

1                                   A bill to be entitled  
2       An act relating to driving or boating under the influence;  
3       amending s. 316.193, F.S.; revising level of alcohol  
4       content in blood or breath at which certain penalties  
5       shall apply for the offense of driving under the  
6       influence; amending s. 316.656, F.S.; revising level of  
7       alcohol content in blood or breath at which the  
8       prohibition against accepting plea to lesser offense shall  
9       apply; amending s. 327.35, F.S.; revising level of alcohol  
10      content in blood or breath at which certain penalties  
11      shall apply for the offense of boating under the  
12      influence; reenacting ss. 142.01(1), 316.066(3)(a),  
13      316.072(4)(b), 316.1932(3), 316.1933(4), 316.1934(1) and  
14      (4), 316.1937(1) and (2)(d), 316.1939(1)(b), 318.143(4)  
15      and (5), 318.17(3), 322.03(2), 322.0602(2)(a), 322.21(8),  
16      322.25(5), 322.26(1)(a), 322.2615(1), (2), (7), (8)(b),  
17      (10)(b), and (14), 322.2616(1)(a), (15), and (19),  
18      322.264(1)(b), 322.271(2)(a), (2)(c), and (4), 322.28(2),  
19      322.282(2)(a), 322.291(1)(a), 322.34(9)(a), 322.44,  
20      322.62(3), 322.63(2)(d) and (6), 322.64(1), (2), (7)(a),  
21      (8)(b), (14), and (15), 323.001(4)(f), 327.35(6),  
22      397.405(10), 440.02(17)(c), 440.09(7)(b), 493.6106(1)(d),  
23      627.758(4), 790.06(2)(f) and (10)(f), 903.36(2),  
24      907.041(4)(c), 938.07, 938.21, 938.23(1), 943.05(2)(d),  
25      948.036(2), and 960.03(3)(b), F.S., relating to fine and  
26      forfeiture funds, written reports of crashes, obedience to  
27      and effect of traffic laws, tests for alcohol, chemical  
28      substances, or controlled substances, blood test for

29 | impairment or intoxication in cases of death or serious  
30 | bodily injury, presumption of impairment, ignition  
31 | interlock devices, refusal to submit to testing,  
32 | infractions by minors, disposition of traffic infractions,  
33 | driver license requirements, the Youthful Drunk Driver  
34 | Visitation Program, license fees, reports of convictions  
35 | and temporary reinstatement of driving privileges,  
36 | revocation of license, suspension of license and right to  
37 | review, habitual traffic offenders, authority to modify  
38 | revocation, cancellation, or suspension order, period of  
39 | suspension or revocation, procedure when court revokes or  
40 | suspends license or driving privilege and orders  
41 | reinstatement, driver improvement schools or DUI programs,  
42 | driving while license suspended, revoked, canceled, or  
43 | disqualified, Driver License Compact, commercial motor  
44 | vehicle operators driving under the influence and testing,  
45 | holder of commercial driver license driving with unlawful  
46 | blood-alcohol level, refusal to submit to test, wrecker  
47 | operator storage facilities, boating under the influence,  
48 | DUI education and screening services, sentence of a court  
49 | to perform community services, workers' compensation  
50 | coverage, private investigative agency license  
51 | requirements, surety on traffic arrest bond, license to  
52 | carry concealed weapon or firearm, guaranteed arrest bond  
53 | certificates, pretrial detention and release, court costs,  
54 | alcohol and drug abuse programs, assistance grants for  
55 | alcohol and other drug abuse programs, the Criminal  
56 | Justice Information Program, work programs as a condition

57 of community supervision, and the Florida Crimes  
 58 Compensation Act; incorporating the amendment to s.  
 59 316.193, F.S., in references thereto; reenacting ss.  
 60 142.01(1), 327.352(3), 327.35215(1) and (2), 327.353(4),  
 61 327.354(1) and (4), 327.355(1)(a) and (4), 327.359(2),  
 62 327.36, and 938.07, F.S., relating to fine and forfeiture  
 63 funds, tests for alcohol or chemical substances or  
 64 controlled substances, penalty for failure to submit to  
 65 test, blood test for impairment or intoxication in cases  
 66 of death or serious bodily injury, presumption of  
 67 impairment, operation of vessels by persons under 21 years  
 68 of age who have consumed alcoholic beverages, refusal to  
 69 submit to testing, mandatory adjudication, and court  
 70 costs; incorporating the amendment to s. 327.35, F.S., in  
 71 references thereto; providing an effective date.

72  
 73 Be It Enacted by the Legislature of the State of Florida:

74  
 75 Section 1. Subsection (4) of section 316.193, Florida  
 76 Statutes, is amended to read:

77 316.193 Driving under the influence; penalties.--

78 (4)(a) Any person who is convicted of a violation of  
 79 subsection (1) and who has a blood-alcohol level or breath-  
 80 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is  
 81 convicted of a violation of subsection (1) and who at the time  
 82 of the offense was accompanied in the vehicle by a person under  
 83 the age of 18 years, shall be punished:

84 1.(a) By a fine of:

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

87 b.2. Not less than \$1,000 or more than \$2,000 for a second  
 88 conviction.

89 c.3. Not less than \$2,000 for a third or subsequent  
 90 conviction.

91 2.(b) By imprisonment for:

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

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

94

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

98 (b)(e) In addition to the penalties in paragraph  
 99 paragraphs (a) and (b), the court shall order the mandatory  
 100 placement, at the convicted person's sole expense, of an  
 101 ignition interlock device approved by the department in  
 102 accordance with s. 316.1938 upon all vehicles that are  
 103 individually or jointly leased or owned and routinely operated  
 104 by the convicted person for up to 6 months for the first offense  
 105 and for at least 2 years for a second offense, when the  
 106 convicted person qualifies for a permanent or restricted  
 107 license. The installation of such device may not occur before  
 108 July 1, 2003.

109

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

113 Section 2. Section 316.656, Florida Statutes, is amended  
 114 to read:

115 316.656 Mandatory adjudication; prohibition against  
 116 accepting plea to lesser included offense.--

117 (1) Notwithstanding the provisions of s. 948.01, no court  
 118 may suspend, defer, or withhold adjudication of guilt or  
 119 imposition of sentence for any violation of s. 316.193, for  
 120 manslaughter resulting from the operation of a motor vehicle, or  
 121 for vehicular homicide.

122 (2)(a) No trial judge may accept a plea of guilty to a  
 123 lesser offense from a person charged under the provisions of  
 124 this act who has been given a breath or blood test to determine  
 125 blood or breath alcohol content, the results of which show a  
 126 blood or breath alcohol content by weight of 0.16 ~~0.20~~ percent  
 127 or more.

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

132 Section 3. Subsection (4) of section 327.35, Florida  
 133 Statutes, is amended to read:

134 327.35 Boating under the influence; penalties; "designated  
 135 drivers".--

136 (4) Any person who is convicted of a violation of  
 137 subsection (1) and who has a blood-alcohol level or breath-  
 138 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is  
 139 convicted of a violation of subsection (1) and who at the time

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140 of the offense was accompanied in the vessel by a person under  
 141 the age of 18 years, shall be punished:

142 (a) By a fine of:

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

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

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

149 (b) By imprisonment for:

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

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

152

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

157 Section 4. For the purpose of incorporating the amendments  
 158 to sections 316.193 and 327.35, Florida Statutes, in references  
 159 thereto, subsection (1) of section 142.01, Florida Statutes, is  
 160 reenacted to read:

161 142.01 Fine and forfeiture fund; clerk of the circuit  
 162 court.--There shall be established by the clerk of the circuit  
 163 court in each county of this state a separate fund to be known  
 164 as the fine and forfeiture fund for use by the clerk of the  
 165 circuit court in performing court-related functions. The fund  
 166 shall consist of the following:

167 (1) Fines and penalties pursuant to ss. 28.2402(2),  
 168 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).  
 169

170 Notwithstanding the provisions of this section, all fines and  
 171 forfeitures arising from operation of the provisions of s.  
 172 318.1215 shall be disbursed in accordance with that section.

173 Section 5. For the purpose of incorporating the amendment  
 174 to section 316.193, Florida Statutes, in a reference thereto,  
 175 paragraph (a) of subsection (3) of section 316.066, Florida  
 176 Statutes, is reenacted to read:

177 316.066 Written reports of crashes.--

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

180 1. Which crash resulted in death or personal injury shall,  
 181 within 10 days after completing the investigation, forward a  
 182 written report of the crash to the department or traffic records  
 183 center.

184 2. Which crash involved a violation of s. 316.061(1) or s.  
 185 316.193 shall, within 10 days after completing the  
 186 investigation, forward a written report of the crash to the  
 187 department or traffic records center.

188 3. In which crash a vehicle was rendered inoperative to a  
 189 degree which required a wrecker to remove it from traffic may,  
 190 within 10 days after completing the investigation, forward a  
 191 written report of the crash to the department or traffic records  
 192 center if such action is appropriate, in the officer's  
 193 discretion.

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195 However, in every case in which a crash report is required by  
196 this section and a written report to a law enforcement officer  
197 is not prepared, the law enforcement officer shall provide each  
198 party involved in the crash a short-form report, prescribed by  
199 the state, to be completed by the party. The short-form report  
200 must include, but is not limited to: the date, time, and  
201 location of the crash; a description of the vehicles involved;  
202 the names and addresses of the parties involved; the names and  
203 addresses of witnesses; the name, badge number, and law  
204 enforcement agency of the officer investigating the crash; and  
205 the names of the insurance companies for the respective parties  
206 involved in the crash. Each party to the crash shall provide the  
207 law enforcement officer with proof of insurance to be included  
208 in the crash report. If a law enforcement officer submits a  
209 report on the accident, proof of insurance must be provided to  
210 the officer by each party involved in the crash. Any party who  
211 fails to provide the required information is guilty of an  
212 infraction for a nonmoving violation, punishable as provided in  
213 chapter 318 unless the officer determines that due to injuries  
214 or other special circumstances such insurance information cannot  
215 be provided immediately. If the person provides the law  
216 enforcement agency, within 24 hours after the crash, proof of  
217 insurance that was valid at the time of the crash, the law  
218 enforcement agency may void the citation.

219 Section 6. For the purpose of incorporating the amendment  
220 to section 316.193, Florida Statutes, in a reference thereto,  
221 paragraph (b) of subsection (4) of section 316.072, Florida  
222 Statutes, is reenacted to read:



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223 316.072 Obedience to and effect of traffic laws.--

224 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;  
225 EXCEPTIONS.--

226 (b) Unless specifically made applicable, the provisions of  
227 this chapter, except those contained in ss. 316.192, 316.1925,  
228 and 316.193, shall not apply to persons, teams, or motor  
229 vehicles and other equipment while actually engaged in work upon  
230 the surface of a highway, but shall apply to such persons and  
231 vehicles when traveling to or from such work.

232 Section 7. For the purpose of incorporating the amendment  
233 to section 316.193, Florida Statutes, in a reference thereto,  
234 subsection (3) of section 316.1932, Florida Statutes, is  
235 reenacted to read:

236 316.1932 Tests for alcohol, chemical substances, or  
237 controlled substances; implied consent; refusal.--

238 (3) Notwithstanding any provision of law pertaining to the  
239 confidentiality of hospital records or other medical records,  
240 information relating to the alcoholic content of the blood or  
241 breath or the presence of chemical substances or controlled  
242 substances in the blood obtained pursuant to this section shall  
243 be released to a court, prosecuting attorney, defense attorney,  
244 or law enforcement officer in connection with an alleged  
245 violation of s. 316.193 upon request for such information.

