

**STORAGE NAME:** h0113s1.lecp

**DATE:** January 3, 2000

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

**BILL #:** CS/HB 113

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

**SPONSOR(S):** Committee on Transportation (EDC) and Rep. Wise

**TIED BILL(S):** None

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

- (1) TRANSPORTATION YEAS 9 NAYS 1
  - (2) LAW ENFORCEMENT AND 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 or breath alcohol level administrative suspensions, if the suspended person is found not guilty at trial of an underlying violation of driving under the influence (DUI).

The bill has no fiscal impact.

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 or breath-alcohol level, if the suspended person is found not guilty at trial 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

C. OTHER COMMENTS:

According to DHS&MV statistics, there were 55,705 DUI violations charged during the 1998 calendar year. Of those violations, 47,160 charges were resolved during the calendar year. About 89 percent of resolved charges (42,088 violations) resulted in "guilty" dispositions. Less than 1 percent of resolved charges (436 violations) resulted in "not guilty" dispositions. The remaining resolved charges were either dismissed or nol prossed, or were changed to another violation (usually reckless driving) for which adjudication was withheld.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House Committee on Transportation considered this bill on December 7, 1999. An amendment was adopted which made the following changes requested by DHS&MV:

- a) Included suspensions for breath-alcohol violations in the bill; the bill as originally filed only applied to blood-alcohol administrative suspensions.
- b) Provided that for the administrative suspension to be invalidated the person must be found not guilty of the DUI criminal violation at trial; the original bill required invalidation if the person was not convicted of a DUI violation.
- c) Changed the effective date from July 2000 to October 2000.

The bill as amended was reported favorably as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

John R. Johnston

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

Prepared by:

Allen Mortham Jr.

Staff Director:

Kurt E. Ahrendt