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1
2 An act relating to the Department of Highway Safety
3 and Motor Vehicles; reenacting and amending s. 20.24,
4 F.S., relating to the establishment of the department;
5 eliminating an obsolete reference to the Bureau of
6 Motor Vehicle Inspection; providing for the
7 implementation of a certain litigation settlement;
8 providing eligibility and procedures to collect a
9 credit on new or renewal registrations; providing a
10 funding mechanism for the credit; requiring the credit
11 amounts to be deducted from specified moneys deposited
12 into the General Revenue Fund; providing that the
13 credits are contingent on court approval of a final
14 settlement; providing for expiration; amending s.
15 316.126, F.S.; requiring drivers of vehicles to behave
16 in a specified fashion when approaching emergency
17 vehicles or wreckers; amending s. 316.2085, F.S.;
18 revising requirements for motorcycle and moped license
19 tags; prohibiting devices and methods that conceal or
20 obscure the licensetag; amending s. 316.2122, F.S.;
21 authorizing mini truck operation on local roads and
22 urban minor arterial roads with specified
23 restrictions; amending s. 320.01, F.S.; revising the
24 definition of "motorcycle"; defining the term "mini
25 truck"; creating s. 320.0847, F.S.; providing for
26 issuance of unique license plates for low-speed
27 vehicles and mini trucks; amending s. 320.0848, F.S.;
28 providing an exemption for certain person obtaining a
29 disabled parking permit; amending s. 322.0261, F.S.;

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30 requiring the department to screen crash reports to
31 identify a third crash by the same operator within a
32 specified period after the driver's first crash;
33 requiring a driver who is convicted of or who pleads
34 nolo contendere to a traffic offense giving rise to
35 three or more crashes within a specified period to
36 attend a department-approved driver improvement course
37 in order to maintain his or her driving privileges;
38 providing for content of the driving course; requiring
39 successful completion of a behind-the-wheel
40 examination; requiring that the department cancel an
41 operator's driver's license if the operator fails to
42 complete the course within a specified time; amending
43 s. 322.03, F.S.; providing for part-time residents of
44 the state to be issued a license that is valid within
45 this state only and continue to hold such license
46 until the next regularly scheduled renewal; providing
47 a termination date for "Florida only" licenses;
48 amending s. 322.08, F.S.; prohibiting the department
49 from issuing a driver's license or identification card
50 to an applicant if the applicant holds a valid
51 driver's license or identification card issued by any
52 state; amending s. 322.125, F.S.; authorizing the
53 department to adopt rules relating to the Medical
54 Advisory Board; amending s. 322.271, F.S.; authorizing
55 the department to modify a revocation, cancellation,
56 or suspension order; providing that the department may
57 waive the hearing process for suspensions and
58 revocations upon request by the driver under certain

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59 circumstances; amending s. 322.64, F.S.; providing for
60 disqualification of a driver of a commercial motor
61 vehicle for certain violations; providing effective
62 dates.

63
64 WHEREAS, ss. 11.901-11.920, Florida Statutes, the Florida
65 Government Accountability Act, subjects the Department of
66 Highway Safety and Motor Vehicles and its respective advisory
67 committees to a sunset review process in order to determine
68 whether the agency should be retained, modified, or abolished,
69 and

70 WHEREAS, the Department of Highway Safety and Motor
71 Vehicles produced a report providing specific information, as
72 enumerated in s. 11.906, Florida Statutes, and

73 WHEREAS, upon receipt of the report, the Joint Legislative
74 Sunset Committee and committees of the Senate and the House of
75 Representatives assigned to act as sunset review committees
76 reviewed the report and requested studies by the Office of
77 Program Policy Analysis and Government Accountability, and

78 WHEREAS, based on the department's report, studies of the
79 Office of Program Policy Analysis and Government Accountability,
80 and public input, the Joint Legislative Sunset Committee and
81 legislative sunset review committees made recommendations on the
82 abolition, continuation, or reorganization of the Department of
83 Highway Safety and Motor Vehicles and its advisory committees;
84 on the need for the functions performed by the agency and its
85 advisory committees; and on the consolidation, transfer, or
86 reorganization of programs within the Department of Highway
87 Safety and Motor Vehicles, and

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88 WHEREAS, this Legislature wishes to retain the Department
89 of Highway Safety and Motor Vehicles and continue the Florida
90 Highway Patrol Advisory Council, the Automobile Dealer Advisory
91 Board, the DUI Programs Review Board, and the Medical Advisory
92 Board, NOW, THEREFORE,

93

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

95

96 Section 1. Section 20.24, Florida Statutes, is reenacted
97 and amended to read:

98 20.24 Department of Highway Safety and Motor Vehicles.—

99 There is created a Department of Highway Safety and Motor
100 Vehicles.

101 (1) The head of the Department of Highway Safety and Motor
102 Vehicles is the Governor and Cabinet.

