

1 A bill to be entitled
2 An act relating to driving under the influence
3 of alcohol or drugs; amending s. 322.34, F.S.;
4 providing that a motor vehicle is subject to
5 forfeiture under the Florida Contraband Act if
6 the motor vehicle is driven by a person under
7 the influence of alcohol or drugs and the
8 person's license is suspended as a result of a
9 prior conviction for driving under the
10 influence; requiring that notification of the
11 impoundment or seizure be sent to the
12 Department of Highway Safety and Motor
13 Vehicles; amending s. 932.701, F.S., relating
14 to definitions with respect to the Florida
15 Contraband Act; redefining the term "contraband
16 article" to conform to changes made by the act;
17 reenacting s. 932.703, F.S., relating to
18 forfeiture of contraband articles, to
19 incorporate the amendment to s. 932.701, F.S.,
20 in references; amending ss. 316.192, 316.193,
21 322.271, 322.291, F.S.; providing that any
22 person convicted of driving under the influence
23 must, in addition to any other penalties
24 provided by law, complete a substance abuse
25 education course conducted by a licensed DUI
26 program, including a psychosocial evaluation,
27 and, if referred, substance abuse treatment;
28 providing criteria for temporary reinstatement
29 of driving privileges by the Department of
30 Highway Safety and Motor Vehicles; deleting the
31 requirement that the clerk send a second notice

1 of impoundment or immobilization of a vehicle
2 to the registered owner; clarifying references
3 to certain courses; amending s. 318.1451, F.S.;
4 prohibiting governmental entities or courts
5 from providing, maintaining, or disclosing
6 certain information relating to certain schools
7 or course providers; amending s. 322.292, F.S.;
8 providing criteria for the granting of DUI
9 program licenses and deleting obsolete
10 provisions; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (9) is added to section 322.34,
15 Florida Statutes, 1998 Supplement, to read:

16 322.34 Driving while license suspended, revoked,
17 canceled, or disqualified.--

18 (9)(a) A motor vehicle that is driven by a person
19 under the influence of alcohol or drugs in violation of s.
20 316.193 is subject to seizure and forfeiture under ss.
21 932.701-932.707 and is subject to liens for recovering,
22 towing, or storing vehicles under s. 713.78 if, at the time of
23 the offense, the person's driver's license is suspended,
24 revoked, or canceled as a result of a prior conviction for
25 driving under the influence.

26 (b) The law enforcement officer shall notify the
27 Department of Highway Safety and Motor Vehicles of any
28 impoundment or seizure for violation of paragraph (a) in
29 accordance with procedures established by the department.

30 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055,
31 when the seizing agency obtains a final judgment granting

1 forfeiture of the motor vehicle under this section, 30 percent
2 of the net proceeds from the sale of the motor vehicle shall
3 be retained by the seizing law enforcement agency and 70
4 percent shall be deposited in the General Revenue Fund for use
5 by local WAGES coalitions in providing transportation services
6 for participants of the WAGES program. In a forfeiture
7 proceeding under this section, the court may consider the
8 extent that the family of the owner has other public or
9 private means of transportation.

10 Section 2. Paragraph (a) of subsection (2) of section
11 932.701, Florida Statutes, is amended to read:

12 932.701 Short title; definitions.--

13 (2) As used in the Florida Contraband Forfeiture Act:

14 (a) "Contraband article" means:

15 1. Any controlled substance as defined in chapter 893
16 or any substance, device, paraphernalia, or currency or other
17 means of exchange that was used, was attempted to be used, or
18 was intended to be used in violation of any provision of
19 chapter 893, if the totality of the facts presented by the
20 state is clearly sufficient to meet the state's burden of
21 establishing probable cause to believe that a nexus exists
22 between the article seized and the narcotics activity, whether
23 or not the use of the contraband article can be traced to a
24 specific narcotics transaction.

25 2. Any gambling paraphernalia, lottery tickets, money,
26 currency, or other means of exchange which was used, was
27 attempted, or intended to be used in violation of the gambling
28 laws of the state.

29 3. Any equipment, liquid or solid, which was being
30 used, is being used, was attempted to be used, or intended to

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1 be used in violation of the beverage or tobacco laws of the
2 state.

3 4. Any motor fuel upon which the motor fuel tax has
4 not been paid as required by law.

