Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2015 Regular Session

Part I: Measure Information

Bill Request #: 1306
Bill #: HB 250
Bill Subject/Title: AN ACT relating to driving under the influence
Sponsor: Representative Kevin P. Stinnette
Unit of Government: X City X County X Urban-County Unified Local X Charter County X Consolidated Local X Government
Office(s) Impacted: local law enforcement
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

HB 250 deals with driving under the influence (DUI) and consent to test for alcohol or other impairing substance. The purpose of the bill is to amend KRS 189A.103 and KRS 189A.010 to close a loophole in the law that allows individuals suspected of DUI to agree to a law enforcement officer's request to take a blood test but then to refuse to sign a health care facility's waiver of liability prior to the blood draw. A suspect's refusal to sign the waiver can result in the facility refusing to draw blood for testing. A Kentucky court has found that refusing to sign the waiver is not the same as refusing to submit to the test and is not punishable as such under law. *See* Transportation Cabinet v. Driver, 828 S.W.2d 666 (Ky.Ct.Appl. 1992).

Kentucky law states that a person operating or in physical control of a vehicle impliedly consents to testing of blood, breath or urine to determine alcohol content or presence of an impairing substance, if a law enforcement officer has reasonable grounds to believe a DUI violation has occurred. If a person suspected of DUI refuses a blood, breath or urine test, then they are subject to the penalties set forth under KRS 189A.105. Refusal to submit to a test results in revocation of driving privileges and may be used as evidence of DUI. If the person is convicted of DUI, then the refusal is an aggravator that will heighten penalties, including mandatory jail time.

HB 250 closes the above described loophole by making a suspect's refusal to sign a health care facility's waiver of liability the same as refusing to submit to the test.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB 250 on local governments is expected to be minimal.

The legal challenge giving rise to HB 250 was predicated upon a narrow set of facts, and its holding does not affect the majority of DUI cases. The bill would strengthen DUI laws by precluding a person from evading those laws by agreeing to a blood test but then refusing to sign a health care facility's waiver of liability prior to the administration of the blood draw.

Data Source(s): <u>Kentucky Sheriff's Association, LRC staff</u>

Preparer: Mary Stephens **Reviewer:** MCY **Date:** 2/18/15