privilege from revocations, suspensions, or cancellations based  
 618 upon DUI offenses occurring on or after July 1, 2004.

619 Section 7. Subsection (4) of section 327.35, Florida  
 620 Statutes, is amended to read:

621 327.35 Boating under the influence; penalties; "designated  
 622 drivers".--

623 (4) Any person who is convicted of a violation of  
 624 subsection (1) and who has a blood-alcohol level or breath-  
 625 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is  
 626 convicted of a violation of subsection (1) and who at the time  
 627 of the offense was accompanied in the vessel by a person under  
 628 the age of 18 years, shall be punished:

629 (a) By a fine of:

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

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

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

636           (b) By imprisonment for:

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

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

639

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

644           Section 8. For the purpose of incorporating the amendment  
645 to section 316.193, Florida Statutes, in a reference thereto,  
646 paragraph (a) of subsection (3) of section 316.066, Florida  
647 Statutes, is reenacted to read:

648           316.066 Written reports of crashes.--

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

651           1. Which crash resulted in death or personal injury shall,  
652 within 10 days after completing the investigation, forward a  
653 written report of the crash to the department or traffic records  
654 center.

655           2. Which crash involved a violation of s. 316.061(1) or s.  
656 316.193 shall, within 10 days after completing the  
657 investigation, forward a written report of the crash to the  
658 department or traffic records center.



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659           3. In which crash a vehicle was rendered inoperative to a  
660 degree which required a wrecker to remove it from traffic may,  
661 within 10 days after completing the investigation, forward a  
662 written report of the crash to the department or traffic records  
663 center if such action is appropriate, in the officer's  
664 discretion.

665  
666 However, in every case in which a crash report is required by  
667 this section and a written report to a law enforcement officer  
668 is not prepared, the law enforcement officer shall provide each  
669 party involved in the crash a short-form report, prescribed by  
670 the state, to be completed by the party. The short-form report  
671 must include, but is not limited to: the date, time, and  
672 location of the crash; a description of the vehicles involved;  
673 the names and addresses of the parties involved; the names and  
674 addresses of witnesses; the name, badge number, and law  
675 enforcement agency of the officer investigating the crash; and  
676 the names of the insurance companies for the respective parties  
677 involved in the crash. Each party to the crash shall provide the  
678 law enforcement officer with proof of insurance to be included  
679 in the crash report. If a law enforcement officer submits a  
680 report on the accident, proof of insurance must be provided to  
681 the officer by each party involved in the crash. Any party who  
682 fails to provide the required information is guilty of an  
683 infraction for a nonmoving violation, punishable as provided in  
684 chapter 318 unless the officer determines that due to injuries  
685 or other special circumstances such insurance information cannot  
686 be provided immediately. If the person provides the law

687 enforcement agency, within 24 hours after the crash, proof of  
 688 insurance that was valid at the time of the crash, the law  
 689 enforcement agency may void the citation.

690 Section 9. For the purpose of incorporating the amendment  
 691 to section 316.193, Florida Statutes, in a reference thereto,  
 692 paragraph (b) of subsection (4) of section 316.072, Florida  
 693 Statutes, is reenacted to read:

694 316.072 Obedience to and effect of traffic laws.--

695 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;  
 696 EXCEPTIONS.--

697 (b) Unless specifically made applicable, the provisions of  
 698 this chapter, except those contained in ss. 316.192, 316.1925,  
 699 and 316.193, shall not apply to persons, teams, or motor  
 700 vehicles and other equipment while actually engaged in work upon  
 701 the surface of a highway, but shall apply to such persons and  
 702 vehicles when traveling to or from such work.

703 Section 10. For the purpose of incorporating the amendment  
 704 to section 316.193, Florida Statutes, in a reference thereto,  
 705 subsection (3) of section 316.1932, Florida Statutes, is  
 706 reenacted to read:

707 316.1932 Tests for alcohol, chemical substances, or  
 708 controlled substances; implied consent; refusal.--

709 (3) Notwithstanding any provision of law pertaining to the  
 710 confidentiality of hospital records or other medical records,  
 711 information relating to the alcoholic content of the blood or  
 712 breath or the presence of chemical substances or controlled  
 713 substances in the blood obtained pursuant to this section shall  
 714 be released to a court, prosecuting attorney, defense attorney,

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715 or law enforcement officer in connection with an alleged  
716 violation of s. 316.193 upon request for such information.

717 Section 11. For the purpose of incorporating the amendment  
718 to section 316.193, Florida Statutes, in a reference thereto,  
719 subsection (4) of section 316.1933, Florida Statutes, is  
720 reenacted to read:

721 316.1933 Blood test for impairment or intoxication in  
722 cases of death or serious bodily injury; right to use reasonable  
723 force.--

724 (4) Notwithstanding any provision of law pertaining to the  
725 confidentiality of hospital records or other medical records,  
726 information relating to the alcoholic content of the blood or  
727 the presence of chemical substances or controlled substances in  
728 the blood obtained pursuant to this section shall be released to  
729 a court, prosecuting attorney, defense attorney, or law  
730 enforcement officer in connection with an alleged violation of  
731 s. 316.193 upon request for such information.

732 Section 12. For the purpose of incorporating the amendment  
733 to section 316.193, Florida Statutes, in references thereto,  
734 subsections (1) and (4) of section 316.1934, Florida Statutes,  
735 are reenacted to read:

736 316.1934 Presumption of impairment; testing methods.--

737 (1) It is unlawful and punishable as provided in chapter  
738 322 and in s. 316.193 for any person who is under the influence  
739 of alcoholic beverages or controlled substances, when affected  
740 to the extent that the person's normal faculties are impaired or  
741 to the extent that the person is deprived of full possession of  
742 normal faculties, to drive or be in actual physical control of

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743 any motor vehicle within this state. Such normal faculties  
 744 include, but are not limited to, the ability to see, hear, walk,  
 745 talk, judge distances, drive an automobile, make judgments, act  
 746 in emergencies, and, in general, normally perform the many  
 747 mental and physical acts of daily life.

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

751 Section 13. For the purpose of incorporating the amendment  
 752 to section 316.193, Florida Statutes, in references thereto,  
 753 subsection (1) and paragraph (d) of subsection (2) of section  
 754 316.1937, Florida Statutes, are reenacted to read:

755 316.1937 Ignition interlock devices, requiring; unlawful  
 756 acts.--

757 (1) In addition to any other authorized penalties, the  
 758 court may require that any person who is convicted of driving  
 759 under the influence in violation of s. 316.193 shall not operate  
 760 a motor vehicle unless that vehicle is equipped with a  
 761 functioning ignition interlock device certified by the  
 762 department as provided in s. 316.1938, and installed in such a  
 763 manner that the vehicle will not start if the operator's blood  
 764 alcohol level is in excess of 0.05 percent or as otherwise  
 765 specified by the court. The court may require the use of an  
 766 approved ignition interlock device for a period of not less than  
 767 6 months, if the person is permitted to operate a motor vehicle,  
 768 whether or not the privilege to operate a motor vehicle is  
 769 restricted, as determined by the court. The court, however,

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770 shall order placement of an ignition interlock device in those  
771 circumstances required by s. 316.193.

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

774 (d) Determine the person's ability to pay for installation  
775 of the device if the person claims inability to pay. If the  
776 court determines that the person is unable to pay for  
777 installation of the device, the court may order that any portion  
778 of a fine paid by the person for a violation of s. 316.193 shall  
779 be allocated to defray the costs of installing the device.

780 Section 14. For the purpose of incorporating the amendment  
781 to section 316.193, Florida Statutes, in a reference thereto,  
782 paragraph (b) of subsection (1) of section 316.1939, Florida  
783 Statutes, is reenacted to read:

784 316.1939 Refusal to submit to testing; penalties.--

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

790 (b) Who was placed under lawful arrest for a violation of  
791 s. 316.193 unless such test was requested pursuant to s.  
792 316.1932(1)(c);

793  
794 commits a misdemeanor of the first degree and is subject to  
795 punishment as provided in s. 775.082 or s. 775.083.

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

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798 subsections (4) and (5) of section 318.143, Florida Statutes,  
799 are reenacted to read:

800 318.143 Sanctions for infractions by minors.--

801 (4) For the first conviction for a violation of s.  
802 316.193, the court may order the Department of Highway Safety  
803 and Motor Vehicles to revoke the minor's driver's license until  
804 the minor is 18 years of age. For a second or subsequent  
805 conviction for such a violation, the court may order the  
806 Department of Highway Safety and Motor Vehicles to revoke the  
807 minor's driver's license until the minor is 21 years of age.

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

810 (a) The minor is no longer under the influence of  
811 alcoholic beverages, of any chemical substance set forth in s.  
812 877.111, or of any substance controlled under chapter 893, and  
813 is not affected to the extent that his or her normal faculties  
814 are impaired;

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

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

818 Section 16. For the purpose of incorporating the amendment  
819 to section 316.193, Florida Statutes, in a reference thereto,  
820 subsection (3) of section 318.17, Florida Statutes, is reenacted  
821 to read:

822 318.17 Offenses excepted.--No provision of this chapter is  
823 available to a person who is charged with any of the following  
824 offenses:

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

830 Section 17. For the purpose of incorporating the amendment  
 831 to section 316.193, Florida Statutes, in references thereto,  
 832 subsection (2) of section 322.03, Florida Statutes, is reenacted  
 833 to read:

834 322.03 Drivers must be licensed; penalties.--

835 (2) Prior to issuing a driver's license, the department  
 836 shall require any person who has been convicted two or more  
 837 times of a violation of s. 316.193 or of a substantially similar  
 838 alcohol-related or drug-related offense outside this state  
 839 within the preceding 5 years, or who has been convicted of three  
 840 or more such offenses within the preceding 10 years, to present  
 841 proof of successful completion of or enrollment in a department-  
 842 approved substance abuse education course. If the person fails  
 843 to complete such education course within 90 days after issuance,  
 844 the department shall cancel the license. Further, prior to  
 845 issuing the driver's license the department shall require such  
 846 person to present proof of financial responsibility as provided  
 847 in s. 324.031. For the purposes of this paragraph, a previous  
 848 conviction for violation of former s. 316.028, former s.  
 849 316.1931, or former s. 860.01 shall be considered a previous  
 850 conviction for violation of s. 316.193.

851 Section 18. For the purpose of incorporating the amendment  
 852 to section 316.193, Florida Statutes, in a reference thereto,

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853 paragraph (a) of subsection (2) of section 322.0602, Florida  
854 Statutes, is reenacted to read:

855 322.0602 Youthful Drunk Driver Visitation Program.--

856 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR  
857 PARTICIPATION.--

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

863 Section 19. For the purpose of incorporating the amendment  
864 to section 316.193, Florida Statutes, in a reference thereto,  
865 subsection (8) of section 322.21, Florida Statutes, is reenacted  
866 to read:

867 322.21 License fees; procedure for handling and collecting  
868 fees.--

869 (8) Any person who applies for reinstatement following the  
870 suspension or revocation of the person's driver's license shall  
871 pay a service fee of \$35 following a suspension, and \$60  
872 following a revocation, which is in addition to the fee for a  
873 license. Any person who applies for reinstatement of a  
874 commercial driver's license following the disqualification of  
875 the person's privilege to operate a commercial motor vehicle  
876 shall pay a service fee of \$60, which is in addition to the fee  
877 for a license. The department shall collect all of these fees at  
878 the time of reinstatement. The department shall issue proper  
879 receipts for such fees and shall promptly transmit all funds  
880 received by it as follows:



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

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

889  
 890 If the revocation or suspension of the driver's license was for  
 891 a violation of s. 316.193, or for refusal to submit to a lawful  
 892 breath, blood, or urine test, an additional fee of \$115 must be  
 893 charged. However, only one \$115 fee may be collected from one  
 894 person convicted of violations arising out of the same incident.  
 895 The department shall collect the \$115 fee and deposit the fee  
 896 into the Highway Safety Operating Trust Fund at the time of  
 897 reinstatement of the person's driver's license, but the fee may  
 898 not be collected if the suspension or revocation is overturned.

