

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Judiciary Committee

BILL: SB 1076

INTRODUCER: Senator Smith

SUBJECT: DUI Classes

DATE: March 21, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Thompson</u>	<u>Maclure</u>	<u>JU</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

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

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

This bill substantially amends section 322.292, Florida Statutes.

II. Present Situation:

In 2004, approximately 46,000 individuals were convicted of driving under the influence (DUI).¹ Section 316.193(5), F.S., requires a person who is convicted of a DUI offense to complete a substance abuse course conducted by a DUI program. There are two different DUI programs that

¹ Information provided by legislative affairs staff at DHSMV on March 17, 2006. The number reflected in this statistic represents guilty verdicts.

an individual can be ordered to attend. Level I is for first-time offenders, and Level II is for multiple offenders.² The Department of Highway Safety & Motor Vehicles (DHSMV) licenses and regulates DUI programs.³ The DHSMV is also charged with establishing uniform standards of operation for DUI programs.⁴ DUI programs must be operated by governmental entities or not-for-profit corporations providing education, evaluation, and treatment referral services as required by court order or by the DHSMV.⁵

Current law requires that, in order to satisfy criteria, DUI program applicants must have a classroom in each county in the circuit located in a permanent structure that is readily accessible by public transportation, if transportation is available.⁶ However, a classroom is not required in any county where the total number of DUI convictions in the most recent calendar year is less than 100.⁷ As a result, there are circumstances where an individual convicted of a DUI would have to drive to a neighboring county in order to attend the DUI class.⁸

DUI programs are governed by administrative rules that require certain minimum hours of classroom instruction with certified instructors and interactive educational techniques. Chapter 15A-10 of the Florida Administrative Code outlines the standards for DHSMV's DUI program. Currently, the rules require the following for DUI education classes:

- DUI programs are only to employ instructors, Special Supervision Services evaluators, clinical supervisors, and evaluators who are certified by DHSMV;⁹
- Each organization conducting a DUI program shall have sufficient classroom space to comfortably accommodate all students with a minimum of twenty (20) square feet of space per student unless otherwise authorized by local officials;¹⁰ and
- Courses shall be limited in size.¹¹

Although DUI programs are required to include classroom instruction under DHSMV rules, no specific provision in the Florida Statutes requires the program to be delivered in this manner. No specific language in the rules prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method. However, the requirements in the administrative code relating to interactive instruction and classroom space appear to indicate the only method for DUI education courses will be in a classroom.¹²

² Florida Licensed DUI Programs, at http://www.hsmv.state.fl.us/ddl/dui_county.html (accessed on March 20, 2006).

³ Section 322.292(1), F.S.

⁴ Section 322.292(2), F.S.

⁵ Section 322.292(3), F.S.

⁶ Section 322.292(2)(c)5.c., F.S.

⁷ *Id.*

⁸ Information provided by legislative affairs staff at DHSMV on March 17, 2006. DHSMV indicates that it receives only a small number of complaints related to traveling to neighboring counties to attend the class.

⁹ Rule 15A-10.022(1)(a), F.A.C.

¹⁰ Rule 15A-10.023(1), F.A.C.

¹¹ Rules 15A-10.024 and 15A-10.025, F.A.C. Level I classes have an average of 30 students, but are limited at 35 students. Level II courses have an average of 15 students.

¹² See Rules 15A-10.023(1) and 15A-10.025(2), F.A.C.

III. Effect of Proposed Changes:

The bill incorporates current driving under the influence (DUI) program standards from the Florida Administrative Code into law. The bill amends s. 322.292, F.S., requiring DUI education courses to be conducted only by certified DUI instructors. The bill requires face-to-face instruction and interaction in the classroom among offenders and instructors. The last requirement prohibits DUI courses outside of the traditional classroom setting with instructor and offenders. Specifically, the bill prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and all offenders are not physically present in the same classroom.

While this bill would prevent organizations that could potentially offer alternative methods of DUI educational courses from doing so, it would not change the actual practice of the Department of Highway Safety & Motor Vehicles (DHSMV). The DHSMV does not currently certify alternative methods of DUI educational courses that do not provide face-to-face interactions.

The bill provides an effective date of July 1, 2006.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill would prevent organizations that might specialize in alternative methods of driving under the influence (DUI) educational courses from providing such services in the state. The bill requires DUI educational courses to be conducted only by certified DUI instructors with programs that meet the classroom guidelines.

The fee for Level I DUI program courses (first offense) is \$210, and the fee for Level II courses (second offenses) is \$320.¹³

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Currently, the Florida Administrative Code provides the standards used to regulate driving under the influence (DUI) programs. Rule 15A-10.003, F.A.C., addresses reciprocity among DUI programs in another state or country. Pursuant to this rule, DUI programs that are certified by another state or country's driver license authority shall be recognized by the Department of Highway Safety and Motor Vehicles (DHSMV) as being similar to the DUI program in this state. There are other states that currently offer online DUI classes. A driver who is licensed in Florida and receives a DUI in another state would be given the option of taking his or her DUI course in that state or in Florida. However, if the course was taken in another state, DHSMV indicates that it would only honor the course if it involved face-to-face instruction.¹⁴

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

¹³ Florida Licensed DUI Programs, at http://www.hsmv.state.fl.us/ddl/dui_county.html (accessed on March 20, 2006).

¹⁴ Information provided by legislative affairs staff at DHSMV on March 21, 2006. Staff indicates that DHSMV has had two cases in the past two years where out-of-state, online courses have been presented to DHSMV as proof of completion of the DUI program. The online courses were not accepted by DHSMV.

VIII. Summary of Amendments:

None.

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