

1 A bill to be entitled
2 An act relating to driving or boating under the influence;
3 amending s. 316.193, F.S.; revising level of alcohol content in
4 blood or breath at which certain penalties shall apply for the
5 offense of driving under the influence; amending s. 316.656,
6 F.S.; revising level of alcohol content in blood or breath at
7 which the prohibition against accepting plea to lesser offense
8 shall apply; creating s. 322.2715, F.S.; requiring the
9 Department of Highway Safety and Motor Vehicles to require
10 installation of ignition interlock devices on certain vehicles
11 driven by persons convicted of specified DUI offenses; amending
12 s. 327.35, F.S.; revising level of alcohol content in blood or
13 breath at which certain penalties shall apply for the offense of
14 boating under the influence; reenacting ss. 316.066(3)(a),
15 316.072(4)(b), 316.1932(3), 316.1933(4), 316.1934(1) and (4),
16 316.1937(1) and (2)(d), 316.1939(1)(b), 318.143(4) and (5),
17 318.17(3), 322.03(2), 322.0602(2)(a), 322.21(8), 322.25(5),
18 322.26(1)(a), 322.2615(1), (2), (7), (8)(b), (10)(b), and (14),
19 322.2616(1)(a), (15), and (19), 322.264(1)(b), 322.271(2)(a),
20 (2)(c), and (4), 322.28(2), 322.282(2)(a), 322.291(1)(a),
21 322.34(9)(a), 322.44, 322.62(3), 322.63(2)(d) and (6),
22 322.64(1), (2), (7)(a), (8)(b), (14), and (15), 323.001(4)(f),
23 327.35(6), 397.405(10), 440.02(17)(c), 440.09(7)(b),
24 493.6106(1)(d), 627.758(4), 790.06(2)(f) and (10)(f), 903.36(2),
25 907.041(4)(c), 938.07, 938.21, 938.23(1), 943.05(2)(d),
26 948.03(8)(b), and 960.03(3)(b), F.S.; incorporating the
27 amendment to s. 316.193, F.S., in references thereto; reenacting
28 ss. 327.352(3), 327.35215(1) and (2), 327.353(4), 327.354(1) and

29 (4), 327.355(1)(a) and (4), 327.359(2), 327.36, and 938.07,
 30 F.S.; incorporating the amendment to s. 327.35, F.S., in
 31 references thereto; providing an effective date.

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

34
 35 Section 1. Subsections (2) and (4) of section 316.193,
 36 Florida Statutes, are amended to read:

37 316.193 Driving under the influence; penalties.--

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

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

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

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

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

53 1. By a fine of:

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

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

58 2. By imprisonment for:

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

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

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

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

82 2. Any person who is convicted of a third violation of
83 this section for an offense that occurs more than 10 years after

84 | the date of a prior conviction for a violation of this section
 85 | shall be punished by a fine of not less than \$1,000 or more than
 86 | \$2,500 and by imprisonment for not more than 12 months. In
 87 | addition, the court shall order the mandatory placement for a
 88 | period of not less than ~~at least~~ 2 years, at the convicted
 89 | person's sole expense, of an ignition interlock device approved
 90 | by the department in accordance with s. 316.1938 upon all
 91 | vehicles that are individually or jointly leased or owned and
 92 | routinely operated by the convicted person, when the convicted
 93 | person qualifies for a permanent or restricted license. ~~The~~
 94 | ~~installation of such device may not occur before July 1, 2003.~~

95 | 3. Any person who is convicted of a fourth or subsequent
 96 | violation of this section, regardless of when any prior
 97 | conviction for a violation of this section occurred, commits a
 98 | felony of the third degree, punishable as provided in s.
 99 | 775.082, s. 775.083, or s. 775.084. However, the fine imposed
 100 | for such fourth or subsequent violation may be not less than
 101 | \$1,000.

102 | (3) Any person:

103 | (a) Who is in violation of subsection (1);

104 | (b) Who operates a vehicle; and

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

107 | 1. Damage to the property or person of another commits a
 108 | misdemeanor of the first degree, punishable as provided in s.
 109 | 775.082 or s. 775.083.

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

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

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

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

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

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

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

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

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

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

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

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

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

138 | b.2. Not more than 12 months for a second conviction.

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

143 | (b)(e) In addition to the penalties in paragraph
 144 | ~~paragraphs~~ (a) and ~~(b)~~, the court shall order the mandatory
 145 | placement, at the convicted person's sole expense, of an
 146 | ignition interlock device approved by the department in
 147 | accordance with s. 316.1938 upon all vehicles that are
 148 | individually or jointly leased or owned and routinely operated
 149 | by the convicted person for up to 6 months for the first offense
 150 | and for not less than ~~at least~~ 2 years for a second offense,
 151 | when the convicted person qualifies for a permanent or
 152 | restricted license. ~~The installation of such device may not~~
 153 | ~~occur before July 1, 2003.~~

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

158 | (5) The court shall place all offenders convicted of
 159 | violating this section on monthly reporting probation and shall
 160 | require completion of a substance abuse course conducted by a
 161 | DUI program licensed by the department under s. 322.292, which
 162 | must include a psychosocial evaluation of the offender. If the
 163 | DUI program refers the offender to an authorized substance abuse
 164 | treatment provider for substance abuse treatment, in addition to
 165 | any sentence or fine imposed under this section, completion of

166 all such education, evaluation, and treatment is a condition of
167 reporting probation. The offender shall assume reasonable costs
168 for such education, evaluation, and treatment. The referral to
169 treatment resulting from a psychosocial evaluation shall not be
170 waived without a supporting independent psychosocial evaluation
171 conducted by an authorized substance abuse treatment provider
172 appointed by the court, which shall have access to the DUI
173 program's psychosocial evaluation before the independent
174 psychosocial evaluation is conducted. The court shall review the
175 results and recommendations of both evaluations before
176 determining the request for waiver. The offender shall bear the
177 full cost of this procedure. The term "substance abuse" means
178 the abuse of alcohol or any substance named or described in
179 Schedules I through V of s. 893.03. If an offender referred to
180 treatment under this subsection fails to report for or complete
181 such treatment or fails to complete the DUI program substance
182 abuse education course and evaluation, the DUI program shall
183 notify the court and the department of the failure. Upon receipt
184 of the notice, the department shall cancel the offender's
185 driving privilege, notwithstanding the terms of the court order
186 or any suspension or revocation of the driving privilege. The
187 department may temporarily reinstate the driving privilege on a
188 restricted basis upon verification from the DUI program that the
189 offender is currently participating in treatment and the DUI
190 education course and evaluation requirement has been completed.
191 If the DUI program notifies the department of the second failure
192 to complete treatment, the department shall reinstate the
193 driving privilege only after notice of completion of treatment

194 | from the DUI program. The organization that conducts the
195 | substance abuse education and evaluation may not provide
196 | required substance abuse treatment unless a waiver has been
197 | granted to that organization by the department. A waiver may be
198 | granted only if the department determines, in accordance with
199 | its rules, that the service provider that conducts the substance
200 | abuse education and evaluation is the most appropriate service
201 | provider and is licensed under chapter 397 or is exempt from
202 | such licensure. A statistical referral report shall be submitted
203 | quarterly to the department by each organization authorized to
204 | provide services under this section.

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

208 | (a) For the first conviction, the court shall place the
209 | defendant on probation for a period not to exceed 1 year and, as
210 | a condition of such probation, shall order the defendant to
211 | participate in public service or a community work project for a
212 | minimum of 50 hours; or the court may order instead, that any
213 | defendant pay an additional fine of \$10 for each hour of public
214 | service or community work otherwise required, if, after
215 | consideration of the residence or location of the defendant at
216 | the time public service or community work is required, payment
217 | of the fine is in the best interests of the state. However, the
218 | total period of probation and incarceration may not exceed 1
219 | year. The court must also, as a condition of probation, order
220 | the impoundment or immobilization of the vehicle that was
221 | operated by or in the actual control of the defendant or any one

222 | vehicle registered in the defendant's name at the time of
223 | impoundment or immobilization, for a period of 10 days or for
224 | the unexpired term of any lease or rental agreement that expires
225 | within 10 days. The impoundment or immobilization must not occur
226 | concurrently with the incarceration of the defendant. The
227 | impoundment or immobilization order may be dismissed in
228 | accordance with paragraph (e), paragraph (f), paragraph (g), or
229 | paragraph (h).

230 | (b) For the second conviction for an offense that occurs
231 | within a period of 5 years after the date of a prior conviction
232 | for violation of this section, the court shall order
233 | imprisonment for not less than 10 days. The court must also, as
234 | a condition of probation, order the impoundment or
235 | immobilization of all vehicles owned by the defendant at the
236 | time of impoundment or immobilization, for a period of 30 days
237 | or for the unexpired term of any lease or rental agreement that
238 | expires within 30 days. The impoundment or immobilization must
239 | not occur concurrently with the incarceration of the defendant
240 | and must occur concurrently with the driver's license revocation
241 | imposed under s. 322.28(2)(a)2. The impoundment or
242 | immobilization order may be dismissed in accordance with
243 | paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
244 | At least 48 hours of confinement must be consecutive.

245 | (c) For the third or subsequent conviction for an offense
246 | that occurs within a period of 10 years after the date of a
247 | prior conviction for violation of this section, the court shall
248 | order imprisonment for not less than 30 days. The court must
249 | also, as a condition of probation, order the impoundment or

250 immobilization of all vehicles owned by the defendant at the
251 time of impoundment or immobilization, for a period of 90 days
252 or for the unexpired term of any lease or rental agreement that
253 expires within 90 days. The impoundment or immobilization must
254 not occur concurrently with the incarceration of the defendant
255 and must occur concurrently with the driver's license revocation
256 imposed under s. 322.28(2)(a)3. The impoundment or
257 immobilization order may be dismissed in accordance with
258 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
259 At least 48 hours of confinement must be consecutive.

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

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

278 dismiss the order of impoundment or immobilization, the
279 petitioner may request an evidentiary hearing.

280 (f) A person who owns but was not operating the vehicle
281 when the offense occurred, and whose vehicle was stolen or who
282 purchased the vehicle after the offense was committed directly
283 from the defendant or the defendant's agent, may request an
284 evidentiary hearing to determine whether the impoundment or
285 immobilization should occur. If the court finds that either the
286 vehicle was stolen or the purchase was made without knowledge of
287 the offense, that the purchaser had no relationship to the
288 defendant other than through the transaction, and that such
289 purchase would not circumvent the order and allow the defendant
290 continued access to the vehicle, the order must be dismissed and
291 the owner of the vehicle will incur no costs.

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

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

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

306 (j) The person who owns a vehicle that is impounded or
307 immobilized under this paragraph, or a person who has a lien of
308 record against such a vehicle and who has not requested a review
309 of the impoundment pursuant to paragraph (e), paragraph (f), or
310 paragraph (g), may, within 10 days after the date that person
311 has knowledge of the location of the vehicle, file a complaint
312 in the county in which the owner resides to determine whether
313 the vehicle was wrongfully taken or withheld from the owner or
314 lienholder. Upon the filing of a complaint, the owner or
315 lienholder may have the vehicle released by posting with the
316 court a bond or other adequate security equal to the amount of
317 the costs and fees for impoundment or immobilization, including
318 towing or storage, to ensure the payment of such costs and fees
319 if the owner or lienholder does not prevail. When the bond is
320 posted and the fee is paid as set forth in s. 28.24, the clerk
321 of the court shall issue a certificate releasing the vehicle. At
322 the time of release, after reasonable inspection, the owner or
323 lienholder must give a receipt to the towing or storage company
324 indicating any loss or damage to the vehicle or to the contents
325 of the vehicle.

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

333

334 For the purposes of this section, any conviction for a violation
335 of s. 327.35; a previous conviction for the violation of former
336 s. 316.1931, former s. 860.01, or former s. 316.028; or a
337 previous conviction outside this state for driving under the
338 influence, driving while intoxicated, driving with an unlawful
339 blood-alcohol level, driving with an unlawful breath-alcohol
340 level, or any other similar alcohol-related or drug-related
341 traffic offense, is also considered a previous conviction for
342 violation of this section. However, in satisfaction of the fine
343 imposed pursuant to this section, the court may, upon a finding
344 that the defendant is financially unable to pay either all or
345 part of the fine, order that the defendant participate for a
346 specified additional period of time in public service or a
347 community work project in lieu of payment of that portion of the
348 fine which the court determines the defendant is unable to pay.
349 In determining such additional sentence, the court shall
350 consider the amount of the unpaid portion of the fine and the
351 reasonable value of the services to be ordered; however, the
352 court may not compute the reasonable value of services at a rate
353 less than the federal minimum wage at the time of sentencing.

