

1 A bill to be entitled
2 An act relating to driving or boating under the influence;
3 amending s. 316.193, F.S.; revising level of alcohol
4 content in blood or breath at which certain penalties
5 shall apply for the offense of driving under the
6 influence; amending s. 316.656, F.S.; revising level of
7 alcohol content in blood or breath at which the
8 prohibition against accepting plea to lesser offense shall
9 apply; amending s. 327.35, F.S.; revising level of alcohol
10 content in blood or breath at which certain penalties
11 shall apply for the offense of boating under the
12 influence; reenacting ss. 316.066(3)(a), 316.072(4)(b),
13 316.1932(3), 316.1933(4), 316.1934(1) and (4),
14 316.1939(1)(b), 318.143(4) and (5), 318.17(3),
15 320.055(1)(b), 322.03(2), 322.0602(2)(a), 322.21(8),
16 322.25(5), 322.26(1)(a), 322.2615(1), (2), (7), (8)(b),
17 (10)(b), (14)(a), and (16), 322.2616(1)(a), (15), and
18 (19), 322.264(1)(b), 322.271(2)(a) and (c) and (4),
19 322.2715(2), (3)(a) and (c), and (4), 322.28(2),
20 322.282(2)(a), 322.291(1)(a), 322.34(9)(a), 322.44,
21 322.62(3), 322.63(2)(d) and (6), 322.64(1), (2), (7)(a),
22 (8)(b), (14), and (15), 323.001(4)(f), 324.131, 327.35(6),
23 337.195(1), 440.02(17)(c), 440.09(7)(b), 493.6106(1)(d),
24 627.7275(2)(a), 627.758(4), 790.06(2)(f) and (10)(f),
25 903.36(2), 907.041(4)(c), 938.21, 938.23(1), 948.036(2),
26 and 960.03(3)(b), F.S., relating to written reports of
27 crashes; obedience to and effect of traffic laws; implied
28 consent and refusal with respect to tests for alcohol,

29 chemical substances, or controlled substances; blood test
30 for impairment or intoxication in cases of death or
31 serious bodily injury and right to use reasonable force;
32 presumption of impairment and testing methods; refusal to
33 submit to testing and penalties; sanctions for infractions
34 by minors; offenses excepted; registration and renewal
35 periods; requirements for issuance of a license; Youthful
36 Drunk Driver Visitation Program; license fees and
37 procedures; when court to forward license to department
38 and report convictions, and temporary reinstatement of
39 driving privileges; mandatory revocation of license by
40 department; suspension of license and right to review;
41 suspension of license of persons under 21 years of age and
42 right to review; habitual traffic offender; authority to
43 modify revocation, cancellation, or suspension order;
44 ignition interlock device; period of suspension or
45 revocation; procedure when court revokes or suspends
46 license or driving privilege and orders reinstatement;
47 driver improvement schools or DUI programs, required in
48 certain suspension and revocation cases; driving while
49 license suspended, revoked, canceled, or disqualified; the
50 Driver License Compact; driving under the influence and
51 commercial motor vehicle operators; alcohol or drug
52 testing and commercial motor vehicle operators; holder of
53 commercial driver's license driving with unlawful blood-
54 alcohol level and refusal to submit to breath, urine, or
55 blood test; wrecker operator storage facilities and
56 vehicle holds; period of suspension; boating under the

57 | influence, penalties, and designated drivers; limits on
58 | liability; definition of "employment" for purposes of the
59 | Workers' Compensation Law; coverage; license requirements
60 | and posting; motor vehicle liability; surety on auto club
61 | traffic arrest bond, conditions, limit, and bail bond;
62 | license to carry concealed weapon or firearm; guaranteed
63 | arrest bond certificates as cash bail; pretrial detention
64 | and release; alcohol and drug abuse programs; assistance
65 | grants for alcohol and other drug abuse programs; work
66 | programs as a condition of probation, community control,
67 | or other court-ordered community supervision; and
68 | definition of "crime" for purposes of the Florida Crimes
69 | Compensation Act, to incorporate the amendment to s.
70 | 316.193, F.S., in references thereto; reenacting ss.
71 | 316.193(6), 327.352(3), 327.35215(1) and (2), 327.353(4),
72 | 327.354(1) and (4), 327.355(1)(a) and (4), 327.359(2), and
73 | 327.36, F.S., relating to tests for alcohol, chemical
74 | substances, or controlled substances, implied consent, and
75 | refusal; penalty for failure to submit to test; blood test
76 | for impairment or intoxication in cases of death or
77 | serious bodily injury and the right to use reasonable
78 | force; presumption of impairment and testing methods;
79 | operation of vessels by persons under 21 years of age who
80 | have consumed alcoholic beverages; penalties for refusal
81 | to submit to testing; mandatory adjudication and
82 | prohibition against accepting plea to lesser included
83 | offense, to incorporate the amendment to s. 327.35, F.S.,
84 | in references thereto; reenacting s. 938.07, F.S.,

85 relating to driving or boating under the influence, to
 86 incorporate the amendments to ss. 316.193 and 327.35,
 87 F.S., in references thereto; providing an effective date.
 88

89 Be It Enacted by the Legislature of the State of Florida:
 90

91 Section 1. Subsection (4) of section 316.193, Florida
 92 Statutes, is amended, and for the purpose of incorporating the
 93 amendment made by this act to s. 327.35, Florida Statutes, in a
 94 reference thereto, subsection (6) of section 316.193, Florida
 95 Statutes, is reenacted, to read:

96 316.193 Driving under the influence; penalties.--

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

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

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

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

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

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

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

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

113
 114 ~~For the purposes of this subsection, only the instant offense is~~
 115 ~~required to be a violation of subsection (1) by a person who has~~
 116 ~~a blood-alcohol level or breath-alcohol level of 0.20 or higher.~~

117 (b)(e) In addition to the penalties in paragraph
 118 ~~paragraphs~~ (a) ~~and (b)~~, the court shall order the mandatory
 119 placement, at the convicted person's sole expense, of an
 120 ignition interlock device approved by the department in
 121 accordance with s. 316.1938 upon all vehicles that are
 122 individually or jointly leased or owned and routinely operated
 123 by the convicted person for up to 6 months for the first offense
 124 and for at least 2 years for a second offense, when the
 125 convicted person qualifies for a permanent or restricted
 126 license. The installation of such device may not occur before
 127 July 1, 2003.

128
 129 For the purposes of this subsection, only the instant offense is
 130 required to be a violation of subsection (1) by a person who has
 131 a blood-alcohol level or breath-alcohol level of 0.16 or higher.

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

135 (a) For the first conviction, the court shall place the
 136 defendant on probation for a period not to exceed 1 year and, as
 137 a condition of such probation, shall order the defendant to
 138 participate in public service or a community work project for a
 139 minimum of 50 hours; or the court may order instead, that any
 140 defendant pay an additional fine of \$10 for each hour of public

141 service or community work otherwise required, if, after
142 consideration of the residence or location of the defendant at
143 the time public service or community work is required, payment
144 of the fine is in the best interests of the state. However, the
145 total period of probation and incarceration may not exceed 1
146 year. The court must also, as a condition of probation, order
147 the impoundment or immobilization of the vehicle that was
148 operated by or in the actual control of the defendant or any one
149 vehicle registered in the defendant's name at the time of
150 impoundment or immobilization, for a period of 10 days or for
151 the unexpired term of any lease or rental agreement that expires
152 within 10 days. The impoundment or immobilization must not occur
153 concurrently with the incarceration of the defendant. The
154 impoundment or immobilization order may be dismissed in
155 accordance with paragraph (e), paragraph (f), paragraph (g), or
156 paragraph (h).

157 (b) For the second conviction for an offense that occurs
158 within a period of 5 years after the date of a prior conviction
159 for violation of this section, the court shall order
160 imprisonment for not less than 10 days. The court must also, as
161 a condition of probation, order the impoundment or
162 immobilization of all vehicles owned by the defendant at the
163 time of impoundment or immobilization, for a period of 30 days
164 or for the unexpired term of any lease or rental agreement that
165 expires within 30 days. The impoundment or immobilization must
166 not occur concurrently with the incarceration of the defendant
167 and must occur concurrently with the driver's license revocation
168 imposed under s. 322.28(2)(a)2. The impoundment or

169 immobilization order may be dismissed in accordance with
 170 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
 171 At least 48 hours of confinement must be consecutive.

172 (c) For the third or subsequent conviction for an offense
 173 that occurs within a period of 10 years after the date of a
 174 prior conviction for violation of this section, the court shall
 175 order imprisonment for not less than 30 days. The court must
 176 also, as a condition of probation, order the impoundment or
 177 immobilization of all vehicles owned by the defendant at the
 178 time of impoundment or immobilization, for a period of 90 days
 179 or for the unexpired term of any lease or rental agreement that
 180 expires within 90 days. The impoundment or immobilization must
 181 not occur concurrently with the incarceration of the defendant
 182 and must occur concurrently with the driver's license revocation
 183 imposed under s. 322.28(2)(a)3. The impoundment or
 184 immobilization order may be dismissed in accordance with
 185 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
 186 At least 48 hours of confinement must be consecutive.

187 (d) The court must at the time of sentencing the defendant
 188 issue an order for the impoundment or immobilization of a
 189 vehicle. Within 7 business days after the date that the court
 190 issues the order of impoundment or immobilization, the clerk of
 191 the court must send notice by certified mail, return receipt
 192 requested, to the registered owner of each vehicle, if the
 193 registered owner is a person other than the defendant, and to
 194 each person of record claiming a lien against the vehicle.

195 (e) A person who owns but was not operating the vehicle
 196 when the offense occurred may submit to the court a police

197 report indicating that the vehicle was stolen at the time of the
198 offense or documentation of having purchased the vehicle after
199 the offense was committed from an entity other than the
200 defendant or the defendant's agent. If the court finds that the
201 vehicle was stolen or that the sale was not made to circumvent
202 the order and allow the defendant continued access to the
203 vehicle, the order must be dismissed and the owner of the
204 vehicle will incur no costs. If the court denies the request to
205 dismiss the order of impoundment or immobilization, the
206 petitioner may request an evidentiary hearing.

207 (f) A person who owns but was not operating the vehicle
208 when the offense occurred, and whose vehicle was stolen or who
209 purchased the vehicle after the offense was committed directly
210 from the defendant or the defendant's agent, may request an
211 evidentiary hearing to determine whether the impoundment or
212 immobilization should occur. If the court finds that either the
213 vehicle was stolen or the purchase was made without knowledge of
214 the offense, that the purchaser had no relationship to the
215 defendant other than through the transaction, and that such
216 purchase would not circumvent the order and allow the defendant
217 continued access to the vehicle, the order must be dismissed and
218 the owner of the vehicle will incur no costs.

219 (g) The court shall also dismiss the order of impoundment
220 or immobilization of the vehicle if the court finds that the
221 family of the owner of the vehicle has no other private or
222 public means of transportation.

223 (h) The court may also dismiss the order of impoundment or
224 immobilization of any vehicles that are owned by the defendant

225 but that are operated solely by the employees of the defendant
226 or any business owned by the defendant.

227 (i) All costs and fees for the impoundment or
228 immobilization, including the cost of notification, must be paid
229 by the owner of the vehicle or, if the vehicle is leased or
230 rented, by the person leasing or renting the vehicle, unless the
231 impoundment or immobilization order is dismissed. All provisions
232 of s. 713.78 shall apply.

233 (j) The person who owns a vehicle that is impounded or
234 immobilized under this paragraph, or a person who has a lien of
235 record against such a vehicle and who has not requested a review
236 of the impoundment pursuant to paragraph (e), paragraph (f), or
237 paragraph (g), may, within 10 days after the date that person
238 has knowledge of the location of the vehicle, file a complaint
239 in the county in which the owner resides to determine whether
240 the vehicle was wrongfully taken or withheld from the owner or
241 lienholder. Upon the filing of a complaint, the owner or
242 lienholder may have the vehicle released by posting with the
243 court a bond or other adequate security equal to the amount of
244 the costs and fees for impoundment or immobilization, including
245 towing or storage, to ensure the payment of such costs and fees
246 if the owner or lienholder does not prevail. When the bond is
247 posted and the fee is paid as set forth in s. 28.24, the clerk
248 of the court shall issue a certificate releasing the vehicle. At
249 the time of release, after reasonable inspection, the owner or
250 lienholder must give a receipt to the towing or storage company
251 indicating any loss or damage to the vehicle or to the contents
252 of the vehicle.

253 (k) A defendant, in the court's discretion, may be
254 required to serve all or any portion of a term of imprisonment
255 to which the defendant has been sentenced pursuant to this
256 section in a residential alcoholism treatment program or a
257 residential drug abuse treatment program. Any time spent in such
258 a program must be credited by the court toward the term of
259 imprisonment.

