

STORAGE NAME: h0049s1.jud

DATE: October 5, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: CS/HB 49

RELATING TO: DUI/Substance Abuse Course/Minors

SPONSOR(S): Committee on Judiciary and Rep. Brummer

TIED BILL(S):

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

- (1) JUDICIARY YEAS 8 NAYS 0
 - (2) TRANSPORTATION
 - (3) LAW ENFORCEMENT & CRIME PREVENTION
 - (4)
 - (5)
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I. SUMMARY:

Current law requires the suspension of the drivers' license of a person under 21 years of age whose blood or breath alcohol level is .02 percent or higher or who refuses to submit to a test of his or her blood or breath alcohol. CS/HB 49 adds the requirement that the suspension shall remain in effect until the person completes a substance abuse course offered by a DUI program licensed by the Department of Highway Safety and Motor Vehicles. The bill allows the course provider to refer the driver to an authorized service provider for substance abuse evaluation or treatment. The bill requires the driver to bear the cost of such education, evaluation, or treatment.

The bill provides that if the driver fails to complete the substance abuse education course or any treatment, the Department shall not reinstate his or her license.

The bill provides that the agency offering the substance abuse education course or evaluation may not offer substance abuse treatment unless it receives a waiver by the Department. Such waiver may be granted only if the Department determines that the agency is the most appropriate service provider and is licensed under chapter 397, F.S., or exempt from such licensure.

The bill allows a law enforcement officer to take a minor under the age of 18 who is found to be driving with a blood or breath alcohol level of .02 percent to an addictions receiving facility in the county in which the minor is found to be driving if the county makes the facility available for such purpose.

The bill has an effective date of July 1, 2000.

The bill does not appear to have a significant fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

The bill requires a person who is under 21 years of age to take a substance abuse course as a predicate for reinstatement of his or her drivers' license following suspension of that license for DUI. It also allows a law enforcement officer to refer a minor who is under 18 years of age to a county addictions receiving facility if that minor is found to be DUI.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

The bill places law enforcement in the position of ordering substance abuse education or treatment for minors and persons under 21 years of age.

B. PRESENT SITUATION:

Section 322.2616, F.S., provides for the suspension of the driving privilege of a person under 21 years of age who has been driving or in actual physical control of a motor vehicle while having a breath alcohol level of .02 percent or higher. Such suspension must be made pursuant to notice by a law enforcement officer or the Department of Highway Safety and Motor Vehicles, and the driver is afforded the right to seek review of the suspension.

A suspension is terminated after 1 year if the driver refused to submit to a breath test or after 6 months if the driver was driving or in actual physical control of a motor vehicle while having a blood or breath alcohol level of .02 percent or higher. These suspension periods are for first offenses only.

A driver subject to suspension may seek a license for business or employment-related purposes, as long as the person is otherwise eligible for the driving privilege.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 49 makes the suspension period under s. 322.2616, F.S., permanent pending a driver's successful completion of a substance abuse or treatment program.

The bill requires that the suspension of the drivers' license of a person under 21 years of age whose blood or breath alcohol level is .02 percent or higher or who refuses to submit to a test of his or her blood or breath alcohol shall remain in effect until the person completes a substance abuse course offered by a DUI program licensed by the Department of Highway Safety and Motor Vehicles.

The bill allows the course provider to refer the driver to an authorized service provider for substance abuse evaluation or treatment. The driver must bear the cost of such education, evaluation, or treatment.

The bill provides that if the driver fails to report for or complete the substance abuse education course or any treatment, the Department shall not reinstate his or her license.

The bill provides that the agency offering the substance abuse education course and evaluation may not offer substance abuse treatment unless it receives a waiver by the Department. Such waiver may be granted only if the Department determines that the agency is the most appropriate service provider and is licensed under chapter 397, F.S., or exempt from such licensure.

The bill allows a law enforcement officer to take a minor under the age of 18 who is found to be driving with a blood or breath alcohol level of .02 percent to an addictions receiving facility in the county in which the minor is found to be driving if the county makes the facility available for such purpose.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Increased revenue to substance abuse course and treatment providers authorized or licensed by the Department of Highway Safety and Motor Vehicles.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

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

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The bill contains a number of technical inconsistencies. On page three, the bill refers to the substance abuse course provider as an "agency," which is a legal term of art. Later on that page, it uses the term "organization" to refer to that provider. Staff suggests that the term "entity" be used instead.

The bill also splits the terms "substance abuse course" and "substance abuse evaluation and treatment" throughout page three. In every case, the distinction between the "substance abuse course" and the "evaluation and treatment" must be made. In a number of places the phrase "education and evaluation" is used. It must be noted that the entity that provides the education is not necessarily the same entity that may provide evaluation and treatment.

Staff suggests that page three be re-drafted to capture all irregular uses of key terms.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On October 5 the Committee on Judiciary adopted one amendment and made the bill a committee substitute. The amendment corrects inconsistent use of various terms and contains related technical clarifications suggested by committee staff.

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VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

Prepared by:

Staff Director:

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Maggie Moody