

HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

**BILL #:** HB 323  
**SPONSOR(S):** Mahon  
**TIED BILLS:**

Driving Under the Influence

**IDEN./SIM. BILLS:** SB 1632

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>14 Y, 0 N</u>	<u>St. Fleur</u>	<u>Miller</u>
2) <u>Criminal Justice Committee</u>	<u>7 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
3) <u>State Infrastructure Council</u>	<u>8 Y, 0 N</u>	<u>St. Fleur</u>	<u>Havlicak</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

---

**SUMMARY ANALYSIS**

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

DUI programs are provided by private organizations that provide education, evaluation and treatment referral services to DUI offenders as required by court order or by the Department of Highway Safety and Motor Vehicles (DHSMV). The programs are governed by administrative rules which require certain minimum hours of classroom instruction with certified instructors and interactive educational techniques. While DUI program classroom instruction is required under DHSMV rules, no specific provision in the Florida Statutes requires the program to be delivered in this manner.

The bill has the potential to impact those providers that would propose to conduct DUI courses via the Internet or by other alternative methods. The bill has no fiscal impact on state or local governments and becomes effective July 1, 2005.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill would prevent private organizations that could potentially offer alternative methods of DUI educational courses from providing such services in the state. However, these alternative methods are not currently allowed by DHSMV rules.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

A person who is convicted of a DUI offense is required to complete a substance abuse course conducted by a DUI program.<sup>1</sup> DUI programs are provided by private organizations that provide education, evaluation and treatment referral services as required by court order or by the Department of Highway Safety and Motor Vehicles (DHSMV). The programs are governed by administrative rules which require certain minimum hours of classroom instruction with certified instructors and interactive educational techniques. While DUI program classroom instruction is required under department rules, no specific provision in the Florida Statutes requires the program to be delivered in this manner.

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

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

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

##### Effect of Proposed Changes

HB 323 incorporates current DUI program standards from the Florida Administrative Code into law. The bill amends s. 322.292, F.S., requiring that DUI education courses be conducted only by certified DUI instructors. The bill requires face-to-face instruction and interaction in the classroom among offenders and instructors. The bill specifically prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and all offenders are not physically present in the same classroom.

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

---

<sup>1</sup> s. 316.193(5), F.S.

<sup>2</sup> s. 322.292(2)(c)5.c.

<sup>3</sup> See Rule 15A-10.023(1)

C. SECTION DIRECTORY:

Section 1. Creates subsection (4) of s. 322.292, F.S., requiring DUI certified instructors in the classroom and prohibiting alternative methods for DUI education courses.

Section 2. Provides an effective date of July 1, 2005.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would prevent private organizations that might specialize in alternative methods of DUI educational courses from providing such services in the state. HB 323 will allow DUI educational courses to be conducted only by organizations that are registered with DHSMV's DUI program and meet this bill's classroom only guidelines.

D. FISCAL COMMENTS:

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

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require counties or municipalities to spend funds or take actions requiring expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**