5 5. Any personal property, including, but not limited
6 to, any vessel, aircraft, item, object, tool, substance,
7 device, weapon, machine, vehicle of any kind, money,
8 securities, books, records, research, negotiable instruments,
9 or currency, which was used or was attempted to be used as an
10 instrumentality in the commission of, or in aiding or abetting
11 in the commission of, any felony, whether or not comprising an
12 element of the felony, or which is acquired by proceeds
13 obtained as a result of a violation of the Florida Contraband
14 Forfeiture Act.

15 6. Any real property, including any right, title,
16 leasehold, or other interest in the whole of any lot or tract
17 of land, which was used, is being used, or was attempted to be
18 used as an instrumentality in the commission of, or in aiding
19 or abetting in the commission of, any felony, or which is
20 acquired by proceeds obtained as a result of a violation of
21 the Florida Contraband Forfeiture Act.

22 7. Any personal property, including, but not limited
23 to, equipment, money, securities, books, records, research,
24 negotiable instruments, currency, or any vessel, aircraft,
25 item, object, tool, substance, device, weapon, machine, or
26 vehicle of any kind in the possession of or belonging to any
27 person who takes aquaculture products in violation of s.
28 812.014(2)(c).

29 8. Any motor vehicle used during the course of
30 committing an offense in violation of s. 322.34(9)(a).

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1 Section 3. For purposes of incorporating the amendment
2 to section 932.701, Florida Statutes, in references thereto,
3 section 932.703, Florida Statutes, is reenacted to read:

4 932.703 Forfeiture of contraband article;
5 exceptions.--

6 (1)(a) Any contraband article, vessel, motor vehicle,
7 aircraft, other personal property, or real property used in
8 violation of any provision of the Florida Contraband
9 Forfeiture Act, or in, upon, or by means of which any
10 violation of the Florida Contraband Forfeiture Act has taken
11 or is taking place, may be seized and shall be forfeited
12 subject to the provisions of the Florida Contraband Forfeiture
13 Act.

14 (b) Notwithstanding any other provision of the Florida
15 Contraband Forfeiture Act, except the provisions of paragraph
16 (a), contraband articles set forth in s. 932.701(2)(a)7. used
17 in violation of any provision of the Florida Contraband
18 Forfeiture Act, or in, upon, or by means of which any
19 violation of the Florida Contraband Forfeiture Act has taken
20 or is taking place, shall be seized and shall be forfeited
21 subject to the provisions of the Florida Contraband Forfeiture
22 Act.

23 (c) All rights to, interest in, and title to
24 contraband articles used in violation of s. 932.702 shall
25 immediately vest in the seizing law enforcement agency upon
26 seizure.

27 (d) The seizing agency may not use the seized property
28 for any purpose until the rights to, interest in, and title to
29 the seized property are perfected in accordance with the
30 Florida Contraband Forfeiture Act. This section does not
31 prohibit use or operation necessary for reasonable maintenance

1 of seized property. Reasonable efforts shall be made to
2 maintain seized property in such a manner as to minimize loss
3 of value.

4 (2)(a) Personal property may be seized at the time of
5 the violation or subsequent to the violation, if the person
6 entitled to notice is notified at the time of the seizure or
7 by certified mail, return receipt requested, that there is a
8 right to an adversarial preliminary hearing after the seizure
9 to determine whether probable cause exists to believe that
10 such property has been or is being used in violation of the
11 Florida Contraband Forfeiture Act. Seizing agencies shall make
12 a diligent effort to notify the person entitled to notice of
13 the seizure. Notice provided by certified mail must be mailed
14 within 5 working days after the seizure and must state that a
15 person entitled to notice may request an adversarial
16 preliminary hearing within 15 days after receiving such
17 notice. When a postseizure, adversarial preliminary hearing
18 as provided in this section is desired, a request must be made
19 in writing by certified mail, return receipt requested, to the
20 seizing agency. The seizing agency shall set and notice the
21 hearing, which must be held within 10 days after the request
22 is received or as soon as practicable thereafter.

23 (b) Real property may not be seized or restrained,
24 other than by lis pendens, subsequent to a violation of the
25 Florida Contraband Forfeiture Act until the persons entitled
26 to notice are afforded the opportunity to attend the
27 pre-seizure adversarial preliminary hearing. A lis pendens may
28 be obtained by any method authorized by law. Notice of the
29 adversarial preliminary hearing shall be by certified mail,
30 return receipt requested. The purpose of the adversarial
31 preliminary hearing is to determine whether probable cause

1 exists to believe that such property has been used in
2 violation of the Florida Contraband Forfeiture Act. The
3 seizing agency shall make a diligent effort to notify any
4 person entitled to notice of the seizure. The pre seizure
5 adversarial preliminary hearing provided herein shall be held
6 within 10 days of the filing of the lis pendens or as soon as
7 practicable.

