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1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; requiring that the court,
4 as a condition of probation for a conviction of the
5 offense of driving under the influence, impound or
6 immobilize the vehicle that was operated by or was in
7 the actual control of the defendant or require the
8 defendant to install an interlock ignition device on
9 all vehicles that are individually or jointly leased
10 or owned and routinely operated by the defendant;
11 prohibiting the installation of an ignition interlock
12 device from occurring concurrently with the
13 incarceration of the defendant; requiring that the
14 installation occur concurrently with the driver
15 license revocation; amending s. 322.2615, F.S.;
16 requiring that a law enforcement officer issue to the
17 person driving under the influence a notice of
18 suspension of the person's driving privilege and a
19 notice of the person's obligation to appear at a
20 designated office of the Department of Highway Safety
21 and Motor Vehicles under certain circumstances;
22 providing that the notice of suspension acts as a 10-
23 day temporary driving privilege; authorizing a driver
24 to submit materials relevant to the suspension at a
25 review hearing if the driver elected to have a review
26 hearing and if he or she appeared at the department
27 office after receipt of the notice of suspension and
28 notice to appear; requiring that the driver appear at

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29 a department office after receipt of the notice of
30 suspension and notice to appear; requiring that the
31 department reinstate, under certain circumstances, the
32 driver's driving privilege restricted to business
33 purposes only; providing that if the driver fails to
34 appear as required, his or her license will remain
35 suspended and all rights of review will be waived;
36 authorizing the department to extend the time for a
37 person to apply for a restricted driver license;
38 setting forth the restrictions applicable to a
39 person's driving privilege; providing that if a person
40 accepts the reinstated driving privilege restricted to
41 business purposes only, he or she is deemed to have
42 waived the right to a formal review of the request to
43 submit to a breath, blood, or urine test and a formal
44 review of the suspension of his or her driving
45 privilege; requiring that the department notify the
46 person in writing of his or her right to review the
47 driving suspension if he or she is not eligible for
48 driving privileges restricted to business purposes
49 only; requiring that the department provide the person
50 with certain information; requiring that the
51 department issue a temporary permit if the person is
52 otherwise eligible for the driving privilege;
53 providing that the temporary permit is restricted to
54 driving for employment purposes only; authorizing a
55 driver to request a formal or informal review of the
56 suspension of his or her driving privilege; providing

57 | that a person electing to seek a formal review is
58 | deemed to have waived the right to a restricted
59 | driving privilege; authorizing a hearing officer to
60 | receive testimony from witnesses appearing at a formal
61 | or informal review hearing telephonically; requiring
62 | that a law enforcement officer submit all materials
63 | relating to the notice of suspension and the notice to
64 | appear to the department in electronic form;
65 | authorizing witnesses to appear at a formal review
66 | hearing telephonically; authorizing a party to seek
67 | enforcement of a subpoena for a review hearing by
68 | filing a motion for enforcement in a criminal court
69 | case resulting from the incident that gave rise to the
70 | suspension; prohibiting the department from being a
71 | party to the subpoena action; prohibiting the hearing
72 | officer from considering the lawfulness of the arrest
73 | in reviewing a suspension; providing that the
74 | temporary permit that the department issues, if the
75 | formal review hearing is continued at the department's
76 | initiative, grants a driving privilege restricted to
77 | employment purposes only; requiring that a law
78 | enforcement agency desiring to appeal a decision of
79 | the department file the petition for writ of
80 | certiorari to the circuit court in the county in which
81 | the law enforcement agency is located for telephonic
82 | hearings; requiring that the department remove the
83 | restriction from a person's driver license if the
84 | person is found not guilty of certain violations;

85 | amending s. 322.2616, F.S.; deleting the requirement
 86 | that the informal review hearing include materials
 87 | submitted by the person whose license is suspended;
 88 | providing procedures for a formal review hearing for
 89 | the suspension of driving privileges for a person
 90 | under 21 years of age; amending s. 322.2715, F.S.;
 91 | authorizing a convicted person to elect to install an
 92 | ignition interlock device on all vehicles that are
 93 | individually or jointly leased or owned and routinely
 94 | operated by the convicted person, in lieu of the 5- or
 95 | 10-year license revocation period otherwise required
 96 | by law; requiring that the ignition interlock device
 97 | be installed for specified periods; amending s.
 98 | 322.64, F.S.; requiring that the disqualification of a
 99 | driver from operating a commercial motor vehicle be
 100 | treated as conviction of driving with an unlawful
 101 | blood-alcohol or breath-alcohol level under certain
 102 | circumstances; providing hearing procedures for the
 103 | revocation of a commercial motor vehicle license for a
 104 | commercial driver convicted of the offense of driving
 105 | under the influence; providing an effective date.

107 | Be It Enacted by the Legislature of the State of Florida:

109 | Section 1. Subsection (6) of section 316.193, Florida
 110 | Statutes, is amended to read:

111 | 316.193 Driving under the influence; penalties.—

112 | (6) With respect to any person convicted of a violation of

113 subsection (1), regardless of any penalty imposed pursuant to
 114 subsection (2), subsection (3), or subsection (4):

115 (a) For the first conviction, the court shall place the
 116 defendant on probation for a period not to exceed 1 year and, as
 117 a condition of the ~~such~~ probation, shall order the defendant to
 118 participate in public service or a community work project for a
 119 minimum of 50 hours. The court may order a defendant to pay a
 120 fine of \$10 for each hour of public service or community work
 121 otherwise required only if the court finds that the residence or
 122 location of the defendant at the time public service or
 123 community work is required or the defendant's employment
 124 obligations would create an undue hardship for the defendant.
 125 ~~However,~~ The total period of probation and incarceration may not
 126 exceed 1 year. The court must also, as a condition of probation,
 127 order:

128 1. The impoundment or immobilization of the vehicle that
 129 was operated by or was in the actual control of the defendant or
 130 any ~~one~~ vehicle registered in the defendant's name at the time
 131 of impoundment or immobilization, for a period of 10 days or for
 132 the unexpired term of any lease or rental agreement that expires
 133 within 10 days. The impoundment or immobilization must not occur
 134 concurrently with the incarceration of the defendant. The
 135 impoundment or immobilization order may be dismissed in
 136 accordance with paragraph (e), paragraph (f), paragraph (g), or
 137 paragraph (h); or

138 2. The installation of an interlock ignition device in
 139 accordance with s. 316.1938 on all vehicles that are
 140 individually or jointly leased or owned and routinely operated

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141 by the defendant for at least 3 continuous months.

