

1 incorporating the amendment to s. 316.193,
2 F.S., in references thereto; reenacting ss.
3 142.01(1), 327.352(3), 327.35215(1) and (2),
4 327.353(4), 327.354(1) and (4), 327.355(1)(a)
5 and (4), 327.359(2), 327.36, and 938.07, F.S.;
6 incorporating the amendment to s. 327.35, F.S.,
7 in references thereto; providing an effective
8 date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 316.193, Florida Statutes, is
13 amended to read:

14 316.193 Driving under the influence; penalties.--

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

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

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

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

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

30 1. By a fine of:
31

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

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

5 2. By imprisonment for:

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

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

8 3. For a second conviction, by mandatory placement for
9 a period of at least 1 year, at the convicted person's sole
10 expense, of an ignition interlock device approved by the
11 department in accordance with s. 316.1938 upon all vehicles
12 that are individually or jointly leased or owned and routinely
13 operated by the convicted person, when the convicted person
14 qualifies for a permanent or restricted license. The
15 installation of such device may not occur before July 1, 2003.

16 (b)1. Any person who is convicted of a third violation
17 of this section for an offense that occurs within 10 years
18 after a prior conviction for a violation of this section
19 commits a felony of the third degree, punishable as provided
20 in s. 775.082, s. 775.083, or s. 775.084. In addition, the
21 court shall order the mandatory placement for a period of not
22 less than 2 years, at the convicted person's sole expense, of
23 an ignition interlock device approved by the department in
24 accordance with s. 316.1938 upon all vehicles that are
25 individually or jointly leased or owned and routinely operated
26 by the convicted person, when the convicted person qualifies
27 for a permanent or restricted license. The installation of
28 such device may not occur before July 1, 2003.

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

1 section shall be punished by a fine of not less than \$1,000 or
2 more than \$2,500 and by imprisonment for not more than 12
3 months. In addition, the court shall order the mandatory
4 placement for a period of at least 2 years, at the convicted
5 person's sole expense, of an ignition interlock device
6 approved by the department in accordance with s. 316.1938 upon
7 all vehicles that are individually or jointly leased or owned
8 and routinely operated by the convicted person, when the
9 convicted person qualifies for a permanent or restricted
10 license. The installation of such device may not occur before
11 July 1, 2003.

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

19 (3) Any person:

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

21 (b) Who operates a vehicle; and

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

24 1. Damage to the property or person of another commits
25 a misdemeanor of the first degree, punishable as provided in
26 s. 775.082 or s. 775.083.

27 2. Serious bodily injury to another, as defined in s.
28 316.1933, commits a felony of the third degree, punishable as
29 provided in s. 775.082, s. 775.083, or s. 775.084.

30 3. The death of any human being commits DUI
31 manslaughter, and commits:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~(b)(c)~~ In addition to the penalties in paragraph
31 ~~paragraphs (a) and (b)~~, the court shall order the mandatory

1 placement, at the convicted person's sole expense, of an
2 ignition interlock device approved by the department in
3 accordance with s. 316.1938 upon all vehicles that are
4 individually or jointly leased or owned and routinely operated
5 by the convicted person for up to 6 months for the first
6 offense and for at least 2 years for a second offense, when
7 the convicted person qualifies for a permanent or restricted
8 license. The installation of such device may not occur before
9 July 1, 2003.

10
11 For the purposes of this subsection, only the instant offense
12 is required to be a violation of subsection (1) by a person
13 who has a blood-alcohol level or breath-alcohol level of 0.16
14 or higher.

15 (5) The court shall place all offenders convicted of
16 violating this section on monthly reporting probation and
17 shall require completion of a substance abuse course conducted
18 by a DUI program licensed by the department under s. 322.292,
19 which must include a psychosocial evaluation of the offender.
20 If the DUI program refers the offender to an authorized
21 substance abuse treatment provider for substance abuse
22 treatment, in addition to any sentence or fine imposed under
23 this section, completion of all such education, evaluation,
24 and treatment is a condition of reporting probation. The
25 offender shall assume reasonable costs for such education,
26 evaluation, and treatment. The referral to treatment resulting
27 from a psychosocial evaluation shall not be waived without a
28 supporting independent psychosocial evaluation conducted by an
29 authorized substance abuse treatment provider appointed by the
30 court, which shall have access to the DUI program's
31 psychosocial evaluation before the independent psychosocial

1 | evaluation is conducted. The court shall review the results
2 | and recommendations of both evaluations before determining the
3 | request for waiver. The offender shall bear the full cost of
4 | this procedure. The term "substance abuse" means the abuse of
5 | alcohol or any substance named or described in Schedules I
6 | through V of s. 893.03. If an offender referred to treatment
7 | under this subsection fails to report for or complete such
8 | treatment or fails to complete the DUI program substance abuse
9 | education course and evaluation, the DUI program shall notify
10 | the court and the department of the failure. Upon receipt of
11 | the notice, the department shall cancel the offender's driving
12 | privilege, notwithstanding the terms of the court order or any
13 | suspension or revocation of the driving privilege. The
14 | department may temporarily reinstate the driving privilege on
15 | a restricted basis upon verification from the DUI program that
16 | the offender is currently participating in treatment and the
17 | DUI education course and evaluation requirement has been
18 | completed. If the DUI program notifies the department of the
19 | second failure to complete treatment, the department shall
20 | reinstate the driving privilege only after notice of
21 | completion of treatment from the DUI program. The
22 | organization that conducts the substance abuse education and
23 | evaluation may not provide required substance abuse treatment
24 | unless a waiver has been granted to that organization by the
25 | department. A waiver may be granted only if the department
26 | determines, in accordance with its rules, that the service
27 | provider that conducts the substance abuse education and
28 | evaluation is the most appropriate service provider and is
29 | licensed under chapter 397 or is exempt from such licensure. A
30 | statistical referral report shall be submitted quarterly to
31 |

1 the department by each organization authorized to provide
2 services under this section.

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

6 (a) For the first conviction, the court shall place
7 the defendant on probation for a period not to exceed 1 year
8 and, as a condition of such probation, shall order the
9 defendant to participate in public service or a community work
10 project for a minimum of 50 hours; or the court may order
11 instead, that any defendant pay an additional fine of \$10 for
12 each hour of public service or community work otherwise
13 required, if, after consideration of the residence or location
14 of the defendant at the time public service or community work
15 is required, payment of the fine is in the best interests of
16 the state. However, the total period of probation and
17 incarceration may not exceed 1 year. The court must also, as a
18 condition of probation, order the impoundment or
19 immobilization of the vehicle that was operated by or in the
20 actual control of the defendant or any one vehicle registered
21 in the defendant's name at the time of impoundment or
22 immobilization, for a period of 10 days or for the unexpired
23 term of any lease or rental agreement that expires within 10
24 days. The impoundment or immobilization must not occur
25 concurrently with the incarceration of the defendant. The
26 impoundment or immobilization order may be dismissed in
27 accordance with paragraph (e), paragraph (f), paragraph (g),
28 or paragraph (h).

29 (b) For the second conviction for an offense that
30 occurs within a period of 5 years after the date of a prior
31 conviction for violation of this section, the court shall

1 order imprisonment for not less than 10 days. The court must
2 also, as a condition of probation, order the impoundment or
3 immobilization of all vehicles owned by the defendant at the
4 time of impoundment or immobilization, for a period of 30 days
5 or for the unexpired term of any lease or rental agreement
6 that expires within 30 days. The impoundment or immobilization
7 must not occur concurrently with the incarceration of the
8 defendant and must occur concurrently with the driver's
9 license revocation imposed under s. 322.28(2)(a)2. The
10 impoundment or immobilization order may be dismissed in
11 accordance with paragraph (e), paragraph (f), paragraph (g),
12 or paragraph (h). At least 48 hours of confinement must be
13 consecutive.

14 (c) For the third or subsequent conviction for an
15 offense that occurs within a period of 10 years after the date
16 of a prior conviction for violation of this section, the court
17 shall order imprisonment for not less than 30 days. The court
18 must also, as a condition of probation, order the impoundment
19 or immobilization of all vehicles owned by the defendant at
20 the time of impoundment or immobilization, for a period of 90
21 days or for the unexpired term of any lease or rental
22 agreement that expires within 90 days. The impoundment or
23 immobilization must not occur concurrently with the
24 incarceration of the defendant and must occur concurrently
25 with the driver's license revocation imposed under s.
26 322.28(2)(a)3. The impoundment or immobilization order may be
27 dismissed in accordance with paragraph (e), paragraph (f),
28 paragraph (g), or paragraph (h). At least 48 hours of
29 confinement must be consecutive.

30 (d) The court must at the time of sentencing the
31 defendant issue an order for the impoundment or immobilization

1 | of a vehicle. Within 7 business days after the date that the
2 | court issues the order of impoundment or immobilization, the
3 | clerk of the court must send notice by certified mail, return
4 | receipt requested, to the registered owner of each vehicle, if
5 | the registered owner is a person other than the defendant, and
6 | to each person of record claiming a lien against the vehicle.

7 | (e) A person who owns but was not operating the
8 | vehicle when the offense occurred may submit to the court a
9 | police report indicating that the vehicle was stolen at the
10 | time of the offense or documentation of having purchased the
11 | vehicle after the offense was committed from an entity other
12 | than the defendant or the defendant's agent. If the court
13 | finds that the vehicle was stolen or that the sale was not
14 | made to circumvent the order and allow the defendant continued
15 | access to the vehicle, the order must be dismissed and the
16 | owner of the vehicle will incur no costs. If the court denies
17 | the request to dismiss the order of impoundment or
18 | immobilization, the petitioner may request an evidentiary
19 | hearing.

20 | (f) A person who owns but was not operating the
21 | vehicle when the offense occurred, and whose vehicle was
22 | stolen or who purchased the vehicle after the offense was
23 | committed directly from the defendant or the defendant's
24 | agent, may request an evidentiary hearing to determine whether
25 | the impoundment or immobilization should occur. If the court
26 | finds that either the vehicle was stolen or the purchase was
27 | made without knowledge of the offense, that the purchaser had
28 | no relationship to the defendant other than through the
29 | transaction, and that such purchase would not circumvent the
30 | order and allow the defendant continued access to the vehicle,
31 |

1 the order must be dismissed and the owner of the vehicle will
2 incur no costs.

3 (g) The court shall also dismiss the order of
4 impoundment or immobilization of the vehicle if the court
5 finds that the family of the owner of the vehicle has no other
6 private or public means of transportation.