899 Section 20. For the purpose of incorporating the amendment  
 900 to section 316.193, Florida Statutes, in a reference thereto,  
 901 subsection (5) of section 322.25, Florida Statutes, is reenacted  
 902 to read:

903 322.25 When court to forward license to department and  
 904 report convictions; temporary reinstatement of driving  
 905 privileges.--

906 (5) For the purpose of this chapter, the entrance of a  
 907 plea of nolo contendere by the defendant to a charge of driving  
 908 while intoxicated, driving under the influence, driving with an

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909 | unlawful blood-alcohol level, or any other alcohol-related or  
 910 | drug-related traffic offense similar to the offenses specified  
 911 | in s. 316.193, accepted by the court and under which plea the  
 912 | court has entered a fine or sentence, whether in this state or  
 913 | any other state or country, shall be equivalent to a conviction.

914 |       Section 21. For the purpose of incorporating the amendment  
 915 | to section 316.193, Florida Statutes, in a reference thereto,  
 916 | paragraph (a) of subsection (1) of section 322.26, Florida  
 917 | Statutes, is reenacted to read:

918 |       322.26 Mandatory revocation of license by department.--The  
 919 | department shall forthwith revoke the license or driving  
 920 | privilege of any person upon receiving a record of such person's  
 921 | conviction of any of the following offenses:

922 |       (1)(a) Murder resulting from the operation of a motor  
 923 | vehicle, DUI manslaughter where the conviction represents a  
 924 | subsequent DUI-related conviction, or a fourth violation of s.  
 925 | 316.193 or former s. 316.1931. For such cases, the revocation of  
 926 | the driver's license or driving privilege shall be permanent.

927 |       Section 22. For the purpose of incorporating the amendment  
 928 | to section 316.193, Florida Statutes, in references thereto,  
 929 | subsections (1), (2), and (7), paragraph (b) of subsection (8),  
 930 | paragraph (b) of subsection (10), and subsection (14) of section  
 931 | 322.2615, Florida Statutes, are reenacted to read:

932 |       322.2615 Suspension of license; right to review.--

933 |       (1)(a) A law enforcement officer or correctional officer  
 934 | shall, on behalf of the department, suspend the driving  
 935 | privilege of a person who has been arrested by a law enforcement  
 936 | officer for a violation of s. 316.193, relating to unlawful

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937 blood-alcohol level or breath-alcohol level, or of a person who  
938 has refused to submit to a breath, urine, or blood test  
939 authorized by s. 316.1932. The officer shall take the person's  
940 driver's license and issue the person a 10-day temporary permit  
941 if the person is otherwise eligible for the driving privilege  
942 and shall issue the person a notice of suspension. If a blood  
943 test has been administered, the results of which are not  
944 available to the officer at the time of the arrest, the agency  
945 employing the officer shall transmit such results to the  
946 department within 5 days after receipt of the results. If the  
947 department then determines that the person was arrested for a  
948 violation of s. 316.193 and that the person had a blood-alcohol  
949 level or breath-alcohol level of 0.08 or higher, the department  
950 shall suspend the person's driver's license pursuant to  
951 subsection (3).

952 (b) The suspension under paragraph (a) shall be pursuant  
953 to, and the notice of suspension shall inform the driver of, the  
954 following:

955 1.a. The driver refused to submit to a lawful breath,  
956 blood, or urine test and his or her driving privilege is  
957 suspended for a period of 1 year for a first refusal or for a  
958 period of 18 months if his or her driving privilege has been  
959 previously suspended as a result of a refusal to submit to such  
960 a test; or

961 b. The driver violated s. 316.193 by driving with an  
962 unlawful blood-alcohol level as provided in that section and his  
963 or her driving privilege is suspended for a period of 6 months  
964 for a first offense or for a period of 1 year if his or her

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965 | driving privilege has been previously suspended for a violation  
966 | of s. 316.193.

967 |         2. The suspension period shall commence on the date of  
968 | arrest or issuance of the notice of suspension, whichever is  
969 | later.

970 |         3. The driver may request a formal or informal review of  
971 | the suspension by the department within 10 days after the date  
972 | of arrest or issuance of the notice of suspension, whichever is  
973 | later.

974 |         4. The temporary permit issued at the time of arrest will  
975 | expire at midnight of the 10th day following the date of arrest  
976 | or issuance of the notice of suspension, whichever is later.

977 |         5. The driver may submit to the department any materials  
978 | relevant to the arrest.

979 |         (2) Except as provided in paragraph (1)(a), the law  
980 | enforcement officer shall forward to the department, within 5  
981 | days after the date of the arrest, a copy of the notice of  
982 | suspension, the driver's license of the person arrested, and a  
983 | report of the arrest, including an affidavit stating the  
984 | officer's grounds for belief that the person arrested was in  
985 | violation of s. 316.193; the results of any breath or blood test  
986 | or an affidavit stating that a breath, blood, or urine test was  
987 | requested by a law enforcement officer or correctional officer  
988 | and that the person arrested refused to submit; a copy of the  
989 | citation issued to the person arrested; and the officer's  
990 | description of the person's field sobriety test, if any. The  
991 | failure of the officer to submit materials within the 5-day  
992 | period specified in this subsection and in subsection (1) shall

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993 | not affect the department's ability to consider any evidence  
994 | submitted at or prior to the hearing. The officer may also  
995 | submit a copy of a videotape of the field sobriety test or the  
996 | attempt to administer such test.

997 |       (7) In a formal review hearing under subsection (6) or an  
998 | informal review hearing under subsection (4), the hearing  
999 | officer shall determine by a preponderance of the evidence  
1000 | whether sufficient cause exists to sustain, amend, or invalidate  
1001 | the suspension. The scope of the review shall be limited to the  
1002 | following issues:

1003 |       (a) If the license was suspended for driving with an  
1004 | unlawful blood-alcohol level in violation of s. 316.193:

1005 |           1. Whether the arresting law enforcement officer had  
1006 | probable cause to believe that the person was driving or in  
1007 | actual physical control of a motor vehicle in this state while  
1008 | under the influence of alcoholic beverages or controlled  
1009 | substances.

1010 |           2. Whether the person was placed under lawful arrest for a  
1011 | violation of s. 316.193.

1012 |           3. Whether the person had an unlawful blood-alcohol level  
1013 | as provided in s. 316.193.

1014 |       (b) If the license was suspended for refusal to submit to  
1015 | a breath, blood, or urine test:

1016 |           1. Whether the arresting law enforcement officer had  
1017 | probable cause to believe that the person was driving or in  
1018 | actual physical control of a motor vehicle in this state while  
1019 | under the influence of alcoholic beverages or controlled  
1020 | substances.

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1021           2. Whether the person was placed under lawful arrest for a  
1022 violation of s. 316.193.

1023           3. Whether the person refused to submit to any such test  
1024 after being requested to do so by a law enforcement officer or  
1025 correctional officer.

1026           4. Whether the person was told that if he or she refused  
1027 to submit to such test his or her privilege to operate a motor  
1028 vehicle would be suspended for a period of 1 year or, in the  
1029 case of a second or subsequent refusal, for a period of 18  
1030 months.

1031           (8) Based on the determination of the hearing officer  
1032 pursuant to subsection (7) for both informal hearings under  
1033 subsection (4) and formal hearings under subsection (6), the  
1034 department shall:

1035           (b) Sustain the suspension of the person's driving  
1036 privilege for a period of 6 months for a violation of s.  
1037 316.193, or for a period of 1 year if the driving privilege of  
1038 such person has been previously suspended as a result of a  
1039 violation of s. 316.193. The suspension period commences on the  
1040 date of the arrest or issuance of the notice of suspension,  
1041 whichever is later.

1042           (10) A person whose driver's license is suspended under  
1043 subsection (1) or subsection (3) may apply for issuance of a  
1044 license for business or employment purposes only if the person  
1045 is otherwise eligible for the driving privilege pursuant to s.  
1046 322.271.

1047           (b) If the suspension of the driver's license of the  
1048 person arrested for a violation of s. 316.193, relating to

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1049 unlawful blood-alcohol level, is sustained, the person is not  
 1050 eligible to receive a license for business or employment  
 1051 purposes only pursuant to s. 322.271 until 30 days have elapsed  
 1052 after the expiration of the last temporary permit issued. If the  
 1053 driver is not issued a 10-day permit pursuant to this section or  
 1054 s. 322.64 because he or she is ineligible for the permit and the  
 1055 suspension for a violation of s. 316.193, relating to unlawful  
 1056 blood-alcohol level, is not invalidated by the department, the  
 1057 driver is not eligible to receive a business or employment  
 1058 license pursuant to s. 322.271 until 30 days have elapsed from  
 1059 the date of the arrest.

1060 (14) The decision of the department under this section  
 1061 shall not be considered in any trial for a violation of s.  
 1062 316.193, nor shall any written statement submitted by a person  
 1063 in his or her request for departmental review under this section  
 1064 be admissible into evidence against him or her in any such  
 1065 trial. The disposition of any related criminal proceedings shall  
 1066 not affect a suspension imposed pursuant to this section.

1067 Section 23. For the purpose of incorporating the amendment  
 1068 to section 316.193, Florida Statutes, in references thereto,  
 1069 paragraph (a) of subsection (1) and subsections (15) and (19) of  
 1070 section 322.2616, Florida Statutes, are reenacted to read:

1071 322.2616 Suspension of license; persons under 21 years of  
 1072 age; right to review.--

1073 (1)(a) Notwithstanding s. 316.193, it is unlawful for a  
 1074 person under the age of 21 who has a blood-alcohol or breath-  
 1075 alcohol level of 0.02 or higher to drive or be in actual  
 1076 physical control of a motor vehicle.

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1077 (15) The decision of the department under this section  
 1078 shall not be considered in any trial for a violation of s.  
 1079 316.193, nor shall any written statement submitted by a person  
 1080 in his or her request for departmental review under this section  
 1081 be admissible into evidence against him or her in any such  
 1082 trial. The disposition of any related criminal proceedings shall  
 1083 not affect a suspension imposed under this section.

1084 (19) A violation of this section is neither a traffic  
 1085 infraction nor a criminal offense, nor does being detained  
 1086 pursuant to this section constitute an arrest. A violation of  
 1087 this section is subject to the administrative action provisions  
 1088 of this section, which are administered by the department  
 1089 through its administrative processes. Administrative actions  
 1090 taken pursuant to this section shall be recorded in the motor  
 1091 vehicle records maintained by the department. This section does  
 1092 not bar prosecution under s. 316.193. However, if the department  
 1093 suspends a person's license under s. 322.2615 for a violation of  
 1094 s. 316.193, it may not also suspend the person's license under  
 1095 this section for the same episode that was the basis for the  
 1096 suspension under s. 322.2615.

