



General Assembly

February Session, 2002

Raised Bill No. 5371

LCO No. 1262

Referred to Committee on Transportation

Introduced by:
(TRA)

**AN ACT CONCERNING OPERATING A MOTOR VEHICLE WHILE
UNDER THE INFLUENCE OF INTOXICATING LIQUOR.**

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

1 Section 1. Section 14-227a of the general statutes, as amended by
2 section 1 of public act 01-201, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2002*):

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

17 blood of such person that is [ten-hundredths] eight-hundredths of one
18 per cent or more of alcohol, by weight. [, or (B) if such person has been
19 convicted of a violation of this subsection, a ratio of alcohol in the
20 blood of such person that is seven-hundredths of one per cent or more
21 of alcohol, by weight.]

22 (b) No person shall operate a motor vehicle on a public highway of
23 this state or on any road of a district organized under the provisions of
24 chapter 105, a purpose of which is the construction and maintenance of
25 roads and sidewalks, or on any private road on which a speed limit
26 has been established in accordance with the provisions of section
27 14-218a, or in any parking area for ten or more cars or on any school
28 property while such person's ability to operate such motor vehicle is
29 impaired by the consumption of intoxicating liquor. A person shall be
30 deemed impaired when at the time of the alleged offense the ratio of
31 alcohol in the blood of such person was more than seven-hundredths
32 of one per cent of alcohol, by weight, but less than [ten-hundredths]
33 eight-hundredths of one per cent of alcohol, by 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
113 (ii) 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] five years
120 after a prior conviction for the same offense, (A) be fined not less than
121 one 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) (i) 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, or (ii) if such person has been
130 convicted of a violation of subdivision (1) of subsection (a) of this
131 section on account of being under the influence of intoxicating liquor
132 or of subdivision (2) of subsection (a) of this section, have such
133 person's motor vehicle operator's license or nonresident operating
134 privilege suspended for one year and be prohibited for the two-year
135 period following completion of such period of suspension from
136 operating a motor vehicle unless such motor vehicle is equipped with
137 a functioning, certified ignition interlock device, as defined in section 4
138 of this act; and (3) for conviction of a third and subsequent violation
139 within [ten] five years after a prior conviction for the same offense, (A)
140 be fined not less than two thousand dollars nor more than eight
141 thousand dollars, (B) be imprisoned not more than three years, one
142 year of which may not be suspended or reduced in any manner, and
143 sentenced to a period of probation requiring as a condition of such
144 probation that such person perform one hundred hours of community
145 service, as defined in section 14-227e, and (C) have such person's
146 motor vehicle operator's license or nonresident operating privilege
147 permanently revoked upon such third offense. For purposes of the
148 imposition of penalties for a second or third and subsequent offense

149 pursuant to this subsection, a conviction under the provisions of
150 subsection (a) of section 14-227a in effect on October 1, 1981, or as
151 amended thereafter, a conviction under the provisions of either
152 subdivision (1) or (2) of subsection (a) of this section, a conviction
153 under the provisions of section 53a-56b or 53a-60d or a conviction in
154 any other state of any offense the essential elements of which are
155 determined by the court to be substantially the same as subdivision (1)
156 or (2) of subsection (a) of this section or section 53a-56b or 53a-60d,
157 shall constitute a prior conviction for the same offense.

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

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

182 risk operator. For purposes of this subdivision, an "at-risk operator" is
183 a person who has been convicted of a violation of subsection (a) of this
184 section. (5) If an appeal of any conviction under subsection (a) of this
185 section is taken, the suspension of the motor vehicle operator's license
186 or nonresident operating privilege by the commissioner, in accordance
187 with this subsection, shall be stayed during the pendency of such
188 appeal.

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

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

215 chemical analysis of such blood or urine sample. Such search warrant
216 may also authorize the seizure of the medical records prepared by the
217 hospital in connection with the diagnosis or treatment of such injury.

