

1 948.036(2), and 960.03(3)(b), F.S. ;
2 incorporating the amendment to s. 316.193,
3 F.S., in references thereto; reenacting ss.
4 142.01(1), 327.352(3), 327.35215(1) and (2),
5 327.353(4), 327.354(1) and (4), 327.355(1)(a)
6 and (4), 327.359, 327.36, and 938.07, F.S. ;
7 incorporating the amendment to s. 327.35, F.S.,
8 in references thereto; providing an effective
9 date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

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

15 316.193 Driving under the influence; penalties.--

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

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

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

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

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

31 1. By a fine of:

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

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

5 2. By imprisonment for:

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

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

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

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

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

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

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

19 (3) Any person:

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

21 (b) Who operates a vehicle; and

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

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

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

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

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

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

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

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

9
10 For purposes of this subsection, the definition of the term
11 "unborn quick child" shall be determined in accordance with
12 the definition of viable fetus as set forth in s. 782.071.

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

19 1.(a) By a fine of:

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

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

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

26 2.(b) By imprisonment for:

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

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

29
30 ~~For the purposes of this subsection, only the instant offense~~
31 ~~is required to be a violation of subsection (1) by a person~~

1 ~~who has a blood alcohol level or breath alcohol level of 0.20~~
2 ~~or higher.~~

3 **(b)(c)** In addition to the penalties in paragraph
4 ~~paragraphs (a) and (b)~~, the court shall order the mandatory
5 placement, at the convicted person's sole expense, of an
6 ignition interlock device approved by the department in
7 accordance with s. 316.1938 upon all vehicles that are
8 individually or jointly leased or owned and routinely operated
9 by the convicted person for up to 6 months for the first
10 offense and for at least 2 years for a second offense, when
11 the convicted person qualifies for a permanent or restricted
12 license. The installation of such device may not occur before
13 July 1, 2003.

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

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

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

1 | evaluation is the most appropriate service provider and is
2 | licensed under chapter 397 or is exempt from such licensure. A
3 | statistical referral report shall be submitted quarterly to
4 | the department by each organization authorized to provide
5 | services under this section.

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

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

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

17 (c) For the third or subsequent conviction for an
18 offense that occurs within a period of 10 years after the date
19 of a prior conviction for violation of this section, the court
20 shall order imprisonment for not less than 30 days. The court
21 must also, as a condition of probation, order the impoundment
22 or immobilization of all vehicles owned by the defendant at
23 the time of impoundment or immobilization, for a period of 90
24 days or for the unexpired term of any lease or rental
25 agreement that expires within 90 days. The impoundment or
26 immobilization must not occur concurrently with the
27 incarceration of the defendant and must occur concurrently
28 with the driver's license revocation imposed under s.
29 322.28(2)(a)3. The impoundment or immobilization order may be
30 dismissed in accordance with paragraph (e), paragraph (f),
31

1 paragraph (g), or paragraph (h). At least 48 hours of
2 confinement must be consecutive.

3 (d) The court must at the time of sentencing the
4 defendant issue an order for the impoundment or immobilization
5 of a vehicle. Within 7 business days after the date that the
6 court issues the order of impoundment or immobilization, the
7 clerk of the court must send notice by certified mail, return
8 receipt requested, to the registered owner of each vehicle, if
9 the registered owner is a person other than the defendant, and
10 to each person of record claiming a lien against the vehicle.

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

24 (f) A person who owns but was not operating the
25 vehicle when the offense occurred, and whose vehicle was
26 stolen or who purchased the vehicle after the offense was
27 committed directly from the defendant or the defendant's
28 agent, may request an evidentiary hearing to determine whether
29 the impoundment or immobilization should occur. If the court
30 finds that either the vehicle was stolen or the purchase was
31 made without knowledge of the offense, that the purchaser had

1 | no relationship to the defendant other than through the
2 | transaction, and that such purchase would not circumvent the
3 | order and allow the defendant continued access to the vehicle,
4 | the order must be dismissed and the owner of the vehicle will
5 | incur no costs.

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

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

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

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

1 immobilization, including towing or storage, to ensure the
2 payment of such costs and fees if the owner or lienholder does
3 not prevail. When the bond is posted and the fee is paid as
4 set forth in s. 28.24, the clerk of the court shall issue a
5 certificate releasing the vehicle. At the time of release,
6 after reasonable inspection, the owner or lienholder must give
7 a receipt to the towing or storage company indicating any loss
8 or damage to the vehicle or to the contents of the vehicle.

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

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

1 | which the court determines the defendant is unable to pay. In
2 | determining such additional sentence, the court shall consider
3 | the amount of the unpaid portion of the fine and the
4 | reasonable value of the services to be ordered; however, the
5 | court may not compute the reasonable value of services at a
6 | rate less than the federal minimum wage at the time of
7 | sentencing.

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

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

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

21 | (a) Until the person is no longer under the influence
22 | of alcoholic beverages, any chemical substance set forth in s.
23 | 877.111, or any substance controlled under chapter 893 and
24 | affected to the extent that his or her normal faculties are
25 | impaired;

26 | (b) Until the person's blood-alcohol level or
27 | breath-alcohol level is less than 0.05; or

28 | (c) Until 8 hours have elapsed from the time the
29 | person was arrested.

30 | (10) The rulings of the Department of Highway Safety
31 | and Motor Vehicles under s. 322.2615 shall not be considered

1 | in any trial for a violation of this section. Testimony or
2 | evidence from the administrative proceedings or any written
3 | statement submitted by a person in his or her request for
4 | administrative review is inadmissible into evidence or for any
5 | other purpose in any criminal proceeding, unless timely
6 | disclosed in criminal discovery pursuant to Rule 3.220,
7 | Florida Rules of Criminal Procedure.

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

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

21 | Section 2. Section 316.656, Florida Statutes, is
22 | amended to read:

23 | 316.656 Mandatory adjudication; prohibition against
24 | accepting plea to lesser included offense.--

25 | (1) Notwithstanding the provisions of s. 948.01, ~~a~~
26 | court may not suspend, defer, or withhold adjudication of
27 | guilt or imposition of sentence for any violation of s.
28 | 316.193, for manslaughter resulting from the operation of a
29 | motor vehicle, or for vehicular homicide.

30 | (2)(a) No trial judge may accept a plea of guilty to a
31 | lesser offense from a person charged under the provisions of

1 | this act who has been given a breath or blood test to
2 | determine blood or breath alcohol content, the results of
3 | which show a blood or breath alcohol content by weight of 0.16
4 | ~~0.20~~ percent or more.

5 | (b) No trial judge may accept a plea of guilty to a
6 | lesser offense from a person charged with a violation of s.
7 | 316.193(3), manslaughter resulting from the operation of a
8 | motor vehicle, or vehicular homicide.

9 | Section 3. Subsection (4) of section 327.35, Florida
10 | Statutes, is amended, and subsection (6) of that section is
11 | reenacted, to read:

12 | 327.35 Boating under the influence; penalties;
13 | "designated drivers".--

14 | (4) Any person who is convicted of a violation of
15 | subsection (1) and who has a blood-alcohol level or
16 | breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who
17 | is convicted of a violation of subsection (1) and who at the
18 | time of the offense was accompanied in the vessel by a person
19 | under the age of 18 years, shall be punished:

20 | (a) By a fine of:

21 | 1. Not less than \$500 or more than \$1,000 for a first
22 | conviction.

23 | 2. Not less than \$1,000 or more than \$2,000 for a
24 | second conviction.

25 | 3. Not less than \$2,000 for a third or subsequent
26 | conviction.

27 | (b) By imprisonment for:

28 | 1. Not more than 9 months for a first conviction.

29 | 2. Not more than 12 months for a second conviction.

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1 For the purposes of this subsection, only the instant offense
2 is required to be a violation of subsection (1) by a person
3 who has a blood-alcohol level or breath-alcohol level of 0.16
4 ~~0.20~~ or higher.

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

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

24 (b) For the second conviction for an offense that
25 occurs within a period of 5 years after the date of a prior
26 conviction for violation of this section, the court shall
27 order imprisonment for not less than 10 days. The court must
28 also, as a condition of probation, order the impoundment or
29 immobilization of the vessel that was operated by or in the
30 actual control of the defendant or any one vehicle registered
31 in the defendant's name at the time of impoundment or

1 immobilization, for a period of 30 days or for the unexpired
2 term of any lease or rental agreement that expires within 30
3 days. The impoundment or immobilization must not occur
4 concurrently with the incarceration of the defendant. The
5 impoundment or immobilization order may be dismissed in
6 accordance with paragraph (e) or paragraph (f). At least 48
7 hours of confinement must be consecutive.

8 (c) For the third or subsequent conviction for an
9 offense that occurs within a period of 10 years after the date
10 of a prior conviction for violation of this section, the court
11 shall order imprisonment for not less than 30 days. The court
12 must also, as a condition of probation, order the impoundment
13 or immobilization of the vessel that was operated by or in the
14 actual control of the defendant or any one vehicle registered
15 in the defendant's name at the time of impoundment or
16 immobilization, for a period of 90 days or for the unexpired
17 term of any lease or rental agreement that expires within 90
18 days. The impoundment or immobilization must not occur
19 concurrently with the incarceration of the defendant. The
20 impoundment or immobilization order may be dismissed in
21 accordance with paragraph (e) or paragraph (f). At least 48
22 hours of confinement must be consecutive.

23 (d) The court must at the time of sentencing the
24 defendant issue an order for the impoundment or immobilization
25 of a vessel. Within 7 business days after the date that the
26 court issues the order of impoundment, and once again 30
27 business days before the actual impoundment or immobilization
28 of the vessel, the clerk of the court must send notice by
29 certified mail, return receipt requested, to the registered
30 owner of each vessel, if the registered owner is a person
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1 other than the defendant, and to each person of record
2 claiming a lien against the vessel.

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

15 (f) A person who owns but was not operating the vessel
16 when the offense occurred, and whose vessel was stolen or who
17 purchased the vessel after the offense was committed directly
18 from the defendant or the defendant's agent, may request an
19 evidentiary hearing to determine whether the impoundment or
20 immobilization should occur. If the court finds that either
21 the vessel was stolen or the purchase was made without
22 knowledge of the offense, that the purchaser had no
23 relationship to the defendant other than through the
24 transaction, and that such purchase would not circumvent the
25 order and allow the defendant continued access to the vessel,
26 the order must be dismissed and the owner of the vessel will
27 incur no costs.

28 (g) All costs and fees for the impoundment or
29 immobilization, including the cost of notification, must be
30 paid by the owner of the vessel or, if the vessel is leased or
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1 | rented, by the person leasing or renting the vessel, unless
2 | the impoundment or immobilization order is dismissed.

