

## **BILL ANALYSIS**

Senate Research Center  
76R9149 PEP-D

S.B. 1409  
By: Zaffirini  
Criminal Justice  
4/8/1999  
Committee Report (Amended)

### **DIGEST**

Currently, arresting officers do not carry breath-test machines in their vehicles, but offer the test later at a police station. In such instances, the test is administered 90 minutes after the arrest. In October 1998, the Fourth Court of Appeals in San Antonio ruled that results of a breath test administered an hour after a suspect was arrested do not provide sufficient evidence to indicate the suspect's blood-alcohol concentration at the time of arrest. The bill would establish a presumption that results of a breath or blood test given up to two hours after a person is arrested provide sufficient evidence to prove that the person was driving while intoxicated.

### **PURPOSE**

As proposed, S.B. 1409 creates a presumption regarding a person's alcohol concentration level for the purposes of the administrative suspension of the person's driver's license.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 524D, Transportation Code, by adding Section 524.0375, as follows:

Sec. 524.0375. PRESUMPTION REGARDING ANALYSIS. Provides that for the purposes of this chapter, it is presumed that a person's alcohol concentration level is equal to or higher than the level in Chapter 49.01, Penal Code, shown by an analysis of breath, blood, or other bodily substances taken from the person at or not later than two hours after the time of the person's arrest.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Emergency clause.  
Effective date: upon passage.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Section 524.0375, Transportation Code, to provide that for the purposes of this chapter, it is presumed that a person's alcohol concentration level is equal to or higher than the level in Chapter 49.01, Penal Code, shown by an analysis of breath, blood, or other bodily substances taken from the person at or not later than two hours after the time of the person's arrest.