8 (c) When an adversarial preliminary hearing is held,
9 the court shall review the verified affidavit and any other
10 supporting documents and take any testimony to determine
11 whether there is probable cause to believe that the property
12 was used, is being used, was attempted to be used, or was
13 intended to be used in violation of the Florida Contraband
14 Forfeiture Act. If probable cause is established, the court
15 shall authorize the seizure or continued seizure of the
16 subject contraband. A copy of the findings of the court shall
17 be provided to any person entitled to notice.

18 (d) If the court determines that probable cause exists
19 to believe that such property was used in violation of the
20 Florida Contraband Forfeiture Act, the court shall order the
21 property restrained by the least restrictive means to protect
22 against disposal, waste, or continued illegal use of such
23 property pending disposition of the forfeiture proceeding.
24 The court may order the claimant to post a bond or other
25 adequate security equivalent to the value of the property.

26 (3) Neither replevin nor any other action to recover
27 any interest in such property shall be maintained in any
28 court, except as provided in this act; however, such action
29 may be maintained if forfeiture proceedings are not initiated
30 within 45 days after the date of seizure. However, if good
31

1 cause is shown, the court may extend the aforementioned
2 prohibition to 60 days.

3 (4) In any incident in which possession of any
4 contraband article defined in s. 932.701(2)(a) constitutes a
5 felony, the vessel, motor vehicle, aircraft, other personal
6 property, or real property in or on which such contraband
7 article is located at the time of seizure shall be contraband
8 subject to forfeiture. It shall be presumed in the manner
9 provided in s. 90.302(2) that the vessel, motor vehicle,
10 aircraft, other personal property, or real property in which
11 or on which such contraband article is located at the time of
12 seizure is being used or was attempted or intended to be used
13 in a manner to facilitate the transportation, carriage,
14 conveyance, concealment, receipt, possession, purchase, sale,
15 barter, exchange, or giving away of a contraband article
16 defined in s. 932.701(2).

17 (5) The court shall order the forfeiture of any other
18 property of a claimant, excluding lienholders, up to the value
19 of any property subject to forfeiture under this section if
20 any of the property described in this section:

21 (a) Cannot be located;

22 (b) Has been transferred to, sold to, or deposited
23 with, a third party;

24 (c) Has been placed beyond the jurisdiction of the
25 court;

26 (d) Has been substantially diminished in value by any
27 act or omission of the person in possession of the property;
28 or

29 (e) Has been commingled with any property which cannot
30 be divided without difficulty.

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1 (6)(a) Property may not be forfeited under the Florida
2 Contraband Forfeiture Act unless the seizing agency
3 establishes by a preponderance of the evidence that the owner
4 either knew, or should have known after a reasonable inquiry,
5 that the property was being employed or was likely to be
6 employed in criminal activity.

7 (b) A bona fide lienholder's interest that has been
8 perfected in the manner prescribed by law prior to the seizure
9 may not be forfeited under the Florida Contraband Forfeiture
10 Act unless the seizing agency establishes by a preponderance
11 of the evidence that the lienholder had actual knowledge, at
12 the time the lien was made, that the property was being
13 employed or was likely to be employed in criminal activity.

14 If a lienholder's interest is not subject to forfeiture under
15 the requirements of this section, such interest shall be
16 preserved by the court by ordering the lienholder's interest
17 to be paid as provided in s. 932.7055.

18 (c) Property titled or registered between husband and
19 wife jointly by the use of the conjunctives "and," "and/or,"
20 or "or," in the manner prescribed by law prior to the seizure,
21 may not be forfeited under the Florida Contraband Forfeiture
22 Act unless the seizing agency establishes by a preponderance
23 of the evidence that the coowner either knew or had reason to
24 know, after reasonable inquiry, that such property was
25 employed or was likely to be employed in criminal activity.

26 (d) A vehicle that is rented or leased from a company
27 engaged in the business of renting or leasing vehicles, which
28 vehicle was rented or leased in the manner prescribed by law
29 prior to the seizure, may not be forfeited under the Florida
30 Contraband Forfeiture Act unless the seizing agency
31 establishes by preponderance of the evidence that the renter

1 or lessor had actual knowledge, at the time the vehicle was
2 rented or leased, that the vehicle was being employed or was
3 likely to be employed in criminal activity. When a vehicle
4 that is rented or leased from a company engaged in the
5 business of renting or leasing vehicles is seized under the
6 Florida Contraband Forfeiture Act, upon learning the address
7 or phone number of the company, the seizing law enforcement
8 agency shall, as soon as practicable, inform the company that
9 the vehicle has been seized and is available for the company
10 to take possession.

