

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1056

SPONSOR: Transportation and Criminal Justice Committees and Senator Casas

SUBJECT: Driving Under the Influence

DATE: March 23, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The CS/CS for SB 1056 would amend ss. 316.192 and 316.193, F.S. (Supp. 1998), to require a person convicted of reckless driving involving alcohol or drugs or convicted of DUI to be evaluated by a DUI program as to the need for substance abuse treatment. If treatment is recommended by the treatment provider and the person fails to report for or complete treatment, the Department of Highway Safety and Motor Vehicles (department) would be required to cancel the person's driving privilege. The CS/CS would also allow the department to temporarily reinstate the driving privilege if the person completes the substance abuse course and evaluation and, if referred, is currently participating in treatment.

The CS/CS also amends s. 322.292, F.S., by adding criteria for the department to use to evaluate the need for licensing additional DUI programs serving the same geographic area. The department would be authorized to assess a uniform application fee sufficient to cover its administrative costs in processing and evaluating DUI programs. The department would also be required to revoke the license of any DUI program that does not provide specified services within 45 days after licensure and notify the chief judge of the revocation. Finally, the CS/CS provides minimum standards for DUI programs that apply for licensure after the effective date of this CS/CS.

This CS/CS substantially amends the following sections of the Florida Statutes: 316.192, 316.193, 322.271, 322.291, and 322.292.

II. Present Situation:

Section 316.192, F.S., provides penalties for reckless driving. If the court has reasonable cause to believe drugs or alcohol contributed to a reckless driving violation, the court must direct the driver to complete a substance abuse education course. The driver can also be referred by the provider for evaluation and treatment. If the driver fails to report to or complete the course or treatment, the department is required to cancel the driver's license and reinstate it upon completion of the substance abuse education course or upon reentry of treatment.

Section 316.193, F.S. (Supp. 1998), provides penalties for driving under the influence of alcohol or drugs to the extent normal faculties are impaired (DUI), including placement of the offender on monthly reporting probation and requiring attendance at a licensed substance abuse education course. The offender can also be referred by the provider for evaluation and treatment. Completion of the course, evaluation, or treatment, if recommended, is a condition of probation and failure to complete these requirements results in cancellation of the driving privilege. The court may waive the requirement for treatment if there is a second psychosocial evaluation recommending no treatment. The offender is responsible for paying reasonable costs of the course, evaluation, and treatment.

Section 322.271, F.S. (Supp. 1998), provides that the department may modify a driver's license suspension, revocation, or cancellation order following an administrative hearing. Eligibility for a temporary "hardship" license requires successful completion of a driver training or substance abuse education course, and may include letters of recommendation. Failure to successfully complete the course within 90 days after reinstatement results in cancellation of the restricted license. Currently, this section does not speak to the need for substance abuse evaluation and treatment as part of the requirement for a temporary license.

Section 322.291, F.S., requiring driver improvement schools in certain suspension and revocation cases (e.g. DUI or when a driver's license is administratively suspended because of an unlawful blood alcohol level or a refusal to be tested), provides that the driving privilege may be reinstated by showing the department proof of enrollment in a substance abuse education or driver improvement course. Failure to complete the course within 90 days after reinstatement of the driving privilege results in cancellation of the driver's license. This section does not speak to the need for substance abuse evaluation and treatment as part of the requirement for having the driving privilege reinstated.

Section 322.292, F.S., requires the department to license and regulate all DUI programs. According to the department, there are currently 29 DUI programs around the state. The department is authorized under this section to adopt rules to implement its supervisory authority over the programs, including setting reasonable fees that can be assessed by the DUI programs. According to the department, it does not assess an application fee when it receives an application for licensure for a DUI program. While reviewing an applicant for licensure, the department also does not conduct an analysis to determine what economic impact a new DUI program will have on other programs in the surrounding areas.

III. Effect of Proposed Changes:

The CS/CS for SB 1056 would amend ss. 316.192 and 316.193, F.S. (Supp.1998), to require a person convicted of reckless driving involving alcohol or drugs or convicted of DUI to be evaluated by a DUI program as to the need for substance abuse treatment. If treatment is recommended by the treatment provider and the person fails to report for or complete treatment, the department would be required to cancel the person's driving privilege, just as is currently required for failure to report for or complete the substance abuse education course.

Current statutory language allowing a waiver of treatment would be clarified such that the court could not waive the required treatment without reviewing the results and recommendations of

two independent psychosocial evaluations. The CS/CS would also allow the department to temporarily reinstate the driving privilege if the person completes the substance abuse education course and evaluation and, if referred, is participating in treatment. If the person fails to complete the required treatment for a second time, the driving privilege would only be reinstated after notification of treatment completion.

Section 322.271, F.S. (Supp.1998), would be amended with the same conforming language as above relating to the treatment requirement, so that it would apply in an administrative hearing when the department determines whether a person whose driver's license has been suspended is eligible to receive a temporary "hardship" license.

Similarly, this conforming language would be added to s. 322.291, F.S., such that persons convicted of DUI or reckless driving, or persons who have had their drivers' licenses administratively suspended for driving with an unlawful blood alcohol level or for refusal to test for alcohol or drugs, would be required to present proof of enrollment in a substance abuse education course, as well as, participating in a psychosocial evaluation and treatment, if referred, before their driving privilege could be reinstated.

The CS/CS also amends s. 322.292, F.S., by adding criteria for the department to use in evaluating the need for licensing additional DUI programs serving the same geographic area. Enumerated criteria would include the following: availability and adequacy of currently licensed providers; ability of applicant to provide quality DUI program services; availability of applicant's resources; ability of applicant to offer higher quality DUI program services; financial feasibility of applicant; and the impact on existing DUI services in the same geographic area.

The department would be authorized to assess a uniform application fee sufficient to cover its administrative costs in processing and evaluating DUI programs. The application fee would not apply to programs seeking licensure to serve an area not currently served by a DUI program. The department would also be required to revoke the license of any DUI program not providing specified services within 45 days after licensure and notify the chief judge of the revocation.

The CS/CS establishes minimum standards for DUI programs that apply for licensure after the effective date of this CS/CS. These standards generally reflect existing criteria for DUI programs that have been adopted by the department. Specific standards include the following:

- DUI program offices and classrooms must be located in structures that are readily accessible by public transportation, if public transportation is available;
- DUI program classrooms may not be located closer than 250 feet from a business that sells alcoholic beverages;
- Each program must have at least one certified addiction professional on staff;
- Each program must have a volunteer board of directors composed of citizens who reside in the circuit where the program is seeking licensure; and
- The program must be approved by the chief circuit judge.

Finally, the CS/CS would delete several obsolete provisions and change the effective date from October 1, 1999 to “upon becoming a law.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certain persons may incur additional treatment costs to the extent this CS/CS encourages more referrals for treatment as a result of the required psychosocial evaluation and due to the fact a person will not be able to have the driving privilege reinstated until treatment, if recommended, is completed. In addition, DUI program applicants will be required to pay an application fee.

C. Government Sector Impact:

According to the Department of Highway Safety and Motor Vehicles, there would be no fiscal impact on the department as a result of this CS/CS.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