103 (2) The following divisions, and bureaus within the
104 divisions, of the Department of Highway Safety and Motor
105 Vehicles are established:

106 (a) Division of the Florida Highway Patrol.

107 (b) Division of Driver Licenses.

108 (c) Division of Motor Vehicles.

109 ~~1. Bureau of Motor Vehicle Inspection.~~

110 Section 2. Implementation of litigation settlement
111 provisions of Collier v. Dickinson.—

112 (1) Any person who held a driver's license, identification
113 card, or motor vehicle registration that was valid between June
114 1, 2000, and September 30, 2004, is eligible to receive a single
115 \$1 credit on a new or renewed motor vehicle registration between
116 July 1, 2009, and June 30, 2010.

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117 (2) Notwithstanding the provisions of s. 320.08046, Florida
118 Statutes, the 58 percent of the surcharge levied under s.
119 320.08046, Florida Statutes, which is to be deposited into the
120 General Revenue Fund pursuant to that section shall be used to
121 fund the \$1 credit authorized in subsection (1).

122 (3) The Department of Highway Safety and Motor Vehicles may
123 allow the credits authorized in subsection (1) only if the
124 United States District Court for the Southern District of
125 Florida grants an order finally approving the settlement
126 agreement in *Collier, et al. v. Dickinson, et al.*, case number
127 04-21351-DV-JEM.

128 (4) This section expires July 1, 2011.

129 Section 3. Subsection (1) of section 316.126, Florida
130 Statutes, is amended to read:

131 316.126 Operation of vehicles and actions of pedestrians on
132 approach of authorized emergency vehicle.—

133 (1) (a) Upon the immediate approach of an authorized
134 emergency vehicle, while en route to meet an existing emergency,
135 the driver of every other vehicle shall, when such emergency
136 vehicle is giving audible signals by siren, exhaust whistle, or
137 other adequate device, or visible signals by the use of
138 displayed blue or red lights, yield the right-of-way to the
139 emergency vehicle and shall immediately proceed to a position
140 parallel to, and as close as reasonable to the closest edge of
141 the curb of the roadway, clear of any intersection and shall
142 stop and remain in position until the authorized emergency
143 vehicle has passed, unless otherwise directed by any law
144 enforcement officer.

145 (b) When an authorized emergency vehicle making use of any

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146 visual signals is parked or a wrecker displaying amber rotating
147 or flashing lights is performing a recovery or loading on the
148 roadside, the driver of every other vehicle, as soon as it is
149 safe:

150 1. Shall vacate the lane closest to the emergency vehicle
151 or wrecker when driving on an interstate highway or other
152 highway with two or more lanes traveling in the direction of the
153 emergency vehicle or wrecker, except when otherwise directed by
154 a law enforcement officer. If such movement cannot be safely
155 accomplished, the driver shall reduce speed as provided in
156 subparagraph 2.

157 2. Shall slow to a speed that is 20 miles per hour less
158 than the posted speed limit when the posted speed limit is 25
159 miles per hour or greater; or travel at 5 miles per hour when
160 the posted speed limit is 20 miles per hour or less, when
161 driving on a two-lane road, except when otherwise directed by a
162 law enforcement officer.

163 (c) The Department of Highway Safety and Motor Vehicles
164 shall provide an educational awareness campaign informing the
165 motoring public about the Move Over Act. The department shall
166 provide information about the Move Over Act in all newly printed
167 driver's license educational materials after July 1, 2002.

168
169 This section does ~~shall~~ not relieve the driver of an authorized
170 emergency vehicle from the duty to drive with due regard for the
171 safety of all persons using the highway.

172 Section 4. Subsection (3) of section 316.2085, Florida
173 Statutes, is amended to read:

174 316.2085 Riding on motorcycles or mopeds.—

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175 (3) The license tag of a motorcycle or moped must be
176 permanently affixed ~~horizontally~~ to the vehicle ~~ground~~ and may
177 not be adjusted or capable of being flipped up. No device for or
178 method of concealing or obscuring the legibility of the license
179 tag of a motorcycle shall be installed or used.

