

Committee Substitute for
Committee Substitute for Senate Bill No. 1056

An act relating to driving under the influence of alcohol or drugs; amending s. 322.34, F.S.; providing that a motor vehicle is subject to forfeiture under the Florida Contraband Act if the motor vehicle is driven by a person under the influence of alcohol or drugs and the person's license is suspended as a result of a prior conviction for driving under the influence; requiring that notification of the impoundment or seizure be sent to the Department of Highway Safety and Motor Vehicles; amending s. 932.701, F.S., relating to definitions with respect to the Florida Contraband Act; redefining the term "contraband article" to conform to changes made by the act; reenacting s. 932.703, F.S., relating to forfeiture of contraband articles, to incorporate the amendment to s. 932.701, F.S., in references; amending ss. 316.192, 316.193, 322.271, 322.291, F.S.; providing that any person convicted of driving under the influence must, in addition to any other penalties provided by law, complete a substance abuse education course conducted by a licensed DUI program, including a psychosocial evaluation, and, if referred, substance abuse treatment; providing criteria for temporary reinstatement of driving privileges by the Department of Highway Safety and Motor Vehicles; deleting the requirement that the clerk send a second notice of impoundment or immobilization of a vehicle to the registered owner; clarifying references to certain courses; amending s. 318.1451, F.S.; prohibiting governmental entities or courts from providing, maintaining, or disclosing certain information relating to certain schools or course providers; amending s. 322.292, F.S.; providing criteria for the granting of DUI program licenses and deleting obsolete provisions; providing an effective date.

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

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

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

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

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

(c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when the seizing agency obtains a final judgment granting forfeiture of the motor vehicle under this section, 30 percent of the net proceeds from the sale of the motor vehicle shall be retained by the seizing law enforcement agency and 70 percent shall be deposited in the General Revenue Fund for use by local WAGES coalitions in providing transportation services for participants of the WAGES program. In a forfeiture proceeding under this section, the court may consider the extent that the family of the owner has other public or private means of transportation.

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

932.701 Short title; definitions.—

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

(a) “Contraband article” means:

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

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

3. Any equipment, liquid or solid, which was being used, is being used, was attempted to be used, or intended to be used in violation of the beverage or tobacco laws of the state.

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

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

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

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

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

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

932.703 Forfeiture of contraband article; exceptions.—

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

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

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

(d) The seizing agency may not use the seized property for any purpose until the rights to, interest in, and title to the seized property are perfected in accordance with the Florida Contraband Forfeiture Act. This section does not prohibit use or operation necessary for reasonable maintenance of seized property. Reasonable efforts shall be made to maintain seized property in such a manner as to minimize loss of value.

(2)(a) Personal property may be seized at the time of the violation or subsequent to the violation, if the person entitled to notice is notified at the time of the seizure or by certified mail, return receipt requested, that there is a right to an adversarial preliminary hearing after the seizure to determine whether probable cause exists to believe that such property has been or is being used in violation of the Florida Contraband Forfeiture Act. Seizing agencies shall make a diligent effort to notify the person entitled to notice of the seizure. Notice provided by certified mail must be mailed within 5 working days after the seizure and must state that a person entitled to notice may request an adversarial preliminary hearing within 15 days after receiving such notice. When a postseizure, adversarial preliminary hearing as provided in this section is desired, a request must be made in writing by

certified mail, return receipt requested, to the seizing agency. The seizing agency shall set and notice the hearing, which must be held within 10 days after the request is received or as soon as practicable thereafter.

(b) Real property may not be seized or restrained, other than by *lis pendens*, subsequent to a violation of the Florida Contraband Forfeiture Act until the persons entitled to notice are afforded the opportunity to attend the pre-seizure adversarial preliminary hearing. A *lis pendens* may be obtained by any method authorized by law. Notice of the adversarial preliminary hearing shall be by certified mail, return receipt requested. The purpose of the adversarial preliminary hearing is to determine whether probable cause exists to believe that such property has been used in violation of the Florida Contraband Forfeiture Act. The seizing agency shall make a diligent effort to notify any person entitled to notice of the seizure. The pre-seizure adversarial preliminary hearing provided herein shall be held within 10 days of the filing of the *lis pendens* or as soon as practicable.

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

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

(3) Neither replevin nor any other action to recover any interest in such property shall be maintained in any court, except as provided in this act; however, such action may be maintained if forfeiture proceedings are not initiated within 45 days after the date of seizure. However, if good cause is shown, the court may extend the aforementioned prohibition to 60 days.