218 (m) If the court sentences a person convicted of a violation of
219 subsection (a) of this section to a period of probation, the court may
220 require as a condition of such probation that such person participate in
221 a victim impact panel program approved by the Court Support
222 Services Division of the Judicial Department. Such victim impact panel
223 program shall provide a nonconfrontational forum for the victims of
224 alcohol-related or drug-related offenses and offenders to share
225 experiences on the impact of alcohol-related or drug-related incidents
226 in their lives. Such victim impact panel program shall be conducted by
227 a nonprofit organization that advocates on behalf of victims of
228 accidents caused by persons who operated a motor vehicle while
229 under the influence of intoxicating liquor or any drug, or both. Such
230 organization may assess a participation fee of not more than twenty-
231 five dollars on any person required by the court to participate in such
232 program.

233 Sec. 2. Section 14-227b of the general statutes is repealed and the
234 following is substituted in lieu thereof (*Effective October 1, 2002*):

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

240 (b) If any such person, having been placed under arrest for
241 operating a motor vehicle while under the influence of intoxicating
242 liquor or any drug or both or while such person's ability to operate
243 such motor vehicle is impaired by the consumption of intoxicating
244 liquor, and thereafter, after being apprised of such person's
245 constitutional rights, having been requested to submit to a blood,
246 breath or urine test at the option of the police officer, having been

247 afforded a reasonable opportunity to telephone an attorney prior to the
248 performance of such test and having been informed that such person's
249 license or nonresident operating privilege may be suspended in
250 accordance with the provisions of this section if such person refuses to
251 submit to such test or if such person submits to such test and the
252 results of such test indicate that such person has an elevated blood
253 alcohol content, and that evidence of any such refusal shall be
254 admissible in accordance with subsection (f) of section 14-227a and
255 may be used against such person in any criminal prosecution, refuses
256 to submit to the designated test, the test shall not be given; provided, if
257 the person refuses or is unable to submit to a blood test, the police
258 officer shall designate the breath or urine test as the test to be taken.
259 The police officer shall make a notation upon the records of the police
260 department that such officer informed the person that such person's
261 license or nonresident operating privilege may be suspended if such
262 person refused to submit to such test or if such person submitted to
263 such test and the results of such test indicated that such person had an
264 elevated blood alcohol content.

265 (c) If the person arrested refuses to submit to such test or analysis or
266 submits to such test or analysis, commenced within two hours of the
267 time of operation, and the results of such test or analysis indicate that
268 such person has an elevated blood alcohol content, the police officer,
269 acting on behalf of the Commissioner of Motor Vehicles, shall
270 immediately revoke and take possession of the motor vehicle
271 operator's license or, if such person is a nonresident, suspend the
272 nonresident operating privilege of such person, for a twenty-four-hour
273 period and shall issue a temporary operator's license or nonresident
274 operating privilege to such person valid for the period commencing
275 twenty-four hours after issuance and ending thirty days after the date
276 such person received notice of such person's arrest by the police
277 officer. The police officer shall prepare a written report of the incident
278 and shall mail the report together with a copy of the completed
279 temporary license form, any operator's license taken into possession
280 and a copy of the results of any chemical test or analysis to the

281 Department of Motor Vehicles within three business days. The report
282 shall be made on a form approved by the Commissioner of Motor
283 Vehicles and shall be subscribed and sworn to under penalty of false
284 statement as provided in section 53a-157b by the arresting officer. If
285 the person arrested refused to submit to such test or analysis, the
286 report shall be endorsed by a third person who witnessed such refusal.
287 The report shall set forth the grounds for the officer's belief that there
288 was probable cause to arrest such person for operating a motor vehicle
289 while under the influence of intoxicating liquor or any drug or both or
290 while such person's ability to operate such motor vehicle is impaired
291 by the consumption of intoxicating liquor, and shall state that such
292 person had refused to submit to such test or analysis when requested
293 by such police officer to do so or that such person submitted to such
294 test or analysis, commenced within two hours of the time of operation,
295 and the results of such test or analysis indicated that such person had
296 an elevated blood alcohol content.