1097 Section 24. For the purpose of incorporating the amendment  
 1098 to section 316.193, Florida Statutes, in a reference thereto,  
 1099 paragraph (b) of subsection (1) of section 322.264, Florida  
 1100 Statutes, is reenacted to read:

1101 322.264 "Habitual traffic offender" defined.--A "habitual  
 1102 traffic offender" is any person whose record, as maintained by  
 1103 the Department of Highway Safety and Motor Vehicles, shows that  
 1104 such person has accumulated the specified number of convictions



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1105 | for offenses described in subsection (1) or subsection (2)  
1106 | within a 5-year period:

1107 |       (1) Three or more convictions of any one or more of the  
1108 | following offenses arising out of separate acts:

1109 |       (b) Any violation of s. 316.193, former s. 316.1931, or  
1110 | former s. 860.01;

1111 |  
1112 | Any violation of any federal law, any law of another state or  
1113 | country, or any valid ordinance of a municipality or county of  
1114 | another state similar to a statutory prohibition specified in  
1115 | subsection (1) or subsection (2) shall be counted as a violation  
1116 | of such prohibition. In computing the number of convictions, all  
1117 | convictions during the 5 years previous to July 1, 1972, will be  
1118 | used, provided at least one conviction occurs after that date.  
1119 | The fact that previous convictions may have resulted in  
1120 | suspension, revocation, or disqualification under another  
1121 | section does not exempt them from being used for suspension or  
1122 | revocation under this section as a habitual offender.

1123 |       Section 25. For the purpose of incorporating the amendment  
1124 | to section 316.193, Florida Statutes, in references thereto,  
1125 | paragraphs (a) and (c) of subsection (2) and subsection (4) of  
1126 | section 322.271, Florida Statutes, are reenacted to read:

1127 |       322.271 Authority to modify revocation, cancellation, or  
1128 | suspension order.--

1129 |       (2)(a) Upon such hearing, the person whose license has  
1130 | been suspended, canceled, or revoked may show that such  
1131 | suspension, cancellation, or revocation of his or her license  
1132 | causes a serious hardship and precludes the person's carrying

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1133 | out his or her normal business occupation, trade, or employment  
 1134 | and that the use of the person's license in the normal course of  
 1135 | his or her business is necessary to the proper support of the  
 1136 | person or his or her family. Except as otherwise provided in  
 1137 | this subsection, the department shall require proof of the  
 1138 | successful completion of the applicable department-approved  
 1139 | driver training course operating pursuant to s. 318.1451 or DUI  
 1140 | program substance abuse education course and evaluation as  
 1141 | provided in s. 316.193(5). Letters of recommendation from  
 1142 | respected business persons in the community, law enforcement  
 1143 | officers, or judicial officers may also be required to determine  
 1144 | whether such person should be permitted to operate a motor  
 1145 | vehicle on a restricted basis for business or employment use  
 1146 | only and in determining whether such person can be trusted to so  
 1147 | operate a motor vehicle. If a driver's license has been  
 1148 | suspended under the point system or pursuant to s. 322.2615, the  
 1149 | department shall require proof of enrollment in the applicable  
 1150 | department-approved driver training course or licensed DUI  
 1151 | program substance abuse education course, including evaluation  
 1152 | and treatment, if referred, and may require letters of  
 1153 | recommendation described in this subsection to determine if the  
 1154 | driver should be reinstated on a restricted basis. If such  
 1155 | person fails to complete the approved course within 90 days  
 1156 | after reinstatement or subsequently fails to complete treatment,  
 1157 | if applicable, the department shall cancel his or her driver's  
 1158 | license until the course and treatment, if applicable, is  
 1159 | successfully completed, notwithstanding the terms of the court  
 1160 | order or any suspension or revocation of the driving privilege.

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1161 The department may temporarily reinstate the driving privilege  
1162 on a restricted basis upon verification from the DUI program  
1163 that the offender has reentered and is currently participating  
1164 in treatment and has completed the DUI education course and  
1165 evaluation requirement. If the DUI program notifies the  
1166 department of the second failure to complete treatment, the  
1167 department shall reinstate the driving privilege only after  
1168 notice of completion of treatment from the DUI program. The  
1169 privilege of driving on a limited or restricted basis for  
1170 business or employment use shall not be granted to a person who  
1171 has been convicted of a violation of s. 316.193 until completion  
1172 of the DUI program substance abuse education course and  
1173 evaluations as provided in s. 316.193(5). Except as provided in  
1174 paragraph (b), the privilege of driving on a limited or  
1175 restricted basis for business or employment use shall not be  
1176 granted to a person whose license is revoked pursuant to s.  
1177 322.28 or suspended pursuant to s. 322.2615 and who has been  
1178 convicted of a violation of s. 316.193 two or more times or  
1179 whose license has been suspended two or more times for refusal  
1180 to submit to a test pursuant to s. 322.2615 or former s.  
1181 322.261.

1182 (c) For the purpose of this section, a previous conviction  
1183 of driving under the influence, driving while intoxicated,  
1184 driving with an unlawful blood-alcohol level, or any other  
1185 similar alcohol-related or drug-related offense outside this  
1186 state or a previous conviction of former s. 316.1931, former s.  
1187 316.028, or former s. 860.01 shall be considered a previous  
1188 conviction for violation of s. 316.193.

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1189           (4) Notwithstanding the provisions of s. 322.28(2)(e), a  
 1190 person whose driving privilege has been permanently revoked  
 1191 because he or she has been convicted of DUI manslaughter in  
 1192 violation of s. 316.193 and has no prior convictions for DUI-  
 1193 related offenses may, upon the expiration of 5 years after the  
 1194 date of such revocation or the expiration of 5 years after the  
 1195 termination of any term of incarceration under s. 316.193 or  
 1196 former s. 316.1931, whichever date is later, petition the  
 1197 department for reinstatement of his or her driving privilege.

1198           (a) Within 30 days after the receipt of such a petition,  
 1199 the department shall afford the petitioner an opportunity for a  
 1200 hearing. At the hearing, the petitioner must demonstrate to the  
 1201 department that he or she:

- 1202           1. Has not been arrested for a drug-related offense during
- 1203 the 5 years preceding the filing of the petition;
- 1204           2. Has not driven a motor vehicle without a license for at
- 1205 least 5 years prior to the hearing;
- 1206           3. Has been drug-free for at least 5 years prior to the
- 1207 hearing; and
- 1208           4. Has completed a DUI program licensed by the department.

1209           (b) At such hearing, the department shall determine the  
 1210 petitioner's qualification, fitness, and need to drive. Upon  
 1211 such determination, the department may, in its discretion,  
 1212 reinstate the driver's license of the petitioner. Such  
 1213 reinstatement must be made subject to the following  
 1214 qualifications:

- 1215           1. The license must be restricted for employment purposes
- 1216 for not less than 1 year; and

1217           2. Such person must be supervised by a DUI program  
 1218 licensed by the department and report to the program for such  
 1219 supervision and education at least four times a year or  
 1220 additionally as required by the program for the remainder of the  
 1221 revocation period. Such supervision shall include evaluation,  
 1222 education, referral into treatment, and other activities  
 1223 required by the department.

1224           (c) Such person must assume the reasonable costs of  
 1225 supervision. If such person fails to comply with the required  
 1226 supervision, the program shall report the failure to the  
 1227 department, and the department shall cancel such person's  
 1228 driving privilege.

1229           (d) If, after reinstatement, such person is convicted of  
 1230 an offense for which mandatory revocation of his or her license  
 1231 is required, the department shall revoke his or her driving  
 1232 privilege.

1233           (e) The department shall adopt rules regulating the  
 1234 providing of services by DUI programs pursuant to this section.

1235           Section 26. For the purpose of incorporating the amendment  
 1236 to section 316.193, Florida Statutes, in references thereto,  
 1237 subsection (2) of section 322.28, Florida Statutes, is reenacted  
 1238 to read:

1239           322.28 Period of suspension or revocation.--

1240           (2) In a prosecution for a violation of s. 316.193 or  
 1241 former s. 316.1931, the following provisions apply:

1242           (a) Upon conviction of the driver, the court, along with  
 1243 imposing sentence, shall revoke the driver's license or driving  
 1244 privilege of the person so convicted, effective on the date of

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1245 conviction, and shall prescribe the period of such revocation in  
1246 accordance with the following provisions:

1247 1. Upon a first conviction for a violation of the  
1248 provisions of s. 316.193, except a violation resulting in death,  
1249 the driver's license or driving privilege shall be revoked for  
1250 not less than 180 days or more than 1 year.

1251 2. Upon a second conviction for an offense that occurs  
1252 within a period of 5 years after the date of a prior conviction  
1253 for a violation of the provisions of s. 316.193 or former s.  
1254 316.1931 or a combination of such sections, the driver's license  
1255 or driving privilege shall be revoked for not less than 5 years.

1256 3. Upon a third conviction for an offense that occurs  
1257 within a period of 10 years after the date of a prior conviction  
1258 for the violation of the provisions of s. 316.193 or former s.  
1259 316.1931 or a combination of such sections, the driver's license  
1260 or driving privilege shall be revoked for not less than 10  
1261 years.

1262  
1263 For the purposes of this paragraph, a previous conviction  
1264 outside this state for driving under the influence, driving  
1265 while intoxicated, driving with an unlawful blood-alcohol level,  
1266 or any other alcohol-related or drug-related traffic offense  
1267 similar to the offense of driving under the influence as  
1268 proscribed by s. 316.193 will be considered a previous  
1269 conviction for violation of s. 316.193, and a conviction for  
1270 violation of former s. 316.028, former s. 316.1931, or former s.  
1271 860.01 is considered a conviction for violation of s. 316.193.

1272 (b) If the period of revocation was not specified by the  
 1273 court at the time of imposing sentence or within 30 days  
 1274 thereafter, and is not otherwise specified by law, the  
 1275 department shall forthwith revoke the driver's license or  
 1276 driving privilege for the maximum period applicable under  
 1277 paragraph (a) for a first conviction and for the minimum period  
 1278 applicable under paragraph (a) for any subsequent convictions.  
 1279 The driver may, within 30 days after such revocation by the  
 1280 department, petition the court for further hearing on the period  
 1281 of revocation, and the court may reopen the case and determine  
 1282 the period of revocation within the limits specified in  
 1283 paragraph (a).

1284 (c) The forfeiture of bail bond, not vacated within 20  
 1285 days, in any prosecution for the offense of driving while under  
 1286 the influence of alcoholic beverages, chemical substances, or  
 1287 controlled substances to the extent of depriving the defendant  
 1288 of his or her normal faculties shall be deemed equivalent to a  
 1289 conviction for the purposes of this paragraph, and the  
 1290 department shall forthwith revoke the defendant's driver's  
 1291 license or driving privilege for the maximum period applicable  
 1292 under paragraph (a) for a first conviction and for the minimum  
 1293 period applicable under paragraph (a) for a second or subsequent  
 1294 conviction; however, if the defendant is later convicted of the  
 1295 charge, the period of revocation imposed by the department for  
 1296 such conviction shall not exceed the difference between the  
 1297 applicable maximum for a first conviction or minimum for a  
 1298 second or subsequent conviction and the revocation period under  
 1299 this subsection that has actually elapsed; upon conviction of

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1300 such charge, the court may impose revocation for a period of  
1301 time as specified in paragraph (a). This paragraph does not  
1302 apply if an appropriate motion contesting the forfeiture is  
1303 filed within the 20-day period.

