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## Judiciary Committee

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### HB 2552

**Title:** An act relating to implied consent warnings.

**Brief Description:** Revising implied consent warnings.

**Sponsors:** Representatives Schoesler, Lovick, Newhouse, Cox, Bush, Kristiansen, Hatfield, Holmquist, Eickmeyer and Buck.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Requires additional warnings be given to a driver under arrest for drunk driving.</li></ul>
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**Hearing Date:** 1/29/04

**Staff:** Bill Perry (786-7123).

**Background:**

Any person who operates a motor vehicle in this state is deemed to have given consent for a blood or breath alcohol concentration (BAC) test if he or she is arrested for driving while under the influence of alcohol or drugs (DUI). This provision in the state's motor vehicle code is known as the Implied Consent Law.

A so-called "per se" violation of the DUI law consists of operating a motor vehicle while having a BAC of 0.08 or more for persons over the age of 21, or having a BAC of 0.02 or more for younger drivers. (The BAC measurement is of either grams of alcohol per 210 liters of breath, or grams of alcohol per 100 milliliters of blood.)

If an arresting officer has reasonable grounds to believe a driver has committed DUI, the officer may request that the driver take a BAC test. If the driver refuses the test, his or her driver's license will be administratively suspended or revoked by the Department of Licensing (DOL). If the driver submits to the test and fails it, i.e., registers above the legal BAC limit, the DOL will also administratively suspend or revoke the license. The length of the suspension or revocation is longer for a first refusal than for a first failure of the BAC test. License loss sanctions are as follows:

- First failure of test - 90 days;
- First refusal of test - one year;
- Second failure of test - two years; and
- Second refusal of test - two years;

In addition, a person who has refused to take a BAC test is not eligible to apply for an occupational license, but a person who has taken and failed the test is.

The arresting officer is required to inform the driver of his or her right to refuse the BAC test and of the right to have an independent test done. The officer is also required to warn the driver of some of the consequences of his or her decision regarding taking or refusing the test. Specifically, the driver must be told:

- His or her license will be "revoked" if the driver refuses the test; and
- His or her license will be "suspended" or "revoked" if the driver takes the test and fails it;

The terms "suspended" and "revoked" mean different things. A suspension is for less than one year, while a revocation is for a year or more and requires requalifying for a license.

One of the purposes of the implied consent law is to encourage drivers to submit to the BAC test. Concern has been expressed that the current warnings do not adequately inform drivers of the consequences of refusing the test.

**Summary of Bill:**

Additional warnings are provided under the implied consent law. When a driver is requested to take a BAC test, the arresting officer must warn the driver:

- Refusal will result in license loss for at least one year;
- Failure will result in license loss for at least 90 days; and
- Refusal will make the driver ineligible for an occupational license.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.