246 Section 8. For the purpose of incorporating the amendment  
247 to section 316.193, Florida Statutes, in a reference thereto,  
248 subsection (4) of section 316.1933, Florida Statutes, is  
249 reenacted to read:

250           316.1933 Blood test for impairment or intoxication in  
 251 cases of death or serious bodily injury; right to use reasonable  
 252 force.--

253           (4) Notwithstanding any provision of law pertaining to the  
 254 confidentiality of hospital records or other medical records,  
 255 information relating to the alcoholic content of the blood or  
 256 the presence of chemical substances or controlled substances in  
 257 the blood obtained pursuant to this section shall be released to  
 258 a court, prosecuting attorney, defense attorney, or law  
 259 enforcement officer in connection with an alleged violation of  
 260 s. 316.193 upon request for such information.

261           Section 9. For the purpose of incorporating the amendment  
 262 to section 316.193, Florida Statutes, in references thereto,  
 263 subsections (1) and (4) of section 316.1934, Florida Statutes,  
 264 are reenacted to read:

265           316.1934 Presumption of impairment; testing methods.--

266           (1) It is unlawful and punishable as provided in chapter  
 267 322 and in s. 316.193 for any person who is under the influence  
 268 of alcoholic beverages or controlled substances, when affected  
 269 to the extent that the person's normal faculties are impaired or  
 270 to the extent that the person is deprived of full possession of  
 271 normal faculties, to drive or be in actual physical control of  
 272 any motor vehicle within this state. Such normal faculties  
 273 include, but are not limited to, the ability to see, hear, walk,  
 274 talk, judge distances, drive an automobile, make judgments, act  
 275 in emergencies, and, in general, normally perform the many  
 276 mental and physical acts of daily life.

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

280 Section 10. For the purpose of incorporating the amendment  
281 to section 316.193, Florida Statutes, in references thereto,  
282 subsection (1) and paragraph (d) of subsection (2) of section  
283 316.1937, Florida Statutes, are reenacted to read:

284 316.1937 Ignition interlock devices, requiring; unlawful  
285 acts.--

286 (1) In addition to any other authorized penalties, the  
287 court may require that any person who is convicted of driving  
288 under the influence in violation of s. 316.193 shall not operate  
289 a motor vehicle unless that vehicle is equipped with a  
290 functioning ignition interlock device certified by the  
291 department as provided in s. 316.1938, and installed in such a  
292 manner that the vehicle will not start if the operator's blood  
293 alcohol level is in excess of 0.05 percent or as otherwise  
294 specified by the court. The court may require the use of an  
295 approved ignition interlock device for a period of not less than  
296 6 months, if the person is permitted to operate a motor vehicle,  
297 whether or not the privilege to operate a motor vehicle is  
298 restricted, as determined by the court. The court, however,  
299 shall order placement of an ignition interlock device in those  
300 circumstances required by s. 316.193.

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

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

305 | court determines that the person is unable to pay for  
 306 | installation of the device, the court may order that any portion  
 307 | of a fine paid by the person for a violation of s. 316.193 shall  
 308 | be allocated to defray the costs of installing the device.

309 |       Section 11. For the purpose of incorporating the amendment  
 310 | to section 316.193, Florida Statutes, in a reference thereto,  
 311 | paragraph (b) of subsection (1) of section 316.1939, Florida  
 312 | Statutes, is reenacted to read:

313 |           316.1939 Refusal to submit to testing; penalties.--

314 |       (1) Any person who has refused to submit to a chemical or  
 315 | physical test of his or her breath, blood, or urine, as  
 316 | described in s. 316.1932, and whose driving privilege was  
 317 | previously suspended for a prior refusal to submit to a lawful  
 318 | test of his or her breath, urine, or blood, and:

319 |       (b) Who was placed under lawful arrest for a violation of  
 320 | s. 316.193 unless such test was requested pursuant to s.  
 321 | 316.1932(1)(c);

322 |  
 323 | commits a misdemeanor of the first degree and is subject to  
 324 | punishment as provided in s. 775.082 or s. 775.083.

325 |       Section 12. For the purpose of incorporating the amendment  
 326 | to section 316.193, Florida Statutes, in references thereto,  
 327 | subsections (4) and (5) of section 318.143, Florida Statutes,  
 328 | are reenacted to read:

329 |           318.143 Sanctions for infractions by minors.--

330 |       (4) For the first conviction for a violation of s.  
 331 | 316.193, the court may order the Department of Highway Safety  
 332 | and Motor Vehicles to revoke the minor's driver's license until

333 the minor is 18 years of age. For a second or subsequent  
 334 conviction for such a violation, the court may order the  
 335 Department of Highway Safety and Motor Vehicles to revoke the  
 336 minor's driver's license until the minor is 21 years of age.

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

339 (a) The minor is no longer under the influence of  
 340 alcoholic beverages, of any chemical substance set forth in s.  
 341 877.111, or of any substance controlled under chapter 893, and  
 342 is not affected to the extent that his or her normal faculties  
 343 are impaired;

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

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

347 Section 13. For the purpose of incorporating the amendment  
 348 to section 316.193, Florida Statutes, in a reference thereto,  
 349 subsection (3) of section 318.17, Florida Statutes, is reenacted  
 350 to read:

351 318.17 Offenses excepted.--No provision of this chapter is  
 352 available to a person who is charged with any of the following  
 353 offenses:

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

359 Section 14. For the purpose of incorporating the amendment  
 360 to section 316.193, Florida Statutes, in references thereto,

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361 subsection (2) of section 322.03, Florida Statutes, is reenacted  
 362 to read:

363 322.03 Drivers must be licensed; penalties.--

364 (2) Prior to issuing a driver's license, the department  
 365 shall require any person who has been convicted two or more  
 366 times of a violation of s. 316.193 or of a substantially similar  
 367 alcohol-related or drug-related offense outside this state  
 368 within the preceding 5 years, or who has been convicted of three  
 369 or more such offenses within the preceding 10 years, to present  
 370 proof of successful completion of or enrollment in a department-  
 371 approved substance abuse education course. If the person fails  
 372 to complete such education course within 90 days after issuance,  
 373 the department shall cancel the license. Further, prior to  
 374 issuing the driver's license the department shall require such  
 375 person to present proof of financial responsibility as provided  
 376 in s. 324.031. For the purposes of this paragraph, a previous  
 377 conviction for violation of former s. 316.028, former s.  
 378 316.1931, or former s. 860.01 shall be considered a previous  
 379 conviction for violation of s. 316.193.

380 Section 15. For the purpose of incorporating the amendment  
 381 to section 316.193, Florida Statutes, in a reference thereto,  
 382 paragraph (a) of subsection (2) of section 322.0602, Florida  
 383 Statutes, is reenacted to read:

384 322.0602 Youthful Drunk Driver Visitation Program.--

385 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR  
 386 PARTICIPATION.--

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

389 addition to any other term or condition required or authorized  
 390 by law, that the probationer participate in the Youthful Drunk  
 391 Driver Visitation Program.

392 Section 16. For the purpose of incorporating the amendment  
 393 to section 316.193, Florida Statutes, in a reference thereto,  
 394 subsection (8) of section 322.21, Florida Statutes, is reenacted  
 395 to read:

396 322.21 License fees; procedure for handling and collecting  
 397 fees.--

398 (8) Any person who applies for reinstatement following the  
 399 suspension or revocation of the person's driver's license shall  
 400 pay a service fee of \$35 following a suspension, and \$60  
 401 following a revocation, which is in addition to the fee for a  
 402 license. Any person who applies for reinstatement of a  
 403 commercial driver's license following the disqualification of  
 404 the person's privilege to operate a commercial motor vehicle  
 405 shall pay a service fee of \$60, which is in addition to the fee  
 406 for a license. The department shall collect all of these fees at  
 407 the time of reinstatement. The department shall issue proper  
 408 receipts for such fees and shall promptly transmit all funds  
 409 received by it as follows:

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

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

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

418  
 419 If the revocation or suspension of the driver's license was for  
 420 a violation of s. 316.193, or for refusal to submit to a lawful  
 421 breath, blood, or urine test, an additional fee of \$115 must be  
 422 charged. However, only one \$115 fee may be collected from one  
 423 person convicted of violations arising out of the same incident.  
 424 The department shall collect the \$115 fee and deposit the fee  
 425 into the Highway Safety Operating Trust Fund at the time of  
 426 reinstatement of the person's driver's license, but the fee may  
 427 not be collected if the suspension or revocation is overturned.

428 Section 17. For the purpose of incorporating the amendment  
 429 to section 316.193, Florida Statutes, in a reference thereto,  
 430 subsection (5) of section 322.25, Florida Statutes, is reenacted  
 431 to read:

432 322.25 When court to forward license to department and  
 433 report convictions; temporary reinstatement of driving  
 434 privileges.--

435 (5) For the purpose of this chapter, the entrance of a  
 436 plea of nolo contendere by the defendant to a charge of driving  
 437 while intoxicated, driving under the influence, driving with an  
 438 unlawful blood-alcohol level, or any other alcohol-related or  
 439 drug-related traffic offense similar to the offenses specified  
 440 in s. 316.193, accepted by the court and under which plea the  
 441 court has entered a fine or sentence, whether in this state or  
 442 any other state or country, shall be equivalent to a conviction.



443 Section 18. For the purpose of incorporating the amendment  
 444 to section 316.193, Florida Statutes, in a reference thereto,  
 445 paragraph (a) of subsection (1) of section 322.26, Florida  
 446 Statutes, is reenacted to read:

447 322.26 Mandatory revocation of license by department.--The  
 448 department shall forthwith revoke the license or driving  
 449 privilege of any person upon receiving a record of such person's  
 450 conviction of any of the following offenses:

451 (1)(a) Murder resulting from the operation of a motor  
 452 vehicle, DUI manslaughter where the conviction represents a  
 453 subsequent DUI-related conviction, or a fourth violation of s.  
 454 316.193 or former s. 316.1931. For such cases, the revocation of  
 455 the driver's license or driving privilege shall be permanent.

456 Section 19. For the purpose of incorporating the amendment  
 457 to section 316.193, Florida Statutes, in references thereto,  
 458 subsections (1), (2), and (7), paragraph (b) of subsection (8),  
 459 paragraph (b) of subsection (10), and subsection (14) of section  
 460 322.2615, Florida Statutes, are reenacted to read:

461 322.2615 Suspension of license; right to review.--

462 (1)(a) A law enforcement officer or correctional officer  
 463 shall, on behalf of the department, suspend the driving  
 464 privilege of a person who has been arrested by a law enforcement  
 465 officer for a violation of s. 316.193, relating to unlawful  
 466 blood-alcohol level or breath-alcohol level, or of a person who  
 467 has refused to submit to a breath, urine, or blood test  
 468 authorized by s. 316.1932. The officer shall take the person's  
 469 driver's license and issue the person a 10-day temporary permit  
 470 if the person is otherwise eligible for the driving privilege

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471 and shall issue the person a notice of suspension. If a blood  
472 test has been administered, the results of which are not  
473 available to the officer at the time of the arrest, the agency  
474 employing the officer shall transmit such results to the  
475 department within 5 days after receipt of the results. If the  
476 department then determines that the person was arrested for a  
477 violation of s. 316.193 and that the person had a blood-alcohol  
478 level or breath-alcohol level of 0.08 or higher, the department  
479 shall suspend the person's driver's license pursuant to  
480 subsection (3).

481 (b) The suspension under paragraph (a) shall be pursuant  
482 to, and the notice of suspension shall inform the driver of, the  
483 following:

484 1.a. The driver refused to submit to a lawful breath,  
485 blood, or urine test and his or her driving privilege is  
486 suspended for a period of 1 year for a first refusal or for a  
487 period of 18 months if his or her driving privilege has been  
488 previously suspended as a result of a refusal to submit to such  
489 a test; or

490 b. The driver violated s. 316.193 by driving with an  
491 unlawful blood-alcohol level as provided in that section and his  
492 or her driving privilege is suspended for a period of 6 months  
493 for a first offense or for a period of 1 year if his or her  
494 driving privilege has been previously suspended for a violation  
495 of s. 316.193.