3 | (h) The person who owns a vessel that is impounded or
4 | immobilized under this paragraph, or a person who has a lien
5 | of record against such a vessel and who has not requested a
6 | review of the impoundment pursuant to paragraph (e) or
7 | paragraph (f), may, within 10 days after the date that person
8 | has knowledge of the location of the vessel, file a complaint
9 | in the county in which the owner resides to determine whether
10 | the vessel was wrongfully taken or withheld from the owner or
11 | lienholder. Upon the filing of a complaint, the owner or
12 | lienholder may have the vessel released by posting with the
13 | court a bond or other adequate security equal to the amount of
14 | the costs and fees for impoundment or immobilization,
15 | including towing or storage, to ensure the payment of the
16 | costs and fees if the owner or lienholder does not prevail.
17 | When the bond is posted and the fee is paid as set forth in s.
18 | 28.24, the clerk of the court shall issue a certificate
19 | releasing the vessel. At the time of release, after reasonable
20 | inspection, the owner or lienholder must give a receipt to the
21 | towing or storage company indicating any loss or damage to the
22 | vessel or to the contents of the vessel.

23 | (i) A defendant, in the court's discretion, may be
24 | required to serve all or any portion of a term of imprisonment
25 | to which the defendant has been sentenced pursuant to this
26 | section in a residential alcoholism treatment program or a
27 | residential drug abuse treatment program. Any time spent in
28 | such a program must be credited by the court toward the term
29 | of imprisonment.

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1 For the purposes of this section, any conviction for a
2 violation of s. 316.193, a previous conviction for the
3 violation of former s. 316.1931, former s. 860.01, or former
4 s. 316.028, or a previous conviction outside this state for
5 driving under the influence, driving while intoxicated,
6 driving with an unlawful blood-alcohol level, driving with an
7 unlawful breath-alcohol level, or any other similar
8 alcohol-related or drug-related traffic offense, is also
9 considered a previous conviction for violation of this
10 section.

11 Section 4. For the purpose of incorporating the
12 amendments made to sections 316.193 and 327.35, Florida
13 Statutes, in references thereto, subsection (1) of section
14 142.01, Florida Statutes, is reenacted to read:

15 142.01 Fine and forfeiture fund; clerk of the circuit
16 court.--There shall be established by the clerk of the circuit
17 court in each county of this state a separate fund to be known
18 as the fine and forfeiture fund for use by the clerk of the
19 circuit court in performing court-related functions. The fund
20 shall consist of the following:

21 (1) Fines and penalties pursuant to ss. 28.2402(2),
22 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).
23

24 Notwithstanding the provisions of this section, all fines and
25 forfeitures arising from operation of the provisions of s.
26 318.1215 shall be disbursed in accordance with that section.

27 Section 5. For the purpose of incorporating the
28 amendment to section 316.193, Florida Statutes, in references
29 thereto, paragraph (a) of subsection (3) of section 316.066,
30 Florida Statutes, is reenacted to read:

31 316.066 Written reports of crashes.--

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

3 1. Which crash resulted in death or personal injury
4 shall, within 10 days after completing the investigation,
5 forward a written report of the crash to the department or
6 traffic records center.

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

11 3. In which crash a vehicle was rendered inoperative
12 to a degree which required a wrecker to remove it from traffic
13 may, within 10 days after completing the investigation,
14 forward a written report of the crash to the department or
15 traffic records center if such action is appropriate, in the
16 officer's discretion.

17
18 However, in every case in which a crash report is required by
19 this section and a written report to a law enforcement officer
20 is not prepared, the law enforcement officer shall provide
21 each party involved in the crash a short-form report,
22 prescribed by the state, to be completed by the party. The
23 short-form report must include, but is not limited to: the
24 date, time, and location of the crash; a description of the
25 vehicles involved; the names and addresses of the parties
26 involved; the names and addresses of witnesses; the name,
27 badge number, and law enforcement agency of the officer
28 investigating the crash; and the names of the insurance
29 companies for the respective parties involved in the crash.
30 Each party to the crash shall provide the law enforcement
31 officer with proof of insurance to be included in the crash

1 report. If a law enforcement officer submits a report on the
2 accident, proof of insurance must be provided to the officer
3 by each party involved in the crash. Any party who fails to
4 provide the required information is guilty of an infraction
5 for a nonmoving violation, punishable as provided in chapter
6 318 unless the officer determines that due to injuries or
7 other special circumstances such insurance information cannot
8 be provided immediately. If the person provides the law
9 enforcement agency, within 24 hours after the crash, proof of
10 insurance that was valid at the time of the crash, the law
11 enforcement agency may void the citation.

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

16 316.072 Obedience to and effect of traffic laws.--

17 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
18 EXCEPTIONS.--

19 (b) Unless specifically made applicable, the
20 provisions of this chapter, except those contained in ss.
21 316.192, 316.1925, and 316.193, shall not apply to persons,
22 teams, or motor vehicles and other equipment while actually
23 engaged in work upon the surface of a highway, but shall apply
24 to such persons and vehicles when traveling to or from such
25 work.

26 Section 7. For the purpose of incorporating the
27 amendment to section 316.193, Florida Statutes, in references
28 thereto, subsection (3) of section 316.1932, Florida Statutes,
29 is reenacted to read:

30 316.1932 Tests for alcohol, chemical substances, or
31 controlled substances; implied consent; refusal.--

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

10 Section 8. For the purpose of incorporating the
11 amendment to section 316.193, Florida Statutes, in references
12 thereto, subsection (4) of section 316.1933, Florida Statutes,
13 is reenacted to read:

14 316.1933 Blood test for impairment or intoxication in
15 cases of death or serious bodily injury; right to use
16 reasonable force.--

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

26 Section 9. For the purpose of incorporating the
27 amendment to section 316.193, Florida Statutes, in references
28 thereto, subsections (1) and (4) of section 316.1934, Florida
29 Statutes, are reenacted to read:

30 316.1934 Presumption of impairment; testing methods.--
31

1 (1) It is unlawful and punishable as provided in
2 chapter 322 and in s. 316.193 for any person who is under the
3 influence of alcoholic beverages or controlled substances,
4 when affected to the extent that the person's normal faculties
5 are impaired or to the extent that the person is deprived of
6 full possession of normal faculties, to drive or be in actual
7 physical control of any motor vehicle within this state. Such
8 normal faculties include, but are not limited to, the ability
9 to see, hear, walk, talk, judge distances, drive an
10 automobile, make judgments, act in emergencies, and, in
11 general, normally perform the many mental and physical acts of
12 daily life.

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

16 Section 10. For the purpose of incorporating the
17 amendment to section 316.193, Florida Statutes, in references
18 thereto, subsection (1) and paragraph (d) of subsection (2) of
19 section 316.1937, Florida Statutes, are reenacted to read:

20 316.1937 Ignition interlock devices, requiring;
21 unlawful acts.--

22 (1) In addition to any other authorized penalties, the
23 court may require that any person who is convicted of driving
24 under the influence in violation of s. 316.193 shall not
25 operate a motor vehicle unless that vehicle is equipped with a
26 functioning ignition interlock device certified by the
27 department as provided in s. 316.1938, and installed in such a
28 manner that the vehicle will not start if the operator's blood
29 alcohol level is in excess of 0.05 percent or as otherwise
30 specified by the court. The court may require the use of an
31 approved ignition interlock device for a period of not less

1 | than 6 months, if the person is permitted to operate a motor
2 | vehicle, whether or not the privilege to operate a motor
3 | vehicle is restricted, as determined by the court. The court,
4 | however, shall order placement of an ignition interlock device
5 | in those circumstances required by s. 316.193.

6 | (2) If the court imposes the use of an ignition
7 | interlock device, the court shall:

8 | (d) Determine the person's ability to pay for
9 | installation of the device if the person claims inability to
10 | pay. If the court determines that the person is unable to pay
11 | for installation of the device, the court may order that any
12 | portion of a fine paid by the person for a violation of s.
13 | 316.193 shall be allocated to defray the costs of installing
14 | the device.

15 | Section 11. For the purpose of incorporating the
16 | amendment to section 316.193, Florida Statutes, in references
17 | thereto, subsection (1) of section 316.1939, Florida Statutes,
18 | is reenacted to read:

19 | 316.1939 Refusal to submit to testing; penalties.--

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

25 | (a) Who the arresting law enforcement officer had
26 | probable cause to believe was driving or in actual physical
27 | control of a motor vehicle in this state while under the
28 | influence of alcoholic beverages, chemical substances, or
29 | controlled substances;

30 |
31 |

1 (b) Who was placed under lawful arrest for a violation
2 of s. 316.193 unless such test was requested pursuant to s.
3 316.1932(1)(c);

4 (c) Who was informed that, if he or she refused to
5 submit to such test, his or her privilege to operate a motor
6 vehicle would be suspended for a period of 1 year or, in the
7 case of a second or subsequent refusal, for a period of 18
8 months;

9 (d) Who was informed that a refusal to submit to a
10 lawful test of his or her breath, urine, or blood, if his or
11 her driving privilege has been previously suspended for a
12 prior refusal to submit to a lawful test of his or her breath,
13 urine, or blood, is a misdemeanor; and

14 (e) Who, after having been so informed, refused to
15 submit to any such test when requested to do so by a law
16 enforcement officer or correctional officer

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

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

24 318.143 Sanctions for infractions by minors.--

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

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

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

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

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

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

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

18 (1) Fleeing or attempting to elude a police officer,
19 in violation of s. 316.1935;

20 (2) Leaving the scene of a crash, in violation of ss.
21 316.027 and 316.061;

22 (3) Driving, or being in actual physical control of,
23 any vehicle while under the influence of alcoholic beverages,
24 any chemical substance set forth in s. 877.111, or any
25 substance controlled under chapter 893, in violation of s.
26 316.193, or driving with an unlawful blood-alcohol level;

27 (4) Reckless driving, in violation of s. 316.192;

28 (5) Making false crash reports, in violation of s.
29 316.067;

30
31

1 (6) Willfully failing or refusing to comply with any
2 lawful order or direction of any police officer or member of
3 the fire department, in violation of s. 316.072(3);

4 (7) Obstructing an officer, in violation of s.
5 316.545(1); or

6 (8) Any other offense in chapter 316 which is
7 classified as a criminal violation.

8 Section 14. For the purpose of incorporating the
9 amendment to section 316.193, Florida Statutes, in references
10 thereto, paragraph (b) of subsection (1) of section 320.055,
11 Florida Statutes, is reenacted to read:

12 320.055 Registration periods; renewal periods.--The
13 following registration periods and renewal periods are
14 established:

15 (1)

16 (b) Notwithstanding the requirements of paragraph (a),
17 the owner of a motor vehicle subject to paragraph (a) who has
18 had his or her driver's license suspended pursuant to a
19 violation of s. 316.193 or pursuant to s. 322.26(2) for
20 driving under the influence must obtain a 6-month registration
21 as a condition of reinstating the license, subject to renewal
22 during the 3-year period that financial responsibility
23 requirements apply. The registration period begins the first
24 day of the birth month of the owner and ends the last day of
25 the fifth month immediately following the owner's birth month.
26 For such vehicles, the department shall issue a vehicle
27 registration certificate that is valid for 6 months and shall
28 issue a validation sticker that displays an expiration date of
29 6 months after the date of issuance. The license tax required
30 by s. 320.08 and all other applicable license taxes shall be
31 one-half of the amount otherwise required, except the service

1 charge required by s. 320.04 shall be paid in full for each
2 6-month registration.

