



# House of Representatives

General Assembly

**File No. 564**

*January Session, 2001*

House Bill No. 5650

*House of Representatives, May 2, 2001*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT ESTABLISHING AN ALCOHOL SUPERVISION PROGRAM FOR DRUNKEN DRIVERS AND OTHER PROBATIONERS WITH A HISTORY OF ALCOHOL ABUSE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) Not later than January 1, 2002, the Chief Court  
2 Administrator shall establish a pilot zero-tolerance alcohol supervision  
3 program to monitor the consumption of alcohol by persons placed on  
4 probation who have been convicted of a violation of section 14-227a,  
5 53a-56b or 53a-60d of the general statutes or who have a history of  
6 alcohol abuse.

7 (b) Eligibility for participation in the program shall be limited to  
8 individuals who have been convicted of an offense, have been  
9 identified as having a history of alcohol abuse and have been  
10 sentenced to a period of probation and ordered by the court, as a  
11 condition of such probation, to participate in the program and shall be  
12 based upon criteria, including a limit on the maximum number of

13 eligible participants, established by the Chief Court Administrator.

14 (c) Any person entering such program shall, as a condition of  
15 participating in such program, agree to: (1) Submit to periodic breath  
16 tests to determine the presence of alcohol in the blood of such person,  
17 (2) detention in a halfway house facility each time such test produces a  
18 positive result, (3) comply with all rules established by the halfway  
19 house if detained in such facility, and (4) waive the right to a hearing.

20 (d) Participants in the zero-tolerance alcohol supervision program  
21 shall submit to periodic breath tests to determine the presence of  
22 alcohol in the blood of such person. The Office of Adult Probation shall  
23 cause to be installed in the dwelling of each participant a device that  
24 measures the amount of alcohol in such participant's blood as shown  
25 by a chemical analysis of the participant's breath when such  
26 participant blows into the device and that electronically transmits the  
27 results of such analysis to such participant's probation officer. If the  
28 test produces a positive result, the participant shall be detained in a  
29 halfway house facility for a period of two days for the first positive test  
30 result and for a period of five days for each subsequent positive test  
31 result.

32 (e) Any person who has submitted to a breath test pursuant to  
33 subsection (d) of this section that produced a positive result may  
34 request that a breath test be administered, at such person's expense, to  
35 confirm the results of the first test, except that if the participant is  
36 determined to be indigent, based upon financial affidavits, the Judicial  
37 Department shall pay the cost of the test. The second test shall be a  
38 breath test, separate and independent of the initial test. The participant  
39 shall be detained in a halfway house pending the results of the second  
40 test. If such second test does not produce a positive result, the  
41 participant, if detained in a halfway house, shall be released and the  
42 fee, if paid by the participant, shall be refunded to the participant.

43 (f) A participant enrolled in the zero-tolerance alcohol supervision

44 program may be charged with a violation of probation if the  
45 participant's probation officer determines that the participant has  
46 violated the conditions of probation or the conditions of the program.

47 (g) Not later than January 1, 2003, the Chief Court Administrator  
48 shall submit a report on the pilot zero-tolerance alcohol supervision  
49 program to the joint standing committee of the General Assembly  
50 having cognizance of matters relating to criminal justice.

51 Sec. 2. Subsection (h) of section 14-227a of the general statutes is  
52 repealed and the following is substituted in lieu thereof:

53 (h) Any person who violates any provision of subsection (a) of this  
54 section shall: (1) For conviction of a first violation, (A) be fined not less  
55 than five hundred dollars nor more than one thousand dollars, [and]  
56 (B) be (i) imprisoned not more than six months, forty-eight consecutive  
57 hours of which may not be suspended or reduced in any manner or (ii)  
58 imprisoned not more than six months, with the execution of such  
59 sentence of imprisonment suspended entirely and a period of  
60 probation imposed requiring as a condition of such probation that  
61 such person perform one hundred hours of community service, as  
62 defined in section 14-227e, and (C) have such person's motor vehicle  
63 operator's license or nonresident operating privilege suspended for  
64 one year; (2) for conviction of a second violation within ten years after  
65 a prior conviction for the same offense, (A) be fined not less than one  
66 thousand dollars nor more than four thousand dollars, (B) be (i)  
67 imprisoned not more than two years, one hundred twenty consecutive  
68 days of which may not be suspended or reduced in any manner, and  
69 sentenced to a period of probation requiring as a condition of such  
70 probation that such person perform one hundred hours of community  
71 service, as defined in section 14-227e, or (ii) imprisoned not more than  
72 two years, twenty days of which may not be suspended or reduced in  
73 any manner, and sentenced to a period of probation of six months  
74 requiring as a condition of such probation that such person participate