180 Section 5. Section 316.2122, Florida Statutes, is amended
181 to read:

182 316.2122 Operation of a low-speed vehicle or mini truck on
183 certain roadways.—The operation of a low-speed vehicle~~,~~ as
184 defined in s. 320.01(42) or a mini truck as defined in s.
185 320.01(45)~~,~~ on any road as defined in s. 334.03(15) or (33)~~,~~ is
186 authorized with the following restrictions:

187 (1) A low-speed vehicle or mini truck may be operated only
188 on streets where the posted speed limit is 35 miles per hour or
189 less. This does not prohibit a low-speed vehicle or mini truck
190 from crossing a road or street at an intersection where the road
191 or street has a posted speed limit of more than 35 miles per
192 hour.

193 (2) A low-speed vehicle must be equipped with headlamps,
194 stop lamps, turn signal lamps, taillamps, reflex reflectors,
195 parking brakes, rearview mirrors, windshields, seat belts, and
196 vehicle identification numbers.

197 (3) A low-speed vehicle or mini truck must be registered
198 and insured in accordance with s. 320.02 and titled pursuant to
199 chapter 319.

200 (4) Any person operating a low-speed vehicle or mini truck
201 must have in his or her possession a valid driver's license.

202 (5) A county or municipality may prohibit the operation of
203 low-speed vehicles or mini trucks on any road under its

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204 jurisdiction if the governing body of the county or municipality
205 determines that such prohibition is necessary in the interest of
206 safety.

207 (6) The Department of Transportation may prohibit the
208 operation of low-speed vehicles or mini trucks on any road under
209 its jurisdiction if it determines that such prohibition is
210 necessary in the interest of safety.

211 Section 6. Subsection (27) of section 320.01, Florida
212 Statutes, is amended, and subsection (45) is added to that
213 section, to read:

214 320.01 Definitions, general.—As used in the Florida
215 Statutes, except as otherwise provided, the term:

216 (27) "Motorcycle" means any motor vehicle having a seat or
217 saddle for the use of the rider and designed to travel on not
218 more than three wheels in contact with the ground, ~~but~~ excluding
219 ~~a tractor, a moped, or~~ a vehicle in which the operator is
220 enclosed by a cabin unless it meets the requirements set forth
221 by the National Highway Traffic Safety Administration for a
222 motorcycle. The term "motorcycle" does not include a tractor or
223 a moped.

224 (45) "Mini truck" means any four-wheeled, reduced-dimension
225 truck that does not have a National Highway Traffic Safety
226 Administration truck classification, with a top speed of 55
227 miles per hour, and which is equipped with headlamps, stop
228 lamps, turn signal lamps, taillamps, reflex reflectors, parking
229 brakes, rearview mirrors, windshields, and seat belts.

230 Section 7. Section 320.0847, Florida Statutes, is created
231 to read:

232 320.0847 Mini truck and low-speed vehicle license plates.—

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233 (1) The department shall issue a license plate to the owner
234 or lessee of any vehicle registered as a low-speed vehicle as
235 defined in s. 320.01(42) or a mini truck as defined in s.
236 320.01(45) upon payment of the appropriate license taxes and
237 fees prescribed in s. 320.08.

238 (2) The license plate for a low-speed vehicle or mini truck
239 shall comply with the provisions of s. 320.06.

240 Section 8. Effective November 1, 2009, paragraph (a) of
241 subsection (2) of section 320.0848, Florida Statutes, is amended
242 to read:

243 320.0848 Persons who have disabilities; issuance of
244 disabled parking permits; temporary permits; permits for certain
245 providers of transportation services to persons who have
246 disabilities.—

247 (2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM
248 MOBILITY PROBLEMS.—

249 (a) The disabled parking permit is a placard that can be
250 placed in a motor vehicle so as to be visible from the front and
251 rear of the vehicle. Each side of the placard must have the
252 international symbol of accessibility in a contrasting color in
253 the center so as to be visible. One side of the placard must
254 display the applicant's driver's license number or state
255 identification card number along with a warning that the
256 applicant must have such identification at all times while using
257 the parking permit. In those cases where the severity of the
258 disability prevents a disabled person from physically visiting
259 or being transported to a driver license or tax collector office
260 to obtain a driver's license or identification card, a
261 certifying physician may sign the exemption section of the

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262 department's parking permit application to exempt the disabled
263 person from being issued a driver's license or identification
264 card for the number to be displayed on the parking permit. A
265 validation sticker must also be issued with each disabled
266 parking permit, showing the month and year of expiration on each
267 side of the placard. Validation stickers must be of the size
268 specified by the Department of Highway Safety and Motor Vehicles
269 and must be affixed to the disabled parking permits. The
270 disabled parking permits must use the same colors as license
271 plate validations.