496 2. The suspension period shall commence on the date of  
497 arrest or issuance of the notice of suspension, whichever is  
498 later.

499           3. The driver may request a formal or informal review of  
 500 the suspension by the department within 10 days after the date  
 501 of arrest or issuance of the notice of suspension, whichever is  
 502 later.

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

506           5. The driver may submit to the department any materials  
 507 relevant to the arrest.

508           (2) Except as provided in paragraph (1)(a), the law  
 509 enforcement officer shall forward to the department, within 5  
 510 days after the date of the arrest, a copy of the notice of  
 511 suspension, the driver's license of the person arrested, and a  
 512 report of the arrest, including an affidavit stating the  
 513 officer's grounds for belief that the person arrested was in  
 514 violation of s. 316.193; the results of any breath or blood test  
 515 or an affidavit stating that a breath, blood, or urine test was  
 516 requested by a law enforcement officer or correctional officer  
 517 and that the person arrested refused to submit; a copy of the  
 518 citation issued to the person arrested; and the officer's  
 519 description of the person's field sobriety test, if any. The  
 520 failure of the officer to submit materials within the 5-day  
 521 period specified in this subsection and in subsection (1) shall  
 522 not affect the department's ability to consider any evidence  
 523 submitted at or prior to the hearing. The officer may also  
 524 submit a copy of a videotape of the field sobriety test or the  
 525 attempt to administer such test.

526 (7) In a formal review hearing under subsection (6) or an  
527 informal review hearing under subsection (4), the hearing  
528 officer shall determine by a preponderance of the evidence  
529 whether sufficient cause exists to sustain, amend, or invalidate  
530 the suspension. The scope of the review shall be limited to the  
531 following issues:

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

534 1. Whether the arresting law enforcement officer had  
535 probable cause to believe that the person was driving or in  
536 actual physical control of a motor vehicle in this state while  
537 under the influence of alcoholic beverages or controlled  
538 substances.

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

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

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

545 1. Whether the arresting law enforcement officer had  
546 probable cause to believe that the person was driving or in  
547 actual physical control of a motor vehicle in this state while  
548 under the influence of alcoholic beverages or controlled  
549 substances.

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

552           3. Whether the person refused to submit to any such test  
 553 after being requested to do so by a law enforcement officer or  
 554 correctional officer.

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

560           (8) Based on the determination of the hearing officer  
 561 pursuant to subsection (7) for both informal hearings under  
 562 subsection (4) and formal hearings under subsection (6), the  
 563 department shall:

564           (b) Sustain the suspension of the person's driving  
 565 privilege for a period of 6 months for a violation of s.  
 566 316.193, or for a period of 1 year if the driving privilege of  
 567 such person has been previously suspended as a result of a  
 568 violation of s. 316.193. The suspension period commences on the  
 569 date of the arrest or issuance of the notice of suspension,  
 570 whichever is later.

571           (10) A person whose driver's license is suspended under  
 572 subsection (1) or subsection (3) may apply for issuance of a  
 573 license for business or employment purposes only if the person  
 574 is otherwise eligible for the driving privilege pursuant to s.  
 575 322.271.

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

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580 purposes only pursuant to s. 322.271 until 30 days have elapsed  
581 after the expiration of the last temporary permit issued. If the  
582 driver is not issued a 10-day permit pursuant to this section or  
583 s. 322.64 because he or she is ineligible for the permit and the  
584 suspension for a violation of s. 316.193, relating to unlawful  
585 blood-alcohol level, is not invalidated by the department, the  
586 driver is not eligible to receive a business or employment  
587 license pursuant to s. 322.271 until 30 days have elapsed from  
588 the date of the arrest.

589 (14) The decision of the department under this section  
590 shall not be considered in any trial for a violation of s.  
591 316.193, nor shall any written statement submitted by a person  
592 in his or her request for departmental review under this section  
593 be admissible into evidence against him or her in any such  
594 trial. The disposition of any related criminal proceedings shall  
595 not affect a suspension imposed pursuant to this section.

596 Section 20. For the purpose of incorporating the amendment  
597 to section 316.193, Florida Statutes, in references thereto,  
598 paragraph (a) of subsection (1) and subsections (15) and (19) of  
599 section 322.2616, Florida Statutes, are reenacted to read:

600 322.2616 Suspension of license; persons under 21 years of  
601 age; right to review.--

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

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

608 316.193, nor shall any written statement submitted by a person  
 609 in his or her request for departmental review under this section  
 610 be admissible into evidence against him or her in any such  
 611 trial. The disposition of any related criminal proceedings shall  
 612 not affect a suspension imposed under this section.

613 (19) A violation of this section is neither a traffic  
 614 infraction nor a criminal offense, nor does being detained  
 615 pursuant to this section constitute an arrest. A violation of  
 616 this section is subject to the administrative action provisions  
 617 of this section, which are administered by the department  
 618 through its administrative processes. Administrative actions  
 619 taken pursuant to this section shall be recorded in the motor  
 620 vehicle records maintained by the department. This section does  
 621 not bar prosecution under s. 316.193. However, if the department  
 622 suspends a person's license under s. 322.2615 for a violation of  
 623 s. 316.193, it may not also suspend the person's license under  
 624 this section for the same episode that was the basis for the  
 625 suspension under s. 322.2615.

626 Section 21. For the purpose of incorporating the amendment  
 627 to section 316.193, Florida Statutes, in a reference thereto,  
 628 paragraph (b) of subsection (1) of section 322.264, Florida  
 629 Statutes, is reenacted to read:

630 322.264 "Habitual traffic offender" defined.--A "habitual  
 631 traffic offender" is any person whose record, as maintained by  
 632 the Department of Highway Safety and Motor Vehicles, shows that  
 633 such person has accumulated the specified number of convictions  
 634 for offenses described in subsection (1) or subsection (2)  
 635 within a 5-year period:

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

638 (b) Any violation of s. 316.193, former s. 316.1931, or  
 639 former s. 860.01;

640  
 641 Any violation of any federal law, any law of another state or  
 642 country, or any valid ordinance of a municipality or county of  
 643 another state similar to a statutory prohibition specified in  
 644 subsection (1) or subsection (2) shall be counted as a violation  
 645 of such prohibition. In computing the number of convictions, all  
 646 convictions during the 5 years previous to July 1, 1972, will be  
 647 used, provided at least one conviction occurs after that date.  
 648 The fact that previous convictions may have resulted in  
 649 suspension, revocation, or disqualification under another  
 650 section does not exempt them from being used for suspension or  
 651 revocation under this section as a habitual offender.

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

656 322.271 Authority to modify revocation, cancellation, or  
 657 suspension order.--

658 (2)(a) Upon such hearing, the person whose license has  
 659 been suspended, canceled, or revoked may show that such  
 660 suspension, cancellation, or revocation of his or her license  
 661 causes a serious hardship and precludes the person's carrying  
 662 out his or her normal business occupation, trade, or employment  
 663 and that the use of the person's license in the normal course of



664 his or her business is necessary to the proper support of the  
665 person or his or her family. Except as otherwise provided in  
666 this subsection, the department shall require proof of the  
667 successful completion of the applicable department-approved  
668 driver training course operating pursuant to s. 318.1451 or DUI  
669 program substance abuse education course and evaluation as  
670 provided in s. 316.193(5). Letters of recommendation from  
671 respected business persons in the community, law enforcement  
672 officers, or judicial officers may also be required to determine  
673 whether such person should be permitted to operate a motor  
674 vehicle on a restricted basis for business or employment use  
675 only and in determining whether such person can be trusted to so  
676 operate a motor vehicle. If a driver's license has been  
677 suspended under the point system or pursuant to s. 322.2615, the  
678 department shall require proof of enrollment in the applicable  
679 department-approved driver training course or licensed DUI  
680 program substance abuse education course, including evaluation  
681 and treatment, if referred, and may require letters of  
682 recommendation described in this subsection to determine if the  
683 driver should be reinstated on a restricted basis. If such  
684 person fails to complete the approved course within 90 days  
685 after reinstatement or subsequently fails to complete treatment,  
686 if applicable, the department shall cancel his or her driver's  
687 license until the course and treatment, if applicable, is  
688 successfully completed, notwithstanding the terms of the court  
689 order or any suspension or revocation of the driving privilege.  
690 The department may temporarily reinstate the driving privilege  
691 on a restricted basis upon verification from the DUI program

692 that the offender has reentered and is currently participating  
 693 in treatment and has completed the DUI education course and  
 694 evaluation requirement. If the DUI program notifies the  
 695 department of the second failure to complete treatment, the  
 696 department shall reinstate the driving privilege only after  
 697 notice of completion of treatment from the DUI program. The  
 698 privilege of driving on a limited or restricted basis for  
 699 business or employment use shall not be granted to a person who  
 700 has been convicted of a violation of s. 316.193 until completion  
 701 of the DUI program substance abuse education course and  
 702 evaluations as provided in s. 316.193(5). Except as provided in  
 703 paragraph (b), the privilege of driving on a limited or  
 704 restricted basis for business or employment use shall not be  
 705 granted to a person whose license is revoked pursuant to s.  
 706 322.28 or suspended pursuant to s. 322.2615 and who has been  
 707 convicted of a violation of s. 316.193 two or more times or  
 708 whose license has been suspended two or more times for refusal  
 709 to submit to a test pursuant to s. 322.2615 or former s.  
 710 322.261.

711 (c) For the purpose of this section, a previous conviction  
 712 of driving under the influence, driving while intoxicated,  
 713 driving with an unlawful blood-alcohol level, or any other  
 714 similar alcohol-related or drug-related offense outside this  
 715 state or a previous conviction of former s. 316.1931, former s.  
 716 316.028, or former s. 860.01 shall be considered a previous  
 717 conviction for violation of s. 316.193.

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

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720 because he or she has been convicted of DUI manslaughter in  
721 violation of s. 316.193 and has no prior convictions for DUI-  
722 related offenses may, upon the expiration of 5 years after the  
723 date of such revocation or the expiration of 5 years after the  
724 termination of any term of incarceration under s. 316.193 or  
725 former s. 316.1931, whichever date is later, petition the  
726 department for reinstatement of his or her driving privilege.

727 (a) Within 30 days after the receipt of such a petition,  
728 the department shall afford the petitioner an opportunity for a  
729 hearing. At the hearing, the petitioner must demonstrate to the  
730 department that he or she:

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

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

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

737 4. Has completed a DUI program licensed by the department.

738 (b) At such hearing, the department shall determine the  
739 petitioner's qualification, fitness, and need to drive. Upon  
740 such determination, the department may, in its discretion,  
741 reinstate the driver's license of the petitioner. Such  
742 reinstatement must be made subject to the following  
743 qualifications:

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

746 2. Such person must be supervised by a DUI program  
747 licensed by the department and report to the program for such

748 supervision and education at least four times a year or  
 749 additionally as required by the program for the remainder of the  
 750 revocation period. Such supervision shall include evaluation,  
 751 education, referral into treatment, and other activities  
 752 required by the department.

753 (c) Such person must assume the reasonable costs of  
 754 supervision. If such person fails to comply with the required  
 755 supervision, the program shall report the failure to the  
 756 department, and the department shall cancel such person's  
 757 driving privilege.

758 (d) If, after reinstatement, such person is convicted of  
 759 an offense for which mandatory revocation of his or her license  
 760 is required, the department shall revoke his or her driving  
 761 privilege.

