

HOUSE RESEARCH

Bill Summary

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Overview

This bill reduces from 0.10 to 0.08 the legal ("per se") limit for alcohol concentration while driving, operating, or being in physical control of motor vehicles, off-road recreational vehicles, and motorboats in operation, as well as for hunting with a firearm or bow. This change applies, as well, to criminal vehicular homicide and injury statutes while negligently operating any kind of motorized vehicle. It also applies to any type of military vehicle being operated anywhere in the state. The bill limits record-keeping for a first offense, and provides some redirections of court fees and fines to local governments. It provides liability protections to manufacturers and liquor licensees for breath testing devices placed on the premises. The bill also requires collection of certain alcohol-related traffic stop and test results by every law enforcement agency, as well as a summary report to the legislature by the Department of Public Safety. The bill has a delayed effective date of September 1, 2007.

Section

- 1, 2** **Hunting with a firearm or bow.** Reduces the per se alcohol concentration limit to .08.
3 **DWI law.** Reduces the per se limit to 0.08. Since January 1, 1998, DWI law governs off-road recreational vehicles and motorboats in operation, in addition to regular motor vehicles.
4 to 8 **Implied consent law; alcohol concentration testing.** Reduces the per se limit to 0.08.
9 **Commercial vehicle driving.** Reduces to .08 the limit at which commercial vehicle driving

Section

violates regular DWI law. [Otherwise, the alcohol concentration limit for commercial vehicle driving is zero-tolerance, resulting in a 24-hour out-of-service order - or .04, resulting in commercial vehicle driver's license disqualification.]

- 10 Civil actions following vehicle crashes.** Reduces to .08 the per se standard for establishing the trier of fact.
- 11 Limiting the driver's license record.** Requires Department of Public Safety to purge the driver's license record of a DWI violation after ten years if there has been no repeat DWI violation within that time frame. Under current law, all DWI violations must be kept on the driving record for *at least 15 years* (although they are actually being kept there permanently).
- 12 Military vehicles and personnel.** Reduces to .08 the per se limit for operating military vehicles anywhere in the state.
- 13 and 15 Disbursing the surcharges.** Directs that the court surcharges and fines that would otherwise go to the general fund for DWI offenders arrested with a .08 or .09 alcohol concentration reading are instead forwarded to the jurisdiction responsible for prosecuting the offense.
- 14 Breath-alcohol testing devices.** Amends the law that exempts manufacturers of devices that test breath for alcohol content, and liquor licensees who have them on the premises, from liability arising from the result of the test:
- Requires the notice that informs users of the immunity provisions be posted on the device or adjacent to it, rather than anywhere on the licensed premises.
 - Deletes certification of devices by the Department of Public Safety and authorization for the department to adopt rules that prescribe performance and maintenance standards.
 - Requires the device to be calibrated and maintained on a schedule and in a manner consistent with the minimum guidelines of the manufacturer.
 - Requires the test results to be given by voice or audio and by a graduated colored light display, but deletes the specific requirement that the device show different-colored lights showing alcohol concentrations between .05 and .08, between .08 and .10, and over .10.
 - Requires the device to clearly indicate when alcohol concentration exceeds .09 but prohibits it from showing actual levels over .09.
 - Allows a digital or numerical readout up to .09.
- 16 Criminal vehicular homicide and injury law.** Reduces to .08 the per se alcohol concentration limit defining the various types of criminal vehicular operation stemming from negligent operation of a motor vehicle.
- 17 Data collection and report required.** Directs each law enforcement agency in the state to collect and report to the Department of Public Safety (DPS) certain information on each traffic stop resulting in a preliminary test or chemical test of the driver's breath, urine or blood - i.e., the initial reason for the stop, and the person's alcohol concentration reading. The data collection period is September 1, 2007 to July 31, 2008. By January 15, 2009, the DPS must report a summary of this information to the legislature.
- 18 Effective Date.** September 1, 2007 for all provisions except section 14 (breath testing devices in bars), which is effective July 1, 2004..