

1st Sub. H.B. 139

DUI LIABILITY AMENDMENTS

Representative **Steve Eliason** proposes the following amendments:

1. *Page 1, Lines 18 through 20:*

- 18 ▶ clarifies provisions related to driving in the wrong direction while driving under the
19 influence; ~~{and}~~ =
▶ clarifies that the determination whether an individual is in actual physical control of a vehicle includes consideration of the totality of the circumstances, and creates a safe harbor provision related to that determination; and
20 ▶ makes technical changes.

2. *Page 2, Lines 44 through 52:*

- 44 (1) As used in this part:
45 (a) "Actual physical control" **is determined by a consideration of the totality of the circumstances, but** does not include a circumstance in which:
46 (i) the person is asleep inside the vehicle;
47 (ii) the person is not in the driver's seat of the vehicle;
48 (iii) the engine of the vehicle is not running;
49 (iv) the vehicle is lawfully parked; and
50 (v) under the facts presented, it is evident that the person ~~{could not have driven}~~ **did not**
drive the
51 vehicle to the location while under the influence of alcohol, a drug, or the combined influence
52 of alcohol and any drug.

3. *Page 16, Lines 470 through 472:*

- 470 (7) A person is guilty of refusing a chemical test if **a peace officer has issued the warning required in Subsection (2)(a) and** the person refuses to submit to a test
471 of the person's blood under Subsection (1) after a court has issued a warrant to draw and test
472 the blood.