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

764 Section 23. For the purpose of incorporating the amendment  
 765 to section 316.193, Florida Statutes, in references thereto,  
 766 subsection (2) of section 322.28, Florida Statutes, is reenacted  
 767 to read:

768 322.28 Period of suspension or revocation.--

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

771 (a) Upon conviction of the driver, the court, along with  
 772 imposing sentence, shall revoke the driver's license or driving  
 773 privilege of the person so convicted, effective on the date of  
 774 conviction, and shall prescribe the period of such revocation in  
 775 accordance with the following provisions:

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

780           2. Upon a second conviction for an offense that occurs  
781 within a period of 5 years after the date of a prior conviction  
782 for a violation of the provisions of s. 316.193 or former s.  
783 316.1931 or a combination of such sections, the driver's license  
784 or driving privilege shall be revoked for not less than 5 years.

785           3. Upon a third conviction for an offense that occurs  
786 within a period of 10 years after the date of a prior conviction  
787 for the violation of the provisions of s. 316.193 or former s.  
788 316.1931 or a combination of such sections, the driver's license  
789 or driving privilege shall be revoked for not less than 10  
790 years.

791  
792 For the purposes of this paragraph, a previous conviction  
793 outside this state for driving under the influence, driving  
794 while intoxicated, driving with an unlawful blood-alcohol level,  
795 or any other alcohol-related or drug-related traffic offense  
796 similar to the offense of driving under the influence as  
797 proscribed by s. 316.193 will be considered a previous  
798 conviction for violation of s. 316.193, and a conviction for  
799 violation of former s. 316.028, former s. 316.1931, or former s.  
800 860.01 is considered a conviction for violation of s. 316.193.

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

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804 department shall forthwith revoke the driver's license or  
805 driving privilege for the maximum period applicable under  
806 paragraph (a) for a first conviction and for the minimum period  
807 applicable under paragraph (a) for any subsequent convictions.  
808 The driver may, within 30 days after such revocation by the  
809 department, petition the court for further hearing on the period  
810 of revocation, and the court may reopen the case and determine  
811 the period of revocation within the limits specified in  
812 paragraph (a).

813 (c) The forfeiture of bail bond, not vacated within 20  
814 days, in any prosecution for the offense of driving while under  
815 the influence of alcoholic beverages, chemical substances, or  
816 controlled substances to the extent of depriving the defendant  
817 of his or her normal faculties shall be deemed equivalent to a  
818 conviction for the purposes of this paragraph, and the  
819 department shall forthwith revoke the defendant's driver's  
820 license or driving privilege for the maximum period applicable  
821 under paragraph (a) for a first conviction and for the minimum  
822 period applicable under paragraph (a) for a second or subsequent  
823 conviction; however, if the defendant is later convicted of the  
824 charge, the period of revocation imposed by the department for  
825 such conviction shall not exceed the difference between the  
826 applicable maximum for a first conviction or minimum for a  
827 second or subsequent conviction and the revocation period under  
828 this subsection that has actually elapsed; upon conviction of  
829 such charge, the court may impose revocation for a period of  
830 time as specified in paragraph (a). This paragraph does not

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831 apply if an appropriate motion contesting the forfeiture is  
832 filed within the 20-day period.

833 (d) When any driver's license or driving privilege has  
834 been revoked pursuant to the provisions of this section, the  
835 department shall not grant a new license, except upon  
836 reexamination of the licensee after the expiration of the period  
837 of revocation so prescribed. However, the court may, in its  
838 sound discretion, issue an order of reinstatement on a form  
839 furnished by the department which the person may take to any  
840 driver's license examining office for reinstatement by the  
841 department pursuant to s. 322.282.

842 (e) The court shall permanently revoke the driver's  
843 license or driving privilege of a person who has been convicted  
844 four times for violation of s. 316.193 or former s. 316.1931 or  
845 a combination of such sections. The court shall permanently  
846 revoke the driver's license or driving privilege of any person  
847 who has been convicted of DUI manslaughter in violation of s.  
848 316.193. If the court has not permanently revoked such driver's  
849 license or driving privilege within 30 days after imposing  
850 sentence, the department shall permanently revoke the driver's  
851 license or driving privilege pursuant to this paragraph. No  
852 driver's license or driving privilege may be issued or granted  
853 to any such person. This paragraph applies only if at least one  
854 of the convictions for violation of s. 316.193 or former s.  
855 316.1931 was for a violation that occurred after July 1, 1982.  
856 For the purposes of this paragraph, a conviction for violation  
857 of former s. 316.028, former s. 316.1931, or former s. 860.01 is  
858 also considered a conviction for violation of s. 316.193. Also,

859 a conviction of driving under the influence, driving while  
 860 intoxicated, driving with an unlawful blood-alcohol level, or  
 861 any other similar alcohol-related or drug-related traffic  
 862 offense outside this state is considered a conviction for the  
 863 purposes of this paragraph.

864 Section 24. For the purpose of incorporating the amendment  
 865 to section 316.193, Florida Statutes, in references thereto,  
 866 paragraph (a) of subsection (2) of section 322.282, Florida  
 867 Statutes, is reenacted to read:

868 322.282 Procedure when court revokes or suspends license  
 869 or driving privilege and orders reinstatement.--When a court  
 870 suspends or revokes a person's license or driving privilege and,  
 871 in its discretion, orders reinstatement as provided by s.  
 872 322.28(2)(d) or former s. 322.261(5):

873 (2)(a) The court shall issue an order of reinstatement, on  
 874 a form to be furnished by the department, which the person may  
 875 take to any driver's license examining office. The department  
 876 shall issue a temporary driver's permit to a licensee who  
 877 presents the court's order of reinstatement, proof of completion  
 878 of a department-approved driver training or substance abuse  
 879 education course, and a written request for a hearing under s.  
 880 322.271. The permit shall not be issued if a record check by the  
 881 department shows that the person has previously been convicted  
 882 for a violation of s. 316.193, former s. 316.1931, former s.  
 883 316.028, former s. 860.01, or a previous conviction outside this  
 884 state for driving under the influence, driving while  
 885 intoxicated, driving with an unlawful blood-alcohol level, or  
 886 any similar alcohol-related or drug-related traffic offense;



887 that the person's driving privilege has been previously  
 888 suspended for refusal to submit to a lawful test of breath,  
 889 blood, or urine; or that the person is otherwise not entitled to  
 890 issuance of a driver's license. This paragraph shall not be  
 891 construed to prevent the reinstatement of a license or driving  
 892 privilege that is presently suspended for driving with an  
 893 unlawful blood-alcohol level or a refusal to submit to a breath,  
 894 urine, or blood test and is also revoked for a conviction for a  
 895 violation of s. 316.193 or former s. 316.1931, if the suspension  
 896 and revocation arise out of the same incident.

897 Section 25. For the purpose of incorporating the amendment  
 898 to section 316.193, Florida Statutes, in a reference thereto,  
 899 paragraph (a) of subsection (1) of section 322.291, Florida  
 900 Statutes, is reenacted to read:

901 322.291 Driver improvement schools or DUI programs;  
 902 required in certain suspension and revocation cases.--Except as  
 903 provided in s. 322.03(2), any person:

904 (1) Whose driving privilege has been revoked:

905 (a) Upon conviction for:

906 1. Driving, or being in actual physical control of, any  
 907 vehicle while under the influence of alcoholic beverages, any  
 908 chemical substance set forth in s. 877.111, or any substance  
 909 controlled under chapter 893, in violation of s. 316.193;

910 2. Driving with an unlawful blood- or breath-alcohol  
 911 level;

912 3. Manslaughter resulting from the operation of a motor  
 913 vehicle;

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

917           5. Reckless driving; or

918  
 919 shall, before the driving privilege may be reinstated, present  
 920 to the department proof of enrollment in a department-approved  
 921 advanced driver improvement course operating pursuant to s.  
 922 318.1451 or a substance abuse education course conducted by a  
 923 DUI program licensed pursuant to s. 322.292, which shall include  
 924 a psychosocial evaluation and treatment, if referred. If the  
 925 person fails to complete such course or evaluation within 90  
 926 days after reinstatement, or subsequently fails to complete  
 927 treatment, if referred, the DUI program shall notify the  
 928 department of the failure. Upon receipt of the notice, the  
 929 department shall cancel the offender's driving privilege,  
 930 notwithstanding the expiration of the suspension or revocation  
 931 of the driving privilege. The department may temporarily  
 932 reinstate the driving privilege upon verification from the DUI  
 933 program that the offender has completed the education course and  
 934 evaluation requirement and has reentered and is currently  
 935 participating in treatment. If the DUI program notifies the  
 936 department of the second failure to complete treatment, the  
 937 department shall reinstate the driving privilege only after  
 938 notice of completion of treatment from the DUI program.

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

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

943 322.34 Driving while license suspended, revoked, canceled,  
 944 or disqualified.--

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

952 Section 27. For the purpose of incorporating the amendment  
 953 to section 316.193, Florida Statutes, in references thereto,  
 954 section 322.44, Florida Statutes, is reenacted to read:

955 322.44 Driver License Compact.--The Driver License Compact  
 956 is hereby enacted into law and entered into with all other  
 957 jurisdictions legally joining therein in the form substantially  
 958 as follows:

959 ARTICLE I

960 FINDINGS AND DECLARATION OF POLICY.--

961 (1) The party states find that:

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

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

968 (c) The continuance in force of a license to drive is  
 969 predicated upon compliance with laws and ordinances relating to  
 970 the operation of motor vehicles, in whichever jurisdiction the  
 971 vehicle is operated.

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

973 (a) Promote compliance with the laws, ordinances, and  
 974 administrative rules and regulations relating to the operation  
 975 of motor vehicles by their operators in each of the  
 976 jurisdictions where such operators drive motor vehicles;

977 (b) Make the reciprocal recognition of licenses to drive  
 978 and eligibility therefor more just and equitable by considering  
 979 the overall compliance with motor vehicle laws, ordinances, and  
 980 administrative rules and regulations as a condition precedent to  
 981 the continuance or issuance of any license by reason of which  
 982 the licensee is authorized or permitted to operate a motor  
 983 vehicle in any of the party states.

984 ARTICLE II

985 DEFINITIONS.--As used in this compact:

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

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

992 (3) "Conviction" means a conviction of any offense related  
 993 to the use or operation of a motor vehicle which is prohibited  
 994 by state law, municipal ordinance, or administrative rule or  
 995 regulation, or a forfeiture of bail, bond, or other security

996 deposited to secure appearance by a person charged with having  
 997 committed any such offense, and which conviction or forfeiture  
 998 is required to be reported to the licensing authority.

999 ARTICLE III

1000 REPORTS OF CONVICTION.--The licensing authority of a party  
 1001 state shall report each conviction of a person from another  
 1002 party state occurring within its jurisdiction to the licensing  
 1003 authority of the home state of the licensee. Such report shall  
 1004 clearly identify the person convicted; describe the violation  
 1005 specifying the section of the statute, code, or ordinance  
 1006 violated; identify the court in which action was taken; indicate  
 1007 whether a plea of guilty or not guilty was entered or the  
 1008 conviction was a result of the forfeiture of bail, bond, or  
 1009 other security; and shall include any special findings made in  
 1010 connection therewith.

