Florida Senate - 1999

By the Committee on Transportation and Senator Casas

306-2208A-99 1 A bill to be entitled 2 An act relating to driving schools; amending s. 3 318.14, F.S.; increasing the number of times a 4 person may elect to take a driver improvement course; amending s. 318.1451, F.S.; revising 5 6 language with respect to driver improvement 7 schools; amending s. 322.0261, F.S.; providing for mandatory basic driver improvement courses; 8 9 providing reference to crashes rather than accidents; creating s. 322.02615, F.S.; 10 providing for mandatory driver improvement 11 12 courses; amending s. 322.095, F.S.; revising provisions with respect to traffic law and 13 14 substance abuse education program for driver's license applicants; amending s. 322.271, F.S.; 15 conforming to the act; amending s. 322.291, 16 17 F.S.; revising provisions with respect to driver improvement schools; amending s. 18 19 627.06501, F.S.; conforming a cross-reference; 20 providing an appropriation; providing an effective date. 21 22 23 Be It Enacted by the Legislature of the State of Florida: 24 25 Section 1. Subsection (9) of section 318.14, Florida Statutes, is amended to read: 26 27 318.14 Noncriminal traffic infractions; exception; 28 procedures.--29 (9) Any person who is cited for an infraction under 30 this section other than a violation of s. 320.0605(1), s. 31 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.61, or s. 1

1 322.62 may, in lieu of a court appearance, elect to attend in 2 the location of his or her choice within this state a basic 3 driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, 4 5 adjudication must be withheld; points, as provided by s. 6 322.27, may not be assessed; and the civil penalty that is 7 imposed by s. 318.18(3) must be reduced by 18 percent; 8 however, a person may not make an election under this 9 subsection if the person has made an election under this 10 subsection in the preceding 12 months. A person may make no 11 more than eight five elections under this subsection. The requirement for community service under s. 318.18(7) or under 12 13 s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court. 14 Section 2. Section 318.1451, Florida Statutes, is 15 16 amended to read: 17 318.1451 Driver improvement schools.--(1) The Department of Highway Safety and Motor 18 19 Vehicles shall approve the courses of all driver improvement 20 schools and monitor the administration and presentation by the 21 driver improvement schools, as the courses relate to ss. 318.14(9), 322.0261, 322.02615,322.095, and 322.291. The 22 chief judge of the applicable judicial circuit may establish 23 24 requirements regarding the location of schools within the 25 judicial circuit. A person may engage in the business of operating a driver improvement school that offers 26 27 department-approved courses related to ss. 318.14(9), 322.0261, 322.095, and 322.291. Any course curriculum that is 28 29 provisionally or fully approved for use in this state may only 30 use the teaching methodologies or techniques under which the 31 curriculum was originally approved by the department. Any

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1 variation of teaching methodology or technique must be approved by the department and must be based, in part, upon 2 3 statistical evidence that demonstrates effectiveness in reducing crash recidivism or violation recidivism at 4 5 statistically significant levels. б (2) The department shall ensure that each course 7 provider follows the criteria required for instructors. The 8 provider must certify that an instructor has at least a high school diploma or GED and 2 years of documented teaching 9 experience in an academic field, including safety, criminal 10 11 justice, behavioral science, or a related subject matter; or 2 years of documented formal education beyond high school; or 2 12 years of documented full-time employment experience in safety, 13 criminal justice, behavioral science, or a related field. The 14 instructor must have a valid driver's license at the time of 15 certification and throughout the certification period, with no 16 17 more than two moving violation convictions during the prior 3 years or any violation that results in suspension or 18 19 revocation of the instructor's driver license. A person who has been found guilty of any felony or any offense involving 20 21 driving under the influence during the prior 10 years may not be certified as an instructor. The provider shall recertify an 22 instructor every 2 years if the instructor remains qualified 23 for certification. In order to maintain qualification for 24 certification, an instructor must complete at least 8 hours of 25 course-specific, inservice education every 2 years and must 26 27 teach at least two complete courses each year for every course for which the instructor holds certification; however, an 28 29 instructor who holds a certification by the department 30 pursuant to s. 322.292 to teach DUI courses at the time of recertification and who has taught at least two complete DUI 31