3 Section 15. For the purpose of incorporating the
4 amendment to section 316.193, Florida Statutes, in references
5 thereto, subsection (2) of section 322.03, Florida Statutes,
6 is reenacted to read:

7 322.03 Drivers must be licensed; penalties.--

8 (2) Prior to issuing a driver's license, the
9 department shall require any person who has been convicted two
10 or more times of a violation of s. 316.193 or of a
11 substantially similar alcohol-related or drug-related offense
12 outside this state within the preceding 5 years, or who has
13 been convicted of three or more such offenses within the
14 preceding 10 years, to present proof of successful completion
15 of or enrollment in a department-approved substance abuse
16 education course. If the person fails to complete such
17 education course within 90 days after issuance, the department
18 shall cancel the license. Further, prior to issuing the
19 driver's license the department shall require such person to
20 present proof of financial responsibility as provided in s.
21 324.031. For the purposes of this paragraph, a previous
22 conviction for violation of former s. 316.028, former s.
23 316.1931, or former s. 860.01 shall be considered a previous
24 conviction for violation of s. 316.193.

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

29 322.0602 Youthful Drunk Driver Visitation Program.--

30 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE
31 FOR PARTICIPATION.--

1 (a) If a person is convicted of a violation of s.
2 316.193, the court may order, as a term and condition of
3 probation in addition to any other term or condition required
4 or authorized by law, that the probationer participate in the
5 Youthful Drunk Driver Visitation Program.

6 Section 17. For the purpose of incorporating the
7 amendment to section 316.193, Florida Statutes, in references
8 thereto, subsection (8) of section 322.21, Florida Statutes,
9 is reenacted to read:

10 322.21 License fees; procedure for handling and
11 collecting fees.--

12 (8) Any person who applies for reinstatement following
13 the suspension or revocation of the person's driver's license
14 shall pay a service fee of \$35 following a suspension, and \$60
15 following a revocation, which is in addition to the fee for a
16 license. Any person who applies for reinstatement of a
17 commercial driver's license following the disqualification of
18 the person's privilege to operate a commercial motor vehicle
19 shall pay a service fee of \$60, which is in addition to the
20 fee for a license. The department shall collect all of these
21 fees at the time of reinstatement. The department shall issue
22 proper receipts for such fees and shall promptly transmit all
23 funds received by it as follows:

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

28 (b) Of the \$60 fee received from a licensee for
29 reinstatement following a revocation or disqualification, the
30 department shall deposit \$35 in the General Revenue Fund and
31 \$25 in the Highway Safety Operating Trust Fund.

1
2 If the revocation or suspension of the driver's license was
3 for a violation of s. 316.193, or for refusal to submit to a
4 lawful breath, blood, or urine test, an additional fee of \$115
5 must be charged. However, only one \$115 fee may be collected
6 from one person convicted of violations arising out of the
7 same incident. The department shall collect the \$115 fee and
8 deposit the fee into the Highway Safety Operating Trust Fund
9 at the time of reinstatement of the person's driver's license,
10 but the fee may not be collected if the suspension or
11 revocation is overturned.

12 Section 18. For the purpose of incorporating the
13 amendment to section 316.193, Florida Statutes, in references
14 thereto, subsection (5) of section 322.25, Florida Statutes,
15 is reenacted to read:

16 322.25 When court to forward license to department and
17 report convictions; temporary reinstatement of driving
18 privileges.--

19 (5) For the purpose of this chapter, the entrance of a
20 plea of nolo contendere by the defendant to a charge of
21 driving while intoxicated, driving under the influence,
22 driving with an unlawful blood-alcohol level, or any other
23 alcohol-related or drug-related traffic offense similar to the
24 offenses specified in s. 316.193, accepted by the court and
25 under which plea the court has entered a fine or sentence,
26 whether in this state or any other state or country, shall be
27 equivalent to a conviction.

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

1 322.26 Mandatory revocation of license by
2 department.--The department shall forthwith revoke the license
3 or driving privilege of any person upon receiving a record of
4 such person's conviction of any of the following offenses:

5 (1)(a) Murder resulting from the operation of a motor
6 vehicle, DUI manslaughter where the conviction represents a
7 subsequent DUI-related conviction, or a fourth violation of s.
8 316.193 or former s. 316.1931. For such cases, the revocation
9 of the driver's license or driving privilege shall be
10 permanent.

11 Section 20. For the purpose of incorporating the
12 amendment to section 316.193, Florida Statutes, in references
13 thereto, subsections (1), (2), and (7), paragraph (b) of
14 subsection (8), paragraph (b) of subsection (10), paragraph
15 (a) of subsection (14), and subsection (16) of section
16 322.2615, Florida Statutes, are reenacted to read:

17 322.2615 Suspension of license; right to review.--

18 (1)(a) A law enforcement officer or correctional
19 officer shall, on behalf of the department, suspend the
20 driving privilege of a person who has been arrested by a law
21 enforcement officer for a violation of s. 316.193, relating to
22 unlawful blood-alcohol level or breath-alcohol level, or of a
23 person who has refused to submit to a breath, urine, or blood
24 test authorized by s. 316.1932. The officer shall take the
25 person's driver's license and issue the person a 10-day
26 temporary permit if the person is otherwise eligible for the
27 driving privilege and shall issue the person a notice of
28 suspension. If a blood test has been administered, the results
29 of which are not available to the officer at the time of the
30 arrest, the agency employing the officer shall transmit such
31 results to the department within 5 days after receipt of the

1 results. If the department then determines that the person was
2 arrested for a violation of s. 316.193 and that the person had
3 a blood-alcohol level or breath-alcohol level of 0.08 or
4 higher, the department shall suspend the person's driver's
5 license pursuant to subsection (3).

6 (b) The suspension under paragraph (a) shall be
7 pursuant to, and the notice of suspension shall inform the
8 driver of, the following:

9 1.a. The driver refused to submit to a lawful breath,
10 blood, or urine test and his or her driving privilege is
11 suspended for a period of 1 year for a first refusal or for a
12 period of 18 months if his or her driving privilege has been
13 previously suspended as a result of a refusal to submit to
14 such a test; or

15 b. The driver violated s. 316.193 by driving with an
16 unlawful blood-alcohol level or breath-alcohol level as
17 provided in that section and his or her driving privilege is
18 suspended for a period of 6 months for a first offense or for
19 a period of 1 year if his or her driving privilege has been
20 previously suspended for a violation of s. 316.193.

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

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

28 4. The temporary permit issued at the time of arrest
29 will expire at midnight of the 10th day following the date of
30 arrest or issuance of the notice of suspension, whichever is
31 later.

1 5. The driver may submit to the department any
2 materials relevant to the arrest.

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

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

27 (a) If the license was suspended for driving with an
28 unlawful blood-alcohol level or breath-alcohol level in
29 violation of s. 316.193:

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

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

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

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

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

10 1. Whether the arresting law enforcement officer had
11 probable cause to believe that the person was driving or in
12 actual physical control of a motor vehicle in this state while
13 under the influence of alcoholic beverages or controlled
14 substances.

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

17 3. Whether the person refused to submit to any such
18 test after being requested to do so by a law enforcement
19 officer or correctional officer.

20 4. Whether the person was told that if he or she
21 refused to submit to such test his or her privilege to operate
22 a motor vehicle would be suspended for a period of 1 year or,
23 in the case of a second or subsequent refusal, for a period of
24 18 months.

25 (8) Based on the determination of the hearing officer
26 pursuant to subsection (7) for both informal hearings under
27 subsection (4) and formal hearings under subsection (6), the
28 department shall:

29 (b) Sustain the suspension of the person's driving
30 privilege for a period of 6 months for a violation of s.
31 316.193, or for a period of 1 year if the driving privilege of

1 such person has been previously suspended as a result of a
2 violation of s. 316.193. The suspension period commences on
3 the date of the arrest or issuance of the notice of
4 suspension, whichever is later.

5 (10) A person whose driver's license is suspended
6 under subsection (1) or subsection (3) may apply for issuance
7 of a license for business or employment purposes only if the
8 person is otherwise eligible for the driving privilege
9 pursuant to s. 322.271.

10 (b) If the suspension of the driver's license of the
11 person arrested for a violation of s. 316.193, relating to
12 unlawful blood-alcohol level or breath-alcohol level, is
13 sustained, the person is not eligible to receive a license for
14 business or employment purposes only pursuant to s. 322.271
15 until 30 days have elapsed after the expiration of the last
16 temporary permit issued. If the driver is not issued a 10-day
17 permit pursuant to this section or s. 322.64 because he or she
18 is ineligible for the permit and the suspension for a
19 violation of s. 316.193, relating to unlawful blood-alcohol
20 level, is not invalidated by the department, the driver is not
21 eligible to receive a business or employment license pursuant
22 to s. 322.271 until 30 days have elapsed from the date of the
23 arrest.

24 (14)(a) The decision of the department under this
25 section may not be considered in any trial for a violation of
26 s. 316.193, and a written statement submitted by a person in
27 his or her request for departmental review under this section
28 may not be admitted into evidence against him or her in any
29 such trial.

30 (16) The department shall invalidate a suspension for
31 driving with an unlawful blood-alcohol level or breath-alcohol

1 level imposed under this section if the suspended person is
2 found not guilty at trial of an underlying violation of s.
3 316.193.

4 Section 21. For the purpose of incorporating the
5 amendment to section 316.193, Florida Statutes, in references
6 thereto, paragraph (a) of subsection (1) and subsections (15)
7 and (19) of section 322.2616, Florida Statutes, are reenacted
8 to read:

9 322.2616 Suspension of license; persons under 21 years
10 of age; right to review.--

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

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

23 (19) A violation of this section is neither a traffic
24 infraction nor a criminal offense, nor does being detained
25 pursuant to this section constitute an arrest. A violation of
26 this section is subject to the administrative action
27 provisions of this section, which are administered by the
28 department through its administrative processes.
29 Administrative actions taken pursuant to this section shall be
30 recorded in the motor vehicle records maintained by the
31 department. This section does not bar prosecution under s.

1 | 316.193. However, if the department suspends a person's
2 | license under s. 322.2615 for a violation of s. 316.193, it
3 | may not also suspend the person's license under this section
4 | for the same episode that was the basis for the suspension
5 | under s. 322.2615.

6 | Section 22. For the purpose of incorporating the
7 | amendment to section 316.193, Florida Statutes, in references
8 | thereto, subsection (1) of section 322.264, Florida Statutes,
9 | is reenacted to read:

10 | 322.264 "Habitual traffic offender" defined.--A
11 | "habitual traffic offender" is any person whose record, as
12 | maintained by the Department of Highway Safety and Motor
13 | Vehicles, shows that such person has accumulated the specified
14 | number of convictions for offenses described in subsection (1)
15 | or subsection (2) within a 5-year period:

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

18 | (a) Voluntary or involuntary manslaughter resulting
19 | from the operation of a motor vehicle;

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

22 | (c) Any felony in the commission of which a motor
23 | vehicle is used;

24 | (d) Driving a motor vehicle while his or her license
25 | is suspended or revoked;

26 | (e) Failing to stop and render aid as required under
27 | the laws of this state in the event of a motor vehicle crash
28 | resulting in the death or personal injury of another; or

29 | (f) Driving a commercial motor vehicle while his or
30 | her privilege is disqualified.