1304 (d) When any driver's license or driving privilege has  
1305 been revoked pursuant to the provisions of this section, the  
1306 department shall not grant a new license, except upon  
1307 reexamination of the licensee after the expiration of the period  
1308 of revocation so prescribed. However, the court may, in its  
1309 sound discretion, issue an order of reinstatement on a form  
1310 furnished by the department which the person may take to any  
1311 driver's license examining office for reinstatement by the  
1312 department pursuant to s. 322.282.

1313 (e) The court shall permanently revoke the driver's  
1314 license or driving privilege of a person who has been convicted  
1315 four times for violation of s. 316.193 or former s. 316.1931 or  
1316 a combination of such sections. The court shall permanently  
1317 revoke the driver's license or driving privilege of any person  
1318 who has been convicted of DUI manslaughter in violation of s.  
1319 316.193. If the court has not permanently revoked such driver's  
1320 license or driving privilege within 30 days after imposing  
1321 sentence, the department shall permanently revoke the driver's  
1322 license or driving privilege pursuant to this paragraph. No  
1323 driver's license or driving privilege may be issued or granted  
1324 to any such person. This paragraph applies only if at least one  
1325 of the convictions for violation of s. 316.193 or former s.  
1326 316.1931 was for a violation that occurred after July 1, 1982.  
1327 For the purposes of this paragraph, a conviction for violation



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1328 | of former s. 316.028, former s. 316.1931, or former s. 860.01 is  
 1329 | also considered a conviction for violation of s. 316.193. Also,  
 1330 | a conviction of driving under the influence, driving while  
 1331 | intoxicated, driving with an unlawful blood-alcohol level, or  
 1332 | any other similar alcohol-related or drug-related traffic  
 1333 | offense outside this state is considered a conviction for the  
 1334 | purposes of this paragraph.

1335 |         Section 27. For the purpose of incorporating the amendment  
 1336 | to section 316.193, Florida Statutes, in references thereto,  
 1337 | paragraph (a) of subsection (2) of section 322.282, Florida  
 1338 | Statutes, is reenacted to read:

1339 |         322.282 Procedure when court revokes or suspends license  
 1340 | or driving privilege and orders reinstatement.--When a court  
 1341 | suspends or revokes a person's license or driving privilege and,  
 1342 | in its discretion, orders reinstatement as provided by s.  
 1343 | 322.28(2)(d) or former s. 322.261(5):

1344 |         (2)(a) The court shall issue an order of reinstatement, on  
 1345 | a form to be furnished by the department, which the person may  
 1346 | take to any driver's license examining office. The department  
 1347 | shall issue a temporary driver's permit to a licensee who  
 1348 | presents the court's order of reinstatement, proof of completion  
 1349 | of a department-approved driver training or substance abuse  
 1350 | education course, and a written request for a hearing under s.  
 1351 | 322.271. The permit shall not be issued if a record check by the  
 1352 | department shows that the person has previously been convicted  
 1353 | for a violation of s. 316.193, former s. 316.1931, former s.  
 1354 | 316.028, former s. 860.01, or a previous conviction outside this  
 1355 | state for driving under the influence, driving while

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1356 intoxicated, driving with an unlawful blood-alcohol level, or  
 1357 any similar alcohol-related or drug-related traffic offense;  
 1358 that the person's driving privilege has been previously  
 1359 suspended for refusal to submit to a lawful test of breath,  
 1360 blood, or urine; or that the person is otherwise not entitled to  
 1361 issuance of a driver's license. This paragraph shall not be  
 1362 construed to prevent the reinstatement of a license or driving  
 1363 privilege that is presently suspended for driving with an  
 1364 unlawful blood-alcohol level or a refusal to submit to a breath,  
 1365 urine, or blood test and is also revoked for a conviction for a  
 1366 violation of s. 316.193 or former s. 316.1931, if the suspension  
 1367 and revocation arise out of the same incident.

1368 Section 28. For the purpose of incorporating the amendment  
 1369 to section 316.193, Florida Statutes, in a reference thereto,  
 1370 paragraph (a) of subsection (1) of section 322.291, Florida  
 1371 Statutes, is reenacted to read:

1372 322.291 Driver improvement schools or DUI programs;  
 1373 required in certain suspension and revocation cases.--Except as  
 1374 provided in s. 322.03(2), any person:

1375 (1) Whose driving privilege has been revoked:

1376 (a) Upon conviction for:

1377 1. Driving, or being in actual physical control of, any  
 1378 vehicle while under the influence of alcoholic beverages, any  
 1379 chemical substance set forth in s. 877.111, or any substance  
 1380 controlled under chapter 893, in violation of s. 316.193;

1381 2. Driving with an unlawful blood- or breath-alcohol  
 1382 level;

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1383           3. Manslaughter resulting from the operation of a motor  
1384 vehicle;

1385           4. Failure to stop and render aid as required under the  
1386 laws of this state in the event of a motor vehicle crash  
1387 resulting in the death or personal injury of another;

1388           5. Reckless driving; or

1389  
1390 shall, before the driving privilege may be reinstated, present  
1391 to the department proof of enrollment in a department-approved  
1392 advanced driver improvement course operating pursuant to s.  
1393 318.1451 or a substance abuse education course conducted by a  
1394 DUI program licensed pursuant to s. 322.292, which shall include  
1395 a psychosocial evaluation and treatment, if referred. If the  
1396 person fails to complete such course or evaluation within 90  
1397 days after reinstatement, or subsequently fails to complete  
1398 treatment, if referred, the DUI program shall notify the  
1399 department of the failure. Upon receipt of the notice, the  
1400 department shall cancel the offender's driving privilege,  
1401 notwithstanding the expiration of the suspension or revocation  
1402 of the driving privilege. The department may temporarily  
1403 reinstate the driving privilege upon verification from the DUI  
1404 program that the offender has completed the education course and  
1405 evaluation requirement and has reentered and is currently  
1406 participating in treatment. If the DUI program notifies the  
1407 department of the second failure to complete treatment, the  
1408 department shall reinstate the driving privilege only after  
1409 notice of completion of treatment from the DUI program.

1410 Section 29. For the purpose of incorporating the amendment  
 1411 to section 316.193, Florida Statutes, in a reference thereto,  
 1412 paragraph (a) of subsection (9) of section 322.34, Florida  
 1413 Statutes, is reenacted to read:

1414 322.34 Driving while license suspended, revoked, canceled,  
 1415 or disqualified.--

1416 (9)(a) A motor vehicle that is driven by a person under  
 1417 the influence of alcohol or drugs in violation of s. 316.193 is  
 1418 subject to seizure and forfeiture under ss. 932.701-932.707 and  
 1419 is subject to liens for recovering, towing, or storing vehicles  
 1420 under s. 713.78 if, at the time of the offense, the person's  
 1421 driver's license is suspended, revoked, or canceled as a result  
 1422 of a prior conviction for driving under the influence.

1423 Section 30. For the purpose of incorporating the amendment  
 1424 to section 316.193, Florida Statutes, in references thereto,  
 1425 section 322.44, Florida Statutes, is reenacted to read:

1426 322.44 Driver License Compact.--The Driver License Compact  
 1427 is hereby enacted into law and entered into with all other  
 1428 jurisdictions legally joining therein in the form substantially  
 1429 as follows:

1430

1431 ARTICLE I

1432

1433 FINDINGS AND DECLARATION OF POLICY.--

1434 (1) The party states find that:

1435 (a) The safety of their streets and highways is materially  
 1436 affected by the degree of compliance with state laws and local  
 1437 ordinances relating to the operation of motor vehicles;

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1438 (b) Violation of such a law or ordinance is evidence that  
1439 the violator engages in conduct which is likely to endanger the  
1440 safety of persons and property;

1441 (c) The continuance in force of a license to drive is  
1442 predicated upon compliance with laws and ordinances relating to  
1443 the operation of motor vehicles, in whichever jurisdiction the  
1444 vehicle is operated.

1445 (2) It is the policy of each of the party states to:

1446 (a) Promote compliance with the laws, ordinances, and  
1447 administrative rules and regulations relating to the operation  
1448 of motor vehicles by their operators in each of the  
1449 jurisdictions where such operators drive motor vehicles;

1450 (b) Make the reciprocal recognition of licenses to drive  
1451 and eligibility therefor more just and equitable by considering  
1452 the overall compliance with motor vehicle laws, ordinances, and  
1453 administrative rules and regulations as a condition precedent to  
1454 the continuance or issuance of any license by reason of which  
1455 the licensee is authorized or permitted to operate a motor  
1456 vehicle in any of the party states.

1457  
1458 ARTICLE II

1459  
1460 DEFINITIONS.--As used in this compact:

1461 (1) "State" means a state, territory or possession of the  
1462 United States, the District of Columbia, or the Commonwealth of  
1463 Puerto Rico.

1464 (2) "Home state" means the state which has issued and has  
 1465 the power to suspend or revoke the use of the license or permit  
 1466 to operate a motor vehicle.

1467 (3) "Conviction" means a conviction of any offense related  
 1468 to the use or operation of a motor vehicle which is prohibited  
 1469 by state law, municipal ordinance, or administrative rule or  
 1470 regulation, or a forfeiture of bail, bond, or other security  
 1471 deposited to secure appearance by a person charged with having  
 1472 committed any such offense, and which conviction or forfeiture  
 1473 is required to be reported to the licensing authority.

1474

1475 ARTICLE III

1476

1477 REPORTS OF CONVICTION.--The licensing authority of a party  
 1478 state shall report each conviction of a person from another  
 1479 party state occurring within its jurisdiction to the licensing  
 1480 authority of the home state of the licensee. Such report shall  
 1481 clearly identify the person convicted; describe the violation  
 1482 specifying the section of the statute, code, or ordinance  
 1483 violated; identify the court in which action was taken; indicate  
 1484 whether a plea of guilty or not guilty was entered or the  
 1485 conviction was a result of the forfeiture of bail, bond, or  
 1486 other security; and shall include any special findings made in  
 1487 connection therewith.

1488

1489 ARTICLE IV

1490

1491 EFFECT OF CONVICTION.--

1492 (1) The licensing authority in the home state, for the  
 1493 purposes of suspension, revocation, or limitation of the license  
 1494 to operate a motor vehicle, shall give the same effect to the  
 1495 conduct reported, pursuant to article III, as it would if such  
 1496 conduct had occurred in the home state, in the case of  
 1497 convictions for:

1498 (a) Manslaughter or negligent homicide resulting from the  
 1499 operation of a motor vehicle, as provided by ss. 316.193 and  
 1500 322.26;

1501 (b) Driving a motor vehicle while under the influence of  
 1502 alcoholic beverages or a narcotic drug, or under the influence  
 1503 of any other drug to a degree which renders the driver incapable  
 1504 of safely driving a motor vehicle, as provided by s. 316.193;

1505 (c) Any felony in the commission of which a motor vehicle  
 1506 is used, as provided by s. 322.26; or

1507 (d) Failure to stop and render aid in the event of a motor  
 1508 vehicle crash resulting in the death or personal injury of  
 1509 another, as provided by s. 322.26.

1510 (2) As to other convictions, reported pursuant to article  
 1511 III, the licensing authority in the home state shall give such  
 1512 effect to the conduct as is provided by the laws of the home  
 1513 state.

