

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB2248**

**Amendment Number: H1**

**Bill Subtitle: TO AMEND THE IMPLIED CONSENT LAW IN RELATION TO THE OFFENSE OF DRIVING OR BOATING WHILE INTOXICATED.**

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### **Basic Change :**

**Sponsor: Rep. Gazaway**

This bill amends the implied consent law in relation to the offense of driving or boating while intoxicated by adding a section stating, "A test of a person's blood to determine the person's alcohol concentration, controlled substance content, or other intoxicating substance content in his or her blood requires a warrant based on probable cause that the person was operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle while intoxicated."

### **Revenue Impact :**

There is no revenue impact if this bill is passed.

### **Taxpayer Impact :**

There is no taxpayer impact if this bill is passed.

### **Resources Required :**

No resources are required if this bill is passed.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

Law enforcement may be required to change their procedures.

### **Other Comments :**

None.

### **Legal Analysis :**

HB2248-H1 amends Arkansas' implied consent law in relation to driving or boating while intoxicated. This change follows the 2016 U.S. Supreme Court case of *Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016), which determined that taking a driver's blood based by implied consent violated that driver's

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rights against unreasonable searches and seizures, by stating, "Motorists cannot be deemed to have consented to submit to a blood test on pain of committing a criminal offense."

This bill removes blood testing from the tests allowed by implied consent and requires that a warrant be issued before blood may be taken without consent. Law enforcement will still be able to obtain a blood test if the driver consents. The impact to DFA will be updating all forms, including ALS forms, Statement of Rights Forms, and Hearing Officer training materials to remove any penalty or suspension based on refusing a blood test.