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

356 (8) At the arraignment, or in conjunction with any notice
357 of arraignment provided by the clerk of the court, the clerk
358 shall provide any person charged with a violation of this
359 section with notice that upon conviction the court shall suspend
360 or revoke the offender's driver's license and that the offender
361 should make arrangements for transportation at any proceeding in

362 | which the court may take such action. Failure to provide such
 363 | notice does not affect the court's suspension or revocation of
 364 | the offender's driver's license.

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

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

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

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

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

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

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

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

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

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

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

407 Section 3. Section 322.2715, Florida Statutes, is created
 408 to read:

409 322.2715 Ignition interlock device.--

410 (1) Prior to issuing a permanent or restricted driver
 411 license pursuant to this chapter to any person convicted of
 412 committing any DUI infraction as specified in subsection (3),
 413 the department shall require the placement of a department-
 414 approved ignition interlock device upon all vehicles that are
 415 individually or jointly leased or owned and routinely operated
 416 by the convicted person.

417 (2) For the purpose of this section, any conviction for a
418 violation of s. 316.193, a previous conviction for a violation
419 of former s. 316.1931, or a conviction outside this state for
420 driving under the influence, driving while intoxicated, driving
421 with an unlawful blood alcohol level, or any other similar
422 alcohol-related or drug-related traffic offense is considered a
423 conviction for DUI.

424 (3) If the person:

425 (a) Is convicted of a first offense of driving under the
426 influence under s. 316.193 and, at the time of the offense, has
427 a blood-alcohol level or breath-alcohol level as specified in s.
428 316.193(4), or is convicted of a violation of s. 316.193 and, at
429 the time of the offense, was accompanied in the vehicle by a
430 person under 18 years of age, the ignition interlock device
431 shall be required for a period of 6 months for the first offense
432 and for a period of not less than 2 years for a second offense.

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

436 (c) Is convicted of a third offense of driving under the
437 influence within 10 years after a prior conviction for a
438 violation of s. 316.193, the ignition interlock device shall be
439 required for a period of not less than 2 years.

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

444 (4) If the court fails to specify the mandatory placement
 445 of the ignition interlock device or the period for the mandatory
 446 placement of an ignition interlock device under s. 316.193 or s.
 447 316.1937 at the time of imposing sentence or within 30 days
 448 thereafter, the department shall require that the ignition
 449 interlock device be installed as provided in this section. This
 450 requirement shall apply to reinstatements of the driving
 451 privilege from revocations, suspensions, or cancellations based
 452 upon DUI offenses occurring on or after July 1, 2004.

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

455 327.35 Boating under the influence; penalties; "designated
 456 drivers".--

457 (4) Any person who is convicted of a violation of
 458 subsection (1) and who has a blood-alcohol level or breath-
 459 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is
 460 convicted of a violation of subsection (1) and who at the time
 461 of the offense was accompanied in the vessel by a person under
 462 the age of 18 years, shall be punished:

463 (a) By a fine of:

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

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

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

470 (b) By imprisonment for:

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

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

473

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

478 Section 5. For the purpose of incorporating the amendment
 479 to section 316.193, Florida Statutes, in a reference thereto,
 480 paragraph (a) of subsection (3) of section 316.066, Florida
 481 Statutes, is reenacted to read:

482 316.066 Written reports of crashes.--

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

485 1. Which crash resulted in death or personal injury shall,
 486 within 10 days after completing the investigation, forward a
 487 written report of the crash to the department or traffic records
 488 center.

489 2. Which crash involved a violation of s. 316.061(1) or s.
 490 316.193 shall, within 10 days after completing the
 491 investigation, forward a written report of the crash to the
 492 department or traffic records center.

493 3. In which crash a vehicle was rendered inoperative to a
 494 degree which required a wrecker to remove it from traffic may,
 495 within 10 days after completing the investigation, forward a
 496 written report of the crash to the department or traffic records
 497 center if such action is appropriate, in the officer's
 498 discretion.

499

500 However, in every case in which a crash report is required by
501 this section and a written report to a law enforcement officer
502 is not prepared, the law enforcement officer shall provide each
503 party involved in the crash a short-form report, prescribed by
504 the state, to be completed by the party. The short-form report
505 must include, but is not limited to: the date, time, and
506 location of the crash; a description of the vehicles involved;
507 the names and addresses of the parties involved; the names and
508 addresses of witnesses; the name, badge number, and law
509 enforcement agency of the officer investigating the crash; and
510 the names of the insurance companies for the respective parties
511 involved in the crash. Each party to the crash shall provide the
512 law enforcement officer with proof of insurance to be included
513 in the crash report. If a law enforcement officer submits a
514 report on the accident, proof of insurance must be provided to
515 the officer by each party involved in the crash. Any party who
516 fails to provide the required information is guilty of an
517 infraction for a nonmoving violation, punishable as provided in
518 chapter 318 unless the officer determines that due to injuries
519 or other special circumstances such insurance information cannot
520 be provided immediately. If the person provides the law
521 enforcement agency, within 24 hours after the crash, proof of
522 insurance that was valid at the time of the crash, the law
523 enforcement agency may void the citation.

524 Section 6. For the purpose of incorporating the amendment
525 to section 316.193, Florida Statutes, in a reference thereto,
526 paragraph (b) of subsection (4) of section 316.072, Florida
527 Statutes, is reenacted to read:

528 316.072 Obedience to and effect of traffic laws.--

529 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
 530 EXCEPTIONS.--

531 (b) Unless specifically made applicable, the provisions of
 532 this chapter, except those contained in ss. 316.192, 316.1925,
 533 and 316.193, shall not apply to persons, teams, or motor
 534 vehicles and other equipment while actually engaged in work upon
 535 the surface of a highway, but shall apply to such persons and
 536 vehicles when traveling to or from such work.

537 Section 7. For the purpose of incorporating the amendment
 538 to section 316.193, Florida Statutes, in a reference thereto,
 539 subsection (3) of section 316.1932, Florida Statutes, is
 540 reenacted to read:

541 316.1932 Tests for alcohol, chemical substances, or
 542 controlled substances; implied consent; refusal.--

543 (3) Notwithstanding any provision of law pertaining to the
 544 confidentiality of hospital records or other medical records,
 545 information relating to the alcoholic content of the blood or
 546 breath or the presence of chemical substances or controlled
 547 substances in the blood obtained pursuant to this section shall
 548 be released to a court, prosecuting attorney, defense attorney,
 549 or law enforcement officer in connection with an alleged
 550 violation of s. 316.193 upon request for such information.

551 Section 8. For the purpose of incorporating the amendment
 552 to section 316.193, Florida Statutes, in a reference thereto,
 553 subsection (4) of section 316.1933, Florida Statutes, is
 554 reenacted to read:

555 316.1933 Blood test for impairment or intoxication in
556 cases of death or serious bodily injury; right to use reasonable
557 force.--

558 (4) Notwithstanding any provision of law pertaining to the
559 confidentiality of hospital records or other medical records,
560 information relating to the alcoholic content of the blood or
561 the presence of chemical substances or controlled substances in
562 the blood obtained pursuant to this section shall be released to
563 a court, prosecuting attorney, defense attorney, or law
564 enforcement officer in connection with an alleged violation of
565 s. 316.193 upon request for such information.

566 Section 9. For the purpose of incorporating the amendment
567 to section 316.193, Florida Statutes, in references thereto,
568 subsections (1) and (4) of section 316.1934, Florida Statutes,
569 are reenacted to read:

570 316.1934 Presumption of impairment; testing methods.--

571 (1) It is unlawful and punishable as provided in chapter
572 322 and in s. 316.193 for any person who is under the influence
573 of alcoholic beverages or controlled substances, when affected
574 to the extent that the person's normal faculties are impaired or
575 to the extent that the person is deprived of full possession of
576 normal faculties, to drive or be in actual physical control of
577 any motor vehicle within this state. Such normal faculties
578 include, but are not limited to, the ability to see, hear, walk,
579 talk, judge distances, drive an automobile, make judgments, act
580 in emergencies, and, in general, normally perform the many
581 mental and physical acts of daily life.

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

585 Section 10. For the purpose of incorporating the amendment
586 to section 316.193, Florida Statutes, in references thereto,
587 subsection (1) and paragraph (d) of subsection (2) of section
588 316.1937, Florida Statutes, are reenacted to read:

589 316.1937 Ignition interlock devices, requiring; unlawful
590 acts.--

591 (1) In addition to any other authorized penalties, the
592 court may require that any person who is convicted of driving
593 under the influence in violation of s. 316.193 shall not operate
594 a motor vehicle unless that vehicle is equipped with a
595 functioning ignition interlock device certified by the
596 department as provided in s. 316.1938, and installed in such a
597 manner that the vehicle will not start if the operator's blood
598 alcohol level is in excess of 0.05 percent or as otherwise
599 specified by the court. The court may require the use of an
600 approved ignition interlock device for a period of not less than
601 6 months, if the person is permitted to operate a motor vehicle,
602 whether or not the privilege to operate a motor vehicle is
603 restricted, as determined by the court. The court, however,
604 shall order placement of an ignition interlock device in those
605 circumstances required by s. 316.193.

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

608 (d) Determine the person's ability to pay for installation
609 of the device if the person claims inability to pay. If the

610 court determines that the person is unable to pay for
 611 installation of the device, the court may order that any portion
 612 of a fine paid by the person for a violation of s. 316.193 shall
 613 be allocated to defray the costs of installing the device.

614 Section 11. For the purpose of incorporating the amendment
 615 to section 316.193, Florida Statutes, in a reference thereto,
 616 paragraph (b) of subsection (1) of section 316.1939, Florida
 617 Statutes, is reenacted to read:

618 316.1939 Refusal to submit to testing; penalties.--

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

624 (b) Who was placed under lawful arrest for a violation of
 625 s. 316.193 unless such test was requested pursuant to s.
 626 316.1932(1)(c);

627
 628 commits a misdemeanor of the first degree and is subject to
 629 punishment as provided in s. 775.082 or s. 775.083.

630 Section 12. For the purpose of incorporating the amendment
 631 to section 316.193, Florida Statutes, in references thereto,
 632 subsections (4) and (5) of section 318.143, Florida Statutes,
 633 are reenacted to read:

634 318.143 Sanctions for infractions by minors.--

635 (4) For the first conviction for a violation of s.
 636 316.193, the court may order the Department of Highway Safety
 637 and Motor Vehicles to revoke the minor's driver's license until

638 | the minor is 18 years of age. For a second or subsequent
 639 | conviction for such a violation, the court may order the
 640 | Department of Highway Safety and Motor Vehicles to revoke the
 641 | minor's driver's license until the minor is 21 years of age.

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

644 | (a) The minor is no longer under the influence of
 645 | alcoholic beverages, of any chemical substance set forth in s.
 646 | 877.111, or of any substance controlled under chapter 893, and
 647 | is not affected to the extent that his or her normal faculties
 648 | are impaired;

649 | (b) The minor's blood-alcohol level is less than 0.05
 650 | percent; or

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

652 | Section 13. For the purpose of incorporating the amendment
 653 | to section 316.193, Florida Statutes, in a reference thereto,
 654 | subsection (3) of section 318.17, Florida Statutes, is reenacted
 655 | to read:

656 | 318.17 Offenses excepted.--No provision of this chapter is
 657 | available to a person who is charged with any of the following
 658 | offenses:

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

664 | Section 14. For the purpose of incorporating the amendment
 665 | to section 316.193, Florida Statutes, in references thereto,

666 subsection (2) of section 322.03, Florida Statutes, is reenacted
 667 to read:

668 322.03 Drivers must be licensed; penalties.--

669 (2) Prior to issuing a driver's license, the department
 670 shall require any person who has been convicted two or more
 671 times of a violation of s. 316.193 or of a substantially similar
 672 alcohol-related or drug-related offense outside this state
 673 within the preceding 5 years, or who has been convicted of three
 674 or more such offenses within the preceding 10 years, to present
 675 proof of successful completion of or enrollment in a department-
 676 approved substance abuse education course. If the person fails
 677 to complete such education course within 90 days after issuance,
 678 the department shall cancel the license. Further, prior to
 679 issuing the driver's license the department shall require such
 680 person to present proof of financial responsibility as provided
 681 in s. 324.031. For the purposes of this paragraph, a previous
 682 conviction for violation of former s. 316.028, former s.
 683 316.1931, or former s. 860.01 shall be considered a previous
 684 conviction for violation of s. 316.193.

685 Section 15. For the purpose of incorporating the amendment
 686 to section 316.193, Florida Statutes, in a reference thereto,
 687 paragraph (a) of subsection (2) of section 322.0602, Florida
 688 Statutes, is reenacted to read:

689 322.0602 Youthful Drunk Driver Visitation Program.--

690 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR
 691 PARTICIPATION.--

692 (a) If a person is convicted of a violation of s. 316.193,
 693 the court may order, as a term and condition of probation in

694 addition to any other term or condition required or authorized
 695 by law, that the probationer participate in the Youthful Drunk
 696 Driver Visitation Program.

