

SENATE BILL REPORT

SB 5399

AS OF FEBRUARY 13, 1991

Brief Description: Establishing medical exceptions to the implied consent law.

SPONSORS: Senator Hansen.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Richard Rodger (786-7461)

Hearing Dates: February 18, 1991

BACKGROUND:

Any person who drives a car within this state is deemed to have given their consent to a breath or blood alcohol test. The arresting officer must have reasonable grounds to believe the person was driving under the influence of intoxicating liquor in order to require the test.

The arresting officer must inform the person of their right to refuse the test, the right to additional tests, that their licence will be revoked for a refusal, and that the refusal may be used in a criminal trial. The test is mandatory if an individual is arrested for vehicular homicide or assault, or a person is injured who may die. A driver who is dead, unconscious, or otherwise incapable of refusing is deemed not to have withdrawn their consent to testing.

Upon receipt of an officer's report indicating a refusal to take the test, the Department of Licensing (DOL) shall revoke the person's driving privilege for a period of one year. The person has 15 days in which to file an appeal of the revocation. The following issues may be appealed: (1) did the officer have reasonable grounds to believe the person was driving under the influence; (2) was the person under arrest; (3) was the person advised that a refusal would result in license revocation; and (4) did the person refuse the test.

SUMMARY:

The order revoking a person's driving privilege will be rescinded by DOL upon notification from a court that the officer's belief or the person's refusal was based on a nonalcohol or nondrug related medical condition, and the person was found not guilty of DWI. Upon notification of a not guilty finding, the department will expunge the implied consent violation from the person's driving record.

Appropriation: none

Revenue: none

Fiscal Note: none requested