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## DUI Breath Testing Challenge Rescheduled for February 5th

The Florida Supreme Court was scheduled to hear arguments this week over a challenge to the breathalyzer used to test for alcohol levels of three defendants. The trial judge had originally ruled that the manufacturer of the breathalyzers had to turn over the software used in the machine, so the defendants could to examine it for accuracy.

The 5th District court of Appeals quashed the ruling of the trial judge, and this led to the Florida Supreme Court agreeing to hear the case. Oral arguments have been rescheduled for February 5th.

The breathalyzer that is under a microscope is the [Intoxilyzer 8000](#). This model of breathalyzer is made by CMI, a company that is headquartered in the state of Kentucky and has been used by law enforcement for many years. However, this is the problem for many defendants. The machine is an old design and is built with components that are seldom used in electronic circuits today.

One of the problems with this old machine is that in order to calibrate it, a solution of known content is used. This machine, however, is very sensitive to temperature and the results can easily be inaccurate to a significant percentage if temperature is not taken into account. As we know, temperature in Florida can fluctuate quite a bit.

One of the biggest problems with this machine is thought to be with the way the alcohol content is calculated. Specifically, it is the theory behind how it is calculated, and this is why an analysis of the software is needed.

There have been many eyes watching this case, because if the defendants get a favorable ruling, there will be an effect felt across the state. How this case will specifically affect the prosecution of [DUI cases](#) is unclear. Some cases could be overturned, others could be retried. The breathalyzer itself may need to be programmed with new software or perhaps replaced with a model using newer technology.

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