142 (b) For the second conviction for an offense that occurs
143 within ~~a period of~~ 5 years after the date of a prior conviction
144 for violation of this section, the court shall order
145 imprisonment for at least ~~not less than~~ 10 days. The court must
146 also, as a condition of probation, order:

147 1. The impoundment or immobilization of all vehicles owned
148 by the defendant at the time of impoundment or immobilization,
149 for a period of 30 days or for the unexpired term of any lease
150 or rental agreement that expires within 30 days; or

151 2. The installation of an interlock ignition device in
152 accordance with s. 316.1938 on all vehicles that are
153 individually or jointly leased or owned and routinely operated
154 by the defendant for at least 6 continuous months.

155
156 The impoundment or immobilization or the installation of an
157 ignition interlock device under this paragraph must not occur
158 concurrently with the incarceration of the defendant and must
159 occur concurrently with the driver ~~driver's~~ license revocation
160 imposed under s. 322.28(2)(a)2. The impoundment or
161 immobilization order may be dismissed in accordance with
162 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
163 At least 48 hours of confinement must be consecutive.

164 (c) For the third or subsequent conviction for an offense
165 that occurs within ~~a period of~~ 10 years after the date of a
166 prior conviction for violation of this section, the court shall
167 order imprisonment for at least ~~not less than~~ 30 days. The court
168 must also, as a condition of probation, order:

169 1. The impoundment or immobilization of all vehicles owned
 170 by the defendant at the time of impoundment or immobilization,
 171 for a period of 90 days or for the unexpired term of any lease
 172 or rental agreement that expires within 90 days; or

173 2. The installation of an interlock ignition device in
 174 accordance with s. 316.1938 upon all vehicles that are
 175 individually or jointly leased or owned and routinely operated
 176 by the defendant for at least 12 continuous months.

177
 178 The impoundment or immobilization or the installation of an
 179 ignition interlock device under this paragraph must not occur
 180 concurrently with the incarceration of the defendant and must
 181 occur concurrently with the driver ~~driver's~~ license revocation
 182 imposed under s. 322.28(2)(a)3. The impoundment or
 183 immobilization order may be dismissed in accordance with
 184 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
 185 At least 48 hours of confinement must be consecutive.

186 (d) The court must, at the time of sentencing the
 187 defendant, issue an order for:

- 188 1. The impoundment or immobilization of a vehicle; or
- 189 2. The installation of an ignition interlock device.

190
 191 The order of impoundment or immobilization must include the name
 192 and telephone numbers of all immobilization agencies meeting all
 193 ~~of~~ the conditions of subsection (13). Within 7 business days
 194 after the date that the court issues the order of impoundment or
 195 immobilization, the clerk of the court must send notice by
 196 certified mail, return receipt requested, to the registered

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197 | owner of each vehicle, if the registered owner is a person other
198 | than the defendant, and to each person of record claiming a lien
199 | against the vehicle.

200 | (e) A person who owns but was not operating the vehicle
201 | when the offense occurred may submit to the court a police
202 | report indicating that the vehicle was stolen at the time of the
203 | offense or documentation of having purchased the vehicle after
204 | the offense was committed from an entity other than the
205 | defendant or the defendant's agent. If the court finds that the
206 | vehicle was stolen or that the sale was not made to circumvent
207 | the order and to allow the defendant continued access to the
208 | vehicle, the order must be dismissed, and the owner of the
209 | vehicle will incur no costs. If the court denies the request to
210 | dismiss the order of impoundment or immobilization, the
211 | petitioner may request an evidentiary hearing.

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

224 | (g) The court shall also dismiss the order of impoundment

225 or immobilization of the vehicle if the court finds that the
 226 family of the owner of the vehicle has no other private or
 227 public means of transportation.

228 (h) The court may ~~also~~ dismiss the order of impoundment or
 229 immobilization of any vehicle ~~vehicles~~ that is ~~are~~ owned by the
 230 defendant but that is ~~are~~ operated solely by the employees of
 231 the defendant or any business owned by the defendant.

232 (i) All costs and fees for the impoundment or
 233 immobilization, including the cost of notification, must be paid
 234 by the owner of the vehicle or, if the vehicle is leased or
 235 rented, by the person leasing or renting the vehicle, unless the
 236 impoundment or immobilization order is dismissed. All provisions
 237 of s. 713.78 ~~shall~~ apply. The costs and fees for the impoundment
 238 or immobilization must be paid directly to the person impounding
 239 or immobilizing the vehicle.

240 (j) The person who owns a vehicle that is impounded or
 241 immobilized under this subsection ~~paragraph~~, or a person who has
 242 a lien of record against such a vehicle and who has not
 243 requested a review of the impoundment pursuant to paragraph (e),
 244 paragraph (f), or paragraph (g), may, within 10 days after the
 245 date that person has knowledge of the location of the vehicle,
 246 file a complaint in the county in which the owner resides to
 247 determine whether the vehicle was wrongfully taken or withheld
 248 from the owner or lienholder. Upon the filing of a complaint,
 249 the owner or lienholder may have the vehicle released by posting
 250 with the court a bond or other adequate security equal to the
 251 amount of the costs and fees for impoundment or immobilization,
 252 including towing or storage, to ensure the payment of such costs

253 and fees if the owner or lienholder does not prevail. When the
 254 bond is posted and the fee is paid as set forth in s. 28.24, the
 255 clerk of the court shall issue a certificate releasing the
 256 vehicle. At the time of release, after reasonable inspection,
 257 the owner or lienholder must give a receipt to the towing or
 258 storage company indicating any loss or damage to the vehicle or
 259 to the contents of the vehicle.

260 (k) A defendant, ~~in the court's discretion,~~ may be
 261 required to serve all or any portion of a term of imprisonment
 262 to which the defendant has been sentenced pursuant to this
 263 section in a residential alcoholism treatment program or a
 264 residential drug abuse treatment program. Any time spent in such
 265 a program must be credited by the court toward the term of
 266 imprisonment.