697 Section 16. For the purpose of incorporating the amendment
 698 to section 316.193, Florida Statutes, in a reference thereto,
 699 subsection (8) of section 322.21, Florida Statutes, is reenacted
 700 to read:

701 322.21 License fees; procedure for handling and collecting
 702 fees.--

703 (8) Any person who applies for reinstatement following the
 704 suspension or revocation of the person's driver's license shall
 705 pay a service fee of \$35 following a suspension, and \$60
 706 following a revocation, which is in addition to the fee for a
 707 license. Any person who applies for reinstatement of a
 708 commercial driver's license following the disqualification of
 709 the person's privilege to operate a commercial motor vehicle
 710 shall pay a service fee of \$60, which is in addition to the fee
 711 for a license. The department shall collect all of these fees at
 712 the time of reinstatement. The department shall issue proper
 713 receipts for such fees and shall promptly transmit all funds
 714 received by it as follows:

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

719 (b) Of the \$60 fee received from a licensee for
 720 reinstatement following a revocation or disqualification, the

721 department shall deposit \$35 in the General Revenue Fund and \$25
722 in the Highway Safety Operating Trust Fund.

723
724 If the revocation or suspension of the driver's license was for
725 a violation of s. 316.193, or for refusal to submit to a lawful
726 breath, blood, or urine test, an additional fee of \$115 must be
727 charged. However, only one \$115 fee may be collected from one
728 person convicted of violations arising out of the same incident.
729 The department shall collect the \$115 fee and deposit the fee
730 into the Highway Safety Operating Trust Fund at the time of
731 reinstatement of the person's driver's license, but the fee may
732 not be collected if the suspension or revocation is overturned.

733 Section 17. For the purpose of incorporating the amendment
734 to section 316.193, Florida Statutes, in a reference thereto,
735 subsection (5) of section 322.25, Florida Statutes, is reenacted
736 to read:

737 322.25 When court to forward license to department and
738 report convictions; temporary reinstatement of driving
739 privileges.--

740 (5) For the purpose of this chapter, the entrance of a
741 plea of nolo contendere by the defendant to a charge of driving
742 while intoxicated, driving under the influence, driving with an
743 unlawful blood-alcohol level, or any other alcohol-related or
744 drug-related traffic offense similar to the offenses specified
745 in s. 316.193, accepted by the court and under which plea the
746 court has entered a fine or sentence, whether in this state or
747 any other state or country, shall be equivalent to a conviction.

748 Section 18. For the purpose of incorporating the amendment
 749 to section 316.193, Florida Statutes, in a reference thereto,
 750 paragraph (a) of subsection (1) of section 322.26, Florida
 751 Statutes, is reenacted to read:

752 322.26 Mandatory revocation of license by department.--The
 753 department shall forthwith revoke the license or driving
 754 privilege of any person upon receiving a record of such person's
 755 conviction of any of the following offenses:

756 (1)(a) Murder resulting from the operation of a motor
 757 vehicle, DUI manslaughter where the conviction represents a
 758 subsequent DUI-related conviction, or a fourth violation of s.
 759 316.193 or former s. 316.1931. For such cases, the revocation of
 760 the driver's license or driving privilege shall be permanent.

761 Section 19. For the purpose of incorporating the amendment
 762 to section 316.193, Florida Statutes, in references thereto,
 763 subsections (1), (2), and (7), paragraph (b) of subsection (8),
 764 paragraph (b) of subsection (10), and subsection (14) of section
 765 322.2615, Florida Statutes, are reenacted to read:

766 322.2615 Suspension of license; right to review.--

767 (1)(a) A law enforcement officer or correctional officer
 768 shall, on behalf of the department, suspend the driving
 769 privilege of a person who has been arrested by a law enforcement
 770 officer for a violation of s. 316.193, relating to unlawful
 771 blood-alcohol level or breath-alcohol level, or of a person who
 772 has refused to submit to a breath, urine, or blood test
 773 authorized by s. 316.1932. The officer shall take the person's
 774 driver's license and issue the person a 10-day temporary permit
 775 if the person is otherwise eligible for the driving privilege

776 and shall issue the person a notice of suspension. If a blood
777 test has been administered, the results of which are not
778 available to the officer at the time of the arrest, the agency
779 employing the officer shall transmit such results to the
780 department within 5 days after receipt of the results. If the
781 department then determines that the person was arrested for a
782 violation of s. 316.193 and that the person had a blood-alcohol
783 level or breath-alcohol level of 0.08 or higher, the department
784 shall suspend the person's driver's license pursuant to
785 subsection (3).

786 (b) The suspension under paragraph (a) shall be pursuant
787 to, and the notice of suspension shall inform the driver of, the
788 following:

789 1.a. The driver refused to submit to a lawful breath,
790 blood, or urine test and his or her driving privilege is
791 suspended for a period of 1 year for a first refusal or for a
792 period of 18 months if his or her driving privilege has been
793 previously suspended as a result of a refusal to submit to such
794 a test; or

795 b. The driver violated s. 316.193 by driving with an
796 unlawful blood-alcohol level as provided in that section and his
797 or her driving privilege is suspended for a period of 6 months
798 for a first offense or for a period of 1 year if his or her
799 driving privilege has been previously suspended for a violation
800 of s. 316.193.

801 2. The suspension period shall commence on the date of
802 arrest or issuance of the notice of suspension, whichever is
803 later.

804 3. The driver may request a formal or informal review of
 805 the suspension by the department within 10 days after the date
 806 of arrest or issuance of the notice of suspension, whichever is
 807 later.

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

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

813 (2) Except as provided in paragraph (1)(a), the law
 814 enforcement officer shall forward to the department, within 5
 815 days after the date of the arrest, a copy of the notice of
 816 suspension, the driver's license of the person arrested, and a
 817 report of the arrest, including an affidavit stating the
 818 officer's grounds for belief that the person arrested was in
 819 violation of s. 316.193; the results of any breath or blood test
 820 or an affidavit stating that a breath, blood, or urine test was
 821 requested by a law enforcement officer or correctional officer
 822 and that the person arrested refused to submit; a copy of the
 823 citation issued to the person arrested; and the officer's
 824 description of the person's field sobriety test, if any. The
 825 failure of the officer to submit materials within the 5-day
 826 period specified in this subsection and in subsection (1) shall
 827 not affect the department's ability to consider any evidence
 828 submitted at or prior to the hearing. The officer may also
 829 submit a copy of a videotape of the field sobriety test or the
 830 attempt to administer such test.

831 (7) In a formal review hearing under subsection (6) or an
 832 informal review hearing under subsection (4), the hearing
 833 officer shall determine by a preponderance of the evidence
 834 whether sufficient cause exists to sustain, amend, or invalidate
 835 the suspension. The scope of the review shall be limited to the
 836 following issues:

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

839 1. Whether the arresting law enforcement officer had
 840 probable cause to believe that the person was driving or in
 841 actual physical control of a motor vehicle in this state while
 842 under the influence of alcoholic beverages or controlled
 843 substances.

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

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

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

850 1. Whether the arresting law enforcement officer had
 851 probable cause to believe that the person was driving or in
 852 actual physical control of a motor vehicle in this state while
 853 under the influence of alcoholic beverages or controlled
 854 substances.

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

857 3. Whether the person refused to submit to any such test
 858 after being requested to do so by a law enforcement officer or
 859 correctional officer.

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

865 (8) Based on the determination of the hearing officer
 866 pursuant to subsection (7) for both informal hearings under
 867 subsection (4) and formal hearings under subsection (6), the
 868 department shall:

869 (b) Sustain the suspension of the person's driving
 870 privilege for a period of 6 months for a violation of s.
 871 316.193, or for a period of 1 year if the driving privilege of
 872 such person has been previously suspended as a result of a
 873 violation of s. 316.193. The suspension period commences on the
 874 date of the arrest or issuance of the notice of suspension,
 875 whichever is later.

876 (10) A person whose driver's license is suspended under
 877 subsection (1) or subsection (3) may apply for issuance of a
 878 license for business or employment purposes only if the person
 879 is otherwise eligible for the driving privilege pursuant to s.
 880 322.271.

881 (b) If the suspension of the driver's license of the
 882 person arrested for a violation of s. 316.193, relating to
 883 unlawful blood-alcohol level, is sustained, the person is not
 884 eligible to receive a license for business or employment

885 | purposes only pursuant to s. 322.271 until 30 days have elapsed
886 | after the expiration of the last temporary permit issued. If the
887 | driver is not issued a 10-day permit pursuant to this section or
888 | s. 322.64 because he or she is ineligible for the permit and the
889 | suspension for a violation of s. 316.193, relating to unlawful
890 | blood-alcohol level, is not invalidated by the department, the
891 | driver is not eligible to receive a business or employment
892 | license pursuant to s. 322.271 until 30 days have elapsed from
893 | the date of the arrest.

894 | (14) The decision of the department under this section
895 | shall not be considered in any trial for a violation of s.
896 | 316.193, nor shall any written statement submitted by a person
897 | in his or her request for departmental review under this section
898 | be admissible into evidence against him or her in any such
899 | trial. The disposition of any related criminal proceedings shall
900 | not affect a suspension imposed pursuant to this section.

901 | Section 20. For the purpose of incorporating the amendment
902 | to section 316.193, Florida Statutes, in references thereto,
903 | paragraph (a) of subsection (1) and subsections (15) and (19) of
904 | section 322.2616, Florida Statutes, are reenacted to read:

905 | 322.2616 Suspension of license; persons under 21 years of
906 | age; right to review.--

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

911 | (15) The decision of the department under this section
912 | shall not be considered in any trial for a violation of s.

913 316.193, nor shall any written statement submitted by a person
914 in his or her request for departmental review under this section
915 be admissible into evidence against him or her in any such
916 trial. The disposition of any related criminal proceedings shall
917 not affect a suspension imposed under this section.

918 (19) A violation of this section is neither a traffic
919 infraction nor a criminal offense, nor does being detained
920 pursuant to this section constitute an arrest. A violation of
921 this section is subject to the administrative action provisions
922 of this section, which are administered by the department
923 through its administrative processes. Administrative actions
924 taken pursuant to this section shall be recorded in the motor
925 vehicle records maintained by the department. This section does
926 not bar prosecution under s. 316.193. However, if the department
927 suspends a person's license under s. 322.2615 for a violation of
928 s. 316.193, it may not also suspend the person's license under
929 this section for the same episode that was the basis for the
930 suspension under s. 322.2615.

931 Section 21. For the purpose of incorporating the amendment
932 to section 316.193, Florida Statutes, in a reference thereto,
933 paragraph (b) of subsection (1) of section 322.264, Florida
934 Statutes, is reenacted to read:

935 322.264 "Habitual traffic offender" defined.--A "habitual
936 traffic offender" is any person whose record, as maintained by
937 the Department of Highway Safety and Motor Vehicles, shows that
938 such person has accumulated the specified number of convictions
939 for offenses described in subsection (1) or subsection (2)
940 within a 5-year period:

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

943 (b) Any violation of s. 316.193, former s. 316.1931, or
 944 former s. 860.01;

945
 946 Any violation of any federal law, any law of another state or
 947 country, or any valid ordinance of a municipality or county of
 948 another state similar to a statutory prohibition specified in
 949 subsection (1) or subsection (2) shall be counted as a violation
 950 of such prohibition. In computing the number of convictions, all
 951 convictions during the 5 years previous to July 1, 1972, will be
 952 used, provided at least one conviction occurs after that date.
 953 The fact that previous convictions may have resulted in
 954 suspension, revocation, or disqualification under another
 955 section does not exempt them from being used for suspension or
 956 revocation under this section as a habitual offender.