31 |

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

13 Section 23. For the purpose of incorporating the
14 amendment to section 316.193, Florida Statutes, in references
15 thereto, paragraphs (a) and (c) of subsection (2) and
16 subsection (4) of section 322.271, Florida Statutes, are
17 reenacted to read:

18 322.271 Authority to modify revocation, cancellation,
19 or suspension order.--

20 (2)(a) Upon such hearing, the person whose license has
21 been suspended, canceled, or revoked may show that such
22 suspension, cancellation, or revocation of his or her license
23 causes a serious hardship and precludes the person's carrying
24 out his or her normal business occupation, trade, or
25 employment and that the use of the person's license in the
26 normal course of his or her business is necessary to the
27 proper support of the person or his or her family. Except as
28 otherwise provided in this subsection, the department shall
29 require proof of the successful completion of the applicable
30 department-approved driver training course operating pursuant
31 to s. 318.1451 or DUI program substance abuse education course

1 | and evaluation as provided in s. 316.193(5). Letters of
2 | recommendation from respected business persons in the
3 | community, law enforcement officers, or judicial officers may
4 | also be required to determine whether such person should be
5 | permitted to operate a motor vehicle on a restricted basis for
6 | business or employment use only and in determining whether
7 | such person can be trusted to so operate a motor vehicle. If a
8 | driver's license has been suspended under the point system or
9 | pursuant to s. 322.2615, the department shall require proof of
10 | enrollment in the applicable department-approved driver
11 | training course or licensed DUI program substance abuse
12 | education course, including evaluation and treatment, if
13 | referred, and may require letters of recommendation described
14 | in this subsection to determine if the driver should be
15 | reinstated on a restricted basis. If such person fails to
16 | complete the approved course within 90 days after
17 | reinstatement or subsequently fails to complete treatment, if
18 | applicable, the department shall cancel his or her driver's
19 | license until the course and treatment, if applicable, is
20 | successfully completed, notwithstanding the terms of the court
21 | order or any suspension or revocation of the driving
22 | privilege. The department may temporarily reinstate the
23 | driving privilege on a restricted basis upon verification from
24 | the DUI program that the offender has reentered and is
25 | currently participating in treatment and has completed the DUI
26 | education course and evaluation requirement. If the DUI
27 | program notifies the department of the second failure to
28 | complete treatment, the department shall reinstate the driving
29 | privilege only after notice of completion of treatment from
30 | the DUI program. The privilege of driving on a limited or
31 | restricted basis for business or employment use shall not be

1 granted to a person who has been convicted of a violation of
2 s. 316.193 until completion of the DUI program substance abuse
3 education course and evaluations as provided in s. 316.193(5).
4 Except as provided in paragraph (b), the privilege of driving
5 on a limited or restricted basis for business or employment
6 use shall not be granted to a person whose license is revoked
7 pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and
8 who has been convicted of a violation of s. 316.193 two or
9 more times or whose license has been suspended two or more
10 times for refusal to submit to a test pursuant to s. 322.2615
11 or former s. 322.261.

12 (c) For the purpose of this section, a previous
13 conviction of driving under the influence, driving while
14 intoxicated, driving with an unlawful blood-alcohol level, or
15 any other similar alcohol-related or drug-related offense
16 outside this state or a previous conviction of former s.
17 316.1931, former s. 316.028, or former s. 860.01 shall be
18 considered a previous conviction for violation of s. 316.193.

19 (4) Notwithstanding the provisions of s. 322.28(2)(e),
20 a person whose driving privilege has been permanently revoked
21 because he or she has been convicted of DUI manslaughter in
22 violation of s. 316.193 and has no prior convictions for
23 DUI-related offenses may, upon the expiration of 5 years after
24 the date of such revocation or the expiration of 5 years after
25 the termination of any term of incarceration under s. 316.193
26 or former s. 316.1931, whichever date is later, petition the
27 department for reinstatement of his or her driving privilege.

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

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

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

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

7 4. Has completed a DUI program licensed by the
8 department.

9 (b) At such hearing, the department shall determine
10 the petitioner's qualification, fitness, and need to drive.
11 Upon such determination, the department may, in its
12 discretion, reinstate the driver's license of the petitioner.
13 Such reinstatement must be made subject to the following
14 qualifications:

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

17 2. Such person must be supervised by a DUI program
18 licensed by the department and report to the program for such
19 supervision and education at least four times a year or
20 additionally as required by the program for the remainder of
21 the revocation period. Such supervision shall include
22 evaluation, education, referral into treatment, and other
23 activities required by the department.

24 (c) Such person must assume the reasonable costs of
25 supervision. If such person fails to comply with the required
26 supervision, the program shall report the failure to the
27 department, and the department shall cancel such person's
28 driving privilege.

29 (d) If, after reinstatement, such person is convicted
30 of an offense for which mandatory revocation of his or her
31

1 license is required, the department shall revoke his or her
2 driving privilege.

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

6 Section 24. For the purpose of incorporating the
7 amendment to section 316.193, Florida Statutes, in references
8 thereto, subsections (2), (3), and (4) of section 322.2715,
9 Florida Statutes, are reenacted to read:

10 322.2715 Ignition interlock device.--

11 (2) For purposes of this section, any conviction for a
12 violation of s. 316.193, a previous conviction for a violation
13 of former s. 316.1931, or a conviction outside this state for
14 driving under the influence, driving while intoxicated,
15 driving with an unlawful blood-alcohol level, or any other
16 similar alcohol-related or drug-related traffic offense is a
17 conviction of driving under the influence.

18 (3) If the person is convicted of:

19 (a) A first offense of driving under the influence
20 under s. 316.193 and has an unlawful blood-alcohol level or
21 breath-alcohol level as specified in s. 316.193(4), or if a
22 person is convicted of a violation of s. 316.193 and was at
23 the time of the offense accompanied in the vehicle by a person
24 younger than 18 years of age, the person shall have the
25 ignition interlock device installed for 6 months for the first
26 offense and for at least 2 years for a second offense.

27 (b) A second offense of driving under the influence,
28 the ignition interlock device shall be installed for a period
29 of not less than 1 year.

30 (c) A third offense of driving under the influence
31 which occurs within 10 years after a prior conviction for a

1 violation of s. 316.193, the ignition interlock device shall
2 be installed for a period of not less than 2 years.

3 (d) A third offense of driving under the influence
4 which occurs more than 10 years after the date of a prior
5 conviction, the ignition interlock device shall be installed
6 for a period of not less than 2 years.

7 (4) If the court fails to order the mandatory
8 placement of the ignition interlock device or fails to order
9 for the applicable period the mandatory placement of an
10 ignition interlock device under s. 316.193 or s. 316.1937 at
11 the time of imposing sentence or within 30 days thereafter,
12 the department shall immediately require that the ignition
13 interlock device be installed as provided in this section,
14 except that consideration may be given to those individuals
15 having a documented medical condition that would prohibit the
16 device from functioning normally. This subsection applies to
17 the reinstatement of the driving privilege following a
18 revocation, suspension, or cancellation that is based upon a
19 conviction for the offense of driving under the influence
20 which occurs on or after July 1, 2005.

21 Section 25. For the purpose of incorporating the
22 amendment to section 316.193, Florida Statutes, in references
23 thereto, subsection (2) of section 322.28, Florida Statutes,
24 is reenacted to read:

25 322.28 Period of suspension or revocation.--

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

28 (a) Upon conviction of the driver, the court, along
29 with imposing sentence, shall revoke the driver's license or
30 driving privilege of the person so convicted, effective on the
31

1 date of conviction, and shall prescribe the period of such
2 revocation in accordance with the following provisions:

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

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

13 3. Upon a third conviction for an offense that occurs
14 within a period of 10 years after the date of a prior
15 conviction for the violation of the provisions of s. 316.193
16 or former s. 316.1931 or a combination of such sections, the
17 driver's license or driving privilege shall be revoked for not
18 less than 10 years.

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

30 (b) If the period of revocation was not specified by
31 the court at the time of imposing sentence or within 30 days

1 thereafter, and is not otherwise specified by law, the
2 department shall forthwith revoke the driver's license or
3 driving privilege for the maximum period applicable under
4 paragraph (a) for a first conviction and for the minimum
5 period applicable under paragraph (a) for any subsequent
6 convictions. The driver may, within 30 days after such
7 revocation by the department, petition the court for further
8 hearing on the period of revocation, and the court may reopen
9 the case and determine the period of revocation within the
10 limits specified in paragraph (a).

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

1 (d) When any driver's license or driving privilege has
2 been revoked pursuant to the provisions of this section, the
3 department shall not grant a new license, except upon
4 reexamination of the licensee after the expiration of the
5 period of revocation so prescribed. However, the court may, in
6 its sound discretion, issue an order of reinstatement on a
7 form furnished by the department which the person may take to
8 any driver's license examining office for reinstatement by the
9 department pursuant to s. 322.282.

10 (e) The court shall permanently revoke the driver's
11 license or driving privilege of a person who has been
12 convicted four times for violation of s. 316.193 or former s.
13 316.1931 or a combination of such sections. The court shall
14 permanently revoke the driver's license or driving privilege
15 of any person who has been convicted of DUI manslaughter in
16 violation of s. 316.193. If the court has not permanently
17 revoked such driver's license or driving privilege within 30
18 days after imposing sentence, the department shall permanently
19 revoke the driver's license or driving privilege pursuant to
20 this paragraph. No driver's license or driving privilege may
21 be issued or granted to any such person. This paragraph
22 applies only if at least one of the convictions for violation
23 of s. 316.193 or former s. 316.1931 was for a violation that
24 occurred after July 1, 1982. For the purposes of this
25 paragraph, a conviction for violation of former s. 316.028,
26 former s. 316.1931, or former s. 860.01 is also considered a
27 conviction for violation of s. 316.193. Also, a conviction of
28 driving under the influence, driving while intoxicated,
29 driving with an unlawful blood-alcohol level, or any other
30 similar alcohol-related or drug-related traffic offense
31

1 outside this state is considered a conviction for the purposes
2 of this paragraph.

3 Section 26. For the purpose of incorporating the
4 amendment to section 316.193, Florida Statutes, in references
5 thereto, paragraph (a) of subsection (2) of section 322.282,
6 Florida Statutes, is reenacted to read:

7 322.282 Procedure when court revokes or suspends
8 license or driving privilege and orders reinstatement.--When a
9 court suspends or revokes a person's license or driving
10 privilege and, in its discretion, orders reinstatement as
11 provided by s. 322.28(2)(d) or former s. 322.261(5):

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

1 presently suspended for driving with an unlawful blood-alcohol
2 level or a refusal to submit to a breath, urine, or blood test
3 and is also revoked for a conviction for a violation of s.
4 316.193 or former s. 316.1931, if the suspension and
5 revocation arise out of the same incident.