267
 268 For the purposes of this section, a any conviction for a
 269 violation of s. 327.35; a previous conviction for the violation
 270 of former s. 316.1931, former s. 860.01, or former s. 316.028;
 271 or a previous conviction outside this state for driving under
 272 the influence, driving while intoxicated, driving with an
 273 unlawful blood-alcohol level, driving with an unlawful breath-
 274 alcohol level, or any other similar alcohol-related or drug-
 275 related traffic offense, is also considered a previous
 276 conviction for violation of this section. However, in
 277 satisfaction of the fine imposed pursuant to this section, the
 278 court may, upon a finding that the defendant is financially
 279 unable to pay ~~either~~ all or part of the fine, order that the
 280 defendant participate for a specified additional ~~period of time~~

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281 in public service or a community work project in lieu of payment
 282 of that portion of the fine which the court determines the
 283 defendant is unable to pay. In determining such additional
 284 sentence, the court shall consider the amount of the unpaid
 285 portion of the fine and the reasonable value of the services to
 286 be ordered; however, the court may not compute the reasonable
 287 value of services at a rate less than the federal minimum wage
 288 at the time of sentencing.

289 Section 2. Section 322.2615, Florida Statutes, is amended
 290 to read:

291 322.2615 Restriction or suspension of license; right to
 292 review.—

293 (1) (a) Notwithstanding whether an arrest is made for any
 294 criminal offense, a law enforcement officer or correctional
 295 officer shall, on behalf of the department, suspend the driving
 296 privilege of a person who is driving or is in actual physical
 297 control of a motor vehicle and who has an unlawful blood-alcohol
 298 level or breath-alcohol level of 0.08 or higher, or of a person
 299 who has refused to submit to a urine test or a test of ~~his or~~
 300 ~~her~~ breath-alcohol or blood-alcohol level. The officer shall
 301 issue to the person the notice of suspension and notice to
 302 appear. The person shall appear at a designated department
 303 office within 10 days after receipt of the notice. The notice of
 304 suspension and notice to appear serve as ~~take the person's~~
 305 ~~driver's license and issue the person~~ a 10-day temporary driving
 306 permit if the person is otherwise eligible for the driving
 307 privilege and ~~shall issue the person a notice of suspension.~~ If
 308 a blood test has been administered, the officer or the agency

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309 employing the officer shall transmit the ~~such~~ results to the
 310 department within 5 days after receipt of the results. If the
 311 department then determines that the person had a blood-alcohol
 312 level or breath-alcohol level of 0.08 or higher, the department
 313 shall suspend the person's driver ~~driver's~~ license pursuant to
 314 subsection (3).

315 (b) The suspension under paragraph (a) shall be pursuant
 316 to, and the notice of suspension and notice to appear shall
 317 inform the driver of, the following:

318 1.a. The driver refused to submit to a ~~lawful~~ breath,
 319 blood, or urine test and his or her driving privilege is
 320 suspended for ~~a period of~~ 1 year for a first refusal, or for a
 321 ~~period of~~ 18 months if his or her driving privilege has been
 322 previously suspended as a result of a refusal to submit to such
 323 a test; or

324 b. The driver was driving or was in actual physical
 325 control of a motor vehicle and had a ~~an unlawful~~ blood-alcohol
 326 level or breath-alcohol level of 0.08 or higher and his or her
 327 driving privilege is suspended for ~~a period of~~ 6 months for a
 328 first offense, or for a period of 1 year if his or her driving
 329 privilege has been previously suspended under this section.

330 2. The suspension period commences ~~shall commence~~ on the
 331 date of issuance of the notice of suspension and notice to
 332 appear.

333 ~~3. The driver may request a formal or informal review of~~
 334 ~~the suspension by the department within 10 days after the date~~
 335 ~~of issuance of the notice of suspension.~~

336 3.4. The temporary permit issued at the time of suspension

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337 expires at midnight of the 10th day following the date of
338 issuance of the notice of suspension and notice to appear.

339 ~~5. The driver may submit to the department any materials~~
340 ~~relevant to the suspension.~~

341 (c) A person whose driving privilege has been suspended
342 pursuant to this subsection or subsection (3) shall appear at a
343 designated department office within 10 days after receipt of the
344 notice of suspension and notice to appear. If the person fails
345 to appear as required, his or her license will remain suspended
346 and all rights of review as provided in this section will be
347 waived.

348 (d) If it appears that the person whose driving privilege
349 has been suspended meets the requirements of s. 322.271 and is
350 otherwise eligible for the driving privilege and if the person
351 wishes to obtain a restricted driver license, the department
352 shall, upon payment by the person of the appropriate fees to the
353 department, reinstate the person's driving privilege restricted
354 to business purposes only, as defined in, and pursuant to s.
355 322.271. The department shall issue a replacement driver license
356 with the applicable restrictions. The department may extend the
357 time for a person who qualifies for a restricted driver license
358 to apply for the restricted license upon good cause shown in
359 writing.

360 1. The restrictions on a person's driving privilege under
361 this paragraph shall be in place for:

362 a. One year, if the driver refused to submit to a breath,
363 blood, or urine test requested pursuant to this section; or

364 b. Six months, if the driver was driving or was in actual

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365 physical control of a motor vehicle and had an unlawful blood-
366 alcohol or breath-alcohol level of 0.08 or higher.

367 2. A person who accepts the reinstated driving privilege
368 restricted to business purposes only as provided in this
369 paragraph is deemed to have waived the right to a formal review
370 of the suspension of his or her driving privilege. Such a waiver
371 may not be used as evidence in any other proceeding.

372 (e) The department shall notify the person whose driving
373 privilege has been suspended in writing of his or her right to
374 review the suspension if the person has not applied for a
375 restricted driver license pursuant to s. 322.271.

376 (f) The notice of the right to a formal or informal review
377 of a suspension shall inform the driver of the following:

378 1. The driver may request a formal or informal review by
379 the department within 10 days after the department notifies the
380 person of the right to review. A person electing to seek a
381 formal review of the suspension is deemed to have waived his or
382 her right to a restricted driving privilege except as set forth
383 in subsection (10). Hearings may be conducted telephonically.
384 Witnesses shall be sworn by a notary public, certified court
385 reporter, or law enforcement officer pursuant to s. 117.10.

386 2. The driver may submit to the department any material
387 relevant to the suspension. The driver or his or her counsel
388 must provide a telephone number where he or she can be contacted
389 for the hearing. A person who does not appear at a designated
390 department office as required by paragraph (c) waives his or her
391 right to submit materials to the department.