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1 courses each year during the recertification period shall be exempted from the 8-hour course-specific, inservice education 2 3 requirement solely as it relates to the instructors' recertification as an instructor for the traffic law and 4 5 substance abuse education courses referred to in s. 322.095 б for that recertification period. This subsection does not 7 apply to an instructor who is certified before January 1, 8 1999, so long as the instructor's certification is not canceled, does not expire, or is not otherwise interrupted. In 9 10 determining whether to approve the courses referenced in this 11 section, the department shall consider course content designed to promote safety, driver awareness, accident avoidance 12 13 techniques, and other factors or criteria to improve driver 14 performance from a safety viewpoint. (3) The Department of Highway Safety and Motor 15 Vehicles shall suspend accepting proof of attendance of 16 courses from persons who attend those schools that do not 17 teach an approved course. In those circumstances, a person 18 19 who has elected to take courses from such a school shall receive a refund from the school, and the person shall have 20 the opportunity to take the course at another school. The 21 Department of Highway Safety and Motor Vehicles shall adopt 22 and enforce rules to administer this section, including 23 24 procedures for resolving consumer complaints. In addition, the 25 department may bring appropriate action to enjoin unlawful activities. The department shall adopt rules providing for the 26 27 issuance of a course completion certificate number to each 28 person who completes an approved driver improvement course, 29 and shall implement a system for tracking the course 30 completion certificate numbers to ensure course completion 31

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1 certificates are not used by more than one person and to assist in the evaluation of course effectiveness. 2 3 (4) In determining whether to approve the courses referenced in this section, the department shall consider 4 5 course content designed to promote safety, driver awareness, б crash avoidance techniques, and other factors or criteria to 7 improve driver performance from a safety viewpoint. Courses 8 must be held in a classroom setting where all students are present and under the direct instruction of a certified 9 10 instructor who uses techniques that provide for interactive 11 participation by the students. A course provider may not use a teaching format that includes home study or distance learning 12 and a course may not consist exclusively of electronic or 13 14 video presentations. The effectiveness study referenced in 15 subsection (6) may be performed only once every 6 months and the department may not conduct more than two studies for any 16 17 one course. An effectiveness study may not be conducted for a course later than 3 years after the initial study. 18 19 (5)(4) In addition to a regular course fee, an 20 assessment fee in the amount of \$2.50 shall be collected by 21 the school from each person who enrolls in a department-approved driver improvement course by court order 22 or who elects to attend a course, as it relates to ss. 23 24 318.14(9), 322.0261, 322.02615,322.291, and 627.06501, for 25 each person who completes the course, the \$2.50 assessment fee which shall be remitted to the Department of Highway Safety 26 and Motor Vehicles and deposited in the Highway Safety 27 28 Operating Trust Fund to administer this program and to fund 29 the general operations of the department. (6)(5) The Department of Highway Safety and Motor 30 31 Vehicles shall is directed to perform studies of the driver 5

1 improvement courses offered in Florida to determine the 2 effectiveness of such courses on crash and violation rates. 3 The department must report its findings to the Legislature by 4 October 1, 2002, and at least once every 5 years thereafter 5 1997. The department shall conduct the effectiveness studies б using generally accepted statistical evaluation procedures and 7 may is authorized to establish control groups using random 8 assignment of licensed drivers to test the effectiveness of 9 the courses., and The department may shall have the authority 10 to suspend the normal penalties provided by chapters 316, 318, 11 and 322 with respect to those persons participating in the studies. 12 (7)(a) The department, courts, law enforcement 13 agencies, public schools, clerks of courts, or political 14 subdivisions of the state shall not market, advertise, 15 maintain, or provide to the public specific information 16 17 regarding individual driver improvement schools, course providers, or associated entities, except to the extent that 18 19 the information is a public record as defined in chapter 119 and thus shall be made available upon request pursuant to s. 20 21 119.07(1). The department shall prepare, provide, and maintain a reference guide of basic driver improvement school course 22 providers that have been given full approval by the department 23 24 (the "traffic school reference guide"). The traffic school 25 reference guide shall only: Indicate the statutory benefits provided to those 26 1. who elect to attend and complete an approved basic driver 27 28 improvement school; 29 List the procedure for enrolling in a basic driver 2. 30 improvement school; 31 Provide point system and suspension information; 3. 6