260

261 For the purposes of this section, any conviction for a violation
262 of s. 327.35; a previous conviction for the violation of former
263 s. 316.1931, former s. 860.01, or former s. 316.028; or a
264 previous conviction outside this state for driving under the
265 influence, driving while intoxicated, driving with an unlawful
266 blood-alcohol level, driving with an unlawful breath-alcohol
267 level, or any other similar alcohol-related or drug-related
268 traffic offense, is also considered a previous conviction for
269 violation of this section. However, in satisfaction of the fine
270 imposed pursuant to this section, the court may, upon a finding
271 that the defendant is financially unable to pay either all or
272 part of the fine, order that the defendant participate for a
273 specified additional period of time in public service or a
274 community work project in lieu of payment of that portion of the
275 fine which the court determines the defendant is unable to pay.
276 In determining such additional sentence, the court shall
277 consider the amount of the unpaid portion of the fine and the
278 reasonable value of the services to be ordered; however, the
279 court may not compute the reasonable value of services at a rate
280 less than the federal minimum wage at the time of sentencing.

281 Section 2. Section 316.656, Florida Statutes, is amended
 282 to read:

283 316.656 Mandatory adjudication; prohibition against
 284 accepting plea to lesser included offense.--

285 (1) Notwithstanding the provisions of s. 948.01, no court
 286 may suspend, defer, or withhold adjudication of guilt or
 287 imposition of sentence for any violation of s. 316.193, for
 288 manslaughter resulting from the operation of a motor vehicle, or
 289 for vehicular homicide.

290 (2)(a) No trial judge may accept a plea of guilty to a
 291 lesser offense from a person charged under the provisions of
 292 this act who has been given a breath or blood test to determine
 293 blood or breath alcohol content, the results of which show a
 294 blood or breath alcohol content by weight of 0.16 ~~0.20~~ percent
 295 or more.

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

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

302 327.35 Boating under the influence; penalties; "designated
 303 drivers".--

304 (4) Any person who is convicted of a violation of
 305 subsection (1) and who has a blood-alcohol level or breath-
 306 alcohol level of 0.16 ~~0.20~~ or higher, or any person who is
 307 convicted of a violation of subsection (1) and who at the time

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

310 (a) By a fine of:

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

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

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

317 (b) By imprisonment for:

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

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

320

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

325 Section 4. For the purpose of incorporating the amendment
 326 made by this act to section 316.193, Florida Statutes, in a
 327 reference thereto, paragraph (a) of subsection (3) of section
 328 316.066, Florida Statutes, is reenacted to read:

329 316.066 Written reports of crashes.--

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

332 1. Which crash resulted in death or personal injury shall,
 333 within 10 days after completing the investigation, forward a
 334 written report of the crash to the department or traffic records
 335 center.

336 2. Which crash involved a violation of s. 316.061(1) or s.
337 316.193 shall, within 10 days after completing the
338 investigation, forward a written report of the crash to the
339 department or traffic records center.

340 3. In which crash a vehicle was rendered inoperative to a
341 degree which required a wrecker to remove it from traffic way,
342 within 10 days after completing the investigation, forward a
343 written report of the crash to the department or traffic records
344 center if such action is appropriate, in the officer's
345 discretion.

346
347 However, in every case in which a crash report is required by
348 this section and a written report to a law enforcement officer
349 is not prepared, the law enforcement officer shall provide each
350 party involved in the crash a short-form report, prescribed by
351 the state, to be completed by the party. The short-form report
352 must include, but is not limited to: the date, time, and
353 location of the crash; a description of the vehicles involved;
354 the names and addresses of the parties involved; the names and
355 addresses of witnesses; the name, badge number, and law
356 enforcement agency of the officer investigating the crash; and
357 the names of the insurance companies for the respective parties
358 involved in the crash. Each party to the crash shall provide the
359 law enforcement officer with proof of insurance to be included
360 in the crash report. If a law enforcement officer submits a
361 report on the accident, proof of insurance must be provided to
362 the officer by each party involved in the crash. Any party who
363 fails to provide the required information is guilty of an

364 | infraction for a nonmoving violation, punishable as provided in
 365 | chapter 318 unless the officer determines that due to injuries
 366 | or other special circumstances such insurance information cannot
 367 | be provided immediately. If the person provides the law
 368 | enforcement agency, within 24 hours after the crash, proof of
 369 | insurance that was valid at the time of the crash, the law
 370 | enforcement agency may void the citation.

371 | Section 5. For the purpose of incorporating the amendment
 372 | made by this act to section 316.193, Florida Statutes, in a
 373 | reference thereto, paragraph (b) of subsection (4) of section
 374 | 316.072, Florida Statutes, is reenacted to read:

375 | 316.072 Obedience to and effect of traffic laws.--

376 | (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;
 377 | EXCEPTIONS.--

378 | (b) Unless specifically made applicable, the provisions of
 379 | this chapter, except those contained in ss. 316.192, 316.1925,
 380 | and 316.193, shall not apply to persons, teams, or motor
 381 | vehicles and other equipment while actually engaged in work upon
 382 | the surface of a highway, but shall apply to such persons and
 383 | vehicles when traveling to or from such work.

384 | Section 6. For the purpose of incorporating the amendment
 385 | made by this act to section 316.193, Florida Statutes, in a
 386 | reference thereto, subsection (3) of section 316.1932, Florida
 387 | Statutes, is reenacted to read:

388 | 316.1932 Tests for alcohol, chemical substances, or
 389 | controlled substances; implied consent; refusal.--

390 | (3) Notwithstanding any provision of law pertaining to the
 391 | confidentiality of hospital records or other medical records,

392 information relating to the alcoholic content of the blood or
 393 breath or the presence of chemical substances or controlled
 394 substances in the blood obtained pursuant to this section shall
 395 be released to a court, prosecuting attorney, defense attorney,
 396 or law enforcement officer in connection with an alleged
 397 violation of s. 316.193 upon request for such information.

398 Section 7. For the purpose of incorporating the amendment
 399 made by this act to section 316.193, Florida Statutes, in a
 400 reference thereto, subsection (4) of section 316.1933, Florida
 401 Statutes, is reenacted to read:

402 316.1933 Blood test for impairment or intoxication in
 403 cases of death or serious bodily injury; right to use reasonable
 404 force.--

405 (4) Notwithstanding any provision of law pertaining to the
 406 confidentiality of hospital records or other medical records,
 407 information relating to the alcoholic content of the blood or
 408 the presence of chemical substances or controlled substances in
 409 the blood obtained pursuant to this section shall be released to
 410 a court, prosecuting attorney, defense attorney, or law
 411 enforcement officer in connection with an alleged violation of
 412 s. 316.193 upon request for such information.

413 Section 8. For the purpose of incorporating the amendment
 414 made by this act to section 316.193, Florida Statutes, in
 415 references thereto, subsections (1) and (4) of section 316.1934,
 416 Florida Statutes, are reenacted to read:

417 316.1934 Presumption of impairment; testing methods.--

418 (1) It is unlawful and punishable as provided in chapter
 419 322 and in s. 316.193 for any person who is under the influence

420 of alcoholic beverages or controlled substances, when affected
 421 to the extent that the person's normal faculties are impaired or
 422 to the extent that the person is deprived of full possession of
 423 normal faculties, to drive or be in actual physical control of
 424 any motor vehicle within this state. Such normal faculties
 425 include, but are not limited to, the ability to see, hear, walk,
 426 talk, judge distances, drive an automobile, make judgments, act
 427 in emergencies, and, in general, normally perform the many
 428 mental and physical acts of daily life.

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

432 Section 9. For the purpose of incorporating the amendment
 433 made by this act to section 316.193, Florida Statutes, in a
 434 reference thereto, paragraph (b) of subsection (1) of section
 435 316.1939, Florida Statutes, is reenacted to read:

436 316.1939 Refusal to submit to testing; penalties.--

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

442 (b) Who was placed under lawful arrest for a violation of
 443 s. 316.193 unless such test was requested pursuant to s.
 444 316.1932(1)(c);

445
 446 commits a misdemeanor of the first degree and is subject to
 447 punishment as provided in s. 775.082 or s. 775.083.

448 Section 10. For the purpose of incorporating the amendment
 449 made by this act to section 316.193, Florida Statutes, in
 450 references thereto, subsections (4) and (5) of section 318.143,
 451 Florida Statutes, are reenacted to read:

452 318.143 Sanctions for infractions by minors.--

453 (4) For the first conviction for a violation of s.
 454 316.193, the court may order the Department of Highway Safety
 455 and Motor Vehicles to revoke the minor's driver's license until
 456 the minor is 18 years of age. For a second or subsequent
 457 conviction for such a violation, the court may order the
 458 Department of Highway Safety and Motor Vehicles to revoke the
 459 minor's driver's license until the minor is 21 years of age.

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

462 (a) The minor is no longer under the influence of
 463 alcoholic beverages, of any chemical substance set forth in s.
 464 877.111, or of any substance controlled under chapter 893, and
 465 is not affected to the extent that his or her normal faculties
 466 are impaired;

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

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

470 Section 11. For the purpose of incorporating the amendment
 471 made by this act to section 316.193, Florida Statutes, in a
 472 reference thereto, subsection (3) of section 318.17, Florida
 473 Statutes, is reenacted to read:

474 318.17 Offenses excepted.--No provision of this chapter is
 475 available to a person who is charged with any of the following
 476 offenses:

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

482 Section 12. For the purpose of incorporating the amendment
 483 made by this act to section 316.193, Florida Statutes, in a
 484 reference thereto, paragraph (b) of subsection (1) of section
 485 320.055, Florida Statutes, is reenacted to read:

486 320.055 Registration periods; renewal periods.--The
 487 following registration periods and renewal periods are
 488 established:

489 (1)

490 (b) Notwithstanding the requirements of paragraph (a), the
 491 owner of a motor vehicle subject to paragraph (a) who has had
 492 his or her driver's license suspended pursuant to a violation of
 493 s. 316.193 or pursuant to s. 322.26(2) for driving under the
 494 influence must obtain a 6-month registration as a condition of
 495 reinstating the license, subject to renewal during the 3-year
 496 period that financial responsibility requirements apply. The
 497 registration period begins the first day of the birth month of
 498 the owner and ends the last day of the fifth month immediately
 499 following the owner's birth month. For such vehicles, the
 500 department shall issue a vehicle registration certificate that
 501 is valid for 6 months and shall issue a validation sticker that

502 displays an expiration date of 6 months after the date of
503 issuance. The license tax required by s. 320.08 and all other
504 applicable license taxes shall be one-half of the amount
505 otherwise required, except the service charge required by s.
506 320.04 shall be paid in full for each 6-month registration.

507 Section 13. For the purpose of incorporating the amendment
508 made by this act to section 316.193, Florida Statutes, in
509 references thereto, subsection (2) of section 322.03, Florida
510 Statutes, is reenacted to read:

511 322.03 Drivers must be licensed; penalties.--

512 (2) Prior to issuing a driver's license, the department
513 shall require any person who has been convicted two or more
514 times of a violation of s. 316.193 or of a substantially similar
515 alcohol-related or drug-related offense outside this state
516 within the preceding 5 years, or who has been convicted of three
517 or more such offenses within the preceding 10 years, to present
518 proof of successful completion of or enrollment in a department-
519 approved substance abuse education course. If the person fails
520 to complete such education course within 90 days after issuance,
521 the department shall cancel the license. Further, prior to
522 issuing the driver's license the department shall require such
523 person to present proof of financial responsibility as provided
524 in s. 324.031. For the purposes of this paragraph, a previous
525 conviction for violation of former s. 316.028, former s.
526 316.1931, or former s. 860.01 shall be considered a previous
527 conviction for violation of s. 316.193.

528 Section 14. For the purpose of incorporating the amendment
529 made by this act to section 316.193, Florida Statutes, in a

530 reference thereto, paragraph (a) of subsection (2) of section
 531 322.0602, Florida Statutes, is reenacted to read:

532 322.0602 Youthful Drunk Driver Visitation Program.--

533 (2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR
 534 PARTICIPATION.--

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

540 Section 15. For the purpose of incorporating the amendment
 541 made by this act to section 316.193, Florida Statutes, in a
 542 reference thereto, subsection (8) of section 322.21, Florida
 543 Statutes, is reenacted to read:

544 322.21 License fees; procedure for handling and collecting
 545 fees.--

546 (8) Any person who applies for reinstatement following the
 547 suspension or revocation of the person's driver's license shall
 548 pay a service fee of \$35 following a suspension, and \$60
 549 following a revocation, which is in addition to the fee for a
 550 license. Any person who applies for reinstatement of a
 551 commercial driver's license following the disqualification of
 552 the person's privilege to operate a commercial motor vehicle
 553 shall pay a service fee of \$60, which is in addition to the fee
 554 for a license. The department shall collect all of these fees at
 555 the time of reinstatement. The department shall issue proper
 556 receipts for such fees and shall promptly transmit all funds
 557 received by it as follows:

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

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

566
 567 If the revocation or suspension of the driver's license was for
 568 a violation of s. 316.193, or for refusal to submit to a lawful
 569 breath, blood, or urine test, an additional fee of \$115 must be
 570 charged. However, only one \$115 fee may be collected from one
 571 person convicted of violations arising out of the same incident.
 572 The department shall collect the \$115 fee and deposit the fee
 573 into the Highway Safety Operating Trust Fund at the time of
 574 reinstatement of the person's driver's license, but the fee may
 575 not be collected if the suspension or revocation is overturned.