7 (h) The court may also dismiss the order of
8 impoundment or immobilization of any vehicles that are owned
9 by the defendant but that are operated solely by the employees
10 of the defendant or any business owned by the defendant.

11 (i) All costs and fees for the impoundment or
12 immobilization, including the cost of notification, must be
13 paid by the owner of the vehicle or, if the vehicle is leased
14 or rented, by the person leasing or renting the vehicle,
15 unless the impoundment or immobilization order is dismissed.
16 All provisions of s. 713.78 shall apply.

17 (j) The person who owns a vehicle that is impounded or
18 immobilized under this paragraph, or a person who has a lien
19 of record against such a vehicle and who has not requested a
20 review of the impoundment pursuant to paragraph (e), paragraph
21 (f), or paragraph (g), may, within 10 days after the date that
22 person has knowledge of the location of the vehicle, file a
23 complaint in the county in which the owner resides to
24 determine whether the vehicle was wrongfully taken or withheld
25 from the owner or lienholder. Upon the filing of a complaint,
26 the owner or lienholder may have the vehicle released by
27 posting with the court a bond or other adequate security equal
28 to the amount of the costs and fees for impoundment or
29 immobilization, including towing or storage, to ensure the
30 payment of such costs and fees if the owner or lienholder does
31 not prevail. When the bond is posted and the fee is paid as

1 set forth in s. 28.24, the clerk of the court shall issue a
2 certificate releasing the vehicle. At the time of release,
3 after reasonable inspection, the owner or lienholder must give
4 a receipt to the towing or storage company indicating any loss
5 or damage to the vehicle or to the contents of the vehicle.

6 (k) A defendant, in the court's discretion, may be
7 required to serve all or any portion of a term of imprisonment
8 to which the defendant has been sentenced pursuant to this
9 section in a residential alcoholism treatment program or a
10 residential drug abuse treatment program. Any time spent in
11 such a program must be credited by the court toward the term
12 of imprisonment.

13
14 For the purposes of this section, any conviction for a
15 violation of s. 327.35; a previous conviction for the
16 violation of former s. 316.1931, former s. 860.01, or former
17 s. 316.028; or a previous conviction outside this state for
18 driving under the influence, driving while intoxicated,
19 driving with an unlawful blood-alcohol level, driving with an
20 unlawful breath-alcohol level, or any other similar
21 alcohol-related or drug-related traffic offense, is also
22 considered a previous conviction for violation of this
23 section. However, in satisfaction of the fine imposed pursuant
24 to this section, the court may, upon a finding that the
25 defendant is financially unable to pay either all or part of
26 the fine, order that the defendant participate for a specified
27 additional period of time in public service or a community
28 work project in lieu of payment of that portion of the fine
29 which the court determines the defendant is unable to pay. In
30 determining such additional sentence, the court shall consider
31 the amount of the unpaid portion of the fine and the

1 reasonable value of the services to be ordered; however, the
2 court may not compute the reasonable value of services at a
3 rate less than the federal minimum wage at the time of
4 sentencing.

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

7 (8) At the arraignment, or in conjunction with any
8 notice of arraignment provided by the clerk of the court, the
9 clerk shall provide any person charged with a violation of
10 this section with notice that upon conviction the court shall
11 suspend or revoke the offender's driver's license and that the
12 offender should make arrangements for transportation at any
13 proceeding in which the court may take such action. Failure
14 to provide such notice does not affect the court's suspension
15 or revocation of the offender's driver's license.

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

18 (a) Until the person is no longer under the influence
19 of alcoholic beverages, any chemical substance set forth in s.
20 877.111, or any substance controlled under chapter 893 and
21 affected to the extent that his or her normal faculties are
22 impaired;

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

25 (c) Until 8 hours have elapsed from the time the
26 person was arrested.

27 (10) The rulings of the Department of Highway Safety
28 and Motor Vehicles under s. 322.2615 shall not be considered
29 in any trial for a violation of this section. Testimony or
30 evidence from the administrative proceedings or any written
31 statement submitted by a person in his or her request for

1 | administrative review is inadmissible into evidence or for any
2 | other purpose in any criminal proceeding, unless timely
3 | disclosed in criminal discovery pursuant to Rule 3.220,
4 | Florida Rules of Criminal Procedure.

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

8 | (12) If the records of the Department of Highway
9 | Safety and Motor Vehicles show that the defendant has been
10 | previously convicted of the offense of driving under the
11 | influence, that evidence is sufficient by itself to establish
12 | that prior conviction for driving under the influence.
13 | However, such evidence may be contradicted or rebutted by
14 | other evidence. This presumption may be considered along with
15 | any other evidence presented in deciding whether the defendant
16 | has been previously convicted of the offense of driving under
17 | the influence.

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

20 | 316.656 Mandatory adjudication; prohibition against
21 | accepting plea to lesser included offense.--

22 | (2)(a) No trial judge may accept a plea of guilty to a
23 | lesser offense from a person charged under the provisions of
24 | this act who has been given a breath or blood test to
25 | determine blood or breath alcohol content, the results of
26 | which show a blood or breath alcohol content by weight of 0.16
27 | ~~0.20~~ percent or more.

28 | (b) No trial judge may accept a plea of guilty to a
29 | lesser offense from a person charged with a violation of s.
30 | 316.193(3), manslaughter resulting from the operation of a
31 | motor vehicle, or vehicular homicide.

1 Section 3. Subsection (4) of section 327.35, Florida
2 Statutes, is amended, and subsection (6) of that section is
3 reenacted, to read:

4 327.35 Boating under the influence; penalties;
5 "designated drivers".--

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

12 (a) By a fine of:

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

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

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

19 (b) By imprisonment for:

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

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

22
23 For the purposes of this subsection, only the instant offense
24 is required to be a violation of subsection (1) by a person
25 who has a blood-alcohol level or breath-alcohol level of 0.16
26 ~~0.20~~ or higher.

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

30 (a) For the first conviction, the court shall place
31 the defendant on probation for a period not to exceed 1 year

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

15 (b) For the second conviction for an offense that
16 occurs within a period of 5 years after the date of a prior
17 conviction for violation of this section, the court shall
18 order imprisonment for not less than 10 days. The court must
19 also, as a condition of probation, order the impoundment or
20 immobilization of the vessel that was operated by or in the
21 actual control of the defendant or any one vehicle registered
22 in the defendant's name at the time of impoundment or
23 immobilization, for a period of 30 days or for the unexpired
24 term of any lease or rental agreement that expires within 30
25 days. The impoundment or immobilization must not occur
26 concurrently with the incarceration of the defendant. The
27 impoundment or immobilization order may be dismissed in
28 accordance with paragraph (e) or paragraph (f). At least 48
29 hours of confinement must be consecutive.

30 (c) For the third or subsequent conviction for an
31 offense that occurs within a period of 10 years after the date

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

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

24 (e) A person who owns but was not operating the vessel
25 when the offense occurred may submit to the court a police
26 report indicating that the vessel was stolen at the time of
27 the offense or documentation of having purchased the vessel
28 after the offense was committed from an entity other than the
29 defendant or the defendant's agent. If the court finds that
30 the vessel was stolen or that the sale was not made to
31 circumvent the order and allow the defendant continued access

1 to the vessel, the order must be dismissed and the owner of
2 the vessel will incur no costs. If the court denies the
3 request to dismiss the order of impoundment or immobilization,
4 the petitioner may request an evidentiary hearing.

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

18 (g) All costs and fees for the impoundment or
19 immobilization, including the cost of notification, must be
20 paid by the owner of the vessel or, if the vessel is leased or
21 rented, by the person leasing or renting the vessel, unless
22 the impoundment or immobilization order is dismissed.

23 (h) The person who owns a vessel that is impounded or
24 immobilized under this paragraph, or a person who has a lien
25 of record against such a vessel and who has not requested a
26 review of the impoundment pursuant to paragraph (e) or
27 paragraph (f), may, within 10 days after the date that person
28 has knowledge of the location of the vessel, file a complaint
29 in the county in which the owner resides to determine whether
30 the vessel was wrongfully taken or withheld from the owner or
31 lienholder. Upon the filing of a complaint, the owner or

1 | lienholder may have the vessel released by posting with the
2 | court a bond or other adequate security equal to the amount of
3 | the costs and fees for impoundment or immobilization,
4 | including towing or storage, to ensure the payment of the
5 | costs and fees if the owner or lienholder does not prevail.
6 | When the bond is posted and the fee is paid as set forth in s.
7 | 28.24, the clerk of the court shall issue a certificate
8 | releasing the vessel. At the time of release, after reasonable
9 | inspection, the owner or lienholder must give a receipt to the
10 | towing or storage company indicating any loss or damage to the
11 | vessel or to the contents of the vessel.

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

19 |
20 | For the purposes of this section, any conviction for a
21 | violation of s. 316.193, a previous conviction for the
22 | violation of former s. 316.1931, former s. 860.01, or former
23 | s. 316.028, or a previous conviction outside this state for
24 | driving under the influence, driving while intoxicated,
25 | driving with an unlawful blood-alcohol level, driving with an
26 | unlawful breath-alcohol level, or any other similar
27 | alcohol-related or drug-related traffic offense, is also
28 | considered a previous conviction for violation of this
29 | section.

30 | Section 4. For the purpose of incorporating the
31 | amendments made to sections 316.193 and 327.35, Florida

1 Statutes, in references thereto, subsection (1) of section
2 142.01, Florida Statutes, is reenacted to read:

3 142.01 Fine and forfeiture fund; clerk of the circuit
4 court.--There shall be established by the clerk of the circuit
5 court in each county of this state a separate fund to be known
6 as the fine and forfeiture fund for use by the clerk of the
7 circuit court in performing court-related functions. The fund
8 shall consist of the following:

9 (1) Fines and penalties pursuant to ss. 28.2402(2),
10 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).

11
12 Notwithstanding the provisions of this section, all fines and
13 forfeitures arising from operation of the provisions of s.
14 318.1215 shall be disbursed in accordance with that section.

15 Section 5. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, paragraph (a) of subsection (3) of section 316.066,
18 Florida Statutes, is reenacted to read:

19 316.066 Written reports of crashes.--

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

22 1. Which crash resulted in death or personal injury
23 shall, within 10 days after completing the investigation,
24 forward a written report of the crash to the department or
25 traffic records center.