6 Section 27. For the purpose of incorporating the
7 amendment to section 316.193, Florida Statutes, in references
8 thereto, section 322.291, Florida Statutes, is reenacted to
9 read:

10 322.291 Driver improvement schools or DUI programs;
11 required in certain suspension and revocation cases.--Except
12 as provided in s. 322.03(2), any person:

13 (1) Whose driving privilege has been revoked:

14 (a) Upon conviction for:

15 1. Driving, or being in actual physical control of,
16 any vehicle while under the influence of alcoholic beverages,
17 any chemical substance set forth in s. 877.111, or any
18 substance controlled under chapter 893, in violation of s.
19 316.193;

20 2. Driving with an unlawful blood- or breath-alcohol
21 level;

22 3. Manslaughter resulting from the operation of a
23 motor vehicle;

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

27 5. Reckless driving; or

28 (b) As an habitual offender;

29 (c) Upon direction of the court, if the court feels
30 that the seriousness of the offense and the circumstances
31

1 | surrounding the conviction warrant the revocation of the
2 | licensee's driving privilege; or
3 | (2) Whose license was suspended under the point
4 | system, was suspended for driving with an unlawful
5 | blood-alcohol level of 0.10 percent or higher before January
6 | 1, 1994, was suspended for driving with an unlawful
7 | blood-alcohol level of 0.08 percent or higher after December
8 | 31, 1993, was suspended for a violation of s. 316.193(1), or
9 | was suspended for refusing to submit to a lawful breath,
10 | blood, or urine test as provided in s. 322.2615
11 |
12 | shall, before the driving privilege may be reinstated, present
13 | to the department proof of enrollment in a department-approved
14 | advanced driver improvement course operating pursuant to s.
15 | 318.1451 or a substance abuse education course conducted by a
16 | DUI program licensed pursuant to s. 322.292, which shall
17 | include a psychosocial evaluation and treatment, if referred.
18 | If the person fails to complete such course or evaluation
19 | within 90 days after reinstatement, or subsequently fails to
20 | complete treatment, if referred, the DUI program shall notify
21 | the department of the failure. Upon receipt of the notice, the
22 | department shall cancel the offender's driving privilege,
23 | notwithstanding the expiration of the suspension or revocation
24 | of the driving privilege. The department may temporarily
25 | reinstate the driving privilege upon verification from the DUI
26 | program that the offender has completed the education course
27 | and evaluation requirement and has reentered and is currently
28 | participating in treatment. If the DUI program notifies the
29 | department of the second failure to complete treatment, the
30 | department shall reinstate the driving privilege only after
31 | notice of completion of treatment from the DUI program.

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

4 (c) The continuance in force of a license to drive is
5 predicated upon compliance with laws and ordinances relating
6 to the operation of motor vehicles, in whichever jurisdiction
7 the vehicle is operated.

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

9 (a) Promote compliance with the laws, ordinances, and
10 administrative rules and regulations relating to the operation
11 of motor vehicles by their operators in each of the
12 jurisdictions where such operators drive motor vehicles;

13 (b) Make the reciprocal recognition of licenses to
14 drive and eligibility therefor more just and equitable by
15 considering the overall compliance with motor vehicle laws,
16 ordinances, and administrative rules and regulations as a
17 condition precedent to the continuance or issuance of any
18 license by reason of which the licensee is authorized or
19 permitted to operate a motor vehicle in any of the party
20 states.

21
22 ARTICLE II
23

24 DEFINITIONS.--As used in this compact:

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

28 (2) "Home state" means the state which has issued and
29 has the power to suspend or revoke the use of the license or
30 permit to operate a motor vehicle.
31

1 if such conduct had occurred in the home state, in the case of
2 convictions for:

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

6 (b) Driving a motor vehicle while under the influence
7 of alcoholic beverages or a narcotic drug, or under the
8 influence of any other drug to a degree which renders the
9 driver incapable of safely driving a motor vehicle, as
10 provided by s. 316.193;

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

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

16 (2) As to other convictions, reported pursuant to
17 article III, the licensing authority in the home state shall
18 give such effect to the conduct as is provided by the laws of
19 the home state.

20
21 ARTICLE V

22
23 APPLICATIONS FOR NEW LICENSES.--Upon application for a
24 license to drive, the licensing authority in a party state
25 shall ascertain whether the applicant has ever held, or is the
26 holder of, a license to drive issued by any other party state.
27 The licensing authority in the state where application is made
28 shall not issue a license to drive to the applicant if:

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

1 (2) The applicant has held such a license, but the
2 same has been revoked by reason, in whole or in part, of a
3 violation and if such revocation has not terminated, except
4 that after the expiration of 1 year from the date the license
5 was revoked, such person may make application for a new
6 license if permitted by law. The licensing authority may
7 refuse to issue a license to any such applicant if, after
8 investigation, the licensing authority determines that it will
9 not be safe to grant to such person the privilege of driving a
10 motor vehicle on the public highways.

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

14
15 ARTICLE VI
16

17 APPLICABILITY OF OTHER LAWS.--Except as expressly
18 required by provisions of this compact, nothing contained
19 herein shall be construed to affect the right of any party
20 state to apply any of its other laws relating to licenses to
21 drive to any person or circumstance, nor to invalidate or
22 prevent any driver license agreement or other cooperative
23 arrangement between a party state and a nonparty state.

24
25 ARTICLE VII
26

27 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

28 (1) The head of the licensing authority of each party
29 state shall be the administrator of this compact for his or
30 her state. The administrators, acting jointly, shall have the
31

1 power to formulate all necessary and proper procedures for the
2 exchange of information under this compact.

3 (2) The administrator of each party state shall
4 furnish to the administrator of each other party state any
5 information or documents reasonably necessary to facilitate
6 the administration of this compact.

7
8 ARTICLE VIII

9
10 ENTRY INTO FORCE AND WITHDRAWAL.--

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

14 (2) Any party state may withdraw from this compact by
15 enacting a statute repealing the same, but no such withdrawal
16 shall take effect until 6 months after the executive head of
17 the withdrawing state has given notice of the withdrawal to
18 the executive heads of all other party states. No withdrawal
19 shall affect the validity or applicability by the licensing
20 authorities of states remaining party to the compact of any
21 report of conviction occurring prior to the withdrawal.

22
23 ARTICLE IX

24
25 CONSTRUCTION AND SEVERABILITY.--This compact shall be
26 liberally construed so as to effectuate the purposes thereof.
27 The provisions of this compact shall be severable; and if any
28 phrase, clause, sentence, or provision of this compact is
29 declared to be contrary to the constitution of any party state
30 or of the United States or the applicability thereof to any
31 government, agency, person, or circumstance is held invalid,

1 | the validity of the remainder of this compact and the
2 | applicability thereof to any government, agency, person, or
3 | circumstance shall not be affected thereby. If this compact
4 | shall be held contrary to the constitution of any state party
5 | thereto, the compact shall remain in full force and effect as
6 | to the remaining states and in full force and effect as to the
7 | state affected as to all severable matters.

8 | Section 30. For the purpose of incorporating the
9 | amendment to section 316.193, Florida Statutes, in references
10 | thereto, subsection (3) of section 322.62, Florida Statutes,
11 | is reenacted to read:

12 | 322.62 Driving under the influence; commercial motor
13 | vehicle operators.--

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

20 | Section 31. For the purpose of incorporating the
21 | amendment to section 316.193, Florida Statutes, in references
22 | thereto, paragraph (d) of subsection (2) and subsection (6) of
23 | section 322.63, Florida Statutes, are reenacted to read:

24 | 322.63 Alcohol or drug testing; commercial motor
25 | vehicle operators.--

26 | (2) The chemical and physical tests authorized by this
27 | section shall only be required if a law enforcement officer
28 | has reasonable cause to believe that a person driving a
29 | commercial motor vehicle has any alcohol, chemical substance,
30 | or controlled substance in his or her body.

31 |

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

15 (6) Notwithstanding any provision of law pertaining to
16 the confidentiality of hospital records or other medical
17 records, information relating to the alcohol content of a
18 person's blood or the presence of chemical substances or
19 controlled substances in a person's blood obtained pursuant to
20 this section shall be released to a court, prosecuting
21 attorney, defense attorney, or law enforcement officer in
22 connection with an alleged violation of s. 316.193 or s.
23 322.62 upon request for such information.

24 Section 32. For the purpose of incorporating the
25 amendment to section 316.193, Florida Statutes, in references
26 thereto, subsections (1) and (2), paragraph (a) of subsection
27 (7), paragraph (b) of subsection (8), and subsections (14) and
28 (15) of section 322.64, Florida Statutes, are reenacted to
29 read:

30
31

1 322.64 Holder of commercial driver's license; driving
2 with unlawful blood-alcohol level; refusal to submit to
3 breath, urine, or blood test.--

4 (1)(a) A law enforcement officer or correctional
5 officer shall, on behalf of the department, disqualify from
6 operating any commercial motor vehicle a person who while
7 operating or in actual physical control of a commercial motor
8 vehicle is arrested for a violation of s. 316.193, relating to
9 unlawful blood-alcohol level or breath-alcohol level, or a
10 person who has refused to submit to a breath, urine, or blood
11 test authorized by s. 322.63 arising out of the operation or
12 actual physical control of a commercial motor vehicle. Upon
13 disqualification of the person, the officer shall take the
14 person's driver's license and issue the person a 10-day
15 temporary permit for the operation of noncommercial vehicles
16 only if the person is otherwise eligible for the driving
17 privilege and shall issue the person a notice of
18 disqualification. If the person has been given a blood,
19 breath, or urine test, the results of which are not available
20 to the officer at the time of the arrest, the agency employing
21 the officer shall transmit such results to the department
22 within 5 days after receipt of the results. If the department
23 then determines that the person was arrested for a violation
24 of s. 316.193 and that the person had a blood-alcohol level or
25 breath-alcohol level of 0.08 or higher, the department shall
26 disqualify the person from operating a commercial motor
27 vehicle pursuant to subsection (3).

28 (b) The disqualification under paragraph (a) shall be
29 pursuant to, and the notice of disqualification shall inform
30 the driver of, the following:
31

1 1.a. The driver refused to submit to a lawful breath,
2 blood, or urine test and he or she is disqualified from
3 operating a commercial motor vehicle for a period of 1 year,
4 for a first refusal, or permanently, if he or she has
5 previously been disqualified as a result of a refusal to
6 submit to such a test; or

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

14 2. The disqualification period for operating
15 commercial vehicles shall commence on the date of arrest or
16 issuance of notice of disqualification, whichever is later.

17 3. The driver may request a formal or informal review
18 of the disqualification by the department within 10 days after
19 the date of arrest or issuance of notice of disqualification,
20 whichever is later.

21 4. The temporary permit issued at the time of arrest
22 or disqualification will expire at midnight of the 10th day
23 following the date of disqualification.

24 5. The driver may submit to the department any
25 materials relevant to the arrest.

