

HB391 INTRODUCED



1 HB391
2 EJJN529-1
3 By Representative Rigsby
4 RFD: Health
5 First Read: 05-Mar-25



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SYNOPSIS:

Under existing law, a law enforcement officer may request that a physician, registered nurse, paramedic, phlebotomist, or other qualified person draw blood at the direction of a law enforcement officer in relation to an allegation that an individual was driving while under the influence.

This bill would authorize qualified individuals to refuse to draw blood at the direction of a law enforcement officer in certain circumstances.

A BILL
TO BE ENTITLED
AN ACT

Relating to traffic offenses; to amend Section 32-5A-194, Code of Alabama 1975, to further provide for the drawing of blood in relation to certain traffic offenses.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 32-5A-194, Code of Alabama 1975, is amended to read as follows:

"§32-5A-194

(a) Upon the trial of any civil, criminal, or quasi-criminal action or proceeding arising out of acts



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29 alleged to have been committed by any ~~person~~individual while
30 driving or in actual physical control of a vehicle while under
31 the influence, evidence of the amount of alcohol, controlled
32 substance, or other impairing substance in ~~a person's~~an
33 individual's blood at the alleged time, as determined by a
34 chemical analysis of the ~~person's~~individual's blood, breath,
35 oral fluid, or other bodily substance, or any combination
36 thereof, shall be admissible. Where a chemical test or tests
37 are made, the following provisions shall apply:

38 (1) Chemical analyses of the ~~person's~~individual's
39 blood, breath, oral fluid, or other bodily substance to be
40 considered valid shall have been performed according to
41 methods approved by the Department of Forensic Sciences and by
42 an individual possessing a valid permit issued by the
43 Department of Forensic Sciences. The court trying the case may
44 take judicial notice of the methods approved by the Department
45 of Forensic Sciences. The Department of Forensic Sciences may
46 approve satisfactory techniques or methods to ascertain the
47 qualifications and competence of individuals to conduct the
48 analyses and to issue permits which shall be subject to
49 termination or revocation at the discretion of the Department
50 of Forensic Sciences. The Department of Forensic Sciences
51 shall approve permits required in this section only for
52 employees of state, county, municipal, and federal law
53 enforcement agencies, and for laboratory personnel employed by
54 the Department of Forensic Sciences.

55 (2) When ~~a person~~an individual shall submit to a blood
56 test at the direction of a law enforcement officer pursuant to



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57 Section 32-5-192, only a physician, a registered nurse, a
58 paramedic, a phlebotomist, or other qualified ~~person~~
59 individual may withdraw blood for the purpose of determining
60 the alcoholic content or the presence of other impairing
61 substances. This limitation shall not apply to the taking of
62 breath or oral fluid. Except as provided by court order, any
63 qualified individual may refuse to draw blood pursuant to a
64 request from a law enforcement officer made pursuant to
65 Section 32-5-192.

66 (3) The ~~person~~ individual tested may at his or her own
67 expense have a physician, qualified technician, registered
68 nurse, or other qualified ~~person~~ individual of his or her own
69 choosing administer a chemical test or tests in addition to
70 any administered at the discretion of a law enforcement
71 officer. The failure or inability to obtain an additional test
72 by ~~a person~~ an individual shall not preclude the admission of
73 evidence relating to the test or tests taken at the direction
74 of a law enforcement officer.

75 (4) Upon the written request of the ~~person~~ individual
76 who shall submit to a chemical test or tests at the request of
77 a law enforcement officer, full information concerning the
78 test or tests shall be made available to him or her or his or
79 her attorney.

80 (5) Percent by weight of alcohol in the blood shall be
81 based upon grams of alcohol per 100 cubic centimeters of blood
82 or grams of alcohol per 210 liters of breath.

83 (b) Upon the trial of any civil, criminal, or
84 quasi-criminal action or proceeding arising out of acts



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85 alleged to have been committed by any ~~person~~individual while
86 driving or in actual physical control of a vehicle while under
87 the influence of alcohol, the amount of alcohol in the
88 ~~person's~~individual's blood at the time alleged as shown by
89 chemical analysis of the ~~person's~~individual's blood or breath
90 shall give rise to all of the following presumptions:

91 (1) If there were at that time 0.05 percent or less by
92 weight of alcohol in the ~~person's~~individual's blood, it shall
93 be presumed that the ~~person~~individual was not under the
94 influence of alcohol unless the ~~person~~individual was
95 operating a motor vehicle in performance of his or her duties
96 as a school bus driver or day care driver at that time or was
97 under ~~the age of~~ 21 years of age at that time.

98 (2) If there were at the time in excess of 0.05 percent
99 but less than 0.08 percent by weight of alcohol in the
100 ~~person's~~individual's blood, this fact shall not give rise to
101 any presumption that the ~~person~~individual was or was not
102 under the influence of alcohol, but this fact may be
103 considered with other competent evidence in determining
104 whether the ~~person~~individual was under the influence of
105 alcohol unless the ~~person~~individual was operating a motor
106 vehicle in performance of his or her duties as a school bus
107 driver or day care driver at that time or was under ~~the age of~~
108 21 years of age at that time.

109 (3) If there were at that time 0.08 percent or more by
110 weight of alcohol in the ~~person's~~individual's blood, or
111 greater than ~~.02~~0.02 percent if the ~~person~~individual was
112 operating a motor vehicle in performance of his or her duties



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113 as a school bus driver or day care driver at that time or was
114 under ~~the age of~~ 21 years of age at that time, it shall be
115 presumed that the ~~person~~ individual was under the influence of
116 alcohol.

117 (4) Nothing in this section shall be construed as
118 limiting the introduction of any other competent evidence
119 relating to the question of whether the ~~person~~ individual was
120 under the influence of alcohol.

121 (c) If ~~a person~~ an individual under arrest refuses to
122 submit to a chemical test or tests pursuant to Section
123 32-5-192, evidence of refusal shall be admissible in any
124 civil, criminal, or quasi-criminal action or proceeding
125 arising out of acts alleged to have been committed while the
126 ~~person~~ individual was driving or in actual physical control of
127 a motor vehicle while under the influence.

128 (d) No physician, registered nurse, phlebotomist,
129 paramedic, duly licensed chemical laboratory technologist or
130 clinical laboratory technician, fire department, rescue squad,
131 private ambulance company, or medical facility shall incur any
132 civil or criminal liability as a result of the proper
133 administering of a blood test when requested in writing by a
134 law enforcement officer to administer such a test."

135 Section 2. This act shall become effective on October
136 1, 2025.