392 (2) Except as provided in paragraph (1) (a), the law

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393 enforcement officer shall forward to the department, within 5
 394 days after issuing the notice of suspension and notice to
 395 appear, the driver ~~driver's~~ license; an affidavit stating the
 396 officer's grounds for belief that the person was driving or was
 397 in actual physical control of a motor vehicle while under the
 398 influence of alcoholic beverages or chemical or controlled
 399 substances; the results of any breath or blood test or an
 400 affidavit stating that a breath, blood, or urine test was
 401 requested by the ~~a~~ law enforcement officer or a correctional
 402 officer pursuant to this section and that the person refused to
 403 submit; the officer's description of the person's field sobriety
 404 exercise test, if any; and a copy of the notice of suspension
 405 and notice appear. The failure of the officer to submit
 406 materials within the 5-day period specified in this subsection
 407 and in subsection (1) does not affect the department's ability
 408 to consider any evidence submitted at or before ~~prior to~~ the
 409 hearing. The officer may also submit a copy of the crash report
 410 and a copy of a videotape of the field sobriety exercise test or
 411 the attempt to administer the exercise ~~such test~~. Materials
 412 submitted to the department by a law enforcement agency or
 413 correctional agency shall be considered self-authenticating and
 414 shall be in the record for consideration by the hearing officer.
 415 All materials may be submitted in electronic form.
 416 Notwithstanding s. 316.066(5), the crash report shall be
 417 considered by the hearing officer.

418 (3) If the department determines that the license should
 419 be suspended pursuant to this section and if the notice of
 420 suspension and notice to appear has not already been served upon

421 the person by the a law enforcement officer or correctional
 422 officer as provided in subsection (1), the department shall
 423 issue a notice of suspension and, unless the notice is mailed
 424 pursuant to s. 322.251, a temporary permit that expires 10 days
 425 after the date of issuance if the driver is otherwise eligible
 426 for the driving privilege.

427 (4) If the person whose license was suspended requests an
 428 informal review ~~pursuant to subparagraph (1)(b)3.~~, the
 429 department shall conduct the informal review by a hearing
 430 officer employed by the department. The ~~Such~~ informal review
 431 hearing shall consist solely of an examination by the hearing
 432 officer ~~department~~ of the materials submitted by the a law
 433 enforcement officer or correctional officer ~~and by the person~~
 434 ~~whose license was suspended~~, and the testimonial presence of the
 435 ~~a~~ officer or any other witness is not required.

436 (5) After completion of the informal review, notice of the
 437 department's decision sustaining, amending, or invalidating the
 438 suspension of the driver ~~driver's~~ license of the person whose
 439 license was suspended must be provided to such person. The ~~Such~~
 440 notice must be mailed to the person at the last known address
 441 shown on the department's records⁷ or to the address provided in
 442 the law enforcement officer's report if the ~~such~~ address differs
 443 from the address of record⁷ within 21 days after the expiration
 444 of the temporary permit issued pursuant to subsection (1) or
 445 subsection (3).

446 (6) (a) If the person whose license was suspended requests
 447 a formal review, the department must schedule a hearing to be
 448 held within 30 days after the ~~such~~ request is received by the

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449 department and must notify the person of the date, time, and
450 place of the hearing.

451 (b) The ~~Such~~ formal review hearing shall be held before a
452 hearing officer employed by the department, and the hearing
453 officer may ~~shall be authorized to~~ administer oaths, examine
454 witnesses and take testimony, receive relevant evidence, issue
455 subpoenas for the officers and witnesses identified in documents
456 in subsection (2), regulate the course and conduct of the
457 hearing, question witnesses, and make a ruling on the
458 suspension.

459 (c) The party requesting the presence of a witness is
460 ~~shall be~~ responsible for the payment of any witness fees and for
461 notifying in writing the state attorney's office in the
462 appropriate circuit of the issuance of the subpoena. If the
463 person who requests the ~~a~~ formal review hearing fails to appear
464 and the hearing officer finds such failure to be without just
465 cause, the right to a formal hearing is waived, and the
466 suspension shall be sustained. The hearing officer may authorize
467 witnesses to the formal review hearing to appear telephonically.

468 (d)~~(e)~~ A party may seek enforcement of a subpoena under
469 paragraph (b) by filing a petition for enforcement in the
470 circuit court of the judicial circuit in which the person
471 failing to comply with the subpoena resides or by filing a
472 motion for enforcement in any criminal court case resulting from
473 the driving or actual physical control of the motor vehicle
474 which gave rise to the suspension under this section. A failure
475 to comply with an order of the court shall result in a finding
476 of contempt of court. However, a person is not in contempt while

477 a subpoena is being challenged. The department may not be a
 478 party to any subpoena enforcement action.

479 (e)-(d) The department must, within 7 working days after
 480 the a formal review hearing, provide ~~send~~ notice to the person
 481 of the hearing officer's decision as to whether sufficient cause
 482 exists to sustain, amend, or invalidate the suspension.

483 (7) In a formal review hearing under subsection (6) or an
 484 informal review hearing under subsection (4), the hearing
 485 officer shall determine by a preponderance of the evidence
 486 whether sufficient cause exists to sustain, amend, or invalidate
 487 the suspension. Notwithstanding s. 316.1932, the hearing officer
 488 may not consider the lawfulness of the arrest and shall limit
 489 the scope of the review ~~shall be limited~~ to the following
 490 issues:

491 (a) If the license was suspended for driving with a ~~an~~
 492 ~~unlawful~~ blood-alcohol level or breath-alcohol level of 0.08 or
 493 higher:

494 1. Whether the law enforcement officer had probable cause
 495 to believe that the person whose license was suspended was
 496 driving or was in actual physical control of a motor vehicle in
 497 this state while under the influence of alcoholic beverages or
 498 chemical or controlled substances.

499 2. Whether the person whose license was suspended had a ~~an~~
 500 ~~unlawful~~ blood-alcohol level or breath-alcohol level of 0.08 or
 501 higher ~~as provided in s. 316.193.~~

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

504 1. Whether the law enforcement officer had probable cause

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505 to believe that the person whose license was suspended was
 506 driving or was in actual physical control of a motor vehicle in
 507 this state while under the influence of alcoholic beverages or
 508 chemical or controlled substances.

509 2. Whether the person whose license was suspended refused
 510 to submit to any such test after being requested to do so by a
 511 law enforcement officer or correctional officer.

512 3. Whether the person whose license was suspended was told
 513 that if he or she refused to submit to such test, his or her
 514 privilege to operate a motor vehicle would be suspended for a
 515 ~~period of~~ 1 year or, in the case of a second or subsequent
 516 refusal, for a ~~period of~~ 18 months.