576 Section 16. For the purpose of incorporating the amendment
 577 made by this act to section 316.193, Florida Statutes, in a
 578 reference thereto, subsection (5) of section 322.25, Florida
 579 Statutes, is reenacted to read:

580 322.25 When court to forward license to department and
 581 report convictions; temporary reinstatement of driving
 582 privileges.--

583 (5) For the purpose of this chapter, the entrance of a
 584 plea of nolo contendere by the defendant to a charge of driving
 585 while intoxicated, driving under the influence, driving with an

586 unlawful blood-alcohol level, or any other alcohol-related or
 587 drug-related traffic offense similar to the offenses specified
 588 in s. 316.193, accepted by the court and under which plea the
 589 court has entered a fine or sentence, whether in this state or
 590 any other state or country, shall be equivalent to a conviction.

591 Section 17. For the purpose of incorporating the amendment
 592 made by this act to section 316.193, Florida Statutes, in a
 593 reference thereto, paragraph (a) of subsection (1) of section
 594 322.26, Florida Statutes, is reenacted to read:

595 322.26 Mandatory revocation of license by department.--The
 596 department shall forthwith revoke the license or driving
 597 privilege of any person upon receiving a record of such person's
 598 conviction of any of the following offenses:

599 (1)(a) Murder resulting from the operation of a motor
 600 vehicle, DUI manslaughter where the conviction represents a
 601 subsequent DUI-related conviction, or a fourth violation of s.
 602 316.193 or former s. 316.1931. For such cases, the revocation of
 603 the driver's license or driving privilege shall be permanent.

604 Section 18. For the purpose of incorporating the amendment
 605 made by this act to section 316.193, Florida Statutes, in
 606 references thereto, subsections (1), (2), and (7), paragraph (b)
 607 of subsection (8), paragraph (b) of subsection (10), paragraph
 608 (a) of subsection (14), and subsection (16) of section 322.2615,
 609 Florida Statutes, are reenacted to read:

610 322.2615 Suspension of license; right to review.--

611 (1)(a) A law enforcement officer or correctional officer
 612 shall, on behalf of the department, suspend the driving
 613 privilege of a person who has been arrested by a law enforcement

614 officer for a violation of s. 316.193, relating to unlawful
615 blood-alcohol level or breath-alcohol level, or of a person who
616 has refused to submit to a breath, urine, or blood test
617 authorized by s. 316.1932. The officer shall take the person's
618 driver's license and issue the person a 10-day temporary permit
619 if the person is otherwise eligible for the driving privilege
620 and shall issue the person a notice of suspension. If a blood
621 test has been administered, the results of which are not
622 available to the officer at the time of the arrest, the agency
623 employing the officer shall transmit such results to the
624 department within 5 days after receipt of the results. If the
625 department then determines that the person was arrested for a
626 violation of s. 316.193 and that the person had a blood-alcohol
627 level or breath-alcohol level of 0.08 or higher, the department
628 shall suspend the person's driver's license pursuant to
629 subsection (3).

630 (b) The suspension under paragraph (a) shall be pursuant
631 to, and the notice of suspension shall inform the driver of, the
632 following:

633 1.a. The driver refused to submit to a lawful breath,
634 blood, or urine test and his or her driving privilege is
635 suspended for a period of 1 year for a first refusal or for a
636 period of 18 months if his or her driving privilege has been
637 previously suspended as a result of a refusal to submit to such
638 a test; or

639 b. The driver violated s. 316.193 by driving with an
640 unlawful blood-alcohol level or breath-alcohol level as provided
641 in that section and his or her driving privilege is suspended

642 for a period of 6 months for a first offense or for a period of
643 1 year if his or her driving privilege has been previously
644 suspended for a violation of s. 316.193.

645 2. The suspension period shall commence on the date of
646 arrest or issuance of the notice of suspension, whichever is
647 later.

648 3. The driver may request a formal or informal review of
649 the suspension by the department within 10 days after the date
650 of arrest or issuance of the notice of suspension, whichever is
651 later.

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

655 5. The driver may submit to the department any materials
656 relevant to the arrest.

657 (2) Except as provided in paragraph (1)(a), the law
658 enforcement officer shall forward to the department, within 5
659 days after the date of the arrest, a copy of the notice of
660 suspension, the driver's license of the person arrested, and a
661 report of the arrest, including an affidavit stating the
662 officer's grounds for belief that the person arrested was in
663 violation of s. 316.193; the results of any breath or blood test
664 or an affidavit stating that a breath, blood, or urine test was
665 requested by a law enforcement officer or correctional officer
666 and that the person arrested refused to submit; a copy of the
667 citation issued to the person arrested; and the officer's
668 description of the person's field sobriety test, if any. The
669 failure of the officer to submit materials within the 5-day

670 period specified in this subsection and in subsection (1) shall
 671 not affect the department's ability to consider any evidence
 672 submitted at or prior to the hearing. The officer may also
 673 submit a copy of a videotape of the field sobriety test or the
 674 attempt to administer such test.

675 (7) In a formal review hearing under subsection (6) or an
 676 informal review hearing under subsection (4), the hearing
 677 officer shall determine by a preponderance of the evidence
 678 whether sufficient cause exists to sustain, amend, or invalidate
 679 the suspension. The scope of the review shall be limited to the
 680 following issues:

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

684 1. Whether the arresting law enforcement officer had
 685 probable cause to believe that the person was driving or in
 686 actual physical control of a motor vehicle in this state while
 687 under the influence of alcoholic beverages or controlled
 688 substances.

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

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

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

695 1. Whether the arresting law enforcement officer had
 696 probable cause to believe that the person was driving or in
 697 actual physical control of a motor vehicle in this state while

698 | under the influence of alcoholic beverages or controlled
699 | substances.

700 | 2. Whether the person was placed under lawful arrest for a
701 | violation of s. 316.193.

702 | 3. Whether the person refused to submit to any such test
703 | after being requested to do so by a law enforcement officer or
704 | correctional officer.

705 | 4. Whether the person was told that if he or she refused
706 | to submit to such test his or her privilege to operate a motor
707 | vehicle would be suspended for a period of 1 year or, in the
708 | case of a second or subsequent refusal, for a period of 18
709 | months.

710 | (8) Based on the determination of the hearing officer
711 | pursuant to subsection (7) for both informal hearings under
712 | subsection (4) and formal hearings under subsection (6), the
713 | department shall:

714 | (b) Sustain the suspension of the person's driving
715 | privilege for a period of 6 months for a violation of s.
716 | 316.193, or for a period of 1 year if the driving privilege of
717 | such person has been previously suspended as a result of a
718 | violation of s. 316.193. The suspension period commences on the
719 | date of the arrest or issuance of the notice of suspension,
720 | whichever is later.

721 | (10) A person whose driver's license is suspended under
722 | subsection (1) or subsection (3) may apply for issuance of a
723 | license for business or employment purposes only if the person
724 | is otherwise eligible for the driving privilege pursuant to s.
725 | 322.271.

726 (b) If the suspension of the driver's license of the
 727 person arrested for a violation of s. 316.193, relating to
 728 unlawful blood-alcohol level or breath-alcohol level, is
 729 sustained, the person is not eligible to receive a license for
 730 business or employment purposes only pursuant to s. 322.271
 731 until 30 days have elapsed after the expiration of the last
 732 temporary permit issued. If the driver is not issued a 10-day
 733 permit pursuant to this section or s. 322.64 because he or she
 734 is ineligible for the permit and the suspension for a violation
 735 of s. 316.193, relating to unlawful blood-alcohol level, is not
 736 invalidated by the department, the driver is not eligible to
 737 receive a business or employment license pursuant to s. 322.271
 738 until 30 days have elapsed from the date of the arrest.

739 (14)(a) The decision of the department under this section
 740 may not be considered in any trial for a violation of s.
 741 316.193, and a written statement submitted by a person in his or
 742 her request for departmental review under this section may not
 743 be admitted into evidence against him or her in any such trial.

744 (16) The department shall invalidate a suspension for
 745 driving with an unlawful blood-alcohol level or breath-alcohol
 746 level imposed under this section if the suspended person is
 747 found not guilty at trial of an underlying violation of s.
 748 316.193.

749 Section 19. For the purpose of incorporating the amendment
 750 made by this act to section 316.193, Florida Statutes, in
 751 references thereto, paragraph (a) of subsection (1) and
 752 subsections (15) and (19) of section 322.2616, Florida Statutes,
 753 are reenacted to read:

754 322.2616 Suspension of license; persons under 21 years of
755 age; right to review.--

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

760 (15) The decision of the department under this section
761 shall not be considered in any trial for a violation of s.
762 316.193, nor shall any written statement submitted by a person
763 in his or her request for departmental review under this section
764 be admissible into evidence against him or her in any such
765 trial. The disposition of any related criminal proceedings shall
766 not affect a suspension imposed under this section.

767 (19) A violation of this section is neither a traffic
768 infraction nor a criminal offense, nor does being detained
769 pursuant to this section constitute an arrest. A violation of
770 this section is subject to the administrative action provisions
771 of this section, which are administered by the department
772 through its administrative processes. Administrative actions
773 taken pursuant to this section shall be recorded in the motor
774 vehicle records maintained by the department. This section does
775 not bar prosecution under s. 316.193. However, if the department
776 suspends a person's license under s. 322.2615 for a violation of
777 s. 316.193, it may not also suspend the person's license under
778 this section for the same episode that was the basis for the
779 suspension under s. 322.2615.

780 Section 20. For the purpose of incorporating the amendment
781 made by this act to section 316.193, Florida Statutes, in a

782 reference thereto, paragraph (b) of subsection (1) of section
 783 322.264, Florida Statutes, is reenacted to read:

784 322.264 "Habitual traffic offender" defined.--A "habitual
 785 traffic offender" is any person whose record, as maintained by
 786 the Department of Highway Safety and Motor Vehicles, shows that
 787 such person has accumulated the specified number of convictions
 788 for offenses described in subsection (1) or subsection (2)
 789 within a 5-year period:

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

792 (b) Any violation of s. 316.193, former s. 316.1931, or
 793 former s. 860.01;

794
 795 Any violation of any federal law, any law of another state or
 796 country, or any valid ordinance of a municipality or county of
 797 another state similar to a statutory prohibition specified in
 798 subsection (1) or subsection (2) shall be counted as a violation
 799 of such prohibition. In computing the number of convictions, all
 800 convictions during the 5 years previous to July 1, 1972, will be
 801 used, provided at least one conviction occurs after that date.
 802 The fact that previous convictions may have resulted in
 803 suspension, revocation, or disqualification under another
 804 section does not exempt them from being used for suspension or
 805 revocation under this section as a habitual offender.

806 Section 21. For the purpose of incorporating the amendment
 807 made by this act to section 316.193, Florida Statutes, in
 808 references thereto, paragraphs (a) and (c) of subsection (2) and

809 subsection (4) of section 322.271, Florida Statutes, are
 810 reenacted to read:
 811 322.271 Authority to modify revocation, cancellation, or
 812 suspension order.--
 813 (2)(a) Upon such hearing, the person whose license has
 814 been suspended, canceled, or revoked may show that such
 815 suspension, cancellation, or revocation of his or her license
 816 causes a serious hardship and precludes the person's carrying
 817 out his or her normal business occupation, trade, or employment
 818 and that the use of the person's license in the normal course of
 819 his or her business is necessary to the proper support of the
 820 person or his or her family. Except as otherwise provided in
 821 this subsection, the department shall require proof of the
 822 successful completion of the applicable department-approved
 823 driver training course operating pursuant to s. 318.1451 or DUI
 824 program substance abuse education course and evaluation as
 825 provided in s. 316.193(5). Letters of recommendation from
 826 respected business persons in the community, law enforcement
 827 officers, or judicial officers may also be required to determine
 828 whether such person should be permitted to operate a motor
 829 vehicle on a restricted basis for business or employment use
 830 only and in determining whether such person can be trusted to so
 831 operate a motor vehicle. If a driver's license has been
 832 suspended under the point system or pursuant to s. 322.2615, the
 833 department shall require proof of enrollment in the applicable
 834 department-approved driver training course or licensed DUI
 835 program substance abuse education course, including evaluation
 836 and treatment, if referred, and may require letters of

837 recommendation described in this subsection to determine if the
838 driver should be reinstated on a restricted basis. If such
839 person fails to complete the approved course within 90 days
840 after reinstatement or subsequently fails to complete treatment,
841 if applicable, the department shall cancel his or her driver's
842 license until the course and treatment, if applicable, is
843 successfully completed, notwithstanding the terms of the court
844 order or any suspension or revocation of the driving privilege.
845 The department may temporarily reinstate the driving privilege
846 on a restricted basis upon verification from the DUI program
847 that the offender has reentered and is currently participating
848 in treatment and has completed the DUI education course and
849 evaluation requirement. If the DUI program notifies the
850 department of the second failure to complete treatment, the
851 department shall reinstate the driving privilege only after
852 notice of completion of treatment from the DUI program. The
853 privilege of driving on a limited or restricted basis for
854 business or employment use shall not be granted to a person who
855 has been convicted of a violation of s. 316.193 until completion
856 of the DUI program substance abuse education course and
857 evaluations as provided in s. 316.193(5). Except as provided in
858 paragraph (b), the privilege of driving on a limited or
859 restricted basis for business or employment use shall not be
860 granted to a person whose license is revoked pursuant to s.
861 322.28 or suspended pursuant to s. 322.2615 and who has been
862 convicted of a violation of s. 316.193 two or more times or
863 whose license has been suspended two or more times for refusal

864 to submit to a test pursuant to s. 322.2615 or former s.
865 322.261.