1514

ARTICLE V

1516

1517 APPLICATIONS FOR NEW LICENSES.--Upon application for a  
 1518 license to drive, the licensing authority in a party state shall  
 1519 ascertain whether the applicant has ever held, or is the holder

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1520 of, a license to drive issued by any other party state. The  
 1521 licensing authority in the state where application is made shall  
 1522 not issue a license to drive to the applicant if:

1523 (1) The applicant has held such a license, but the same  
 1524 has been suspended by reason, in whole or in part, of a  
 1525 violation and if such suspension period has not terminated.

1526 (2) The applicant has held such a license, but the same  
 1527 has been revoked by reason, in whole or in part, of a violation  
 1528 and if such revocation has not terminated, except that after the  
 1529 expiration of 1 year from the date the license was revoked, such  
 1530 person may make application for a new license if permitted by  
 1531 law. The licensing authority may refuse to issue a license to  
 1532 any such applicant if, after investigation, the licensing  
 1533 authority determines that it will not be safe to grant to such  
 1534 person the privilege of driving a motor vehicle on the public  
 1535 highways.

1536 (3) The applicant is the holder of a license to drive  
 1537 issued by another party state and currently in force unless the  
 1538 applicant surrenders such license.

1539

1540 ARTICLE VI

1541

1542 APPLICABILITY OF OTHER LAWS.--Except as expressly required  
 1543 by provisions of this compact, nothing contained herein shall be  
 1544 construed to affect the right of any party state to apply any of  
 1545 its other laws relating to licenses to drive to any person or  
 1546 circumstance, nor to invalidate or prevent any driver license



1547 | agreement or other cooperative arrangement between a party state  
1548 | and a nonparty state.

1549 |

1550 | ARTICLE VII

1551 |

1552 | COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

1553 | (1) The head of the licensing authority of each party  
1554 | state shall be the administrator of this compact for his or her  
1555 | state. The administrators, acting jointly, shall have the power  
1556 | to formulate all necessary and proper procedures for the  
1557 | exchange of information under this compact.

1558 | (2) The administrator of each party state shall furnish to  
1559 | the administrator of each other party state any information or  
1560 | documents reasonably necessary to facilitate the administration  
1561 | of this compact.

1562 |

1563 | ARTICLE VIII

1564 |

1565 | ENTRY INTO FORCE AND WITHDRAWAL.--

1566 | (1) This compact shall enter into force and become  
1567 | effective as to any state when it has enacted the same into law.

1568 | (2) Any party state may withdraw from this compact by  
1569 | enacting a statute repealing the same, but no such withdrawal  
1570 | shall take effect until 6 months after the executive head of the  
1571 | withdrawing state has given notice of the withdrawal to the  
1572 | executive heads of all other party states. No withdrawal shall  
1573 | affect the validity or applicability by the licensing

1574 | authorities of states remaining party to the compact of any  
 1575 | report of conviction occurring prior to the withdrawal.

1576 |

1577 | ARTICLE IX

1578 |

1579 | CONSTRUCTION AND SEVERABILITY.--This compact shall be  
 1580 | liberally construed so as to effectuate the purposes thereof.  
 1581 | The provisions of this compact shall be severable; and if any  
 1582 | phrase, clause, sentence, or provision of this compact is  
 1583 | declared to be contrary to the constitution of any party state  
 1584 | or of the United States or the applicability thereof to any  
 1585 | government, agency, person, or circumstance is held invalid, the  
 1586 | validity of the remainder of this compact and the applicability  
 1587 | thereof to any government, agency, person, or circumstance shall  
 1588 | not be affected thereby. If this compact shall be held contrary  
 1589 | to the constitution of any state party thereto, the compact  
 1590 | shall remain in full force and effect as to the remaining states  
 1591 | and in full force and effect as to the state affected as to all  
 1592 | severable matters.

1593 | Section 31. For the purpose of incorporating the amendment  
 1594 | to section 316.193, Florida Statutes, in a reference thereto,  
 1595 | subsection (3) of section 322.62, Florida Statutes, is reenacted  
 1596 | to read:

1597 | 322.62 Driving under the influence; commercial motor  
 1598 | vehicle operators.--

1599 | (3) This section does not supersede s. 316.193. Nothing in  
 1600 | this section prohibits the prosecution of a person who drives a  
 1601 | commercial motor vehicle for driving under the influence of

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1602 alcohol or controlled substances whether or not such person is  
1603 also prosecuted for a violation of this section.

1604 Section 32. For the purpose of incorporating the amendment  
1605 to section 316.193, Florida Statutes, in references thereto,  
1606 paragraph (d) of subsection (2) and subsection (6) of section  
1607 322.63, Florida Statutes, are reenacted to read:

1608 322.63 Alcohol or drug testing; commercial motor vehicle  
1609 operators.--

1610 (2) The chemical and physical tests authorized by this  
1611 section shall only be required if a law enforcement officer has  
1612 reasonable cause to believe that a person driving a commercial  
1613 motor vehicle has any alcohol, chemical substance, or controlled  
1614 substance in his or her body.

1615 (d) The administration of one test under paragraph (a),  
1616 paragraph (b), or paragraph (c) shall not preclude the  
1617 administration of a different test under paragraph (a),  
1618 paragraph (b), or paragraph (c). However, a urine test may not  
1619 be used to determine alcohol concentration and a breath test may  
1620 not be used to determine the presence of controlled substances  
1621 or chemical substances in a person's body. Notwithstanding the  
1622 provisions of this paragraph, in the event a Florida licensee  
1623 has been convicted in another state for an offense substantially  
1624 similar to s. 316.193 or to s. 322.62, which conviction was  
1625 based upon evidence of test results prohibited by this  
1626 paragraph, that out-of-state conviction shall constitute a  
1627 conviction for the purposes of this chapter.

1628 (6) Notwithstanding any provision of law pertaining to the  
1629 confidentiality of hospital records or other medical records,

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1630 information relating to the alcohol content of a person's blood  
 1631 or the presence of chemical substances or controlled substances  
 1632 in a person's blood obtained pursuant to this section shall be  
 1633 released to a court, prosecuting attorney, defense attorney, or  
 1634 law enforcement officer in connection with an alleged violation  
 1635 of s. 316.193 or s. 322.62 upon request for such information.

1636 Section 33. For the purpose of incorporating the amendment  
 1637 to section 316.193, Florida Statutes, in references thereto,  
 1638 subsections (1) and (2), paragraph (a) of subsection (7),  
 1639 paragraph (b) of subsection (8), and subsections (14) and (15)  
 1640 of section 322.64, Florida Statutes, are reenacted to read:

1641 322.64 Holder of commercial driver's license; driving with  
 1642 unlawful blood-alcohol level; refusal to submit to breath,  
 1643 urine, or blood test.--

1644 (1)(a) A law enforcement officer or correctional officer  
 1645 shall, on behalf of the department, disqualify from operating  
 1646 any commercial motor vehicle a person who while operating or in  
 1647 actual physical control of a commercial motor vehicle is  
 1648 arrested for a violation of s. 316.193, relating to unlawful  
 1649 blood-alcohol level or breath-alcohol level, or a person who has  
 1650 refused to submit to a breath, urine, or blood test authorized  
 1651 by s. 322.63 arising out of the operation or actual physical  
 1652 control of a commercial motor vehicle. Upon disqualification of  
 1653 the person, the officer shall take the person's driver's license  
 1654 and issue the person a 10-day temporary permit if the person is  
 1655 otherwise eligible for the driving privilege and shall issue the  
 1656 person a notice of disqualification. If the person has been  
 1657 given a blood, breath, or urine test, the results of which are

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1658 | not available to the officer at the time of the arrest, the  
 1659 | agency employing the officer shall transmit such results to the  
 1660 | department within 5 days after receipt of the results. If the  
 1661 | department then determines that the person was arrested for a  
 1662 | violation of s. 316.193 and that the person had a blood-alcohol  
 1663 | level or breath-alcohol level of 0.08 or higher, the department  
 1664 | shall disqualify the person from operating a commercial motor  
 1665 | vehicle pursuant to subsection (3).

1666 |         (b) The disqualification under paragraph (a) shall be  
 1667 | pursuant to, and the notice of disqualification shall inform the  
 1668 | driver of, the following:

1669 |             1.a. The driver refused to submit to a lawful breath,  
 1670 | blood, or urine test and he or she is disqualified from  
 1671 | operating a commercial motor vehicle for a period of 1 year, for  
 1672 | a first refusal, or permanently, if he or she has previously  
 1673 | been disqualified as a result of a refusal to submit to such a  
 1674 | test; or

1675 |             b. The driver violated s. 316.193 by driving with an  
 1676 | unlawful blood-alcohol level and he or she is disqualified from  
 1677 | operating a commercial motor vehicle for a period of 6 months  
 1678 | for a first offense or for a period of 1 year if he or she has  
 1679 | previously been disqualified, or his or her driving privilege  
 1680 | has been previously suspended, for a violation of s. 316.193.

1681 |             2. The disqualification period shall commence on the date  
 1682 | of arrest or issuance of notice of disqualification, whichever  
 1683 | is later.

1684 |             3. The driver may request a formal or informal review of  
 1685 | the disqualification by the department within 10 days after the

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1686 | date of arrest or issuance of notice of disqualification,  
1687 | whichever is later.

1688 |         4. The temporary permit issued at the time of arrest or  
1689 | disqualification will expire at midnight of the 10th day  
1690 | following the date of disqualification.

1691 |         5. The driver may submit to the department any materials  
1692 | relevant to the arrest.

1693 |         (2) Except as provided in paragraph (1)(a), the law  
1694 | enforcement officer shall forward to the department, within 5  
1695 | days after the date of the arrest or the issuance of the notice  
1696 | of disqualification, whichever is later, a copy of the notice of  
1697 | disqualification, the driver's license of the person arrested,  
1698 | and a report of the arrest, including, if applicable, an  
1699 | affidavit stating the officer's grounds for belief that the  
1700 | person arrested was in violation of s. 316.193; the results of  
1701 | any breath or blood test or an affidavit stating that a breath,  
1702 | blood, or urine test was requested by a law enforcement officer  
1703 | or correctional officer and that the person arrested refused to  
1704 | submit; a copy of the citation issued to the person arrested;  
1705 | and the officer's description of the person's field sobriety  
1706 | test, if any. The failure of the officer to submit materials  
1707 | within the 5-day period specified in this subsection or  
1708 | subsection (1) shall not affect the department's ability to  
1709 | consider any evidence submitted at or prior to the hearing. The  
1710 | officer may also submit a copy of a videotape of the field  
1711 | sobriety test or the attempt to administer such test.

1712 |         (7) In a formal review hearing under subsection (6) or an  
1713 | informal review hearing under subsection (4), the hearing

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1714 officer shall determine by a preponderance of the evidence  
1715 whether sufficient cause exists to sustain, amend, or invalidate  
1716 the disqualification. The scope of the review shall be limited  
1717 to the following issues:

1718 (a) If the person was disqualified from operating a  
1719 commercial motor vehicle for driving with an unlawful blood-  
1720 alcohol level in violation of s. 316.193:

1721 1. Whether the arresting law enforcement officer had  
1722 probable cause to believe that the person was driving or in  
1723 actual physical control of a commercial motor vehicle in this  
1724 state while he or she had any alcohol, chemical substances, or  
1725 controlled substances in his or her body.

1726 2. Whether the person was placed under lawful arrest for a  
1727 violation of s. 316.193.

1728 3. Whether the person had an unlawful blood-alcohol level  
1729 as provided in s. 316.193.