272 Section 9. Effective January 1, 2010, section 322.0261,
273 Florida Statutes, is amended to read:

274 322.0261 Driver improvement course; requirement to maintain
275 driving privileges; failure to complete; department approval of
276 course.—

277 (1) The department shall screen crash reports received
278 under s. 316.066 or s. 324.051 to identify crashes involving the
279 following:

280 (a) A crash involving death or a bodily injury requiring
281 transport to a medical facility; ~~or~~

282 (b) A second crash by the same operator within the previous
283 2-year period involving property damage in an apparent amount of
284 at least \$500; or

285 (c) A third crash by the same operator within 36 months
286 after the first crash.

287 (2) With respect to an operator convicted of, or who
288 pleaded nolo contendere to, a traffic offense giving rise to a
289 crash identified in paragraph (1) (a) or paragraph (1) (b)
290 ~~pursuant to subsection (1)~~, the department shall require that

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291 the operator, in addition to other applicable penalties, attend
292 a department-approved driver improvement course in order to
293 maintain his or her driving privileges. If the operator fails to
294 complete the course within 90 days after ~~of~~ receiving notice
295 from the department, the operator's driver's license shall be
296 canceled by the department until the course is successfully
297 completed.

298 (3) With respect to an operator convicted of, or who
299 pleaded nolo contendere to, a traffic offense giving rise to a
300 crash identified in paragraph (1)(c), the department shall
301 require that the operator, in addition to other applicable
302 penalties, attend a department-approved driver improvement
303 course in order to maintain his or her driving privileges. The
304 course must include behind-the-wheel instruction and an
305 assessment of the operator's ability to safely operate a motor
306 vehicle. Successful completion of a behind-the-wheel examination
307 is required in order to receive completion credit for the
308 course. If the operator fails to complete the course within 90
309 days after receiving notice from the department, the operator's
310 driver's license shall be canceled by the department until the
311 course is successfully completed.

312 (4)~~(3)~~ The department shall identify any operator convicted
313 of, or who pleaded nolo contendere to, a second violation of s.
314 316.074(1) or s. 316.075(1)(c)1., which violation occurred
315 within 12 months after the first violation, and shall require
316 that operator, in addition to other applicable penalties, to
317 attend a department-approved driver improvement course in order
318 to maintain driving privileges. If the operator fails to
319 complete the course within 90 days after receiving notice from

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320 the department, the operator's driver license shall be canceled
321 by the department until the course is successfully completed.

322 (5)~~(4)~~ In determining whether to approve a driver
323 improvement course for the purposes of this section, the
324 department shall consider course content designed to promote
325 safety, driver awareness, crash avoidance techniques, and other
326 factors or criteria to improve driver performance from a safety
327 viewpoint.

328 Section 10. Effective November 1, 2009, subsection (1) of
329 section 322.03, Florida Statutes, is amended to read:

330 322.03 Drivers must be licensed; penalties.—

331 (1) Except as otherwise authorized in this chapter, a
332 person may not drive any motor vehicle upon a highway in this
333 state unless such person has a valid driver's license issued
334 ~~under the provisions of this chapter.~~

335 (a) A person who drives a commercial motor vehicle may
336 ~~shall~~ not receive a driver's license unless and until he or she
337 surrenders to the department all driver's licenses in his or her
338 possession issued to him or her by any other jurisdiction or
339 makes an affidavit that he or she does not possess a driver's
340 license. Any such person who fails to surrender such licenses or
341 who makes a false affidavit concerning such licenses commits ~~is~~
342 ~~guilty of~~ a misdemeanor of the first degree, punishable as
343 provided in s. 775.082 or s. 775.083.