957 Section 22. For the purpose of incorporating the amendment
 958 to section 316.193, Florida Statutes, in references thereto,
 959 paragraphs (a) and (c) of subsection (2) and subsection (4) of
 960 section 322.271, Florida Statutes, are reenacted to read:

961 322.271 Authority to modify revocation, cancellation, or
 962 suspension order.--

963 (2)(a) Upon such hearing, the person whose license has
 964 been suspended, canceled, or revoked may show that such
 965 suspension, cancellation, or revocation of his or her license
 966 causes a serious hardship and precludes the person's carrying
 967 out his or her normal business occupation, trade, or employment
 968 and that the use of the person's license in the normal course of

969 | his or her business is necessary to the proper support of the
970 | person or his or her family. Except as otherwise provided in
971 | this subsection, the department shall require proof of the
972 | successful completion of the applicable department-approved
973 | driver training course operating pursuant to s. 318.1451 or DUI
974 | program substance abuse education course and evaluation as
975 | provided in s. 316.193(5). Letters of recommendation from
976 | respected business persons in the community, law enforcement
977 | officers, or judicial officers may also be required to determine
978 | whether such person should be permitted to operate a motor
979 | vehicle on a restricted basis for business or employment use
980 | only and in determining whether such person can be trusted to so
981 | operate a motor vehicle. If a driver's license has been
982 | suspended under the point system or pursuant to s. 322.2615, the
983 | department shall require proof of enrollment in the applicable
984 | department-approved driver training course or licensed DUI
985 | program substance abuse education course, including evaluation
986 | and treatment, if referred, and may require letters of
987 | recommendation described in this subsection to determine if the
988 | driver should be reinstated on a restricted basis. If such
989 | person fails to complete the approved course within 90 days
990 | after reinstatement or subsequently fails to complete treatment,
991 | if applicable, the department shall cancel his or her driver's
992 | license until the course and treatment, if applicable, is
993 | successfully completed, notwithstanding the terms of the court
994 | order or any suspension or revocation of the driving privilege.
995 | The department may temporarily reinstate the driving privilege
996 | on a restricted basis upon verification from the DUI program

997 that the offender has reentered and is currently participating
 998 in treatment and has completed the DUI education course and
 999 evaluation requirement. If the DUI program notifies the
 1000 department of the second failure to complete treatment, the
 1001 department shall reinstate the driving privilege only after
 1002 notice of completion of treatment from the DUI program. The
 1003 privilege of driving on a limited or restricted basis for
 1004 business or employment use shall not be granted to a person who
 1005 has been convicted of a violation of s. 316.193 until completion
 1006 of the DUI program substance abuse education course and
 1007 evaluations as provided in s. 316.193(5). Except as provided in
 1008 paragraph (b), the privilege of driving on a limited or
 1009 restricted basis for business or employment use shall not be
 1010 granted to a person whose license is revoked pursuant to s.
 1011 322.28 or suspended pursuant to s. 322.2615 and who has been
 1012 convicted of a violation of s. 316.193 two or more times or
 1013 whose license has been suspended two or more times for refusal
 1014 to submit to a test pursuant to s. 322.2615 or former s.
 1015 322.261.

1016 (c) For the purpose of this section, a previous conviction
 1017 of driving under the influence, driving while intoxicated,
 1018 driving with an unlawful blood-alcohol level, or any other
 1019 similar alcohol-related or drug-related offense outside this
 1020 state or a previous conviction of former s. 316.1931, former s.
 1021 316.028, or former s. 860.01 shall be considered a previous
 1022 conviction for violation of s. 316.193.

1023 (4) Notwithstanding the provisions of s. 322.28(2)(e), a
 1024 person whose driving privilege has been permanently revoked

1025 | because he or she has been convicted of DUI manslaughter in
 1026 | violation of s. 316.193 and has no prior convictions for DUI-
 1027 | related offenses may, upon the expiration of 5 years after the
 1028 | date of such revocation or the expiration of 5 years after the
 1029 | termination of any term of incarceration under s. 316.193 or
 1030 | former s. 316.1931, whichever date is later, petition the
 1031 | department for reinstatement of his or her driving privilege.

1032 | (a) Within 30 days after the receipt of such a petition,
 1033 | the department shall afford the petitioner an opportunity for a
 1034 | hearing. At the hearing, the petitioner must demonstrate to the
 1035 | department that he or she:

1036 | 1. Has not been arrested for a drug-related offense during
 1037 | the 5 years preceding the filing of the petition;

1038 | 2. Has not driven a motor vehicle without a license for at
 1039 | least 5 years prior to the hearing;

1040 | 3. Has been drug-free for at least 5 years prior to the
 1041 | hearing; and

1042 | 4. Has completed a DUI program licensed by the department.

1043 | (b) At such hearing, the department shall determine the
 1044 | petitioner's qualification, fitness, and need to drive. Upon
 1045 | such determination, the department may, in its discretion,
 1046 | reinstate the driver's license of the petitioner. Such
 1047 | reinstatement must be made subject to the following
 1048 | qualifications:

1049 | 1. The license must be restricted for employment purposes
 1050 | for not less than 1 year; and

1051 | 2. Such person must be supervised by a DUI program
 1052 | licensed by the department and report to the program for such

1053 supervision and education at least four times a year or
 1054 additionally as required by the program for the remainder of the
 1055 revocation period. Such supervision shall include evaluation,
 1056 education, referral into treatment, and other activities
 1057 required by the department.

1058 (c) Such person must assume the reasonable costs of
 1059 supervision. If such person fails to comply with the required
 1060 supervision, the program shall report the failure to the
 1061 department, and the department shall cancel such person's
 1062 driving privilege.

1063 (d) If, after reinstatement, such person is convicted of
 1064 an offense for which mandatory revocation of his or her license
 1065 is required, the department shall revoke his or her driving
 1066 privilege.

1067 (e) The department shall adopt rules regulating the
 1068 providing of services by DUI programs pursuant to this section.

1069 Section 23. For the purpose of incorporating the amendment
 1070 to section 316.193, Florida Statutes, in references thereto,
 1071 subsection (2) of section 322.28, Florida Statutes, is reenacted
 1072 to read:

1073 322.28 Period of suspension or revocation.--

1074 (2) In a prosecution for a violation of s. 316.193 or
 1075 former s. 316.1931, the following provisions apply:

1076 (a) Upon conviction of the driver, the court, along with
 1077 imposing sentence, shall revoke the driver's license or driving
 1078 privilege of the person so convicted, effective on the date of
 1079 conviction, and shall prescribe the period of such revocation in
 1080 accordance with the following provisions:

1081 1. Upon a first conviction for a violation of the
 1082 provisions of s. 316.193, except a violation resulting in death,
 1083 the driver's license or driving privilege shall be revoked for
 1084 not less than 180 days or more than 1 year.

1085 2. Upon a second conviction for an offense that occurs
 1086 within a period of 5 years after the date of a prior conviction
 1087 for a violation of the provisions of s. 316.193 or former s.
 1088 316.1931 or a combination of such sections, the driver's license
 1089 or driving privilege shall be revoked for not less than 5 years.

1090 3. Upon a third conviction for an offense that occurs
 1091 within a period of 10 years after the date of a prior conviction
 1092 for the violation of the provisions of s. 316.193 or former s.
 1093 316.1931 or a combination of such sections, the driver's license
 1094 or driving privilege shall be revoked for not less than 10
 1095 years.

1096
 1097 For the purposes of this paragraph, a previous conviction
 1098 outside this state for driving under the influence, driving
 1099 while intoxicated, driving with an unlawful blood-alcohol level,
 1100 or any other alcohol-related or drug-related traffic offense
 1101 similar to the offense of driving under the influence as
 1102 proscribed by s. 316.193 will be considered a previous
 1103 conviction for violation of s. 316.193, and a conviction for
 1104 violation of former s. 316.028, former s. 316.1931, or former s.
 1105 860.01 is considered a conviction for violation of s. 316.193.

1106 (b) If the period of revocation was not specified by the
 1107 court at the time of imposing sentence or within 30 days
 1108 thereafter, and is not otherwise specified by law, the

1109 | department shall forthwith revoke the driver's license or
1110 | driving privilege for the maximum period applicable under
1111 | paragraph (a) for a first conviction and for the minimum period
1112 | applicable under paragraph (a) for any subsequent convictions.
1113 | The driver may, within 30 days after such revocation by the
1114 | department, petition the court for further hearing on the period
1115 | of revocation, and the court may reopen the case and determine
1116 | the period of revocation within the limits specified in
1117 | paragraph (a).

1118 | (c) The forfeiture of bail bond, not vacated within 20
1119 | days, in any prosecution for the offense of driving while under
1120 | the influence of alcoholic beverages, chemical substances, or
1121 | controlled substances to the extent of depriving the defendant
1122 | of his or her normal faculties shall be deemed equivalent to a
1123 | conviction for the purposes of this paragraph, and the
1124 | department shall forthwith revoke the defendant's driver's
1125 | license or driving privilege for the maximum period applicable
1126 | under paragraph (a) for a first conviction and for the minimum
1127 | period applicable under paragraph (a) for a second or subsequent
1128 | conviction; however, if the defendant is later convicted of the
1129 | charge, the period of revocation imposed by the department for
1130 | such conviction shall not exceed the difference between the
1131 | applicable maximum for a first conviction or minimum for a
1132 | second or subsequent conviction and the revocation period under
1133 | this subsection that has actually elapsed; upon conviction of
1134 | such charge, the court may impose revocation for a period of
1135 | time as specified in paragraph (a). This paragraph does not

1136 | apply if an appropriate motion contesting the forfeiture is
1137 | filed within the 20-day period.

1138 | (d) When any driver's license or driving privilege has
1139 | been revoked pursuant to the provisions of this section, the
1140 | department shall not grant a new license, except upon
1141 | reexamination of the licensee after the expiration of the period
1142 | of revocation so prescribed. However, the court may, in its
1143 | sound discretion, issue an order of reinstatement on a form
1144 | furnished by the department which the person may take to any
1145 | driver's license examining office for reinstatement by the
1146 | department pursuant to s. 322.282.

1147 | (e) The court shall permanently revoke the driver's
1148 | license or driving privilege of a person who has been convicted
1149 | four times for violation of s. 316.193 or former s. 316.1931 or
1150 | a combination of such sections. The court shall permanently
1151 | revoke the driver's license or driving privilege of any person
1152 | who has been convicted of DUI manslaughter in violation of s.
1153 | 316.193. If the court has not permanently revoked such driver's
1154 | license or driving privilege within 30 days after imposing
1155 | sentence, the department shall permanently revoke the driver's
1156 | license or driving privilege pursuant to this paragraph. No
1157 | driver's license or driving privilege may be issued or granted
1158 | to any such person. This paragraph applies only if at least one
1159 | of the convictions for violation of s. 316.193 or former s.
1160 | 316.1931 was for a violation that occurred after July 1, 1982.
1161 | For the purposes of this paragraph, a conviction for violation
1162 | of former s. 316.028, former s. 316.1931, or former s. 860.01 is
1163 | also considered a conviction for violation of s. 316.193. Also,

1164 a conviction of driving under the influence, driving while
1165 intoxicated, driving with an unlawful blood-alcohol level, or
1166 any other similar alcohol-related or drug-related traffic
1167 offense outside this state is considered a conviction for the
1168 purposes of this paragraph.

1169 Section 24. For the purpose of incorporating the amendment
1170 to section 316.193, Florida Statutes, in references thereto,
1171 paragraph (a) of subsection (2) of section 322.282, Florida
1172 Statutes, is reenacted to read:

1173 322.282 Procedure when court revokes or suspends license
1174 or driving privilege and orders reinstatement.--When a court
1175 suspends or revokes a person's license or driving privilege and,
1176 in its discretion, orders reinstatement as provided by s.
1177 322.28(2)(d) or former s. 322.261(5):

1178 (2)(a) The court shall issue an order of reinstatement, on
1179 a form to be furnished by the department, which the person may
1180 take to any driver's license examining office. The department
1181 shall issue a temporary driver's permit to a licensee who
1182 presents the court's order of reinstatement, proof of completion
1183 of a department-approved driver training or substance abuse
1184 education course, and a written request for a hearing under s.
1185 322.271. The permit shall not be issued if a record check by the
1186 department shows that the person has previously been convicted
1187 for a violation of s. 316.193, former s. 316.1931, former s.
1188 316.028, former s. 860.01, or a previous conviction outside this
1189 state for driving under the influence, driving while
1190 intoxicated, driving with an unlawful blood-alcohol level, or
1191 any similar alcohol-related or drug-related traffic offense;

1192 that the person's driving privilege has been previously
 1193 suspended for refusal to submit to a lawful test of breath,
 1194 blood, or urine; or that the person is otherwise not entitled to
 1195 issuance of a driver's license. This paragraph shall not be
 1196 construed to prevent the reinstatement of a license or driving
 1197 privilege that is presently suspended for driving with an
 1198 unlawful blood-alcohol level or a refusal to submit to a breath,
 1199 urine, or blood test and is also revoked for a conviction for a
 1200 violation of s. 316.193 or former s. 316.1931, if the suspension
 1201 and revocation arise out of the same incident.