1730 (8) Based on the determination of the hearing officer  
1731 pursuant to subsection (7) for both informal hearings under  
1732 subsection (4) and formal hearings under subsection (6), the  
1733 department shall:

1734 (b) Sustain the disqualification for a period of 6 months  
1735 for a violation of s. 316.193 or for a period of 1 year if the  
1736 person has been previously disqualified from operating a  
1737 commercial motor vehicle or his or her driving privilege has  
1738 been previously suspended as a result of a violation of s.  
1739 316.193. The disqualification period commences on the date of  
1740 the arrest or issuance of the notice of disqualification,  
1741 whichever is later.

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1742 (14) The decision of the department under this section  
 1743 shall not be considered in any trial for a violation of s.  
 1744 316.193, s. 322.61, or s. 322.62, nor shall any written  
 1745 statement submitted by a person in his or her request for  
 1746 departmental review under this section be admissible into  
 1747 evidence against him or her in any such trial. The disposition  
 1748 of any related criminal proceedings shall not affect a  
 1749 disqualification imposed pursuant to this section.

1750 (15) This section does not preclude the suspension of the  
 1751 driving privilege pursuant to s. 322.2615. The driving privilege  
 1752 of a person who has been disqualified from operating a  
 1753 commercial motor vehicle also may be suspended for a violation  
 1754 of s. 316.193.

1755 Section 34. For the purpose of incorporating the amendment  
 1756 to section 316.193, Florida Statutes, in a reference thereto,  
 1757 paragraph (f) of subsection (4) of section 323.001, Florida  
 1758 Statutes, is reenacted to read:

1759 323.001 Wrecker operator storage facilities; vehicle  
 1760 holds.--

1761 (4) The requirements for a written hold apply when the  
 1762 following conditions are present:

1763 (f) The vehicle is impounded or immobilized pursuant to s.  
 1764 316.193 or s. 322.34; or

1765 Section 35. For the purpose of incorporating the amendment  
 1766 to section 316.193, Florida Statutes, in a reference thereto,  
 1767 subsection (6) of section 327.35, Florida Statutes, is reenacted  
 1768 to read:



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1769           327.35 Boating under the influence; penalties; "designated  
1770 drivers".--

1771           (6) With respect to any person convicted of a violation of  
1772 subsection (1), regardless of any other penalty imposed:

1773           (a) For the first conviction, the court shall place the  
1774 defendant on probation for a period not to exceed 1 year and, as  
1775 a condition of such probation, shall order the defendant to  
1776 participate in public service or a community work project for a  
1777 minimum of 50 hours. The court must also, as a condition of  
1778 probation, order the impoundment or immobilization of the vessel  
1779 that was operated by or in the actual control of the defendant  
1780 or any one vehicle registered in the defendant's name at the  
1781 time of impoundment or immobilization, for a period of 10 days  
1782 or for the unexpired term of any lease or rental agreement that  
1783 expires within 10 days. The impoundment or immobilization must  
1784 not occur concurrently with the incarceration of the defendant.  
1785 The impoundment or immobilization order may be dismissed in  
1786 accordance with paragraph (e) or paragraph (f). The total period  
1787 of probation and incarceration may not exceed 1 year.

1788           (b) For the second conviction for an offense that occurs  
1789 within a period of 5 years after the date of a prior conviction  
1790 for violation of this section, the court shall order  
1791 imprisonment for not less than 10 days. The court must also, as  
1792 a condition of probation, order the impoundment or  
1793 immobilization of the vessel that was operated by or in the  
1794 actual control of the defendant or any one vehicle registered in  
1795 the defendant's name at the time of impoundment or  
1796 immobilization, for a period of 30 days or for the unexpired

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1797 term of any lease or rental agreement that expires within 30  
1798 days. The impoundment or immobilization must not occur  
1799 concurrently with the incarceration of the defendant. The  
1800 impoundment or immobilization order may be dismissed in  
1801 accordance with paragraph (e) or paragraph (f). At least 48  
1802 hours of confinement must be consecutive.

1803 (c) For the third or subsequent conviction for an offense  
1804 that occurs within a period of 10 years after the date of a  
1805 prior conviction for violation of this section, the court shall  
1806 order imprisonment for not less than 30 days. The court must  
1807 also, as a condition of probation, order the impoundment or  
1808 immobilization of the vessel that was operated by or in the  
1809 actual control of the defendant or any one vehicle registered in  
1810 the defendant's name at the time of impoundment or  
1811 immobilization, for a period of 90 days or for the unexpired  
1812 term of any lease or rental agreement that expires within 90  
1813 days. The impoundment or immobilization must not occur  
1814 concurrently with the incarceration of the defendant. The  
1815 impoundment or immobilization order may be dismissed in  
1816 accordance with paragraph (e) or paragraph (f). At least 48  
1817 hours of confinement must be consecutive.

1818 (d) The court must at the time of sentencing the defendant  
1819 issue an order for the impoundment or immobilization of a  
1820 vessel. Within 7 business days after the date that the court  
1821 issues the order of impoundment, and once again 30 business days  
1822 before the actual impoundment or immobilization of the vessel,  
1823 the clerk of the court must send notice by certified mail,  
1824 return receipt requested, to the registered owner of each

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1825 vessel, if the registered owner is a person other than the  
1826 defendant, and to each person of record claiming a lien against  
1827 the vessel.

1828 (e) A person who owns but was not operating the vessel  
1829 when the offense occurred may submit to the court a police  
1830 report indicating that the vessel was stolen at the time of the  
1831 offense or documentation of having purchased the vessel after  
1832 the offense was committed from an entity other than the  
1833 defendant or the defendant's agent. If the court finds that the  
1834 vessel was stolen or that the sale was not made to circumvent  
1835 the order and allow the defendant continued access to the  
1836 vessel, the order must be dismissed and the owner of the vessel  
1837 will incur no costs. If the court denies the request to dismiss  
1838 the order of impoundment or immobilization, the petitioner may  
1839 request an evidentiary hearing.

1840 (f) A person who owns but was not operating the vessel  
1841 when the offense occurred, and whose vessel was stolen or who  
1842 purchased the vessel after the offense was committed directly  
1843 from the defendant or the defendant's agent, may request an  
1844 evidentiary hearing to determine whether the impoundment or  
1845 immobilization should occur. If the court finds that either the  
1846 vessel was stolen or the purchase was made without knowledge of  
1847 the offense, that the purchaser had no relationship to the  
1848 defendant other than through the transaction, and that such  
1849 purchase would not circumvent the order and allow the defendant  
1850 continued access to the vessel, the order must be dismissed and  
1851 the owner of the vessel will incur no costs.

1852 (g) All costs and fees for the impoundment or  
 1853 immobilization, including the cost of notification, must be paid  
 1854 by the owner of the vessel or, if the vessel is leased or  
 1855 rented, by the person leasing or renting the vessel, unless the  
 1856 impoundment or immobilization order is dismissed.

1857 (h) The person who owns a vessel that is impounded or  
 1858 immobilized under this paragraph, or a person who has a lien of  
 1859 record against such a vessel and who has not requested a review  
 1860 of the impoundment pursuant to paragraph (e) or paragraph (f),  
 1861 may, within 10 days after the date that person has knowledge of  
 1862 the location of the vessel, file a complaint in the county in  
 1863 which the owner resides to determine whether the vessel was  
 1864 wrongfully taken or withheld from the owner or lienholder. Upon  
 1865 the filing of a complaint, the owner or lienholder may have the  
 1866 vessel released by posting with the court a bond or other  
 1867 adequate security equal to the amount of the costs and fees for  
 1868 impoundment or immobilization, including towing or storage, to  
 1869 ensure the payment of the costs and fees if the owner or  
 1870 lienholder does not prevail. When the bond is posted and the fee  
 1871 is paid as set forth in s. 28.24, the clerk of the court shall  
 1872 issue a certificate releasing the vessel. At the time of  
 1873 release, after reasonable inspection, the owner or lienholder  
 1874 must give a receipt to the towing or storage company indicating  
 1875 any loss or damage to the vessel or to the contents of the  
 1876 vessel.

1877 (i) A defendant, in the court's discretion, may be  
 1878 required to serve all or any portion of a term of imprisonment  
 1879 to which the defendant has been sentenced pursuant to this

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1880 section in a residential alcoholism treatment program or a  
 1881 residential drug abuse treatment program. Any time spent in such  
 1882 a program must be credited by the court toward the term of  
 1883 imprisonment.

1884  
 1885 For the purposes of this section, any conviction for a violation  
 1886 of s. 316.193, a previous conviction for the violation of former  
 1887 s. 316.1931, former s. 860.01, or former s. 316.028, or a  
 1888 previous conviction outside this state for driving under the  
 1889 influence, driving while intoxicated, driving with an unlawful  
 1890 blood-alcohol level, driving with an unlawful breath-alcohol  
 1891 level, or any other similar alcohol-related or drug-related  
 1892 traffic offense, is also considered a previous conviction for  
 1893 violation of this section.

1894 Section 36. For the purpose of incorporating the amendment  
 1895 to section 316.193, Florida Statutes, in a reference thereto,  
 1896 subsection (10) of section 397.405, Florida Statutes, is  
 1897 reenacted to read:

1898 397.405 Exemptions from licensure.--The following are  
 1899 exempt from the licensing provisions of this chapter:

1900 (10) DUI education and screening services provided  
 1901 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.  
 1902 Persons or entities providing treatment services must be  
 1903 licensed under this chapter unless exempted from licensing as  
 1904 provided in this section.

1905  
 1906 The exemptions from licensure in this section do not apply to  
 1907 any service provider that receives an appropriation, grant, or

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1908 | contract from the state to operate as a service provider as  
 1909 | defined in this chapter or to any substance abuse program  
 1910 | regulated pursuant to s. 397.406. Furthermore, this chapter may  
 1911 | not be construed to limit the practice of a physician licensed  
 1912 | under chapter 458 or chapter 459, a psychologist licensed under  
 1913 | chapter 490, or a psychotherapist licensed under chapter 491 who  
 1914 | provides substance abuse treatment, so long as the physician,  
 1915 | psychologist, or psychotherapist does not represent to the  
 1916 | public that he or she is a licensed service provider and does  
 1917 | not provide services to clients pursuant to part V of this  
 1918 | chapter. Failure to comply with any requirement necessary to  
 1919 | maintain an exempt status under this section is a misdemeanor of  
 1920 | the first degree, punishable as provided in s. 775.082 or s.  
 1921 | 775.083.

1922 |         Section 37. For the purpose of incorporating the amendment  
 1923 | to section 316.193, Florida Statutes, in a reference thereto,  
 1924 | paragraph (c) of subsection (17) of section 440.02, Florida  
 1925 | Statutes, is reenacted to read:

1926 |         440.02 Definitions.--When used in this chapter, unless the  
 1927 | context clearly requires otherwise, the following terms shall  
 1928 | have the following meanings:

1929 |         (17)

1930 |         (c) "Employment" does not include service performed by or  
 1931 | as:

1932 |             1. Domestic servants in private homes.

1933 |             2. Agricultural labor performed on a farm in the employ of  
 1934 | a bona fide farmer, or association of farmers, that employs 5 or  
 1935 | fewer regular employees and that employs fewer than 12 other

1936 employees at one time for seasonal agricultural labor that is  
 1937 completed in less than 30 days, provided such seasonal  
 1938 employment does not exceed 45 days in the same calendar year.  
 1939 The term "farm" includes stock, dairy, poultry, fruit, fur-  
 1940 bearing animals, fish, and truck farms, ranches, nurseries, and  
 1941 orchards. The term "agricultural labor" includes field foremen,  
 1942 timekeepers, checkers, and other farm labor supervisory  
 1943 personnel.