344 ~~(b) A person who does not drive a commercial motor vehicle~~
345 ~~is not required to surrender a license issued by another~~
346 ~~jurisdiction, upon a showing to the department that such license~~
347 ~~is necessary because of employment or part-time residence. Any~~
348 ~~person who retains a driver's license because of employment or~~

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349 ~~part-time residence shall, upon qualifying for a license in this~~
350 ~~state, be issued a driver's license which shall be valid within~~
351 ~~this state only.~~ All surrendered licenses may be returned by the
352 department to the issuing jurisdiction together with information
353 that the licensee is now licensed in a new jurisdiction or may
354 be destroyed by the department, which shall notify the issuing
355 jurisdiction of such destruction. A person may not have more
356 than one valid ~~Florida~~ driver's license at any time.

357 (c) Part-time residents of this state issued a license that
358 is valid within this state only under paragraph (b) as that
359 paragraph existed before November 1, 2009, may continue to hold
360 such license until the next issuance of a Florida driver's
361 license or identification card. Licenses that are identified as
362 "Valid in Florida Only" may not be issued or renewed effective
363 November 1, 2009. This paragraph expires June 30, 2017.

364 Section 11. Effective November 1, 2009, present subsection
365 (6) of section 322.08, Florida Statutes, is renumbered as
366 subsection (7), and a new subsection (6) is added to that
367 section, to read:

368 322.08 Application for license.—

369 (6) The department may not issue a driver's license or
370 identification card, as described in s. 322.051, to an applicant
371 if the applicant holds a valid driver's license or
372 identification card issued by any state.

373 Section 12. Subsection (7) is added to section 322.125,
374 Florida Statutes, to read:

375 322.125 Medical Advisory Board.—

376 (7) The Department of Highway Safety and Motor Vehicles
377 shall adopt such rules as are required to carry out the purpose

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378 of this section.

379 Section 13. Subsection (2) of section 322.271, Florida
380 Statutes, is amended to read:

381 322.271 Authority to modify revocation, cancellation, or
382 suspension order.—

383 (2) ~~(a)~~ At ~~Upon~~ such hearing, the person whose license has
384 been suspended, canceled, or revoked may show that such
385 suspension, cancellation, or revocation ~~of his or her license~~
386 causes a serious hardship and precludes the person from ~~person's~~
387 carrying out his or her normal business occupation, trade, or
388 employment and that the use of the person's license in the
389 normal course of his or her business is necessary to the proper
390 support of the person or his or her family.

391 (a) Except as otherwise provided in this subsection, the
392 department shall require proof of the successful completion of
393 the applicable department-approved driver training course
394 operating pursuant to s. 318.1451 or DUI program substance abuse
395 education course and evaluation as provided in s. 316.193(5).
396 Letters of recommendation from respected business persons in the
397 community, law enforcement officers, or judicial officers may
398 also be required to determine whether the ~~such~~ person should be
399 permitted to operate a motor vehicle on a restricted basis for
400 business or employment use only and in determining whether such
401 person can be trusted to so operate a motor vehicle. If a
402 driver's license has been suspended under the point system or
403 under ~~pursuant to~~ s. 322.2615, the department shall require
404 proof of enrollment in the applicable department-approved driver
405 training course or licensed DUI program substance abuse
406 education course, including evaluation and treatment, if

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407 referred, and may require letters of recommendation described in
408 this paragraph ~~subsection~~ to determine if the driver should be
409 reinstated on a restricted basis. If the ~~such~~ person fails to
410 complete the approved course within 90 days after reinstatement
411 or subsequently fails to complete treatment, ~~if applicable,~~ the
412 department shall cancel his or her driver's license until the
413 course and treatment, if applicable, is successfully completed,
414 notwithstanding the terms of the court order or any suspension
415 or revocation of the driving privilege. The department may
416 temporarily reinstate the driving privilege on a restricted
417 basis upon verification from the DUI program that the offender
418 has reentered and is currently participating in treatment and
419 has completed the DUI education course and evaluation
420 requirement. If the DUI program notifies the department of the
421 second failure to complete treatment, the department shall
422 reinstate the driving privilege only after notice of completion
423 of treatment from the DUI program. The privilege of driving on a
424 limited or restricted basis for business or employment use may
425 ~~shall~~ not be granted to a person who has been convicted of a
426 violation of s. 316.193 until completion of the DUI program
427 substance abuse education course and evaluations as provided in
428 s. 316.193(5). Except as provided in paragraph (c) ~~(b)~~, the
429 privilege of driving on a limited or restricted basis for
430 business or employment use may ~~shall~~ not be granted to a person
431 whose license is revoked pursuant to s. 322.28 or suspended
432 pursuant to s. 322.2615 and who has been convicted of a
433 violation of s. 316.193 two or more times or whose license has
434 been suspended two or more times for refusal to submit to a test
435 pursuant to s. 322.2615 or former s. 322.261.