297 (d) If the person arrested submits to a blood or urine test at the
298 request of the police officer, and the specimen requires laboratory
299 analysis in order to obtain the test results, the police officer shall not
300 take possession of the motor vehicle operator's license of such person
301 or, except as provided in this subsection, follow the procedures
302 subsequent to taking possession of the operator's license as set forth in
303 subsection (c) of this section. If the test results indicate that such
304 person has an elevated blood alcohol content, the police officer,
305 immediately upon receipt of the test results, shall notify the
306 Commissioner of Motor Vehicles and submit to the commissioner the
307 written report required pursuant to subsection (c) of this section.

308 (e) Upon receipt of such report, the Commissioner of Motor Vehicles
309 may suspend any license or nonresident operating privilege of such
310 person effective as of a date certain, which date shall be not later than
311 thirty days after the date such person received notice of such person's
312 arrest by the police officer. Any person whose license or operating
313 privilege has been suspended in accordance with this subsection shall

314 automatically be entitled to a hearing before the commissioner to be
315 held prior to the effective date of the suspension. The commissioner
316 shall send a suspension notice to such person informing such person
317 that such person's operator's license or nonresident operating privilege
318 is suspended as of a date certain and that such person is entitled to a
319 hearing prior to the effective date of the suspension and may schedule
320 such hearing by contacting the Department of Motor Vehicles not later
321 than seven days after the date of mailing of such suspension notice.

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

326 (g) If such person contacts the department to schedule a hearing, the
327 department shall assign a date, time and place for the hearing, which
328 date shall be prior to the effective date of the suspension. At the
329 request of such person or the hearing officer and upon a showing of
330 good cause, the commissioner may grant one continuance for a period
331 not to exceed fifteen days. If a continuance is granted, the
332 commissioner shall extend the validity of the temporary operator's
333 license or nonresident operating privilege issued pursuant to
334 subsection (c) of this section for a period not to exceed the period of
335 such continuance. The hearing shall be limited to a determination of
336 the following issues: (1) Did the police officer have probable cause to
337 stop and arrest the person for operating a motor vehicle while under
338 the influence of intoxicating liquor or drug or both or while such
339 person's ability to operate such motor vehicle was impaired by the
340 consumption of intoxicating liquor; (2) was such person placed under
341 arrest; (3) did such person refuse to submit to such test or analysis or
342 did such person submit to such test or analysis, commenced within
343 two hours of the time of operation, and the results of such test or
344 analysis indicated that such person had an elevated blood alcohol
345 content; and (4) was such person operating the motor vehicle. In the
346 hearing, the results of the test or analysis shall be sufficient to indicate

347 the ratio of alcohol in the blood of such person at the time of operation,
348 except that if the results of the additional test indicate that the ratio of
349 alcohol in the blood of such person is twelve-hundredths of one per
350 cent or less of alcohol, by weight, and is higher than the results of the
351 first test, evidence shall be presented that demonstrates that the test
352 results and analysis thereof accurately indicate the blood alcohol
353 content at the time of operation. The fees of any witness summoned to
354 appear at the hearing shall be the same as provided by the general
355 statutes for witnesses in criminal cases.

356 (h) If, after such hearing, the commissioner finds on any one of the
357 said issues in the negative, the commissioner shall reinstate such
358 license or operating privilege. If, after such hearing, the commissioner
359 does not find on any one of the said issues in the negative or if such
360 person fails to appear at such hearing, the commissioner shall affirm
361 the suspension contained in the suspension notice for the appropriate
362 period specified in subsection (i) of this section. The commissioner
363 shall render a decision at the conclusion of such hearing or send a
364 notice of the decision by bulk certified mail to such person not later
365 than thirty days or, if a continuance is granted, not later than forty-five
366 days from the date such person received notice of such person's arrest
367 by the police officer. The notice of such decision sent by certified mail
368 to the address of such person as shown by the records of the
369 commissioner shall be sufficient notice to such person that such
370 person's operator's license or nonresident operating privilege is
371 reinstated or suspended, as the case may be. Unless a continuance of
372 the hearing is granted pursuant to subsection (g) of this section, if the
373 commissioner fails to render a decision within thirty days from the
374 date such person received notice of such person's arrest by the police
375 officer, the commissioner shall reinstate such person's operator's
376 license or nonresident operating privilege, provided notwithstanding
377 such reinstatement the commissioner may render a decision not later
378 than two days thereafter suspending such operator's license or
379 nonresident operating privilege.

