

HB 237 – Driving or Boating Under the Influence

Amends s. 316.193, F.S. and s. 327.35, F.S., adding a blood level of 5 nanograms or more of delta-9-tetrahydrocannabinol per millimeter of blood, shown through blood analysis to indicators of driving under the influence (s. 316.193, F.S.) and boating under the influence (s. 327.35, F.S.). These amendments to statute establish a lower limit for driving under the influence of marijuana.

Per DOC, in FY 15-16, there were 938 (adj.) offenders sentenced for felony DUI or BUI (3rd conviction or 4th and subsequent convictions), and 278 (adj.) of these offenders were sentenced to prison (mean sentence length=26.5 m, incarceration rate: 29.6% adj.-29.6% unadj.). However, current data cannot differentiate between driving under the influence of alcohol and other controlled substances.

Furthermore, if a blood analysis is required, current law only allows for blood tests in cases of death or serious bodily injury. Per DOC, there were 314 (adj.) offenders sentenced for DUI or BUI causing serious bodily injury and manslaughter, and 218 (adj.) of these offenders were sentenced to prison (mean sentence length=100.2 m, incarceration rate: 69.4% adj.-69.4% unadj.). It is unknown how many additional offenders would be affected by this law.

In 2011, the state of Washington found that 9.9% of the suspected impaired driving cases that they conducted blood tests on were drivers with a blood level of 5 nanograms or more of delta-9-THC. This was during a time when only medical marijuana was legal in the state. However, laws in Washington are not as strict as those in Florida when it involves blood analysis. Also, it is unknown how many of the cases in Washington were also impaired by alcohol or other drugs.

Police practices when arresting someone suspected of marijuana impairment should remain the same as under current law. Where this might have an effect on prison admissions is in the court room setting, and for serious injury/manslaughter situations, where blood tests are conducted and where the establishment of a blood level could make cases stronger when prosecuting. However, the number of cases that might be affected cannot be determined.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: House