1011 ARTICLE IV

1012 EFFECT OF CONVICTION.--

1013 (1) The licensing authority in the home state, for the  
 1014 purposes of suspension, revocation, or limitation of the license  
 1015 to operate a motor vehicle, shall give the same effect to the  
 1016 conduct reported, pursuant to article III, as it would if such  
 1017 conduct had occurred in the home state, in the case of  
 1018 convictions for:

1019 (a) Manslaughter or negligent homicide resulting from the  
 1020 operation of a motor vehicle, as provided by ss. 316.193 and  
 1021 322.26;

1022 (b) Driving a motor vehicle while under the influence of  
 1023 alcoholic beverages or a narcotic drug, or under the influence

1024 of any other drug to a degree which renders the driver incapable  
 1025 of safely driving a motor vehicle, as provided by s. 316.193;

1026 (c) Any felony in the commission of which a motor vehicle  
 1027 is used, as provided by s. 322.26; or

1028 (d) Failure to stop and render aid in the event of a motor  
 1029 vehicle crash resulting in the death or personal injury of  
 1030 another, as provided by s. 322.26.

1031 (2) As to other convictions, reported pursuant to article  
 1032 III, the licensing authority in the home state shall give such  
 1033 effect to the conduct as is provided by the laws of the home  
 1034 state.

1035 ARTICLE V

1036 APPLICATIONS FOR NEW LICENSES.--Upon application for a  
 1037 license to drive, the licensing authority in a party state shall  
 1038 ascertain whether the applicant has ever held, or is the holder  
 1039 of, a license to drive issued by any other party state. The  
 1040 licensing authority in the state where application is made shall  
 1041 not issue a license to drive to the applicant if:

1042 (1) The applicant has held such a license, but the same  
 1043 has been suspended by reason, in whole or in part, of a  
 1044 violation and if such suspension period has not terminated.

1045 (2) The applicant has held such a license, but the same  
 1046 has been revoked by reason, in whole or in part, of a violation  
 1047 and if such revocation has not terminated, except that after the  
 1048 expiration of 1 year from the date the license was revoked, such  
 1049 person may make application for a new license if permitted by  
 1050 law. The licensing authority may refuse to issue a license to  
 1051 any such applicant if, after investigation, the licensing

1052 authority determines that it will not be safe to grant to such  
 1053 person the privilege of driving a motor vehicle on the public  
 1054 highways.

1055 (3) The applicant is the holder of a license to drive  
 1056 issued by another party state and currently in force unless the  
 1057 applicant surrenders such license.

1058 ARTICLE VI

1059 APPLICABILITY OF OTHER LAWS.--Except as expressly required  
 1060 by provisions of this compact, nothing contained herein shall be  
 1061 construed to affect the right of any party state to apply any of  
 1062 its other laws relating to licenses to drive to any person or  
 1063 circumstance, nor to invalidate or prevent any driver license  
 1064 agreement or other cooperative arrangement between a party state  
 1065 and a nonparty state.

1066 ARTICLE VII

1067 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

1068 (1) The head of the licensing authority of each party  
 1069 state shall be the administrator of this compact for his or her  
 1070 state. The administrators, acting jointly, shall have the power  
 1071 to formulate all necessary and proper procedures for the  
 1072 exchange of information under this compact.

1073 (2) The administrator of each party state shall furnish to  
 1074 the administrator of each other party state any information or  
 1075 documents reasonably necessary to facilitate the administration  
 1076 of this compact.

1077 ARTICLE VIII

1078 ENTRY INTO FORCE AND WITHDRAWAL.--

1079 (1) This compact shall enter into force and become  
 1080 effective as to any state when it has enacted the same into law.

1081 (2) Any party state may withdraw from this compact by  
 1082 enacting a statute repealing the same, but no such withdrawal  
 1083 shall take effect until 6 months after the executive head of the  
 1084 withdrawing state has given notice of the withdrawal to the  
 1085 executive heads of all other party states. No withdrawal shall  
 1086 affect the validity or applicability by the licensing  
 1087 authorities of states remaining party to the compact of any  
 1088 report of conviction occurring prior to the withdrawal.

1089 ARTICLE IX

1090 CONSTRUCTION AND SEVERABILITY.--This compact shall be  
 1091 liberally construed so as to effectuate the purposes thereof.  
 1092 The provisions of this compact shall be severable; and if any  
 1093 phrase, clause, sentence, or provision of this compact is  
 1094 declared to be contrary to the constitution of any party state  
 1095 or of the United States or the applicability thereof to any  
 1096 government, agency, person, or circumstance is held invalid, the  
 1097 validity of the remainder of this compact and the applicability  
 1098 thereof to any government, agency, person, or circumstance shall  
 1099 not be affected thereby. If this compact shall be held contrary  
 1100 to the constitution of any state party thereto, the compact  
 1101 shall remain in full force and effect as to the remaining states  
 1102 and in full force and effect as to the state affected as to all  
 1103 severable matters.

1104 Section 28. For the purpose of incorporating the amendment  
 1105 to section 316.193, Florida Statutes, in a reference thereto,



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1106 subsection (3) of section 322.62, Florida Statutes, is reenacted  
 1107 to read:

1108 322.62 Driving under the influence; commercial motor  
 1109 vehicle operators.--

1110 (3) This section does not supersede s. 316.193. Nothing in  
 1111 this section prohibits the prosecution of a person who drives a  
 1112 commercial motor vehicle for driving under the influence of  
 1113 alcohol or controlled substances whether or not such person is  
 1114 also prosecuted for a violation of this section.

1115 Section 29. For the purpose of incorporating the amendment  
 1116 to section 316.193, Florida Statutes, in references thereto,  
 1117 paragraph (d) of subsection (2) and subsection (6) of section  
 1118 322.63, Florida Statutes, are reenacted to read:

1119 322.63 Alcohol or drug testing; commercial motor vehicle  
 1120 operators.--

1121 (2) The chemical and physical tests authorized by this  
 1122 section shall only be required if a law enforcement officer has  
 1123 reasonable cause to believe that a person driving a commercial  
 1124 motor vehicle has any alcohol, chemical substance, or controlled  
 1125 substance in his or her body.

1126 (d) The administration of one test under paragraph (a),  
 1127 paragraph (b), or paragraph (c) shall not preclude the  
 1128 administration of a different test under paragraph (a),  
 1129 paragraph (b), or paragraph (c). However, a urine test may not  
 1130 be used to determine alcohol concentration and a breath test may  
 1131 not be used to determine the presence of controlled substances  
 1132 or chemical substances in a person's body. Notwithstanding the  
 1133 provisions of this paragraph, in the event a Florida licensee

1134 has been convicted in another state for an offense substantially  
 1135 similar to s. 316.193 or to s. 322.62, which conviction was  
 1136 based upon evidence of test results prohibited by this  
 1137 paragraph, that out-of-state conviction shall constitute a  
 1138 conviction for the purposes of this chapter.

1139 (6) Notwithstanding any provision of law pertaining to the  
 1140 confidentiality of hospital records or other medical records,  
 1141 information relating to the alcohol content of a person's blood  
 1142 or the presence of chemical substances or controlled substances  
 1143 in a person's blood obtained pursuant to this section shall be  
 1144 released to a court, prosecuting attorney, defense attorney, or  
 1145 law enforcement officer in connection with an alleged violation  
 1146 of s. 316.193 or s. 322.62 upon request for such information.

1147 Section 30. For the purpose of incorporating the amendment  
 1148 to section 316.193, Florida Statutes, in references thereto,  
 1149 subsections (1) and (2), paragraph (a) of subsection (7),  
 1150 paragraph (b) of subsection (8), and subsections (14) and (15)  
 1151 of section 322.64, Florida Statutes, are reenacted to read:

1152 322.64 Holder of commercial driver's license; driving with  
 1153 unlawful blood-alcohol level; refusal to submit to breath,  
 1154 urine, or blood test.--

1155 (1)(a) A law enforcement officer or correctional officer  
 1156 shall, on behalf of the department, disqualify from operating  
 1157 any commercial motor vehicle a person who while operating or in  
 1158 actual physical control of a commercial motor vehicle is  
 1159 arrested for a violation of s. 316.193, relating to unlawful  
 1160 blood-alcohol level or breath-alcohol level, or a person who has  
 1161 refused to submit to a breath, urine, or blood test authorized

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1162 by s. 322.63 arising out of the operation or actual physical  
 1163 control of a commercial motor vehicle. Upon disqualification of  
 1164 the person, the officer shall take the person's driver's license  
 1165 and issue the person a 10-day temporary permit if the person is  
 1166 otherwise eligible for the driving privilege and shall issue the  
 1167 person a notice of disqualification. If the person has been  
 1168 given a blood, breath, or urine test, the results of which are  
 1169 not available to the officer at the time of the arrest, the  
 1170 agency employing the officer shall transmit such results to the  
 1171 department within 5 days after receipt of the results. If the  
 1172 department then determines that the person was arrested for a  
 1173 violation of s. 316.193 and that the person had a blood-alcohol  
 1174 level or breath-alcohol level of 0.08 or higher, the department  
 1175 shall disqualify the person from operating a commercial motor  
 1176 vehicle pursuant to subsection (3).

1177 (b) The disqualification under paragraph (a) shall be  
 1178 pursuant to, and the notice of disqualification shall inform the  
 1179 driver of, the following:

1180 1.a. The driver refused to submit to a lawful breath,  
 1181 blood, or urine test and he or she is disqualified from  
 1182 operating a commercial motor vehicle for a period of 1 year, for  
 1183 a first refusal, or permanently, if he or she has previously  
 1184 been disqualified as a result of a refusal to submit to such a  
 1185 test; or

1186 b. The driver violated s. 316.193 by driving with an  
 1187 unlawful blood-alcohol level and he or she is disqualified from  
 1188 operating a commercial motor vehicle for a period of 6 months  
 1189 for a first offense or for a period of 1 year if he or she has

1190 | previously been disqualified, or his or her driving privilege  
 1191 | has been previously suspended, for a violation of s. 316.193.

1192 |         2. The disqualification period shall commence on the date  
 1193 | of arrest or issuance of notice of disqualification, whichever  
 1194 | is later.

1195 |         3. The driver may request a formal or informal review of  
 1196 | the disqualification by the department within 10 days after the  
 1197 | date of arrest or issuance of notice of disqualification,  
 1198 | whichever is later.

1199 |         4. The temporary permit issued at the time of arrest or  
 1200 | disqualification will expire at midnight of the 10th day  
 1201 | following the date of disqualification.

1202 |         5. The driver may submit to the department any materials  
 1203 | relevant to the arrest.

1204 |         (2) Except as provided in paragraph (1)(a), the law  
 1205 | enforcement officer shall forward to the department, within 5  
 1206 | days after the date of the arrest or the issuance of the notice  
 1207 | of disqualification, whichever is later, a copy of the notice of  
 1208 | disqualification, the driver's license of the person arrested,  
 1209 | and a report of the arrest, including, if applicable, an  
 1210 | affidavit stating the officer's grounds for belief that the  
 1211 | person arrested was in violation of s. 316.193; the results of  
 1212 | any breath or blood test or an affidavit stating that a breath,  
 1213 | blood, or urine test was requested by a law enforcement officer  
 1214 | or correctional officer and that the person arrested refused to  
 1215 | submit; a copy of the citation issued to the person arrested;  
 1216 | and the officer's description of the person's field sobriety  
 1217 | test, if any. The failure of the officer to submit materials

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1218 within the 5-day period specified in this subsection or  
 1219 subsection (1) shall not affect the department's ability to  
 1220 consider any evidence submitted at or prior to the hearing. The  
 1221 officer may also submit a copy of a videotape of the field  
 1222 sobriety test or the attempt to administer such test.

1223 (7) In a formal review hearing under subsection (6) or an  
 1224 informal review hearing under subsection (4), the hearing  
 1225 officer shall determine by a preponderance of the evidence  
 1226 whether sufficient cause exists to sustain, amend, or invalidate  
 1227 the disqualification. The scope of the review shall be limited  
 1228 to the following issues:

1229 (a) If the person was disqualified from operating a  
 1230 commercial motor vehicle for driving with an unlawful blood-  
 1231 alcohol level in violation of s. 316.193:

1232 1. Whether the arresting law enforcement officer had  
 1233 probable cause to believe that the person was driving or in  
 1234 actual physical control of a commercial motor vehicle in this  
 1235 state while he or she had any alcohol, chemical substances, or  
 1236 controlled substances in his or her body.