11 (7) Any interest in, title to, or right to property
12 titled or registered jointly by the use of the conjunctives
13 "and," "and/or," or "or" held by a coowner, other than
14 property held jointly between husband and wife, may not be
15 forfeited unless the seizing agency establishes by a
16 preponderance of the evidence that the coowner either knew, or
17 had reason to know, after reasonable inquiry, that the
18 property was employed or was likely to be employed in criminal
19 activity. When the interests of each culpable coowner are
20 forfeited, any remaining coowners shall be afforded the
21 opportunity to purchase the forfeited interest in, title to,
22 or right to the property from the seizing law enforcement
23 agency. If any remaining coowner does not purchase such
24 interest, the seizing agency may hold the property in
25 coownership, sell its interest in the property, liquidate its
26 interest in the property, or dispose of its interest in the
27 property in any other reasonable manner.

28 (8) It is an affirmative defense to a forfeiture
29 proceeding that the nexus between the property sought to be
30 forfeited and the commission of any underlying violation was
31 incidental or entirely accidental. The value of the property

1 sought to be forfeited in proportion to any other factors must
2 not be considered in any determination as to this affirmative
3 defense.

4 Section 4. Subsection (4) of section 316.192, Florida
5 Statutes, is amended to read:

6 316.192 Reckless driving.--

7 (4) In addition to any other penalty provided under
8 this section, if the court has reasonable cause to believe
9 that the use of alcohol, chemical substances set forth in s.
10 877.111, or substances controlled under chapter 893
11 contributed to a violation of this section, the court shall
12 direct the person so convicted to complete a DUI program ~~the~~
13 substance abuse education course and evaluation as provided in
14 s. 316.193(5) within a reasonable period of time specified by
15 the court. If the DUI program agency conducting such course
16 and evaluation refers ~~may refer~~ the person to an authorized
17 substance abuse treatment provider agency for substance abuse
18 evaluation and treatment, ~~the directive of the court~~
19 requiring completion of such course, evaluation, and treatment
20 shall be enforced as provided in s. 322.245. The referral to
21 treatment resulting from the DUI program evaluation may not be
22 waived without a supporting independent psychosocial
23 evaluation conducted by an authorized substance abuse
24 treatment provider, appointed by the court, which shall have
25 access to the DUI program psychosocial evaluation before the
26 independent psychosocial evaluation is conducted. The court
27 shall review the results and recommendations of both
28 evaluations before determining the request for waiver. The
29 offender shall bear the full cost of this procedure. If a
30 person directed ~~referred~~ to a DUI program substance abuse
31 education course and evaluation or referred to treatment under

1 this subsection fails to report for or complete such course,
2 evaluation, or treatment ~~or education~~, the ~~agency conducting~~
3 ~~the~~ DUI program shall notify the court and the department of
4 the failure. Upon receipt of such notice, the department
5 shall cancel the person's driving privilege, notwithstanding
6 the terms of the court order or any suspension or revocation
7 of the driving privilege. The department ~~may~~ shall reinstate
8 the driving privilege upon verification from the DUI program
9 that the education, evaluation, and treatment are completed.
10 The department may temporarily reinstate the driving privilege
11 on a restricted basis upon verification that the offender is
12 currently participating in treatment and has completed the DUI
13 education course and evaluation requirement. If the DUI
14 program notifies the department of the second failure to
15 complete treatment, the department shall reinstate the driving
16 privilege only after notice of successful completion of
17 treatment from the DUI program.~~when the person completes the~~
18 ~~substance abuse education course or reenters treatment~~
19 ~~required under this subsection.~~

20 Section 5. Subsections (5) and (6) of section 316.193,
21 Florida Statutes, 1998 Florida Supplement, are amended to
22 read:

23 316.193 Driving under the influence; penalties.--
24 (5) The court shall place all offenders ~~any offender~~
25 convicted of violating this section on monthly reporting
26 probation and shall require completion of attendance at a
27 substance abuse course conducted by a DUI program licensed by
28 the department under s. 322.292, which must include a
29 psychosocial evaluation of the offender. If the DUI program
30 refers licensed by the department; and the agency conducting
31 ~~the course may refer~~ the offender to an authorized substance