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

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

- (a) Cannot be located;
- (b) Has been transferred to, sold to, or deposited with, a third party;
- (c) Has been placed beyond the jurisdiction of the court;
- (d) Has been substantially diminished in value by any act or omission of the person in possession of the property; or
- (e) Has been commingled with any property which cannot be divided without difficulty.

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

(b) A bona fide lienholder's interest that has been perfected in the manner prescribed by law prior to the seizure may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by a preponderance of the evidence that the lienholder had actual knowledge, at the time the lien was made, that the property was being employed or was likely to be employed in criminal activity. If a lienholder's interest is not subject to forfeiture under the requirements of this section, such interest shall be preserved by the court by ordering the lienholder's interest to be paid as provided in s. 932.7055.

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

(d) A vehicle that is rented or leased from a company engaged in the business of renting or leasing vehicles, which vehicle was rented or leased in the manner prescribed by law prior to the seizure, may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by preponderance of the evidence that the renter or lessor had actual knowledge, at the time the vehicle was rented or leased, that the vehicle was being employed or was likely to be employed in criminal activity. When a vehicle that is rented or leased from a company engaged in the business of renting or leasing vehicles is seized under the Florida Contraband Forfeiture Act, upon learning the address or phone number of the company, the seizing law enforcement agency shall, as soon as practicable, inform the company that the vehicle has been seized and is available for the company to take possession.

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

(8) It is an affirmative defense to a forfeiture proceeding that the nexus between the property sought to be forfeited and the commission of any underlying violation was incidental or entirely accidental. The value of the property sought to be forfeited in proportion to any other factors must not be considered in any determination as to this affirmative defense.

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

316.192 Reckless driving.—

(4) In addition to any other penalty provided under this section, if the court has reasonable cause to believe that the use of alcohol, chemical substances set forth in s. 877.111, or substances controlled under chapter 893 contributed to a violation of this section, the court shall direct the person so convicted to complete a DUI program ~~the substance abuse education course and evaluation as~~ provided in s. 316.193(5) within a reasonable period of time specified by the court. If the DUI program agency conducting such course and evaluation refers ~~may refer~~ the person to an authorized substance abuse treatment provider agency for substance abuse evaluation and treatment, ~~the directive of the court requiring completion of such course, evaluation, and treatment shall be enforced as provided in s. 322.245. The referral to treatment resulting from the DUI program evaluation may not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider, appointed by the court, which shall have access to the DUI program psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. ~~If a person directed referred to a DUI program substance abuse education course and evaluation or referred to treatment under this subsection fails to report for or complete such course, evaluation, or treatment or education, the agency conducting the DUI program shall notify the court and the department of the failure. Upon receipt of such notice, the department shall cancel the person's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may shall~~ reinstate the driving privilege upon verification from the DUI program that the education, evaluation, and treatment are completed. The department may temporarily reinstate the driving~~

privilege on a restricted basis upon verification that the offender 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 successful completion of treatment from the DUI program, when the person completes the substance abuse education course or reenters treatment required under this subsection.

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

316.193 Driving under the influence; penalties.—

(5) The court shall place all offenders ~~any offender~~ convicted of violating this section on monthly reporting probation and shall require completion of attendance at a substance abuse course conducted by a DUI program licensed by the department under s. 322.292, which must include a psychosocial evaluation of the offender. If the DUI program refers licensed by the department; and the agency conducting the course may refer the offender to an authorized substance abuse treatment service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section, completion of all such education, evaluation, and treatment is a condition of reporting probation. The offender shall assume reasonable costs for such education, evaluation, and treatment, ~~with completion of all such education, evaluation, and treatment being a condition of reporting probation.~~ The referral to treatment resulting from a psychosocial evaluation shall ~~may not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider agency appointed by the court, which shall have and with access to the DUI program's psychosocial original evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver.~~ The offender shall bear the full cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the DUI program substance abuse education course and evaluation, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department ~~may temporarily~~ shall reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender is currently participating in treatment and the DUI education course and evaluation requirement has been completed. 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 when the offender completes the substance abuse education course or enters treatment required under this subsection. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the

department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. All DUI treatment programs providing treatment services on January 1, 1994, shall be allowed to continue to provide such services until the department determines whether a waiver should be granted. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

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

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vehicle. Within 7 business days after the date that the court issues the order of impoundment or immobilization, and ~~once again 30 business days before the actual impoundment or immobilization of the vehicle,~~ the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

