

STORAGE NAME: h0049s2.lec

DATE: February 15, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: CS/CS/HB 49

RELATING TO: DUI/Substance Abuse Course/Minors

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

TIED BILL(S): SB 66 (c)

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

- (1) JUDICIARY YEAS 8 NAYS 0
 - (2) TRANSPORTATION YEAS 9 NAYS 2
 - (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 or higher or who refuses to submit to a test of his or her blood or breath alcohol. This bill makes numerous changes to the process for handling these suspensions. Primarily, the bill adds the requirement that the suspension remain in effect until the person completes a substance abuse course offered by a 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. If the driver fails to complete the substance abuse education course or any treatment, the Department cannot reinstate the person's license.

The bill also provides that if a minor under the age of 18 is found to be driving with a blood or breath alcohol level of .02 or higher, a law enforcement officer may take the minor to an addictions receiving facility in the county in which the minor is driving, if the county makes the facility available for this purpose.

In addition, the bill makes a number of changes related to temporary driving permits; the correction of technical deficiencies found during the informal hearing process; using blood test results obtained during a traffic investigation to suspend a driver's license; and immunity from civil liability for law enforcement officers who act in good faith and exercise due care. Finally, the bill makes several technical corrections, including deleting references to "percents" of alcohol levels and adding references to "blood alcohol" and "breath alcohol" levels.

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 driver's 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 driving with a blood or breath alcohol level of .02 or higher.

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 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 through either a formal or informal hearing. The officer takes the person's driver's license and issues a 10-day temporary driving permit if the person is otherwise eligible for driving privileges.

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 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.

Section 316.1932, F.S., provides that blood-alcohol level must be based upon grams of alcohol per 100 milliliters of blood, and breath-alcohol level must be based upon grams of alcohol per 210 liters of breath. The current references to alcohol level "percent" in s. 322.2616, F.S., are therefore incorrect.

C. EFFECT OF PROPOSED CHANGES:

This bill makes the suspension period under s. 322.2616, F.S., permanent pending a driver's successful completion of a substance abuse or treatment program. Further, the bill provides that a temporary driving permit may not be effective until 12 hours after the notice of suspension is issued.

The bill requires that the suspension of the driver's license of a person under 21 years of age for having a blood or breath alcohol level of .02 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 also allows the use of results of a blood test obtained during a traffic investigation to suspend a driver's license under this section.

The bill allows the substance abuse course program to refer the driver to an authorized service provider for substance abuse evaluation and 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 the person's license.

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

If a minor under the age of 18 is found to be driving with a blood or breath alcohol level of .02 or higher, a law enforcement officer may take the minor to an addictions receiving facility in the county in which the minor is driving, if the county makes the facility available for this purpose.

The bill also requires that the hearing officer notify the law enforcement officer of any technical deficiencies found during the informal hearing process. The notice must be provided to the law enforcement officer within one day, and the law enforcement officer has two days to correct the deficiencies.

Law enforcement officers who act in good faith and exercise due care in enforcing this section are made immune by the bill from civil liability for their actions.

Finally, the bill makes a number of technical corrections including deleting references to "percents" of alcohol levels, and adding appropriate references to "blood alcohol" and "breath alcohol" levels.

D. SECTION-BY-SECTION ANALYSIS:

N/A

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 providers of substance abuse courses, evaluation and treatment 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:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On October 5, 1999, the Committee on Judiciary considered House Bill 49 and adopted one amendment which corrected inconsistent uses of various terms and made a number of related technical clarifications suggested by committee staff. The bill was reported favorably as a committee substitute.

On January 18, 2000, the Committee on Transportation considered CS/HB 49 and adopted a strike everything amendment which added the following changes to the bill's provisions:

Provided that a temporary driving permit may not be issued until at least 12 hours after the notice of suspension is issued.

Provided that during an informal review the hearing officer must notify the law enforcement officer of any technical deficiencies within one day and the officer has two days to correct the deficiency.

Allowed the results of a blood test during a traffic investigation to be used to suspend a person's driver's license.

Provided law enforcement officers immunity from civil liability if the officer acts in good faith and exercises due care in enforcing this section.

Made technical and conforming changes, including deleting references to "percents" of alcohol levels, and adding appropriate references to "blood alcohol" and "breath alcohol" levels.

The bill as amended was reported favorably as CS/CS/HB 49.

VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

Prepared by:

Staff Director:

Michael W. Carlson

Maggie Moody

AS REVISED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Phillip B. Miller

John R. Johnston

AS REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

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