1237 2. Whether the person was placed under lawful arrest for a  
 1238 violation of s. 316.193.

1239 3. Whether the person had an unlawful blood-alcohol level  
 1240 as provided in s. 316.193.

1241 (8) Based on the determination of the hearing officer  
 1242 pursuant to subsection (7) for both informal hearings under  
 1243 subsection (4) and formal hearings under subsection (6), the  
 1244 department shall:

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1245 (b) Sustain the disqualification for a period of 6 months  
 1246 for a violation of s. 316.193 or for a period of 1 year if the  
 1247 person has been previously disqualified from operating a  
 1248 commercial motor vehicle or his or her driving privilege has  
 1249 been previously suspended as a result of a violation of s.  
 1250 316.193. The disqualification period commences on the date of  
 1251 the arrest or issuance of the notice of disqualification,  
 1252 whichever is later.

1253 (14) The decision of the department under this section  
 1254 shall not be considered in any trial for a violation of s.  
 1255 316.193, s. 322.61, or s. 322.62, nor shall any written  
 1256 statement submitted by a person in his or her request for  
 1257 departmental review under this section be admissible into  
 1258 evidence against him or her in any such trial. The disposition  
 1259 of any related criminal proceedings shall not affect a  
 1260 disqualification imposed pursuant to this section.

1261 (15) This section does not preclude the suspension of the  
 1262 driving privilege pursuant to s. 322.2615. The driving privilege  
 1263 of a person who has been disqualified from operating a  
 1264 commercial motor vehicle also may be suspended for a violation  
 1265 of s. 316.193.

1266 Section 31. For the purpose of incorporating the amendment  
 1267 to section 316.193, Florida Statutes, in a reference thereto,  
 1268 paragraph (f) of subsection (4) of section 323.001, Florida  
 1269 Statutes, is reenacted to read:

1270 323.001 Wrecker operator storage facilities; vehicle  
 1271 holds.--

1272 (4) The requirements for a written hold apply when the  
 1273 following conditions are present:

1274 (f) The vehicle is impounded or immobilized pursuant to s.  
 1275 316.193 or s. 322.34; or

1276 Section 32. For the purpose of incorporating the amendment  
 1277 to section 316.193, Florida Statutes, in a reference thereto,  
 1278 subsection (6) of section 327.35, Florida Statutes, is reenacted  
 1279 to read:

1280 327.35 Boating under the influence; penalties; "designated  
 1281 drivers".--

1282 (6) With respect to any person convicted of a violation of  
 1283 subsection (1), regardless of any other penalty imposed:

1284 (a) For the first conviction, the court shall place the  
 1285 defendant on probation for a period not to exceed 1 year and, as  
 1286 a condition of such probation, shall order the defendant to  
 1287 participate in public service or a community work project for a  
 1288 minimum of 50 hours. The court must also, as a condition of  
 1289 probation, order the impoundment or immobilization of the vessel  
 1290 that was operated by or in the actual control of the defendant  
 1291 or any one vehicle registered in the defendant's name at the  
 1292 time of impoundment or immobilization, for a period of 10 days  
 1293 or for the unexpired term of any lease or rental agreement that  
 1294 expires within 10 days. The impoundment or immobilization must  
 1295 not occur concurrently with the incarceration of the defendant.  
 1296 The impoundment or immobilization order may be dismissed in  
 1297 accordance with paragraph (e) or paragraph (f). The total period  
 1298 of probation and incarceration may not exceed 1 year.

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1299           (b) For the second conviction for an offense that occurs  
1300 within a period of 5 years after the date of a prior conviction  
1301 for violation of this section, the court shall order  
1302 imprisonment for not less than 10 days. The court must also, as  
1303 a condition of probation, order the impoundment or  
1304 immobilization of the vessel that was operated by or in the  
1305 actual control of the defendant or any one vehicle registered in  
1306 the defendant's name at the time of impoundment or  
1307 immobilization, for a period of 30 days or for the unexpired  
1308 term of any lease or rental agreement that expires within 30  
1309 days. The impoundment or immobilization must not occur  
1310 concurrently with the incarceration of the defendant. The  
1311 impoundment or immobilization order may be dismissed in  
1312 accordance with paragraph (e) or paragraph (f). At least 48  
1313 hours of confinement must be consecutive.

1314           (c) For the third or subsequent conviction for an offense  
1315 that occurs within a period of 10 years after the date of a  
1316 prior conviction for violation of this section, the court shall  
1317 order imprisonment for not less than 30 days. The court must  
1318 also, as a condition of probation, order the impoundment or  
1319 immobilization of the vessel that was operated by or in the  
1320 actual control of the defendant or any one vehicle registered in  
1321 the defendant's name at the time of impoundment or  
1322 immobilization, for a period of 90 days or for the unexpired  
1323 term of any lease or rental agreement that expires within 90  
1324 days. The impoundment or immobilization must not occur  
1325 concurrently with the incarceration of the defendant. The  
1326 impoundment or immobilization order may be dismissed in



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1327 accordance with paragraph (e) or paragraph (f). At least 48  
1328 hours of confinement must be consecutive.

1329 (d) The court must at the time of sentencing the defendant  
1330 issue an order for the impoundment or immobilization of a  
1331 vessel. Within 7 business days after the date that the court  
1332 issues the order of impoundment, and once again 30 business days  
1333 before the actual impoundment or immobilization of the vessel,  
1334 the clerk of the court must send notice by certified mail,  
1335 return receipt requested, to the registered owner of each  
1336 vessel, if the registered owner is a person other than the  
1337 defendant, and to each person of record claiming a lien against  
1338 the vessel.

1339 (e) A person who owns but was not operating the vessel  
1340 when the offense occurred may submit to the court a police  
1341 report indicating that the vessel was stolen at the time of the  
1342 offense or documentation of having purchased the vessel after  
1343 the offense was committed from an entity other than the  
1344 defendant or the defendant's agent. If the court finds that the  
1345 vessel was stolen or that the sale was not made to circumvent  
1346 the order and allow the defendant continued access to the  
1347 vessel, the order must be dismissed and the owner of the vessel  
1348 will incur no costs. If the court denies the request to dismiss  
1349 the order of impoundment or immobilization, the petitioner may  
1350 request an evidentiary hearing.

1351 (f) A person who owns but was not operating the vessel  
1352 when the offense occurred, and whose vessel was stolen or who  
1353 purchased the vessel after the offense was committed directly  
1354 from the defendant or the defendant's agent, may request an

1355 | evidentiary hearing to determine whether the impoundment or  
 1356 | immobilization should occur. If the court finds that either the  
 1357 | vessel was stolen or the purchase was made without knowledge of  
 1358 | the offense, that the purchaser had no relationship to the  
 1359 | defendant other than through the transaction, and that such  
 1360 | purchase would not circumvent the order and allow the defendant  
 1361 | continued access to the vessel, the order must be dismissed and  
 1362 | the owner of the vessel will incur no costs.

1363 |         (g) All costs and fees for the impoundment or  
 1364 | immobilization, including the cost of notification, must be paid  
 1365 | by the owner of the vessel or, if the vessel is leased or  
 1366 | rented, by the person leasing or renting the vessel, unless the  
 1367 | impoundment or immobilization order is dismissed.

1368 |         (h) The person who owns a vessel that is impounded or  
 1369 | immobilized under this paragraph, or a person who has a lien of  
 1370 | record against such a vessel and who has not requested a review  
 1371 | of the impoundment pursuant to paragraph (e) or paragraph (f),  
 1372 | may, within 10 days after the date that person has knowledge of  
 1373 | the location of the vessel, file a complaint in the county in  
 1374 | which the owner resides to determine whether the vessel was  
 1375 | wrongfully taken or withheld from the owner or lienholder. Upon  
 1376 | the filing of a complaint, the owner or lienholder may have the  
 1377 | vessel released by posting with the court a bond or other  
 1378 | adequate security equal to the amount of the costs and fees for  
 1379 | impoundment or immobilization, including towing or storage, to  
 1380 | ensure the payment of the costs and fees if the owner or  
 1381 | lienholder does not prevail. When the bond is posted and the fee  
 1382 | is paid as set forth in s. 28.24, the clerk of the court shall

1383 issue a certificate releasing the vessel. At the time of  
 1384 release, after reasonable inspection, the owner or lienholder  
 1385 must give a receipt to the towing or storage company indicating  
 1386 any loss or damage to the vessel or to the contents of the  
 1387 vessel.

1388 (i) A defendant, in the court's discretion, may be  
 1389 required to serve all or any portion of a term of imprisonment  
 1390 to which the defendant has been sentenced pursuant to this  
 1391 section in a residential alcoholism treatment program or a  
 1392 residential drug abuse treatment program. Any time spent in such  
 1393 a program must be credited by the court toward the term of  
 1394 imprisonment.

1395  
 1396 For the purposes of this section, any conviction for a violation  
 1397 of s. 316.193, a previous conviction for the violation of former  
 1398 s. 316.1931, former s. 860.01, or former s. 316.028, or a  
 1399 previous conviction outside this state for driving under the  
 1400 influence, driving while intoxicated, driving with an unlawful  
 1401 blood-alcohol level, driving with an unlawful breath-alcohol  
 1402 level, or any other similar alcohol-related or drug-related  
 1403 traffic offense, is also considered a previous conviction for  
 1404 violation of this section.

1405 Section 33. For the purpose of incorporating the amendment  
 1406 to section 316.193, Florida Statutes, in a reference thereto,  
 1407 subsection (10) of section 397.405, Florida Statutes, is  
 1408 reenacted to read:

1409 397.405 Exemptions from licensure.--The following are  
 1410 exempt from the licensing provisions of this chapter:

1411 (10) DUI education and screening services provided  
 1412 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.  
 1413 Persons or entities providing treatment services must be  
 1414 licensed under this chapter unless exempted from licensing as  
 1415 provided in this section.

1416  
 1417 The exemptions from licensure in this section do not apply to  
 1418 any service provider that receives an appropriation, grant, or  
 1419 contract from the state to operate as a service provider as  
 1420 defined in this chapter or to any substance abuse program  
 1421 regulated pursuant to s. 397.406. Furthermore, this chapter may  
 1422 not be construed to limit the practice of a physician licensed  
 1423 under chapter 458 or chapter 459, a psychologist licensed under  
 1424 chapter 490, or a psychotherapist licensed under chapter 491 who  
 1425 provides substance abuse treatment, so long as the physician,  
 1426 psychologist, or psychotherapist does not represent to the  
 1427 public that he or she is a licensed service provider and does  
 1428 not provide services to clients pursuant to part V of this  
 1429 chapter. Failure to comply with any requirement necessary to  
 1430 maintain an exempt status under this section is a misdemeanor of  
 1431 the first degree, punishable as provided in s. 775.082 or s.  
 1432 775.083.

1433 Section 34. For the purpose of incorporating the amendment  
 1434 to section 316.193, Florida Statutes, in a reference thereto,  
 1435 paragraph (c) of subsection (17) of section 440.02, Florida  
 1436 Statutes, is reenacted to read:

1437 440.02 Definitions.--When used in this chapter, unless the  
 1438 context clearly requires otherwise, the following terms shall  
 1439 have the following meanings:

1440 (17)

1441 (c) "Employment" does not include service performed by or  
 1442 as:

1443 1. Domestic servants in private homes.

