

Driving Under the Influence of Alcohol or Drugs; HB 2218

HB 2218 amends statutes concerning the crime of driving under the influence of alcohol or drugs (DUI). First, the bill amends the law governing when a law enforcement officer must request a person submit to alcohol or drug testing. Specifically, the bill adds to language concerning an officer's reasonable grounds to believe the person was DUI to require that the officer have such a belief "at the time of the request." Further, the bill requires an officer to request alcohol or drug testing when the officer has such a belief and the person has been arrested or otherwise taken into custody for any violation of any state statute, county resolution, or city ordinance. Testing already was required if the person was arrested or taken into custody for a DUI offense.

The bill specifies that the sentence for felony violation of criminal refusal and commercial DUI is that provided for in the specific mandatory sentencing requirements of those statutes.

The bill also amends the definition of the crime of aggravated battery to include DUI:

- When great bodily harm to another person or disfigurement of another person results from such act, which is a severity level 5, person felony; and
- When bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement, or death can result from such act, which is a severity level 8, person felony.

For the purpose of determining whether a new DUI conviction is a first, second, third, or subsequent conviction, which impacts the penalty imposed, aggravated battery while DUI is considered a prior DUI conviction. The bill also adds clarifying language concerning DUI offenses committed by persons under the age of 21 and replaces "drive" with "operate."

Finally, the bill amends the boating under the influence statutes to make them more consistent with DUI statutes. The changes include:

- Adding a provision prohibiting the operation or attempt to operate any vessel while the alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence (as defined in statute), is 0.08 or more;
- Changing the time period within which a person is prohibited from operating or attempting to operate a vessel if that person's alcohol concentration is 0.08 or more from two hours to three hours;
- Revising the prohibition on operating a vessel while under the influence of alcohol to include the phrase "to a degree that renders the person incapable of safely operating a vessel";

- Removing a provision prohibiting the operation of a vessel by a habitual user of any narcotic, hypnotic, somnifacient, or stimulating drug; and
- Revising the definition of “other competent evidence” to extend the time for sampling from two hours to three hours.

The boating under the influence provisions of the bill will be effective from and after January 1, 2014, and their publication in the statute book.