A bill to be entitled

An act relating to driving under the influence; amending s. 322.271, F.S.; providing for issuance of driver licenses for limited purposes to participants in postadjudication DUI programs who meet specified requirements; conforming provisions; specifying responsibilities for monitoring compliance with driver license restrictions by program participants; deleting restrictions on when certain persons whose driving privilege has been revoked or whose driver license has been suspended due to driving under the influence may petition for reinstatement of their driving privilege or driving license on a restricted basis; amending s. 910.035, F.S.; including postadjudication DUI courts in provisions relating to problem-solving courts; amending ss. 61.13016, 322.055, 322.056, 322.057, 322.251, 322.2615, 322.2616, 322.282, 322.64, 562.11, 812.0155, and 984.09, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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Section 1. Subsection (1), paragraphs (a) and (c) of subsection (2), and subsection (3) of section 322.271, Florida Statutes, are amended to read:

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322.271 Authority to modify revocation, cancellation, or

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suspension order.-

- (1) (a) Upon the suspension, cancellation, or revocation of the driver license of any person as authorized or required in this chapter, except a person whose license is revoked as a habitual traffic offender under s. 322.27(5) or a person who is ineligible to be granted the privilege of driving on a limited ex restricted basis under subsection (2), the department shall immediately notify the licensee and, upon his or her request, shall afford him or her an opportunity for a hearing pursuant to chapter 120, as early as practicable within not more than 30 days after receipt of such request, in the county wherein the licensee resides, unless the department and the licensee agree that such hearing may be held in some other county.
- (b) A person whose driving privilege has been revoked under s. 322.27(5) may, upon expiration of 12 months from the date of such revocation, petition the department or postadjudication court program, as appropriate, for reinstatement of his or her driving privilege. Upon such petition and after investigation of the person's qualification, fitness, and need to drive, the department, pursuant to chapter 120, or a postadjudication court program, as appropriate, shall hold a hearing pursuant to chapter 120 to determine:
- 1. For a person who is not a participant in a postadjudication DUI court program, whether the driving privilege shall be reinstated on a restricted basis solely for business or employment purposes; or

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2. For a person who is a participant in a postadjudication DUI court program, whether the driving privilege shall be reinstated on a restricted basis solely for limited purposes. A person whose driving privilege is reinstated under this subparagraph may only exercise such a privilege in a vehicle equipped with an ignition interlock device pursuant to s.

322.2715 and must make regular court appearances, must comply with drug or alcohol testing as required by the court, must allow unscheduled home and work visits, and must comply with a long term substance abuse treatment plan.

- (c) For the purposes of this section, the term:
- 1. "A driving privilege restricted to employment purposes only" means a driving privilege that is restricted to driving to and from work and any necessary on-the-job driving required by an employer or occupation.
- 2.1. "A driving privilege restricted to <u>limited business</u> purposes only" means a driving privilege that is <u>restricted</u>

  limited to any driving necessary to maintain livelihood,
  including driving to and from work <u>and</u>, necessary on-the-job
  driving, driving for educational purposes, <u>driving for substance</u>
  abuse treatment, <u>and</u> driving to or from <u>for</u> church <u>or other</u>
  place of worship for services, driving to or from probation
  activities or court appearances, and for medical purposes. <u>In</u>
  addition, the court may, in its discretion, authorize travel to
  or from other activities.
  - 2. "A driving privilege restricted to employment purposes

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only" means a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.

Driving for any purpose other than as provided by this paragraph is not permitted by a person whose driving privilege has been restricted to employment or <u>limited business</u> purposes <u>only</u>. In addition, a person whose driving privilege is restricted to employment or <u>limited business</u> purposes <u>only</u> remains subject to any restriction that applied to the type of license which the person held at the time of the order of suspension, cancellation, or revocation.

- (2) At such hearing, the person whose license has been suspended, canceled, or revoked may show that such suspension, cancellation, or revocation causes a serious hardship and precludes the person from carrying out his or her normal business occupation, trade, or employment and that the use of the person's license in the normal course of his or her business is necessary to the proper support of the person or his or her family.
- (a) Except as otherwise provided in this subsection, the department shall require proof of the successful completion of the applicable department-approved driver training course operating pursuant to s. 318.1451 or DUI program substance abuse education course and evaluation as provided in s. 316.193(5). Letters of recommendation from respected business persons in the