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436 (b) The department may waive the hearing process for
437 suspensions and revocations upon request by the driver if the
438 driver has enrolled or completed the applicable driver training
439 course approved under s. 318.1451 or the DUI program substance
440 abuse education course and evaluation provided in s. 316.193(5).
441 However, the department may not waive the hearing for
442 suspensions or revocations that involve death or serious bodily
443 injury, multiple convictions for violations of s. 316.193
444 pursuant to s. 322.27(5), or a second or subsequent suspension
445 or revocation pursuant to the same provision of this chapter.
446 This paragraph does not preclude the department from requiring a
447 hearing for any suspension or revocation that it determines is
448 warranted based on the severity of the offense.

449 (c) ~~(b)~~ A person whose license has been revoked for a period
450 of 5 years or less pursuant to s. 322.28(2)(a) may, ~~upon the~~
451 ~~expiration of~~ 12 months after the date the said revocation was
452 imposed, petition the department for reinstatement of his or her
453 driving privilege on a restricted basis. A person whose license
454 has been revoked for ~~a period of~~ more than 5 years under s.
455 322.28(2)(a) may, ~~upon the expiration of~~ 24 months after the
456 date the revocation was imposed, petition the department for
457 reinstatement of his or her driving privilege on a restricted
458 basis. Reinstatement under ~~of the driving privilege pursuant to~~
459 this subsection is shall be restricted to business or employment
460 purposes only. In addition, the department shall require such
461 persons upon reinstatement to have not driven and to have been
462 drug free for at least 12 months immediately before the ~~prior to~~
463 ~~such~~ reinstatement, to be supervised by a DUI program licensed
464 by the department, and to report to the program at least three

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465 times a year as required by the program for the duration of the
466 revocation period for supervision. Such supervision includes
467 ~~shall include~~ evaluation, education, referral into treatment,
468 and other activities required by the department. Such persons
469 shall assume reasonable costs of supervision. If the ~~such~~ person
470 fails to comply with the required supervision, the program shall
471 report the failure to the department, and the department shall
472 cancel the ~~such~~ person's driving privilege. This paragraph does
473 not apply to any person whose driving privilege has been
474 permanently revoked.

475 (d) ~~(e)~~ For the purpose of this section, a previous
476 conviction of driving under the influence, driving while
477 intoxicated, driving with an unlawful blood-alcohol level, or
478 any other similar alcohol-related or drug-related offense
479 outside this state or a previous conviction of former s.
480 316.1931, former s. 316.028, or former s. 860.01 is ~~shall be~~
481 considered a previous conviction for violation of s. 316.193.

482 (e) ~~(d)~~ The department, based upon review of the licensee's
483 application for reinstatement, may require use of an ignition
484 interlock device pursuant to s. 322.2715.

485 Section 14. Subsection (1), paragraph (b) of subsection
486 (7), and subsection (8) of section 322.64, Florida Statutes, are
487 amended to read:

488 322.64 Holder of commercial driver's license; persons
489 operating a commercial motor vehicle; driving with unlawful
490 blood-alcohol level; refusal to submit to breath, urine, or
491 blood test.—

492 (1) (a) A law enforcement officer or correctional officer
493 shall, on behalf of the department, disqualify from operating

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494 any commercial motor vehicle a person who while operating or in
495 actual physical control of a commercial motor vehicle is
496 arrested for a violation of s. 316.193, relating to unlawful
497 blood-alcohol level or breath-alcohol level, or a person who has
498 refused to submit to a breath, urine, or blood test authorized
499 by s. 322.63 or s. 316.1932 arising out of the operation or
500 actual physical control of a commercial motor vehicle. A law
501 enforcement officer or correctional officer shall, on behalf of
502 the department, disqualify the holder of a commercial driver's
503 license from operating any commercial motor vehicle if the
504 licenseholder, while operating or in actual physical control of
505 a motor vehicle, is arrested for a violation of s. 316.193,
506 relating to unlawful blood-alcohol level or breath-alcohol
507 level, or refused to submit to a breath, urine, or blood test
508 authorized by s. 322.63 or s. 316.1932. Upon disqualification of
509 the person, the officer shall take the person's driver's license
510 and issue the person a 10-day temporary permit for the operation
511 of noncommercial vehicles only if the person is otherwise
512 eligible for the driving privilege and shall issue the person a
513 notice of disqualification. If the person has been given a
514 blood, breath, or urine test, the results of which are not
515 available to the officer at the time of the arrest, the agency
516 employing the officer shall transmit such results to the
517 department within 5 days after receipt of the results. If the
518 department then determines that the person had a blood-alcohol
519 level or breath-alcohol level of 0.08 or higher, the department
520 shall disqualify the person from operating a commercial motor
521 vehicle pursuant to subsection (3).

