



General Assembly

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Bill No. 6732

LCO No. 3647

Referred to Committee on Transportation

Introduced by:

REP. WARD, 86th Dist.

SEN. DELUCA, 32nd Dist.

AN ACT CONCERNING THE STANDARDS AND MINIMUM PENALTIES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND PROHIBITING OPEN CONTAINERS OF ALCOHOL IN MOTOR VEHICLES.

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

1 Section 1. Section 14-227a of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) No person shall operate a motor vehicle while under the
4 influence of intoxicating liquor or any drug or both. A person commits
5 the offense of operating a motor vehicle while under the influence of
6 intoxicating liquor or any drug or both if such person operates a motor
7 vehicle on a public highway of this state or on any road of a district
8 organized under the provisions of chapter 105, a purpose of which is
9 the construction and maintenance of roads and sidewalks, or on any
10 private road on which a speed limit has been established in accordance
11 with the provisions of section 14-218a, or in any parking area for ten or
12 more cars or on any school property (1) while under the influence of
13 intoxicating liquor or any drug or both or (2) while such person has an

14 elevated blood alcohol content. For the purposes of this section,
15 "elevated blood alcohol content" means (A) a ratio of alcohol in the
16 blood of such person that is [ten-hundredths] eight-hundredths of one
17 per cent or more of alcohol, by weight, or (B) if such person has been
18 convicted of a violation of this subsection, a ratio of alcohol in the
19 blood of such person that is seven-hundredths of one per cent or more
20 of alcohol, by weight.

21 (b) No person shall operate a motor vehicle on a public highway of
22 this state or on any road of a district organized under the provisions of
23 chapter 105, a purpose of which is the construction and maintenance of
24 roads and sidewalks, or on any private road on which a speed limit
25 has been established in accordance with the provisions of section
26 14-218a, or in any parking area for ten or more cars or on any school
27 property while such person's ability to operate such motor vehicle is
28 impaired by the consumption of intoxicating liquor. A person shall be
29 deemed impaired when at the time of the alleged offense the ratio of
30 alcohol in the blood of such person was more than [seven-hundredths]
31 five-hundredths of one per cent of alcohol, by weight, but less than
32 [ten-hundredths] eight-hundredths of one per cent of alcohol, by
33 weight.

34 (c) Except as provided in subsection (d) of this section, in any
35 criminal prosecution for violation of subsection (a) or (b) of this
36 section, evidence respecting the amount of alcohol or drug in the
37 defendant's blood or urine at the time of the alleged offense, as shown
38 by a chemical analysis of the defendant's breath, blood or urine shall
39 be admissible and competent provided: (1) The defendant was
40 afforded a reasonable opportunity to telephone an attorney prior to the
41 performance of the test and consented to the taking of the test upon
42 which such analysis is made; (2) a true copy of the report of the test
43 result was mailed to or personally delivered to the defendant within
44 twenty-four hours or by the end of the next regular business day, after
45 such result was known, whichever is later; (3) the test was performed
46 by or at the direction of a police officer according to methods and with

47 equipment approved by the Department of Public Safety and was
48 performed in accordance with the regulations adopted under
49 subsection (e) of this section; (4) the device used for such test was
50 checked for accuracy in accordance with the regulations adopted
51 under subsection (e) of this section; (5) an additional chemical test of
52 the same type was performed at least thirty minutes after the initial
53 test was performed or, if requested by the police officer for reasonable
54 cause, an additional chemical test of a different type was performed to
55 detect the presence of a drug or drugs other than or in addition to
56 alcohol, provided the results of the initial test shall not be inadmissible
57 under this subsection if reasonable efforts were made to have such
58 additional test performed in accordance with the conditions set forth in
59 this subsection and such additional test was not performed or was not
60 performed within a reasonable time, or the results of such additional
61 test are not admissible for failure to meet a condition set forth in this
62 subsection; and (6) evidence is presented that the test was commenced
63 within two hours of operation. In any prosecution under this section it
64 shall be a rebuttable presumption that the results of such chemical
65 analysis establish the ratio of alcohol in the blood of the defendant at
66 the time of the alleged offense, except that if the results of the
67 additional test indicate that the ratio of alcohol in the blood of such
68 defendant is twelve-hundredths of one per cent or less of alcohol, by
69 weight, and is higher than the results of the first test, evidence shall be
70 presented that demonstrates that the test results and the analysis
71 thereof accurately indicate the blood alcohol content at the time of the
72 alleged offense.

