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DATE: March 16, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS**

BILL #: HB 29
RELATING TO: Driving Under Influence
SPONSOR(S): Representative(s) Brummer

TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTION & SAFETY YEAS 8 NAYS 1
 - (2) TRANSPORTATION YEAS 12 NAYS 0
 - (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

Current law requires suspension of the driver's 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. House Bill 29 adds the requirement that, for underage persons with a blood or breath alcohol level of .05, the suspension shall remain in effect until the person completes a substance abuse course and evaluation offered by a DUI program licensed by the Department of Highway Safety and Motor Vehicles. The bill requires the course provider to conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years, of the results of the evaluation. If the driver fails to complete the substance abuse education course and evaluation, the Department cannot reinstate the person's license. The bill requires the driver to bear the cost of the course and evaluation.

The bill authorizes 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, to an addictions receiving facility in the county in which the minor was found driving if the county makes the facility available for such purpose.

In addition, the bill makes a number of changes related to temporary driving permits and using blood test results obtained during a traffic investigation to suspend a driver's license. Finally, the bill makes several technical corrections, including deleting references to "percent" when referring to alcohol level and adding references to "blood alcohol" and "breath alcohol" levels.

The bill has an effective date of July 1, 2001.

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. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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"/> |

Less Government: 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 driving with a blood or breath alcohol level greater than 0.05. It also allows a law enforcement officer to refer a minor who is under 18 years of age to a county addiction receiving facility if that minor is found to be driving with a blood or breath alcohol level of 0.02 or higher.

B. PRESENT SITUATION:

Section 322.2616, F.S., provides for the suspension of the driving privilege of a person under 21 years of age when a law enforcement officer has probable cause to believe that the underage person has been driving or is 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. The suspension periods are six (6) months for the first offense, and one (1) year for a second offense.

If the underage person refuses to submit to a breath test requested by a law enforcement officer, the person's license is suspended one (1) year for a first refusal, and 18 months for a second refusal.

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 incorrect.

C. EFFECT OF PROPOSED CHANGES:

House Bill 29 requires that the suspension periods under s. 322.2616, F.S., shall remain in effect until the person completes a substance abuse course and evaluation offered by a DUI program licensed by the Department of Highway Safety and Motor Vehicles in those instances where the person's blood or breath alcohol level was .05 or higher.

As part of the substance abuse course, the program must conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years, of the results of the evaluation. The driver must bear the cost of substance abuse education course and

substance abuse evaluation. The bill further provides that if the driver fails to complete the substance abuse education course and evaluation, the Department shall not reinstate the person's license.

In addition, the bill provides that a temporary driving permit may not be effective until 12 hours after the notice of suspension is issued. 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. Further, if a minor under the age of 18 is found to be driving with a blood or breath alcohol level of 0.02 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.

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

D. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

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 evaluation providers authorized or licensed by the Department of Highway Safety and Motor Vehicles.

D. FISCAL COMMENTS:

The bill provides that the driver must bear the cost of substance abuse education course and substance abuse evaluation. Providing an addictions receiving facility for minors driving with an alcohol level of 0.02 or higher is optional for each county.

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:

N/A

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTION & SAFETY:

Prepared by:

Allen Mortham, Jr.

Staff Director:

David DeLaPaz

AS REVISED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

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PAGE: 5

AS FURTHER REVISED BY THE COMMITTEE ON COUNCIL FOR HEALTHY COMMUNITIES:

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