1202 Section 25. For the purpose of incorporating the amendment
 1203 to section 316.193, Florida Statutes, in a reference thereto,
 1204 paragraph (a) of subsection (1) of section 322.291, Florida
 1205 Statutes, is reenacted to read:

1206 322.291 Driver improvement schools or DUI programs;
 1207 required in certain suspension and revocation cases.--Except as
 1208 provided in s. 322.03(2), any person:

1209 (1) Whose driving privilege has been revoked:

1210 (a) Upon conviction for:

1211 1. Driving, or being in actual physical control of, any
 1212 vehicle while under the influence of alcoholic beverages, any
 1213 chemical substance set forth in s. 877.111, or any substance
 1214 controlled under chapter 893, in violation of s. 316.193;

1215 2. Driving with an unlawful blood- or breath-alcohol
 1216 level;

1217 3. Manslaughter resulting from the operation of a motor
 1218 vehicle;

1219 4. Failure to stop and render aid as required under the
 1220 laws of this state in the event of a motor vehicle crash
 1221 resulting in the death or personal injury of another;

1222 5. Reckless driving; or

1223
 1224 shall, before the driving privilege may be reinstated, present
 1225 to the department proof of enrollment in a department-approved
 1226 advanced driver improvement course operating pursuant to s.
 1227 318.1451 or a substance abuse education course conducted by a
 1228 DUI program licensed pursuant to s. 322.292, which shall include
 1229 a psychosocial evaluation and treatment, if referred. If the
 1230 person fails to complete such course or evaluation within 90
 1231 days after reinstatement, or subsequently fails to complete
 1232 treatment, if referred, the DUI program shall notify the
 1233 department of the failure. Upon receipt of the notice, the
 1234 department shall cancel the offender's driving privilege,
 1235 notwithstanding the expiration of the suspension or revocation
 1236 of the driving privilege. The department may temporarily
 1237 reinstate the driving privilege upon verification from the DUI
 1238 program that the offender has completed the education course and
 1239 evaluation requirement and has reentered and is currently
 1240 participating in treatment. If the DUI program notifies the
 1241 department of the second failure to complete treatment, the
 1242 department shall reinstate the driving privilege only after
 1243 notice of completion of treatment from the DUI program.

1244 Section 26. For the purpose of incorporating the amendment
 1245 to section 316.193, Florida Statutes, in a reference thereto,

1246 paragraph (a) of subsection (9) of section 322.34, Florida
 1247 Statutes, is reenacted to read:

1248 322.34 Driving while license suspended, revoked, canceled,
 1249 or disqualified.--

1250 (9)(a) A motor vehicle that is driven by a person under
 1251 the influence of alcohol or drugs in violation of s. 316.193 is
 1252 subject to seizure and forfeiture under ss. 932.701-932.707 and
 1253 is subject to liens for recovering, towing, or storing vehicles
 1254 under s. 713.78 if, at the time of the offense, the person's
 1255 driver's license is suspended, revoked, or canceled as a result
 1256 of a prior conviction for driving under the influence.

1257 Section 27. For the purpose of incorporating the amendment
 1258 to section 316.193, Florida Statutes, in references thereto,
 1259 section 322.44, Florida Statutes, is reenacted to read:

1260 322.44 Driver License Compact.--The Driver License Compact
 1261 is hereby enacted into law and entered into with all other
 1262 jurisdictions legally joining therein in the form substantially
 1263 as follows:

1264

1265 ARTICLE I

1266

1267 FINDINGS AND DECLARATION OF POLICY.--

1268 (1) The party states find that:

1269 (a) The safety of their streets and highways is materially
 1270 affected by the degree of compliance with state laws and local
 1271 ordinances relating to the operation of motor vehicles;

1272 (b) Violation of such a law or ordinance is evidence that
 1273 the violator engages in conduct which is likely to endanger the
 1274 safety of persons and property;

1275 (c) The continuance in force of a license to drive is
 1276 predicated upon compliance with laws and ordinances relating to
 1277 the operation of motor vehicles, in whichever jurisdiction the
 1278 vehicle is operated.

1279 (2) It is the policy of each of the party states to:

1280 (a) Promote compliance with the laws, ordinances, and
 1281 administrative rules and regulations relating to the operation
 1282 of motor vehicles by their operators in each of the
 1283 jurisdictions where such operators drive motor vehicles;

1284 (b) Make the reciprocal recognition of licenses to drive
 1285 and eligibility therefor more just and equitable by considering
 1286 the overall compliance with motor vehicle laws, ordinances, and
 1287 administrative rules and regulations as a condition precedent to
 1288 the continuance or issuance of any license by reason of which
 1289 the licensee is authorized or permitted to operate a motor
 1290 vehicle in any of the party states.

1291

1292 ARTICLE II

1293

1294 DEFINITIONS.--As used in this compact:

1295 (1) "State" means a state, territory or possession of the
 1296 United States, the District of Columbia, or the Commonwealth of
 1297 Puerto Rico.

1298 (2) "Home state" means the state which has issued and has
 1299 the power to suspend or revoke the use of the license or permit
 1300 to operate a motor vehicle.

1301 (3) "Conviction" means a conviction of any offense related
 1302 to the use or operation of a motor vehicle which is prohibited
 1303 by state law, municipal ordinance, or administrative rule or
 1304 regulation, or a forfeiture of bail, bond, or other security
 1305 deposited to secure appearance by a person charged with having
 1306 committed any such offense, and which conviction or forfeiture
 1307 is required to be reported to the licensing authority.

1308

1309 ARTICLE III

1310

1311 REPORTS OF CONVICTION.--The licensing authority of a party
 1312 state shall report each conviction of a person from another
 1313 party state occurring within its jurisdiction to the licensing
 1314 authority of the home state of the licensee. Such report shall
 1315 clearly identify the person convicted; describe the violation
 1316 specifying the section of the statute, code, or ordinance
 1317 violated; identify the court in which action was taken; indicate
 1318 whether a plea of guilty or not guilty was entered or the
 1319 conviction was a result of the forfeiture of bail, bond, or
 1320 other security; and shall include any special findings made in
 1321 connection therewith.

1322

1323 ARTICLE IV

1324

1325 EFFECT OF CONVICTION.--

1326 (1) The licensing authority in the home state, for the
 1327 purposes of suspension, revocation, or limitation of the license
 1328 to operate a motor vehicle, shall give the same effect to the
 1329 conduct reported, pursuant to article III, as it would if such
 1330 conduct had occurred in the home state, in the case of
 1331 convictions for:

1332 (a) Manslaughter or negligent homicide resulting from the
 1333 operation of a motor vehicle, as provided by ss. 316.193 and
 1334 322.26;

1335 (b) Driving a motor vehicle while under the influence of
 1336 alcoholic beverages or a narcotic drug, or under the influence
 1337 of any other drug to a degree which renders the driver incapable
 1338 of safely driving a motor vehicle, as provided by s. 316.193;

1339 (c) Any felony in the commission of which a motor vehicle
 1340 is used, as provided by s. 322.26; or

1341 (d) Failure to stop and render aid in the event of a motor
 1342 vehicle crash resulting in the death or personal injury of
 1343 another, as provided by s. 322.26.

1344 (2) As to other convictions, reported pursuant to article
 1345 III, the licensing authority in the home state shall give such
 1346 effect to the conduct as is provided by the laws of the home
 1347 state.

1348

1349 ARTICLE V

1350

1351 APPLICATIONS FOR NEW LICENSES.--Upon application for a
 1352 license to drive, the licensing authority in a party state shall
 1353 ascertain whether the applicant has ever held, or is the holder

1354 of, a license to drive issued by any other party state. The
1355 licensing authority in the state where application is made shall
1356 not issue a license to drive to the applicant if:

1357 (1) The applicant has held such a license, but the same
1358 has been suspended by reason, in whole or in part, of a
1359 violation and if such suspension period has not terminated.

1360 (2) The applicant has held such a license, but the same
1361 has been revoked by reason, in whole or in part, of a violation
1362 and if such revocation has not terminated, except that after the
1363 expiration of 1 year from the date the license was revoked, such
1364 person may make application for a new license if permitted by
1365 law. The licensing authority may refuse to issue a license to
1366 any such applicant if, after investigation, the licensing
1367 authority determines that it will not be safe to grant to such
1368 person the privilege of driving a motor vehicle on the public
1369 highways.

1370 (3) The applicant is the holder of a license to drive
1371 issued by another party state and currently in force unless the
1372 applicant surrenders such license.

1373

1374 ARTICLE VI

1375

1376 APPLICABILITY OF OTHER LAWS.--Except as expressly required
1377 by provisions of this compact, nothing contained herein shall be
1378 construed to affect the right of any party state to apply any of
1379 its other laws relating to licenses to drive to any person or
1380 circumstance, nor to invalidate or prevent any driver license

1381 agreement or other cooperative arrangement between a party state
 1382 and a nonparty state.

1383

1384 ARTICLE VII

1385

1386 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

1387 (1) The head of the licensing authority of each party
 1388 state shall be the administrator of this compact for his or her
 1389 state. The administrators, acting jointly, shall have the power
 1390 to formulate all necessary and proper procedures for the
 1391 exchange of information under this compact.

1392 (2) The administrator of each party state shall furnish to
 1393 the administrator of each other party state any information or
 1394 documents reasonably necessary to facilitate the administration
 1395 of this compact.

1396

1397 ARTICLE VIII

1398

1399 ENTRY INTO FORCE AND WITHDRAWAL.--

1400 (1) This compact shall enter into force and become
 1401 effective as to any state when it has enacted the same into law.

1402 (2) Any party state may withdraw from this compact by
 1403 enacting a statute repealing the same, but no such withdrawal
 1404 shall take effect until 6 months after the executive head of the
 1405 withdrawing state has given notice of the withdrawal to the
 1406 executive heads of all other party states. No withdrawal shall
 1407 affect the validity or applicability by the licensing

1408 | authorities of states remaining party to the compact of any
 1409 | report of conviction occurring prior to the withdrawal.

1410 |

1411 | ARTICLE IX

1412 |

1413 | CONSTRUCTION AND SEVERABILITY.--This compact shall be
 1414 | liberally construed so as to effectuate the purposes thereof.
 1415 | The provisions of this compact shall be severable; and if any
 1416 | phrase, clause, sentence, or provision of this compact is
 1417 | declared to be contrary to the constitution of any party state
 1418 | or of the United States or the applicability thereof to any
 1419 | government, agency, person, or circumstance is held invalid, the
 1420 | validity of the remainder of this compact and the applicability
 1421 | thereof to any government, agency, person, or circumstance shall
 1422 | not be affected thereby. If this compact shall be held contrary
 1423 | to the constitution of any state party thereto, the compact
 1424 | shall remain in full force and effect as to the remaining states
 1425 | and in full force and effect as to the state affected as to all
 1426 | severable matters.

1427 | Section 28. For the purpose of incorporating the amendment
 1428 | to section 316.193, Florida Statutes, in a reference thereto,
 1429 | subsection (3) of section 322.62, Florida Statutes, is reenacted
 1430 | to read:

1431 | 322.62 Driving under the influence; commercial motor
 1432 | vehicle operators.--

1433 | (3) This section does not supersede s. 316.193. Nothing in
 1434 | this section prohibits the prosecution of a person who drives a
 1435 | commercial motor vehicle for driving under the influence of

1436 alcohol or controlled substances whether or not such person is
 1437 also prosecuted for a violation of this section.

1438 Section 29. For the purpose of incorporating the amendment
 1439 to section 316.193, Florida Statutes, in references thereto,
 1440 paragraph (d) of subsection (2) and subsection (6) of section
 1441 322.63, Florida Statutes, are reenacted to read:

1442 322.63 Alcohol or drug testing; commercial motor vehicle
 1443 operators.--

1444 (2) The chemical and physical tests authorized by this
 1445 section shall only be required if a law enforcement officer has
 1446 reasonable cause to believe that a person driving a commercial
 1447 motor vehicle has any alcohol, chemical substance, or controlled
 1448 substance in his or her body.

1449 (d) The administration of one test under paragraph (a),
 1450 paragraph (b), or paragraph (c) shall not preclude the
 1451 administration of a different test under paragraph (a),
 1452 paragraph (b), or paragraph (c). However, a urine test may not
 1453 be used to determine alcohol concentration and a breath test may
 1454 not be used to determine the presence of controlled substances
 1455 or chemical substances in a person's body. Notwithstanding the
 1456 provisions of this paragraph, in the event a Florida licensee
 1457 has been convicted in another state for an offense substantially
 1458 similar to s. 316.193 or to s. 322.62, which conviction was
 1459 based upon evidence of test results prohibited by this
 1460 paragraph, that out-of-state conviction shall constitute a
 1461 conviction for the purposes of this chapter.

1462 (6) Notwithstanding any provision of law pertaining to the
 1463 confidentiality of hospital records or other medical records,

1464 information relating to the alcohol content of a person's blood
1465 or the presence of chemical substances or controlled substances
1466 in a person's blood obtained pursuant to this section shall be
1467 released to a court, prosecuting attorney, defense attorney, or
1468 law enforcement officer in connection with an alleged violation
1469 of s. 316.193 or s. 322.62 upon request for such information.

