

HB 35 -- INTOXICATION RELATED PROCEEDINGS

SPONSOR: Plocher

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 7 to 4. Voted "Do Pass" by the Rules-Legislative Oversight by a vote of 10 to 0.

This bill requires admission of relevant chemical analysis of a person's breath in proceedings for any criminal offense, violations of county or municipal ordinances, or license suspension or revocation proceedings arising out of acts occurring between December 30, 2012 and April 4, 2014, relating to the operation of a vehicle, vessel, or aircraft while in an intoxicated condition so long as the evidence meets certain specified conditions. These provisions are a procedural rule and applicable to all proceedings in progress whether commenced before or after the enactment of the section.

This bill abrogates the holdings of *Stiers v. Dir. of Revenue*, 477 S.W.3d 611, (Mo. 2016) and *Stiers v. Dir. of Revenue*, ED 101407, 2015 WL 343310 (Mo.App. E.D. Jan. 27, 2015).

This bill contains an emergency clause.

This bill is similar to HB 2627 (2016).

PROPONENTS: Supporters say that using the word "and" instead of "or" was merely a clerical error and that the intent was to require only one standard simulator solution calibration value rather than three. One witness testified that the court, in its *Stiers* decision, was inviting the legislature to make the change so it applies retroactively. Additionally, because the change was a procedural rule of evidence, not a substantive change, there should be no issue with applying it retroactively. This would apply to already collected evidence as far as whether it's admissible; it would not apply to newly discovered evidence. Furthermore, prosecutors should not have to tell victims' families that offenders are able to evade prosecution because of a clerical error.

Testifying for the bill were Representative Plocher; Mark Richardson, Cole County; and Meghann Carter, Mothers Against Drunk Driving.

OPPONENTS: There was no opposition voiced to the committee.