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

30 3. In which crash a vehicle was rendered inoperative
31 to a degree which required a wrecker to remove it from traffic

1 may, within 10 days after completing the investigation,
2 forward a written report of the crash to the department or
3 traffic records center if such action is appropriate, in the
4 officer's discretion.

5
6 However, in every case in which a crash report is required by
7 this section and a written report to a law enforcement officer
8 is not prepared, the law enforcement officer shall provide
9 each party involved in the crash a short-form report,
10 prescribed by the state, to be completed by the party. The
11 short-form report must include, but is not limited to: the
12 date, time, and location of the crash; a description of the
13 vehicles involved; the names and addresses of the parties
14 involved; the names and addresses of witnesses; the name,
15 badge number, and law enforcement agency of the officer
16 investigating the crash; and the names of the insurance
17 companies for the respective parties involved in the crash.
18 Each party to the crash shall provide the law enforcement
19 officer with proof of insurance to be included in the crash
20 report. If a law enforcement officer submits a report on the
21 accident, proof of insurance must be provided to the officer
22 by each party involved in the crash. Any party who fails to
23 provide the required information is guilty of an infraction
24 for a nonmoving violation, punishable as provided in chapter
25 318 unless the officer determines that due to injuries or
26 other special circumstances such insurance information cannot
27 be provided immediately. If the person provides the law
28 enforcement agency, within 24 hours after the crash, proof of
29 insurance that was valid at the time of the crash, the law
30 enforcement agency may void the citation.

1 Section 6. For the purpose of incorporating the
2 amendment to section 316.193, Florida Statutes, in references
3 thereto, paragraph (b) of subsection (4) of section 316.072,
4 Florida Statutes, is reenacted to read:

5 316.072 Obedience to and effect of traffic laws.--

6 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
7 EXCEPTIONS.--

8 (b) Unless specifically made applicable, the
9 provisions of this chapter, except those contained in ss.
10 316.192, 316.1925, and 316.193, shall not apply to persons,
11 teams, or motor vehicles and other equipment while actually
12 engaged in work upon the surface of a highway, but shall apply
13 to such persons and vehicles when traveling to or from such
14 work.

15 Section 7. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, subsection (3) of section 316.1932, Florida Statutes,
18 is reenacted to read:

19 316.1932 Tests for alcohol, chemical substances, or
20 controlled substances; implied consent; refusal.--

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

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

1 thereto, subsection (4) of section 316.1933, Florida Statutes,
2 is reenacted to read:

3 316.1933 Blood test for impairment or intoxication in
4 cases of death or serious bodily injury; right to use
5 reasonable force.--

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

15 Section 9. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, subsections (1) and (4) of section 316.1934, Florida
18 Statutes, are reenacted to read:

19 316.1934 Presumption of impairment; testing methods.--

20 (1) It is unlawful and punishable as provided in
21 chapter 322 and in s. 316.193 for any person who is under the
22 influence of alcoholic beverages or controlled substances,
23 when affected to the extent that the person's normal faculties
24 are impaired or to the extent that the person is deprived of
25 full possession of normal faculties, to drive or be in actual
26 physical control of any motor vehicle within this state. Such
27 normal faculties include, but are not limited to, the ability
28 to see, hear, walk, talk, judge distances, drive an
29 automobile, make judgments, act in emergencies, and, in
30 general, normally perform the many mental and physical acts of
31 daily life.

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

4 Section 10. For the purpose of incorporating the
5 amendment to section 316.193, Florida Statutes, in references
6 thereto, subsection (1) and paragraph (d) of subsection (2) of
7 section 316.1937, Florida Statutes, are reenacted to read:

8 316.1937 Ignition interlock devices, requiring;
9 unlawful acts.--

10 (1) In addition to any other authorized penalties, the
11 court may require that any person who is convicted of driving
12 under the influence in violation of s. 316.193 shall not
13 operate a motor vehicle unless that vehicle is equipped with a
14 functioning ignition interlock device certified by the
15 department as provided in s. 316.1938, and installed in such a
16 manner that the vehicle will not start if the operator's blood
17 alcohol level is in excess of 0.05 percent or as otherwise
18 specified by the court. The court may require the use of an
19 approved ignition interlock device for a period of not less
20 than 6 months, if the person is permitted to operate a motor
21 vehicle, whether or not the privilege to operate a motor
22 vehicle is restricted, as determined by the court. The court,
23 however, shall order placement of an ignition interlock device
24 in those circumstances required by s. 316.193.

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

27 (d) Determine the person's ability to pay for
28 installation of the device if the person claims inability to
29 pay. If the court determines that the person is unable to pay
30 for installation of the device, the court may order that any
31 portion of a fine paid by the person for a violation of s.

1 316.193 shall be allocated to defray the costs of installing
2 the device.

3 Section 11. For the purpose of incorporating the
4 amendment to section 316.193, Florida Statutes, in references
5 thereto, paragraph (b) of subsection (1) of section 316.1939,
6 Florida Statutes, is reenacted to read:

7 316.1939 Refusal to submit to testing; penalties.--

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

13 (b) Who was placed under lawful arrest for a violation
14 of s. 316.193 unless such test was requested pursuant to s.
15 316.1932(1)(c);

16
17 commits a misdemeanor of the first degree and is subject to
18 punishment as provided in s. 775.082 or s. 775.083.

19 Section 12. For the purpose of incorporating the
20 amendment to section 316.193, Florida Statutes, in references
21 thereto, subsections (4) and (5) of section 318.143, Florida
22 Statutes, are reenacted to read:

23 318.143 Sanctions for infractions by minors.--

24 (4) For the first conviction for a violation of s.
25 316.193, the court may order the Department of Highway Safety
26 and Motor Vehicles to revoke the minor's driver's license
27 until the minor is 18 years of age. For a second or subsequent
28 conviction for such a violation, the court may order the
29 Department of Highway Safety and Motor Vehicles to revoke the
30 minor's driver's license until the minor is 21 years of age.

31

1 (5) A minor who is arrested for a violation of s.
2 316.193 may be released from custody as soon as:

3 (a) The minor is no longer under the influence of
4 alcoholic beverages, of any chemical substance set forth in s.
5 877.111, or of any substance controlled under chapter 893, and
6 is not affected to the extent that his or her normal faculties
7 are impaired;

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

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

11 Section 13. For the purpose of incorporating the
12 amendment to section 316.193, Florida Statutes, in references
13 thereto, subsection (3) of section 318.17, Florida Statutes,
14 is reenacted to read:

15 318.17 Offenses excepted.--No provision of this
16 chapter is available to a person who is charged with any of
17 the following offenses:

18 (3) Driving, or being in actual physical control of,
19 any vehicle while under the influence of alcoholic beverages,
20 any chemical substance set forth in s. 877.111, or any
21 substance controlled under chapter 893, in violation of s.
22 316.193, or driving with an unlawful blood-alcohol level;

23 Section 14. For the purpose of incorporating the
24 amendment to section 316.193, Florida Statutes, in references
25 thereto, subsection (2) of section 322.03, Florida Statutes,
26 is reenacted to read:

27 322.03 Drivers must be licensed; penalties.--

28 (2) Prior to issuing a driver's license, the
29 department shall require any person who has been convicted two
30 or more times of a violation of s. 316.193 or of a
31 substantially similar alcohol-related or drug-related offense

1 outside this state within the preceding 5 years, or who has
2 been convicted of three or more such offenses within the
3 preceding 10 years, to present proof of successful completion
4 of or enrollment in a department-approved substance abuse
5 education course. If the person fails to complete such
6 education course within 90 days after issuance, the department
7 shall cancel the license. Further, prior to issuing the
8 driver's license the department shall require such person to
9 present proof of financial responsibility as provided in s.
10 324.031. For the purposes of this paragraph, a previous
11 conviction for violation of former s. 316.028, former s.
12 316.1931, or former s. 860.01 shall be considered a previous
13 conviction for violation of s. 316.193.

14 Section 15. For the purpose of incorporating the
15 amendment to section 316.193, Florida Statutes, in references
16 thereto, paragraph (a) of subsection (2) of section 322.0602,
17 Florida Statutes, is reenacted to read:

18 322.0602 Youthful Drunk Driver Visitation Program.--

19 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE
20 FOR PARTICIPATION.--

21 (a) If a person is convicted of a violation of s.
22 316.193, the court may order, as a term and condition of
23 probation in addition to any other term or condition required
24 or authorized by law, that the probationer participate in the
25 Youthful Drunk Driver Visitation Program.

26 Section 16. For the purpose of incorporating the
27 amendment to section 316.193, Florida Statutes, in references
28 thereto, subsection (8) of section 322.21, Florida Statutes,
29 is reenacted to read:

30 322.21 License fees; procedure for handling and
31 collecting fees.--

1 (8) Any person who applies for reinstatement following
2 the suspension or revocation of the person's driver's license
3 shall pay a service fee of \$35 following a suspension, and \$60
4 following a revocation, which is in addition to the fee for a
5 license. Any person who applies for reinstatement of a
6 commercial driver's license following the disqualification of
7 the person's privilege to operate a commercial motor vehicle
8 shall pay a service fee of \$60, which is in addition to the
9 fee for a license. The department shall collect all of these
10 fees at the time of reinstatement. The department shall issue
11 proper receipts for such fees and shall promptly transmit all
12 funds received by it as follows:

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

17 (b) Of the \$60 fee received from a licensee for
18 reinstatement following a revocation or disqualification, the
19 department shall deposit \$35 in the General Revenue Fund and
20 \$25 in the Highway Safety Operating Trust Fund.

21
22 If the revocation or suspension of the driver's license was
23 for a violation of s. 316.193, or for refusal to submit to a
24 lawful breath, blood, or urine test, an additional fee of \$115
25 must be charged. However, only one \$115 fee may be collected
26 from one person convicted of violations arising out of the
27 same incident. The department shall collect the \$115 fee and
28 deposit the fee into the Highway Safety Operating Trust Fund
29 at the time of reinstatement of the person's driver's license,
30 but the fee may not be collected if the suspension or
31 revocation is overturned.

1 Section 17. For the purpose of incorporating the
2 amendment to section 316.193, Florida Statutes, in references
3 thereto, subsection (5) of section 322.25, Florida Statutes,
4 is reenacted to read:

5 322.25 When court to forward license to department and
6 report convictions; temporary reinstatement of driving
7 privileges.--

8 (5) For the purpose of this chapter, the entrance of a
9 plea of nolo contendere by the defendant to a charge of
10 driving while intoxicated, driving under the influence,
11 driving with an unlawful blood-alcohol level, or any other
12 alcohol-related or drug-related traffic offense similar to the
13 offenses specified in s. 316.193, accepted by the court and
14 under which plea the court has entered a fine or sentence,
15 whether in this state or any other state or country, shall be
16 equivalent to a conviction.