26 (2) Except as provided in paragraph (1)(a), the law
27 enforcement officer shall forward to the department, within 5
28 days after the date of the arrest or the issuance of the
29 notice of disqualification, whichever is later, a copy of the
30 notice of disqualification, the driver's license of the person
31 arrested, and a report of the arrest, including, if

1 applicable, an affidavit stating the officer's grounds for
2 belief that the person arrested was in violation of s.
3 316.193; the results of any breath or blood test or an
4 affidavit stating that a breath, blood, or urine test was
5 requested by a law enforcement officer or correctional officer
6 and that the person arrested refused to submit; a copy of the
7 citation issued to the person arrested; and the officer's
8 description of the person's field sobriety test, if any. The
9 failure of the officer to submit materials within the 5-day
10 period specified in this subsection or subsection (1) shall
11 not affect the department's ability to consider any evidence
12 submitted at or prior to the hearing. The officer may also
13 submit a copy of a videotape of the field sobriety test or the
14 attempt to administer such test.

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

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

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

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

31

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

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

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

15 (14) The decision of the department under this section
16 shall not be considered in any trial for a violation of s.
17 316.193, s. 322.61, or s. 322.62, nor shall any written
18 statement submitted by a person in his or her request for
19 departmental review under this section be admissible into
20 evidence against him or her in any such trial. The
21 disposition of any related criminal proceedings shall not
22 affect a disqualification imposed pursuant to this section.

23 (15) This section does not preclude the suspension of
24 the driving privilege pursuant to s. 322.2615. The driving
25 privilege of a person who has been disqualified from operating
26 a commercial motor vehicle also may be suspended for a
27 violation of s. 316.193.

28 Section 33. For the purpose of incorporating the
29 amendment to section 316.193, Florida Statutes, in references
30 thereto, subsection (4) of section 323.001, Florida Statutes,
31 is reenacted to read:

1 323.001 Wrecker operator storage facilities; vehicle
2 holds.--

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

5 (a) The officer has probable cause to believe the
6 vehicle should be seized and forfeited under the Florida
7 Contraband Forfeiture Act, ss. 932.701-932.707;

8 (b) The officer has probable cause to believe the
9 vehicle should be seized and forfeited under chapter 370 or
10 chapter 372;

11 (c) The officer has probable cause to believe the
12 vehicle was used as the means of committing a crime;

13 (d) The officer has probable cause to believe that the
14 vehicle is itself evidence that tends to show that a crime has
15 been committed or that the vehicle contains evidence, which
16 cannot readily be removed, which tends to show that a crime
17 has been committed;

18 (e) The officer has probable cause to believe the
19 vehicle was involved in a traffic accident resulting in death
20 or personal injury and should be sealed for investigation and
21 collection of evidence by a vehicular homicide investigator;

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

24 (g) The officer is complying with a court order.

25 Section 34. For the purpose of incorporating the
26 amendment to section 316.193, Florida Statutes, in references
27 thereto, section 324.131, Florida Statutes, is reenacted to
28 read:

29 324.131 Period of suspension.--Such license,
30 registration and nonresident's operating privilege shall
31 remain so suspended and shall not be renewed, nor shall any

1 such license or registration be thereafter issued in the name
2 of such person, including any such person not previously
3 licensed, unless and until every such judgment is stayed,
4 satisfied in full or to the extent of the limits stated in s.
5 324.021(7) and until the said person gives proof of financial
6 responsibility as provided in s. 324.031, such proof to be
7 maintained for 3 years. In addition, if the person's license
8 or registration has been suspended or revoked due to a
9 violation of s. 316.193 or pursuant to s. 322.26(2), that
10 person shall maintain noncancelable liability coverage for
11 each motor vehicle registered in his or her name, as described
12 in s. 627.7275(2), and must present proof that coverage is in
13 force on a form adopted by the Department of Highway Safety
14 and Motor Vehicles, such proof to be maintained for 3 years.

15 Section 35. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, subsection (6) of section 327.35, Florida Statutes,
18 is reenacted to read:

19 327.35 Boating under the influence; penalties;
20 "designated drivers".--

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

24 (a) For the first conviction, the court shall place
25 the defendant on probation for a period not to exceed 1 year
26 and, as a condition of such probation, shall order the
27 defendant to participate in public service or a community work
28 project for a minimum of 50 hours. The court must also, as a
29 condition of probation, order the impoundment or
30 immobilization of the vessel that was operated by or in the
31 actual control of the defendant or any one vehicle registered

1 | in the defendant's name at the time of impoundment or
2 | immobilization, for a period of 10 days or for the unexpired
3 | term of any lease or rental agreement that expires within 10
4 | days. The impoundment or immobilization must not occur
5 | concurrently with the incarceration of the defendant. The
6 | impoundment or immobilization order may be dismissed in
7 | accordance with paragraph (e) or paragraph (f). The total
8 | period of probation and incarceration may not exceed 1 year.

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

24 | (c) For the third or subsequent conviction for an
25 | offense that occurs within a period of 10 years after the date
26 | of a prior conviction for violation of this section, the court
27 | shall order imprisonment for not less than 30 days. The court
28 | must also, as a condition of probation, order the impoundment
29 | or immobilization of the vessel that was operated by or in the
30 | actual control of the defendant or any one vehicle registered
31 | in the defendant's name at the time of impoundment or

1 immobilization, for a period of 90 days or for the unexpired
2 term of any lease or rental agreement that expires within 90
3 days. The impoundment or immobilization must not occur
4 concurrently with the incarceration of the defendant. The
5 impoundment or immobilization order may be dismissed in
6 accordance with paragraph (e) or paragraph (f). At least 48
7 hours of confinement must be consecutive.

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

18 (e) A person who owns but was not operating the vessel
19 when the offense occurred may submit to the court a police
20 report indicating that the vessel was stolen at the time of
21 the offense or documentation of having purchased the vessel
22 after the offense was committed from an entity other than the
23 defendant or the defendant's agent. If the court finds that
24 the vessel was stolen or that the sale was not made to
25 circumvent the order and allow the defendant continued access
26 to the vessel, the order must be dismissed and the owner of
27 the vessel will incur no costs. If the court denies the
28 request to dismiss the order of impoundment or immobilization,
29 the petitioner may request an evidentiary hearing.

30 (f) A person who owns but was not operating the vessel
31 when the offense occurred, and whose vessel was stolen or who

1 purchased the vessel after the offense was committed directly
2 from the defendant or the defendant's agent, may request an
3 evidentiary hearing to determine whether the impoundment or
4 immobilization should occur. If the court finds that either
5 the vessel was stolen or the purchase was made without
6 knowledge of the offense, that the purchaser had no
7 relationship to the defendant other than through the
8 transaction, and that such purchase would not circumvent the
9 order and allow the defendant continued access to the vessel,
10 the order must be dismissed and the owner of the vessel will
11 incur no costs.

12 (g) All costs and fees for the impoundment or
13 immobilization, including the cost of notification, must be
14 paid by the owner of the vessel or, if the vessel is leased or
15 rented, by the person leasing or renting the vessel, unless
16 the impoundment or immobilization order is dismissed.

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

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

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

13
14 For the purposes of this section, any conviction for a
15 violation of s. 316.193, a previous conviction for the
16 violation of former s. 316.1931, former s. 860.01, or former
17 s. 316.028, or a previous conviction outside this state for
18 driving under the influence, driving while intoxicated,
19 driving with an unlawful blood-alcohol level, driving with an
20 unlawful breath-alcohol level, or any other similar
21 alcohol-related or drug-related traffic offense, is also
22 considered a previous conviction for violation of this
23 section.

24 Section 36. For the purpose of incorporating the
25 amendment to section 316.193, Florida Statutes, in references
26 thereto, subsection (10) of section 397.405, Florida Statutes,
27 is reenacted to read:

28 397.405 Exemptions from licensure.--The following are
29 exempt from the licensing provisions of this chapter:

30 (10) DUI education and screening services provided
31 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and

1 322.291. Persons or entities providing treatment services must
2 be licensed under this chapter unless exempted from licensing
3 as provided in this section.

4
5 The exemptions from licensure in this section do not apply to
6 any service provider that receives an appropriation, grant, or
7 contract from the state to operate as a service provider as
8 defined in this chapter or to any substance abuse program
9 regulated pursuant to s. 397.406. Furthermore, this chapter
10 may not be construed to limit the practice of a physician
11 licensed under chapter 458 or chapter 459, a psychologist
12 licensed under chapter 490, or a psychotherapist licensed
13 under chapter 491 who provides substance abuse treatment, so
14 long as the physician, psychologist, or psychotherapist does
15 not represent to the public that he or she is a licensed
16 service provider and does not provide services to clients
17 pursuant to part V of this chapter. Failure to comply with any
18 requirement necessary to maintain an exempt status under this
19 section is a misdemeanor of the first degree, punishable as
20 provided in s. 775.082 or s. 775.083.

21 Section 37. For the purpose of incorporating the
22 amendment to section 316.193, Florida Statutes, in references
23 thereto, paragraph (c) of subsection (17) of section 440.02,
24 Florida Statutes, is reenacted to read:

25 440.02 Definitions.--When used in this chapter, unless
26 the context clearly requires otherwise, the following terms
27 shall have the following meanings:

28 (17)

29 (c) "Employment" does not include service performed by
30 or as:

- 31 1. Domestic servants in private homes.

1 2. Agricultural labor performed on a farm in the
2 employ of a bona fide farmer, or association of farmers, that
3 employs 5 or fewer regular employees and that employs fewer
4 than 12 other employees at one time for seasonal agricultural
5 labor that is completed in less than 30 days, provided such
6 seasonal employment does not exceed 45 days in the same
7 calendar year. The term "farm" includes stock, dairy, poultry,
8 fruit, fur-bearing animals, fish, and truck farms, ranches,
9 nurseries, and orchards. The term "agricultural labor"
10 includes field foremen, timekeepers, checkers, and other farm
11 labor supervisory personnel.

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

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

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

21 Section 38. For the purpose of incorporating the
22 amendment to section 316.193, Florida Statutes, in references
23 thereto, paragraph (b) of subsection (7) of section 440.09,
24 Florida Statutes, is reenacted to read:

25 440.09 Coverage.--

26 (7)

27 (b) If the employee has, at the time of the injury, a
28 blood alcohol level equal to or greater than the level
29 specified in s. 316.193, or if the employee has a positive
30 confirmation of a drug as defined in this act, it is presumed
31 that the injury was occasioned primarily by the intoxication

1 of, or by the influence of the drug upon, the employee. If the
2 employer has implemented a drug-free workplace, this
3 presumption may be rebutted only by evidence that there is no
4 reasonable hypothesis that the intoxication or drug influence
5 contributed to the injury. In the absence of a drug-free
6 workplace program, this presumption may be rebutted by clear
7 and convincing evidence that the intoxication or influence of
8 the drug did not contribute to the injury. Percent by weight
9 of alcohol in the blood must be based upon grams of alcohol
10 per 100 milliliters of blood. If the results are positive, the
11 testing facility must maintain the specimen for a minimum of
12 90 days. Blood serum may be used for testing purposes under
13 this chapter; however, if this test is used, the presumptions
14 under this section do not arise unless the blood alcohol level
15 is proved to be medically and scientifically equivalent to or
16 greater than the comparable blood alcohol level that would
17 have been obtained if the test were based on percent by weight
18 of alcohol in the blood. However, if, before the accident, the
19 employer had actual knowledge of and expressly acquiesced in
20 the employee's presence at the workplace while under the
21 influence of such alcohol or drug, the presumptions specified
22 in this subsection do not apply.