73 (d) In any prosecution for a violation of subdivision (1) of
74 subsection (a) of this section, reliable evidence respecting the amount
75 of alcohol in the defendant's blood or urine at the time of the alleged
76 offense, as shown by a chemical analysis of the defendant's blood,
77 breath or urine, otherwise admissible under subsection (c) of this
78 section, shall be admissible only at the request of the defendant.

79 (e) The Commissioner of Public Safety shall ascertain the reliability

80 of each method and type of device offered for chemical testing and
81 analysis purposes of blood, of breath and of urine and certify those
82 methods and types which said commissioner finds suitable for use in
83 testing and analysis of blood, breath and urine, respectively, in this
84 state. The Commissioner of Public Safety, in consultation with the
85 Commissioner of Public Health shall adopt regulations, in accordance
86 with chapter 54, governing the conduct of chemical tests, the operation
87 and use of chemical test devices, the training and certification of
88 operators of such devices and the drawing or obtaining of blood,
89 breath or urine samples as said commissioner finds necessary to
90 protect the health and safety of persons who submit to chemical tests
91 and to insure reasonable accuracy in testing results. Such regulations
92 shall not require recertification of a police officer solely because such
93 officer terminates such officer's employment with the law enforcement
94 agency for which certification was originally issued and commences
95 employment with another such agency.

96 (f) In any criminal prosecution for a violation of subsection (a) or (b)
97 of this section, evidence that the defendant refused to submit to a
98 blood, breath or urine test requested in accordance with section
99 14-227b shall be admissible provided the requirements of subsection
100 (b) of said section have been satisfied. If a case involving a violation of
101 subsection (a) of this section is tried to a jury, the court shall instruct
102 the jury as to any inference that may or may not be drawn from the
103 defendant's refusal to submit to a blood, breath or urine test.

104 (g) If a person is charged with a violation of the provisions of
105 subsection (a) of this section, the charge may not be reduced, nolle or
106 dismissed unless the prosecuting authority states in open court such
107 prosecutor's reasons for the reduction, nolle or dismissal.

108 (h) Any person who violates any provision of subsection (a) of this
109 section shall: (1) For conviction of a first violation, (A) be fined not less
110 than five hundred dollars nor more than one thousand dollars and (B)
111 be (i) imprisoned not more than six months, forty-eight consecutive

112 hours of which may not be suspended or reduced in any manner or (ii)
113 imprisoned not more than six months, with the execution of such
114 sentence of imprisonment suspended entirely and a period of
115 probation imposed requiring as a condition of such probation that
116 such person perform one hundred hours of community service, as
117 defined in section 14-227e, and (C) have such person's motor vehicle
118 operator's license or nonresident operating privilege suspended for
119 one year; (2) for conviction of a second violation within ten years after
120 a prior conviction for the same offense, (A) be fined not less than one
121 thousand dollars nor more than four thousand dollars, (B) be
122 imprisoned not more than two years, one hundred twenty consecutive
123 days of which may not be suspended or reduced in any manner, and
124 sentenced to a period of probation requiring as a condition of such
125 probation that such person perform one hundred hours of community
126 service, as defined in section 14-227e, and (C) have such person's
127 motor vehicle operator's license or nonresident operating privilege
128 suspended for three years or until the date of such person's twenty-
129 first birthday, whichever is longer; and (3) for conviction of a third and
130 subsequent violation within ten years after a prior conviction for the
131 same offense, (A) be fined not less than two thousand dollars nor more
132 than eight thousand dollars, (B) be imprisoned not more than three
133 years, one year of which may not be suspended or reduced in any
134 manner, and sentenced to a period of probation requiring as a
135 condition of such probation that such person perform one hundred
136 hours of community service, as defined in section 14-227e, and (C)
137 have such person's motor vehicle operator's license or nonresident
138 operating privilege permanently revoked upon such third offense. For
139 purposes of the imposition of penalties for a second or third and
140 subsequent offense pursuant to this subsection, a conviction under the
141 provisions of subsection (a) of section 14-227a in effect on October 1,
142 1981, or as amended thereafter, a conviction under the provisions of
143 either subdivision (1) or (2) of subsection (a) of this section, a
144 conviction under the provisions of section 53a-56b or 53a-60d or a
145 conviction in any other state of any offense the essential elements of

146 which are determined by the court to be substantially the same as
147 subdivision (1) or (2) of subsection (a) of this section or section 53a-56b
148 or 53a-60d, shall constitute a prior conviction for the same offense.