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

521 (a) Sustain the suspension of the person's driving
 522 privilege for a ~~period of~~ 1 year for a first refusal, or for a
 523 ~~period of~~ 18 months if the driving privilege of the such person
 524 has been previously suspended as a result of a refusal to submit
 525 to such test tests, if the person refused to submit to a ~~lawful~~
 526 breath, blood, or urine test requested pursuant to this section.
 527 The suspension period begins ~~commences~~ on the date of issuance
 528 of the notice of suspension.

529 (b) Sustain the suspension of the person's driving
 530 privilege for a ~~period of~~ 6 months for a blood-alcohol level or
 531 breath-alcohol level of 0.08 or higher, or for a ~~period of~~ 1
 532 year if the driving privilege of the such person has been

533 | previously suspended under this section as a result of driving
 534 | with a blood-alcohol level or breath-alcohol level of 0.08 or
 535 | higher an unlawful alcohol level. The suspension period begins
 536 | ~~commences~~ on the date of issuance of the notice of suspension.

537 | (9) A request for a formal review hearing or an informal
 538 | review hearing does shall not stay the suspension of the
 539 | person's driver driver's license. If the department fails to
 540 | schedule a requested the formal review hearing to be held within
 541 | 30 days after receipt of the request ~~therefor~~, the department
 542 | shall invalidate the suspension. If the scheduled hearing is
 543 | continued at the department's initiative, the department shall
 544 | issue a temporary driving permit that is shall be valid until
 545 | the hearing is conducted if the person is otherwise eligible for
 546 | the driving privilege. The Such permit may not be issued to a
 547 | person who sought and obtained a continuance of the hearing. The
 548 | temporary permit issued under this subsection grants a driving
 549 | privilege restricted to employment purposes shall authorize
 550 | driving for business or employment use only, as defined in s.
 551 | 322.271.

552 | (10) A person whose driver driver's license is suspended
 553 | under subsection (1) or subsection (3) may apply for issuance of
 554 | a license for business or employment purposes ~~only~~ if the person
 555 | is otherwise eligible for the driving privilege pursuant to s.
 556 | 322.271.

557 | (a) If the suspension of the driver driver's license of
 558 | the person for refusal or failure to submit to a breath, urine,
 559 | or blood test is sustained, the person is not eligible to
 560 | receive a license for business or employment purposes ~~only~~.

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561 pursuant to s. 322.271~~7~~ until 90 days have elapsed after the
562 expiration of the last temporary permit issued. If the driver is
563 not issued a 10-day permit pursuant to this section or s. 322.64
564 because he or she is ineligible for the permit and the
565 suspension for failure to submit to a breath, urine, or blood
566 test is sustained ~~not invalidated~~ by the department, the driver
567 is not eligible to receive a business or employment license
568 pursuant to s. 322.271 until 90 days have elapsed from the date
569 of the suspension.

570 (b) If the suspension of the driver ~~driver's~~ license of
571 the person relating to unlawful blood-alcohol level or breath-
572 alcohol level of 0.08 or higher is sustained, the person is not
573 eligible to receive a license for business or employment
574 purposes ~~only~~ pursuant to s. 322.271 until 30 days have elapsed
575 after the expiration of the last temporary permit issued. If the
576 driver is not issued a 10-day permit pursuant to this section or
577 s. 322.64 because he or she is ineligible for the permit and the
578 suspension relating to unlawful blood-alcohol level or breath-
579 alcohol level of 0.08 or higher is sustained ~~not invalidated~~ by
580 the department, the driver is not eligible to receive a business
581 or employment license pursuant to s. 322.271 until 30 days have
582 elapsed from the date of the suspension.

583 (11) A ~~The~~ formal review hearing may be conducted upon a
584 review of the reports of a law enforcement officer or a
585 correctional officer, including documents relating to the
586 administration of a breath test or blood test or the refusal to
587 take either test or the refusal to take a urine test. However,
588 as provided in subsection (6), the driver may subpoena the

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589 officer or any person who administered or analyzed the a breath
590 or blood test. The hearing officer may permit witnesses at the
591 formal review hearing to appear telephonically.

592 (12) ~~The Formal and informal review hearings hearing and~~
593 ~~the informal review hearing~~ are exempt from ~~the provisions of~~
594 chapter 120. The department may adopt rules for the conduct of
595 reviews under this section.

596 (13) Pursuant to s. 322.21, a person may appeal any
597 decision of the department sustaining a suspension of his or her
598 driver ~~driver's~~ license by a petition for writ of certiorari to
599 the circuit court in the county in which the ~~wherein such~~ person
600 resides ~~or wherein a formal or informal review was conducted~~
601 ~~pursuant to s. 322.31.~~ However, an appeal does ~~shall~~ not stay
602 the suspension. A law enforcement agency may appeal any decision
603 of the department invalidating a suspension by a petition for
604 writ of certiorari to the circuit court in the county in which
605 ~~wherein~~ a formal or informal review was conducted. For
606 telephonic hearings, the law enforcement agency shall file the
607 petition for writ of certiorari to the circuit court in the
608 county in which the law enforcement agency is located. This
609 subsection does ~~shall~~ not ~~be construed to~~ provide for a de novo
610 appeal.

611 (14) (a) The decision of the department under this section
612 or any circuit court review thereof may not be considered in any
613 trial for a violation of s. 316.193, and a written statement
614 submitted by a person in his or her request for departmental
615 review under this section may not be admitted into evidence
616 against him or her in any such trial.

617 (b) The disposition of any related criminal proceeding
 618 ~~proceedings~~ does not affect a suspension for refusal to submit
 619 to a blood, breath, or urine test imposed under this section.

620 (15) If the department suspends a person's license under
 621 s. 322.2616, it may not also suspend the person's license under
 622 this section for the same episode that was the basis for the
 623 suspension under s. 322.2616.

624 (16) The department shall invalidate a suspension for
 625 driving with an unlawful blood-alcohol level or breath-alcohol
 626 level imposed under this section if the suspended person is
 627 found not guilty at trial of an underlying violation of s.
 628 316.193. If the person obtained a license restricted to business
 629 purposes only pursuant to paragraph (1)(c), the department shall
 630 remove the restriction from the person's driver license.

631 Section 3. Subsections (5), (7), (12), and (14) of section
 632 322.2616, Florida Statutes, are amended to read:

633 322.2616 Suspension of license; persons under 21 years of
 634 age; right to review.—

635 (5) If the person whose license is suspended requests an
 636 informal review under subparagraph (2)(b)3., the department
 637 shall conduct the informal review by a hearing officer employed
 638 by the department within 30 days after the request is received
 639 by the department and shall issue such person a temporary
 640 driving permit for business purposes only to expire on the date
 641 that the ~~such~~ review is scheduled to be conducted if the person
 642 is otherwise eligible. The informal review hearing must consist
 643 solely of an examination by the department of the materials
 644 submitted by the ~~a~~ law enforcement officer or correctional

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645 officer ~~and by the person whose license is suspended,~~ and the
646 testimony ~~presence~~ of the ~~an~~ officer or witness is not required.