17 Section 18. For the purpose of incorporating the
18 amendment to section 316.193, Florida Statutes, in references
19 thereto, paragraph (a) of subsection (1) of section 322.26,
20 Florida Statutes, is reenacted to read:

21 322.26 Mandatory revocation of license by
22 department.--The department shall forthwith revoke the license
23 or driving privilege of any person upon receiving a record of
24 such person's conviction of any of the following offenses:

25 (1)(a) Murder resulting from the operation of a motor
26 vehicle, DUI manslaughter where the conviction represents a
27 subsequent DUI-related conviction, or a fourth violation of s.
28 316.193 or former s. 316.1931. For such cases, the revocation
29 of the driver's license or driving privilege shall be
30 permanent.

31

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

7 322.2615 Suspension of license; right to review.--

8 (1)(a) A law enforcement officer or correctional
9 officer shall, on behalf of the department, suspend the
10 driving privilege of a person who has been arrested by a law
11 enforcement officer for a violation of s. 316.193, relating to
12 unlawful blood-alcohol level or breath-alcohol level, or of a
13 person who has refused to submit to a breath, urine, or blood
14 test authorized by s. 316.1932. The officer shall take the
15 person's driver's license and issue the person a 10-day
16 temporary permit if the person is otherwise eligible for the
17 driving privilege and shall issue the person a notice of
18 suspension. If a blood test has been administered, the results
19 of which are not available to the officer at the time of the
20 arrest, the agency employing the officer shall transmit such
21 results to the department within 5 days after receipt of the
22 results. If the department then determines that the person was
23 arrested for a violation of s. 316.193 and that the person had
24 a blood-alcohol level or breath-alcohol level of 0.08 or
25 higher, the department shall suspend the person's driver's
26 license pursuant to subsection (3).

27 (b) The suspension under paragraph (a) shall be
28 pursuant to, and the notice of suspension shall inform the
29 driver of, the following:

30 1.a. The driver refused to submit to a lawful breath,
31 blood, or urine test and his or her driving privilege is

1 | suspended for a period of 1 year for a first refusal or for a
2 | period of 18 months if his or her driving privilege has been
3 | previously suspended as a result of a refusal to submit to
4 | such a test; or

5 | b. The driver violated s. 316.193 by driving with an
6 | unlawful blood-alcohol level as provided in that section and
7 | his or her driving privilege is suspended for a period of 6
8 | months for a first offense or for a period of 1 year if his or
9 | her driving privilege has been previously suspended for a
10 | violation of s. 316.193.

11 | 2. The suspension period shall commence on the date of
12 | arrest or issuance of the notice of suspension, whichever is
13 | later.

14 | 3. The driver may request a formal or informal review
15 | of the suspension by the department within 10 days after the
16 | date of arrest or issuance of the notice of suspension,
17 | whichever is later.

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

22 | 5. The driver may submit to the department any
23 | materials relevant to the arrest.

24 | (2) Except as provided in paragraph (1)(a), the law
25 | enforcement officer shall forward to the department, within 5
26 | days after the date of the arrest, a copy of the notice of
27 | suspension, the driver's license of the person arrested, and a
28 | report of the arrest, including an affidavit stating the
29 | officer's grounds for belief that the person arrested was in
30 | violation of s. 316.193; the results of any breath or blood
31 | test or an affidavit stating that a breath, blood, or urine

1 test was requested by a law enforcement officer or
2 correctional officer and that the person arrested refused to
3 submit; a copy of the citation issued to the person arrested;
4 and the officer's description of the person's field sobriety
5 test, if any. The failure of the officer to submit materials
6 within the 5-day period specified in this subsection and in
7 subsection (1) shall not affect the department's ability to
8 consider any evidence submitted at or prior to the hearing.
9 The officer may also submit a copy of a videotape of the field
10 sobriety test or the attempt to administer such test.

11 (7) In a formal review hearing under subsection (6) or
12 an informal review hearing under subsection (4), the hearing
13 officer shall determine by a preponderance of the evidence
14 whether sufficient cause exists to sustain, amend, or
15 invalidate the suspension. The scope of the review shall be
16 limited to the following issues:

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

19 1. Whether the arresting law enforcement officer had
20 probable cause to believe that the person was driving or in
21 actual physical control of a motor vehicle in this state while
22 under the influence of alcoholic beverages or controlled
23 substances.

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

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

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

30 1. Whether the arresting law enforcement officer had
31 probable cause to believe that the person was driving or in

1 actual physical control of a motor vehicle in this state while
2 under the influence of alcoholic beverages or controlled
3 substances.

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

6 3. Whether the person refused to submit to any such
7 test after being requested to do so by a law enforcement
8 officer or correctional officer.

9 4. Whether the person was told that if he or she
10 refused to submit to such test his or her privilege to operate
11 a motor vehicle would be suspended for a period of 1 year or,
12 in the case of a second or subsequent refusal, for a period of
13 18 months.

14 (8) Based on the determination of the hearing officer
15 pursuant to subsection (7) for both informal hearings under
16 subsection (4) and formal hearings under subsection (6), the
17 department shall:

18 (b) Sustain the suspension of the person's driving
19 privilege for a period of 6 months for a violation of s.
20 316.193, or for a period of 1 year if the driving privilege of
21 such person has been previously suspended as a result of a
22 violation of s. 316.193. The suspension period commences on
23 the date of the arrest or issuance of the notice of
24 suspension, whichever is later.

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

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

1 unlawful blood-alcohol level, is sustained, the person is not
2 eligible to receive a license for business or employment
3 purposes only pursuant to s. 322.271 until 30 days have
4 elapsed after the expiration of the last temporary permit
5 issued. If the driver is not issued a 10-day permit pursuant
6 to this section or s. 322.64 because he or she is ineligible
7 for the permit and the suspension for a violation of s.
8 316.193, relating to unlawful blood-alcohol level, is not
9 invalidated by the department, the driver is not eligible to
10 receive a business or employment license pursuant to s.
11 322.271 until 30 days have elapsed from the date of the
12 arrest.

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

21 Section 20. For the purpose of incorporating the
22 amendment to section 316.193, Florida Statutes, in references
23 thereto, paragraph (a) of subsection (1) and subsections (15)
24 and (19) of section 322.2616, Florida Statutes, are reenacted
25 to read:

26 322.2616 Suspension of license; persons under 21 years
27 of age; right to review.--

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

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

9 (19) A violation of this section is neither a traffic
10 infraction nor a criminal offense, nor does being detained
11 pursuant to this section constitute an arrest. A violation of
12 this section is subject to the administrative action
13 provisions of this section, which are administered by the
14 department through its administrative processes.
15 Administrative actions taken pursuant to this section shall be
16 recorded in the motor vehicle records maintained by the
17 department. This section does not bar prosecution under s.
18 316.193. However, if the department suspends a person's
19 license under s. 322.2615 for a violation of s. 316.193, it
20 may not also suspend the person's license under this section
21 for the same episode that was the basis for the suspension
22 under s. 322.2615.

23 Section 21. For the purpose of incorporating the
24 amendment to section 316.193, Florida Statutes, in references
25 thereto, paragraph (b) of subsection (1) of section 322.264,
26 Florida Statutes, is reenacted to read:

27 322.264 "Habitual traffic offender" defined.--A
28 "habitual traffic offender" is any person whose record, as
29 maintained by the Department of Highway Safety and Motor
30 Vehicles, shows that such person has accumulated the specified
31

1 | number of convictions for offenses described in subsection (1)
2 | or subsection (2) within a 5-year period:

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

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

7 |
8 | Any violation of any federal law, any law of another state or
9 | country, or any valid ordinance of a municipality or county of
10 | another state similar to a statutory prohibition specified in
11 | subsection (1) or subsection (2) shall be counted as a
12 | violation of such prohibition. In computing the number of
13 | convictions, all convictions during the 5 years previous to
14 | July 1, 1972, will be used, provided at least one conviction
15 | occurs after that date. The fact that previous convictions may
16 | have resulted in suspension, revocation, or disqualification
17 | under another section does not exempt them from being used for
18 | suspension or revocation under this section as a habitual
19 | offender.

20 | Section 22. For the purpose of incorporating the
21 | amendment to section 316.193, Florida Statutes, in references
22 | thereto, paragraphs (a) and (c) of subsection (2) and
23 | subsection (4) of section 322.271, Florida Statutes, are
24 | reenacted to read:

25 | 322.271 Authority to modify revocation, cancellation,
26 | or suspension order.--

27 | (2)(a) Upon such hearing, the person whose license has
28 | been suspended, canceled, or revoked may show that such
29 | suspension, cancellation, or revocation of his or her license
30 | causes a serious hardship and precludes the person's carrying
31 | out his or her normal business occupation, trade, or

1 | employment and that the use of the person's license in the
2 | normal course of his or her business is necessary to the
3 | proper support of the person or his or her family. Except as
4 | otherwise provided in this subsection, the department shall
5 | require proof of the successful completion of the applicable
6 | department-approved driver training course operating pursuant
7 | to s. 318.1451 or DUI program substance abuse education course
8 | and evaluation as provided in s. 316.193(5). Letters of
9 | recommendation from respected business persons in the
10 | community, law enforcement officers, or judicial officers may
11 | also be required to determine whether such person should be
12 | permitted to operate a motor vehicle on a restricted basis for
13 | business or employment use only and in determining whether
14 | such person can be trusted to so operate a motor vehicle. If a
15 | driver's license has been suspended under the point system or
16 | pursuant to s. 322.2615, the department shall require proof of
17 | enrollment in the applicable department-approved driver
18 | training course or licensed DUI program substance abuse
19 | education course, including evaluation and treatment, if
20 | referred, and may require letters of recommendation described
21 | in this subsection to determine if the driver should be
22 | reinstated on a restricted basis. If such person fails to
23 | complete the approved course within 90 days after
24 | reinstatement or subsequently fails to complete treatment, if
25 | applicable, the department shall cancel his or her driver's
26 | license until the course and treatment, if applicable, is
27 | successfully completed, notwithstanding the terms of the court
28 | order or any suspension or revocation of the driving
29 | privilege. The department may temporarily reinstate the
30 | driving privilege on a restricted basis upon verification from
31 | the DUI program that the offender has reentered and is

1 | currently participating in treatment and has completed the DUI
2 | education course and evaluation requirement. If the DUI
3 | program notifies the department of the second failure to
4 | complete treatment, the department shall reinstate the driving
5 | privilege only after notice of completion of treatment from
6 | the DUI program. The privilege of driving on a limited or
7 | restricted basis for business or employment use shall not be
8 | granted to a person who has been convicted of a violation of
9 | s. 316.193 until completion of the DUI program substance abuse
10 | education course and evaluations as provided in s. 316.193(5).
11 | Except as provided in paragraph (b), the privilege of driving
12 | on a limited or restricted basis for business or employment
13 | use shall not be granted to a person whose license is revoked
14 | pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and
15 | who has been convicted of a violation of s. 316.193 two or
16 | more times or whose license has been suspended two or more
17 | times for refusal to submit to a test pursuant to s. 322.2615
18 | or former s. 322.261.