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community, law enforcement officers, or judicial officers may also be required to determine whether the person should be permitted to operate a motor vehicle on a restricted basis for business or employment or limited purposes use only and in determining whether such person can be trusted to so operate a motor vehicle. If a driver license has been suspended under the point system or under s. 322.2615, the department shall require proof of enrollment in the applicable department-approved driver training course or licensed DUI program substance abuse education course, including evaluation and treatment, if referred, and may require letters of recommendation described in this paragraph to determine if the driver should be reinstated on a restricted basis. If the person fails to complete the approved course within 90 days after reinstatement or subsequently fails to complete treatment, the department shall cancel his or her driver license until the course and treatment, if applicable, is successfully completed, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender has reentered and is currently participating in treatment and has completed the DUI education course and evaluation requirement. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program. The

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privilege of driving on a limited or restricted basis for business or employment or limited purposes only use may not be granted to a person who has been convicted of a violation of s. 316.193 until completion of the DUI program substance abuse education course and evaluations as provided in s. 316.193(5). Except as provided in paragraph (c) or paragraph (d), the privilege of driving on a limited or restricted basis for business or employment or limited purposes only use may not be granted to a person whose license is revoked pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and who has been convicted of a violation of s. 316.193 two or more times or whose license has been suspended two or more times for refusal to submit to a test pursuant to s. 322.2615 or former s. 322.261.

(c) A person whose license has been revoked for a period of 5 years or less pursuant to s. 322.28(2)(a) may, 12 months after the date the revocation was imposed, petition the department for reinstatement of his or her driving privilege on a restricted basis. A person whose license has been revoked for more than 5 years under s. 322.28(2)(a) may, 24 months after the date the revocation was imposed, petition the department for reinstatement of his or her driving privilege on a restricted basis. Reinstatement under this subsection is restricted to business or employment or limited purposes only. In addition, the department shall require such persons, upon reinstatement to have not driven and to have been drug free for at least 12

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months immediately before the reinstatement, to be supervised by a DUI program licensed by the department, and to report to the program at least three times a year as required by the program for the duration of the revocation period for supervision. Such supervision includes evaluation, education, referral into treatment, and other activities required by the department. Such persons shall assume reasonable costs of supervision. If the person fails to comply with the required supervision, the program shall report the failure to the department, and the department shall cancel the person's driving privilege. This paragraph does not apply to any person whose driving privilege has been permanently revoked.

- (d) A participant in a postadjudication DUI court program may be granted a driving privilege restricted to employment or limited purposes only, at the discretion of the DUI court judge, after the participant completes 60 days in the program.

  Following successful completion of the postadjudication DUI court program, compliance with the requirements of a driving privilege restricted to employment or limited purposes only shall be monitored by the department.
- (3) Upon such hearing, the department <u>or the</u>

  <u>postadjudication DUI court</u>, <u>as appropriate</u>, shall either

  suspend, affirm, or modify its order and may restore to the

  licensee the privilege of driving on a <del>limited or</del> restricted

  basis for <del>business or</del> employment <u>or limited purposes</u> <del>use</del> only.
  - Section 2. Paragraph (a) of subsection (5) of section

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183 910.035, Florida Statutes, is amended to read:

910.035 Transfer from county for plea, sentence, or participation in a problem-solving court.—

- (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—
- (a) For purposes of this subsection, the term "problem-solving court" means a drug court pursuant to s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans' court pursuant to s. 394.47891, s. 948.08, s. 948.16, or s. 948.21; or a mental health court.
- Section 3. Paragraph (a) of subsection (2) of section 61.13016, Florida Statutes, is amended to read:
  - 61.13016 Suspension of driver licenses and motor vehicle registrations.—
  - (2) (a) Upon petition filed by the obligor in the circuit court within 20 days after the mailing date of the notice, the court may, in its discretion, direct the department to issue a license for driving privilege restricted to <a href="Limited business">Limited business</a> purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. As a condition for the court to exercise its discretion under this subsection, the obligor must agree to a schedule of payment on any child support arrearages and to maintain current child support obligations. If the obligor fails to comply with the schedule of payment, the court shall direct the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver license.