1944         3. Professional athletes, such as professional boxers,  
 1945 wrestlers, baseball, football, basketball, hockey, polo, tennis,  
 1946 jai alai, and similar players, and motorsports teams competing  
 1947 in a motor racing event as defined in s. 549.08.

1948         4. Labor under a sentence of a court to perform community  
 1949 services as provided in s. 316.193.

1950         5. State prisoners or county inmates, except those  
 1951 performing services for private employers or those enumerated in  
 1952 s. 948.03(8)(a).

1953         Section 38. For the purpose of incorporating the amendment  
 1954 to section 316.193, Florida Statutes, in a reference thereto,  
 1955 paragraph (b) of subsection (7) of section 440.09, Florida  
 1956 Statutes, is reenacted to read:

1957         440.09 Coverage.--

1958         (7)

1959         (b) If the employee has, at the time of the injury, a  
 1960 blood alcohol level equal to or greater than the level specified  
 1961 in s. 316.193, or if the employee has a positive confirmation of  
 1962 a drug as defined in this act, it is presumed that the injury  
 1963 was occasioned primarily by the intoxication of, or by the

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1964 | influence of the drug upon, the employee. If the employer has  
 1965 | implemented a drug-free workplace, this presumption may be  
 1966 | rebutted only by evidence that there is no reasonable hypothesis  
 1967 | that the intoxication or drug influence contributed to the  
 1968 | injury. In the absence of a drug-free workplace program, this  
 1969 | presumption may be rebutted by clear and convincing evidence  
 1970 | that the intoxication or influence of the drug did not  
 1971 | contribute to the injury. Percent by weight of alcohol in the  
 1972 | blood must be based upon grams of alcohol per 100 milliliters of  
 1973 | blood. If the results are positive, the testing facility must  
 1974 | maintain the specimen for a minimum of 90 days. Blood serum may  
 1975 | be used for testing purposes under this chapter; however, if  
 1976 | this test is used, the presumptions under this section do not  
 1977 | arise unless the blood alcohol level is proved to be medically  
 1978 | and scientifically equivalent to or greater than the comparable  
 1979 | blood alcohol level that would have been obtained if the test  
 1980 | were based on percent by weight of alcohol in the blood.  
 1981 | However, if, before the accident, the employer had actual  
 1982 | knowledge of and expressly acquiesced in the employee's presence  
 1983 | at the workplace while under the influence of such alcohol or  
 1984 | drug, the presumptions specified in this subsection do not  
 1985 | apply.

1986 |         Section 39. For the purpose of incorporating the amendment  
 1987 | to section 316.193, Florida Statutes, in a reference thereto,  
 1988 | paragraph (d) of subsection (1) of section 493.6106, Florida  
 1989 | Statutes, is reenacted to read:

1990 |             493.6106 License requirements; posting.--

1991 |             (1) Each individual licensed by the department must:



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1992 (d) Not be a chronic and habitual user of alcoholic  
 1993 beverages to the extent that her or his normal faculties are  
 1994 impaired; not have been committed under chapter 397, former  
 1995 chapter 396, or a similar law in any other state; not have been  
 1996 found to be a habitual offender under s. 856.011(3) or a similar  
 1997 law in any other state; and not have had two or more convictions  
 1998 under s. 316.193 or a similar law in any other state within the  
 1999 3-year period immediately preceding the date the application was  
 2000 filed, unless the individual establishes that she or he is not  
 2001 currently impaired and has successfully completed a  
 2002 rehabilitation course.

2003 Section 40. For the purpose of incorporating the amendment  
 2004 to section 316.193, Florida Statutes, in a reference thereto,  
 2005 subsection (4) of section 627.758, Florida Statutes, is  
 2006 reenacted to read:

2007 627.758 Surety on auto club traffic arrest bond;  
 2008 conditions, limit; bail bond.--

2009 (4) Notwithstanding the provisions of s. 626.311 or  
 2010 chapter 648, any surety insurer identified in a guaranteed  
 2011 traffic arrest bond certificate or any licensed general lines  
 2012 agent of the surety insurer may execute a bail bond for the  
 2013 automobile club or association member identified in the  
 2014 guaranteed traffic arrest bond certificate in an amount not in  
 2015 excess of \$5,000 for any violation of chapter 316 or any similar  
 2016 traffic law or ordinance except for driving under the influence  
 2017 of alcoholic beverages, chemical substances, or controlled  
 2018 substances, as prohibited by s. 316.193.

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2019 Section 41. For the purpose of incorporating the amendment  
 2020 to section 316.193, Florida Statutes, in references thereto,  
 2021 paragraph (f) of subsection (2) and paragraph (f) of subsection  
 2022 (10) of section 790.06, Florida Statutes, are reenacted to read:

2023 790.06 License to carry concealed weapon or firearm.--

2024 (2) The Department of Agriculture and Consumer Services  
 2025 shall issue a license if the applicant:

2026 (f) Does not chronically and habitually use alcoholic  
 2027 beverages or other substances to the extent that his or her  
 2028 normal faculties are impaired. It shall be presumed that an  
 2029 applicant chronically and habitually uses alcoholic beverages or  
 2030 other substances to the extent that his or her normal faculties  
 2031 are impaired if the applicant has been committed under chapter  
 2032 397 or under the provisions of former chapter 396 or has been  
 2033 convicted under s. 790.151 or has been deemed a habitual  
 2034 offender under s. 856.011(3), or has had two or more convictions  
 2035 under s. 316.193 or similar laws of any other state, within the  
 2036 3-year period immediately preceding the date on which the  
 2037 application is submitted;

2038 (10) A license issued under this section shall be  
 2039 suspended or revoked pursuant to chapter 120 if the licensee:

2040 (f) Is convicted of a second violation of s. 316.193, or a  
 2041 similar law of another state, within 3 years of a previous  
 2042 conviction of such section, or similar law of another state,  
 2043 even though the first violation may have occurred prior to the  
 2044 date on which the application was submitted;

2045 Section 42. For the purpose of incorporating the amendment  
 2046 to section 316.193, Florida Statutes, in a reference thereto,

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2047 subsection (2) of section 903.36, Florida Statutes, is reenacted  
2048 to read:

2049 903.36 Guaranteed arrest bond certificates as cash bail.--

2050 (2) The execution of a bail bond by a licensed general  
2051 lines agent of a surety insurer for the automobile club or  
2052 association member identified in the guaranteed traffic arrest  
2053 bond certificate, as provided in s. 627.758(4), shall be  
2054 accepted as bail in an amount not to exceed \$5,000 for the  
2055 appearance of the person named in the certificate in any court  
2056 to answer for the violation of a provision of chapter 316 or a  
2057 similar traffic law or ordinance, except driving under the  
2058 influence of alcoholic beverages, chemical substances, or  
2059 controlled substances, as prohibited by s. 316.193. Presentation  
2060 of the guaranteed traffic arrest bond certificate and a power of  
2061 attorney from the surety insurer for its licensed general lines  
2062 agents is authorization for such agent to execute the bail bond.

2063 Section 43. For the purpose of incorporating the amendment  
2064 to section 316.193, Florida Statutes, in references thereto,  
2065 paragraph (c) of subsection (4) of section 907.041, Florida  
2066 Statutes, is reenacted to read:

2067 907.041 Pretrial detention and release.--

2068 (4) PRETRIAL DETENTION.--

2069 (c) The court may order pretrial detention if it finds a  
2070 substantial probability, based on a defendant's past and present  
2071 patterns of behavior, the criteria in s. 903.046, and any other  
2072 relevant facts, that any of the following circumstances exists:

2073 1. The defendant has previously violated conditions of  
2074 release and that no further conditions of release are reasonably

2075 | likely to assure the defendant's appearance at subsequent  
2076 | proceedings;

2077 |         2. The defendant, with the intent to obstruct the judicial  
2078 | process, has threatened, intimidated, or injured any victim,  
2079 | potential witness, juror, or judicial officer, or has attempted  
2080 | or conspired to do so, and that no condition of release will  
2081 | reasonably prevent the obstruction of the judicial process;

2082 |         3. The defendant is charged with trafficking in controlled  
2083 | substances as defined by s. 893.135, that there is a substantial  
2084 | probability that the defendant has committed the offense, and  
2085 | that no conditions of release will reasonably assure the  
2086 | defendant's appearance at subsequent criminal proceedings; or

2087 |         4. The defendant is charged with DUI manslaughter, as  
2088 | defined by s. 316.193, and that there is a substantial  
2089 | probability that the defendant committed the crime and that the  
2090 | defendant poses a threat of harm to the community; conditions  
2091 | that would support a finding by the court pursuant to this  
2092 | subparagraph that the defendant poses a threat of harm to the  
2093 | community include, but are not limited to, any of the following:

2094 |             a. The defendant has previously been convicted of any  
2095 | crime under s. 316.193, or of any crime in any other state or  
2096 | territory of the United States that is substantially similar to  
2097 | any crime under s. 316.193;

2098 |             b. The defendant was driving with a suspended driver's  
2099 | license when the charged crime was committed; or

2100 |             c. The defendant has previously been found guilty of, or  
2101 | has had adjudication of guilt withheld for, driving while the

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2102 defendant's driver's license was suspended or revoked in  
2103 violation of s. 322.34;

2104 5. The defendant poses the threat of harm to the  
2105 community. The court may so conclude, if it finds that the  
2106 defendant is presently charged with a dangerous crime, that  
2107 there is a substantial probability that the defendant committed  
2108 such crime, that the factual circumstances of the crime indicate  
2109 a disregard for the safety of the community, and that there are  
2110 no conditions of release reasonably sufficient to protect the  
2111 community from the risk of physical harm to persons.

2112 6. The defendant was on probation, parole, or other  
2113 release pending completion of sentence or on pretrial release  
2114 for a dangerous crime at the time the current offense was  
2115 committed; or

2116 7. The defendant has violated one or more conditions of  
2117 pretrial release or bond for the offense currently before the  
2118 court and the violation, in the discretion of the court,  
2119 supports a finding that no conditions of release can reasonably  
2120 protect the community from risk of physical harm to persons or  
2121 assure the presence of the accused at trial.

2122 Section 44. For the purpose of incorporating the  
2123 amendments to sections 316.193 and 327.35, Florida Statutes, in  
2124 references thereto, section 938.07, Florida Statutes, is  
2125 reenacted to read:

2126 938.07 Driving or boating under the  
2127 influence.--Notwithstanding any other provision of s. 316.193 or  
2128 s. 327.35, a court cost of \$135 shall be added to any fine  
2129 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall

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2130 remit the funds to the Department of Revenue, \$25 of which shall  
 2131 be deposited in the Emergency Medical Services Trust Fund, \$50  
 2132 shall be deposited in the Criminal Justice Standards and  
 2133 Training Trust Fund of the Department of Law Enforcement to be  
 2134 used for operational expenses in conducting the statewide  
 2135 criminal analysis laboratory system established in s. 943.32,  
 2136 and \$60 shall be deposited in the Brain and Spinal Cord Injury  
 2137 Rehabilitation Trust Fund created in s. 381.79.