1 ~~abuse treatment service~~ provider for substance abuse
2 ~~evaluation and~~ treatment, in addition to any sentence or fine
3 imposed under this section, completion of all such education,
4 evaluation, and treatment is a condition of reporting
5 probation. The offender shall assume reasonable costs for
6 such education, evaluation, and treatment, ~~with completion of~~
7 ~~all such education, evaluation, and treatment being a~~
8 ~~condition of reporting probation.~~ The referral to treatment
9 resulting from a psychosocial evaluation shall ~~may~~ not be
10 waived without a supporting independent psychosocial
11 evaluation conducted by an authorized substance abuse
12 treatment provider agency appointed by the court, which shall
13 have ~~and with~~ access to the DUI program's psychosocial
14 original evaluation before the independent psychosocial
15 evaluation is conducted. The court shall review the results
16 and recommendations of both evaluations before determining the
17 request for waiver. The offender shall bear the full cost of
18 this procedure. The term "substance abuse" means the abuse of
19 alcohol or any substance named or described in Schedules I
20 through V of s. 893.03. If an offender referred to treatment
21 under this subsection fails to report for or complete such
22 treatment or fails to complete the DUI program substance abuse
23 education course and evaluation, the DUI program shall notify
24 the court and the department of the failure. Upon receipt of
25 the notice, the department shall cancel the offender's driving
26 privilege, notwithstanding the terms of the court order or any
27 suspension or revocation of the driving privilege. The
28 department may temporarily ~~shall~~ reinstate the driving
29 privilege on a restricted basis upon verification from the DUI
30 program that the offender is currently participating in
31 treatment and the DUI education course and evaluation

1 requirement has been completed. If the DUI program notifies
2 the department of the second failure to complete treatment,
3 the department shall reinstate the driving privilege only
4 after notice of completion of treatment from the DUI program
5 ~~when the offender completes the substance abuse education~~
6 ~~course or enters treatment required under this subsection.~~
7 The organization that conducts the substance abuse education
8 and evaluation may not provide required substance abuse
9 treatment unless a waiver has been granted to that
10 organization by the department. A waiver may be granted only
11 if the department determines, in accordance with its rules,
12 that the service provider that conducts the substance abuse
13 education and evaluation is the most appropriate service
14 provider and is licensed under chapter 397 or is exempt from
15 such licensure. All DUI ~~treatment~~ programs providing treatment
16 services on January 1, 1994, shall be allowed to continue to
17 provide such services until the department determines whether
18 a waiver should be granted. A statistical referral report
19 shall be submitted quarterly to the department by each
20 organization authorized to provide services under this
21 section.

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

25 (d) The court must at the time of sentencing the
26 defendant issue an order for the impoundment or immobilization
27 of a vehicle. Within 7 business days after the date that the
28 court issues the order of impoundment or immobilization, ~~and~~
29 ~~once again 30 business days before the actual impoundment or~~
30 ~~immobilization of the vehicle,~~ the clerk of the court must
31 send notice by certified mail, return receipt requested, to

1 the registered owner of each vehicle, if the registered owner
2 is a person other than the defendant, and to each person of
3 record claiming a lien against the vehicle.

4 Section 6. Effective June 1, 2000, subsection (6) is
5 added to section 318.1451, Florida Statutes, is amended to
6 read:

7 318.1451 Driver improvement schools.--

8 (6)(a) No governmental entity or court shall provide,
9 issue or maintain any information or orders regarding driver
10 improvement schools or course providers, with the exception of
11 directing inquiries or request to the local telephone
12 directory heading of driving instruction or the traffic school
13 reference guide.

14 (b) The department shall prepare for any governmental
15 entity to distribute, a traffic school reference guide which
16 shall list the benefits of attending a driver improvement
17 school, but under no circumstance may any list of course
18 providers or schools be included, and shall refer further
19 inquiries to the telephone directory under driving
20 instruction.