380 (i) The commissioner shall suspend the operator's license or
381 nonresident operating privilege, and revoke the temporary operator's
382 license or nonresident operating privilege issued pursuant to
383 subsection (c) of this section, of a person who did not contact the
384 department to schedule a hearing, who failed to appear at a hearing or
385 against whom, after a hearing, the commissioner held pursuant to
386 subsection (h) of this section, as of the effective date contained in the
387 suspension notice or the date the commissioner renders a decision,
388 whichever is later, for a period of: (1) (A) [Except as provided in
389 subparagraph (B) of this subdivision, ninety] Ninety days, if such
390 person submitted to a test or analysis and the results of such test or
391 analysis indicated that such person had an elevated blood alcohol
392 content, [(B) one hundred twenty days, if such person submitted to a
393 test or analysis and the results of such test or analysis indicated that
394 the ratio of alcohol in the blood of such person was sixteen-hundredths
395 of one per cent or more of alcohol, by weight, or (C)] or (B) six months
396 if such person refused to submit to such test or analysis, (2) if such
397 person has previously had such person's operator's license or
398 nonresident operating privilege suspended under this section, (A)
399 [except as provided in subparagraph (B) of this subdivision,] nine
400 months if such person submitted to a test or analysis and the results of
401 such test or analysis indicated that such person had an elevated blood
402 alcohol content, [(B) ten months if such person submitted to a test or
403 analysis and the results of such test or analysis indicated that the ratio
404 of alcohol in the blood of such person was sixteen-hundredths of one
405 per cent or more of alcohol, by weight, and (C)] or (B) one year if such
406 person refused to submit to such test or analysis, and (3) if such person
407 has two or more times previously had such person's operator's license
408 or nonresident operating privilege suspended under this section, (A)
409 [except as provided in subparagraph (B) of this subdivision,] two years
410 if such person submitted to a test or analysis and the results of such
411 test or analysis indicated that such person had an elevated blood
412 alcohol content, [(B) two and one-half years if such person submitted
413 to a test or analysis and the results of such test or analysis indicated

414 that the ratio of alcohol in the blood of such person was sixteen-
415 hundredths of one per cent or more of alcohol, by weight, and (C)] or
416 (B) three years if such person refused to submit to such test or analysis.

417 (j) Notwithstanding the provisions of subsections (b) to (i),
418 inclusive, of this section, any police officer who obtains the results of a
419 chemical analysis of a blood sample taken from an operator of a motor
420 vehicle involved in an accident who suffered or allegedly suffered
421 physical injury in such accident shall notify the Commissioner of
422 Motor Vehicles and submit to the commissioner a written report if
423 such results indicate that such person had an elevated blood alcohol
424 content, and if such person was arrested for violation of section
425 14-227a in connection with such accident. The report shall be made on
426 a form approved by the commissioner containing such information as
427 the commissioner prescribes, and shall be subscribed and sworn to
428 under penalty of false statement, as provided in section 53a-157b, by
429 the police officer. The commissioner may, after notice and an
430 opportunity for hearing, which shall be conducted in accordance with
431 chapter 54, suspend the motor vehicle operator's license or nonresident
432 operating privilege of such person for a period of up to ninety days, or,
433 if such person has previously had such person's operator's license or
434 nonresident operating privilege suspended under this section for a
435 period of up to one year. Each hearing conducted under this
436 subsection shall be limited to a determination of the following issues:
437 (1) Whether the police officer had probable cause to stop and arrest the
438 person for operating a motor vehicle while under the influence of
439 intoxicating liquor or drug or both or while the person's ability to
440 operate the motor vehicle was impaired by the consumption of
441 intoxicating liquor; (2) whether such person was placed under arrest;
442 (3) whether such person was operating the motor vehicle; (4) whether
443 the results of the analysis of the blood of such person indicate that such
444 person had an elevated blood alcohol content; and (5) whether the
445 blood sample was obtained in accordance with conditions for
446 admissibility and competence as evidence as set forth in subsection (l)
447 of section 14-227a. If, after such hearing, the commissioner finds on