149 (i) Any person who violates subsection (b) of this section shall be
150 fined not more than two hundred dollars.

151 (j) (1) Each court shall report each conviction under subsection (a) of
152 this section to the Commissioner of Motor Vehicles, in accordance with
153 the provisions of section 14-141. The commissioner shall suspend the
154 motor vehicle operator's license or nonresident operating privilege of
155 the person reported as convicted for the period of time required by
156 subsection (h) of this section. (2) The motor vehicle operator's license
157 or nonresident operating privilege of a person found guilty under
158 subsection (a) of this section who is under eighteen years of age shall
159 be suspended by the commissioner for the period of time set forth in
160 subsection (h) of this section, or until such person attains the age of
161 eighteen years, whichever period is longer. (3) The motor vehicle
162 operator's license or nonresident operating privilege of a person found
163 guilty under subsection (a) of this section who, at the time of the
164 offense, was operating a motor vehicle in accordance with a special
165 operator's permit issued pursuant to section 14-37a shall be suspended
166 by the commissioner for twice the period of time set forth in subsection
167 (h) of this section. (4) Whenever the motor vehicle operator's license of
168 a person is suspended under subsection (h) of this section for
169 conviction of a violation of subsection (a) of this section, the operator's
170 license that is returned or reissued to such person by the
171 Commissioner of Motor Vehicles upon completion of the period of
172 suspension shall indicate on its reverse side that such person is an at-
173 risk operator. For purposes of this subdivision, an "at-risk operator" is
174 a person who has been convicted of a violation of subsection (a) of this
175 section. (5) If an appeal of any conviction under subsection (a) of this
176 section is taken, the suspension of the motor vehicle operator's license
177 or nonresident operating privilege by the commissioner, in accordance
178 with this subsection, shall be stayed during the pendency of such

179 appeal.

180 (k) In addition to any fine or sentence imposed pursuant to the
181 provisions of subsection (h) of this section, the court may order such
182 person to participate in an alcohol education and treatment program.

183 (l) Notwithstanding the provisions of subsection (c) of this section,
184 evidence respecting the amount of alcohol or drug in the blood or
185 urine of an operator of a motor vehicle involved in an accident who
186 has suffered or allegedly suffered physical injury in such accident,
187 which evidence is derived from a chemical analysis of a blood sample
188 taken from or a urine sample provided by such person after such
189 accident at the scene of the accident, while en route to a hospital or at a
190 hospital, shall be competent evidence to establish probable cause for
191 the arrest by warrant of such person for a violation of subsection (a) of
192 this section and shall be admissible and competent in any subsequent
193 prosecution thereof if: (1) The blood sample was taken or the urine
194 sample was provided for the diagnosis and treatment of such injury;
195 (2) if a blood sample was taken, the blood sample was taken in
196 accordance with the regulations adopted under subsection (e) of this
197 section; (3) a police officer has demonstrated to the satisfaction of a
198 judge of the Superior Court that such officer has reason to believe that
199 such person was operating a motor vehicle while under the influence
200 of intoxicating liquor or drug or both and that the chemical analysis of
201 such blood or urine sample constitutes evidence of the commission of
202 the offense of operating a motor vehicle while under the influence of
203 intoxicating liquor or drug or both in violation of subsection (a) of this
204 section; and (4) such judge has issued a search warrant in accordance
205 with section 54-33a authorizing the seizure of the chemical analysis of
206 such blood or urine sample. Such search warrant may also authorize
207 the seizure of the medical records prepared by the hospital in
208 connection with the diagnosis or treatment of such injury.

209 (m) (1) For the purposes of this subsection, "ignition interlock
210 device" means a device installed in a motor vehicle which measures

211 the blood alcohol content of the operator and disallows the mechanical
212 operation of such motor vehicle unless the blood alcohol content of
213 such operator is less than five-hundredths of one per cent of alcohol,
214 by weight.