647 (7) (a) If the person whose license is suspended requests a
648 formal review, the department must schedule a hearing to be held
649 within 30 days after the request is received by the department
650 and must notify the person of the date, time, and place of the
651 hearing and shall issue the ~~such~~ person a temporary driving
652 permit for business purposes only to expire on the date that the
653 ~~such~~ review is scheduled to be conducted if the person is
654 otherwise eligible.

655 (b) The formal review hearing must be held before a
656 hearing officer employed by the department, and the hearing
657 officer may administer oaths, examine witnesses and take
658 testimony, receive relevant evidence, issue subpoenas, regulate
659 the course and conduct of the hearing, and make a ruling on the
660 suspension. The department and the person whose license was
661 suspended may subpoena witnesses, and the party requesting the
662 presence of a witness is responsible for paying any witness fees
663 and for notifying in writing the state attorney's office in the
664 appropriate circuit of the issuance of the subpoena. If the
665 person who requests a formal review hearing fails to appear and
666 the hearing officer finds the failure to be without just cause,
667 the right to a formal hearing is waived, and the suspension is
668 sustained. The hearing officer may permit witnesses at the
669 formal review hearing to appear telephonically.

670 (c) A party may seek enforcement of a subpoena under
671 paragraph (b) by filing a petition for enforcement in the
672 circuit court of the judicial circuit in which the person

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673 failing to comply with the subpoena resides. A failure to comply
 674 with an order of the court constitutes contempt of court.
 675 However, a person may not be held in contempt while a subpoena
 676 is being challenged. The department is not a party to any
 677 subpoena enforcement action.

678 (d) The department must, within 7 days after the a formal
 679 review hearing, provide ~~send~~ notice to the person of the hearing
 680 officer's decision as to whether sufficient cause exists to
 681 sustain, amend, or invalidate the suspension.

682 (12) The formal review hearing may be conducted upon a
 683 review of the reports of the a law enforcement officer or
 684 correctional officer, including documents relating to the
 685 administration of a breath test or the refusal to take a test.
 686 However, as provided in subsection (7), the driver may subpoena
 687 the officer or any person who administered the a breath or blood
 688 test. The hearing officer may permit witnesses at the formal
 689 review hearing to appear telephonically.

690 (14) Pursuant to s. 322.31, a person may appeal any
 691 decision of the department sustaining a suspension of his or her
 692 driver ~~driver's~~ license by a petition for writ of certiorari to
 693 the circuit court in the county in which the ~~wherein such~~ person
 694 resides or in which the ~~wherein a~~ formal or informal review was
 695 conducted under s. 322.31. However, an appeal does not stay the
 696 suspension. This subsection does not provide for a de novo
 697 appeal.

698 Section 4. Subsections (6) and (7) are added to section
 699 322.2715, Florida Statutes, to read:

700 322.2715 Ignition interlock device.—

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701 (6) Notwithstanding the provisions of ss. 322.271 and
702 322.28(2), upon a second conviction for a violation of the
703 provisions of s. 316.193, the convicted person may elect to
704 install an ignition interlock device on all vehicles that are
705 individually or jointly leased or owned and routinely operated
706 by the convicted person, in lieu of the 5-year license
707 revocation required by s. 322.28(2). The ignition interlock
708 device must be installed for a period of 2 consecutive years,
709 and must be followed by a third consecutive year, during which
710 the convicted person is entitled to a driving privilege
711 restricted to business purposes only, as defined in s.
712 322.271(1).

713 (7) Notwithstanding the provisions of ss. 322.271 and
714 322.28(2), upon a third conviction for a violation of the
715 provisions of s. 316.193, the convicted person may elect to
716 install an ignition interlock device on all vehicles that are
717 individually or jointly leased or owned and routinely operated
718 by the convicted person, in lieu of the 10-year license
719 revocation required by s. 322.28(2). The installation of an
720 ignition interlock device under this subsection may not occur
721 until the convicted person has served a 1-year license
722 revocation period. The ignition interlock device must be
723 installed for a period of 3 consecutive years, and must be
724 followed by a period of 2 additional consecutive years, during
725 which the convicted person is entitled to a driving privilege
726 restricted to business purposes only, as defined in s.
727 322.271(1).

728 Section 5. Section 322.64, Florida Statutes, is amended to

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729 read:

730 322.64 Holder of commercial driver ~~driver's~~ license;
 731 persons operating a commercial motor vehicle; driving with
 732 unlawful blood-alcohol level or breath-alcohol level; refusal to
 733 submit to breath, urine, or blood test.—

734 (1) (a) A law enforcement officer or correctional officer
 735 shall, on behalf of the department, disqualify from operating a
 736 ~~any~~ commercial motor vehicle a person who, while operating or in
 737 actual physical control of a commercial motor vehicle, is
 738 arrested for a violation of s. 316.193, relating to unlawful
 739 blood-alcohol level or breath-alcohol level, or a person who has
 740 refused to submit to a breath, urine, or blood test ~~authorized~~
 741 ~~by s. 322.63 or s. 316.193~~ arising out of the operation or
 742 actual physical control of a commercial motor vehicle. A law
 743 enforcement officer or correctional officer shall, on behalf of
 744 the department, disqualify the holder of a commercial driver
 745 ~~driver's~~ license from operating a ~~any~~ commercial motor vehicle
 746 if the licenseholder, while operating or in actual physical
 747 control of a motor vehicle, is arrested for a violation of s.
 748 316.193, ~~relating to unlawful blood-alcohol level or breath-~~
 749 ~~alcohol level,~~ or refused to submit to a breath, urine, or blood
 750 test ~~authorized by s. 322.63 or s. 316.193~~. Upon
 751 disqualification of the person, the officer shall take the
 752 person's driver ~~driver's~~ license and issue the person a 10-day
 753 temporary permit for the operation of noncommercial vehicles
 754 only if the person is otherwise eligible for the driving
 755 privilege and shall issue the person a notice of
 756 disqualification. If the person has been given a blood, breath,

757 or urine test and, the results of the test ~~which~~ are not
 758 available to the officer at the time of the arrest, the agency
 759 employing the officer shall transmit such results to the
 760 department within 5 days after receipt of the results. If the
 761 department then determines that the person had a blood-alcohol
 762 level or breath-alcohol level of 0.08 or higher, the department
 763 shall disqualify the person from operating a commercial motor
 764 vehicle pursuant to subsection (3).