448 any one of the said issues in the negative, the commissioner shall not
449 impose a suspension. The fees of any witness summoned to appear at
450 the hearing shall be the same as provided by the general statutes for
451 witnesses in criminal cases, as provided in section 52-260, as amended.

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

455 (l) The provisions of this section shall not apply to any person
456 whose physical condition is such that, according to competent medical
457 advice, such test would be inadvisable.

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

461 (n) For the purposes of this section, "elevated blood alcohol content"
462 means (1) a ratio of alcohol in the blood of such person that is [ten-
463 hundredths] eight-hundredths of one per cent or more of alcohol, by
464 weight, [(2) if such person has been convicted of a violation of
465 subsection (a) of section 14-227a, a ratio of alcohol in the blood of such
466 person that is seven-hundredths of one per cent or more of alcohol, by
467 weight, or (3)] or (2) if such person is under twenty-one years of age, a
468 ratio of alcohol in the blood of such person that is two-hundredths of
469 one per cent or more of alcohol, by weight.

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

472 Sec. 3. Section 54-56g of the general statutes, as amended by sections
473 2 and 3 of public act 01-201 and section 9 of public act 01-8 of the June
474 special session, is repealed and the following is substituted in lieu
475 thereof (*Effective October 1, 2002*):

476 (a) There shall be a pretrial alcohol education system for persons
477 charged with a violation of section 14-227a or 14-227g. Upon

478 application by any such person for participation in such system and
479 payment to the court of an application fee of fifty dollars, the court
480 shall, but only as to the public, order the court file sealed, provided
481 such person states under oath, in open court or before any person
482 designated by the clerk and duly authorized to administer oaths,
483 under penalties of perjury that: (1) If such person is charged with a
484 violation of section 14-227a, such person has [never] not had such
485 system invoked in such person's behalf [and that] within the preceding
486 ten years for a violation of section 14-227a, (2) if such person is charged
487 with a violation of section 14-227g, such person has never had such
488 system invoked in such person's behalf for a violation of section 14-
489 227a or 14-227g, (3) such person has not been convicted of a violation
490 of section 53a-56b or 53a-60d, a violation of subsection (a) of section
491 14-227a before or after October 1, 1981, or a violation of subdivision (1)
492 or (2) of subsection (a) of section 14-227a on or after October 1, 1985,
493 and [that] (4) such person has not been convicted in any other state at
494 any time of an offense the essential elements of which are substantially
495 the same as section 53a-56b or 53a-60d or subdivision (1) or (2) of
496 subsection (a) of section 14-227a. Unless good cause is shown, a person
497 shall be ineligible for participation in such pretrial alcohol education
498 system if such person's alleged violation of section 14-227a or 14-227g
499 caused the serious physical injury, as defined in section 53a-3, as
500 amended, of another person. The fee imposed by this subsection shall
501 be credited to the Criminal Injuries Compensation Fund established by
502 section 54-215.