215 (2) In addition to any fine or sentence imposed pursuant to the
216 provisions of subsection (h) of this section, the court shall impose a
217 period of probation of not more than two years upon a person
218 convicted of a second or third violation of subsection (a) of this section
219 requiring as a condition of such probation that such person not operate
220 any motor vehicle unless such motor vehicle is equipped with an
221 ignition interlock device. The court may order such terms and
222 conditions as to duration, use, proof of installation or any other matter
223 concerning the ignition interlock device as it determines to be
224 appropriate.

225 (3) All costs of installing and maintaining an ignition interlock
226 device shall be borne by the person who is the subject of an order
227 made pursuant to this subsection. If such person claims to be unable to
228 pay such costs, such person shall file with the court an affidavit of
229 indigency or inability to pay. If such indigency or inability to pay is
230 confirmed by the Office of Adult Probation, the court may enter a
231 finding thereof, and the costs to install or maintain an ignition
232 interlock device shall be paid by the state from the budget of the
233 Department of Mental Health and Addiction Services.

234 (4) The Commissioner of Public Health shall adopt regulations for
235 the approval of ignition interlock devices, and for the proper
236 calibration and maintenance of such devices. No ignition interlock
237 device shall be installed pursuant to an order of the court under this
238 subsection unless such device has been approved under such
239 regulations.

240 (5) No provision of this subsection shall be construed to authorize
241 the operation of a motor vehicle by any person whose motor vehicle
242 operator's license has been refused, suspended or revoked, or who

243 does not hold a valid license. A court shall inform the Commissioner of
244 Motor Vehicles of each order made by it pursuant to this subsection. If
245 any person who has been ordered to install an ignition interlock device
246 is the holder of a special permit to operate a motor vehicle for
247 employment purposes, issued by said commissioner under the
248 provisions of section 14-37a, strict compliance with the terms of the
249 order shall be deemed a condition to hold such permit, and any failure
250 to comply with such order shall be sufficient cause for immediate
251 revocation of the permit by the commissioner.

252 Sec. 2. Section 14-227b of the general statutes is repealed and the
253 following is substituted in lieu thereof:

254 (a) Any person who operates a motor vehicle in this state shall be
255 deemed to have given such person's consent to a chemical analysis of
256 such person's blood, breath or urine and, if such person is a minor,
257 such person's parent or parents or guardian shall also be deemed to
258 have given their consent.

259 (b) If any such person, having been placed under arrest for
260 operating a motor vehicle while under the influence of intoxicating
261 liquor or any drug or both or while such person's ability to operate
262 such motor vehicle is impaired by the consumption of intoxicating
263 liquor, and thereafter, after being apprised of such person's
264 constitutional rights, having been requested to submit to a blood,
265 breath or urine test at the option of the police officer, having been
266 afforded a reasonable opportunity to telephone an attorney prior to the
267 performance of such test and having been informed that such person's
268 license or nonresident operating privilege may be suspended in
269 accordance with the provisions of this section if such person refuses to
270 submit to such test or if such person submits to such test and the
271 results of such test indicate that such person has an elevated blood
272 alcohol content, and that evidence of any such refusal shall be
273 admissible in accordance with subsection (f) of section 14-227a and
274 may be used against such person in any criminal prosecution, refuses

275 to submit to the designated test, the test shall not be given; provided, if
276 the person refuses or is unable to submit to a blood test, the police
277 officer shall designate the breath or urine test as the test to be taken.
278 The police officer shall make a notation upon the records of the police
279 department that such officer informed the person that such person's
280 license or nonresident operating privilege may be suspended if such
281 person refused to submit to such test or if such person submitted to
282 such test and the results of such test indicated that such person had an
283 elevated blood alcohol content.

284 (c) If the person arrested refuses to submit to such test or analysis or
285 submits to such test or analysis, commenced within two hours of the
286 time of operation, and the results of such test or analysis indicate that
287 such person has an elevated blood alcohol content, the police officer,
288 acting on behalf of the Commissioner of Motor Vehicles, shall
289 immediately revoke and take possession of the motor vehicle
290 operator's license or, if such person is a nonresident, suspend the
291 nonresident operating privilege of such person, for a twenty-four-hour
292 period and shall issue a temporary operator's license or nonresident
293 operating privilege to such person valid for the period commencing
294 twenty-four hours after issuance and ending thirty days after the date
295 such person received notice of such person's arrest by the police
296 officer. The police officer shall prepare a written report of the incident
297 and shall mail the report together with a copy of the completed
298 temporary license form, any operator's license taken into possession
299 and a copy of the results of any chemical test or analysis to the
300 Department of Motor Vehicles within three business days. The report
301 shall be made on a form approved by the Commissioner of Motor
302 Vehicles and shall be subscribed and sworn to under penalty of false
303 statement as provided in section 53a-157b by the arresting officer. If
304 the person arrested refused to submit to such test or analysis, the
305 report shall be endorsed by a third person who witnessed such refusal.
306 The report shall set forth the grounds for the officer's belief that there
307 was probable cause to arrest such person for operating a motor vehicle
308 while under the influence of intoxicating liquor or any drug or both or

