

1 A bill to be entitled
 2 An act relating to driving and boating under the
 3 influence; amending s. 316.193, F.S.; requiring a
 4 specified period of imprisonment for a fourth or
 5 subsequent conviction of driving under the influence;
 6 prohibiting substitution of treatment alternatives;
 7 requiring impoundment or immobilization of all vehicles
 8 owned by the defendant for a specified period; providing
 9 for dismissal of an impoundment order; amending s. 327.35,
 10 F.S.; requiring a specified period of imprisonment for a
 11 fourth or subsequent conviction of boating under the
 12 influence; prohibiting substitution of treatment
 13 alternatives; requiring impoundment or immobilization of
 14 the vessel operated by or in the actual control of the
 15 defendant or any one vehicle registered in the defendant's
 16 name at the time of impoundment or immobilization for a
 17 specified period; providing for dismissal of an
 18 impoundment order; providing applicability; providing an
 19 effective date.

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

23 Section 1. Paragraph (c) of subsection (6) of section
 24 316.193, Florida Statutes, is amended, and paragraph (1) is
 25 added to that subsection, to read:

26 316.193 Driving under the influence; penalties.--

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

30 (c) For the third ~~or subsequent~~ conviction for an offense
 31 that occurs within a period of 10 years after the date of a
 32 prior conviction for violation of this section, the court shall
 33 order imprisonment for not less than 30 days. The court must
 34 also, as a condition of probation, order the impoundment or
 35 immobilization of all vehicles owned by the defendant at the
 36 time of impoundment or immobilization, ~~for~~ for a period of 90 days
 37 or for the unexpired term of any lease or rental agreement that
 38 expires within 90 days. The impoundment or immobilization shall
 39 ~~must~~ not occur concurrently with the incarceration of the
 40 defendant and shall ~~must~~ occur concurrently with the driver's
 41 license revocation imposed under s. 322.28(2)(a)3. The
 42 impoundment or immobilization order may be dismissed in
 43 accordance with paragraph (e), paragraph (f), paragraph (g), or
 44 paragraph (h). At least 48 hours of confinement must be
 45 consecutive.

46 (1) For a fourth or subsequent conviction under
 47 subparagraph (2)(b)3., the court shall order imprisonment for
 48 not less than 2 years. There shall be no substitution of this
 49 minimum mandatory term of imprisonment with treatment
 50 alternatives, as allowed under paragraph (k). The court must
 51 also, as a condition of probation, order the impoundment or
 52 immobilization of all vehicles owned by the defendant at the
 53 time of impoundment or immobilization for a period of 120 days
 54 or for the unexpired term of any lease or rental agreement that

55 expires within 120 days. The impoundment or immobilization shall
56 not occur concurrently with the incarceration of the defendant
57 and shall occur concurrently with the driver's license
58 revocation imposed under s. 322.28. The impoundment or
59 immobilization order may be dismissed in accordance with
60 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
61 At least 48 hours of confinement must be consecutive.
62

63 For the purposes of this section, any conviction for a violation
64 of s. 327.35; a previous conviction for the violation of former
65 s. 316.1931, former s. 860.01, or former s. 316.028; or a
66 previous conviction outside this state for driving under the
67 influence, driving while intoxicated, driving with an unlawful
68 blood-alcohol level, driving with an unlawful breath-alcohol
69 level, or any other similar alcohol-related or drug-related
70 traffic offense, is also considered a previous conviction for
71 violation of this section. However, in satisfaction of the fine
72 imposed pursuant to this section, the court may, upon a finding
73 that the defendant is financially unable to pay either all or
74 part of the fine, order that the defendant participate for a
75 specified additional period of time in public service or a
76 community work project in lieu of payment of that portion of the
77 fine which the court determines the defendant is unable to pay.
78 In determining such additional sentence, the court shall
79 consider the amount of the unpaid portion of the fine and the
80 reasonable value of the services to be ordered; however, the
81 court may not compute the reasonable value of services at a rate
82 less than the federal minimum wage at the time of sentencing.

83 Section 2. Paragraph (c) of subsection (6) of section
 84 327.35, Florida Statutes, is amended, and paragraph (j) is added
 85 to that subsection, to read:

86 327.35 Boating under the influence; penalties; "designated
 87 drivers".--

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

90 (c) For the third ~~or subsequent~~ conviction for an offense
 91 that occurs within a period of 10 years after the date of a
 92 prior conviction for violation of this section, the court shall
 93 order imprisonment for not less than 30 days. The court must
 94 also, as a condition of probation, order the impoundment or
 95 immobilization of the vessel that was operated by or in the
 96 actual control of the defendant or any one vehicle registered in
 97 the defendant's name at the time of impoundment or
 98 immobilization, for a period of 90 days or for the unexpired
 99 term of any lease or rental agreement that expires within 90
 100 days. The impoundment or immobilization shall ~~must~~ not occur
 101 concurrently with the incarceration of the defendant. The
 102 impoundment or immobilization order may be dismissed in
 103 accordance with paragraph (e) or paragraph (f). At least 48
 104 hours of confinement must be consecutive.

105 (j) For a fourth or subsequent conviction under
 106 subparagraph (2)(b)3., the court shall order imprisonment for
 107 not less than 2 years. There shall be no substitution of this
 108 minimum mandatory term of imprisonment with treatment
 109 alternatives, as allowed under paragraph (i). The court must
 110 also, as a condition of probation, order the impoundment or

111 immobilization of the vessel that was operated by or in the
112 actual control of the defendant or any one vehicle registered in
113 the defendant's name at the time of impoundment or
114 immobilization for a period of 120 days or for the unexpired
115 term of any lease or rental agreement that expires within 120
116 days. The impoundment or immobilization shall not occur
117 concurrently with the incarceration of the defendant. The
118 impoundment or immobilization order may be dismissed in
119 accordance with paragraph (e) or paragraph (f). At least 48
120 hours of confinement must be consecutive.

121
122 For the purposes of this section, any conviction for a violation
123 of s. 316.193, a previous conviction for the violation of former
124 s. 316.1931, former s. 860.01, or former s. 316.028, or a
125 previous conviction outside this state for driving under the
126 influence, driving while intoxicated, driving with an unlawful
127 blood-alcohol level, driving with an unlawful breath-alcohol
128 level, or any other similar alcohol-related or drug-related
129 traffic offense, is also considered a previous conviction for
130 violation of this section.

131 Section 3. This act shall take effect October 1, 2006, and
132 shall apply to offenses committed on or after that date.