21 Section 7. Paragraph (a) of subsection (2) of section
22 322.271, Florida Statutes, 1998 Supplement, is amended to
23 read:

24 322.271 Authority to modify revocation, cancellation,
25 or suspension order.--

26 (2)(a) Upon such hearing, the person whose license has
27 been suspended, canceled, or revoked may show that such
28 suspension, cancellation, or revocation of his or her license
29 causes a serious hardship and precludes the person's carrying
30 out his or her normal business occupation, trade, or
31 employment and that the use of the person's license in the

1 normal course of his or her business is necessary to the
2 proper support of the person or his or her family. Except as
3 otherwise provided in this subsection, the department shall
4 require proof of the successful completion of the applicable
5 department ~~an~~ approved driver training course operating
6 pursuant to s. 318.1451 or DUI program substance abuse
7 education course and evaluation as provided in s. 316.193(5).
8 ~~and may require~~ Letters of recommendation from respected
9 business persons in the community, law enforcement officers,
10 or judicial officers may also be required to determine in
11 ~~determining~~ whether such person should be permitted to operate
12 a motor vehicle on a restricted basis for business or
13 employment use only and in determining whether such person can
14 be trusted to so operate a motor vehicle. If a driver's
15 license has been suspended under the point system or pursuant
16 to s. 322.2615, the department shall require proof of
17 enrollment in the applicable department ~~an~~ approved driver
18 training course or licensed DUI program substance abuse
19 education course, including evaluation and treatment, if
20 referred, and may require ~~the~~ letters of recommendation
21 described in this subsection to determine if the driver should
22 be reinstated on a restricted basis. ~~†~~If such person fails to
23 complete the approved course within 90 days after
24 reinstatement or subsequently fails to complete treatment, if
25 applicable, the department shall cancel his or her driver's
26 license until the course and treatment, if applicable, is
27 successfully completed, notwithstanding the terms of the court
28 order or any suspension or revocation of the driving
29 privilege. The department may temporarily reinstate the
30 driving privilege on a restricted basis upon verification from
31 the DUI program that the offender has reentered and is

1 currently participating in treatment and has completed the DUI
2 education course and evaluation requirement. If the DUI
3 program notifies the department of the second failure to
4 complete treatment, the department shall reinstate the driving
5 privilege only after notice of completion of treatment from
6 the DUI program. The privilege of driving on a limited or
7 restricted basis for business or employment use shall not be
8 granted to a person who has been convicted of a violation of
9 s. 316.193 until completion of the DUI program substance abuse
10 ~~such education or training~~ course and evaluations as provided
11 in s. 316.193(5). Except as provided in paragraph (b), the
12 privilege of driving on a limited or restricted basis for
13 business or employment use shall not be granted to a person
14 whose license is revoked pursuant to s. 322.28 or suspended
15 pursuant to s. 322.2615 and who has been convicted of a
16 violation of s. 316.193 two or more times or whose license has
17 been suspended two or more times for refusal to submit to a
18 test pursuant to s. 322.2615 or former s. 322.261.

19 Section 8. Section 322.291, Florida Statutes, is
20 amended to read:

21 322.291 Driver improvement schools or DUI programs;
22 required in certain suspension and revocation cases.--Except
23 as provided in s. 322.03(2), any person:

24 (1) Whose driving privilege has been revoked:

25 (a) Upon conviction for:

26 1. Driving, or being in actual physical control of,
27 any vehicle while under the influence of alcoholic beverages,
28 any chemical substance set forth in s. 877.111, or any
29 substance controlled under chapter 893, in violation of s.
30 316.193;

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1 2. Driving with an unlawful blood- or breath-alcohol
2 level;

3 3. Manslaughter resulting from the operation of a
4 motor vehicle;

5 4. Failure to stop and render aid as required under
6 the laws of this state in the event of a motor vehicle
7 accident resulting in the death or personal injury of another;

8 5. Reckless driving; or

9 (b) As an habitual offender;

10 (c) Upon direction of the court, if the court feels
11 that the seriousness of the offense and the circumstances
12 surrounding the conviction warrant the revocation of the
13 licensee's driving privilege; or

14 (2) Whose license was suspended under the point
15 system, was suspended for driving with an unlawful
16 blood-alcohol level of 0.10 percent or higher before January
17 1, 1994, was suspended for driving with an unlawful
18 blood-alcohol level of 0.08 percent or higher after December
19 31, 1993, was suspended for a violation of s. 316.193(1), or
20 was suspended for refusing to submit to a lawful breath,
21 blood, or urine test as provided in s. 322.2615
22

23 shall, before the driving privilege may be reinstated, present
24 to the department proof of enrollment in a department-approved
25 advanced driver improvement course operating pursuant to s.
26 318.1451 or a substance abuse education course conducted by a
27 DUI program licensed pursuant to s. 322.292, which shall
28 include a psychosocial evaluation and treatment, if referred.
29 If the person fails to complete such course or evaluation
30 within 90 days after reinstatement, or subsequently fails to
31 complete treatment, if referred, the DUI program shall notify