309 while such person's ability to operate such motor vehicle is impaired
310 by the consumption of intoxicating liquor, and shall state that such
311 person had refused to submit to such test or analysis when requested
312 by such police officer to do so or that such person submitted to such
313 test or analysis, commenced within two hours of the time of operation,
314 and the results of such test or analysis indicated that such person had
315 an elevated blood alcohol content.

316 (d) If the person arrested submits to a blood or urine test at the
317 request of the police officer, and the specimen requires laboratory
318 analysis in order to obtain the test results, the police officer shall not
319 take possession of the motor vehicle operator's license of such person
320 or, except as provided in this subsection, follow the procedures
321 subsequent to taking possession of the operator's license as set forth in
322 subsection (c) of this section. If the test results indicate that such
323 person has an elevated blood alcohol content, the police officer,
324 immediately upon receipt of the test results, shall notify the
325 Commissioner of Motor Vehicles and submit to the commissioner the
326 written report required pursuant to subsection (c) of this section.

327 (e) Upon receipt of such report, the Commissioner of Motor Vehicles
328 may suspend any license or nonresident operating privilege of such
329 person effective as of a date certain, which date shall be not later than
330 thirty days after the date such person received notice of such person's
331 arrest by the police officer. Any person whose license or operating
332 privilege has been suspended in accordance with this subsection shall
333 automatically be entitled to a hearing before the commissioner to be
334 held prior to the effective date of the suspension. The commissioner
335 shall send a suspension notice to such person informing such person
336 that such person's operator's license or nonresident operating privilege
337 is suspended as of a date certain and that such person is entitled to a
338 hearing prior to the effective date of the suspension and may schedule
339 such hearing by contacting the Department of Motor Vehicles not later
340 than seven days after the date of mailing of such suspension notice.

341 (f) If such person does not contact the department to schedule a
342 hearing, the commissioner shall affirm the suspension contained in the
343 suspension notice for the appropriate period specified in subsection (i)
344 of this section.

345 (g) If such person contacts the department to schedule a hearing, the
346 department shall assign a date, time and place for the hearing, which
347 date shall be prior to the effective date of the suspension. At the
348 request of such person or the hearing officer and upon a showing of
349 good cause, the commissioner may grant one continuance for a period
350 not to exceed fifteen days. If a continuance is granted, the
351 commissioner shall extend the validity of the temporary operator's
352 license or nonresident operating privilege issued pursuant to
353 subsection (c) of this section for a period not to exceed the period of
354 such continuance. The hearing shall be limited to a determination of
355 the following issues: (1) Did the police officer have probable cause to
356 arrest the person for operating a motor vehicle while under the
357 influence of intoxicating liquor or drug or both or while such person's
358 ability to operate such motor vehicle was impaired by the
359 consumption of intoxicating liquor; (2) was such person placed under
360 arrest; (3) did such person refuse to submit to such test or analysis or
361 did such person submit to such test or analysis, commenced within
362 two hours of the time of operation, and the results of such test or
363 analysis indicated that such person had an elevated blood alcohol
364 content; and (4) was such person operating the motor vehicle. In the
365 hearing, the results of the test or analysis shall be sufficient to indicate
366 the ratio of alcohol in the blood of such person at the time of operation,
367 except that if the results of the additional test indicate that the ratio of
368 alcohol in the blood of such person is [twelve-hundredths] ten-
369 hundredths of one per cent or less of alcohol, by weight, and is higher
370 than the results of the first test, evidence shall be presented that
371 demonstrates that the test results and analysis thereof accurately
372 indicate the blood alcohol content at the time of operation. The fees of
373 any witness summoned to appear at the hearing shall be the same as
374 provided by the general statutes for witnesses in criminal cases.