866 (c) For the purpose of this section, a previous conviction
867 of driving under the influence, driving while intoxicated,
868 driving with an unlawful blood-alcohol level, or any other
869 similar alcohol-related or drug-related offense outside this
870 state or a previous conviction of former s. 316.1931, former s.
871 316.028, or former s. 860.01 shall be considered a previous
872 conviction for violation of s. 316.193.

873 (4) Notwithstanding the provisions of s. 322.28(2)(e), a
874 person whose driving privilege has been permanently revoked
875 because he or she has been convicted of DUI manslaughter in
876 violation of s. 316.193 and has no prior convictions for DUI-
877 related offenses may, upon the expiration of 5 years after the
878 date of such revocation or the expiration of 5 years after the
879 termination of any term of incarceration under s. 316.193 or
880 former s. 316.1931, whichever date is later, petition the
881 department for reinstatement of his or her driving privilege.

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

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

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

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

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

893 (b) At such hearing, the department shall determine the
 894 petitioner's qualification, fitness, and need to drive. Upon
 895 such determination, the department may, in its discretion,
 896 reinstate the driver's license of the petitioner. Such
 897 reinstatement must be made subject to the following
 898 qualifications:

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

901 2. Such person must be supervised by a DUI program
 902 licensed by the department and report to the program for such
 903 supervision and education at least four times a year or
 904 additionally as required by the program for the remainder of the
 905 revocation period. Such supervision shall include evaluation,
 906 education, referral into treatment, and other activities
 907 required by the department.

908 (c) Such person must assume the reasonable costs of
 909 supervision. If such person fails to comply with the required
 910 supervision, the program shall report the failure to the
 911 department, and the department shall cancel such person's
 912 driving privilege.

913 (d) If, after reinstatement, such person is convicted of
 914 an offense for which mandatory revocation of his or her license
 915 is required, the department shall revoke his or her driving
 916 privilege.

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

919 Section 22. For the purpose of incorporating the amendment
 920 made by this act to section 316.193, Florida Statutes, in
 921 references thereto, subsection (2), paragraphs (a) and (c) of
 922 subsection (3), and subsection (4) of section 322.2715, Florida
 923 Statutes, are reenacted to read:

924 322.2715 Ignition interlock device.--

925 (2) For purposes of this section, any conviction for a
 926 violation of s. 316.193, a previous conviction for a violation
 927 of former s. 316.1931, or a conviction outside this state for
 928 driving under the influence, driving while intoxicated, driving
 929 with an unlawful blood-alcohol level, or any other similar
 930 alcohol-related or drug-related traffic offense is a conviction
 931 of driving under the influence.

932 (3) If the person is convicted of:

933 (a) A first offense of driving under the influence under
 934 s. 316.193 and has an unlawful blood-alcohol level or breath-
 935 alcohol level as specified in s. 316.193(4), or if a person is
 936 convicted of a violation of s. 316.193 and was at the time of
 937 the offense accompanied in the vehicle by a person younger than
 938 18 years of age, the person shall have the ignition interlock
 939 device installed for 6 months for the first offense and for at
 940 least 2 years for a second offense.

941 (c) A third offense of driving under the influence which
 942 occurs within 10 years after a prior conviction for a violation
 943 of s. 316.193, the ignition interlock device shall be installed
 944 for a period of not less than 2 years.

945 (4) If the court fails to order the mandatory placement of
 946 the ignition interlock device or fails to order for the

947 applicable period the mandatory placement of an ignition
 948 interlock device under s. 316.193 or s. 316.1937 at the time of
 949 imposing sentence or within 30 days thereafter, the department
 950 shall immediately require that the ignition interlock device be
 951 installed as provided in this section, except that consideration
 952 may be given to those individuals having a documented medical
 953 condition that would prohibit the device from functioning
 954 normally. This subsection applies to the reinstatement of the
 955 driving privilege following a revocation, suspension, or
 956 cancellation that is based upon a conviction for the offense of
 957 driving under the influence which occurs on or after July 1,
 958 2005.

959 Section 23. For the purpose of incorporating the amendment
 960 made by this act to section 316.193, Florida Statutes, in
 961 references thereto, subsection (2) of section 322.28, Florida
 962 Statutes, is reenacted to read:

963 322.28 Period of suspension or revocation.--

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

966 (a) Upon conviction of the driver, the court, along with
 967 imposing sentence, shall revoke the driver's license or driving
 968 privilege of the person so convicted, effective on the date of
 969 conviction, and shall prescribe the period of such revocation in
 970 accordance with the following provisions:

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

975 2. Upon a second conviction for an offense that occurs
 976 within a period of 5 years after the date of a prior conviction
 977 for a violation of the provisions of s. 316.193 or former s.
 978 316.1931 or a combination of such sections, the driver's license
 979 or driving privilege shall be revoked for not less than 5 years.

980 3. Upon a third conviction for an offense that occurs
 981 within a period of 10 years after the date of a prior conviction
 982 for the violation of the provisions of s. 316.193 or former s.
 983 316.1931 or a combination of such sections, the driver's license
 984 or driving privilege shall be revoked for not less than 10
 985 years.

986
 987 For the purposes of this paragraph, a previous conviction
 988 outside this state for driving under the influence, driving
 989 while intoxicated, driving with an unlawful blood-alcohol level,
 990 or any other alcohol-related or drug-related traffic offense
 991 similar to the offense of driving under the influence as
 992 proscribed by s. 316.193 will be considered a previous
 993 conviction for violation of s. 316.193, and a conviction for
 994 violation of former s. 316.028, former s. 316.1931, or former s.
 995 860.01 is considered a conviction for violation of s. 316.193.

996 (b) If the period of revocation was not specified by the
 997 court at the time of imposing sentence or within 30 days
 998 thereafter, and is not otherwise specified by law, the
 999 department shall forthwith revoke the driver's license or
 1000 driving privilege for the maximum period applicable under
 1001 paragraph (a) for a first conviction and for the minimum period
 1002 applicable under paragraph (a) for any subsequent convictions.

1003 The driver may, within 30 days after such revocation by the
1004 department, petition the court for further hearing on the period
1005 of revocation, and the court may reopen the case and determine
1006 the period of revocation within the limits specified in
1007 paragraph (a).

1008 (c) The forfeiture of bail bond, not vacated within 20
1009 days, in any prosecution for the offense of driving while under
1010 the influence of alcoholic beverages, chemical substances, or
1011 controlled substances to the extent of depriving the defendant
1012 of his or her normal faculties shall be deemed equivalent to a
1013 conviction for the purposes of this paragraph, and the
1014 department shall forthwith revoke the defendant's driver's
1015 license or driving privilege for the maximum period applicable
1016 under paragraph (a) for a first conviction and for the minimum
1017 period applicable under paragraph (a) for a second or subsequent
1018 conviction; however, if the defendant is later convicted of the
1019 charge, the period of revocation imposed by the department for
1020 such conviction shall not exceed the difference between the
1021 applicable maximum for a first conviction or minimum for a
1022 second or subsequent conviction and the revocation period under
1023 this subsection that has actually elapsed; upon conviction of
1024 such charge, the court may impose revocation for a period of
1025 time as specified in paragraph (a). This paragraph does not
1026 apply if an appropriate motion contesting the forfeiture is
1027 filed within the 20-day period.

1028 (d) When any driver's license or driving privilege has
1029 been revoked pursuant to the provisions of this section, the
1030 department shall not grant a new license, except upon

1031 reexamination of the licensee after the expiration of the period
1032 of revocation so prescribed. However, the court may, in its
1033 sound discretion, issue an order of reinstatement on a form
1034 furnished by the department which the person may take to any
1035 driver's license examining office for reinstatement by the
1036 department pursuant to s. 322.282.

1037 (e) The court shall permanently revoke the driver's
1038 license or driving privilege of a person who has been convicted
1039 four times for violation of s. 316.193 or former s. 316.1931 or
1040 a combination of such sections. The court shall permanently
1041 revoke the driver's license or driving privilege of any person
1042 who has been convicted of DUI manslaughter in violation of s.
1043 316.193. If the court has not permanently revoked such driver's
1044 license or driving privilege within 30 days after imposing
1045 sentence, the department shall permanently revoke the driver's
1046 license or driving privilege pursuant to this paragraph. No
1047 driver's license or driving privilege may be issued or granted
1048 to any such person. This paragraph applies only if at least one
1049 of the convictions for violation of s. 316.193 or former s.
1050 316.1931 was for a violation that occurred after July 1, 1982.
1051 For the purposes of this paragraph, a conviction for violation
1052 of former s. 316.028, former s. 316.1931, or former s. 860.01 is
1053 also considered a conviction for violation of s. 316.193. Also,
1054 a conviction of driving under the influence, driving while
1055 intoxicated, driving with an unlawful blood-alcohol level, or
1056 any other similar alcohol-related or drug-related traffic
1057 offense outside this state is considered a conviction for the
1058 purposes of this paragraph.

1059 Section 24. For the purpose of incorporating the amendment
 1060 made by this act to section 316.193, Florida Statutes, in
 1061 references thereto, paragraph (a) of subsection (2) of section
 1062 322.282, Florida Statutes, is reenacted to read:

1063 322.282 Procedure when court revokes or suspends license
 1064 or driving privilege and orders reinstatement.--When a court
 1065 suspends or revokes a person's license or driving privilege and,
 1066 in its discretion, orders reinstatement as provided by s.
 1067 322.28(2)(d) or former s. 322.261(5):

1068 (2)(a) The court shall issue an order of reinstatement, on
 1069 a form to be furnished by the department, which the person may
 1070 take to any driver's license examining office. The department
 1071 shall issue a temporary driver's permit to a licensee who
 1072 presents the court's order of reinstatement, proof of completion
 1073 of a department-approved driver training or substance abuse
 1074 education course, and a written request for a hearing under s.
 1075 322.271. The permit shall not be issued if a record check by the
 1076 department shows that the person has previously been convicted
 1077 for a violation of s. 316.193, former s. 316.1931, former s.
 1078 316.028, former s. 860.01, or a previous conviction outside this
 1079 state for driving under the influence, driving while
 1080 intoxicated, driving with an unlawful blood-alcohol level, or
 1081 any similar alcohol-related or drug-related traffic offense;
 1082 that the person's driving privilege has been previously
 1083 suspended for refusal to submit to a lawful test of breath,
 1084 blood, or urine; or that the person is otherwise not entitled to
 1085 issuance of a driver's license. This paragraph shall not be
 1086 construed to prevent the reinstatement of a license or driving

1087 | privilege that is presently suspended for driving with an
 1088 | unlawful blood-alcohol level or a refusal to submit to a breath,
 1089 | urine, or blood test and is also revoked for a conviction for a
 1090 | violation of s. 316.193 or former s. 316.1931, if the suspension
 1091 | and revocation arise out of the same incident.

1092 | Section 25. For the purpose of incorporating the amendment
 1093 | made by this act to section 316.193, Florida Statutes, in a
 1094 | reference thereto, paragraph (a) of subsection (1) of section
 1095 | 322.291, Florida Statutes, is reenacted to read:

1096 | 322.291 Driver improvement schools or DUI programs;
 1097 | required in certain suspension and revocation cases.--Except as
 1098 | provided in s. 322.03(2), any person:

1099 | (1) Whose driving privilege has been revoked:

1100 | (a) Upon conviction for:

1101 | 1. Driving, or being in actual physical control of, any
 1102 | vehicle while under the influence of alcoholic beverages, any
 1103 | chemical substance set forth in s. 877.111, or any substance
 1104 | controlled under chapter 893, in violation of s. 316.193;

1105 | 2. Driving with an unlawful blood- or breath-alcohol
 1106 | level;

1107 | 3. Manslaughter resulting from the operation of a motor
 1108 | vehicle;

1109 | 4. Failure to stop and render aid as required under the
 1110 | laws of this state in the event of a motor vehicle crash
 1111 | resulting in the death or personal injury of another;

1112 | 5. Reckless driving; or

1113 |

1114 shall, before the driving privilege may be reinstated, present
 1115 to the department proof of enrollment in a department-approved
 1116 advanced driver improvement course operating pursuant to s.
 1117 318.1451 or a substance abuse education course conducted by a
 1118 DUI program licensed pursuant to s. 322.292, which shall include
 1119 a psychosocial evaluation and treatment, if referred. If the
 1120 person fails to complete such course or evaluation within 90
 1121 days after reinstatement, or subsequently fails to complete
 1122 treatment, if referred, the DUI program shall notify the
 1123 department of the failure. Upon receipt of the notice, the
 1124 department shall cancel the offender's driving privilege,
 1125 notwithstanding the expiration of the suspension or revocation
 1126 of the driving privilege. The department may temporarily
 1127 reinstate the driving privilege upon verification from the DUI
 1128 program that the offender has completed the education course and
 1129 evaluation requirement and has reentered and is currently
 1130 participating in treatment. If the DUI program notifies the
 1131 department of the second failure to complete treatment, the
 1132 department shall reinstate the driving privilege only after
 1133 notice of completion of treatment from the DUI program.