1	4. List each qualified course provider's name once,
2	followed by one telephone number together with its
3	corresponding vanity number, if a vanity number is applicable,
4	and one Internet web site address, with those names and
5	corresponding numbers appearing in single column top to bottom
6	format on a rotating basis. For purposes of this section and
7	appearance on the traffic school reference guide, "rotating"
8	means that course provider listings will appear in
9	alphabetical order on the first page of any printing, order,
10	or publishing of the traffic school reference guide,
11	whatsoever, and whichever course provider appears first on the
12	first page, that same course provider listing will be placed
13	in the last position on the subsequent page of that printing,
14	order, or publishing and every other course provider listing
15	shall be advanced one corresponding position. This rotating
16	basis will continue this first to last rotation of course
17	provider listings with each page of every printing to ensure
18	that each course provider listing will appear an equal number
19	of times at each position on the traffic school reference
20	guide; and
21	5. Direct all other inquiries to the telephone
22	directory.
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24	For purposes of this section and appearance on the traffic
25	school reference guide, course providers are only those basic
26	driver improvement course providers that have been fully
27	approved by the department and any school that graduated a
28	cumulative total of at least 85,000 students from their basic
29	driver improvement, traffic collision avoidance, advanced
30	driver improvement, and traffic law and substance abuse
31	education course classes during the calendar year 1998 and
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1 have conducted classes at 100 or more different locations in the state during the calendar year 1998. 2 3 (b) Information, literature, references, or orders regarding driver improvement schools, course providers, or 4 5 related associations or entities may not be adopted, б distributed, provided, maintained, or issued by the department 7 or any court, clerk of courts, law enforcement agency, public 8 school, or governmental entity unless the reference is only to the telephone directory heading of "Driving Instruction" and 9 'Traffic Schools" or the information or literature is only the 10 11 traffic school reference guide. When such information is a public record as defined in chapter 119, it shall be made 12 available upon request pursuant to s. 119.07(1). After January 13 1, 2000, the information or literature may only be the traffic 14 school reference guide or a reference to only the telephone 15 directory heading of "Driving Instruction." No person shall 16 17 mark, annotate, highlight, or otherwise alter the traffic school reference guide prior to distribution to individual 18 19 citizens. Law enforcement agencies may distribute the traffic school reference guide with every moving violation citation. 20 This section does not prohibit a court from ordering a person 21 22 to attend driver improvement training. Section 3. Section 322.0261, Florida Statutes, is 23 24 amended to read: 25 322.0261 Mandatory basic driver improvement course; certain crashes accidents. --26 27 (1) The department shall screen crash accident reports 28 received under s. 316.066 or s. 324.051 to identify crashes 29 accidents involving the following: 30 31 8

1 (a) A crash that involves An accident involving death 2 or a bodily injury requiring transport to a medical facility; 3 or A second crash accident by the same operator 4 (b) 5 within the previous 2-year period involving property damage in б an apparent amount of at least \$500. 7 (2) With respect to an operator convicted of, or who 8 pleaded nolo contendere to, a traffic offense giving rise to a 9 crash an accident identified pursuant to subsection (1), the 10 department shall require that the operator, in addition to 11 other applicable penalties, attend a departmentally approved basic driver improvement course in order to maintain driving 12 13 privileges. If the operator fails to complete the course within 90 days after of receiving notice from the department, 14 the operator's driver's license shall be canceled by the 15 department until the course is successfully completed. 16 17 (3) In determining whether to approve a basic driver 18 improvement course for the purposes of this section, the 19 department shall consider course content designed to promote safety, driver awareness, crash accident avoidance techniques, 20 21 and other factors or criteria to improve driver performance 22 from a safety viewpoint. Section 4. Section 322.02615, Florida Statutes, is 23 24 created to read: 25 322.02615 Mandatory driver improvement course, certain 26 violations.--27 The department shall screen reports of convictions (1)28 for violations of chapter 316 to identify operators who: 29 Are less than 22 years of age and have been (a) 30 convicted of two or more noncriminal moving infractions. 31