375 (h) If, after such hearing, the commissioner finds on any one of the
376 said issues in the negative, the commissioner shall reinstate such
377 license or operating privilege. If, after such hearing, the commissioner
378 does not find on any one of the said issues in the negative or if such
379 person fails to appear at such hearing, the commissioner shall affirm
380 the suspension contained in the suspension notice for the appropriate
381 period specified in subsection (i) of this section. The commissioner
382 shall render a decision at the conclusion of such hearing or send a
383 notice of the decision by bulk certified mail to such person not later
384 than thirty days or, if a continuance is granted, not later than forty-five
385 days from the date such person received notice of such person's arrest
386 by the police officer. The notice of such decision sent by certified mail
387 to the address of such person as shown by the records of the
388 commissioner shall be sufficient notice to such person that such
389 person's operator's license or nonresident operating privilege is
390 reinstated or suspended, as the case may be. Unless a continuance of
391 the hearing is granted pursuant to subsection (g) of this section, if the
392 commissioner fails to render a decision within thirty days from the
393 date such person received notice of such person's arrest by the police
394 officer, the commissioner shall reinstate such person's operator's
395 license or nonresident operating privilege, provided notwithstanding
396 such reinstatement the commissioner may render a decision not later
397 than two days thereafter suspending such operator's license or
398 nonresident operating privilege.

399 (i) The commissioner shall suspend the operator's license or
400 nonresident operating privilege, and revoke the temporary operator's
401 license or nonresident operating privilege issued pursuant to
402 subsection (c) of this section, of a person who did not contact the
403 department to schedule a hearing, who failed to appear at a hearing or
404 against whom, after a hearing, the commissioner held pursuant to
405 subsection (h) of this section, as of the effective date contained in the
406 suspension notice or the date the commissioner renders a decision,
407 whichever is later, for a period of: (1) (A) Except as provided in
408 subparagraph (B) of this subdivision, ninety days, if such person

409 submitted to a test or analysis and the results of such test or analysis
410 indicated that such person had an elevated blood alcohol content, (B)
411 one hundred twenty days, if such person submitted to a test or
412 analysis and the results of such test or analysis indicated that the ratio
413 of alcohol in the blood of such person was sixteen-hundredths of one
414 per cent or more of alcohol, by weight, or (C) six months if such person
415 refused to submit to such test or analysis, (2) if such person has
416 previously had such person's operator's license or nonresident
417 operating privilege suspended under this section, (A) except as
418 provided in subparagraph (B) of this subdivision, nine months if such
419 person submitted to a test or analysis and the results of such test or
420 analysis indicated that such person had an elevated blood alcohol
421 content, (B) ten months if such person submitted to a test or analysis
422 and the results of such test or analysis indicated that the ratio of
423 alcohol in the blood of such person was sixteen-hundredths of one per
424 cent or more of alcohol, by weight, and (C) one year if such person
425 refused to submit to such test or analysis, and (3) if such person has
426 two or more times previously had such person's operator's license or
427 nonresident operating privilege suspended under this section, (A)
428 except as provided in subparagraph (B) of this subdivision, two years
429 if such person submitted to a test or analysis and the results of such
430 test or analysis indicated that such person had an elevated blood
431 alcohol content, (B) two and one-half years if such person submitted to
432 a test or analysis and the results of such test or analysis indicated that
433 the ratio of alcohol in the blood of such person was sixteen-hundredths
434 of one per cent or more of alcohol, by weight, and (C) three years if
435 such person refused to submit to such test or analysis.

436 (j) Notwithstanding the provisions of subsections (b) to (i),
437 inclusive, of this section, any police officer who obtains the results of a
438 chemical analysis of a blood sample taken from an operator of a motor
439 vehicle involved in an accident who suffered or allegedly suffered
440 physical injury in such accident shall notify the Commissioner of
441 Motor Vehicles and submit to the commissioner a written report if
442 such results indicate that such person had an elevated blood alcohol