503 (b) The court, after consideration of the recommendation of the
504 state's attorney, assistant state's attorney or deputy assistant state's
505 attorney in charge of the case, may, in its discretion, grant such
506 application. If the court grants such application, it shall refer such
507 person to the Bail Commission for assessment and confirmation of the
508 eligibility of the applicant. The Bail Commission, in making its
509 assessment and confirmation, may rely on the representations made by
510 the applicant under oath in open court with respect to convictions in
511 other states of offenses specified in subsection (a) of this section. Upon

512 confirmation of eligibility, the defendant shall be referred to the
513 Department of Mental Health and Addiction Services by the Bail
514 Commission for evaluation and placement in an appropriate alcohol
515 program for one year. Any person who enters the system shall agree:
516 (1) To the tolling of the statute of limitations with respect to such
517 crime, (2) to a waiver of such person's right to a speedy trial, [(3) to
518 participate in at least ten counseling sessions in an alcohol program
519 pursuant to this section or, if such person was charged with a violation
520 of subdivision (2) of subsection (a) of section 14-227a, where the ratio
521 of alcohol in the blood of such person was sixteen-hundredths of one
522 per cent or more of alcohol, by weight, to participate in at least fifteen
523 counseling sessions in an alcohol program pursuant to this section, and
524 complete the assigned program, (4)] (3) to accept placement in a
525 treatment program upon recommendation of a provider under
526 contract with the Department of Mental Health and Addiction Services
527 pursuant to subsection (d) of this section or placement in a treatment
528 program which has standards substantially similar to, or higher than, a
529 program of a provider under contract with the Department of Mental
530 Health and Addiction Services if the Bail Commission deems it
531 appropriate, (4) to participate in at least ten counseling sessions in a
532 program pursuant to this section, and, if deemed appropriate by the
533 program provider, participate in additional counseling sessions or
534 accept other forms of education or treatment as part of such program,
535 (5) to complete the assigned program, and [(5)] (6) if ordered by the
536 court, to participate in at least one victim impact panel. The suspension
537 of the motor vehicle operator's license of any such person pursuant to
538 section 14-227b, as amended by this act, shall be effective during the
539 period such person is participating in such program, provided such
540 person shall have the option of not commencing the participation in
541 such program until the period of such suspension is completed. If the
542 Bail Commission informs the court that the defendant is ineligible for
543 the system and the court makes a determination of ineligibility or if the
544 program provider certifies to the court that the defendant did not
545 successfully complete the assigned program or is no longer amenable

546 to treatment, the court shall order the court file to be unsealed, enter a
547 plea of not guilty for such defendant and immediately place the case
548 on the trial list. If such defendant satisfactorily completes the assigned
549 program, such defendant may apply for dismissal of the charges
550 against such defendant and the court, on reviewing the record of the
551 defendant's participation in such program submitted by the Bail
552 Commission and on finding such satisfactory completion, shall dismiss
553 the charges. If the defendant does not apply for dismissal of the
554 charges against such defendant after satisfactorily completing the
555 assigned program the court, upon receipt of the record of the
556 defendant's participation in such program submitted by the Bail
557 Commission, may on its own motion make a finding of such
558 satisfactory completion and dismiss the charges. Upon motion of the
559 defendant and a showing of good cause, the court may extend the one-
560 year placement period for a reasonable period for the defendant to
561 complete the assigned program. A record of participation in such
562 program shall be retained by the Bail Commission for a period of
563 seven years from the date of application. The Bail Commission shall
564 transmit to the Department of Motor Vehicles a record of participation
565 in such program for each person who satisfactorily completes such
566 program. The Department of Motor Vehicles shall maintain for a
567 period of seven years the record of a person's participation in such
568 program as part of such person's driving record.

569 (c) At the time the court grants the application for participation in
570 the pretrial alcohol education system, such person shall also pay to the
571 court a nonrefundable program fee of four hundred twenty-five
572 dollars, [or, if such person was charged with a violation of subdivision
573 (2) of subsection (a) of section 14-227a, where the ratio of alcohol in the
574 blood of such person was sixteen-hundredths of one per cent or more
575 of alcohol, by weight, a nonrefundable program fee of six hundred
576 dollars,] except that no person may be excluded from such program for
577 inability to pay such fee, provided (1) such person files with the court
578 an affidavit of indigency or inability to pay, (2) such indigency is
579 confirmed by the Bail Commission, and (3) the court enters a finding

580 thereof. If the court denies the application, such person shall not be
581 required to pay the program fee. If the court grants the application,
582 and such person is later determined to be ineligible for participation in
583 such pretrial alcohol education system or fails to complete the assigned
584 program, the program fee shall not be refunded. All such program fees
585 shall be credited to the pretrial account.