1470 Section 30. For the purpose of incorporating the amendment
1471 to section 316.193, Florida Statutes, in references thereto,
1472 subsections (1) and (2), paragraph (a) of subsection (7),
1473 paragraph (b) of subsection (8), and subsections (14) and (15)
1474 of section 322.64, Florida Statutes, are reenacted to read:

1475 322.64 Holder of commercial driver's license; driving with
1476 unlawful blood-alcohol level; refusal to submit to breath,
1477 urine, or blood test.--

1478 (1)(a) A law enforcement officer or correctional officer
1479 shall, on behalf of the department, disqualify from operating
1480 any commercial motor vehicle a person who while operating or in
1481 actual physical control of a commercial motor vehicle is
1482 arrested for a violation of s. 316.193, relating to unlawful
1483 blood-alcohol level or breath-alcohol level, or a person who has
1484 refused to submit to a breath, urine, or blood test authorized
1485 by s. 322.63 arising out of the operation or actual physical
1486 control of a commercial motor vehicle. Upon disqualification of
1487 the person, the officer shall take the person's driver's license
1488 and issue the person a 10-day temporary permit if the person is
1489 otherwise eligible for the driving privilege and shall issue the
1490 person a notice of disqualification. If the person has been
1491 given a blood, breath, or urine test, the results of which are

1492 not available to the officer at the time of the arrest, the
 1493 agency employing the officer shall transmit such results to the
 1494 department within 5 days after receipt of the results. If the
 1495 department then determines that the person was arrested for a
 1496 violation of s. 316.193 and that the person had a blood-alcohol
 1497 level or breath-alcohol level of 0.08 or higher, the department
 1498 shall disqualify the person from operating a commercial motor
 1499 vehicle pursuant to subsection (3).

1500 (b) The disqualification under paragraph (a) shall be
 1501 pursuant to, and the notice of disqualification shall inform the
 1502 driver of, the following:

1503 1.a. The driver refused to submit to a lawful breath,
 1504 blood, or urine test and he or she is disqualified from
 1505 operating a commercial motor vehicle for a period of 1 year, for
 1506 a first refusal, or permanently, if he or she has previously
 1507 been disqualified as a result of a refusal to submit to such a
 1508 test; or

1509 b. The driver violated s. 316.193 by driving with an
 1510 unlawful blood-alcohol level and he or she is disqualified from
 1511 operating a commercial motor vehicle for a period of 6 months
 1512 for a first offense or for a period of 1 year if he or she has
 1513 previously been disqualified, or his or her driving privilege
 1514 has been previously suspended, for a violation of s. 316.193.

1515 2. The disqualification period shall commence on the date
 1516 of arrest or issuance of notice of disqualification, whichever
 1517 is later.

1518 3. The driver may request a formal or informal review of
 1519 the disqualification by the department within 10 days after the

1520 date of arrest or issuance of notice of disqualification,
1521 whichever is later.

1522 4. The temporary permit issued at the time of arrest or
1523 disqualification will expire at midnight of the 10th day
1524 following the date of disqualification.

1525 5. The driver may submit to the department any materials
1526 relevant to the arrest.

1527 (2) Except as provided in paragraph (1)(a), the law
1528 enforcement officer shall forward to the department, within 5
1529 days after the date of the arrest or the issuance of the notice
1530 of disqualification, whichever is later, a copy of the notice of
1531 disqualification, the driver's license of the person arrested,
1532 and a report of the arrest, including, if applicable, an
1533 affidavit stating the officer's grounds for belief that the
1534 person arrested was in violation of s. 316.193; the results of
1535 any breath or blood test or an affidavit stating that a breath,
1536 blood, or urine test was requested by a law enforcement officer
1537 or correctional officer and that the person arrested refused to
1538 submit; a copy of the citation issued to the person arrested;
1539 and the officer's description of the person's field sobriety
1540 test, if any. The failure of the officer to submit materials
1541 within the 5-day period specified in this subsection or
1542 subsection (1) shall not affect the department's ability to
1543 consider any evidence submitted at or prior to the hearing. The
1544 officer may also submit a copy of a videotape of the field
1545 sobriety test or the attempt to administer such test.

1546 (7) In a formal review hearing under subsection (6) or an
1547 informal review hearing under subsection (4), the hearing

1548 officer shall determine by a preponderance of the evidence
 1549 whether sufficient cause exists to sustain, amend, or invalidate
 1550 the disqualification. The scope of the review shall be limited
 1551 to the following issues:

1552 (a) If the person was disqualified from operating a
 1553 commercial motor vehicle for driving with an unlawful blood-
 1554 alcohol level in violation of s. 316.193:

1555 1. Whether the arresting law enforcement officer had
 1556 probable cause to believe that the person was driving or in
 1557 actual physical control of a commercial motor vehicle in this
 1558 state while he or she had any alcohol, chemical substances, or
 1559 controlled substances in his or her body.

1560 2. Whether the person was placed under lawful arrest for a
 1561 violation of s. 316.193.

1562 3. Whether the person had an unlawful blood-alcohol level
 1563 as provided in s. 316.193.

1564 (8) Based on the determination of the hearing officer
 1565 pursuant to subsection (7) for both informal hearings under
 1566 subsection (4) and formal hearings under subsection (6), the
 1567 department shall:

1568 (b) Sustain the disqualification for a period of 6 months
 1569 for a violation of s. 316.193 or for a period of 1 year if the
 1570 person has been previously disqualified from operating a
 1571 commercial motor vehicle or his or her driving privilege has
 1572 been previously suspended as a result of a violation of s.
 1573 316.193. The disqualification period commences on the date of
 1574 the arrest or issuance of the notice of disqualification,
 1575 whichever is later.

1576 (14) The decision of the department under this section
 1577 shall not be considered in any trial for a violation of s.
 1578 316.193, s. 322.61, or s. 322.62, nor shall any written
 1579 statement submitted by a person in his or her request for
 1580 departmental review under this section be admissible into
 1581 evidence against him or her in any such trial. The disposition
 1582 of any related criminal proceedings shall not affect a
 1583 disqualification imposed pursuant to this section.

1584 (15) This section does not preclude the suspension of the
 1585 driving privilege pursuant to s. 322.2615. The driving privilege
 1586 of a person who has been disqualified from operating a
 1587 commercial motor vehicle also may be suspended for a violation
 1588 of s. 316.193.

1589 Section 31. For the purpose of incorporating the amendment
 1590 to section 316.193, Florida Statutes, in a reference thereto,
 1591 paragraph (f) of subsection (4) of section 323.001, Florida
 1592 Statutes, is reenacted to read:

1593 323.001 Wrecker operator storage facilities; vehicle
 1594 holds.--

1595 (4) The requirements for a written hold apply when the
 1596 following conditions are present:

1597 (f) The vehicle is impounded or immobilized pursuant to s.
 1598 316.193 or s. 322.34; or

1599 Section 32. For the purpose of incorporating the amendment
 1600 to section 316.193, Florida Statutes, in a reference thereto,
 1601 subsection (6) of section 327.35, Florida Statutes, is reenacted
 1602 to read:

1603 327.35 Boating under the influence; penalties; "designated
1604 drivers".--

1605 (6) With respect to any person convicted of a violation of
1606 subsection (1), regardless of any other penalty imposed:

1607 (a) For the first conviction, the court shall place the
1608 defendant on probation for a period not to exceed 1 year and, as
1609 a condition of such probation, shall order the defendant to
1610 participate in public service or a community work project for a
1611 minimum of 50 hours. The court must also, as a condition of
1612 probation, order the impoundment or immobilization of the vessel
1613 that was operated by or in the actual control of the defendant
1614 or any one vehicle registered in the defendant's name at the
1615 time of impoundment or immobilization, for a period of 10 days
1616 or for the unexpired term of any lease or rental agreement that
1617 expires within 10 days. The impoundment or immobilization must
1618 not occur concurrently with the incarceration of the defendant.
1619 The impoundment or immobilization order may be dismissed in
1620 accordance with paragraph (e) or paragraph (f). The total period
1621 of probation and incarceration may not exceed 1 year.

1622 (b) For the second conviction for an offense that occurs
1623 within a period of 5 years after the date of a prior conviction
1624 for violation of this section, the court shall order
1625 imprisonment for not less than 10 days. The court must also, as
1626 a condition of probation, order the impoundment or
1627 immobilization of the vessel that was operated by or in the
1628 actual control of the defendant or any one vehicle registered in
1629 the defendant's name at the time of impoundment or
1630 immobilization, for a period of 30 days or for the unexpired

1631 term of any lease or rental agreement that expires within 30
1632 days. The impoundment or immobilization must not occur
1633 concurrently with the incarceration of the defendant. The
1634 impoundment or immobilization order may be dismissed in
1635 accordance with paragraph (e) or paragraph (f). At least 48
1636 hours of confinement must be consecutive.

1637 (c) For the third or subsequent conviction for an offense
1638 that occurs within a period of 10 years after the date of a
1639 prior conviction for violation of this section, the court shall
1640 order imprisonment for not less than 30 days. The court must
1641 also, as a condition of probation, order the impoundment or
1642 immobilization of the vessel that was operated by or in the
1643 actual control of the defendant or any one vehicle registered in
1644 the defendant's name at the time of impoundment or
1645 immobilization, for a period of 90 days or for the unexpired
1646 term of any lease or rental agreement that expires within 90
1647 days. The impoundment or immobilization must not occur
1648 concurrently with the incarceration of the defendant. The
1649 impoundment or immobilization order may be dismissed in
1650 accordance with paragraph (e) or paragraph (f). At least 48
1651 hours of confinement must be consecutive.

1652 (d) The court must at the time of sentencing the defendant
1653 issue an order for the impoundment or immobilization of a
1654 vessel. Within 7 business days after the date that the court
1655 issues the order of impoundment, and once again 30 business days
1656 before the actual impoundment or immobilization of the vessel,
1657 the clerk of the court must send notice by certified mail,
1658 return receipt requested, to the registered owner of each

1659 vessel, if the registered owner is a person other than the
1660 defendant, and to each person of record claiming a lien against
1661 the vessel.

1662 (e) A person who owns but was not operating the vessel
1663 when the offense occurred may submit to the court a police
1664 report indicating that the vessel was stolen at the time of the
1665 offense or documentation of having purchased the vessel after
1666 the offense was committed from an entity other than the
1667 defendant or the defendant's agent. If the court finds that the
1668 vessel was stolen or that the sale was not made to circumvent
1669 the order and allow the defendant continued access to the
1670 vessel, the order must be dismissed and the owner of the vessel
1671 will incur no costs. If the court denies the request to dismiss
1672 the order of impoundment or immobilization, the petitioner may
1673 request an evidentiary hearing.

1674 (f) A person who owns but was not operating the vessel
1675 when the offense occurred, and whose vessel was stolen or who
1676 purchased the vessel after the offense was committed directly
1677 from the defendant or the defendant's agent, may request an
1678 evidentiary hearing to determine whether the impoundment or
1679 immobilization should occur. If the court finds that either the
1680 vessel was stolen or the purchase was made without knowledge of
1681 the offense, that the purchaser had no relationship to the
1682 defendant other than through the transaction, and that such
1683 purchase would not circumvent the order and allow the defendant
1684 continued access to the vessel, the order must be dismissed and
1685 the owner of the vessel will incur no costs.

1686 (g) All costs and fees for the impoundment or
1687 immobilization, including the cost of notification, must be paid
1688 by the owner of the vessel or, if the vessel is leased or
1689 rented, by the person leasing or renting the vessel, unless the
1690 impoundment or immobilization order is dismissed.

1691 (h) The person who owns a vessel that is impounded or
1692 immobilized under this paragraph, or a person who has a lien of
1693 record against such a vessel and who has not requested a review
1694 of the impoundment pursuant to paragraph (e) or paragraph (f),
1695 may, within 10 days after the date that person has knowledge of
1696 the location of the vessel, file a complaint in the county in
1697 which the owner resides to determine whether the vessel was
1698 wrongfully taken or withheld from the owner or lienholder. Upon
1699 the filing of a complaint, the owner or lienholder may have the
1700 vessel released by posting with the court a bond or other
1701 adequate security equal to the amount of the costs and fees for
1702 impoundment or immobilization, including towing or storage, to
1703 ensure the payment of the costs and fees if the owner or
1704 lienholder does not prevail. When the bond is posted and the fee
1705 is paid as set forth in s. 28.24, the clerk of the court shall
1706 issue a certificate releasing the vessel. At the time of
1707 release, after reasonable inspection, the owner or lienholder
1708 must give a receipt to the towing or storage company indicating
1709 any loss or damage to the vessel or to the contents of the
1710 vessel.

