**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4398**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Clyburn

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Introduced in the House on January 14, 2014

Currently residing in the House Committee on **Judiciary**

Summary: DUI testing

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2013 House Prefiled

12/10/2013 House Referred to Committee on **Judiciary**

1/14/2014 House Introduced and read first time

1/14/2014 House Referred to Committee on **Judiciary**

**VERSIONS OF THIS BILL**

[12/10/2013](file:///p:\pprever\2013-14\4398_20131210.docx)

**A** **BILL**

TO AMEND SECTION 56‑5‑2950, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON’S IMPLIED CONSENT TO SUBMIT TO CHEMICAL TESTS TO DETERMINE WHETHER THE PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, AND THE SUSPENSION OF A PERSON’S PRIVILEGE TO OPERATE A VEHICLE WHEN HIS ALCOHOL CONCENTRATION REGISTERS A CERTAIN LEVEL, SO AS TO PROVIDE THAT A PERSON WHO IS OPERATING A VEHICLE WHICH IS INVOLVED IN AN ACCIDENT IN WHICH A PERSON SUFFERED GREAT BODILY INJURY OR DEATH MUST SUBMIT TO TESTS TO DETERMINE WHETHER HE IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 56‑5‑2950(A) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(A) A person who drives a motor vehicle in this State is considered to have given consent to chemical tests of his breath, blood, or urine for the purpose of determining the presence of alcohol or drugs or the combination of alcohol and drugs if arrested for an offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs, or arrested for driving a vehicle which was involved in an accident in which a person suffered great bodily injury or death. A breath test must be administered at the direction of a law enforcement officer who has arrested a person for driving a motor vehicle in this State while under the influence of alcohol, drugs, or a combination of alcohol and drugs, or for driving a vehicle which was involved in an accident in which a person suffered great bodily injury or death. At the direction of the arresting officer, the person first must be offered a breath test to determine the person’s alcohol concentration. If the person is physically unable to provide an acceptable breath sample because he has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by the licensed medical personnel, the arresting officer may request a blood sample to be taken. If the officer has reasonable suspicion that the person is under the influence of drugs other than alcohol, or is under the influence of a combination of alcohol and drugs, the officer may order that a urine sample be taken for testing. A breath sample taken for testing must be collected within two hours of the arrest. Any additional tests to collect other samples must be collected within three hours of the arrest. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to SLED policies. Before the breath test is administered, an eight one‑hundredths of one percent simulator test must be performed and the result must reflect a reading between 0.076 percent and 0.084 percent. Blood and urine samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, and other medical personnel trained to obtain the samples in a licensed medical facility. Blood and urine samples must be obtained and handled in accordance with procedures approved by SLED.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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