586 (d) The Department of Mental Health and Addiction Services shall
587 contract with service providers, develop standards and oversee
588 appropriate alcohol programs to meet the requirements of this section.
589 Said department shall adopt regulations in accordance with chapter 54
590 to establish standards for such alcohol programs. Any defendant
591 whose employment or residence makes it unreasonable to attend an
592 alcohol program in this state may attend a program in another state
593 which has standards substantially similar to, or higher than, those of
594 this state, subject to the approval of the court and payment of the
595 application and program fees as provided in this section.

596 (e) The court may, as a condition of granting such application,
597 require that such person participate in a victim impact panel program
598 approved by the Court Support Services Division of the Judicial
599 Department. Such victim impact panel program shall provide a
600 nonconfrontational forum for the victims of alcohol-related or drug-
601 related offenses and offenders to share experiences on the impact of
602 alcohol-related or drug-related incidents in their lives. Such victim
603 impact panel program shall be conducted by a nonprofit organization
604 that advocates on behalf of victims of accidents caused by persons who
605 operated a motor vehicle while under the influence of intoxicating
606 liquor or any drug, or both. Such organization may assess a
607 participation fee of not more than twenty-five dollars on any person
608 required by the court to participate in such program.

609 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) Any person who has been
610 ordered pursuant to subparagraph (D) of subdivision (2) of subsection
611 (h) of section 14-227a of the general statutes, as amended by this act, not

612 to operate a motor vehicle unless such motor vehicle is equipped with a
613 functioning, certified ignition interlock device may apply to the
614 Department of Motor Vehicles for the issuance of a restricted motor
615 vehicle operator's license. The department shall issue a restricted
616 operator's license to such person if it finds that such person has equipped
617 any motor vehicle such person intends to operate with a functioning,
618 certified ignition interlock device. The restricted operator's license shall
619 restrict the person holding such license for the time period ordered by
620 the court to the operation of a motor vehicle with a functioning, certified
621 ignition interlock device.

622 (b) "Ignition interlock device" means a blood alcohol content
623 equivalence measuring device that prevents a motor vehicle from being
624 started at any time without first determining the operator's equivalent
625 breath alcohol level through a deep lung breath sample. The device shall
626 be calibrated so that the motor vehicle cannot be started if the ratio of
627 alcohol in the blood of the operator, as measured by the test, is
628 six-hundredths of one per cent or more of alcohol, by weight.

629 Sec. 5. (NEW) (*Effective October 1, 2002*) (a) No person who has been
630 issued a restricted motor vehicle operator's license pursuant to section 4
631 of this act shall operate a motor vehicle during the period for which such
632 license was issued unless that vehicle is equipped with a functioning,
633 certified ignition interlock device.

634 (b) Any person who violates the provisions of this section shall have
635 such restricted motor vehicle operator's license revoked and have such
636 person's operator's license suspended for six months, and shall be fined
637 not less than five hundred dollars nor more than one thousand dollars or
638 imprisoned not less than thirty days nor more than one year, or both.

639 Sec. 6. (NEW) (*Effective October 1, 2002*) (a) No person who has been
640 issued a restricted motor vehicle operator's license pursuant to section 4
641 of this act shall request or solicit another person to blow into an ignition
642 interlock device or to start a motor vehicle equipped with an ignition
643 interlock device for the purpose of providing the person so restricted

644 with an operable motor vehicle.