75 in the pilot zero-tolerance alcohol supervision program established  
76 under section 1 of this act, and (C) have such person's motor vehicle  
77 operator's license or nonresident operating privilege suspended for  
78 three years or until the date of such person's twenty-first birthday,  
79 whichever is longer; and (3) for conviction of a third and subsequent  
80 violation within ten years after a prior conviction for the same offense,  
81 (A) be fined not less than two thousand dollars nor more than eight  
82 thousand dollars, (B) be imprisoned not more than three years, one  
83 year of which may not be suspended or reduced in any manner, and  
84 sentenced to a period of probation requiring as a condition of such  
85 probation that such person perform one hundred hours of community  
86 service, as defined in section 14-227e, and (C) have such person's  
87 motor vehicle operator's license or nonresident operating privilege  
88 permanently revoked upon such third offense. For purposes of the  
89 imposition of penalties for a second or third and subsequent offense  
90 pursuant to this subsection, a conviction under the provisions of  
91 subsection (a) of section 14-227a in effect on October 1, 1981, or as  
92 amended thereafter, a conviction under the provisions of either  
93 subdivision (1) or (2) of subsection (a) of this section, a conviction  
94 under the provisions of section 53a-56b or 53a-60d or a conviction in  
95 any other state of any offense the essential elements of which are  
96 determined by the court to be substantially the same as subdivision (1)  
97 or (2) of subsection (a) of this section or section 53a-56b or 53a-60d,  
98 shall constitute a prior conviction for the same offense.

**JUD**      *Joint Favorable*

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The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Implements the Budget

**Affected Agencies:** Judicial Department, Department of Correction

**Municipal Impact:** None

**Explanation**

**State Impact:**

The bill implements the budget. Funding in the amount of \$1,088,495 in FY 02 and \$1,118,698 has been included with sHB 6668 (the state budget for FY 01-03 as favorably reported from the Appropriations Committee) for the Zero-Tolerance Alcohol Supervision Program and for other probation and grant costs.

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**OLR BILL ANALYSIS**

HB 5650

***AN ACT ESTABLISHING AN ALCOHOL SUPERVISION PROGRAM FOR DRUNKEN DRIVERS AND OTHER PROBATIONERS WITH A HISTORY OF ALCOHOL ABUSE.*****SUMMARY:**

This bill requires the chief court administrator to establish a zero-tolerance alcohol supervision program by January 1, 2002 to monitor alcohol consumption. Judges may order certain offenders to participate in it as a condition of probation. The program applies to people who have a history of alcohol abuse and who have been convicted of driving under the influence, manslaughter in the second degree with a motor vehicle, or assault in the second degree with a motor vehicle.

The bill reduces the mandatory minimum prison sentence for those convicted of driving under the influence for a second time in 10 years from 120 consecutive days to 20 days and eliminates the requirement that they perform 100 hours of community service if the court sentences them to six months probation with a condition that they participate in the pilot program. The maximum prison sentence for second offenders continues to be two years and the fine continues to be from \$1,0000 to \$4,000, and the license suspension continues to be for three years.

The bill requires participants in the pilot program to submit to periodic breath tests to determine whether alcohol is in their blood. It requires the Office of Adult Probation to install in each participant's home a device that measures the amount of alcohol in his blood when he blows into it. The test results must be electronically transmitted to the participant's probation officer.

If a breath test reveals the presence of alcohol, the bill requires that participants be detained in a halfway house for two days the first time and five days for each subsequent time.

The bill directs the chief court administrator to establish additional

program criteria including the maximum number of participants. It requires him to submit a program report to the Judiciary Committee by January 1, 2003.

EFFECTIVE DATE: October 1, 2001

### **PROGRAM CONDITIONS**

In order to participate probationers must agree to:

1. submit to periodic breath tests,
2. be detained in a halfway house each time they test positive,
3. comply with all half-way house rules, and
4. waive their right to a hearing.

### **SECOND TEST**

Participants who test positive may request a separate and independent breath test at their expense to confirm the first test's results. The Judicial Department must pay for the second test if the participant is determined to be indigent based on financial affidavits. (The bill does not specify who makes this determination.)

The bill requires that participants be detained in a halfway house pending the results of the second test. If it does not produce a positive result, the participant must be released and the Judicial Department must return the test fee he paid.

### **PROBATION VIOLATION**

A participant may be charged with a probation violation if his probation officer determines he has violated either a probation or program condition. (It is not clear whether the participant's waiver of his right to a hearing applies to an alleged violation that may result in his being ordered to prison to serve the remainder of his sentence or only to a positive test that will result in his being placed in a half-way house.)

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report  
Yea 35 Nay 3