1 the department of the failure. Upon receipt of the notice, the
2 department shall cancel the offender's driving privilege,
3 notwithstanding the expiration of the suspension or revocation
4 of the driving privilege. The department may temporarily
5 reinstate the driving privilege upon verification from the DUI
6 program that the offender has completed the education course
7 and evaluation requirement and has reentered and is currently
8 participating in treatment. If the DUI program notifies the
9 department of the second failure to complete treatment, the
10 department shall reinstate the driving privilege only after
11 notice of completion of treatment from the DUI program.~~the~~
12 ~~driver's license shall be canceled by the department until~~
13 ~~such course is successfully completed.~~

14 Section 9. Section 322.292, Florida Statutes, is
15 amended to read:

16 322.292 DUI programs supervision; powers and duties of
17 the department.--

18 (1) The Department of Highway Safety and Motor
19 Vehicles shall license and regulate all DUI programs, which
20 regulation shall include the certification of instructors,
21 evaluators, clinical supervisors, and special supervision
22 services evaluators ~~evaluator supervisors~~. The department
23 shall, after consultation with the chief judge of the affected
24 judicial circuit, establish requirements regarding the number
25 of programs to be offered within a judicial circuit. Such
26 requirements shall address the number of clients currently
27 served in the circuit as well as improvements in service that
28 may be derived from operation of an additional DUI program.
29 DUI program education and evaluation services are exempt from
30 licensure under chapter ~~chapters 396 and 397~~. However,
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1 treatment programs must continue to be licensed under chapter
2 ~~chapters 396 and 397~~.

3 (2) The department shall adopt rules to implement its
4 supervisory authority over DUI programs in accordance with the
5 procedures of chapter 120, including the establishment of
6 uniform standards of operation for DUI programs and the method
7 for setting and approving fees, as follows:

8 (a) Adopt rules ~~Establish minimum standards~~ for
9 statutorily required education, evaluation, and supervision of
10 DUI offenders. ~~Such minimum standards previously adopted by~~
11 ~~the Traffic Court Review Committee of the Supreme Court of~~
12 ~~Florida shall remain in effect unless modified by the~~
13 ~~department.~~

14 (b) Adopt rules ~~Establish minimum standards~~ for the
15 administration and financial management of DUI programs,
16 including, but not limited to:

17 1. Rules ~~Standards~~ governing the types of expenditures
18 that may be made by DUI programs from funds paid by persons
19 attending such programs.

20 2. Rules ~~Standards~~ for financial reporting that
21 require data on DUI programs expenditures in sufficient detail
22 to support reasonable and informed decisions concerning the
23 fees that are to be assessed those attending DUI programs.
24 The department shall perform financial audits of DUI programs
25 required under this section or require that financial audits
26 of the programs be performed by certified public accountants
27 at program expense and submitted directly from the auditor to
28 the department.

29 3. Rules for ~~Standards of~~ reciprocity in relation to
30 DUI programs in other states or countries that have programs
31 similar to the DUI programs licensed by the department.

1 4. Such other rules ~~standards~~ as the department deems
2 appropriate and necessary for the effective oversight of the
3 DUI programs.

4 (c) Implement procedures for the granting and revoking
5 of licenses for DUI programs, including:

6 1. A uniform application fee not to exceed \$1,000 but
7 in an amount sufficient to cover the department's
8 administrative costs in processing and evaluating DUI program
9 license applications. The application fee shall not apply to
10 programs that apply for licensure to serve a county that does
11 not have a currently licensed DUI program or where the
12 currently licensed program has relinquished its license.

13 2. In considering an application for approval of a DUI
14 program, the department shall determine whether improvements
15 in service may be derived from the operation of the DUI
16 program and the number of clients currently served in the
17 circuit. The department shall apply the following criteria:

18 (a) The increased frequency of classes and
19 availability of locations of services offered by the applicant
20 DUI program.

21 (b) Services and fees offered by the applicant DUI
22 program and any existing DUI program.

23 (c) The number of DUI clients currently served and
24 historical trends in the number of clients served in the
25 circuit.

26 (d) The availability, accessibility, and service
27 history of any existing DUI program services.

28 (e) The applicant DUI program's service history.

29 (f) The availability of resources, including
30 personnel, demonstrated management capability, and capital and
31 operating expenditures of the applicant DUI program.

1 (g) Improved services to minority and special needs
2 clients.

3 3. Authority for competing applicants and currently
4 licensed DUI programs serving the same geographic area to
5 request an administrative hearing under chapter 120 to contest
6 the department's determination of need for an additional
7 licensed DUI program in that area.