23 Section 39. For the purpose of incorporating the
24 amendment to section 316.193, Florida Statutes, in references
25 thereto, paragraph (d) of subsection (1) of section 493.6106,
26 Florida Statutes, is reenacted to read:

27 493.6106 License requirements; posting.--

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

29 (d) Not be a chronic and habitual user of alcoholic
30 beverages to the extent that her or his normal faculties are
31 impaired; not have been committed under chapter 397, former

1 chapter 396, or a similar law in any other state; not have
2 been found to be a habitual offender under s. 856.011(3) or a
3 similar law in any other state; and not have had two or more
4 convictions under s. 316.193 or a similar law in any other
5 state within the 3-year period immediately preceding the date
6 the application was filed, unless the individual establishes
7 that she or he is not currently impaired and has successfully
8 completed a rehabilitation course.

9 Section 40. For the purpose of incorporating the
10 amendment to section 316.193, Florida Statutes, in references
11 thereto, paragraph (a) of subsection (2) of section 627.7275,
12 Florida Statutes, is reenacted to read:

13 627.7275 Motor vehicle liability.--

14 (2)(a) Insurers writing motor vehicle insurance in
15 this state shall make available, subject to the insurers'
16 usual underwriting restrictions:

17 1. Coverage under policies as described in subsection
18 (1) to any applicant for private passenger motor vehicle
19 insurance coverage who is seeking the coverage in order to
20 reinstate the applicant's driving privileges in this state
21 when the driving privileges were revoked or suspended pursuant
22 to s. 316.646 or s. 627.733 due to the failure of the
23 applicant to maintain required security.

24 2. Coverage under policies as described in subsection
25 (1), which also provides liability coverage for bodily injury,
26 death, and property damage arising out of the ownership,
27 maintenance, or use of the motor vehicle in an amount not less
28 than the limits described in s. 324.021(7) and conforms to the
29 requirements of s. 324.151, to any applicant for private
30 passenger motor vehicle insurance coverage who is seeking the
31 coverage in order to reinstate the applicant's driving

1 | privileges in this state after such privileges were revoked or
2 | suspended under s. 316.193 or s. 322.26(2) for driving under
3 | the influence.

4 | Section 41. For the purpose of incorporating the
5 | amendment to section 316.193, Florida Statutes, in references
6 | thereto, subsection (4) of section 627.758, Florida Statutes,
7 | is reenacted to read:

8 | 627.758 Surety on auto club traffic arrest bond;
9 | conditions, limit; bail bond.--

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

20 | Section 42. For the purpose of incorporating the
21 | amendment to section 316.193, Florida Statutes, in references
22 | thereto, subsections (2) and (10) of section 790.06, Florida
23 | Statutes, are reenacted to read:

24 | 790.06 License to carry concealed weapon or firearm.--

25 | (2) The Department of Agriculture and Consumer
26 | Services shall issue a license if the applicant:

27 | (a) Is a resident of the United States or is a
28 | consular security official of a foreign government that
29 | maintains diplomatic relations and treaties of commerce,
30 | friendship, and navigation with the United States and is
31 |

1 certified as such by the foreign government and by the
2 appropriate embassy in this country;

3 (b) Is 21 years of age or older;

4 (c) Does not suffer from a physical infirmity which
5 prevents the safe handling of a weapon or firearm;

6 (d) Is not ineligible to possess a firearm pursuant to
7 s. 790.23 by virtue of having been convicted of a felony;

8 (e) Has not been committed for the abuse of a
9 controlled substance or been found guilty of a crime under the
10 provisions of chapter 893 or similar laws of any other state
11 relating to controlled substances within a 3-year period
12 immediately preceding the date on which the application is
13 submitted;

14 (f) Does not chronically and habitually use alcoholic
15 beverages or other substances to the extent that his or her
16 normal faculties are impaired. It shall be presumed that an
17 applicant chronically and habitually uses alcoholic beverages
18 or other substances to the extent that his or her normal
19 faculties are impaired if the applicant has been committed
20 under chapter 397 or under the provisions of former chapter
21 396 or has been convicted under s. 790.151 or has been deemed
22 a habitual offender under s. 856.011(3), or has had two or
23 more convictions under s. 316.193 or similar laws of any other
24 state, within the 3-year period immediately preceding the date
25 on which the application is submitted;

26 (g) Desires a legal means to carry a concealed weapon
27 or firearm for lawful self-defense;

28 (h) Demonstrates competence with a firearm by any one
29 of the following:

30
31

- 1 1. Completion of any hunter education or hunter safety
2 course approved by the Fish and Wildlife Conservation
3 Commission or a similar agency of another state;
- 4 2. Completion of any National Rifle Association
5 firearms safety or training course;
- 6 3. Completion of any firearms safety or training
7 course or class available to the general public offered by a
8 law enforcement, junior college, college, or private or public
9 institution or organization or firearms training school,
10 utilizing instructors certified by the National Rifle
11 Association, Criminal Justice Standards and Training
12 Commission, or the Department of Agriculture and Consumer
13 Services;
- 14 4. Completion of any law enforcement firearms safety
15 or training course or class offered for security guards,
16 investigators, special deputies, or any division or
17 subdivision of law enforcement or security enforcement;
- 18 5. Presents evidence of equivalent experience with a
19 firearm through participation in organized shooting
20 competition or military service;
- 21 6. Is licensed or has been licensed to carry a firearm
22 in this state or a county or municipality of this state,
23 unless such license has been revoked for cause; or
- 24 7. Completion of any firearms training or safety
25 course or class conducted by a state-certified or National
26 Rifle Association certified firearms instructor;
- 27
- 28 A photocopy of a certificate of completion of any of the
29 courses or classes; or an affidavit from the instructor,
30 school, club, organization, or group that conducted or taught
31 said course or class attesting to the completion of the course

1 or class by the applicant; or a copy of any document which
2 shows completion of the course or class or evidences
3 participation in firearms competition shall constitute
4 evidence of qualification under this paragraph; any person who
5 conducts a course pursuant to subparagraph 2., subparagraph
6 3., or subparagraph 7., or who, as an instructor, attests to
7 the completion of such courses, must maintain records
8 certifying that he or she observed the student safely handle
9 and discharge the firearm;

10 (i) Has not been adjudicated an incapacitated person
11 under s. 744.331, or similar laws of any other state, unless 5
12 years have elapsed since the applicant's restoration to
13 capacity by court order;

14 (j) Has not been committed to a mental institution
15 under chapter 394, or similar laws of any other state, unless
16 the applicant produces a certificate from a licensed
17 psychiatrist that he or she has not suffered from disability
18 for at least 5 years prior to the date of submission of the
19 application;

20 (k) Has not had adjudication of guilt withheld or
21 imposition of sentence suspended on any felony or misdemeanor
22 crime of domestic violence unless 3 years have elapsed since
23 probation or any other conditions set by the court have been
24 fulfilled, or the record has been sealed or expunged;

25 (l) Has not been issued an injunction that is
26 currently in force and effect and that restrains the applicant
27 from committing acts of domestic violence or acts of repeat
28 violence; and

29 (m) Is not prohibited from purchasing or possessing a
30 firearm by any other provision of Florida or federal law.
31

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

3 (a) Is found to be ineligible under the criteria set
4 forth in subsection (2);

5 (b) Develops or sustains a physical infirmity which
6 prevents the safe handling of a weapon or firearm;

7 (c) Is convicted of a felony which would make the
8 licensee ineligible to possess a firearm pursuant to s.
9 790.23;

10 (d) Is found guilty of a crime under the provisions of
11 chapter 893, or similar laws of any other state, relating to
12 controlled substances;

13 (e) Is committed as a substance abuser under chapter
14 397, or is deemed a habitual offender under s. 856.011(3), or
15 similar laws of any other state;

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

21 (g) Is adjudicated an incapacitated person under s.
22 744.331, or similar laws of any other state; or

23 (h) Is committed to a mental institution under chapter
24 394, or similar laws of any other state.

25 Section 43. For the purpose of incorporating the
26 amendment to section 316.193, Florida Statutes, in references
27 thereto, subsection (2) of section 903.36, Florida Statutes,
28 is reenacted to read:

29 903.36 Guaranteed arrest bond certificates as cash
30 bail.--

31

1 (2) The execution of a bail bond by a licensed general
2 lines agent of a surety insurer for the automobile club or
3 association member identified in the guaranteed traffic arrest
4 bond certificate, as provided in s. 627.758(4), shall be
5 accepted as bail in an amount not to exceed \$5,000 for the
6 appearance of the person named in the certificate in any court
7 to answer for the violation of a provision of chapter 316 or a
8 similar traffic law or ordinance, except driving under the
9 influence of alcoholic beverages, chemical substances, or
10 controlled substances, as prohibited by s. 316.193.
11 Presentation of the guaranteed traffic arrest bond certificate
12 and a power of attorney from the surety insurer for its
13 licensed general lines agents is authorization for such agent
14 to execute the bail bond.

15 Section 44. For the purpose of incorporating the
16 amendment to section 316.193, Florida Statutes, in references
17 thereto, paragraph (c) of subsection (4) of section 907.041,
18 Florida Statutes, is reenacted to read:

19 907.041 Pretrial detention and release.--

20 (4) PRETRIAL DETENTION.--

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

26 1. The defendant has previously violated conditions of
27 release and that no further conditions of release are
28 reasonably likely to assure the defendant's appearance at
29 subsequent proceedings;

30 2. The defendant, with the intent to obstruct the
31 judicial process, has threatened, intimidated, or injured any

1 | victim, potential witness, juror, or judicial officer, or has
2 | attempted or conspired to do so, and that no condition of
3 | release will reasonably prevent the obstruction of the
4 | judicial process;

5 | 3. The defendant is charged with trafficking in
6 | controlled substances as defined by s. 893.135, that there is
7 | a substantial probability that the defendant has committed the
8 | offense, and that no conditions of release will reasonably
9 | assure the defendant's appearance at subsequent criminal
10 | proceedings; or

11 | 4. The defendant is charged with DUI manslaughter, as
12 | defined by s. 316.193, and that there is a substantial
13 | probability that the defendant committed the crime and that
14 | the defendant poses a threat of harm to the community;
15 | conditions that would support a finding by the court pursuant
16 | to this subparagraph that the defendant poses a threat of harm
17 | to the community include, but are not limited to, any of the
18 | following:

19 | a. The defendant has previously been convicted of any
20 | crime under s. 316.193, or of any crime in any other state or
21 | territory of the United States that is substantially similar
22 | to any crime under s. 316.193;

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

25 | c. The defendant has previously been found guilty of,
26 | or has had adjudication of guilt withheld for, driving while
27 | the defendant's driver's license was suspended or revoked in
28 | violation of s. 322.34;

29 | 5. The defendant poses the threat of harm to the
30 | community. The court may so conclude, if it finds that the
31 | defendant is presently charged with a dangerous crime, that

1 | there is a substantial probability that the defendant
2 | committed such crime, that the factual circumstances of the
3 | crime indicate a disregard for the safety of the community,
4 | and that there are no conditions of release reasonably
5 | sufficient to protect the community from the risk of physical
6 | harm to persons.