443 content, and if such person was arrested for violation of section
444 14-227a in connection with such accident. The report shall be made on
445 a form approved by the commissioner containing such information as
446 the commissioner prescribes, and shall be subscribed and sworn to
447 under penalty of false statement, as provided in section 53a-157b, by
448 the police officer. The commissioner may, after notice and an
449 opportunity for hearing, which shall be conducted in accordance with
450 chapter 54, suspend the motor vehicle operator's license or nonresident
451 operating privilege of such person for a period of up to ninety days, or,
452 if such person has previously had such person's operator's license or
453 nonresident operating privilege suspended under this section for a
454 period of up to one year. Each hearing conducted under this
455 subsection shall be limited to a determination of the following issues:
456 (1) Whether the police officer had probable cause to arrest the person
457 for operating a motor vehicle while under the influence of intoxicating
458 liquor or drug or both or while the person's ability to operate the
459 motor vehicle was impaired by the consumption of intoxicating liquor;
460 (2) whether such person was placed under arrest; (3) whether such
461 person was operating the motor vehicle; (4) whether the results of the
462 analysis of the blood of such person indicate that such person had an
463 elevated blood alcohol content; and (5) whether the blood sample was
464 obtained in accordance with conditions for admissibility and
465 competence as evidence as set forth in subsection (l) of section 14-227a.
466 If, after such hearing, the commissioner finds on any one of the said
467 issues in the negative, the commissioner shall not impose a suspension.
468 The fees of any witness summoned to appear at the hearing shall be
469 the same as provided by the general statutes for witnesses in criminal
470 cases, as provided in section 52-260.

471 (k) The provisions of this section shall apply with the same effect to
472 the refusal by any person to submit to an additional chemical test as
473 provided in subdivision (5) of subsection (c) of section 14-227a.

474 (l) The provisions of this section shall not apply to any person
475 whose physical condition is such that, according to competent medical

476 advice, such test would be inadvisable.

477 (m) The state shall pay the reasonable charges of any physician who,
478 at the request of a municipal police department, takes a blood sample
479 for purposes of a test under the provisions of this section.

480 (n) For the purposes of this section, "elevated blood alcohol content"
481 means (1) a ratio of alcohol in the blood of such person that is [ten-
482 hundredths] eight-hundredths of one per cent or more of alcohol, by
483 weight, (2) if such person has been convicted of a violation of
484 subsection (a) of section 14-227a, a ratio of alcohol in the blood of such
485 person that is seven-hundredths of one per cent or more of alcohol, by
486 weight, or (3) if such person is under twenty-one years of age, a ratio
487 of alcohol in the blood of such person that is two-hundredths of one
488 per cent or more of alcohol, by weight.

489 (o) The Commissioner of Motor Vehicles shall adopt regulations in
490 accordance with chapter 54 to implement the provisions of this section.

491 Sec. 3. Subsection (a) of section 14-227f of the general statutes is
492 repealed and the following is substituted in lieu thereof:

493 (a) Any person whose motor vehicle operator's license or
494 nonresident operating privilege is suspended under subsection (h) of
495 section 14-227a for a conviction of a second or subsequent violation of
496 subsection (a) of said section or under section 14-227b for a second or
497 subsequent time shall participate in a treatment program which
498 includes an assessment of the degree of alcohol abuse and treatment,
499 as appropriate, approved by the Commissioner of Motor Vehicles. The
500 commissioner shall not reinstate the operator's license or nonresident
501 operating privilege of any such person until such person submits
502 evidence to the commissioner that he has satisfactorily completed the
503 treatment program.

504 Sec. 4. Section 53a-213 of the general statutes is repealed and the
505 following is substituted in lieu thereof:

506 (a) A person is guilty of drinking [while operating a motor vehicle]
507 or possessing an open container of alcoholic liquor in a motor vehicle
508 when [he] such person drinks or possesses any open container of
509 alcoholic liquor [while operating] in the passenger area of a motor
510 vehicle while such motor vehicle is located upon a public highway of
511 this state or upon any road of any specially chartered municipal
512 association or of any district organized under the provisions of chapter
513 105, a purpose of which is the construction and maintenance of roads
514 and sidewalks, or in any parking area for ten cars or more, or upon any
515 private road on which a speed limit has been established in accordance
516 with the provisions of section 14-218a or upon any school property. As
517 used in this section, "alcoholic liquor" shall have the same meaning as
518 in section 30-1.

519 (b) Drinking [while operating] or possessing an open container of
520 alcoholic liquor in a motor vehicle is a class C misdemeanor.

521 Sec. 5. This act shall take effect July 1, 2001.

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]