765 (b) For purposes of determining the period of
 766 disqualification described in 49 C.F.R. s. 383.51, the
 767 disqualification under paragraph (a) shall be treated as
 768 conviction.

769 (c) ~~(b)~~ The disqualification under paragraph (a) shall be
 770 pursuant to, and the notice of disqualification shall inform the
 771 driver of, the following:

772 1.a. The driver refused to submit to a lawful breath,
 773 blood, or urine test and he or she is disqualified from
 774 operating a commercial motor vehicle for ~~a period of 1 year~~, for
 775 a first refusal, or permanently, if he or she has previously
 776 been disqualified under this section; or

777 b. The driver was driving or was in actual physical
 778 control of a commercial motor vehicle, or any motor vehicle if
 779 the driver holds a commercial driver ~~driver's~~ license, had an
 780 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
 781 higher, and his or her driving privilege shall be disqualified
 782 for ~~a period of 1 year~~ for a first offense, or permanently
 783 ~~disqualified~~ if his or her driving privilege has been previously
 784 disqualified under this section.

785 2. The disqualification period for operating a commercial
 786 vehicle begins ~~vehicles shall commence~~ on the date of issuance
 787 of the notice of disqualification.

788 3. The driver may request a formal or informal review of
 789 the disqualification by the department within 10 days after the
 790 date of issuance of the notice of disqualification.

791 4. The temporary permit issued at the time of
 792 disqualification expires at midnight of the 10th day following
 793 the date of disqualification.

794 5. The driver may submit to the department any material
 795 ~~materials~~ relevant to the disqualification.

796 (2) Except as provided in paragraph (1)(a), the law
 797 enforcement officer shall forward to the department, within 5
 798 days after the date of the issuance of the notice of
 799 disqualification, a copy of the notice of disqualification
 800 issued to the person; ~~the driver~~ driver's license of the person
 801 disqualified; ~~and~~ an affidavit stating the officer's grounds
 802 for belief that the person disqualified was operating or was in
 803 actual physical control of a commercial motor vehicle, or holds
 804 a commercial driver ~~driver's~~ license, and had an unlawful blood-
 805 alcohol or breath-alcohol level; the results of any breath, ~~or~~
 806 blood, or urine test or an affidavit stating that a breath,
 807 blood, or urine test was requested by the ~~a~~ law enforcement
 808 officer or correctional officer and that the person arrested
 809 refused to submit; ~~a copy of the notice of disqualification~~
 810 ~~issued to the person;~~ and the officer's description of the
 811 person's field sobriety test, if any. The failure of the officer
 812 to submit materials within the 5-day period specified in this

813 subsection or subsection (1) does not affect the department's
 814 ability to consider any evidence submitted at or before ~~prior to~~
 815 the hearing. The officer may also submit a copy of a videotape
 816 of the field sobriety test or the attempt to administer such
 817 test and a copy of the crash report, if any. Notwithstanding s.
 818 316.066, the crash report shall be considered by the hearing
 819 officer. All materials may be submitted in electronic form.

820 (3) If the department determines that the person arrested
 821 should be disqualified from operating a commercial motor vehicle
 822 pursuant to this section and if the notice of disqualification
 823 has not already been served upon the person by the ~~a~~ law
 824 enforcement officer or correctional officer as provided in
 825 subsection (1), the department shall issue a notice of
 826 disqualification and, unless the notice is mailed pursuant to s.
 827 322.251, a temporary permit that ~~which~~ expires 10 days after the
 828 date of issuance if the driver is otherwise eligible.

829 (4) If the person disqualified requests an informal review
 830 pursuant to subparagraph (1)(c)3. ~~(1)(b)3.~~, the department shall
 831 conduct the informal review by a hearing officer employed by the
 832 department. The ~~Such~~ informal review hearing shall consist
 833 solely of an examination by the department of the materials
 834 submitted by the ~~a~~ law enforcement officer or correctional
 835 officer ~~and by the person disqualified~~, and the presence of the
 836 ~~an~~ officer or a witness is not required.

837 (5) After completion of the informal review, notice of the
 838 department's decision sustaining, amending, or invalidating the
 839 disqualification must be provided to the person. The ~~such~~ notice
 840 must be mailed to the person at the last known address shown on

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841 the department's records, and to the address provided in the law
842 enforcement officer's report if the ~~such~~ address differs from
843 the address of record, within 21 days after the expiration of
844 the temporary permit issued pursuant to subsection (1) or
845 subsection (3).

846 (6) (a) If the person disqualified requests a formal
847 review, the department must schedule a hearing to be held within
848 30 days after the ~~such~~ request is received by the department and
849 must notify the person of the date, time, and place of the
850 hearing.

851 (b) The ~~such~~ formal review hearing shall be held before a
852 hearing officer employed by the department, and the hearing
853 officer may ~~shall be authorized to~~ administer oaths, examine
854 witnesses and take testimony, receive relevant evidence, issue
855 subpoenas for the officers and witnesses identified in documents
856 as provided in subsection (2), regulate the course and conduct
857 of the hearing, and make a ruling on the disqualification. The
858 department and the person disqualified may subpoena witnesses,
859 and the party requesting the presence of a witness is ~~shall be~~
860 responsible for the payment of any witness fees. If the person
861 who requests a formal review hearing fails to appear and the
862 hearing officer finds such failure to be without just cause, the
863 right to a formal hearing is waived. The hearing officer may
864 permit witnesses at the formal review hearing to appear
865 telephonically.

866 (c) A party may seek enforcement of a subpoena under
867 paragraph (b) by filing a petition for enforcement in the
868 circuit court of the judicial circuit in which the person

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869 failing to comply with the subpoena resides or by filing a
870 motion for enforcement in any criminal court case resulting from
871 the driving or actual physical control of the motor vehicle that
872 gave rise to the disqualification under this section. A failure
873 to comply with an order of the court shall result in a finding
874 of contempt of court. However, a person is ~~shall~~ not ~~be~~ in
875 contempt while a subpoena is being challenged. The department is
876 not a party to any subpoena enforcement action.

877 (d) The department must, within 7 working days after the a
878 formal review hearing, send notice to the person of the hearing
879 officer's decision as to whether sufficient cause exists to
880 sustain, amend, or invalidate the disqualification.