19 | (c) For the purpose of this section, a previous
20 | conviction of driving under the influence, driving while
21 | intoxicated, driving with an unlawful blood-alcohol level, or
22 | any other similar alcohol-related or drug-related offense
23 | outside this state or a previous conviction of former s.
24 | 316.1931, former s. 316.028, or former s. 860.01 shall be
25 | considered a previous conviction for violation of s. 316.193.

26 | (4) Notwithstanding the provisions of s. 322.28(2)(e),
27 | a person whose driving privilege has been permanently revoked
28 | because he or she has been convicted of DUI manslaughter in
29 | violation of s. 316.193 and has no prior convictions for
30 | DUI-related offenses may, upon the expiration of 5 years after
31 | the date of such revocation or the expiration of 5 years after

1 the termination of any term of incarceration under s. 316.193
2 or former s. 316.1931, whichever date is later, petition the
3 department for reinstatement of his or her driving privilege.

4 (a) Within 30 days after the receipt of such a
5 petition, the department shall afford the petitioner an
6 opportunity for a hearing. At the hearing, the petitioner must
7 demonstrate to the department that he or she:

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

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

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

14 4. Has completed a DUI program licensed by the
15 department.

16 (b) At such hearing, the department shall determine
17 the petitioner's qualification, fitness, and need to drive.
18 Upon such determination, the department may, in its
19 discretion, reinstate the driver's license of the petitioner.
20 Such reinstatement must be made subject to the following
21 qualifications:

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

24 2. Such person must be supervised by a DUI program
25 licensed by the department and report to the program for such
26 supervision and education at least four times a year or
27 additionally as required by the program for the remainder of
28 the revocation period. Such supervision shall include
29 evaluation, education, referral into treatment, and other
30 activities required by the department.

31

1 (c) Such person must assume the reasonable costs of
2 supervision. If such person fails to comply with the required
3 supervision, the program shall report the failure to the
4 department, and the department shall cancel such person's
5 driving privilege.

6 (d) If, after reinstatement, such person is convicted
7 of an offense for which mandatory revocation of his or her
8 license is required, the department shall revoke his or her
9 driving privilege.

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

13 Section 23. For the purpose of incorporating the
14 amendment to section 316.193, Florida Statutes, in references
15 thereto, subsection (2) of section 322.28, Florida Statutes,
16 is reenacted to read:

17 322.28 Period of suspension or revocation.--

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

20 (a) Upon conviction of the driver, the court, along
21 with imposing sentence, shall revoke the driver's license or
22 driving privilege of the person so convicted, effective on the
23 date of conviction, and shall prescribe the period of such
24 revocation in accordance with the following provisions:

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

29 2. Upon a second conviction for an offense that occurs
30 within a period of 5 years after the date of a prior
31 conviction for a violation of the provisions of s. 316.193 or

1 former s. 316.1931 or a combination of such sections, the
2 driver's license or driving privilege shall be revoked for not
3 less than 5 years.

4 3. Upon a third conviction for an offense that occurs
5 within a period of 10 years after the date of a prior
6 conviction for the violation of the provisions of s. 316.193
7 or former s. 316.1931 or a combination of such sections, the
8 driver's license or driving privilege shall be revoked for not
9 less than 10 years.

10
11 For the purposes of this paragraph, a previous conviction
12 outside this state for driving under the influence, driving
13 while intoxicated, driving with an unlawful blood-alcohol
14 level, or any other alcohol-related or drug-related traffic
15 offense similar to the offense of driving under the influence
16 as proscribed by s. 316.193 will be considered a previous
17 conviction for violation of s. 316.193, and a conviction for
18 violation of former s. 316.028, former s. 316.1931, or former
19 s. 860.01 is considered a conviction for violation of s.
20 316.193.

21 (b) If the period of revocation was not specified by
22 the court at the time of imposing sentence or within 30 days
23 thereafter, and is not otherwise specified by law, the
24 department shall forthwith revoke the driver's license or
25 driving privilege for the maximum period applicable under
26 paragraph (a) for a first conviction and for the minimum
27 period applicable under paragraph (a) for any subsequent
28 convictions. The driver may, within 30 days after such
29 revocation by the department, petition the court for further
30 hearing on the period of revocation, and the court may reopen
31

1 | the case and determine the period of revocation within the
2 | limits specified in paragraph (a).

3 | (c) The forfeiture of bail bond, not vacated within 20
4 | days, in any prosecution for the offense of driving while
5 | under the influence of alcoholic beverages, chemical
6 | substances, or controlled substances to the extent of
7 | depriving the defendant of his or her normal faculties shall
8 | be deemed equivalent to a conviction for the purposes of this
9 | paragraph, and the department shall forthwith revoke the
10 | defendant's driver's license or driving privilege for the
11 | maximum period applicable under paragraph (a) for a first
12 | conviction and for the minimum period applicable under
13 | paragraph (a) for a second or subsequent conviction; however,
14 | if the defendant is later convicted of the charge, the period
15 | of revocation imposed by the department for such conviction
16 | shall not exceed the difference between the applicable maximum
17 | for a first conviction or minimum for a second or subsequent
18 | conviction and the revocation period under this subsection
19 | that has actually elapsed; upon conviction of such charge, the
20 | court may impose revocation for a period of time as specified
21 | in paragraph (a). This paragraph does not apply if an
22 | appropriate motion contesting the forfeiture is filed within
23 | the 20-day period.

24 | (d) When any driver's license or driving privilege has
25 | been revoked pursuant to the provisions of this section, the
26 | department shall not grant a new license, except upon
27 | reexamination of the licensee after the expiration of the
28 | period of revocation so prescribed. However, the court may, in
29 | its sound discretion, issue an order of reinstatement on a
30 | form furnished by the department which the person may take to
31 |

1 any driver's license examining office for reinstatement by the
2 department pursuant to s. 322.282.

3 (e) The court shall permanently revoke the driver's
4 license or driving privilege of a person who has been
5 convicted four times for violation of s. 316.193 or former s.
6 316.1931 or a combination of such sections. The court shall
7 permanently revoke the driver's license or driving privilege
8 of any person who has been convicted of DUI manslaughter in
9 violation of s. 316.193. If the court has not permanently
10 revoked such driver's license or driving privilege within 30
11 days after imposing sentence, the department shall permanently
12 revoke the driver's license or driving privilege pursuant to
13 this paragraph. No driver's license or driving privilege may
14 be issued or granted to any such person. This paragraph
15 applies only if at least one of the convictions for violation
16 of s. 316.193 or former s. 316.1931 was for a violation that
17 occurred after July 1, 1982. For the purposes of this
18 paragraph, a conviction for violation of former s. 316.028,
19 former s. 316.1931, or former s. 860.01 is also considered a
20 conviction for violation of s. 316.193. Also, a conviction of
21 driving under the influence, driving while intoxicated,
22 driving with an unlawful blood-alcohol level, or any other
23 similar alcohol-related or drug-related traffic offense
24 outside this state is considered a conviction for the purposes
25 of this paragraph.

26 Section 24. For the purpose of incorporating the
27 amendment to section 316.193, Florida Statutes, in references
28 thereto, paragraph (a) of subsection (2) of section 322.282,
29 Florida Statutes, is reenacted to read:

30 322.282 Procedure when court revokes or suspends
31 license or driving privilege and orders reinstatement.--When a

1 | court suspends or revokes a person's license or driving
2 | privilege and, in its discretion, orders reinstatement as
3 | provided by s. 322.28(2)(d) or former s. 322.261(5):

4 | (2)(a) The court shall issue an order of
5 | reinstatement, on a form to be furnished by the department,
6 | which the person may take to any driver's license examining
7 | office. The department shall issue a temporary driver's permit
8 | to a licensee who presents the court's order of reinstatement,
9 | proof of completion of a department-approved driver training
10 | or substance abuse education course, and a written request for
11 | a hearing under s. 322.271. The permit shall not be issued if
12 | a record check by the department shows that the person has
13 | previously been convicted for a violation of s. 316.193,
14 | former s. 316.1931, former s. 316.028, former s. 860.01, or a
15 | previous conviction outside this state for driving under the
16 | influence, driving while intoxicated, driving with an unlawful
17 | blood-alcohol level, or any similar alcohol-related or
18 | drug-related traffic offense; that the person's driving
19 | privilege has been previously suspended for refusal to submit
20 | to a lawful test of breath, blood, or urine; or that the
21 | person is otherwise not entitled to issuance of a driver's
22 | license. This paragraph shall not be construed to prevent the
23 | reinstatement of a license or driving privilege that is
24 | presently suspended for driving with an unlawful blood-alcohol
25 | level or a refusal to submit to a breath, urine, or blood test
26 | and is also revoked for a conviction for a violation of s.
27 | 316.193 or former s. 316.1931, if the suspension and
28 | revocation arise out of the same incident.