1134 Section 26. For the purpose of incorporating the amendment
 1135 made by this act to section 316.193, Florida Statutes, in a
 1136 reference thereto, paragraph (a) of subsection (9) of section
 1137 322.34, Florida Statutes, is reenacted to read:

1138 322.34 Driving while license suspended, revoked, canceled,
 1139 or disqualified.--

1140 (9)(a) A motor vehicle that is driven by a person under
 1141 the influence of alcohol or drugs in violation of s. 316.193 is

1142 subject to seizure and forfeiture under ss. 932.701-932.707 and
 1143 is subject to liens for recovering, towing, or storing vehicles
 1144 under s. 713.78 if, at the time of the offense, the person's
 1145 driver's license is suspended, revoked, or canceled as a result
 1146 of a prior conviction for driving under the influence.

1147 Section 27. For the purpose of incorporating the amendment
 1148 made by this act to section 316.193, Florida Statutes, in
 1149 references thereto, section 322.44, Florida Statutes, is
 1150 reenacted to read:

1151 322.44 Driver License Compact.--The Driver License Compact
 1152 is hereby enacted into law and entered into with all other
 1153 jurisdictions legally joining therein in the form substantially
 1154 as follows:

1155
 1156 ARTICLE I

1157
 1158 FINDINGS AND DECLARATION OF POLICY.--

1159 (1) The party states find that:

1160 (a) The safety of their streets and highways is materially
 1161 affected by the degree of compliance with state laws and local
 1162 ordinances relating to the operation of motor vehicles;

1163 (b) Violation of such a law or ordinance is evidence that
 1164 the violator engages in conduct which is likely to endanger the
 1165 safety of persons and property;

1166 (c) The continuance in force of a license to drive is
 1167 predicated upon compliance with laws and ordinances relating to
 1168 the operation of motor vehicles, in whichever jurisdiction the
 1169 vehicle is operated.

1170 (2) It is the policy of each of the party states to:
 1171 (a) Promote compliance with the laws, ordinances, and
 1172 administrative rules and regulations relating to the operation
 1173 of motor vehicles by their operators in each of the
 1174 jurisdictions where such operators drive motor vehicles;

1175 (b) Make the reciprocal recognition of licenses to drive
 1176 and eligibility therefor more just and equitable by considering
 1177 the overall compliance with motor vehicle laws, ordinances, and
 1178 administrative rules and regulations as a condition precedent to
 1179 the continuance or issuance of any license by reason of which
 1180 the licensee is authorized or permitted to operate a motor
 1181 vehicle in any of the party states.

1182
 1183 ARTICLE II
 1184

1185 DEFINITIONS.--As used in this compact:

1186 (1) "State" means a state, territory or possession of the
 1187 United States, the District of Columbia, or the Commonwealth of
 1188 Puerto Rico.

1189 (2) "Home state" means the state which has issued and has
 1190 the power to suspend or revoke the use of the license or permit
 1191 to operate a motor vehicle.

1192 (3) "Conviction" means a conviction of any offense related
 1193 to the use or operation of a motor vehicle which is prohibited
 1194 by state law, municipal ordinance, or administrative rule or
 1195 regulation, or a forfeiture of bail, bond, or other security
 1196 deposited to secure appearance by a person charged with having

1197 committed any such offense, and which conviction or forfeiture
 1198 is required to be reported to the licensing authority.

1199

1200 ARTICLE III

1201

1202 REPORTS OF CONVICTION.--The licensing authority of a party
 1203 state shall report each conviction of a person from another
 1204 party state occurring within its jurisdiction to the licensing
 1205 authority of the home state of the licensee. Such report shall
 1206 clearly identify the person convicted; describe the violation
 1207 specifying the section of the statute, code, or ordinance
 1208 violated; identify the court in which action was taken; indicate
 1209 whether a plea of guilty or not guilty was entered or the
 1210 conviction was a result of the forfeiture of bail, bond, or
 1211 other security; and shall include any special findings made in
 1212 connection therewith.

1213

1214 ARTICLE IV

1215

1216 EFFECT OF CONVICTION.--

1217 (1) The licensing authority in the home state, for the
 1218 purposes of suspension, revocation, or limitation of the license
 1219 to operate a motor vehicle, shall give the same effect to the
 1220 conduct reported, pursuant to article III, as it would if such
 1221 conduct had occurred in the home state, in the case of
 1222 convictions for:

1223 (a) Manslaughter or negligent homicide resulting from the
 1224 operation of a motor vehicle, as provided by ss. 316.193 and
 1225 322.26;

1226 (b) Driving a motor vehicle while under the influence of
 1227 alcoholic beverages or a narcotic drug, or under the influence
 1228 of any other drug to a degree which renders the driver incapable
 1229 of safely driving a motor vehicle, as provided by s. 316.193;

1230 (c) Any felony in the commission of which a motor vehicle
 1231 is used, as provided by s. 322.26; or

1232 (d) Failure to stop and render aid in the event of a motor
 1233 vehicle crash resulting in the death or personal injury of
 1234 another, as provided by s. 322.26.

1235 (2) As to other convictions, reported pursuant to article
 1236 III, the licensing authority in the home state shall give such
 1237 effect to the conduct as is provided by the laws of the home
 1238 state.

1239

1240 ARTICLE V

1241

1242 APPLICATIONS FOR NEW LICENSES.--Upon application for a
 1243 license to drive, the licensing authority in a party state shall
 1244 ascertain whether the applicant has ever held, or is the holder
 1245 of, a license to drive issued by any other party state. The
 1246 licensing authority in the state where application is made shall
 1247 not issue a license to drive to the applicant if:

1248 (1) The applicant has held such a license, but the same
 1249 has been suspended by reason, in whole or in part, of a
 1250 violation and if such suspension period has not terminated.

1251 (2) The applicant has held such a license, but the same
1252 has been revoked by reason, in whole or in part, of a violation
1253 and if such revocation has not terminated, except that after the
1254 expiration of 1 year from the date the license was revoked, such
1255 person may make application for a new license if permitted by
1256 law. The licensing authority may refuse to issue a license to
1257 any such applicant if, after investigation, the licensing
1258 authority determines that it will not be safe to grant to such
1259 person the privilege of driving a motor vehicle on the public
1260 highways.

1261 (3) The applicant is the holder of a license to drive
1262 issued by another party state and currently in force unless the
1263 applicant surrenders such license.

1264
1265 ARTICLE VI
1266

1267 APPLICABILITY OF OTHER LAWS.--Except as expressly required
1268 by provisions of this compact, nothing contained herein shall be
1269 construed to affect the right of any party state to apply any of
1270 its other laws relating to licenses to drive to any person or
1271 circumstance, nor to invalidate or prevent any driver license
1272 agreement or other cooperative arrangement between a party state
1273 and a nonparty state.

1274
1275 ARTICLE VII
1276

1277 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.--

1278 (1) The head of the licensing authority of each party
 1279 state shall be the administrator of this compact for his or her
 1280 state. The administrators, acting jointly, shall have the power
 1281 to formulate all necessary and proper procedures for the
 1282 exchange of information under this compact.

1283 (2) The administrator of each party state shall furnish to
 1284 the administrator of each other party state any information or
 1285 documents reasonably necessary to facilitate the administration
 1286 of this compact.

1287

1288 ARTICLE VIII

1289

1290 ENTRY INTO FORCE AND WITHDRAWAL.--

1291 (1) This compact shall enter into force and become
 1292 effective as to any state when it has enacted the same into law.

1293 (2) Any party state may withdraw from this compact by
 1294 enacting a statute repealing the same, but no such withdrawal
 1295 shall take effect until 6 months after the executive head of the
 1296 withdrawing state has given notice of the withdrawal to the
 1297 executive heads of all other party states. No withdrawal shall
 1298 affect the validity or applicability by the licensing
 1299 authorities of states remaining party to the compact of any
 1300 report of conviction occurring prior to the withdrawal.

1301

1302 ARTICLE IX

1303

1304 CONSTRUCTION AND SEVERABILITY.--This compact shall be
 1305 liberally construed so as to effectuate the purposes thereof.

1306 The provisions of this compact shall be severable; and if any
 1307 phrase, clause, sentence, or provision of this compact is
 1308 declared to be contrary to the constitution of any party state
 1309 or of the United States or the applicability thereof to any
 1310 government, agency, person, or circumstance is held invalid, the
 1311 validity of the remainder of this compact and the applicability
 1312 thereof to any government, agency, person, or circumstance shall
 1313 not be affected thereby. If this compact shall be held contrary
 1314 to the constitution of any state party thereto, the compact
 1315 shall remain in full force and effect as to the remaining states
 1316 and in full force and effect as to the state affected as to all
 1317 severable matters.

1318 Section 28. For the purpose of incorporating the amendment
 1319 made by this act to section 316.193, Florida Statutes, in a
 1320 reference thereto, subsection (3) of section 322.62, Florida
 1321 Statutes, is reenacted to read:

1322 322.62 Driving under the influence; commercial motor
 1323 vehicle operators.--

1324 (3) This section does not supersede s. 316.193. Nothing in
 1325 this section prohibits the prosecution of a person who drives a
 1326 commercial motor vehicle for driving under the influence of
 1327 alcohol or controlled substances whether or not such person is
 1328 also prosecuted for a violation of this section.

1329 Section 29. For the purpose of incorporating the amendment
 1330 made by this act to section 316.193, Florida Statutes, in
 1331 references thereto, paragraph (d) of subsection (2) and
 1332 subsection (6) of section 322.63, Florida Statutes, are
 1333 reenacted to read:

1334 322.63 Alcohol or drug testing; commercial motor vehicle
1335 operators.--

1336 (2) The chemical and physical tests authorized by this
1337 section shall only be required if a law enforcement officer has
1338 reasonable cause to believe that a person driving a commercial
1339 motor vehicle has any alcohol, chemical substance, or controlled
1340 substance in his or her body.

1341 (d) The administration of one test under paragraph (a),
1342 paragraph (b), or paragraph (c) shall not preclude the
1343 administration of a different test under paragraph (a),
1344 paragraph (b), or paragraph (c). However, a urine test may not
1345 be used to determine alcohol concentration and a breath test may
1346 not be used to determine the presence of controlled substances
1347 or chemical substances in a person's body. Notwithstanding the
1348 provisions of this paragraph, in the event a Florida licensee
1349 has been convicted in another state for an offense substantially
1350 similar to s. 316.193 or to s. 322.62, which conviction was
1351 based upon evidence of test results prohibited by this
1352 paragraph, that out-of-state conviction shall constitute a
1353 conviction for the purposes of this chapter.

1354 (6) Notwithstanding any provision of law pertaining to the
1355 confidentiality of hospital records or other medical records,
1356 information relating to the alcohol content of a person's blood
1357 or the presence of chemical substances or controlled substances
1358 in a person's blood obtained pursuant to this section shall be
1359 released to a court, prosecuting attorney, defense attorney, or
1360 law enforcement officer in connection with an alleged violation
1361 of s. 316.193 or s. 322.62 upon request for such information.

1362 Section 30. For the purpose of incorporating the amendment
 1363 made by this act to section 316.193, Florida Statutes, in
 1364 references thereto, subsections (1) and (2), paragraph (a) of
 1365 subsection (7), paragraph (b) of subsection (8), and subsections
 1366 (14) and (15) of section 322.64, Florida Statutes, are reenacted
 1367 to read:

1368 322.64 Holder of commercial driver's license; driving with
 1369 unlawful blood-alcohol level; refusal to submit to breath,
 1370 urine, or blood test.--

1371 (1)(a) A law enforcement officer or correctional officer
 1372 shall, on behalf of the department, disqualify from operating
 1373 any commercial motor vehicle a person who while operating or in
 1374 actual physical control of a commercial motor vehicle is
 1375 arrested for a violation of s. 316.193, relating to unlawful
 1376 blood-alcohol level or breath-alcohol level, or a person who has
 1377 refused to submit to a breath, urine, or blood test authorized
 1378 by s. 322.63 arising out of the operation or actual physical
 1379 control of a commercial motor vehicle. Upon disqualification of
 1380 the person, the officer shall take the person's driver's license
 1381 and issue the person a 10-day temporary permit for the operation
 1382 of noncommercial vehicles only if the person is otherwise
 1383 eligible for the driving privilege and shall issue the person a
 1384 notice of disqualification. If the person has been given a
 1385 blood, breath, or urine test, the results of which are not
 1386 available to the officer at the time of the arrest, the agency
 1387 employing the officer shall transmit such results to the
 1388 department within 5 days after receipt of the results. If the
 1389 department then determines that the person was arrested for a

1390 violation of s. 316.193 and that the person had a blood-alcohol
 1391 level or breath-alcohol level of 0.08 or higher, the department
 1392 shall disqualify the person from operating a commercial motor
 1393 vehicle pursuant to subsection (3).

