

Sponsor Statement for HB 329

The [House Judiciary Committee](#) has introduced this bill at the request of Mother's Against Drunk Driving. [HB 329](#) will enhance law enforcement's ability to combat Alaska's pervasive problem of intoxicated and/or impaired drivers by requiring that any driver arrested for an accident that caused death or physical injury be chemically tested for drugs or alcohol.

Current law gives discretion in administering a chemical test to a driver when there has been a motor vehicle accident that causes a death or physical injury. However, in order for the test to be administered, the driver must first be under arrest for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle, aircraft, or watercraft WHILE INTOXICATED. Therefore, even though the chemical test is discretionary, the driver must be under arrest, and that arrest must be because the arresting officer had probable cause that the driver was intoxicated.

HB 329 will make the chemical test mandatory for any driver who is under arrest for an accident that caused death or physical injury to another person. The purpose of the chemical test will be to determine if there was any alcohol, or controlled substance, in the driver at the time of the accident.

In addition, the bill also removes the requirement of intoxication when the driver has been arrested. Therefore, the driver must be chemically tested when arrested for ANY offense arising out of acts alleged to have been committed while the person was operating a motor vehicle, aircraft, or watercraft, not just those that were the result of intoxication.

In deciding the breadth of this bill, the Judiciary committee was constrained by a recent Alaska Court of Appeals decision, [Blank v. State](#), 3 P.3d 359 (Alaska App. 2000). In this case, the Court of Appeals struck down [AS 28.35.031\(g\)](#), which stated that any person who operates a vehicle, and is involved in a motor vehicle accident that causes death or serious physical injury, is implied to have given consent to a chemical test. The court found the statute unconstitutional as an unreasonable search and seizure under the [Fourth Amendment](#) to the U.S. Constitution, and [Article 1, Section 14 of the Alaska Constitution](#).

As a result of this decision, the Judiciary committee can only broaden the scope of chemical tests following an accident, after there has been an arrest. However, the mandatory chemical testing required by HB 329, will create a powerful tool for law enforcement, and the prosecution, in identifying and catching drivers who are under the influence and a menace to society.

The Committee urges your support of this bill.