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1	(b) Have received more than one noncriminal moving
2	infraction in a 12-month period.
3	(2) With respect to an operator convicted of, or who
4	pleaded nolo contendere to, a noncriminal traffic offense
5	identified under subsection (1), the department shall require
6	that the operator, in addition to other applicable penalties,
7	attend a departmentally approved driver improvement course in
8	order to maintain driving privileges. If the operator fails to
9	complete the course within 90 days after receiving notice from
10	the department, the operator's driver's license shall be
11	canceled by the department until the course is successfully
12	completed.
13	(3) Attendance of a course approved by the department
14	as a driver improvement course for purposes of s. 318.14(9)
15	shall satisfy the requirements of this section. However,
16	attendance of a course as required by this section is not
17	included in the limitation on the total number of course
18	elections under s. 318.14(9).
19	Section 5. Section 322.095, Florida Statutes, is
20	amended to read:
21	322.095 Traffic law and substance abuse education
22	program for driver's license applicants
23	(1) The Department of Highway Safety and Motor
24	Vehicles must approve traffic law and substance abuse
25	education courses that must be completed by applicants for a
26	Florida driver's license. The curricula for the courses must
27	provide instruction on the physiological and psychological
28	consequences of the abuse of alcohol and other drugs, the
29	societal and economic costs of alcohol and drug abuse, the
30	effects of alcohol and drug abuse on the driver of a motor
31	vehicle, and the laws of this state relating to the operation
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1 of a motor vehicle. Courses must be held in a classroom setting where all students are present and under the direct 2 3 instruction of a certified instructor who uses techniques that provide for interactive participation by the students. A 4 5 course provider may not use a teaching format that includes б home study or distance learning and a course may not consist 7 exclusively of electronic or video presentations.All 8 instructors teaching the courses shall be certified by the course provider department. Any curriculum that is 9 10 provisionally or fully approved for use in this state may only 11 use the teaching methodologies or techniques under which the curriculum was originally approved by the department. Any 12 variation of teaching methodology or technique must be 13 approved by the department and must be based, in part, upon 14 statistical evidence that demonstrates effectiveness in 15 reducing crash recidivism or violation recidivism at 16 17 statistically significant levels. The effectiveness study referenced in subsection (3) may be performed only once every 18 19 6 months and the department may not conduct more than two studies for any one course. An effectiveness study may not be 20 21 conducted for a course later then 3 years after the initial 22 study. The department shall ensure that each course 23 (2)24 provider follows the criteria required for instructors. The 25 provider must certify that an instructor has at least a high school diploma or GED and 2 years of documented teaching 26 27 experience in an academics field, including safety, criminal justice, behavioral science, or a related subject matter, or 2 28 29 years of documented formal education beyond high school, or 2 30 years of documented full-time employment experience in safety, criminal justice, behavioral science, or a related field. The 31

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1 instructor must have a valid driver's license at the time of certification and throughout the certification period, with 2 3 not more than two moving violations during the prior 3 years or any violation that results in suspension or revocation of 4 5 the instructor's driver license. A person who has been found б guilty of any felony or any offense involving driving under 7 the influence during the prior 10 years may not be certified 8 as an instructor. The provider shall recertify an instructor every 2 years if the instructor remains qualified for 9 certification. In order to maintain qualification for 10 11 certification, an instructor must complete at least 8 hours of course-specific, inservice education every 2 years and must 12 teach at least two complete courses each year for every course 13 for which the instructor holds certification, however, an 14 instructor who holds a certification by the department 15 pursuant to s. 322.292 to teach DUI courses at the time of 16 17 recertification and who has taught at least two complete DUI courses each year during the recertification period shall be 18 19 exempted from the 8-hour course-specific, inservice education requirement solely as it relates to the instructors' 20 recertification as an instructor for the traffic law and 21 substance abuse education courses referred to in s. 322.095 22 for that recertification period. This subsection does not 23 apply to an instructor who is certified before January 1, 24 25 1999, so long as the instructor's certification is not canceled, does not expire, or is not otherwise interrupted. 26 27 (3) (3) (2) The department shall conduct studies contract for an independent evaluation of the traffic law and substance 28 29 abuse education courses, and shall provide documentation to 30 the Legislature by October 1, 2000, and at least once every 5 31 years thereafter measuring course effectiveness. Local DUI 12

