

HB 1828 -- Driving While Intoxicated

Sponsor: Roorda

This bill changes the laws regarding driving while intoxicated. In its main provisions, the bill:

- (1) Requires any person operating a motor vehicle with a blood-alcohol content (BAC) of .15 or more at the time of an arrest and who has had his or her license suspended or revoked as a result of a previous offense of driving while intoxicated to file proof with the Director of the Department of Revenue that any motor vehicle he or she operates is equipped with a certified ignition interlock device or that he or she is complying with a court order requiring the utilization of a continuous alcohol monitoring device before the person's driver's license is reinstated or restricted driving privileges are issued;
- (2) Allows any circuit court to establish a DWI docket to dispose of cases that stem from alcohol use;
- (3) Limits municipal court jurisdiction to certain cases involving intoxication-related and driving while revoked offenses;
- (4) Requires all court clerks to retain any record pertaining to a conviction for an intoxication-related offense for at least 50 years;
- (5) Requires the municipal division of every circuit court to prepare a biannual report regarding the number and disposition of every intoxication-related offense adjudicated, dismissed, or pending in court to the circuit court, en banc;
- (6) Increases, beginning January 1, 2011, the maximum fine that may be issued in municipal courts for driving while intoxicated by \$1,000;
- (7) Specifies that a person will be guilty of child endangerment in the first degree if he or she operates a vehicle in an intoxicated condition while a child younger than 17 years of age is in the vehicle. Currently, it is a second degree offense;
- (8) Increases the penalty for driving with excessive BAC from a class B misdemeanor to a class A misdemeanor if the person has a BAC of .15 or more;
- (9) Allows a chemical analysis of the amount of controlled substance in the blood, breath, saliva, or urine of a person on trial for an intoxication-related offense to be admitted into

evidence;

(10) Extends the amount of time a warrantless arrest can be made after an alleged driving while intoxicated or with an excessive BAC offense from one and one-half hours to two and one-half hours after the alleged violation occurred;

(11) Specifies that a refusal to submit to a chemical test will create the presumption that the person is intoxicated and the burden of proof will be for the defendant to rebut the presumption;

(12) Establishes Cary's Law which requires all intoxication-related traffic arrests by state and local law enforcement agencies and any action taken by the prosecutor subsequent to an arrest for an intoxication-related traffic offense to be entered into the State Highway Patrol's DWI Tracking System (DWITS) within 30 days of the arrest or action. The patrol must report to the Department of Public Safety and the Governor any agency that fails to submit the required information. The Governor may withhold state funds to any agency, prosecuting or circuit attorney's office, or municipality that prosecutes municipal ordinance violations and fails to comply with these provisions;

(13) Allows a court to order as a condition of probation following an intoxication-related traffic conviction a person to use and provide a weekly affidavit asserting that he or she used public transit or carpooled to and from work;

(14) Requires every county to create a sober ride fund for the purpose of reimbursing licensed taxicab companies for providing rides to intoxicated individuals. Moneys collected from the \$20 court costs surcharge on all cases resulting in a conviction of an intoxication-related traffic offense will be deposited into the fund; and

(15) Prohibits any person who is found guilty of or pleads guilty to a first or subsequent intoxication-related offense when the person's BAC was .15 or more at the time of arrest from operating a vehicle unless the vehicle is equipped with a functioning, certified ignition interlock device or the person undergoes continuous alcohol monitoring for at least six months from the date his or her driver's license is reinstated.

The provisions regarding Cary's Law become effective January 1, 2011.