1394 (b) The disqualification under paragraph (a) shall be
 1395 pursuant to, and the notice of disqualification shall inform the
 1396 driver of, the following:

1397 1.a. The driver refused to submit to a lawful breath,
 1398 blood, or urine test and he or she is disqualified from
 1399 operating a commercial motor vehicle for a period of 1 year, for
 1400 a first refusal, or permanently, if he or she has previously
 1401 been disqualified as a result of a refusal to submit to such a
 1402 test; or

1403 b. The driver violated s. 316.193 by driving with an
 1404 unlawful blood-alcohol level and he or she is disqualified from
 1405 operating a commercial motor vehicle for a period of 6 months
 1406 for a first offense or for a period of 1 year if he or she has
 1407 previously been disqualified, or his or her driving privilege
 1408 has been previously suspended, for a violation of s. 316.193.

1409 2. The disqualification period for operating commercial
 1410 vehicles shall commence on the date of arrest or issuance of
 1411 notice of disqualification, whichever is later.

1412 3. The driver may request a formal or informal review of
 1413 the disqualification by the department within 10 days after the
 1414 date of arrest or issuance of notice of disqualification,
 1415 whichever is later.

1416 4. The temporary permit issued at the time of arrest or
 1417 disqualification will expire at midnight of the 10th day
 1418 following the date of disqualification.

1419 5. The driver may submit to the department any materials
 1420 relevant to the arrest.

1421 (2) Except as provided in paragraph (1)(a), the law
 1422 enforcement officer shall forward to the department, within 5
 1423 days after the date of the arrest or the issuance of the notice
 1424 of disqualification, whichever is later, a copy of the notice of
 1425 disqualification, the driver's license of the person arrested,
 1426 and a report of the arrest, including, if applicable, an
 1427 affidavit stating the officer's grounds for belief that the
 1428 person arrested was in violation of s. 316.193; the results of
 1429 any breath or blood test or an affidavit stating that a breath,
 1430 blood, or urine test was requested by a law enforcement officer
 1431 or correctional officer and that the person arrested refused to
 1432 submit; a copy of the citation issued to the person arrested;
 1433 and the officer's description of the person's field sobriety
 1434 test, if any. The failure of the officer to submit materials
 1435 within the 5-day period specified in this subsection or
 1436 subsection (1) shall not affect the department's ability to
 1437 consider any evidence submitted at or prior to the hearing. The
 1438 officer may also submit a copy of a videotape of the field
 1439 sobriety test or the attempt to administer such test.

1440 (7) In a formal review hearing under subsection (6) or an
 1441 informal review hearing under subsection (4), the hearing
 1442 officer shall determine by a preponderance of the evidence
 1443 whether sufficient cause exists to sustain, amend, or invalidate

1444 the disqualification. The scope of the review shall be limited
 1445 to the following issues:

1446 (a) If the person was disqualified from operating a
 1447 commercial motor vehicle for driving with an unlawful blood-
 1448 alcohol level in violation of s. 316.193:

1449 1. Whether the arresting law enforcement officer had
 1450 probable cause to believe that the person was driving or in
 1451 actual physical control of a commercial motor vehicle in this
 1452 state while he or she had any alcohol, chemical substances, or
 1453 controlled substances in his or her body.

1454 2. Whether the person was placed under lawful arrest for a
 1455 violation of s. 316.193.

1456 3. Whether the person had an unlawful blood-alcohol level
 1457 as provided in s. 316.193.

1458 (8) Based on the determination of the hearing officer
 1459 pursuant to subsection (7) for both informal hearings under
 1460 subsection (4) and formal hearings under subsection (6), the
 1461 department shall:

1462 (b) Sustain the disqualification for a period of 6 months
 1463 for a violation of s. 316.193 or for a period of 1 year if the
 1464 person has been previously disqualified from operating a
 1465 commercial motor vehicle or his or her driving privilege has
 1466 been previously suspended as a result of a violation of s.
 1467 316.193. The disqualification period commences on the date of
 1468 the arrest or issuance of the notice of disqualification,
 1469 whichever is later.

1470 (14) The decision of the department under this section
 1471 shall not be considered in any trial for a violation of s.

1472 316.193, s. 322.61, or s. 322.62, nor shall any written
 1473 statement submitted by a person in his or her request for
 1474 departmental review under this section be admissible into
 1475 evidence against him or her in any such trial. The disposition
 1476 of any related criminal proceedings shall not affect a
 1477 disqualification imposed pursuant to this section.

1478 (15) This section does not preclude the suspension of the
 1479 driving privilege pursuant to s. 322.2615. The driving privilege
 1480 of a person who has been disqualified from operating a
 1481 commercial motor vehicle also may be suspended for a violation
 1482 of s. 316.193.

1483 Section 31. For the purpose of incorporating the amendment
 1484 made by this act to section 316.193, Florida Statutes, in a
 1485 reference thereto, paragraph (f) of subsection (4) of section
 1486 323.001, Florida Statutes, is reenacted to read:

1487 323.001 Wrecker operator storage facilities; vehicle
 1488 holds.--

1489 (4) The requirements for a written hold apply when the
 1490 following conditions are present:

1491 (f) The vehicle is impounded or immobilized pursuant to s.
 1492 316.193 or s. 322.34; or

1493 Section 32. For the purpose of incorporating the amendment
 1494 made by this act to section 316.193, Florida Statutes, in a
 1495 reference thereto, section 324.131, Florida Statutes, is
 1496 reenacted to read:

1497 324.131 Period of suspension.--Such license, registration
 1498 and nonresident's operating privilege shall remain so suspended
 1499 and shall not be renewed, nor shall any such license or

1500 registration be thereafter issued in the name of such person,
 1501 including any such person not previously licensed, unless and
 1502 until every such judgment is stayed, satisfied in full or to the
 1503 extent of the limits stated in s. 324.021(7) and until the said
 1504 person gives proof of financial responsibility as provided in s.
 1505 324.031, such proof to be maintained for 3 years. In addition,
 1506 if the person's license or registration has been suspended or
 1507 revoked due to a violation of s. 316.193 or pursuant to s.
 1508 322.26(2), that person shall maintain noncancelable liability
 1509 coverage for each motor vehicle registered in his or her name,
 1510 as described in s. 627.7275(2), and must present proof that
 1511 coverage is in force on a form adopted by the Department of
 1512 Highway Safety and Motor Vehicles, such proof to be maintained
 1513 for 3 years.

1514 Section 33. For the purpose of incorporating the amendment
 1515 made by this act to section 316.193, Florida Statutes, in a
 1516 reference thereto, subsection (6) of section 327.35, Florida
 1517 Statutes, is reenacted to read:

1518 327.35 Boating under the influence; penalties; "designated
 1519 drivers".--

1520 (6) With respect to any person convicted of a violation of
 1521 subsection (1), regardless of any other penalty imposed:

1522 (a) For the first conviction, the court shall place the
 1523 defendant on probation for a period not to exceed 1 year and, as
 1524 a condition of such probation, shall order the defendant to
 1525 participate in public service or a community work project for a
 1526 minimum of 50 hours. The court must also, as a condition of
 1527 probation, order the impoundment or immobilization of the vessel

1528 that was operated by or in the actual control of the defendant
 1529 or any one vehicle registered in the defendant's name at the
 1530 time of impoundment or immobilization, for a period of 10 days
 1531 or for the unexpired term of any lease or rental agreement that
 1532 expires within 10 days. The impoundment or immobilization must
 1533 not occur concurrently with the incarceration of the defendant.
 1534 The impoundment or immobilization order may be dismissed in
 1535 accordance with paragraph (e) or paragraph (f). The total period
 1536 of probation and incarceration may not exceed 1 year.

1537 (b) For the second conviction for an offense that occurs
 1538 within a period of 5 years after the date of a prior conviction
 1539 for violation of this section, the court shall order
 1540 imprisonment for not less than 10 days. The court must also, as
 1541 a condition of probation, order the impoundment or
 1542 immobilization of the vessel that was operated by or in the
 1543 actual control of the defendant or any one vehicle registered in
 1544 the defendant's name at the time of impoundment or
 1545 immobilization, for a period of 30 days or for the unexpired
 1546 term of any lease or rental agreement that expires within 30
 1547 days. The impoundment or immobilization must not occur
 1548 concurrently with the incarceration of the defendant. The
 1549 impoundment or immobilization order may be dismissed in
 1550 accordance with paragraph (e) or paragraph (f). At least 48
 1551 hours of confinement must be consecutive.

1552 (c) For the third or subsequent conviction for an offense
 1553 that occurs within a period of 10 years after the date of a
 1554 prior conviction for violation of this section, the court shall
 1555 order imprisonment for not less than 30 days. The court must

1556 also, as a condition of probation, order the impoundment or
1557 immobilization of the vessel that was operated by or in the
1558 actual control of the defendant or any one vehicle registered in
1559 the defendant's name at the time of impoundment or
1560 immobilization, for a period of 90 days or for the unexpired
1561 term of any lease or rental agreement that expires within 90
1562 days. The impoundment or immobilization must not occur
1563 concurrently with the incarceration of the defendant. The
1564 impoundment or immobilization order may be dismissed in
1565 accordance with paragraph (e) or paragraph (f). At least 48
1566 hours of confinement must be consecutive.

1567 (d) The court must at the time of sentencing the defendant
1568 issue an order for the impoundment or immobilization of a
1569 vessel. Within 7 business days after the date that the court
1570 issues the order of impoundment, and once again 30 business days
1571 before the actual impoundment or immobilization of the vessel,
1572 the clerk of the court must send notice by certified mail,
1573 return receipt requested, to the registered owner of each
1574 vessel, if the registered owner is a person other than the
1575 defendant, and to each person of record claiming a lien against
1576 the vessel.

1577 (e) A person who owns but was not operating the vessel
1578 when the offense occurred may submit to the court a police
1579 report indicating that the vessel was stolen at the time of the
1580 offense or documentation of having purchased the vessel after
1581 the offense was committed from an entity other than the
1582 defendant or the defendant's agent. If the court finds that the
1583 vessel was stolen or that the sale was not made to circumvent

1584 the order and allow the defendant continued access to the
1585 vessel, the order must be dismissed and the owner of the vessel
1586 will incur no costs. If the court denies the request to dismiss
1587 the order of impoundment or immobilization, the petitioner may
1588 request an evidentiary hearing.

1589 (f) A person who owns but was not operating the vessel
1590 when the offense occurred, and whose vessel was stolen or who
1591 purchased the vessel after the offense was committed directly
1592 from the defendant or the defendant's agent, may request an
1593 evidentiary hearing to determine whether the impoundment or
1594 immobilization should occur. If the court finds that either the
1595 vessel was stolen or the purchase was made without knowledge of
1596 the offense, that the purchaser had no relationship to the
1597 defendant other than through the transaction, and that such
1598 purchase would not circumvent the order and allow the defendant
1599 continued access to the vessel, the order must be dismissed and
1600 the owner of the vessel will incur no costs.

1601 (g) All costs and fees for the impoundment or
1602 immobilization, including the cost of notification, must be paid
1603 by the owner of the vessel or, if the vessel is leased or
1604 rented, by the person leasing or renting the vessel, unless the
1605 impoundment or immobilization order is dismissed.

1606 (h) The person who owns a vessel that is impounded or
1607 immobilized under this paragraph, or a person who has a lien of
1608 record against such a vessel and who has not requested a review
1609 of the impoundment pursuant to paragraph (e) or paragraph (f),
1610 may, within 10 days after the date that person has knowledge of
1611 the location of the vessel, file a complaint in the county in

1612 | which the owner resides to determine whether the vessel was
 1613 | wrongfully taken or withheld from the owner or lienholder. Upon
 1614 | the filing of a complaint, the owner or lienholder may have the
 1615 | vessel released by posting with the court a bond or other
 1616 | adequate security equal to the amount of the costs and fees for
 1617 | impoundment or immobilization, including towing or storage, to
 1618 | ensure the payment of the costs and fees if the owner or
 1619 | lienholder does not prevail. When the bond is posted and the fee
 1620 | is paid as set forth in s. 28.24, the clerk of the court shall
 1621 | issue a certificate releasing the vessel. At the time of
 1622 | release, after reasonable inspection, the owner or lienholder
 1623 | must give a receipt to the towing or storage company indicating
 1624 | any loss or damage to the vessel or to the contents of the
 1625 | vessel.