1711 (i) A defendant, in the court's discretion, may be
1712 required to serve all or any portion of a term of imprisonment
1713 to which the defendant has been sentenced pursuant to this

1714 section in a residential alcoholism treatment program or a
 1715 residential drug abuse treatment program. Any time spent in such
 1716 a program must be credited by the court toward the term of
 1717 imprisonment.

1718
 1719 For the purposes of this section, any conviction for a violation
 1720 of s. 316.193, a previous conviction for the violation of former
 1721 s. 316.1931, former s. 860.01, or former s. 316.028, or a
 1722 previous conviction outside this state for driving under the
 1723 influence, driving while intoxicated, driving with an unlawful
 1724 blood-alcohol level, driving with an unlawful breath-alcohol
 1725 level, or any other similar alcohol-related or drug-related
 1726 traffic offense, is also considered a previous conviction for
 1727 violation of this section.

1728 Section 33. For the purpose of incorporating the amendment
 1729 to section 316.193, Florida Statutes, in a reference thereto,
 1730 subsection (10) of section 397.405, Florida Statutes, is
 1731 reenacted to read:

1732 397.405 Exemptions from licensure.--The following are
 1733 exempt from the licensing provisions of this chapter:

1734 (10) DUI education and screening services provided
 1735 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.
 1736 Persons or entities providing treatment services must be
 1737 licensed under this chapter unless exempted from licensing as
 1738 provided in this section.

1739
 1740 The exemptions from licensure in this section do not apply to
 1741 any service provider that receives an appropriation, grant, or

1742 contract from the state to operate as a service provider as
 1743 defined in this chapter or to any substance abuse program
 1744 regulated pursuant to s. 397.406. Furthermore, this chapter may
 1745 not be construed to limit the practice of a physician licensed
 1746 under chapter 458 or chapter 459, a psychologist licensed under
 1747 chapter 490, or a psychotherapist licensed under chapter 491 who
 1748 provides substance abuse treatment, so long as the physician,
 1749 psychologist, or psychotherapist does not represent to the
 1750 public that he or she is a licensed service provider and does
 1751 not provide services to clients pursuant to part V of this
 1752 chapter. Failure to comply with any requirement necessary to
 1753 maintain an exempt status under this section is a misdemeanor of
 1754 the first degree, punishable as provided in s. 775.082 or s.
 1755 775.083.

1756 Section 34. For the purpose of incorporating the amendment
 1757 to section 316.193, Florida Statutes, in a reference thereto,
 1758 paragraph (c) of subsection (17) of section 440.02, Florida
 1759 Statutes, is reenacted to read:

1760 440.02 Definitions.--When used in this chapter, unless the
 1761 context clearly requires otherwise, the following terms shall
 1762 have the following meanings:

1763 (17)

1764 (c) "Employment" does not include service performed by or
 1765 as:

- 1766 1. Domestic servants in private homes.
- 1767 2. Agricultural labor performed on a farm in the employ of
 1768 a bona fide farmer, or association of farmers, that employs 5 or
 1769 fewer regular employees and that employs fewer than 12 other

1770 employees at one time for seasonal agricultural labor that is
 1771 completed in less than 30 days, provided such seasonal
 1772 employment does not exceed 45 days in the same calendar year.
 1773 The term "farm" includes stock, dairy, poultry, fruit, fur-
 1774 bearing animals, fish, and truck farms, ranches, nurseries, and
 1775 orchards. The term "agricultural labor" includes field foremen,
 1776 timekeepers, checkers, and other farm labor supervisory
 1777 personnel.

1778 3. Professional athletes, such as professional boxers,
 1779 wrestlers, baseball, football, basketball, hockey, polo, tennis,
 1780 jai alai, and similar players, and motorsports teams competing
 1781 in a motor racing event as defined in s. 549.08.

1782 4. Labor under a sentence of a court to perform community
 1783 services as provided in s. 316.193.

1784 5. State prisoners or county inmates, except those
 1785 performing services for private employers or those enumerated in
 1786 s. 948.03(8)(a).

1787 Section 35. For the purpose of incorporating the amendment
 1788 to section 316.193, Florida Statutes, in a reference thereto,
 1789 paragraph (b) of subsection (7) of section 440.09, Florida
 1790 Statutes, is reenacted to read:

1791 440.09 Coverage.--

1792 (7)

1793 (b) If the employee has, at the time of the injury, a
 1794 blood alcohol level equal to or greater than the level specified
 1795 in s. 316.193, or if the employee has a positive confirmation of
 1796 a drug as defined in this act, it is presumed that the injury
 1797 was occasioned primarily by the intoxication of, or by the

1798 | influence of the drug upon, the employee. If the employer has
1799 | implemented a drug-free workplace, this presumption may be
1800 | rebutted only by evidence that there is no reasonable hypothesis
1801 | that the intoxication or drug influence contributed to the
1802 | injury. In the absence of a drug-free workplace program, this
1803 | presumption may be rebutted by clear and convincing evidence
1804 | that the intoxication or influence of the drug did not
1805 | contribute to the injury. Percent by weight of alcohol in the
1806 | blood must be based upon grams of alcohol per 100 milliliters of
1807 | blood. If the results are positive, the testing facility must
1808 | maintain the specimen for a minimum of 90 days. Blood serum may
1809 | be used for testing purposes under this chapter; however, if
1810 | this test is used, the presumptions under this section do not
1811 | arise unless the blood alcohol level is proved to be medically
1812 | and scientifically equivalent to or greater than the comparable
1813 | blood alcohol level that would have been obtained if the test
1814 | were based on percent by weight of alcohol in the blood.
1815 | However, if, before the accident, the employer had actual
1816 | knowledge of and expressly acquiesced in the employee's presence
1817 | at the workplace while under the influence of such alcohol or
1818 | drug, the presumptions specified in this subsection do not
1819 | apply.

1820 | Section 36. For the purpose of incorporating the amendment
1821 | to section 316.193, Florida Statutes, in a reference thereto,
1822 | paragraph (d) of subsection (1) of section 493.6106, Florida
1823 | Statutes, is reenacted to read:

1824 | 493.6106 License requirements; posting.--

1825 | (1) Each individual licensed by the department must:

1826 (d) Not be a chronic and habitual user of alcoholic
1827 beverages to the extent that her or his normal faculties are
1828 impaired; not have been committed under chapter 397, former
1829 chapter 396, or a similar law in any other state; not have been
1830 found to be a habitual offender under s. 856.011(3) or a similar
1831 law in any other state; and not have had two or more convictions
1832 under s. 316.193 or a similar law in any other state within the
1833 3-year period immediately preceding the date the application was
1834 filed, unless the individual establishes that she or he is not
1835 currently impaired and has successfully completed a
1836 rehabilitation course.

1837 Section 37. For the purpose of incorporating the amendment
1838 to section 316.193, Florida Statutes, in a reference thereto,
1839 subsection (4) of section 627.758, Florida Statutes, is
1840 reenacted to read:

1841 627.758 Surety on auto club traffic arrest bond;
1842 conditions, limit; bail bond.--

1843 (4) Notwithstanding the provisions of s. 626.311 or
1844 chapter 648, any surety insurer identified in a guaranteed
1845 traffic arrest bond certificate or any licensed general lines
1846 agent of the surety insurer may execute a bail bond for the
1847 automobile club or association member identified in the
1848 guaranteed traffic arrest bond certificate in an amount not in
1849 excess of \$5,000 for any violation of chapter 316 or any similar
1850 traffic law or ordinance except for driving under the influence
1851 of alcoholic beverages, chemical substances, or controlled
1852 substances, as prohibited by s. 316.193.

1853 Section 38. For the purpose of incorporating the amendment
 1854 to section 316.193, Florida Statutes, in references thereto,
 1855 paragraph (f) of subsection (2) and paragraph (f) of subsection
 1856 (10) of section 790.06, Florida Statutes, are reenacted to read:

1857 790.06 License to carry concealed weapon or firearm.--

1858 (2) The Department of Agriculture and Consumer Services
 1859 shall issue a license if the applicant:

1860 (f) Does not chronically and habitually use alcoholic
 1861 beverages or other substances to the extent that his or her
 1862 normal faculties are impaired. It shall be presumed that an
 1863 applicant chronically and habitually uses alcoholic beverages or
 1864 other substances to the extent that his or her normal faculties
 1865 are impaired if the applicant has been committed under chapter
 1866 397 or under the provisions of former chapter 396 or has been
 1867 convicted under s. 790.151 or has been deemed a habitual
 1868 offender under s. 856.011(3), or has had two or more convictions
 1869 under s. 316.193 or similar laws of any other state, within the
 1870 3-year period immediately preceding the date on which the
 1871 application is submitted;

1872 (10) A license issued under this section shall be
 1873 suspended or revoked pursuant to chapter 120 if the licensee:

1874 (f) Is convicted of a second violation of s. 316.193, or a
 1875 similar law of another state, within 3 years of a previous
 1876 conviction of such section, or similar law of another state,
 1877 even though the first violation may have occurred prior to the
 1878 date on which the application was submitted;

1879 Section 39. For the purpose of incorporating the amendment
 1880 to section 316.193, Florida Statutes, in a reference thereto,

1881 subsection (2) of section 903.36, Florida Statutes, is reenacted
 1882 to read:

1883 903.36 Guaranteed arrest bond certificates as cash bail.--

1884 (2) The execution of a bail bond by a licensed general
 1885 lines agent of a surety insurer for the automobile club or
 1886 association member identified in the guaranteed traffic arrest
 1887 bond certificate, as provided in s. 627.758(4), shall be
 1888 accepted as bail in an amount not to exceed \$5,000 for the
 1889 appearance of the person named in the certificate in any court
 1890 to answer for the violation of a provision of chapter 316 or a
 1891 similar traffic law or ordinance, except driving under the
 1892 influence of alcoholic beverages, chemical substances, or
 1893 controlled substances, as prohibited by s. 316.193. Presentation
 1894 of the guaranteed traffic arrest bond certificate and a power of
 1895 attorney from the surety insurer for its licensed general lines
 1896 agents is authorization for such agent to execute the bail bond.

1897 Section 40. For the purpose of incorporating the amendment
 1898 to section 316.193, Florida Statutes, in references thereto,
 1899 paragraph (c) of subsection (4) of section 907.041, Florida
 1900 Statutes, is reenacted to read:

1901 907.041 Pretrial detention and release.--

1902 (4) PRETRIAL DETENTION.--

1903 (c) The court may order pretrial detention if it finds a
 1904 substantial probability, based on a defendant's past and present
 1905 patterns of behavior, the criteria in s. 903.046, and any other
 1906 relevant facts, that any of the following circumstances exists:

1907 1. The defendant has previously violated conditions of
 1908 release and that no further conditions of release are reasonably

1909 | likely to assure the defendant's appearance at subsequent
 1910 | proceedings;

1911 | 2. The defendant, with the intent to obstruct the judicial
 1912 | process, has threatened, intimidated, or injured any victim,
 1913 | potential witness, juror, or judicial officer, or has attempted
 1914 | or conspired to do so, and that no condition of release will
 1915 | reasonably prevent the obstruction of the judicial process;

1916 | 3. The defendant is charged with trafficking in controlled
 1917 | substances as defined by s. 893.135, that there is a substantial
 1918 | probability that the defendant has committed the offense, and
 1919 | that no conditions of release will reasonably assure the
 1920 | defendant's appearance at subsequent criminal proceedings; or

1921 | 4. The defendant is charged with DUI manslaughter, as
 1922 | defined by s. 316.193, and that there is a substantial
 1923 | probability that the defendant committed the crime and that the
 1924 | defendant poses a threat of harm to the community; conditions
 1925 | that would support a finding by the court pursuant to this
 1926 | subparagraph that the defendant poses a threat of harm to the
 1927 | community include, but are not limited to, any of the following:

1928 | a. The defendant has previously been convicted of any
 1929 | crime under s. 316.193, or of any crime in any other state or
 1930 | territory of the United States that is substantially similar to
 1931 | any crime under s. 316.193;

1932 | b. The defendant was driving with a suspended driver's
 1933 | license when the charged crime was committed; or

1934 | c. The defendant has previously been found guilty of, or
 1935 | has had adjudication of guilt withheld for, driving while the

1936 defendant's driver's license was suspended or revoked in
 1937 violation of s. 322.34;

1938 5. The defendant poses the threat of harm to the
 1939 community. The court may so conclude, if it finds that the
 1940 defendant is presently charged with a dangerous crime, that
 1941 there is a substantial probability that the defendant committed
 1942 such crime, that the factual circumstances of the crime indicate
 1943 a disregard for the safety of the community, and that there are
 1944 no conditions of release reasonably sufficient to protect the
 1945 community from the risk of physical harm to persons.