2138 Section 45. For the purpose of incorporating the amendment  
 2139 to section 316.193, Florida Statutes, in a reference thereto,  
 2140 section 938.21, Florida Statutes, is reenacted to read:

2141 938.21 Alcohol and drug abuse programs.--Notwithstanding  
 2142 any provision to the contrary of the laws of this state, the  
 2143 court may assess for alcohol and other drug abuse programs as  
 2144 provided in s. 893.165 any defendant who pleads guilty or nolo  
 2145 contendere to, or is convicted of, a violation of any provision  
 2146 of chapter 893 or which involves a criminal violation of s.  
 2147 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or  
 2148 chapter 568, in addition to any fine and other penalty provided  
 2149 by law, a court cost in an amount up to the amount of the fine  
 2150 authorized for the violation. The court is authorized to order a  
 2151 defendant to pay an additional assessment if it finds that the  
 2152 defendant has the ability to pay the fine and the additional  
 2153 assessment and will not be prevented thereby from being  
 2154 rehabilitated or from making restitution.

2155 Section 46. For the purpose of incorporating the amendment  
 2156 to section 316.193, Florida Statutes, in a reference thereto,

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2157 subsection (1) of section 938.23, Florida Statutes, is reenacted  
2158 to read:

2159 938.23 Assistance grants for alcohol and other drug abuse  
2160 programs.--

2161 (1) In addition to any fine imposed by law for any  
2162 criminal offense under chapter 893 or for any criminal violation  
2163 of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter  
2164 567, or chapter 568, the court shall be authorized, pursuant to  
2165 the requirements of s. 938.21, to impose an additional  
2166 assessment in an amount up to the amount of the fine authorized  
2167 for the offense. Such additional assessments shall be deposited  
2168 for the purpose of providing assistance grants to drug abuse  
2169 treatment or alcohol treatment or education programs as provided  
2170 in s. 893.165.

2171 Section 47. For the purpose of incorporating the amendment  
2172 to section 316.193, Florida Statutes, in references thereto,  
2173 paragraph (d) of subsection (2) of section 943.05, Florida  
2174 Statutes, is reenacted to read:

2175 943.05 Criminal Justice Information Program; duties; crime  
2176 reports.--

2177 (2) The program shall:

2178 (d) Adopt rules to effectively and efficiently implement,  
2179 administer, manage, maintain, and use the automated fingerprint  
2180 identification system and uniform offense reports and arrest  
2181 reports. The rules shall be considered minimum requirements and  
2182 shall not preclude a criminal justice agency from implementing  
2183 its own enhancements. However, rules and forms prescribing  
2184 uniform arrest or probable cause affidavits and alcohol

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2185 | influence reports to be used by all law enforcement agencies in  
 2186 | making DUI arrests under s. 316.193 shall be adopted, and shall  
 2187 | be used by all law enforcement agencies in this state. The rules  
 2188 | and forms prescribing such uniform affidavits and reports shall  
 2189 | be adopted and implemented by July 1, 2004. Failure to use these  
 2190 | uniform affidavits and reports, however, shall not prohibit  
 2191 | prosecution under s. 316.193.

2192 |         Section 48. For the purpose of incorporating the amendment  
 2193 | to section 316.193, Florida Statutes, in a reference thereto,  
 2194 | paragraph (b) of subsection (8) of section 948.03, Florida  
 2195 | Statutes, is reenacted to read:

2196 |             948.03 Terms and conditions of probation or community  
 2197 | control.--

2198 |             (8)

2199 |             (b) In determining the average weekly wage, unless  
 2200 | otherwise determined by a specific funding program, all  
 2201 | remuneration received from the employer shall be considered a  
 2202 | gratuity, and the offender shall not be entitled to any benefits  
 2203 | otherwise payable under s. 440.15, regardless of whether the  
 2204 | offender may be receiving wages and remuneration from other  
 2205 | employment with another employer and regardless of his or her  
 2206 | future wage-earning capacity. The provisions of this subsection  
 2207 | do not apply to any person performing labor under a sentence of  
 2208 | a court to perform community services as provided in s. 316.193.

2209 |         Section 49. For the purpose of incorporating the amendment  
 2210 | to section 316.193, Florida Statutes, in a reference thereto,  
 2211 | paragraph (b) of subsection (3) of section 960.03, Florida  
 2212 | Statutes, is reenacted to read:



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2213 960.03 Definitions; ss. 960.01-960.28.--As used in ss.  
2214 960.01-960.28, unless the context otherwise requires, the term:

2215 (3) "Crime" means:

2216 (b) A violation of s. 316.193, s. 316.027(1), s.  
2217 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in  
2218 physical injury or death; however, no other act involving the  
2219 operation of a motor vehicle, boat, or aircraft which results in  
2220 injury or death shall constitute a crime for the purpose of this  
2221 chapter unless the injury or death was intentionally inflicted  
2222 through the use of such vehicle, boat, or aircraft or unless  
2223 such vehicle, boat, or aircraft is an implement of a crime to  
2224 which this act applies.

2225 Section 50. For the purpose of incorporating the amendment  
2226 to section 327.35, Florida Statutes, in a reference thereto,  
2227 subsection (3) of section 327.352, Florida Statutes, is  
2228 reenacted to read:

2229 327.352 Tests for alcohol, chemical substances, or  
2230 controlled substances; implied consent; refusal.--

2231 (3) Notwithstanding any provision of law pertaining to the  
2232 confidentiality of hospital records or other medical records,  
2233 information relating to the alcoholic content of the blood or  
2234 breath or the presence of chemical substances or controlled  
2235 substances in the blood obtained pursuant to this section shall  
2236 be released to a court, prosecuting attorney, defense attorney,  
2237 or law enforcement officer in connection with an alleged  
2238 violation of s. 327.35 upon request for such information.

2239 Section 51. For the purpose of incorporating the amendment  
2240 to section 327.35, Florida Statutes, in references thereto,

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2241 subsections (1) and (2) of section 327.35215, Florida Statutes,  
2242 are reenacted to read:

2243 327.35215 Penalty for failure to submit to test.--

2244 (1) A person who is lawfully arrested for an alleged  
2245 violation of s. 327.35 and who refuses to submit to a blood  
2246 test, breath test, or urine test pursuant to s. 327.352 is  
2247 subject to a civil penalty of \$500.

2248 (2) When a person refuses to submit to a blood test,  
2249 breath test, or urine test pursuant to s. 327.352, a law  
2250 enforcement officer who is authorized to make arrests for  
2251 violations of this chapter shall file with the clerk of the  
2252 court, on a form provided by the department, a certified  
2253 statement that probable cause existed to arrest the person for a  
2254 violation of s. 327.35 and that the person refused to submit to  
2255 a test as required by s. 327.352. Along with the statement, the  
2256 officer must also submit a sworn statement on a form provided by  
2257 the department that the person has been advised of both the  
2258 penalties for failure to submit to the blood, breath, or urine  
2259 test and the procedure for requesting a hearing.

2260 Section 52. For the purpose of incorporating the amendment  
2261 to section 327.35, Florida Statutes, in a reference thereto,  
2262 subsection (4) of section 327.353, Florida Statutes, is  
2263 reenacted to read:

2264 327.353 Blood test for impairment or intoxication in cases  
2265 of death or serious bodily injury; right to use reasonable  
2266 force.--

2267 (4) Notwithstanding any provision of law pertaining to the  
2268 confidentiality of hospital records or other medical records,

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2269 information relating to the alcoholic content of the blood or  
 2270 the presence of chemical substances or controlled substances in  
 2271 the blood obtained pursuant to this section shall be released to  
 2272 a court, prosecuting attorney, defense attorney, or law  
 2273 enforcement officer in connection with an alleged violation of  
 2274 s. 327.35 upon request for such information.

2275 Section 53. For the purpose of incorporating the amendment  
 2276 to section 327.35, Florida Statutes, in references thereto,  
 2277 subsections (1) and (4) of section 327.354, Florida Statutes,  
 2278 are reenacted to read:

2279 327.354 Presumption of impairment; testing methods.--

2280 (1) It is unlawful and punishable as provided in s. 327.35  
 2281 for any person who is under the influence of alcoholic beverages  
 2282 or controlled substances, when affected to the extent that the  
 2283 person's normal faculties are impaired or to the extent that the  
 2284 person is deprived of full possession of normal faculties, to  
 2285 operate any vessel within this state. Such normal faculties  
 2286 include, but are not limited to, the ability to see, hear, walk,  
 2287 talk, judge distances, drive an automobile, make judgments, act  
 2288 in emergencies, and, in general, normally perform the many  
 2289 mental and physical acts of daily life.

2290 (4) Any person charged with a violation of s. 327.35 is  
 2291 entitled to trial by jury according to the Florida Rules of  
 2292 Criminal Procedure.

2293 Section 54. For the purpose of incorporating the amendment  
 2294 to section 327.35, Florida Statutes, in references thereto,  
 2295 paragraph (a) of subsection (1) and subsection (4) of section  
 2296 327.355, Florida Statutes, are reenacted to read:

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2297 327.355 Operation of vessels by persons under 21 years of  
2298 age who have consumed alcoholic beverages.--

2299 (1)(a) Notwithstanding s. 327.35, it is unlawful for a  
2300 person under the age of 21 who has a breath-alcohol level of  
2301 0.02 or higher to operate or be in actual physical control of a  
2302 vessel.

2303 (4) A violation of this section is a noncriminal  
2304 infraction, and being detained pursuant to this section does not  
2305 constitute an arrest. This section does not bar prosecution  
2306 under s. 327.35, and the penalties provided herein shall be  
2307 imposed in addition to any other penalty provided for boating  
2308 under the influence or for refusal to submit to testing.

2309 Section 55. For the purpose of incorporating the amendment  
2310 to section 327.35, Florida Statutes, in a reference thereto,  
2311 subsection (2) of section 327.359, Florida Statutes, is  
2312 reenacted to read:

2313 327.359 Refusal to submit to testing; penalties.--Any  
2314 person who has refused to submit to a chemical or physical test  
2315 of his or her breath, blood, or urine, as described in s.  
2316 327.352, and who has been previously fined for refusal to submit  
2317 to a lawful test of his or her breath, urine, or blood, and:

2318 (2) Who was placed under lawful arrest for a violation of  
2319 s. 327.35 unless such test was requested pursuant to s.

2320 327.352(1)(c);

2321  
2322 commits a misdemeanor of the first degree and is subject to  
2323 punishment as provided in s. 775.082 or s. 775.083.

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2324 Section 56. For the purpose of incorporating the amendment  
2325 to section 327.35, Florida Statutes, in references thereto,  
2326 section 327.36, Florida Statutes, is reenacted to read:

2327 327.36 Mandatory adjudication; prohibition against  
2328 accepting plea to lesser included offense.--

2329 (1) Notwithstanding the provisions of s. 948.01, no court  
2330 may suspend, defer, or withhold adjudication of guilt or  
2331 imposition of sentence for any violation of s. 327.35, for  
2332 manslaughter resulting from the operation of a vessel, or for  
2333 vessel homicide.

2334 (2)(a) No trial judge may accept a plea of guilty to a  
2335 lesser offense from a person who is charged with a violation of  
2336 s. 327.35, manslaughter resulting from the operation of a  
2337 vessel, or vessel homicide and who has been given a breath or  
2338 blood test to determine blood or breath alcohol content, the  
2339 results of which show a blood-alcohol level or breath-alcohol  
2340 level of 0.16 or more.

2341 (b) A trial judge may not accept a plea of guilty to a  
2342 lesser offense from a person charged with a felony violation of  
2343 s. 327.35, manslaughter resulting from the operation of a  
2344 vessel, or vessel homicide.

2345 Section 57. This act shall take effect October 1, 2004.