1444 2. Agricultural labor performed on a farm in the employ of  
 1445 a bona fide farmer, or association of farmers, that employs 5 or  
 1446 fewer regular employees and that employs fewer than 12 other  
 1447 employees at one time for seasonal agricultural labor that is  
 1448 completed in less than 30 days, provided such seasonal  
 1449 employment does not exceed 45 days in the same calendar year.

1450 The term "farm" includes stock, dairy, poultry, fruit, fur-  
 1451 bearing animals, fish, and truck farms, ranches, nurseries, and  
 1452 orchards. The term "agricultural labor" includes field foremen,  
 1453 timekeepers, checkers, and other farm labor supervisory  
 1454 personnel.

1455 3. Professional athletes, such as professional boxers,  
 1456 wrestlers, baseball, football, basketball, hockey, polo, tennis,  
 1457 jai alai, and similar players, and motorsports teams competing  
 1458 in a motor racing event as defined in s. 549.08.

1459 4. Labor under a sentence of a court to perform community  
 1460 services as provided in s. 316.193.

1461 5. State prisoners or county inmates, except those  
 1462 performing services for private employers or those enumerated in  
 1463 s. 948.036(1).

1464 Section 35. For the purpose of incorporating the amendment  
 1465 to section 316.193, Florida Statutes, in a reference thereto,  
 1466 paragraph (b) of subsection (7) of section 440.09, Florida  
 1467 Statutes, is reenacted to read:

1468 440.09 Coverage.--

1469 (7)

1470 (b) If the employee has, at the time of the injury, a  
 1471 blood alcohol level equal to or greater than the level specified  
 1472 in s. 316.193, or if the employee has a positive confirmation of  
 1473 a drug as defined in this act, it is presumed that the injury  
 1474 was occasioned primarily by the intoxication of, or by the  
 1475 influence of the drug upon, the employee. If the employer has  
 1476 implemented a drug-free workplace, this presumption may be  
 1477 rebutted only by evidence that there is no reasonable hypothesis  
 1478 that the intoxication or drug influence contributed to the  
 1479 injury. In the absence of a drug-free workplace program, this  
 1480 presumption may be rebutted by clear and convincing evidence  
 1481 that the intoxication or influence of the drug did not  
 1482 contribute to the injury. Percent by weight of alcohol in the  
 1483 blood must be based upon grams of alcohol per 100 milliliters of  
 1484 blood. If the results are positive, the testing facility must  
 1485 maintain the specimen for a minimum of 90 days. Blood serum may  
 1486 be used for testing purposes under this chapter; however, if  
 1487 this test is used, the presumptions under this section do not  
 1488 arise unless the blood alcohol level is proved to be medically  
 1489 and scientifically equivalent to or greater than the comparable  
 1490 blood alcohol level that would have been obtained if the test  
 1491 were based on percent by weight of alcohol in the blood.

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1492 However, if, before the accident, the employer had actual  
 1493 knowledge of and expressly acquiesced in the employee's presence  
 1494 at the workplace while under the influence of such alcohol or  
 1495 drug, the presumptions specified in this subsection do not  
 1496 apply.

1497 Section 36. For the purpose of incorporating the amendment  
 1498 to section 316.193, Florida Statutes, in a reference thereto,  
 1499 paragraph (d) of subsection (1) of section 493.6106, Florida  
 1500 Statutes, is reenacted to read:

1501 493.6106 License requirements; posting.--

1502 (1) Each individual licensed by the department must:

1503 (d) Not be a chronic and habitual user of alcoholic  
 1504 beverages to the extent that her or his normal faculties are  
 1505 impaired; not have been committed under chapter 397, former  
 1506 chapter 396, or a similar law in any other state; not have been  
 1507 found to be a habitual offender under s. 856.011(3) or a similar  
 1508 law in any other state; and not have had two or more convictions  
 1509 under s. 316.193 or a similar law in any other state within the  
 1510 3-year period immediately preceding the date the application was  
 1511 filed, unless the individual establishes that she or he is not  
 1512 currently impaired and has successfully completed a  
 1513 rehabilitation course.

1514 Section 37. For the purpose of incorporating the amendment  
 1515 to section 316.193, Florida Statutes, in a reference thereto,  
 1516 subsection (4) of section 627.758, Florida Statutes, is  
 1517 reenacted to read:

1518 627.758 Surety on auto club traffic arrest bond;  
 1519 conditions, limit; bail bond.--

1520           (4) Notwithstanding the provisions of s. 626.311 or  
 1521 chapter 648, any surety insurer identified in a guaranteed  
 1522 traffic arrest bond certificate or any licensed general lines  
 1523 agent of the surety insurer may execute a bail bond for the  
 1524 automobile club or association member identified in the  
 1525 guaranteed traffic arrest bond certificate in an amount not in  
 1526 excess of \$5,000 for any violation of chapter 316 or any similar  
 1527 traffic law or ordinance except for driving under the influence  
 1528 of alcoholic beverages, chemical substances, or controlled  
 1529 substances, as prohibited by s. 316.193.

1530           Section 38. For the purpose of incorporating the amendment  
 1531 to section 316.193, Florida Statutes, in references thereto,  
 1532 paragraph (f) of subsection (2) and paragraph (f) of subsection  
 1533 (10) of section 790.06, Florida Statutes, are reenacted to read:

1534           790.06 License to carry concealed weapon or firearm.--

1535           (2) The Department of Agriculture and Consumer Services  
 1536 shall issue a license if the applicant:

1537           (f) Does not chronically and habitually use alcoholic  
 1538 beverages or other substances to the extent that his or her  
 1539 normal faculties are impaired. It shall be presumed that an  
 1540 applicant chronically and habitually uses alcoholic beverages or  
 1541 other substances to the extent that his or her normal faculties  
 1542 are impaired if the applicant has been committed under chapter  
 1543 397 or under the provisions of former chapter 396 or has been  
 1544 convicted under s. 790.151 or has been deemed a habitual  
 1545 offender under s. 856.011(3), or has had two or more convictions  
 1546 under s. 316.193 or similar laws of any other state, within the



1547 3-year period immediately preceding the date on which the  
 1548 application is submitted;

1549 (10) A license issued under this section shall be  
 1550 suspended or revoked pursuant to chapter 120 if the licensee:

1551 (f) Is convicted of a second violation of s. 316.193, or a  
 1552 similar law of another state, within 3 years of a previous  
 1553 conviction of such section, or similar law of another state,  
 1554 even though the first violation may have occurred prior to the  
 1555 date on which the application was submitted;

1556 Section 39. For the purpose of incorporating the amendment  
 1557 to section 316.193, Florida Statutes, in a reference thereto,  
 1558 subsection (2) of section 903.36, Florida Statutes, is reenacted  
 1559 to read:

1560 903.36 Guaranteed arrest bond certificates as cash bail.--

1561 (2) The execution of a bail bond by a licensed general  
 1562 lines agent of a surety insurer for the automobile club or  
 1563 association member identified in the guaranteed traffic arrest  
 1564 bond certificate, as provided in s. 627.758(4), shall be  
 1565 accepted as bail in an amount not to exceed \$5,000 for the  
 1566 appearance of the person named in the certificate in any court  
 1567 to answer for the violation of a provision of chapter 316 or a  
 1568 similar traffic law or ordinance, except driving under the  
 1569 influence of alcoholic beverages, chemical substances, or  
 1570 controlled substances, as prohibited by s. 316.193. Presentation  
 1571 of the guaranteed traffic arrest bond certificate and a power of  
 1572 attorney from the surety insurer for its licensed general lines  
 1573 agents is authorization for such agent to execute the bail bond.

1574 Section 40. For the purpose of incorporating the amendment  
 1575 to section 316.193, Florida Statutes, in references thereto,  
 1576 paragraph (c) of subsection (4) of section 907.041, Florida  
 1577 Statutes, is reenacted to read:

1578 907.041 Pretrial detention and release.--

1579 (4) PRETRIAL DETENTION.--

1580 (c) The court may order pretrial detention if it finds a  
 1581 substantial probability, based on a defendant's past and present  
 1582 patterns of behavior, the criteria in s. 903.046, and any other  
 1583 relevant facts, that any of the following circumstances exists:

1584 1. The defendant has previously violated conditions of  
 1585 release and that no further conditions of release are reasonably  
 1586 likely to assure the defendant's appearance at subsequent  
 1587 proceedings;

1588 2. The defendant, with the intent to obstruct the judicial  
 1589 process, has threatened, intimidated, or injured any victim,  
 1590 potential witness, juror, or judicial officer, or has attempted  
 1591 or conspired to do so, and that no condition of release will  
 1592 reasonably prevent the obstruction of the judicial process;

1593 3. The defendant is charged with trafficking in controlled  
 1594 substances as defined by s. 893.135, that there is a substantial  
 1595 probability that the defendant has committed the offense, and  
 1596 that no conditions of release will reasonably assure the  
 1597 defendant's appearance at subsequent criminal proceedings; or

1598 4. The defendant is charged with DUI manslaughter, as  
 1599 defined by s. 316.193, and that there is a substantial  
 1600 probability that the defendant committed the crime and that the  
 1601 defendant poses a threat of harm to the community; conditions

1602 that would support a finding by the court pursuant to this  
 1603 subparagraph that the defendant poses a threat of harm to the  
 1604 community include, but are not limited to, any of the following:

1605 a. The defendant has previously been convicted of any  
 1606 crime under s. 316.193, or of any crime in any other state or  
 1607 territory of the United States that is substantially similar to  
 1608 any crime under s. 316.193;

1609 b. The defendant was driving with a suspended driver's  
 1610 license when the charged crime was committed; or

1611 c. The defendant has previously been found guilty of, or  
 1612 has had adjudication of guilt withheld for, driving while the  
 1613 defendant's driver's license was suspended or revoked in  
 1614 violation of s. 322.34;

1615 5. The defendant poses the threat of harm to the  
 1616 community. The court may so conclude, if it finds that the  
 1617 defendant is presently charged with a dangerous crime, that  
 1618 there is a substantial probability that the defendant committed  
 1619 such crime, that the factual circumstances of the crime indicate  
 1620 a disregard for the safety of the community, and that there are  
 1621 no conditions of release reasonably sufficient to protect the  
 1622 community from the risk of physical harm to persons.

1623 6. The defendant was on probation, parole, or other  
 1624 release pending completion of sentence or on pretrial release  
 1625 for a dangerous crime at the time the current offense was  
 1626 committed; or

1627 7. The defendant has violated one or more conditions of  
 1628 pretrial release or bond for the offense currently before the  
 1629 court and the violation, in the discretion of the court,

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1630 supports a finding that no conditions of release can reasonably  
1631 protect the community from risk of physical harm to persons or  
1632 assure the presence of the accused at trial.

1633 Section 41. For the purpose of incorporating the  
1634 amendments to sections 316.193 and 327.35, Florida Statutes, in  
1635 references thereto, section 938.07, Florida Statutes, is  
1636 reenacted to read:

1637 938.07 Driving or boating under the  
1638 influence.--Notwithstanding any other provision of s. 316.193 or  
1639 s. 327.35, a court cost of \$135 shall be added to any fine  
1640 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall  
1641 remit the funds to the Department of Revenue, \$25 of which shall  
1642 be deposited in the Emergency Medical Services Trust Fund, \$50  
1643 shall be deposited in the Criminal Justice Standards and  
1644 Training Trust Fund of the Department of Law Enforcement to be  
1645 used for operational expenses in conducting the statewide  
1646 criminal analysis laboratory system established in s. 943.32,  
1647 and \$60 shall be deposited in the Brain and Spinal Cord Injury  
1648 Rehabilitation Trust Fund created in s. 381.79.