1946 6. The defendant was on probation, parole, or other
 1947 release pending completion of sentence or on pretrial release
 1948 for a dangerous crime at the time the current offense was
 1949 committed; or

1950 7. The defendant has violated one or more conditions of
 1951 pretrial release or bond for the offense currently before the
 1952 court and the violation, in the discretion of the court,
 1953 supports a finding that no conditions of release can reasonably
 1954 protect the community from risk of physical harm to persons or
 1955 assure the presence of the accused at trial.

1956 Section 41. For the purpose of incorporating the
 1957 amendments to sections 316.193 and 327.35, Florida Statutes, in
 1958 references thereto, section 938.07, Florida Statutes, is
 1959 reenacted to read:

1960 938.07 Driving or boating under the
 1961 influence.--Notwithstanding any other provision of s. 316.193 or
 1962 s. 327.35, a court cost of \$135 shall be added to any fine
 1963 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall

1964 remit the funds to the Department of Revenue, \$25 of which shall
 1965 be deposited in the Emergency Medical Services Trust Fund, \$50
 1966 shall be deposited in the Criminal Justice Standards and
 1967 Training Trust Fund of the Department of Law Enforcement to be
 1968 used for operational expenses in conducting the statewide
 1969 criminal analysis laboratory system established in s. 943.32,
 1970 and \$60 shall be deposited in the Brain and Spinal Cord Injury
 1971 Rehabilitation Trust Fund created in s. 381.79.

1972 Section 42. For the purpose of incorporating the amendment
 1973 to section 316.193, Florida Statutes, in a reference thereto,
 1974 section 938.21, Florida Statutes, is reenacted to read:

1975 938.21 Alcohol and drug abuse programs.--Notwithstanding
 1976 any provision to the contrary of the laws of this state, the
 1977 court may assess for alcohol and other drug abuse programs as
 1978 provided in s. 893.165 any defendant who pleads guilty or nolo
 1979 contendere to, or is convicted of, a violation of any provision
 1980 of chapter 893 or which involves a criminal violation of s.
 1981 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or
 1982 chapter 568, in addition to any fine and other penalty provided
 1983 by law, a court cost in an amount up to the amount of the fine
 1984 authorized for the violation. The court is authorized to order a
 1985 defendant to pay an additional assessment if it finds that the
 1986 defendant has the ability to pay the fine and the additional
 1987 assessment and will not be prevented thereby from being
 1988 rehabilitated or from making restitution.

1989 Section 43. For the purpose of incorporating the amendment
 1990 to section 316.193, Florida Statutes, in a reference thereto,

1991 subsection (1) of section 938.23, Florida Statutes, is reenacted
 1992 to read:

1993 938.23 Assistance grants for alcohol and other drug abuse
 1994 programs.--

1995 (1) In addition to any fine imposed by law for any
 1996 criminal offense under chapter 893 or for any criminal violation
 1997 of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter
 1998 567, or chapter 568, the court shall be authorized, pursuant to
 1999 the requirements of s. 938.21, to impose an additional
 2000 assessment in an amount up to the amount of the fine authorized
 2001 for the offense. Such additional assessments shall be deposited
 2002 for the purpose of providing assistance grants to drug abuse
 2003 treatment or alcohol treatment or education programs as provided
 2004 in s. 893.165.

2005 Section 44. For the purpose of incorporating the amendment
 2006 to section 316.193, Florida Statutes, in references thereto,
 2007 paragraph (d) of subsection (2) of section 943.05, Florida
 2008 Statutes, is reenacted to read:

2009 943.05 Criminal Justice Information Program; duties; crime
 2010 reports.--

2011 (2) The program shall:

2012 (d) Adopt rules to effectively and efficiently implement,
 2013 administer, manage, maintain, and use the automated fingerprint
 2014 identification system and uniform offense reports and arrest
 2015 reports. The rules shall be considered minimum requirements and
 2016 shall not preclude a criminal justice agency from implementing
 2017 its own enhancements. However, rules and forms prescribing
 2018 uniform arrest or probable cause affidavits and alcohol

2019 | influence reports to be used by all law enforcement agencies in
 2020 | making DUI arrests under s. 316.193 shall be adopted, and shall
 2021 | be used by all law enforcement agencies in this state. The rules
 2022 | and forms prescribing such uniform affidavits and reports shall
 2023 | be adopted and implemented by July 1, 2004. Failure to use these
 2024 | uniform affidavits and reports, however, shall not prohibit
 2025 | prosecution under s. 316.193.

2026 | Section 45. For the purpose of incorporating the amendment
 2027 | to section 316.193, Florida Statutes, in a reference thereto,
 2028 | paragraph (b) of subsection (8) of section 948.03, Florida
 2029 | Statutes, is reenacted to read:

2030 | 948.03 Terms and conditions of probation or community
 2031 | control.--

2032 | (8)

2033 | (b) In determining the average weekly wage, unless
 2034 | otherwise determined by a specific funding program, all
 2035 | remuneration received from the employer shall be considered a
 2036 | gratuity, and the offender shall not be entitled to any benefits
 2037 | otherwise payable under s. 440.15, regardless of whether the
 2038 | offender may be receiving wages and remuneration from other
 2039 | employment with another employer and regardless of his or her
 2040 | future wage-earning capacity. The provisions of this subsection
 2041 | do not apply to any person performing labor under a sentence of
 2042 | a court to perform community services as provided in s. 316.193.

2043 | Section 46. For the purpose of incorporating the amendment
 2044 | to section 316.193, Florida Statutes, in a reference thereto,
 2045 | paragraph (b) of subsection (3) of section 960.03, Florida
 2046 | Statutes, is reenacted to read:

2047 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
 2048 960.01-960.28, unless the context otherwise requires, the term:

2049 (3) "Crime" means:

2050 (b) A violation of s. 316.193, s. 316.027(1), s.
 2051 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in
 2052 physical injury or death; however, no other act involving the
 2053 operation of a motor vehicle, boat, or aircraft which results in
 2054 injury or death shall constitute a crime for the purpose of this
 2055 chapter unless the injury or death was intentionally inflicted
 2056 through the use of such vehicle, boat, or aircraft or unless
 2057 such vehicle, boat, or aircraft is an implement of a crime to
 2058 which this act applies.

2059 Section 47. For the purpose of incorporating the amendment
 2060 to section 327.35, Florida Statutes, in a reference thereto,
 2061 subsection (3) of section 327.352, Florida Statutes, is
 2062 reenacted to read:

2063 327.352 Tests for alcohol, chemical substances, or
 2064 controlled substances; implied consent; refusal.--

2065 (3) Notwithstanding any provision of law pertaining to the
 2066 confidentiality of hospital records or other medical records,
 2067 information relating to the alcoholic content of the blood or
 2068 breath or the presence of chemical substances or controlled
 2069 substances in the blood obtained pursuant to this section shall
 2070 be released to a court, prosecuting attorney, defense attorney,
 2071 or law enforcement officer in connection with an alleged
 2072 violation of s. 327.35 upon request for such information.

2073 Section 48. For the purpose of incorporating the amendment
 2074 to section 327.35, Florida Statutes, in references thereto,

2075 subsections (1) and (2) of section 327.35215, Florida Statutes,
 2076 are reenacted to read:

2077 327.35215 Penalty for failure to submit to test.--

2078 (1) A person who is lawfully arrested for an alleged
 2079 violation of s. 327.35 and who refuses to submit to a blood
 2080 test, breath test, or urine test pursuant to s. 327.352 is
 2081 subject to a civil penalty of \$500.

2082 (2) When a person refuses to submit to a blood test,
 2083 breath test, or urine test pursuant to s. 327.352, a law
 2084 enforcement officer who is authorized to make arrests for
 2085 violations of this chapter shall file with the clerk of the
 2086 court, on a form provided by the department, a certified
 2087 statement that probable cause existed to arrest the person for a
 2088 violation of s. 327.35 and that the person refused to submit to
 2089 a test as required by s. 327.352. Along with the statement, the
 2090 officer must also submit a sworn statement on a form provided by
 2091 the department that the person has been advised of both the
 2092 penalties for failure to submit to the blood, breath, or urine
 2093 test and the procedure for requesting a hearing.

2094 Section 49. For the purpose of incorporating the amendment
 2095 to section 327.35, Florida Statutes, in a reference thereto,
 2096 subsection (4) of section 327.353, Florida Statutes, is
 2097 reenacted to read:

2098 327.353 Blood test for impairment or intoxication in cases
 2099 of death or serious bodily injury; right to use reasonable
 2100 force.--

2101 (4) Notwithstanding any provision of law pertaining to the
 2102 confidentiality of hospital records or other medical records,

2103 information relating to the alcoholic content of the blood or
2104 the presence of chemical substances or controlled substances in
2105 the blood obtained pursuant to this section shall be released to
2106 a court, prosecuting attorney, defense attorney, or law
2107 enforcement officer in connection with an alleged violation of
2108 s. 327.35 upon request for such information.

2109 Section 50. For the purpose of incorporating the amendment
2110 to section 327.35, Florida Statutes, in references thereto,
2111 subsections (1) and (4) of section 327.354, Florida Statutes,
2112 are reenacted to read:

2113 327.354 Presumption of impairment; testing methods.--

2114 (1) It is unlawful and punishable as provided in s. 327.35
2115 for any person who is under the influence of alcoholic beverages
2116 or controlled substances, when affected to the extent that the
2117 person's normal faculties are impaired or to the extent that the
2118 person is deprived of full possession of normal faculties, to
2119 operate any vessel within this state. Such normal faculties
2120 include, but are not limited to, the ability to see, hear, walk,
2121 talk, judge distances, drive an automobile, make judgments, act
2122 in emergencies, and, in general, normally perform the many
2123 mental and physical acts of daily life.

2124 (4) Any person charged with a violation of s. 327.35 is
2125 entitled to trial by jury according to the Florida Rules of
2126 Criminal Procedure.

2127 Section 51. For the purpose of incorporating the amendment
2128 to section 327.35, Florida Statutes, in references thereto,
2129 paragraph (a) of subsection (1) and subsection (4) of section
2130 327.355, Florida Statutes, are reenacted to read:

2131 327.355 Operation of vessels by persons under 21 years of
 2132 age who have consumed alcoholic beverages.--

2133 (1)(a) Notwithstanding s. 327.35, it is unlawful for a
 2134 person under the age of 21 who has a breath-alcohol level of
 2135 0.02 or higher to operate or be in actual physical control of a
 2136 vessel.

2137 (4) A violation of this section is a noncriminal
 2138 infraction, and being detained pursuant to this section does not
 2139 constitute an arrest. This section does not bar prosecution
 2140 under s. 327.35, and the penalties provided herein shall be
 2141 imposed in addition to any other penalty provided for boating
 2142 under the influence or for refusal to submit to testing.

2143 Section 52. For the purpose of incorporating the amendment
 2144 to section 327.35, Florida Statutes, in a reference thereto,
 2145 subsection (2) of section 327.359, Florida Statutes, is
 2146 reenacted to read:

2147 327.359 Refusal to submit to testing; penalties.--Any
 2148 person who has refused to submit to a chemical or physical test
 2149 of his or her breath, blood, or urine, as described in s.
 2150 327.352, and who has been previously fined for refusal to submit
 2151 to a lawful test of his or her breath, urine, or blood, and:

2152 (2) Who was placed under lawful arrest for a violation of
 2153 s. 327.35 unless such test was requested pursuant to s.

2154 327.352(1)(c);

2155
 2156 commits a misdemeanor of the first degree and is subject to
 2157 punishment as provided in s. 775.082 or s. 775.083.

2158 Section 53. For the purpose of incorporating the amendment
2159 to section 327.35, Florida Statutes, in references thereto,
2160 section 327.36, Florida Statutes, is reenacted to read:

2161 327.36 Mandatory adjudication; prohibition against
2162 accepting plea to lesser included offense.--

2163 (1) Notwithstanding the provisions of s. 948.01, no court
2164 may suspend, defer, or withhold adjudication of guilt or
2165 imposition of sentence for any violation of s. 327.35, for
2166 manslaughter resulting from the operation of a vessel, or for
2167 vessel homicide.

2168 (2)(a) No trial judge may accept a plea of guilty to a
2169 lesser offense from a person who is charged with a violation of
2170 s. 327.35, manslaughter resulting from the operation of a
2171 vessel, or vessel homicide and who has been given a breath or
2172 blood test to determine blood or breath alcohol content, the
2173 results of which show a blood-alcohol level or breath-alcohol
2174 level of 0.16 or more.

2175 (b) A trial judge may not accept a plea of guilty to a
2176 lesser offense from a person charged with a felony violation of
2177 s. 327.35, manslaughter resulting from the operation of a
2178 vessel, or vessel homicide.

2179 Section 54. This act shall take effect October 1, 2004.