

Joint Committee on Ways and Means

Carrier – House: Rep. Stiegler  
Carrier – Senate: Sen. Verger

Revenue: No revenue impact

Fiscal: Minimal fiscal impact

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Action: Do Pass the A-Engrossed Measure as Amended and Be Printed B-Engrossed

Vote: 23 – 0 – 1

House

Yeas: Barker, Buckley, Cowan, Edwards, Garrard, Gilman, Jenson, Komp, Kotek, Nathanson, Richardson

Nays:

Exc: G. Smith

Senate

Yeas: Bates, Courtney, Edwards, Girod, Johnson, Kruse, Monroe, Nelson, Shields, Verger, Whitsett, Winters

Nays:

Exc:

Prepared By: Robin LaMonte, Legislative Fiscal Office

Meeting Date: February 22, 2010

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**WHAT THE MEASURE DOES:** Requires implied consent hearings to be conducted by telephone or other two-way communication device. The provisions apply to arrests occurring after the effective date. The bill allows any officer involved in the investigation to present evidence and argument at hearing, instead of the officer who signed the citation. Sunsets January 1, 2014.

**ISSUES DISCUSSED:**

- The in-person hearing provisions in the amendment

**EFFECT OF COMMITTEE AMENDMENT:** Directs an Administrative Law Judge to conduct the hearing by telephone or other electronic communication device unless an in-person hearing is requested. The amendment removes the sunset date, and makes the bill effective January 1, 2011.

**BACKGROUND:** Implied consent hearings are conducted by Administrative Law Judges from the Office of Administrative Hearings. The purpose of the hearings is to determine whether a suspended license following an arrest for Driving Under the Influence of Intoxicants (DUI) was proper. If a person arrested for DUI refuses or fails a test, their driving privileges will be suspended. Currently, a person whose driving privileges have been suspended may request a hearing with an Administrative Law Judge to determine the validity of the suspension. A person who requests a hearing must do so within 10 days of arrest or 10 days of notice of suspension. Currently the hearings are held in person and must be held within 100 miles of the arrest site. The final order must be issued no later than 30 days from the date of arrest. The Department of Motor Vehicle reports that in 2009 they had 4,459 requests for hearing and 3,984 hearings were held.

HB 3601 requires that the implied consent hearings be conducted by telephone or another electronic device unless an in-person hearing is requested. Current law allows only the officer who signs the citation to present evidence and argument at the implied consent hearing. HB 3601 allows any officer involved in the investigation to present evidence and argument at the hearing.