1626 | (i) A defendant, in the court's discretion, may be
 1627 | required to serve all or any portion of a term of imprisonment
 1628 | to which the defendant has been sentenced pursuant to this
 1629 | section in a residential alcoholism treatment program or a
 1630 | residential drug abuse treatment program. Any time spent in such
 1631 | a program must be credited by the court toward the term of
 1632 | imprisonment.

1633 |
 1634 | For the purposes of this section, any conviction for a violation
 1635 | of s. 316.193, a previous conviction for the violation of former
 1636 | s. 316.1931, former s. 860.01, or former s. 316.028, or a
 1637 | previous conviction outside this state for driving under the
 1638 | influence, driving while intoxicated, driving with an unlawful
 1639 | blood-alcohol level, driving with an unlawful breath-alcohol

1640 level, or any other similar alcohol-related or drug-related
 1641 traffic offense, is also considered a previous conviction for
 1642 violation of this section.

1643 Section 34. For the purpose of incorporating the amendment
 1644 made by this act to section 327.35, Florida Statutes, in a
 1645 reference thereto, subsection (3) of section 327.352, Florida
 1646 Statutes, is reenacted to read:

1647 327.352 Tests for alcohol, chemical substances, or
 1648 controlled substances; implied consent; refusal.--

1649 (3) Notwithstanding any provision of law pertaining to the
 1650 confidentiality of hospital records or other medical records,
 1651 information relating to the alcoholic content of the blood or
 1652 breath or the presence of chemical substances or controlled
 1653 substances in the blood obtained pursuant to this section shall
 1654 be released to a court, prosecuting attorney, defense attorney,
 1655 or law enforcement officer in connection with an alleged
 1656 violation of s. 327.35 upon request for such information.

1657 Section 35. For the purpose of incorporating the amendment
 1658 made by this act to section 327.35, Florida Statutes, in
 1659 references thereto, subsections (1) and (2) of section
 1660 327.35215, Florida Statutes, are reenacted to read:

1661 327.35215 Penalty for failure to submit to test.--

1662 (1) A person who is lawfully arrested for an alleged
 1663 violation of s. 327.35 and who refuses to submit to a blood
 1664 test, breath test, or urine test pursuant to s. 327.352 is
 1665 subject to a civil penalty of \$500.

1666 (2) When a person refuses to submit to a blood test,
 1667 breath test, or urine test pursuant to s. 327.352, a law

1668 enforcement officer who is authorized to make arrests for
 1669 violations of this chapter shall file with the clerk of the
 1670 court, on a form provided by the department, a certified
 1671 statement that probable cause existed to arrest the person for a
 1672 violation of s. 327.35 and that the person refused to submit to
 1673 a test as required by s. 327.352. Along with the statement, the
 1674 officer must also submit a sworn statement on a form provided by
 1675 the department that the person has been advised of both the
 1676 penalties for failure to submit to the blood, breath, or urine
 1677 test and the procedure for requesting a hearing.

1678 Section 36. For the purpose of incorporating the amendment
 1679 made by this act to section 327.35, Florida Statutes, in a
 1680 reference thereto, subsection (4) of section 327.353, Florida
 1681 Statutes, is reenacted to read:

1682 327.353 Blood test for impairment or intoxication in cases
 1683 of death or serious bodily injury; right to use reasonable
 1684 force.--

1685 (4) Notwithstanding any provision of law pertaining to the
 1686 confidentiality of hospital records or other medical records,
 1687 information relating to the alcoholic content of the blood or
 1688 the presence of chemical substances or controlled substances in
 1689 the blood obtained pursuant to this section shall be released to
 1690 a court, prosecuting attorney, defense attorney, or law
 1691 enforcement officer in connection with an alleged violation of
 1692 s. 327.35 upon request for such information.

1693 Section 37. For the purpose of incorporating the amendment
 1694 made by this act to section 327.35, Florida Statutes, in

1695 references thereto, subsections (1) and (4) of section 327.354,
 1696 Florida Statutes, are reenacted to read:

1697 327.354 Presumption of impairment; testing methods.--

1698 (1) It is unlawful and punishable as provided in s. 327.35
 1699 for any person who is under the influence of alcoholic beverages
 1700 or controlled substances, when affected to the extent that the
 1701 person's normal faculties are impaired or to the extent that the
 1702 person is deprived of full possession of normal faculties, to
 1703 operate any vessel within this state. Such normal faculties
 1704 include, but are not limited to, the ability to see, hear, walk,
 1705 talk, judge distances, drive an automobile, make judgments, act
 1706 in emergencies, and, in general, normally perform the many
 1707 mental and physical acts of daily life.

1708 (4) Any person charged with a violation of s. 327.35 is
 1709 entitled to trial by jury according to the Florida Rules of
 1710 Criminal Procedure.

1711 Section 38. For the purpose of incorporating the amendment
 1712 made by this act to section 327.35, Florida Statutes, in
 1713 references thereto, paragraph (a) of subsection (1) and
 1714 subsection (4) of section 327.355, Florida Statutes, are
 1715 reenacted to read:

1716 327.355 Operation of vessels by persons under 21 years of
 1717 age who have consumed alcoholic beverages.--

1718 (1)(a) Notwithstanding s. 327.35, it is unlawful for a
 1719 person under the age of 21 who has a breath-alcohol level of
 1720 0.02 or higher to operate or be in actual physical control of a
 1721 vessel.

1722 (4) A violation of this section is a noncriminal
 1723 infraction, and being detained pursuant to this section does not
 1724 constitute an arrest. This section does not bar prosecution
 1725 under s. 327.35, and the penalties provided herein shall be
 1726 imposed in addition to any other penalty provided for boating
 1727 under the influence or for refusal to submit to testing.

1728 Section 39. For the purpose of incorporating the amendment
 1729 made by this act to section 327.35, Florida Statutes, in a
 1730 reference thereto, subsection (2) of section 327.359, Florida
 1731 Statutes, is reenacted to read:

1732 327.359 Refusal to submit to testing; penalties.--Any
 1733 person who has refused to submit to a chemical or physical test
 1734 of his or her breath, blood, or urine, as described in s.
 1735 327.352, and who has been previously fined for refusal to submit
 1736 to a lawful test of his or her breath, urine, or blood, and:

1737 (2) Who was placed under lawful arrest for a violation of
 1738 s. 327.35 unless such test was requested pursuant to s.

1739 327.352(1)(c);

1740
 1741 commits a misdemeanor of the first degree and is subject to
 1742 punishment as provided in s. 775.082 or s. 775.083.

1743 Section 40. For the purpose of incorporating the amendment
 1744 made by this act to section 327.35, Florida Statutes, in
 1745 references thereto, section 327.36, Florida Statutes, is
 1746 reenacted to read:

1747 327.36 Mandatory adjudication; prohibition against
 1748 accepting plea to lesser included offense.--

1749 (1) Notwithstanding the provisions of s. 948.01, no court
1750 may suspend, defer, or withhold adjudication of guilt or
1751 imposition of sentence for any violation of s. 327.35, for
1752 manslaughter resulting from the operation of a vessel, or for
1753 vessel homicide.

1754 (2)(a) No trial judge may accept a plea of guilty to a
1755 lesser offense from a person who is charged with a violation of
1756 s. 327.35, manslaughter resulting from the operation of a
1757 vessel, or vessel homicide and who has been given a breath or
1758 blood test to determine blood or breath alcohol content, the
1759 results of which show a blood-alcohol level or breath-alcohol
1760 level of 0.16 or more.

1761 (b) A trial judge may not accept a plea of guilty to a
1762 lesser offense from a person charged with a felony violation of
1763 s. 327.35, manslaughter resulting from the operation of a
1764 vessel, or vessel homicide.

1765 Section 41. For the purpose of incorporating the amendment
1766 made by this act to section 316.193, Florida Statutes, in a
1767 reference thereto, subsection (1) of section 337.195, Florida
1768 Statutes, is reenacted to read:

1769 337.195 Limits on liability.--

1770 (1) In a civil action for the death of or injury to a
1771 person, or for damage to property, against the Department of
1772 Transportation or its agents, consultants, or contractors for
1773 work performed on a highway, road, street, bridge, or other
1774 transportation facility when the death, injury, or damage
1775 resulted from a motor vehicle crash within a construction zone
1776 in which the driver of one of the vehicles was under the

1777 influence of alcoholic beverages as set forth in s. 316.193,
 1778 under the influence of any chemical substance as set forth in s.
 1779 877.111, or illegally under the influence of any substance
 1780 controlled under chapter 893 to the extent that her or his
 1781 normal faculties were impaired or that she or he operated a
 1782 vehicle recklessly as defined in s. 316.192, it is presumed that
 1783 the driver's operation of the vehicle was the sole proximate
 1784 cause of her or his own death, injury, or damage. This
 1785 presumption can be overcome if the gross negligence or
 1786 intentional misconduct of the Department of Transportation, or
 1787 of its agents, consultants, or contractors, was a proximate
 1788 cause of the driver's death, injury, or damage.

1789 Section 42. For the purpose of incorporating the amendment
 1790 made by this act to section 316.193, Florida Statutes, in a
 1791 reference thereto, paragraph (c) of subsection (17) of section
 1792 440.02, Florida Statutes, is reenacted to read:

1793 440.02 Definitions.--When used in this chapter, unless the
 1794 context clearly requires otherwise, the following terms shall
 1795 have the following meanings:

1796 (17)

1797 (c) "Employment" does not include service performed by or
 1798 as:

- 1799 1. Domestic servants in private homes.
- 1800 2. Agricultural labor performed on a farm in the employ of
 1801 a bona fide farmer, or association of farmers, that employs 5 or
 1802 fewer regular employees and that employs fewer than 12 other
 1803 employees at one time for seasonal agricultural labor that is
 1804 completed in less than 30 days, provided such seasonal

1805 employment does not exceed 45 days in the same calendar year.
 1806 The term "farm" includes stock, dairy, poultry, fruit, fur-
 1807 bearing animals, fish, and truck farms, ranches, nurseries, and
 1808 orchards. The term "agricultural labor" includes field foremen,
 1809 timekeepers, checkers, and other farm labor supervisory
 1810 personnel.

1811 3. Professional athletes, such as professional boxers,
 1812 wrestlers, baseball, football, basketball, hockey, polo, tennis,
 1813 jai alai, and similar players, and motorsports teams competing
 1814 in a motor racing event as defined in s. 549.08.

1815 4. Labor under a sentence of a court to perform community
 1816 services as provided in s. 316.193.

1817 5. State prisoners or county inmates, except those
 1818 performing services for private employers or those enumerated in
 1819 s. 948.036(1).

1820 Section 43. For the purpose of incorporating the amendment
 1821 made by this act to section 316.193, Florida Statutes, in a
 1822 reference thereto, paragraph (b) of subsection (7) of section
 1823 440.09, Florida Statutes, is reenacted to read:

1824 440.09 Coverage.--

1825 (7)

1826 (b) If the employee has, at the time of the injury, a
 1827 blood alcohol level equal to or greater than the level specified
 1828 in s. 316.193, or if the employee has a positive confirmation of
 1829 a drug as defined in this act, it is presumed that the injury
 1830 was occasioned primarily by the intoxication of, or by the
 1831 influence of the drug upon, the employee. If the employer has
 1832 implemented a drug-free workplace, this presumption may be

1833 rebutted only by evidence that there is no reasonable hypothesis
 1834 that the intoxication or drug influence contributed to the
 1835 injury. In the absence of a drug-free workplace program, this
 1836 presumption may be rebutted by clear and convincing evidence
 1837 that the intoxication or influence of the drug did not
 1838 contribute to the injury. Percent by weight of alcohol in the
 1839 blood must be based upon grams of alcohol per 100 milliliters of
 1840 blood. If the results are positive, the testing facility must
 1841 maintain the specimen for a minimum of 90 days. Blood serum may
 1842 be used for testing purposes under this chapter; however, if
 1843 this test is used, the presumptions under this section do not
 1844 arise unless the blood alcohol level is proved to be medically
 1845 and scientifically equivalent to or greater than the comparable
 1846 blood alcohol level that would have been obtained if the test
 1847 were based on percent by weight of alcohol in the blood.
 1848 However, if, before the accident, the employer had actual
 1849 knowledge of and expressly acquiesced in the employee's presence
 1850 at the workplace while under the influence of such alcohol or
 1851 drug, the presumptions specified in this subsection do not
 1852 apply.

1853 Section 44. For the purpose of incorporating the amendment
 1854 made by this act to section 316.193, Florida Statutes, in a
 1855 reference thereto, paragraph (d) of subsection (1) of section
 1856 493.6106, Florida Statutes, is reenacted to read:

- 1857 493.6106 License requirements; posting.--
- 1858 (1) Each individual licensed by the department must:
- 1859 (d) Not be a chronic and habitual user of alcoholic
 1860 beverages to the extent that her or his normal faculties are

1861 | impaired; not have been committed under chapter 397, former
 1862 | chapter 396, or a similar law in any other state; not have been
 1863 | found to be a habitual offender under s. 856.011(3) or a similar
 1864 | law in any other state; and not have had two or more convictions
 1865 | under s. 316.193 or a similar law in any other state within the
 1866 | 3-year period immediately preceding the date the application was
 1867 | filed, unless the individual establishes that she or he is not
 1868 | currently impaired and has successfully completed a
 1869 | rehabilitation course.