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Section 4. Subsections (1) through (5) of section 322.055, Florida Statutes, are amended to read:

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322.055 Revocation or suspension of, or delay of eligibility for, driver license for persons 18 years of age or older convicted of certain drug offenses.—

Notwithstanding s. 322.28, upon the conviction of a person 18 years of age or older for possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, the court shall direct the department to revoke the driver license or driving privilege of the person. The period of such revocation shall be 1 year or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families. However, the court may, in its sound discretion, direct the department to issue a license for driving privilege restricted to business or employment or limited purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

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If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is eligible by reason of age for a driver license or privilege, the court shall direct the department to withhold issuance of such person's driver license or driving privilege for a period of 1 year after the date the person was convicted or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families. However, the court may, in its sound discretion, direct the department to issue a license for driving privilege restricted to business or employment or limited purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

(3) If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person's driver license or driving privilege is already under

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suspension or revocation for any reason, the court shall direct the department to extend the period of such suspension or revocation by an additional period of 1 year or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families. However, the court may, in its sound discretion, direct the department to issue a license for driving privilege restricted to business or employment or limited purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

(4) If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is ineligible by reason of age for a driver license or driving privilege, the court shall direct the department to withhold issuance of such person's driver license or driving privilege for a period of 1 year after the date that he or she would otherwise have become eligible or until he or she becomes

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eligible by reason of age for a driver license and is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families. However, the court may, in its sound discretion, direct the department to issue a license for driving privilege restricted to business or employment or limited purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

(5) A court that orders the revocation or suspension of, or delay in eligibility for, a driver license pursuant to this section shall make a specific, articulated determination as to whether the issuance of a license for driving privilege restricted to <a href="mailto:limited">limited</a> business purposes only, as defined in s. 322.271, is appropriate in each case.

Section 5. Subsection (1) of section 322.056, Florida Statutes, is amended to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses;

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313 prohibition.—

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(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

- (a) The person is eligible by reason of age for a driver license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his or her driver license or driving privilege for a period of:
- 1. Not less than 6 months and not more than 1 year for the first violation.
  - 2. Two years, for a subsequent violation.
- (b) The person's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period of:
- 1. Not less than 6 months and not more than 1 year for the first violation.
  - 2. Two years, for a subsequent violation.
- (c) The person is ineligible by reason of age for a driver license or driving privilege, the court shall direct the department to withhold issuance of his or her driver license or driving privilege for a period of:
- 1. Not less than 6 months and not more than 1 year after the date on which he or she would otherwise have become eligible, for the first violation.

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2. Two years after the date on which he or she would otherwise have become eligible, for a subsequent violation.

- However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment or limited purposes only, as defined in s. 322.271, if the person is otherwise qualified for such a license.
- Section 6. Subsection (2) of section 322.057, Florida

  Statutes, is amended to read:
  - 322.057 Discretionary revocation or suspension of driver license for certain persons who provide alcohol to persons under 21 years of age.—
  - (2) The court may direct the department to issue a driver license restricted to business or employment or limited purposes only, as provided in s. 322.271, to a person who is otherwise qualified for a license.
  - Section 7. Paragraph (a) of subsection (7) of section 322.251, Florida Statutes, is amended to read:
  - 322.251 Notice of cancellation, suspension, revocation, or disqualification of license.—
  - (7)(a) A person whose driving privilege is suspended or revoked pursuant to s. 832.09 shall be notified, pursuant to this section, and the notification shall direct the person to surrender himself or herself to the sheriff who entered the warrant to satisfy the conditions of the warrant. A person whose

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driving privilege is suspended or revoked under this subsection shall not have his or her driving privilege reinstated for any reason other than:

- 1. Full payment of any restitution, court costs, and fees incurred as a result of a warrant or capias being issued pursuant to s. 832.09;
- 2. The cancellation of the warrant or capias from the Department of Law Enforcement recorded by the entering agency; and
- 3. The payment of an additional fee of \$10 to the Department of Highway Safety and Motor Vehicles to be paid into the Highway Safety Operating Trust Fund; or
- 4. The department has modified the suspension or revocation of the license pursuant to s. 322.271 restoring the driving privilege solely for <del>business or</del> employment <u>or limited</u> purposes.
- Section 8. Subsection (10) of section 322.2615, Florida Statutes, is amended to read:
  - 322.2615 Suspension of license; right to review.-
- (10) A person whose driver license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment or limited purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.
- (a) If the suspension of the driver license of the person for failure to submit to a breath, urine, or blood test is

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sustained, the person is not eligible to receive a license for business or employment or limited purposes only, pursuant to s. 322.271, until 90 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment or limited purposes only license pursuant to s. 322.271 until 90 days have elapsed from the date of the suspension.

(b) If the suspension of the driver license of the person relating to unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher is sustained, the person is not eligible to receive a license for business or employment or limited purposes only pursuant to s. 322.271 until 30 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension relating to unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher is not invalidated by the department, the driver is not eligible to receive a business or employment or limited purposes only license pursuant to s. 322.271 until 30 days have elapsed from the date of the suspension.