1 programs authorized under s. 316.193(5) and certified by the 2 department or a driver improvement school may offer a traffic 3 law and substance abuse education course. However, prior to offering the course, the course provider must obtain 4 5 certification from the department that the course complies б with the requirements of this section. The course provider must offer the approved course at locations reasonably 7 8 accessible to most applicants and must issue a certificate to 9 those persons successfully completing the course.

10 (4)(3) The completion of a course does not qualify a 11 person for the reinstatement of a driver's license which has 12 been suspended or revoked.

13 <u>(5)(4)</u> The fee charged by the course provider must 14 bear a reasonable relationship to the cost of the course. The 15 department must conduct financial audits of course providers 16 conducting the education courses required under this section 17 or require that financial audits of providers be performed, at 18 the expense of the provider, by a certified public accountant.

19 (6)(5) The provisions of this section do not apply to 20 any person who has been licensed in any other jurisdiction or 21 who has satisfactorily completed a Department of Education 22 driver's education course offered pursuant to s. 233.063.

(7) (6) Each course provider must collect a \$3 23 24 assessment fee in addition to the enrollment fee charged to participants of the traffic law and substance abuse course 25 required under this section. The \$3 assessment fee collected 26 by the course provider must be forwarded to the department 27 28 within 30 days after receipt of the assessment. These funds 29 shall be deposited into the Highway Safety Operating Trust 30 Fund and used to administer and enforce laws regulating the

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1 traffic law and substance abuse education courses and for the general operations of the department. 2 3 (8) The department shall adopt rules providing for the 4 issuance of a course completion certificate number to each 5 person who completes an approved traffic law and substance б abuse education course, and shall implement a system for 7 tracking the course completion certificate numbers to ensure 8 course completion certificates are not used by more than one person, and to assist in the evaluation of course 9 10 effectiveness. 11 Section 6. Paragraph (a) of subsection (2) of section 322.271, Florida Statutes, 1998 Supplement, is amended to 12 13 read: 14 322.271 Authority to modify revocation, cancellation, 15 or suspension order. --(2)(a) Upon such hearing, the person whose license has 16 17 been suspended, canceled, or revoked may show that such suspension, cancellation, or revocation of his or her license 18 19 causes a serious hardship and precludes the person's carrying 20 out his or her normal business occupation, trade, or 21 employment and that the use of the person's license in the normal course of his or her business is necessary to the 22 proper support of the person or his or her family. Except as 23 24 otherwise provided in this subsection, the department shall 25 require proof of the successful completion of an approved driver training or substance abuse education course and may 26 27 require letters of recommendation from respected business 28 persons in the community, law enforcement officers, or 29 judicial officers in determining whether such person should be permitted to operate a motor vehicle on a restricted basis for 30 31 business or employment use only and in determining whether

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1 such person can be trusted to so operate a motor vehicle. If a 2 driver's license has been suspended under the point system or 3 pursuant to s. 322.2615, the department shall require proof of 4 enrollment in a department-approved advanced an approved 5 driver improvement training course or substance abuse б education course, and may require the letters of 7 recommendation described in this subsection to determine if 8 the driver should be reinstated on a restricted basis; if such 9 person fails to complete the approved course within 90 days 10 after reinstatement, the department shall cancel his or her 11 driver's license until the course is successfully completed. The privilege of driving on a limited or restricted basis for 12 13 business or employment use shall not be granted to a person who has been convicted of a violation of s. 316.193 until 14 completion of such education or training course. Except as 15 provided in paragraph (b), the privilege of driving on a 16 17 limited or restricted basis for business or employment use shall not be granted to a person whose license is revoked 18 19 pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and 20 who has been convicted of a violation of s. 316.193 two or more times or whose license has been suspended two or more 21 22 times for refusal to submit to a test pursuant to s. 322.2615 or former s. 322.261. 23 24 Section 7. Paragraph (a) of subsection (1) and 25 subsection (2) of section 322.291, Florida Statutes, are 26 amended to read: 27 322.291 Driver improvement schools; required in 28 certain suspension and revocation cases. -- Except as provided 29 in s. 322.03(2), any person: (1) Whose driving privilege has been revoked: 30 31 (a) Upon conviction for: 15