29 | Section 25. For the purpose of incorporating the
30 | amendment to section 316.193, Florida Statutes, in references
31 |

1 thereto, paragraph (a) of subsection (1) of section 322.291,
2 Florida Statutes, is reenacted to read:

3 322.291 Driver improvement schools or DUI programs;
4 required in certain suspension and revocation cases.--Except
5 as provided in s. 322.03(2), any person:

6 (1) Whose driving privilege has been revoked:

7 (a) Upon conviction for:

8 1. Driving, or being in actual physical control of,
9 any vehicle while under the influence of alcoholic beverages,
10 any chemical substance set forth in s. 877.111, or any
11 substance controlled under chapter 893, in violation of s.
12 316.193;

13 2. Driving with an unlawful blood- or breath-alcohol
14 level;

15 3. Manslaughter resulting from the operation of a
16 motor vehicle;

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

20 5. Reckless driving; or
21

22 shall, before the driving privilege may be reinstated, present
23 to the department proof of enrollment in a department-approved
24 advanced driver improvement course operating pursuant to s.
25 318.1451 or a substance abuse education course conducted by a
26 DUI program licensed pursuant to s. 322.292, which shall
27 include a psychosocial evaluation and treatment, if referred.
28 If the person fails to complete such course or evaluation
29 within 90 days after reinstatement, or subsequently fails to
30 complete treatment, if referred, the DUI program shall notify
31 the department of the failure. Upon receipt of the notice, the

1 department shall cancel the offender's driving privilege,
2 notwithstanding the expiration of the suspension or revocation
3 of the driving privilege. The department may temporarily
4 reinstate the driving privilege upon verification from the DUI
5 program that the offender has completed the education course
6 and evaluation requirement and has reentered and is currently
7 participating in treatment. If the DUI program notifies the
8 department of the second failure to complete treatment, the
9 department shall reinstate the driving privilege only after
10 notice of completion of treatment from the DUI program.

11 Section 26. For the purpose of incorporating the
12 amendment to section 316.193, Florida Statutes, in references
13 thereto, paragraph (a) of subsection (9) of section 322.34,
14 Florida Statutes, is reenacted to read:

15 322.34 Driving while license suspended, revoked,
16 canceled, or disqualified.--

17 (9)(a) A motor vehicle that is driven by a person
18 under the influence of alcohol or drugs in violation of s.
19 316.193 is subject to seizure and forfeiture under ss.
20 932.701-932.707 and is subject to liens for recovering,
21 towing, or storing vehicles under s. 713.78 if, at the time of
22 the offense, the person's driver's license is suspended,
23 revoked, or canceled as a result of a prior conviction for
24 driving under the influence.

25 Section 27. For the purpose of incorporating the
26 amendment to section 316.193, Florida Statutes, in references
27 thereto, section 322.44, Florida Statutes, is reenacted to
28 read:

29 322.44 Driver License Compact.--The Driver License
30 Compact is hereby enacted into law and entered into with all
31

1 other jurisdictions legally joining therein in the form
2 substantially as follows:

3
4 ARTICLE I

5
6 FINDINGS AND DECLARATION OF POLICY.--

7 (1) The party states find that:

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

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

15 (c) The continuance in force of a license to drive is
16 predicated upon compliance with laws and ordinances relating
17 to the operation of motor vehicles, in whichever jurisdiction
18 the vehicle is operated.

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

20 (a) Promote compliance with the laws, ordinances, and
21 administrative rules and regulations relating to the operation
22 of motor vehicles by their operators in each of the
23 jurisdictions where such operators drive motor vehicles;

24 (b) Make the reciprocal recognition of licenses to
25 drive and eligibility therefor more just and equitable by
26 considering the overall compliance with motor vehicle laws,
27 ordinances, and administrative rules and regulations as a
28 condition precedent to the continuance or issuance of any
29 license by reason of which the licensee is authorized or
30 permitted to operate a motor vehicle in any of the party
31 states.

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ARTICLE II

DEFINITIONS.--As used in this compact:

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

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

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

ARTICLE III

REPORTS OF CONVICTION.--The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of

1 bail, bond, or other security; and shall include any special
2 findings made in connection therewith.

3
4 ARTICLE IV

5
6 EFFECT OF CONVICTION.--

7 (1) The licensing authority in the home state, for the
8 purposes of suspension, revocation, or limitation of the
9 license to operate a motor vehicle, shall give the same effect
10 to the conduct reported, pursuant to article III, as it would
11 if such conduct had occurred in the home state, in the case of
12 convictions for:

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

16 (b) Driving a motor vehicle while under the influence
17 of alcoholic beverages or a narcotic drug, or under the
18 influence of any other drug to a degree which renders the
19 driver incapable of safely driving a motor vehicle, as
20 provided by s. 316.193;

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

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

26 (2) As to other convictions, reported pursuant to
27 article III, the licensing authority in the home state shall
28 give such effect to the conduct as is provided by the laws of
29 the home state.

30
31 ARTICLE V

1
2 APPLICATIONS FOR NEW LICENSES.--Upon application for a
3 license to drive, the licensing authority in a party state
4 shall ascertain whether the applicant has ever held, or is the
5 holder of, a license to drive issued by any other party state.
6 The licensing authority in the state where application is made
7 shall not issue a license to drive to the applicant if:

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

11 (2) The applicant has held such a license, but the
12 same has been revoked by reason, in whole or in part, of a
13 violation and if such revocation has not terminated, except
14 that after the expiration of 1 year from the date the license
15 was revoked, such person may make application for a new
16 license if permitted by law. The licensing authority may
17 refuse to issue a license to any such applicant if, after
18 investigation, the licensing authority determines that it will
19 not be safe to grant to such person the privilege of driving a
20 motor vehicle on the public highways.

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

24
25 ARTICLE VI
26

27 APPLICABILITY OF OTHER LAWS.--Except as expressly
28 required by provisions of this compact, nothing contained
29 herein shall be construed to affect the right of any party
30 state to apply any of its other laws relating to licenses to
31 drive to any person or circumstance, nor to invalidate or

1 prevent any driver license agreement or other cooperative
2 arrangement between a party state and a nonparty state.

3
4 ARTICLE VII

5
6 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

7 (1) The head of the licensing authority of each party
8 state shall be the administrator of this compact for his or
9 her state. The administrators, acting jointly, shall have the
10 power to formulate all necessary and proper procedures for the
11 exchange of information under this compact.

12 (2) The administrator of each party state shall
13 furnish to the administrator of each other party state any
14 information or documents reasonably necessary to facilitate
15 the administration of this compact.

16
17 ARTICLE VIII

18
19 ENTRY INTO FORCE AND WITHDRAWAL.--

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

23 (2) Any party state may withdraw from this compact by
24 enacting a statute repealing the same, but no such withdrawal
25 shall take effect until 6 months after the executive head of
26 the withdrawing state has given notice of the withdrawal to
27 the executive heads of all other party states. No withdrawal
28 shall affect the validity or applicability by the licensing
29 authorities of states remaining party to the compact of any
30 report of conviction occurring prior to the withdrawal.

31

ARTICLE IX

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

Section 28. For the purpose of incorporating the amendment to section 316.193, Florida Statutes, in references thereto, subsection (3) of section 322.62, Florida Statutes, is reenacted to read:

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

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

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

1 thereto, paragraph (d) of subsection (2) and subsection (6) of
2 section 322.63, Florida Statutes, are reenacted to read:

3 322.63 Alcohol or drug testing; commercial motor
4 vehicle operators.--

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

10 (d) The administration of one test under paragraph
11 (a), paragraph (b), or paragraph (c) shall not preclude the
12 administration of a different test under paragraph (a),
13 paragraph (b), or paragraph (c). However, a urine test may not
14 be used to determine alcohol concentration and a breath test
15 may not be used to determine the presence of controlled
16 substances or chemical substances in a person's body.
17 Notwithstanding the provisions of this paragraph, in the event
18 a Florida licensee has been convicted in another state for an
19 offense substantially similar to s. 316.193 or to s. 322.62,
20 which conviction was based upon evidence of test results
21 prohibited by this paragraph, that out-of-state conviction
22 shall constitute a conviction for the purposes of this
23 chapter.

24 (6) Notwithstanding any provision of law pertaining to
25 the confidentiality of hospital records or other medical
26 records, information relating to the alcohol content of a
27 person's blood or the presence of chemical substances or
28 controlled substances in a person's blood obtained pursuant to
29 this section shall be released to a court, prosecuting
30 attorney, defense attorney, or law enforcement officer in
31

1 | connection with an alleged violation of s. 316.193 or s.
2 | 322.62 upon request for such information.

3 | Section 30. For the purpose of incorporating the
4 | amendment to section 316.193, Florida Statutes, in references
5 | thereto, subsections (1) and (2), paragraph (a) of subsection
6 | (7), paragraph (b) of subsection (8), and subsections (14) and
7 | (15) of section 322.64, Florida Statutes, are reenacted to
8 | read:

9 | 322.64 Holder of commercial driver's license; driving
10 | with unlawful blood-alcohol level; refusal to submit to
11 | breath, urine, or blood test.--

12 | (1)(a) A law enforcement officer or correctional
13 | officer shall, on behalf of the department, disqualify from
14 | operating any commercial motor vehicle a person who while
15 | operating or in actual physical control of a commercial motor
16 | vehicle is arrested for a violation of s. 316.193, relating to
17 | unlawful blood-alcohol level or breath-alcohol level, or a
18 | person who has refused to submit to a breath, urine, or blood
19 | test authorized by s. 322.63 arising out of the operation or
20 | actual physical control of a commercial motor vehicle. Upon
21 | disqualification of the person, the officer shall take the
22 | person's driver's license and issue the person a 10-day
23 | temporary permit if the person is otherwise eligible for the
24 | driving privilege and shall issue the person a notice of
25 | disqualification. If the person has been given a blood,
26 | breath, or urine test, the results of which are not available
27 | to the officer at the time of the arrest, the agency employing
28 | the officer shall transmit such results to the department
29 | within 5 days after receipt of the results. If the department
30 | then determines that the person was arrested for a violation
31 | of s. 316.193 and that the person had a blood-alcohol level or

1 breath-alcohol level of 0.08 or higher, the department shall
2 disqualify the person from operating a commercial motor
3 vehicle pursuant to subsection (3).

4 (b) The disqualification under paragraph (a) shall be
5 pursuant to, and the notice of disqualification shall inform
6 the driver of, the following:

7 1.a. The driver refused to submit to a lawful breath,
8 blood, or urine test and he or she is disqualified from
9 operating a commercial motor vehicle for a period of 1 year,
10 for a first refusal, or permanently, if he or she has
11 previously been disqualified as a result of a refusal to
12 submit to such a test; or

13 b. The driver violated s. 316.193 by driving with an
14 unlawful blood-alcohol level and he or she is disqualified
15 from operating a commercial motor vehicle for a period of 6
16 months for a first offense or for a period of 1 year if he or
17 she has previously been disqualified, or his or her driving
18 privilege has been previously suspended, for a violation of s.
19 316.193.

20 2. The disqualification period shall commence on the
21 date of arrest or issuance of notice of disqualification,
22 whichever is later.