7 | 6. The defendant was on probation, parole, or other
8 | release pending completion of sentence or on pretrial release
9 | for a dangerous crime at the time the current offense was
10 | committed; or

11 | 7. The defendant has violated one or more conditions
12 | of pretrial release or bond for the offense currently before
13 | the court and the violation, in the discretion of the court,
14 | supports a finding that no conditions of release can
15 | reasonably protect the community from risk of physical harm to
16 | persons or assure the presence of the accused at trial.

17 | Section 45. For the purpose of incorporating the
18 | amendments to sections 316.193 and 327.35, Florida Statutes,
19 | in references thereto, section 938.07, Florida Statutes, is
20 | reenacted to read:

21 | 938.07 Driving or boating under the
22 | influence.--Notwithstanding any other provision of s. 316.193
23 | or s. 327.35, a court cost of \$135 shall be added to any fine
24 | imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
25 | remit the funds to the Department of Revenue, \$25 of which
26 | shall be deposited in the Emergency Medical Services Trust
27 | Fund, \$50 shall be deposited in the Criminal Justice Standards
28 | and Training Trust Fund of the Department of Law Enforcement
29 | to be used for operational expenses in conducting the
30 | statewide criminal analysis laboratory system established in
31 |

1 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
2 Cord Injury Rehabilitation Trust Fund created in s. 381.79.

3 Section 46. For the purpose of incorporating the
4 amendment to section 316.193, Florida Statutes, in references
5 thereto, section 938.21, Florida Statutes, is reenacted to
6 read:

7 938.21 Alcohol and drug abuse
8 programs.--Notwithstanding any provision to the contrary of
9 the laws of this state, the court may assess for alcohol and
10 other drug abuse programs as provided in s. 893.165 any
11 defendant who pleads guilty or nolo contendere to, or is
12 convicted of, a violation of any provision of chapter 893 or
13 which involves a criminal violation of s. 316.193, s. 856.011,
14 s. 856.015, or chapter 562, chapter 567, or chapter 568, in
15 addition to any fine and other penalty provided by law, a
16 court cost in an amount up to the amount of the fine
17 authorized for the violation. The court is authorized to order
18 a defendant to pay an additional assessment if it finds that
19 the defendant has the ability to pay the fine and the
20 additional assessment and will not be prevented thereby from
21 being rehabilitated or from making restitution.

22 Section 47. For the purpose of incorporating the
23 amendment to section 316.193, Florida Statutes, in references
24 thereto, subsection (1) of section 938.23, Florida Statutes,
25 is reenacted to read:

26 938.23 Assistance grants for alcohol and other drug
27 abuse programs.--

28 (1) In addition to any fine imposed by law for any
29 criminal offense under chapter 893 or for any criminal
30 violation of s. 316.193, s. 856.011, s. 856.015, or chapter
31 562, chapter 567, or chapter 568, the court shall be

1 authorized, pursuant to the requirements of s. 938.21, to
2 impose an additional assessment in an amount up to the amount
3 of the fine authorized for the offense. Such additional
4 assessments shall be deposited for the purpose of providing
5 assistance grants to drug abuse treatment or alcohol treatment
6 or education programs as provided in s. 893.165.

7 Section 48. For the purpose of incorporating the
8 amendment to section 316.193, Florida Statutes, in references
9 thereto, paragraph (d) of subsection (2) of section 943.05,
10 Florida Statutes, is reenacted to read:

11 943.05 Criminal Justice Information Program; duties;
12 crime reports.--

13 (2) The program shall:

14 (d) Adopt rules to effectively and efficiently
15 implement, administer, manage, maintain, and use the automated
16 fingerprint identification system and uniform offense reports
17 and arrest reports. The rules shall be considered minimum
18 requirements and shall not preclude a criminal justice agency
19 from implementing its own enhancements. However, rules and
20 forms prescribing uniform arrest or probable cause affidavits
21 and alcohol influence reports to be used by all law
22 enforcement agencies in making DUI arrests under s. 316.193
23 shall be adopted, and shall be used by all law enforcement
24 agencies in this state. The rules and forms prescribing such
25 uniform affidavits and reports shall be adopted and
26 implemented by July 1, 2004. Failure to use these uniform
27 affidavits and reports, however, shall not prohibit
28 prosecution under s. 316.193.

29 Section 49. For the purpose of incorporating the
30 amendment made to section 316.193, Florida Statutes, in a
31

1 reference thereto, subsection (2) of section 948.036, Florida
2 Statutes, is reenacted to read:

3 948.036 Work programs as a condition of probation,
4 community control, or other court-ordered community
5 supervision.--

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

17 Section 50. For the purpose of incorporating the
18 amendment to section 316.193, Florida Statutes, in references
19 thereto, paragraph (b) of subsection (3) of section 960.03,
20 Florida Statutes, is reenacted to read:

21 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
22 960.01-960.28, unless the context otherwise requires, the
23 term:

24 (3) "Crime" means:

25 (b) A violation of s. 316.193, s. 316.027(1), s.
26 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results
27 in physical injury or death; however, no other act involving
28 the operation of a motor vehicle, boat, or aircraft which
29 results in injury or death shall constitute a crime for the
30 purpose of this chapter unless the injury or death was
31 intentionally inflicted through the use of such vehicle, boat,

1 or aircraft or unless such vehicle, boat, or aircraft is an
2 implement of a crime to which this act applies.

3 Section 51. For the purpose of incorporating the
4 amendment to section 327.35, Florida Statutes, in references
5 thereto, subsection (3) of section 327.352, Florida Statutes,
6 is reenacted to read:

7 327.352 Tests for alcohol, chemical substances, or
8 controlled substances; implied consent; refusal.--

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

18 Section 52. For the purpose of incorporating the
19 amendment to section 327.35, Florida Statutes, in references
20 thereto, subsections (1) and (2) of section 327.35215, Florida
21 Statutes, are reenacted to read:

22 327.35215 Penalty for failure to submit to test.--

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

27 (2) When a person refuses to submit to a blood test,
28 breath test, or urine test pursuant to s. 327.352, a law
29 enforcement officer who is authorized to make arrests for
30 violations of this chapter shall file with the clerk of the
31 court, on a form provided by the department, a certified

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

8 Section 53. For the purpose of incorporating the
9 amendment to section 327.35, Florida Statutes, in references
10 thereto, subsection (4) of section 327.353, Florida Statutes,
11 is reenacted to read:

12 327.353 Blood test for impairment or intoxication in
13 cases of death or serious bodily injury; right to use
14 reasonable force.--

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

24 Section 54. For the purpose of incorporating the
25 amendment to section 327.35, Florida Statutes, in references
26 thereto, subsections (1) and (4) of section 327.354, Florida
27 Statutes, are reenacted to read:

28 327.354 Presumption of impairment; testing methods.--

29 (1) It is unlawful and punishable as provided in s.
30 327.35 for any person who is under the influence of alcoholic
31 beverages or controlled substances, when affected to the

1 extent that the person's normal faculties are impaired or to
2 the extent that the person is deprived of full possession of
3 normal faculties, to operate any vessel within this state.
4 Such normal faculties include, but are not limited to, the
5 ability to see, hear, walk, talk, judge distances, drive an
6 automobile, make judgments, act in emergencies, and, in
7 general, normally perform the many mental and physical acts of
8 daily life.

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

12 Section 55. For the purpose of incorporating the
13 amendment to section 327.35, Florida Statutes, in references
14 thereto, paragraph (a) of subsection (1) and subsection (4) of
15 section 327.355, Florida Statutes, are reenacted to read:

16 327.355 Operation of vessels by persons under 21 years
17 of age who have consumed alcoholic beverages.--

18 (1)(a) Notwithstanding s. 327.35, it is unlawful for a
19 person under the age of 21 who has a breath-alcohol level of
20 0.02 or higher to operate or be in actual physical control of
21 a vessel.

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

29 Section 56. For the purpose of incorporating the
30 amendment to section 327.35, Florida Statutes, in references
31

1 thereto, section 327.359, Florida Statutes, is reenacted to
2 read:

3 327.359 Refusal to submit to testing; penalties.--Any
4 person who has refused to submit to a chemical or physical
5 test of his or her breath, blood, or urine, as described in s.
6 327.352, and who has been previously fined for refusal to
7 submit to a lawful test of his or her breath, urine, or blood,
8 and:

9 (1) Who the arresting law enforcement officer had
10 probable cause to believe was operating or in actual physical
11 control of a vessel in this state while under the influence of
12 alcoholic beverages, chemical substances, or controlled
13 substances;

14 (2) Who was placed under lawful arrest for a violation
15 of s. 327.35 unless such test was requested pursuant to s.
16 327.352(1)(c);

17 (3) Who was informed that if he or she refused to
18 submit to such test he or she is subject to a fine of \$500;

19 (4) Who was informed that a refusal to submit to a
20 lawful test of his or her breath, urine, or blood, if he or
21 she has been previously fined for refusal to submit to a
22 lawful test of his or her breath, urine, or blood, is a
23 misdemeanor; and

24 (5) Who, after having been so informed, refused to
25 submit to any such test when requested to do so by a law
26 enforcement officer or correctional officer

27
28 commits a misdemeanor of the first degree and is subject to
29 punishment as provided in s. 775.082 or s. 775.083.

30 Section 57. For the purpose of incorporating the
31 amendment to section 327.35, Florida Statutes, in references

1 thereto, section 327.36, Florida Statutes, is reenacted to
2 read:

3 327.36 Mandatory adjudication; prohibition against
4 accepting plea to lesser included offense.--

5 (1) Notwithstanding the provisions of s. 948.01, no
6 court may suspend, defer, or withhold adjudication of guilt or
7 imposition of sentence for any violation of s. 327.35, for
8 manslaughter resulting from the operation of a vessel, or for
9 vessel homicide.

10 (2)(a) No trial judge may accept a plea of guilty to a
11 lesser offense from a person who is charged with a violation
12 of s. 327.35, manslaughter resulting from the operation of a
13 vessel, or vessel homicide and who has been given a breath or
14 blood test to determine blood or breath alcohol content, the
15 results of which show a blood-alcohol level or breath-alcohol
16 level of 0.16 or more.

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

21 Section 58. This act shall take effect October 1,
22 2006.

23
24 *****

25 SENATE SUMMARY

26 Revises the level of alcohol content in blood or breath
27 at which certain penalties apply for the offense of
28 driving under the influence. Revises the level of alcohol
29 content in blood or breath at which the prohibition
30 against accepting a plea to a lesser offense applies.
31 Revises the level of alcohol content in blood or breath
at which certain penalties apply for the offense of
boating under the influence.