

**STORAGE NAME:** h0113.tr

**DATE:** November 18, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
ANALYSIS**

**BILL #:** HB 113

**RELATING TO:** Driver's License Suspension/DUI Test

**SPONSOR(S):** Rep. Wise

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TRANSPORTATION
  - (2) LAW ENFORCEMENT & CRIME PREVENTION
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
- 

I. SUMMARY:

This bill requires the Department of Highway Safety and Motor Vehicles (DHS&MV) to invalidate blood alcohol level administrative suspensions, if the suspended person is not convicted of an underlying violation of driving under the influence (DUI).

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 322.2615, F.S., mandates the administrative license suspension of a person arrested for a DUI violation under s. 316.193, F.S., when the person has a breath or blood alcohol level of .08 or higher. The statute provides for both administrative and judicial reviews of such suspensions. The statute also expressly provides that the disposition of any related criminal proceedings shall have no effect on the suspension. In addition, the disposition of the suspension shall not be considered in any related criminal proceedings. As a result both the administrative suspension and the DUI charge stand on their own merits, with each process independent and distinct from the other.

C. EFFECT OF PROPOSED CHANGES:

This bill requires DHS&MV to invalidate an administrative suspension for driving with an unlawful blood-alcohol level, if the suspended person is not convicted of the underlying DUI violation. It also clarifies that the disposition of a criminal proceeding does not affect a suspension for refusal to submit to a blood, breath or urine test.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

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2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

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C. OTHER COMMENTS:

DHS&MV's Comments:

1. The proposed language "not convicted" is too vague, indefinite and open-ended to be effectively applied, particularly since there is no time-frame within which a conviction may or may not occur. Also, the proposed language only affects "blood-alcohol level" suspensions. The present statute addresses both breath and blood alcohol levels, consistent with the present scheme of DUI related provisions. An amendment is recommended to address these concerns.
2. There are two timing issues associated with this bill. It is important to ensure that clarification is provided that the revised legislation affects only those suspensions occurring after the effective date. The proposed effective date does not provide adequate time for Information Systems Administration to make programmatic changes to the driver license database, therefore we are recommending a revised effective date of October 1, 2000.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

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Phillip B. Miller

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John R. Johnston