645 (b) No person shall blow into an ignition interlock device or start a
646 motor vehicle equipped with an ignition interlock device for the purpose
647 of providing an operable motor vehicle to a person who has been issued
648 a restricted motor vehicle operator's license pursuant to section 4 of this
649 act.

650 (c) No person shall tamper with an ignition interlock device for the
651 purpose of circumventing it or rendering it inaccurate or inoperative.

652 (d) Any person who violates any provision of this section shall be
653 fined not less than five hundred dollars nor more than one thousand
654 dollars or imprisoned not less than thirty days nor more than three
655 months, or both.

656 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) No person shall knowingly
657 rent, lease or lend a motor vehicle to a person who has been issued a
658 restricted motor vehicle operator's license pursuant to section 4 of this
659 act, unless the vehicle is equipped with a functioning, certified ignition
660 interlock device. Any person who has been issued such a restricted
661 motor vehicle operator's license shall notify any person who intends to
662 rent, lease or lend a motor vehicle to such person of the restriction
663 imposed by such license.

664 (b) Any person who violates any provision of this section shall be
665 fined not less than five hundred dollars nor more than one thousand
666 dollars or imprisoned not less than thirty days nor more than three
667 months, or both.

668 Sec. 8. (NEW) (*Effective October 1, 2002*) (a) The Department of Public
669 Health shall certify or cause to be certified ignition interlock devices for
670 use in this state. Devices certified shall conform to standards established
671 by the department pursuant to regulations adopted in accordance with
672 chapter 54 of the general statutes. Such standards shall include, but not
673 be limited to, requirements that such devices: (1) Do not impede the safe

674 operation of the motor vehicle; (2) have features that make
675 circumventing difficult and that do not interfere with the normal use of
676 the motor vehicle; (3) correlate well with established measures of alcohol
677 impairment; (4) work accurately and reliably in an unsupervised
678 environment; (5) resist tampering and give evidence if tampering is
679 attempted; (6) are difficult to circumvent, and require premeditation to
680 do so; (7) minimize inconvenience to a sober user; (8) require a proper,
681 deep lung breath sample or other accurate measure of blood alcohol
682 content equivalence; (9) operate reliably over the range of automobile
683 environments; and (10) are manufactured by a party who will provide
684 product liability insurance.

685 (b) A list of certified ignition interlock devices shall be published by
686 the Department of Public Health and the cost of such certification shall
687 be borne by the manufacturers of such devices.

688 (c) The manufacturer of a certified ignition interlock device shall be
689 responsible for the installation of such devices or the training of
690 installers, shall educate users and shall service and maintain such
691 devices.

692 (d) The Department of Motor Vehicles shall design and prescribe by
693 regulation, adopted in accordance with chapter 54 of the general statutes,
694 a warning label that shall be affixed to each ignition interlock device
695 upon installation. The label shall contain a warning that any person
696 tampering, circumventing or otherwise misusing the device shall be
697 fined not less than five hundred dollars nor more than one thousand
698 dollars or imprisoned not less than thirty days nor more than three
699 months, or both, and may be subject to civil liability.

700 Sec. 9. (*Effective from passage*) (a) The Department of Correction shall
701 conduct a study of the cost to establish a separate correctional facility
702 having not less five hundred beds for the incarceration of persons
703 convicted of a violation of section 14-227a, 53a-56b or 53a-60d of the
704 general statutes.

705 (b) Not later than January 8, 2003, the department shall submit a
706 report on its findings and recommendations to the joint standing
707 committee of the General Assembly having cognizance of matters
708 relating to the Department of Correction, in accordance with the
709 provisions of section 11-4a of the general statutes.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>
Sec. 9	<i>from passage</i>

Statement of Purpose:

To lower the blood alcohol content at which an operator of a motor vehicle is deemed to be driving while under the influence of intoxicating liquor from ten-hundredths to eight-hundredths of one per cent of alcohol, by weight, revise the penalties for drunken driving and make certain changes to the administrative per se law and the pretrial alcohol education program.

[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.]