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Section 9. Subsection (11) of section 322.2616, Florida

417 Statutes, is amended to read:

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

(11) A person whose driver license is suspended under subsection (2) or subsection (4) may apply for issuance of a license for business or employment or limited purposes only, pursuant to s. 322.271, if the person is otherwise eligible for the driving privilege. However, such a license may not be issued until 30 days have elapsed after the expiration of the last temporary driving permit issued under this section.

Section 10. Paragraph (b) of subsection (2) of section 322.282, Florida Statutes, is amended to read:

322.282 Procedure when court revokes or suspends license or driving privilege and orders reinstatement.—When a court suspends or revokes a person's license or driving privilege and, in its discretion, orders reinstatement:

(2)

(b) The temporary driver permit shall be restricted to either the business or employment or limited purposes described in s. 322.271, as determined by the department, and shall not be used for pleasure, recreational, or nonessential driving.

Section 11. Subsection (10) of section 322.64, Florida Statutes, is amended to read:

322.64 Holder of commercial driver license; persons operating a commercial motor vehicle; driving with unlawful blood-alcohol level; refusal to submit to breath, urine, or

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443 blood test.-

- (10) A person who is disqualified from operating a commercial motor vehicle under subsection (1) or subsection (3) is eligible for issuance of a license for business or employment or limited purposes only under s. 322.271 if the person is otherwise eligible for the driving privilege. However, such business or employment or limited purposes only license shall not authorize the driver to operate a commercial motor vehicle.
- Section 12. Paragraph (a) of subsection (1) of section 562.11, Florida Statutes, is amended to read:
  - 562.11 Selling, giving, or serving alcoholic beverages to person under age 21; providing a proper name; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—
  - (1) (a) 1. A person may not sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age or permit a person under 21 years of age to consume such beverages on the licensed premises. A person who violates this subparagraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who violates this subparagraph a second or subsequent time within 1 year after a prior conviction commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
  - 2. In addition to any other penalty imposed for a violation of subparagraph 1., the court may order the Department of Highway Safety and Motor Vehicles to withhold the issuance

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of, or suspend or revoke, the driver license or driving privilege, as provided in s. 322.057, of any person who violates subparagraph 1. This subparagraph does not apply to a licensee, as defined in s. 561.01, who violates subparagraph 1. while acting within the scope of his or her license or an employee or agent of a licensee, as defined in s. 561.01, who violates subparagraph 1. while engaged within the scope of his or her employment or agency.

- 3. A court that withholds the issuance of, or suspends or revokes, the driver license or driving privilege of a person pursuant to subparagraph 2. may direct the Department of Highway Safety and Motor Vehicles to issue the person a license for driving privilege restricted to <a href="Limited business">Limited business</a> purposes only, as defined in s. 322.271, if he or she is otherwise qualified.
- Section 13. Subsection (5) of section 812.0155, Florida Statutes, is amended to read:
- $\,$  812.0155  $\,$  Suspension of driver license following an adjudication of guilt for theft.—
- (5) A court that suspends the driver license of a person pursuant to subsection (1) may direct the Department of Highway Safety and Motor Vehicles to issue the person a license for driving privilege restricted to <u>limited business</u> purposes only, as defined in s. 322.271, if he or she is otherwise qualified.
- Section 14. Paragraph (d) of subsection (4) of section 984.09, Florida Statutes, is amended to read:
  - 984.09 Punishment for contempt of court; alternative

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- (4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE PROCESS.—
- In addition to any other sanction imposed under this (d) section, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend, a child's driver license or driving privilege. The court may order that a child's driver license or driving privilege be withheld or suspended for up to 1 year for a first offense of contempt and up to 2 years for a second or subsequent offense. If the child's driver license or driving privilege is suspended or revoked for any reason at the time the sanction for contempt is imposed, the court shall extend the period of suspension or revocation by the additional period ordered under this paragraph. If the child's driver license is being withheld at the time the sanction for contempt is imposed, the period of suspension or revocation ordered under this paragraph shall begin on the date on which the child is otherwise eligible to drive. For a child in need of services whose driver license or driving privilege is suspended under this paragraph, the court may direct the Department of Highway Safety and Motor Vehicles to issue the child a license for driving privileges restricted to business or employment or limited purposes only, as defined in s. 322.271, or for the purpose of completing court-ordered community service, if the child is otherwise qualified for a license. However, the department may not issue a restricted

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license unless specifically ordered to do so by the court.

Section 15. This act shall take effect October 1, 2016.

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