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

318.1451 Driver improvement schools.—

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

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

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

322.271 Authority to modify revocation, cancellation, or suspension order.—

(2)(a) Upon such hearing, the person whose license has been suspended, canceled, or revoked may show that such suspension, cancellation, or revocation of his or her license causes a serious hardship and precludes the person's 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. Except as otherwise provided in this subsection, the department

shall require proof of the successful completion of the applicable department ~~an 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). ~~and may require~~ Letters of recommendation from respected business persons in the community, law enforcement officers, or judicial officers ~~may also be required to determine in determining~~ whether such person should be permitted to operate a motor vehicle on a restricted basis for business or employment use only and in determining whether such person can be trusted to so operate a motor vehicle. If a driver's license has been suspended under the point system or pursuant to s. 322.2615, the department shall require proof of enrollment in the applicable department ~~an approved driver training course or licensed DUI program~~ substance abuse education course, including evaluation and treatment, if referred, and may require ~~the~~ letters of recommendation described in this subsection to determine if the driver should be reinstated on a restricted basis. If such person fails to complete the approved course within 90 days after reinstatement or subsequently fails to complete treatment, if applicable, the department shall cancel his or her driver's 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 privilege of driving on a limited or restricted basis for business or employment use shall 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 ~~such~~ education ~~or training~~ course and evaluations as provided in s. 316.193(5). Except as provided in paragraph (b), the privilege of driving on a limited or restricted basis for business or employment use shall 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.

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

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

- (1) Whose driving privilege has been revoked:
 - (a) Upon conviction for:

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

2. Driving with an unlawful blood- or breath-alcohol level;
 3. Manslaughter resulting from the operation of a motor vehicle;
 4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;
 5. Reckless driving; or
- (b) As an habitual offender;
- (c) Upon direction of the court, if the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the revocation of the licensee's driving privilege; or

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

shall, before the driving privilege may be reinstated, present to the department proof of enrollment in a department-approved advanced driver improvement course operating pursuant to s. 318.1451 or a substance abuse education course conducted by a DUI program licensed pursuant to s. 322.292, which shall include a psychosocial evaluation and treatment, if referred. If the person fails to complete such course or evaluation within 90 days after reinstatement, or subsequently fails to complete treatment, if referred, the DUI program shall notify the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the expiration of the suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege upon verification from the DUI program that the offender has completed the education course and evaluation requirement and has reentered and is currently participating in treatment. 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 driver's license shall be canceled by the department until such course is successfully completed.

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

322.292 DUI programs supervision; powers and duties of the department.—

(1) The Department of Highway Safety and Motor Vehicles shall license and regulate all DUI programs, which regulation shall include the certification of instructors, evaluators, clinical supervisors, and special supervision services evaluators ~~evaluator supervisors~~. The department shall, after consultation with the chief judge of the affected judicial circuit, establish requirements regarding the number of programs to be offered within a judicial

circuit. Such requirements shall address the number of clients currently served in the circuit as well as improvements in service that may be derived from operation of an additional DUI program. DUI program education and evaluation services are exempt from licensure under chapter chapters 396 and 397. However, treatment programs must continue to be licensed under chapter chapters 396 and 397.

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

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

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

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

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

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

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

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

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

2. In considering an application for approval of a DUI program, the department shall determine whether improvements in service may be derived from the operation of the DUI program and the number of clients

currently served in the circuit. The department shall apply the following criteria:

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

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

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

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

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

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

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

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

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

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

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

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

c. Have a classroom in each county in the circuit which is located in a permanent structure that is readily accessible by public transportation, if public transportation is available. A classroom is not required in any county where the total number of DUI convictions in the most recent calendar year

is less than 100. A classroom may not be located within 250 feet of any business that sells alcoholic beverages. However, a classroom shall not be required to be relocated when a business selling alcoholic beverages locates to within 250 feet of the classroom.

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

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

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

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

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

~~(d) Establish a fee structure for the various programs offered by the DUI programs, based only on the reasonable and necessary costs for operating the programs throughout the state. The department shall approve, modify, or reduce fees as necessary. The DUI programs fees that are in effect on January 1, 1994, shall remain in effect until the department adopts a fee schedule for the DUI programs system. After the adoption of the schedule, the programs shall adjust their fees to conform with the established amounts.~~

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

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

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

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

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

~~(5) The department shall report to the Supreme Court by December 1, 1994, and by December 31 of each succeeding year through 1996, on the general status of the statewide program. This report must include programmatic and statistical information regarding the number of licensed programs, enrollment and referral figures, program monitoring and evaluation activities, and findings, and the general steps taken by the department to implement the provisions of this section.~~

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

Approved by the Governor June 4, 1999.

Filed in Office Secretary of State June 4, 1999.