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The Status of Questionable Breathalyzer Results

The Florida Supreme Court is preparing to vote on a case that could change the way drunk drivers are prosecuted in the state. Three offenders who were charged with DUI after they submitted to breathalyzer tests are questioning the software used in their arrests.

The only breath-alcohol-testing machines permitted for use in Florida are made by CMI, Inc. The debate is occurring over how to legally obtain the software documentation the equipment uses. The defense insists that a subpoena of the results should be sufficient. The company contests that additional procedures, including court certification and approval of the subpoena, is necessary. Also called "Uniform Law," the defense claims that this pertains to individuals -- not to documents.

One [attorney](#) commented that the Uniform Law applies only to people who leave Florida after they have witnessed a crime. These individuals need to be subpoenaed to Florida in the event of a trial. The lawyer related information on a 1970s Florida case that subpoenaed documents without using the Uniform Law. Opposing counsel argued that the example is invalid as the company in that case had a strong Florida presence. CMI, Inc. is headquartered in Kentucky, which is causing some of the questions.

Other lawsuits in different states have argued against the reliability of CMI's breathalyzer tests. Some jurisdictions have determined the tests are questionable or not admissible. While similar lawsuits have been filed across the state, Kentucky courts refuse to approve the subpoena of the applicable documents. The state could work around the unavailable documents by changing the law so that breath-alcohol-test results are inadmissible without specific information on the mechanics of the software.

Supreme Court justices are questioning the reasoning behind allowing faulty equipment to determine convictions for accused [offenders of DUI](#). The heart of the matter is to find the truth for all involved.

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