881 (7) In a formal review hearing under subsection (6) or an
882 informal review hearing under subsection (4), the hearing
883 officer shall determine by a preponderance of the evidence
884 whether sufficient cause exists to sustain, amend, or invalidate
885 the disqualification. Notwithstanding s. 316.1932, the hearing
886 officer may not consider the lawfulness of the arrest and shall
887 limit the scope of the review ~~shall be limited~~ to the following
888 issues:

889 (a) If the person was disqualified from operating a
890 commercial motor vehicle for driving with a ~~an unlawful~~ blood-
891 alcohol level or breath-alcohol level of 0.08 or higher:

892 1. Whether the arresting law enforcement officer had
893 probable cause to believe that the person was driving or was in
894 actual physical control of a commercial motor vehicle, or any
895 motor vehicle if the driver holds a commercial driver ~~driver's~~
896 license, in this state while he or she had any alcohol, chemical

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897 substance ~~substances~~, or controlled substance ~~substances~~ in his
 898 or her body.

899 2. Whether the person had a ~~an unlawful~~ blood-alcohol
 900 level or breath-alcohol level of 0.08 or higher.

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

904 1. Whether the law enforcement officer had probable cause
 905 to believe that the person was driving or was in actual physical
 906 control of a commercial motor vehicle, or any motor vehicle if
 907 the driver holds a commercial driver ~~driver's~~ license, in this
 908 state while he or she had any alcohol, chemical substance
 909 ~~substances~~, or controlled substance ~~substances~~ in his or her
 910 body.

911 2. Whether the person refused to submit to the test after
 912 being requested to do so by the ~~a~~ law enforcement officer or
 913 correctional officer.

914 3. Whether the person was told that if he or she refused
 915 to submit to such test, he or she would be disqualified from
 916 operating a commercial motor vehicle for ~~a period of~~ 1 year or,
 917 if previously disqualified under this section, permanently.

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

922 (a) Sustain the disqualification for ~~a period of~~ 1 year
 923 for a first refusal, or permanently if the ~~such~~ person has been
 924 previously disqualified from operating a commercial motor

925 vehicle under this section. The disqualification period begins
 926 ~~commences~~ on the date of the issuance of the notice of
 927 disqualification.

928 (b) Sustain the disqualification:

929 1. For ~~a period of~~ 1 year if the person was driving or was
 930 in actual physical control of a commercial motor vehicle, or any
 931 motor vehicle if the driver holds a commercial driver ~~driver's~~
 932 license, and had an unlawful blood-alcohol level or breath-
 933 alcohol level of 0.08 or higher; or

934 2. Permanently if the person has been previously
 935 disqualified from operating a commercial motor vehicle under
 936 this section or his or her driving privilege has been previously
 937 suspended for driving or being in actual physical control of a
 938 commercial motor vehicle, or any motor vehicle if the driver
 939 holds a commercial driver ~~driver's~~ license, and had an unlawful
 940 blood-alcohol level or breath-alcohol level of 0.08 or higher.

941
 942 The disqualification period begins ~~commences~~ on the date of the
 943 issuance of the notice of disqualification.

944 (9) A request for a formal review hearing or an informal
 945 review hearing does ~~shall~~ not stay the disqualification. If the
 946 department fails to schedule the formal review hearing to be
 947 held within 30 days after receipt of the request therefor, the
 948 department shall invalidate the disqualification. If the
 949 scheduled hearing is continued at the department's initiative,
 950 the department shall issue a temporary driving permit limited to
 951 noncommercial vehicles which is valid until the hearing is
 952 conducted if the person is otherwise eligible for the driving

953 | privilege. The ~~Such~~ permit may ~~shall~~ not be issued to a person
 954 | who sought and obtained a continuance of the hearing. The
 955 | temporary permit issued under this subsection grants a driving
 956 | privilege restricted to employment purposes only, as defined in
 957 | s. 322.271 ~~shall authorize driving for business purposes only.~~

958 | (10) A person who is disqualified from operating a
 959 | commercial motor vehicle under subsection (1) or subsection (3)
 960 | is eligible for issuance of a license for business or employment
 961 | purposes only under s. 322.271 if the person is otherwise
 962 | eligible for the driving privilege. However, such business or
 963 | employment purposes license does ~~shall~~ not authorize the driver
 964 | to operate a commercial motor vehicle.

965 | (11) The formal review hearing may be conducted upon a
 966 | review of the reports of the ~~a~~ law enforcement officer or ~~a~~
 967 | correctional officer, including documents relating to the
 968 | administration of a breath test or blood test or the refusal to
 969 | take a breath, blood, or urine ~~either~~ test. However, as provided
 970 | in subsection (6), the driver may subpoena the officer or any
 971 | person who administered or analyzed the ~~a~~ breath or blood test.
 972 | The hearing officer may permit witnesses at the formal review
 973 | hearing to appear telephonically.

974 | (12) The formal review hearing and the informal review
 975 | hearing are exempt from the provisions of chapter 120. The
 976 | department may ~~is authorized to~~ adopt rules for the conduct of
 977 | reviews under this section.

978 | (13) Pursuant to s. 322.31, a person may appeal any
 979 | decision of the department sustaining the disqualification from
 980 | operating a commercial motor vehicle by a petition for writ of

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981 certiorari to the circuit court in the county in which the
 982 ~~wherein such person resides or wherein a formal or informal~~
 983 ~~review was conducted pursuant to s. 322.31.~~ However, an appeal
 984 does ~~shall~~ not stay the disqualification. This subsection does
 985 ~~shall not be construed to~~ provide for a de novo appeal.

986 (14) The decision of the department under this section may
 987 ~~shall~~ not be considered in any trial for a violation of s.
 988 316.193, s. 322.61, or s. 322.62, and a ~~nor shall any~~ written
 989 statement submitted by a person in his or her request for
 990 departmental review under this section may not be admitted ~~be~~
 991 ~~admissible~~ into evidence against him or her in any such trial.
 992 The disposition of any related criminal proceeding may
 993 ~~proceedings shall~~ not affect a disqualification imposed pursuant
 994 to this section.

995 (15) This section does not preclude the suspension of the
 996 driving privilege pursuant to s. 322.2615. The driving privilege
 997 of a person who has been disqualified from operating a
 998 commercial motor vehicle ~~also~~ may also be suspended for a
 999 violation of s. 316.193.

1000 Section 6. This act shall take effect July 1, 2012.