1649 Section 42. For the purpose of incorporating the amendment  
1650 to section 316.193, Florida Statutes, in a reference thereto,  
1651 section 938.21, Florida Statutes, is reenacted to read:

1652 938.21 Alcohol and drug abuse programs.--Notwithstanding  
1653 any provision to the contrary of the laws of this state, the  
1654 court may assess for alcohol and other drug abuse programs as  
1655 provided in s. 893.165 any defendant who pleads guilty or nolo  
1656 contendere to, or is convicted of, a violation of any provision  
1657 of chapter 893 or which involves a criminal violation of s.

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1658 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or  
 1659 chapter 568, in addition to any fine and other penalty provided  
 1660 by law, a court cost in an amount up to the amount of the fine  
 1661 authorized for the violation. The court is authorized to order a  
 1662 defendant to pay an additional assessment if it finds that the  
 1663 defendant has the ability to pay the fine and the additional  
 1664 assessment and will not be prevented thereby from being  
 1665 rehabilitated or from making restitution.

1666 Section 43. For the purpose of incorporating the amendment  
 1667 to section 316.193, Florida Statutes, in a reference thereto,  
 1668 subsection (1) of section 938.23, Florida Statutes, is reenacted  
 1669 to read:

1670 938.23 Assistance grants for alcohol and other drug abuse  
 1671 programs.--

1672 (1) In addition to any fine imposed by law for any  
 1673 criminal offense under chapter 893 or for any criminal violation  
 1674 of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter  
 1675 567, or chapter 568, the court shall be authorized, pursuant to  
 1676 the requirements of s. 938.21, to impose an additional  
 1677 assessment in an amount up to the amount of the fine authorized  
 1678 for the offense. Such additional assessments shall be deposited  
 1679 for the purpose of providing assistance grants to drug abuse  
 1680 treatment or alcohol treatment or education programs as provided  
 1681 in s. 893.165.

1682 Section 44. For the purpose of incorporating the amendment  
 1683 to section 316.193, Florida Statutes, in references thereto,  
 1684 paragraph (d) of subsection (2) of section 943.05, Florida  
 1685 Statutes, is reenacted to read:

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1686 943.05 Criminal Justice Information Program; duties; crime  
 1687 reports.--

1688 (2) The program shall:

1689 (d) Adopt rules to effectively and efficiently implement,  
 1690 administer, manage, maintain, and use the automated fingerprint  
 1691 identification system and uniform offense reports and arrest  
 1692 reports. The rules shall be considered minimum requirements and  
 1693 shall not preclude a criminal justice agency from implementing  
 1694 its own enhancements. However, rules and forms prescribing  
 1695 uniform arrest or probable cause affidavits and alcohol  
 1696 influence reports to be used by all law enforcement agencies in  
 1697 making DUI arrests under s. 316.193 shall be adopted, and shall  
 1698 be used by all law enforcement agencies in this state. The rules  
 1699 and forms prescribing such uniform affidavits and reports shall  
 1700 be adopted and implemented by July 1, 2004. Failure to use these  
 1701 uniform affidavits and reports, however, shall not prohibit  
 1702 prosecution under s. 316.193.

1703 Section 45. For the purpose of incorporating the amendment  
 1704 to section 316.193, Florida Statutes, in a reference thereto,  
 1705 subsection (2) of section 948.036, Florida Statutes, is  
 1706 reenacted to read:

1707 948.036 Work programs as a condition of probation,  
 1708 community control, or other court-ordered community  
 1709 supervision.--

1710 (2) In determining the average weekly wage, unless  
 1711 otherwise determined by a specific funding program, all  
 1712 remuneration received from the employer shall be considered a  
 1713 gratuity, and the offender shall not be entitled to any benefits

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1714 otherwise payable under s. 440.15, regardless of whether the  
 1715 offender may be receiving wages and remuneration from other  
 1716 employment with another employer and regardless of his or her  
 1717 future wage-earning capacity. The provisions of this section do  
 1718 not apply to any person performing labor under a sentence of a  
 1719 court to perform community services as provided in s. 316.193.

1720 Section 46. For the purpose of incorporating the amendment  
 1721 to section 316.193, Florida Statutes, in a reference thereto,  
 1722 paragraph (b) of subsection (3) of section 960.03, Florida  
 1723 Statutes, is reenacted to read:

1724 960.03 Definitions; ss. 960.01-960.28.--As used in ss.  
 1725 960.01-960.28, unless the context otherwise requires, the term:

1726 (3) "Crime" means:

1727 (b) A violation of s. 316.193, s. 316.027(1), s.  
 1728 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in  
 1729 physical injury or death; however, no other act involving the  
 1730 operation of a motor vehicle, boat, or aircraft which results in  
 1731 injury or death shall constitute a crime for the purpose of this  
 1732 chapter unless the injury or death was intentionally inflicted  
 1733 through the use of such vehicle, boat, or aircraft or unless  
 1734 such vehicle, boat, or aircraft is an implement of a crime to  
 1735 which this act applies.

1736 Section 47. For the purpose of incorporating the amendment  
 1737 to section 327.35, Florida Statutes, in a reference thereto,  
 1738 subsection (3) of section 327.352, Florida Statutes, is  
 1739 reenacted to read:

1740 327.352 Tests for alcohol, chemical substances, or  
 1741 controlled substances; implied consent; refusal.--

1742 (3) Notwithstanding any provision of law pertaining to the  
 1743 confidentiality of hospital records or other medical records,  
 1744 information relating to the alcoholic content of the blood or  
 1745 breath or the presence of chemical substances or controlled  
 1746 substances in the blood obtained pursuant to this section shall  
 1747 be released to a court, prosecuting attorney, defense attorney,  
 1748 or law enforcement officer in connection with an alleged  
 1749 violation of s. 327.35 upon request for such information.

1750 Section 48. For the purpose of incorporating the amendment  
 1751 to section 327.35, Florida Statutes, in references thereto,  
 1752 subsections (1) and (2) of section 327.35215, Florida Statutes,  
 1753 are reenacted to read:

1754 327.35215 Penalty for failure to submit to test.--

1755 (1) A person who is lawfully arrested for an alleged  
 1756 violation of s. 327.35 and who refuses to submit to a blood  
 1757 test, breath test, or urine test pursuant to s. 327.352 is  
 1758 subject to a civil penalty of \$500.

1759 (2) When a person refuses to submit to a blood test,  
 1760 breath test, or urine test pursuant to s. 327.352, a law  
 1761 enforcement officer who is authorized to make arrests for  
 1762 violations of this chapter shall file with the clerk of the  
 1763 court, on a form provided by the department, a certified  
 1764 statement that probable cause existed to arrest the person for a  
 1765 violation of s. 327.35 and that the person refused to submit to  
 1766 a test as required by s. 327.352. Along with the statement, the  
 1767 officer must also submit a sworn statement on a form provided by  
 1768 the department that the person has been advised of both the



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1769 penalties for failure to submit to the blood, breath, or urine  
 1770 test and the procedure for requesting a hearing.

1771 Section 49. For the purpose of incorporating the amendment  
 1772 to section 327.35, Florida Statutes, in a reference thereto,  
 1773 subsection (4) of section 327.353, Florida Statutes, is  
 1774 reenacted to read:

1775 327.353 Blood test for impairment or intoxication in cases  
 1776 of death or serious bodily injury; right to use reasonable  
 1777 force.--

1778 (4) Notwithstanding any provision of law pertaining to the  
 1779 confidentiality of hospital records or other medical records,  
 1780 information relating to the alcoholic content of the blood or  
 1781 the presence of chemical substances or controlled substances in  
 1782 the blood obtained pursuant to this section shall be released to  
 1783 a court, prosecuting attorney, defense attorney, or law  
 1784 enforcement officer in connection with an alleged violation of  
 1785 s. 327.35 upon request for such information.

1786 Section 50. For the purpose of incorporating the amendment  
 1787 to section 327.35, Florida Statutes, in references thereto,  
 1788 subsections (1) and (4) of section 327.354, Florida Statutes,  
 1789 are reenacted to read:

1790 327.354 Presumption of impairment; testing methods.--

1791 (1) It is unlawful and punishable as provided in s. 327.35  
 1792 for any person who is under the influence of alcoholic beverages  
 1793 or controlled substances, when affected to the extent that the  
 1794 person's normal faculties are impaired or to the extent that the  
 1795 person is deprived of full possession of normal faculties, to  
 1796 operate any vessel within this state. Such normal faculties

1797 include, but are not limited to, the ability to see, hear, walk,  
 1798 talk, judge distances, drive an automobile, make judgments, act  
 1799 in emergencies, and, in general, normally perform the many  
 1800 mental and physical acts of daily life.

1801 (4) Any person charged with a violation of s. 327.35 is  
 1802 entitled to trial by jury according to the Florida Rules of  
 1803 Criminal Procedure.

1804 Section 51. For the purpose of incorporating the amendment  
 1805 to section 327.35, Florida Statutes, in references thereto,  
 1806 paragraph (a) of subsection (1) and subsection (4) of section  
 1807 327.355, Florida Statutes, are reenacted to read:

1808 327.355 Operation of vessels by persons under 21 years of  
 1809 age who have consumed alcoholic beverages.--

1810 (1)(a) Notwithstanding s. 327.35, it is unlawful for a  
 1811 person under the age of 21 who has a breath-alcohol level of  
 1812 0.02 or higher to operate or be in actual physical control of a  
 1813 vessel.

1814 (4) A violation of this section is a noncriminal  
 1815 infraction, and being detained pursuant to this section does not  
 1816 constitute an arrest. This section does not bar prosecution  
 1817 under s. 327.35, and the penalties provided herein shall be  
 1818 imposed in addition to any other penalty provided for boating  
 1819 under the influence or for refusal to submit to testing.

1820 Section 52. For the purpose of incorporating the amendment  
 1821 to section 327.35, Florida Statutes, in a reference thereto,  
 1822 subsection (2) of section 327.359, Florida Statutes, is  
 1823 reenacted to read:

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1824           327.359 Refusal to submit to testing; penalties.--Any  
 1825 person who has refused to submit to a chemical or physical test  
 1826 of his or her breath, blood, or urine, as described in s.  
 1827 327.352, and who has been previously fined for refusal to submit  
 1828 to a lawful test of his or her breath, urine, or blood, and:

1829           (2) Who was placed under lawful arrest for a violation of  
 1830 s. 327.35 unless such test was requested pursuant to s.  
 1831 327.352(1)(c);

1832  
 1833 commits a misdemeanor of the first degree and is subject to  
 1834 punishment as provided in s. 775.082 or s. 775.083.

1835           Section 53. For the purpose of incorporating the amendment  
 1836 to section 327.35, Florida Statutes, in references thereto,  
 1837 section 327.36, Florida Statutes, is reenacted to read:

1838           327.36 Mandatory adjudication; prohibition against  
 1839 accepting plea to lesser included offense.--

1840           (1) Notwithstanding the provisions of s. 948.01, no court  
 1841 may suspend, defer, or withhold adjudication of guilt or  
 1842 imposition of sentence for any violation of s. 327.35, for  
 1843 manslaughter resulting from the operation of a vessel, or for  
 1844 vessel homicide.

1845           (2)(a) No trial judge may accept a plea of guilty to a  
 1846 lesser offense from a person who is charged with a violation of  
 1847 s. 327.35, manslaughter resulting from the operation of a  
 1848 vessel, or vessel homicide and who has been given a breath or  
 1849 blood test to determine blood or breath alcohol content, the  
 1850 results of which show a blood-alcohol level or breath-alcohol  
 1851 level of 0.16 or more.

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1852           (b) A trial judge may not accept a plea of guilty to a  
1853 lesser offense from a person charged with a felony violation of  
1854 s. 327.35, manslaughter resulting from the operation of a  
1855 vessel, or vessel homicide.

1856           Section 54. This act shall take effect July 1, 2005.