

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: SB 1632

SPONSOR: Senators Smith and Fasano

SUBJECT: DUI Programs

DATE: March 16, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Davis | Meyer | TR | Favorable |
| 2. | _____ | _____ | JU | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill requires driving under the influence (DUI) education courses be conducted only by certified DUI instructors. The bill calls for face to face instruction and for interaction in the classroom among offenders and instructors. The bill prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and all offenders are not physically present in the same classroom.

DUI programs must be operated by governmental entities or not-for-profit corporations providing education, evaluation and treatment referral services to DUI offenders as required by court order or by the Department of Highway Safety & Motor Vehicles (DHSMV). The programs are governed by administrative rules which require certain minimum hours of classroom instruction with certified instructors and interactive educational techniques. While DUI program classroom instruction is required under DHSMV rules, no specific provision in the Florida Statutes requires the program to be delivered in this manner.

This bill substantially amends section 322.292 of the Florida Statutes.

II. Present Situation:

A person who is convicted of a DUI offense is required to complete a substance abuse course conducted by a DUI program.¹ DUI programs must be operated by governmental entities or not-for-profit corporations providing education, evaluation and treatment referral services as required by court order or by the DHSMV. The programs are governed by administrative rules which

¹ s. 316.193(5), F.S.

require certain minimum hours of classroom instruction with certified instructors and interactive educational techniques. While DUI program classroom instruction is required under DHSMV rules, no specific provision in the Florida Statutes requires the program to be delivered in this manner.

Current law requires that in order to satisfy criteria, at a minimum, DUI program applicants must have a classroom in each county in the circuit which is located in a permanent structure readily accessible by public transportation, if transportation is available.² However, a classroom is not required in any county where the total number of DUI convictions in the most recent calendar year is less than 100.

Chapter 15A-10 of the Florida Administrative Code outlines the standards for DHSMV's DUI program. Currently, the rules require the following for DUI education classes:

- DUI programs are only to employ instructors, Special Supervision Services evaluators, clinical supervisors and evaluators who are certified by DHSMV;
- Each organization conducting a DUI program shall have sufficient classroom space to comfortably accommodate all students with a minimum of twenty (20) square feet of space per student unless otherwise authorized by local officials; and
- Courses shall be taught by using primarily interactive educational techniques.

III. Effect of Proposed Changes:

SB 1632 incorporates current DUI program standards from the DHSMV rules into law. The bill amends s. 322.292, F.S., requiring DUI education courses be conducted only by certified DUI instructors. The bill requires face to face instruction and interaction in the classroom among offenders and instructors. The bill specifically prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and all offenders are not physically present in the same classroom.

The last requirement prohibits DUI courses outside of the traditional classroom setting. No specific language in the rules prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method. However, it is implied in the DHSMV rules the only method for DUI education courses will be in a classroom.³

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

² s. 322.292(2)(c)5.c.

³ See Rule 15A-10.023(1)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill would prevent organizations that might specialize in alternative methods of DUI educational courses from providing such services in the state. SB 1632 requires DUI educational courses to be conducted only by organizations registered with the DHSMV's DUI program that meet its classroom guidelines.

Registration fees charged by DUI programs vary from county to county. According to DHSMV and a random review of Internet sites of DUI program providers revealed the fee for Level I courses (first offense) ranged from \$195 to \$210 and the fee for Level II courses (second offense or more) ranged from \$290 to \$315.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