1870 | Section 45. For the purpose of incorporating the amendment
 1871 | made by this act to section 316.193, Florida Statutes, in a
 1872 | reference thereto, paragraph (a) of subsection (2) of section
 1873 | 627.7275, Florida Statutes, is reenacted to read:

1874 | 627.7275 Motor vehicle liability.--

1875 | (2)(a) Insurers writing motor vehicle insurance in this
 1876 | state shall make available, subject to the insurers' usual
 1877 | underwriting restrictions:

1878 | 1. Coverage under policies as described in subsection (1)
 1879 | to any applicant for private passenger motor vehicle insurance
 1880 | coverage who is seeking the coverage in order to reinstate the
 1881 | applicant's driving privileges in this state when the driving
 1882 | privileges were revoked or suspended pursuant to s. 316.646 or
 1883 | s. 627.733 due to the failure of the applicant to maintain
 1884 | required security.

1885 | 2. Coverage under policies as described in subsection (1),
 1886 | which also provides liability coverage for bodily injury, death,
 1887 | and property damage arising out of the ownership, maintenance,
 1888 | or use of the motor vehicle in an amount not less than the

1889 | limits described in s. 324.021(7) and conforms to the
 1890 | requirements of s. 324.151, to any applicant for private
 1891 | passenger motor vehicle insurance coverage who is seeking the
 1892 | coverage in order to reinstate the applicant's driving
 1893 | privileges in this state after such privileges were revoked or
 1894 | suspended under s. 316.193 or s. 322.26(2) for driving under the
 1895 | influence.

1896 | Section 46. For the purpose of incorporating the amendment
 1897 | made by this act to section 316.193, Florida Statutes, in a
 1898 | reference thereto, subsection (4) of section 627.758, Florida
 1899 | Statutes, is reenacted to read:

1900 | 627.758 Surety on auto club traffic arrest bond;
 1901 | conditions, limit; bail bond.--

1902 | (4) Notwithstanding the provisions of s. 626.311 or
 1903 | chapter 648, any surety insurer identified in a guaranteed
 1904 | traffic arrest bond certificate or any licensed general lines
 1905 | agent of the surety insurer may execute a bail bond for the
 1906 | automobile club or association member identified in the
 1907 | guaranteed traffic arrest bond certificate in an amount not in
 1908 | excess of \$5,000 for any violation of chapter 316 or any similar
 1909 | traffic law or ordinance except for driving under the influence
 1910 | of alcoholic beverages, chemical substances, or controlled
 1911 | substances, as prohibited by s. 316.193.

1912 | Section 47. For the purpose of incorporating the amendment
 1913 | made by this act to section 316.193, Florida Statutes, in
 1914 | references thereto, paragraph (f) of subsection (2) and
 1915 | paragraph (f) of subsection (10) of section 790.06, Florida
 1916 | Statutes, are reenacted to read:

1917 790.06 License to carry concealed weapon or firearm.--
 1918 (2) The Department of Agriculture and Consumer Services
 1919 shall issue a license if the applicant:
 1920 (f) Does not chronically and habitually use alcoholic
 1921 beverages or other substances to the extent that his or her
 1922 normal faculties are impaired. It shall be presumed that an
 1923 applicant chronically and habitually uses alcoholic beverages or
 1924 other substances to the extent that his or her normal faculties
 1925 are impaired if the applicant has been committed under chapter
 1926 397 or under the provisions of former chapter 396 or has been
 1927 convicted under s. 790.151 or has been deemed a habitual
 1928 offender under s. 856.011(3), or has had two or more convictions
 1929 under s. 316.193 or similar laws of any other state, within the
 1930 3-year period immediately preceding the date on which the
 1931 application is submitted;
 1932 (10) A license issued under this section shall be
 1933 suspended or revoked pursuant to chapter 120 if the licensee:
 1934 (f) Is convicted of a second violation of s. 316.193, or a
 1935 similar law of another state, within 3 years of a previous
 1936 conviction of such section, or similar law of another state,
 1937 even though the first violation may have occurred prior to the
 1938 date on which the application was submitted;
 1939 Section 48. For the purpose of incorporating the amendment
 1940 made by this act to section 316.193, Florida Statutes, in a
 1941 reference thereto, subsection (2) of section 903.36, Florida
 1942 Statutes, is reenacted to read:
 1943 903.36 Guaranteed arrest bond certificates as cash bail.--

1944 (2) The execution of a bail bond by a licensed general
 1945 lines agent of a surety insurer for the automobile club or
 1946 association member identified in the guaranteed traffic arrest
 1947 bond certificate, as provided in s. 627.758(4), shall be
 1948 accepted as bail in an amount not to exceed \$5,000 for the
 1949 appearance of the person named in the certificate in any court
 1950 to answer for the violation of a provision of chapter 316 or a
 1951 similar traffic law or ordinance, except driving under the
 1952 influence of alcoholic beverages, chemical substances, or
 1953 controlled substances, as prohibited by s. 316.193. Presentation
 1954 of the guaranteed traffic arrest bond certificate and a power of
 1955 attorney from the surety insurer for its licensed general lines
 1956 agents is authorization for such agent to execute the bail bond.

1957 Section 49. For the purpose of incorporating the amendment
 1958 made by this act to section 316.193, Florida Statutes, in
 1959 references thereto, paragraph (c) of subsection (4) of section
 1960 907.041, Florida Statutes, is reenacted to read:

1961 907.041 Pretrial detention and release.--

1962 (4) PRETRIAL DETENTION.--

1963 (c) The court may order pretrial detention if it finds a
 1964 substantial probability, based on a defendant's past and present
 1965 patterns of behavior, the criteria in s. 903.046, and any other
 1966 relevant facts, that any of the following circumstances exists:

1967 1. The defendant has previously violated conditions of
 1968 release and that no further conditions of release are reasonably
 1969 likely to assure the defendant's appearance at subsequent
 1970 proceedings;

1971 2. The defendant, with the intent to obstruct the judicial
 1972 process, has threatened, intimidated, or injured any victim,
 1973 potential witness, juror, or judicial officer, or has attempted
 1974 or conspired to do so, and that no condition of release will
 1975 reasonably prevent the obstruction of the judicial process;

1976 3. The defendant is charged with trafficking in controlled
 1977 substances as defined by s. 893.135, that there is a substantial
 1978 probability that the defendant has committed the offense, and
 1979 that no conditions of release will reasonably assure the
 1980 defendant's appearance at subsequent criminal proceedings; or

1981 4. The defendant is charged with DUI manslaughter, as
 1982 defined by s. 316.193, and that there is a substantial
 1983 probability that the defendant committed the crime and that the
 1984 defendant poses a threat of harm to the community; conditions
 1985 that would support a finding by the court pursuant to this
 1986 subparagraph that the defendant poses a threat of harm to the
 1987 community include, but are not limited to, any of the following:

1988 a. The defendant has previously been convicted of any
 1989 crime under s. 316.193, or of any crime in any other state or
 1990 territory of the United States that is substantially similar to
 1991 any crime under s. 316.193;

1992 b. The defendant was driving with a suspended driver's
 1993 license when the charged crime was committed; or

1994 c. The defendant has previously been found guilty of, or
 1995 has had adjudication of guilt withheld for, driving while the
 1996 defendant's driver's license was suspended or revoked in
 1997 violation of s. 322.34;

1998 5. The defendant poses the threat of harm to the
 1999 community. The court may so conclude, if it finds that the
 2000 defendant is presently charged with a dangerous crime, that
 2001 there is a substantial probability that the defendant committed
 2002 such crime, that the factual circumstances of the crime indicate
 2003 a disregard for the safety of the community, and that there are
 2004 no conditions of release reasonably sufficient to protect the
 2005 community from the risk of physical harm to persons.

2006 6. The defendant was on probation, parole, or other
 2007 release pending completion of sentence or on pretrial release
 2008 for a dangerous crime at the time the current offense was
 2009 committed; or

2010 7. The defendant has violated one or more conditions of
 2011 pretrial release or bond for the offense currently before the
 2012 court and the violation, in the discretion of the court,
 2013 supports a finding that no conditions of release can reasonably
 2014 protect the community from risk of physical harm to persons or
 2015 assure the presence of the accused at trial.

2016 Section 50. For the purpose of incorporating the
 2017 amendments made by this act to sections 316.193 and 327.35,
 2018 Florida Statutes, in references thereto, section 938.07, Florida
 2019 Statutes, is reenacted to read:

2020 938.07 Driving or boating under the
 2021 influence.--Notwithstanding any other provision of s. 316.193 or
 2022 s. 327.35, a court cost of \$135 shall be added to any fine
 2023 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
 2024 remit the funds to the Department of Revenue, \$25 of which shall
 2025 be deposited in the Emergency Medical Services Trust Fund, \$50

2026 shall be deposited in the Criminal Justice Standards and
 2027 Training Trust Fund of the Department of Law Enforcement to be
 2028 used for operational expenses in conducting the statewide
 2029 criminal analysis laboratory system established in s. 943.32,
 2030 and \$60 shall be deposited in the Brain and Spinal Cord Injury
 2031 Rehabilitation Trust Fund created in s. 381.79.

2032 Section 51. For the purpose of incorporating the amendment
 2033 made by this act to section 316.193, Florida Statutes, in a
 2034 reference thereto, section 938.21, Florida Statutes, is
 2035 reenacted to read:

2036 938.21 Alcohol and drug abuse programs.--Notwithstanding
 2037 any provision to the contrary of the laws of this state, the
 2038 court may assess for alcohol and other drug abuse programs as
 2039 provided in s. 893.165 any defendant who pleads guilty or nolo
 2040 contendere to, or is convicted of, a violation of any provision
 2041 of chapter 893 or which involves a criminal violation of s.
 2042 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or
 2043 chapter 568, in addition to any fine and other penalty provided
 2044 by law, a court cost in an amount up to the amount of the fine
 2045 authorized for the violation. The court is authorized to order a
 2046 defendant to pay an additional assessment if it finds that the
 2047 defendant has the ability to pay the fine and the additional
 2048 assessment and will not be prevented thereby from being
 2049 rehabilitated or from making restitution.

2050 Section 52. For the purpose of incorporating the amendment
 2051 made by this act to section 316.193, Florida Statutes, in a
 2052 reference thereto, subsection (1) of section 938.23, Florida
 2053 Statutes, is reenacted to read:

2054 938.23 Assistance grants for alcohol and other drug abuse
 2055 programs.--

2056 (1) In addition to any fine imposed by law for any
 2057 criminal offense under chapter 893 or for any criminal violation
 2058 of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter
 2059 567, or chapter 568, the court shall be authorized, pursuant to
 2060 the requirements of s. 938.21, to impose an additional
 2061 assessment in an amount up to the amount of the fine authorized
 2062 for the offense. Such additional assessments shall be deposited
 2063 for the purpose of providing assistance grants to drug abuse
 2064 treatment or alcohol treatment or education programs as provided
 2065 in s. 893.165.

2066 Section 53. For the purpose of incorporating the amendment
 2067 made by this act to section 316.193, Florida Statutes, in a
 2068 reference thereto, subsection (2) of section 948.036, Florida
 2069 Statutes, is reenacted to read:

2070 948.036 Work programs as a condition of probation,
 2071 community control, or other court-ordered community
 2072 supervision.--

2073 (2) In determining the average weekly wage, unless
 2074 otherwise determined by a specific funding program, all
 2075 remuneration received from the employer shall be considered a
 2076 gratuity, and the offender shall not be entitled to any benefits
 2077 otherwise payable under s. 440.15, regardless of whether the
 2078 offender may be receiving wages and remuneration from other
 2079 employment with another employer and regardless of his or her
 2080 future wage-earning capacity. The provisions of this section do

2081 not apply to any person performing labor under a sentence of a
 2082 court to perform community services as provided in s. 316.193.

2083 Section 54. For the purpose of incorporating the amendment
 2084 made by this act to section 316.193, Florida Statutes, in a
 2085 reference thereto, paragraph (b) of subsection (3) of section
 2086 960.03, Florida Statutes, is reenacted to read:

2087 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
 2088 960.01-960.28, unless the context otherwise requires, the term:

2089 (3) "Crime" means:

2090 (b) A violation of s. 316.193, s. 316.027(1), s.
 2091 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in
 2092 physical injury or death; however, no other act involving the
 2093 operation of a motor vehicle, boat, or aircraft which results in
 2094 injury or death shall constitute a crime for the purpose of this
 2095 chapter unless the injury or death was intentionally inflicted
 2096 through the use of such vehicle, boat, or aircraft or unless
 2097 such vehicle, boat, or aircraft is an implement of a crime to
 2098 which this act applies.

2099 Section 55. This act shall take effect October 1, 2006.