8 4. A requirement that the department revoke the
9 license of any DUI program that does not provide the services
10 specified in its application within 45 days after licensure
11 and notify the chief judge of that circuit of such revocation.

12 5. A requirement that all applicants for initial
13 licensure as a DUI program in a particular circuit on and
14 after the effective date of this act must, at a minimum,
15 satisfy each of the following criteria:

16 a. Maintain a primary business office in the circuit
17 which is located in a permanent structure that is readily
18 accessible by public transportation, if public transportation
19 is available. The primary business office must be adequately
20 staffed and equipped to provide all DUI program support
21 services, including registration and a file for each person
22 who registers for the program.

23 b. Have a satellite office for registration of DUI
24 offenders in each county in the circuit which is located in a
25 permanent structure that is readily accessible by public
26 transportation, if public transportation is available. A
27 satellite office is not required in any county where the total
28 number of DUI convictions in the most recent calendar year is
29 less than 200.

30 c. Have a classroom in each county in the circuit
31 which is located in a permanent structure that is readily

1 accessible by public transportation, if public transportation
2 is available. A classroom is not required in any county where
3 the total number of DUI convictions in the most recent
4 calendar year is less than 100. A classroom may not be located
5 within 250 feet of any business that sells alcoholic
6 beverages. However, a classroom shall not be required to be
7 relocated when a business selling alcoholic beverages locates
8 to within 250 feet of the classroom.

9 d. Have a plan for conducting all DUI education
10 courses, evaluation services, and other services required by
11 the department. The level I DUI education course must be
12 taught in four segments, with no more than 6 hours of
13 classroom instruction provided to any offender each day.

14 e. Employ at least 1 full-time certified addiction
15 professional for the program at all times.

16 f. Document support from community agencies involved
17 in DUI education and substance abuse treatment in the circuit.

18 g. Have a volunteer board of directors and advisory
19 committee made up of citizens who reside in the circuit in
20 which licensure is sought.

21 h. Submit documentation of compliance with all
22 applicable federal, state, and local laws, including, but not
23 limited to, the Americans with Disabilities Act.

24 (d) Establish a fee structure for the various programs
25 offered by the DUI programs, based only on the reasonable and
26 necessary costs for operating the programs throughout the
27 state. The department shall approve, modify, or reduce fees as
28 necessary. ~~The DUI programs fees that are in effect on January~~
29 ~~1, 1994, shall remain in effect until the department adopts a~~
30 ~~fee schedule for the DUI programs system. After the adoption~~
31

1 ~~of the schedule, the programs shall adjust their fees to~~
2 ~~conform with the established amounts.~~

3 (e) Establish policies and procedures for monitoring
4 DUI programs compliance with all rules adopted ~~minimum~~
5 ~~standards established~~ by the department.

6 (f) The department shall oversee an ongoing evaluation
7 to assess the effectiveness of the DUI programs. This
8 evaluation shall be performed by an independent group and
9 shall evaluate the curriculum, client treatment referrals,
10 recidivism rates, and any other relevant matters. ~~The~~
11 ~~department shall report to the Legislature by January 1, 1995,~~
12 ~~on the status of the evaluation, including its design and~~
13 ~~schedule for completion.~~The department may use funds received
14 under s. 322.293 to retain the services and reimburse expenses
15 of such private persons or professional consultants as are
16 required for monitoring and evaluating DUI programs.

17 (g) Investigate complaints about the DUI programs and
18 resolve problems in the provision of services to DUI
19 offenders, as needed.

20 ~~(3) All DUI programs and certified program personnel~~
21 ~~providing DUI programs services that meet the department's~~
22 ~~standards and that are operating on January 1, 1994, may~~
23 ~~remain in operation until the department's license procedures~~
24 ~~are in place. At that time the DUI programs and certified~~
25 ~~program personnel may apply for relicensure.~~

26 (3)~~(4)~~ DUI programs shall be either governmental
27 programs or not-for-profit corporations.

28 ~~(5) The department shall report to the Supreme Court~~
29 ~~by December 1, 1994, and by December 31 of each succeeding~~
30 ~~year through 1996, on the general status of the statewide~~
31 ~~program. This report must include programmatic and statistical~~

1 ~~information regarding the number of licensed programs,~~
2 ~~enrollment and referral figures, program monitoring and~~
3 ~~evaluation activities, and findings, and the general steps~~
4 ~~taken by the department to implement the provisions of this~~
5 ~~section.~~

6 Section 10. This act shall take effect January 1,
7 2000.

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