522 (b) The disqualification under paragraph (a) shall be

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523 pursuant to, and the notice of disqualification shall inform the
524 driver of, the following:

525 1.a. The driver refused to submit to a lawful breath,
526 blood, or urine test and he or she is disqualified from
527 operating a commercial motor vehicle for a period of 1 year, for
528 a first refusal, or permanently, if he or she has previously
529 been disqualified under this section ~~as a result of a refusal to~~
530 ~~submit to such a test~~; or

531 b. The driver was driving or in actual physical control of
532 a commercial motor vehicle, or any motor vehicle if the driver
533 holds a commercial driver's license, had an unlawful blood-
534 alcohol level or breath-alcohol level of 0.08 or higher, and his
535 or her driving privilege shall be disqualified for a period of 1
536 year for a first offense or permanently disqualified if his or
537 her driving privilege has been previously disqualified under
538 this section.

539 2. The disqualification period for operating commercial
540 vehicles shall commence on the date of issuance of the notice of
541 disqualification.

542 3. The driver may request a formal or informal review of
543 the disqualification by the department within 10 days after the
544 date of issuance of the notice of disqualification.

545 4. The temporary permit issued at the time of
546 disqualification expires at midnight of the 10th day following
547 the date of disqualification.

548 5. The driver may submit to the department any materials
549 relevant to the disqualification.

550 (7) In a formal review hearing under subsection (6) or an
551 informal review hearing under subsection (4), the hearing

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552 officer shall determine by a preponderance of the evidence
553 whether sufficient cause exists to sustain, amend, or invalidate
554 the disqualification. The scope of the review shall be limited
555 to the following issues:

556 (b) If the person was disqualified from operating a
557 commercial motor vehicle for refusal to submit to a breath,
558 blood, or urine test:

559 1. Whether the law enforcement officer had probable cause
560 to believe that the person was driving or in actual physical
561 control of a commercial motor vehicle, or any motor vehicle if
562 the driver holds a commercial driver's license, in this state
563 while he or she had any alcohol, chemical substances, or
564 controlled substances in his or her body.

565 2. Whether the person refused to submit to the test after
566 being requested to do so by a law enforcement officer or
567 correctional officer.

568 3. Whether the person was told that if he or she refused to
569 submit to such test he or she would be disqualified from
570 operating a commercial motor vehicle for a period of 1 year or,
571 if previously disqualified under this section ~~in the case of a~~
572 ~~second refusal~~, permanently.

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

577 (a) Sustain the disqualification for a period of 1 year for
578 a first refusal, or permanently if such person has been
579 previously disqualified from operating a commercial motor
580 vehicle under this section ~~as a result of a refusal to submit to~~

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581 ~~such tests.~~ The disqualification period commences on the date of
582 the ~~arrest or~~ issuance of the notice of disqualification,
583 ~~whichever is later.~~

584 (b) Sustain the disqualification:

585 1. For a period of 1 year if the person was driving or in
586 actual physical control of a commercial motor vehicle, or any
587 motor vehicle if the driver holds a commercial driver's license,
588 and had an unlawful blood-alcohol level or breath-alcohol level
589 of 0.08 or higher; or

590 2. Permanently if the person has been previously
591 disqualified from operating a commercial motor vehicle under
592 this section or his or her driving privilege has been previously
593 suspended for driving or being in actual physical control of a
594 commercial motor vehicle, or any motor vehicle if the driver
595 holds a commercial driver's license, and had an unlawful blood-
596 alcohol level or breath-alcohol level of 0.08 or higher.

597
598 The disqualification period commences on the date of the ~~arrest~~
599 ~~or~~ issuance of the notice of disqualification.

600 Section 15. Except as otherwise expressly provided in this
601 act, this act shall take effect upon becoming a law.