23 3. The driver may request a formal or informal review
24 of the disqualification by the department within 10 days after
25 the date of arrest or issuance of notice of disqualification,
26 whichever is later.

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

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

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

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

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

30 1. Whether the arresting law enforcement officer had
31 probable cause to believe that the person was driving or in

1 actual physical control of a commercial motor vehicle in this
2 state while he or she had any alcohol, chemical substances, or
3 controlled substances in his or her body.

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

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

8 (8) Based on the determination of the hearing officer
9 pursuant to subsection (7) for both informal hearings under
10 subsection (4) and formal hearings under subsection (6), the
11 department shall:

12 (b) Sustain the disqualification for a period of 6
13 months for a violation of s. 316.193 or for a period of 1 year
14 if the person has been previously disqualified from operating
15 a commercial motor vehicle or his or her driving privilege has
16 been previously suspended as a result of a violation of s.
17 316.193. The disqualification period commences on the date of
18 the arrest or issuance of the notice of disqualification,
19 whichever is later.

20 (14) The decision of the department under this section
21 shall not be considered in any trial for a violation of s.
22 316.193, s. 322.61, or s. 322.62, nor shall any written
23 statement submitted by a person in his or her request for
24 departmental review under this section be admissible into
25 evidence against him or her in any such trial. The disposition
26 of any related criminal proceedings shall not affect a
27 disqualification imposed pursuant to this section.

28 (15) This section does not preclude the suspension of
29 the driving privilege pursuant to s. 322.2615. The driving
30 privilege of a person who has been disqualified from operating
31

1 a commercial motor vehicle also may be suspended for a
2 violation of s. 316.193.

3 Section 31. For the purpose of incorporating the
4 amendment to section 316.193, Florida Statutes, in references
5 thereto, paragraph (f) of subsection (4) of section 323.001,
6 Florida Statutes, is reenacted to read:

7 323.001 Wrecker operator storage facilities; vehicle
8 holds.--

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

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

13 Section 32. For the purpose of incorporating the
14 amendment to section 316.193, Florida Statutes, in references
15 thereto, subsection (10) of section 397.405, Florida Statutes,
16 is reenacted to read:

17 397.405 Exemptions from licensure.--The following are
18 exempt from the licensing provisions of this chapter:

19 (10) DUI education and screening services provided
20 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and
21 322.291. Persons or entities providing treatment services must
22 be licensed under this chapter unless exempted from licensing
23 as provided in this section.

24
25 The exemptions from licensure in this section do not apply to
26 any service provider that receives an appropriation, grant, or
27 contract from the state to operate as a service provider as
28 defined in this chapter or to any substance abuse program
29 regulated pursuant to s. 397.406. Furthermore, this chapter
30 may not be construed to limit the practice of a physician
31 licensed under chapter 458 or chapter 459, a psychologist

1 licensed under chapter 490, or a psychotherapist licensed
2 under chapter 491 who provides substance abuse treatment, so
3 long as the physician, psychologist, or psychotherapist does
4 not represent to the public that he or she is a licensed
5 service provider and does not provide services to clients
6 pursuant to part V of this chapter. Failure to comply with any
7 requirement necessary to maintain an exempt status under this
8 section is a misdemeanor of the first degree, punishable as
9 provided in s. 775.082 or s. 775.083.

10 Section 33. For the purpose of incorporating the
11 amendment to section 316.193, Florida Statutes, in references
12 thereto, paragraph (c) of subsection (17) of section 440.02,
13 Florida Statutes, is reenacted to read:

14 440.02 Definitions.--When used in this chapter, unless
15 the context clearly requires otherwise, the following terms
16 shall have the following meanings:

17 (17)

18 (c) "Employment" does not include service performed by
19 or as:

- 20 1. Domestic servants in private homes.
- 21 2. Agricultural labor performed on a farm in the
22 employ of a bona fide farmer, or association of farmers, that
23 employs 5 or fewer regular employees and that employs fewer
24 than 12 other employees at one time for seasonal agricultural
25 labor that is completed in less than 30 days, provided such
26 seasonal employment does not exceed 45 days in the same
27 calendar year. The term "farm" includes stock, dairy, poultry,
28 fruit, fur-bearing animals, fish, and truck farms, ranches,
29 nurseries, and orchards. The term "agricultural labor"
30 includes field foremen, timekeepers, checkers, and other farm
31 labor supervisory personnel.

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

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

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

10 Section 34. For the purpose of incorporating the
11 amendment to section 316.193, Florida Statutes, in references
12 thereto, paragraph (b) of subsection (7) of section 440.09,
13 Florida Statutes, is reenacted to read:

14 440.09 Coverage.--

15 (7)

16 (b) If the employee has, at the time of the injury, a
17 blood alcohol level equal to or greater than the level
18 specified in s. 316.193, or if the employee has a positive
19 confirmation of a drug as defined in this act, it is presumed
20 that the injury was occasioned primarily by the intoxication
21 of, or by the influence of the drug upon, the employee. If the
22 employer has implemented a drug-free workplace, this
23 presumption may be rebutted only by evidence that there is no
24 reasonable hypothesis that the intoxication or drug influence
25 contributed to the injury. In the absence of a drug-free
26 workplace program, this presumption may be rebutted by clear
27 and convincing evidence that the intoxication or influence of
28 the drug did not contribute to the injury. Percent by weight
29 of alcohol in the blood must be based upon grams of alcohol
30 per 100 milliliters of blood. If the results are positive, the
31 testing facility must maintain the specimen for a minimum of

1 90 days. Blood serum may be used for testing purposes under
2 this chapter; however, if this test is used, the presumptions
3 under this section do not arise unless the blood alcohol level
4 is proved to be medically and scientifically equivalent to or
5 greater than the comparable blood alcohol level that would
6 have been obtained if the test were based on percent by weight
7 of alcohol in the blood. However, if, before the accident, the
8 employer had actual knowledge of and expressly acquiesced in
9 the employee's presence at the workplace while under the
10 influence of such alcohol or drug, the presumptions specified
11 in this subsection do not apply.

12 Section 35. For the purpose of incorporating the
13 amendment to section 316.193, Florida Statutes, in references
14 thereto, paragraph (d) of subsection (1) of section 493.6106,
15 Florida Statutes, is reenacted to read:

16 493.6106 License requirements; posting.--

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

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

29 Section 36. For the purpose of incorporating the
30 amendment to section 316.193, Florida Statutes, in references
31

1 thereto, subsection (4) of section 627.758, Florida Statutes,
2 is reenacted to read:

3 627.758 Surety on auto club traffic arrest bond;
4 conditions, limit; bail bond.--

5 (4) Notwithstanding the provisions of s. 626.311 or
6 chapter 648, any surety insurer identified in a guaranteed
7 traffic arrest bond certificate or any licensed general lines
8 agent of the surety insurer may execute a bail bond for the
9 automobile club or association member identified in the
10 guaranteed traffic arrest bond certificate in an amount not in
11 excess of \$5,000 for any violation of chapter 316 or any
12 similar traffic law or ordinance except for driving under the
13 influence of alcoholic beverages, chemical substances, or
14 controlled substances, as prohibited by s. 316.193.

15 Section 37. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, paragraph (f) of subsection (2) and paragraph (f) of
18 subsection (10) of section 790.06, Florida Statutes, are
19 reenacted to read:

20 790.06 License to carry concealed weapon or firearm.--

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

23 (f) Does not chronically and habitually use alcoholic
24 beverages or other substances to the extent that his or her
25 normal faculties are impaired. It shall be presumed that an
26 applicant chronically and habitually uses alcoholic beverages
27 or other substances to the extent that his or her normal
28 faculties are impaired if the applicant has been committed
29 under chapter 397 or under the provisions of former chapter
30 396 or has been convicted under s. 790.151 or has been deemed
31 a habitual offender under s. 856.011(3), or has had two or

1 more convictions under s. 316.193 or similar laws of any other
2 state, within the 3-year period immediately preceding the date
3 on which the application is submitted;

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

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

11 Section 38. For the purpose of incorporating the
12 amendment to section 316.193, Florida Statutes, in references
13 thereto, subsection (2) of section 903.36, Florida Statutes,
14 is reenacted to read:

15 903.36 Guaranteed arrest bond certificates as cash
16 bail.--

17 (2) The execution of a bail bond by a licensed general
18 lines agent of a surety insurer for the automobile club or
19 association member identified in the guaranteed traffic arrest
20 bond certificate, as provided in s. 627.758(4), shall be
21 accepted as bail in an amount not to exceed \$5,000 for the
22 appearance of the person named in the certificate in any court
23 to answer for the violation of a provision of chapter 316 or a
24 similar traffic law or ordinance, except driving under the
25 influence of alcoholic beverages, chemical substances, or
26 controlled substances, as prohibited by s. 316.193.

27 Presentation of the guaranteed traffic arrest bond certificate
28 and a power of attorney from the surety insurer for its
29 licensed general lines agents is authorization for such agent
30 to execute the bail bond.
31

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

5 907.041 Pretrial detention and release.--

6 (4) PRETRIAL DETENTION.--

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

12 1. The defendant has previously violated conditions of
13 release and that no further conditions of release are
14 reasonably likely to assure the defendant's appearance at
15 subsequent proceedings;

16 2. The defendant, with the intent to obstruct the
17 judicial process, has threatened, intimidated, or injured any
18 victim, potential witness, juror, or judicial officer, or has
19 attempted or conspired to do so, and that no condition of
20 release will reasonably prevent the obstruction of the
21 judicial process;

22 3. The defendant is charged with trafficking in
23 controlled substances as defined by s. 893.135, that there is
24 a substantial probability that the defendant has committed the
25 offense, and that no conditions of release will reasonably
26 assure the defendant's appearance at subsequent criminal
27 proceedings; or

28 4. The defendant is charged with DUI manslaughter, as
29 defined by s. 316.193, and that there is a substantial
30 probability that the defendant committed the crime and that
31 the defendant poses a threat of harm to the community;

1 conditions that would support a finding by the court pursuant
2 to this subparagraph that the defendant poses a threat of harm
3 to the community include, but are not limited to, any of the
4 following:

5 a. The defendant has previously been convicted of any
6 crime under s. 316.193, or of any crime in any other state or
7 territory of the United States that is substantially similar
8 to any crime under s. 316.193;

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

11 c. The defendant has previously been found guilty of,
12 or has had adjudication of guilt withheld for, driving while
13 the defendant's driver's license was suspended or revoked in
14 violation of s. 322.34;

15 5. The defendant poses the threat of harm to the
16 community. The court may so conclude, if it finds that the
17 defendant is presently charged with a dangerous crime, that
18 there is a substantial probability that the defendant
19 committed such crime, that the factual circumstances of the
20 crime indicate a disregard for the safety of the community,
21 and that there are no conditions of release reasonably
22 sufficient to protect the community from the risk of physical
23 harm to persons.