1 1. Driving, or being in actual physical control of, 2 any vehicle while under the influence of alcoholic beverages, 3 any chemical substance set forth in s. 877.111, or any 4 substance controlled under chapter 893, in violation of s. 5 316.193; б 2. Driving with an unlawful blood- or breath-alcohol 7 level; 8 3. Manslaughter resulting from the operation of a 9 motor vehicle; 10 4. Failure to stop and render aid as required under 11 the laws of this state in the event of a motor vehicle crash accident resulting in the death or personal injury of another; 12 13 5. Reckless driving; or (2) Whose license was suspended under the point 14 system, was suspended for driving with an unlawful 15 blood-alcohol level of 0.10 percent or higher before January 16 17 1, 1994, was suspended for driving with an unlawful blood-alcohol level of 0.08 percent or higher after December 18 19 31, 1993, or was suspended for refusing to submit to a lawful 20 breath, blood, or urine test as provided in s. 322.2615 21 shall, before the driving privilege may be reinstated, present 22 to the department proof of completion of enrollment in a 23 24 department-approved advanced driver improvement course or 25 substance abuse education course. If the person fails to complete such course within 90 days after reinstatement, the 26 27 driver's license shall be canceled by the department until 28 such course is successfully completed. 29 Section 8. Subsection (1) of section 627.06501, 30 Florida Statutes, is amended to read: 31

1	627.06501 Insurance discounts for certain persons
2	completing driver improvement course
3	(1) Any rate, rating schedule, or rating manual for
4	the liability, personal injury protection, and collision
5	coverages of a motor vehicle insurance policy filed with the
6	department may provide for an appropriate reduction in premium
7	charges as to such coverages when the principal operator on
8	the covered vehicle has successfully completed a driver
9	improvement course approved and certified by the Department of
10	Highway Safety and Motor Vehicles which is effective in
11	reducing crash or violation rates, or both, as determined
12	pursuant to s. $318.1451(6)(5)$. Any discount, not to exceed 10
13	percent, used by an insurer is presumed to be appropriate
14	unless credible data demonstrates otherwise.
15	Section 9. Funds in the amount of $$384,956$ and eight
16	positions are appropriated from the Highway Safety Operating
17	Trust Fund to provide for monitoring the administration and
18	presentation of driver improvement school courses.
19	Section 10. This act shall take effect October 1,
20	1999.
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1	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
2	<u>SB 1656</u>
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4	The CS revises educational requirements for course instructors.
5 6	The CS deletes a requirement that providers seeking course approval after July 1, 1999, would be required to pay an
7	application fee of \$10,000.
, 8	The CS deletes a requirement that course providers pay a fee of \$5,000 for each course effectiveness study conducted by
9	DHSMV.
10	The CS prohibits public employees and public entities from providing the public specific information regarding individual
11	driver improvement schools, unless the information is a public record.
12	The CS creates a traffic school reference guide (information
13	regarding basic driver improvement courses) and provides public employees and public entities may only provide the guide to the public. Law enforcement officers may provide
14	motorists with the guide when issuing citations for moving violations. The CS provides for the content of the guide,
15	including who may appear in the guide and the order in which course providers may appear.
16	The CS deletes a provision requiring that persons involved in
17	crashes involving property damage in excess of \$500 must attend a basic driver improvement course.
18	The CS deletes a provision requiring driver's license
19 20	applicants who are 16 or 17 must complete a basic driver improvement course.
20	The CS provides an appropriation for DHSMV to monitor the administration and presentation of driver improvement school
22	courses.
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