24 6. The defendant was on probation, parole, or other
25 release pending completion of sentence or on pretrial release
26 for a dangerous crime at the time the current offense was
27 committed; or

28 7. The defendant has violated one or more conditions
29 of pretrial release or bond for the offense currently before
30 the court and the violation, in the discretion of the court,
31 supports a finding that no conditions of release can

1 reasonably protect the community from risk of physical harm to
2 persons or assure the presence of the accused at trial.

3 Section 40. For the purpose of incorporating the
4 amendments to sections 316.193 and 327.35, Florida Statutes,
5 in references thereto, section 938.07, Florida Statutes, is
6 reenacted to read:

7 938.07 Driving or boating under the
8 influence.--Notwithstanding any other provision of s. 316.193
9 or s. 327.35, a court cost of \$135 shall be added to any fine
10 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
11 remit the funds to the Department of Revenue, \$25 of which
12 shall be deposited in the Emergency Medical Services Trust
13 Fund, \$50 shall be deposited in the Criminal Justice Standards
14 and Training Trust Fund of the Department of Law Enforcement
15 to be used for operational expenses in conducting the
16 statewide criminal analysis laboratory system established in
17 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
18 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

19 Section 41. For the purpose of incorporating the
20 amendment to section 316.193, Florida Statutes, in references
21 thereto, section 938.21, Florida Statutes, is reenacted to
22 read:

23 938.21 Alcohol and drug abuse
24 programs.--Notwithstanding any provision to the contrary of
25 the laws of this state, the court may assess for alcohol and
26 other drug abuse programs as provided in s. 893.165 any
27 defendant who pleads guilty or nolo contendere to, or is
28 convicted of, a violation of any provision of chapter 893 or
29 which involves a criminal violation of s. 316.193, s. 856.011,
30 s. 856.015, or chapter 562, chapter 567, or chapter 568, in
31 addition to any fine and other penalty provided by law, a

1 court cost in an amount up to the amount of the fine
2 authorized for the violation. The court is authorized to order
3 a defendant to pay an additional assessment if it finds that
4 the defendant has the ability to pay the fine and the
5 additional assessment and will not be prevented thereby from
6 being rehabilitated or from making restitution.

7 Section 42. For the purpose of incorporating the
8 amendment to section 316.193, Florida Statutes, in references
9 thereto, subsection (1) of section 938.23, Florida Statutes,
10 is reenacted to read:

11 938.23 Assistance grants for alcohol and other drug
12 abuse programs.--

13 (1) In addition to any fine imposed by law for any
14 criminal offense under chapter 893 or for any criminal
15 violation of s. 316.193, s. 856.011, s. 856.015, or chapter
16 562, chapter 567, or chapter 568, the court shall be
17 authorized, pursuant to the requirements of s. 938.21, to
18 impose an additional assessment in an amount up to the amount
19 of the fine authorized for the offense. Such additional
20 assessments shall be deposited for the purpose of providing
21 assistance grants to drug abuse treatment or alcohol treatment
22 or education programs as provided in s. 893.165.

23 Section 43. For the purpose of incorporating the
24 amendment to section 316.193, Florida Statutes, in references
25 thereto, paragraph (d) of subsection (2) of section 943.05,
26 Florida Statutes, is reenacted to read:

27 943.05 Criminal Justice Information Program; duties;
28 crime reports.--

29 (2) The program shall:

30 (d) Adopt rules to effectively and efficiently
31 implement, administer, manage, maintain, and use the automated

1 fingerprint identification system and uniform offense reports
2 and arrest reports. The rules shall be considered minimum
3 requirements and shall not preclude a criminal justice agency
4 from implementing its own enhancements. However, rules and
5 forms prescribing uniform arrest or probable cause affidavits
6 and alcohol influence reports to be used by all law
7 enforcement agencies in making DUI arrests under s. 316.193
8 shall be adopted, and shall be used by all law enforcement
9 agencies in this state. The rules and forms prescribing such
10 uniform affidavits and reports shall be adopted and
11 implemented by July 1, 2004. Failure to use these uniform
12 affidavits and reports, however, shall not prohibit
13 prosecution under s. 316.193.

14 Section 44. For the purpose of incorporating the
15 amendment to section 316.193, Florida Statutes, in references
16 thereto, paragraph (b) of subsection (8) of section 948.03,
17 Florida Statutes, is reenacted to read:

18 948.03 Terms and conditions of probation or community
19 control.--

20 (8)

21 (b) In determining the average weekly wage, unless
22 otherwise determined by a specific funding program, all
23 remuneration received from the employer shall be considered a
24 gratuity, and the offender shall not be entitled to any
25 benefits otherwise payable under s. 440.15, regardless of
26 whether the offender may be receiving wages and remuneration
27 from other employment with another employer and regardless of
28 his or her future wage-earning capacity. The provisions of
29 this subsection do not apply to any person performing labor
30 under a sentence of a court to perform community services as
31 provided in s. 316.193.

1 Section 45. For the purpose of incorporating the
2 amendment made to section 316.193, Florida Statutes, in a
3 reference thereto, subsection (2) of section 948.036, Florida
4 Statutes, is reenacted to read:

5 948.036 Work programs as a condition of probation,
6 community control, or other court-ordered community
7 supervision.--

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

19 Section 46. For the purpose of incorporating the
20 amendment to section 316.193, Florida Statutes, in references
21 thereto, paragraph (b) of subsection (3) of section 960.03,
22 Florida Statutes, is reenacted to read:

23 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
24 960.01-960.28, unless the context otherwise requires, the
25 term:

26 (3) "Crime" means:

27 (b) A violation of s. 316.193, s. 316.027(1), s.
28 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results
29 in physical injury or death; however, no other act involving
30 the operation of a motor vehicle, boat, or aircraft which
31 results in injury or death shall constitute a crime for the

1 | purpose of this chapter unless the injury or death was
2 | intentionally inflicted through the use of such vehicle, boat,
3 | or aircraft or unless such vehicle, boat, or aircraft is an
4 | implement of a crime to which this act applies.

5 | Section 47. For the purpose of incorporating the
6 | amendment to section 327.35, Florida Statutes, in references
7 | thereto, subsection (3) of section 327.352, Florida Statutes,
8 | is reenacted to read:

9 | 327.352 Tests for alcohol, chemical substances, or
10 | controlled substances; implied consent; refusal.--

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

20 | Section 48. For the purpose of incorporating the
21 | amendment to section 327.35, Florida Statutes, in references
22 | thereto, subsections (1) and (2) of section 327.35215, Florida
23 | Statutes, are reenacted to read:

24 | 327.35215 Penalty for failure to submit to test.--

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

29 | (2) When a person refuses to submit to a blood test,
30 | breath test, or urine test pursuant to s. 327.352, a law
31 | enforcement officer who is authorized to make arrests for

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

10 | Section 49. For the purpose of incorporating the
11 | amendment to section 327.35, Florida Statutes, in references
12 | thereto, subsection (4) of section 327.353, Florida Statutes,
13 | is reenacted to read:

14 | 327.353 Blood test for impairment or intoxication in
15 | cases of death or serious bodily injury; right to use
16 | reasonable force.--

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

26 | Section 50. For the purpose of incorporating the
27 | amendment to section 327.35, Florida Statutes, in references
28 | thereto, subsections (1) and (4) of section 327.354, Florida
29 | Statutes, are reenacted to read:

30 | 327.354 Presumption of impairment; testing methods.--
31 |

1 (1) It is unlawful and punishable as provided in s.
2 327.35 for any person who is under the influence of alcoholic
3 beverages or controlled substances, when affected to the
4 extent that the person's normal faculties are impaired or to
5 the extent that the person is deprived of full possession of
6 normal faculties, to operate any vessel within this state.
7 Such normal faculties include, but are not limited to, the
8 ability to see, hear, walk, talk, judge distances, drive an
9 automobile, make judgments, act in emergencies, and, in
10 general, normally perform the many mental and physical acts of
11 daily life.

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

15 Section 51. For the purpose of incorporating the
16 amendment to section 327.35, Florida Statutes, in references
17 thereto, paragraph (a) of subsection (1) and subsection (4) of
18 section 327.355, Florida Statutes, are reenacted to read:

19 327.355 Operation of vessels by persons under 21 years
20 of age who have consumed alcoholic beverages.--

21 (1)(a) Notwithstanding s. 327.35, it is unlawful for a
22 person under the age of 21 who has a breath-alcohol level of
23 0.02 or higher to operate or be in actual physical control of
24 a vessel.

25 (4) A violation of this section is a noncriminal
26 infraction, and being detained pursuant to this section does
27 not constitute an arrest. This section does not bar
28 prosecution under s. 327.35, and the penalties provided herein
29 shall be imposed in addition to any other penalty provided for
30 boating under the influence or for refusal to submit to
31 testing.

1 Section 52. For the purpose of incorporating the
2 amendment to section 327.35, Florida Statutes, in references
3 thereto, subsection (2) of section 327.359, Florida Statutes,
4 is reenacted to read:

5 327.359 Refusal to submit to testing; penalties.--Any
6 person who has refused to submit to a chemical or physical
7 test of his or her breath, blood, or urine, as described in s.
8 327.352, and who has been previously fined for refusal to
9 submit to a lawful test of his or her breath, urine, or blood,
10 and:

11 (2) Who was placed under lawful arrest for a violation
12 of s. 327.35 unless such test was requested pursuant to s.
13 327.352(1)(c);

14
15 commits a misdemeanor of the first degree and is subject to
16 punishment as provided in s. 775.082 or s. 775.083.

17 Section 53. For the purpose of incorporating the
18 amendment to section 327.35, Florida Statutes, in references
19 thereto, section 327.36, Florida Statutes, is reenacted to
20 read:

21 327.36 Mandatory adjudication; prohibition against
22 accepting plea to lesser included offense.--

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

28 (2)(a) No trial judge may accept a plea of guilty to a
29 lesser offense from a person who is charged with a violation
30 of s. 327.35, manslaughter resulting from the operation of a
31 vessel, or vessel homicide and who has been given a breath or

