



General Assembly

Substitute Bill No. 5371

February Session, 2002

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2 section 1 of public act 01-201, is repealed and the following is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 July 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 of
33 one per cent of alcohol, by weight.]

34 [(c)] (b) Except as provided in subsection [(d)] (c) of this section, in
35 any 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)] (d) 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)] (d) of this section; (5) an additional chemical test
52 of 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)] (c) 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)] (b) of this
78 section, shall be admissible only at the request of the defendant.

79 [(e)] (d) The Commissioner of Public Safety shall ascertain the
80 reliability of each method and type of device offered for chemical
81 testing and analysis purposes of blood, of breath and of urine and
82 certify those methods and types which said commissioner finds
83 suitable for use in testing and analysis of blood, breath and urine,
84 respectively, in this state. The Commissioner of Public Safety, in
85 consultation with the Commissioner of Public Health shall adopt
86 regulations, in accordance with chapter 54, governing the conduct of
87 chemical tests, the operation and use of chemical test devices, the
88 training and certification of operators of such devices and the drawing

89 or obtaining of blood, breath or urine samples as said commissioner
90 finds necessary to protect the health and safety of persons who submit
91 to chemical tests and to insure reasonable accuracy in testing results.
92 Such regulations shall not require recertification of a police officer
93 solely because such officer terminates such officer's employment with
94 the law enforcement agency for which certification was originally
95 issued and commences employment with another such agency.

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

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

109 ~~[(h)]~~ (g) Any person who violates any provision of subsection (a) of
110 this section shall: (1) For conviction of a first violation, (A) be fined not
111 less than five hundred dollars nor more than one thousand dollars,
112 and (B) be (i) imprisoned not more than six months, forty-eight
113 consecutive hours of which may not be suspended or reduced in any
114 manner, or (ii) imprisoned not more than six months, with the
115 execution of such sentence of imprisonment suspended entirely and a
116 period of probation imposed requiring as a condition of such
117 probation that such person perform one hundred hours of community
118 service, as defined in section 14-227e, as amended by this act, and (C)
119 have such person's motor vehicle operator's license or nonresident
120 operating privilege suspended for one year; (2) for conviction of a

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

151 [(i) Any person who violates subsection (b) of this section shall be
152 fined not more than two hundred dollars.]

153 [(j)] (h) (1) Each court shall report each conviction under subsection
154 (a) of this section to the Commissioner of Motor Vehicles, in

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

182 [(k)] (i) In addition to any fine or sentence imposed pursuant to the
183 provisions of subsection [(h)] (g) of this section, the court may order
184 such person to participate in an alcohol education and treatment
185 program.

186 [(l)] (j) Notwithstanding the provisions of subsection [(c)] (b) of this
187 section, evidence respecting the amount of alcohol or drug in the blood
188 or urine of an operator of a motor vehicle involved in an accident who

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

212 [(m)] (k) If the court sentences a person convicted of a violation of
213 subsection (a) of this section to a period of probation, the court may
214 require as a condition of such probation that such person participate in
215 a victim impact panel program approved by the Court Support
216 Services Division of the Judicial Department. Such victim impact panel
217 program shall provide a nonconfrontational forum for the victims of
218 alcohol-related or drug-related offenses and offenders to share
219 experiences on the impact of alcohol-related or drug-related incidents
220 in their lives. Such victim impact panel program shall be conducted by
221 a nonprofit organization that advocates on behalf of victims of
222 accidents caused by persons who operated a motor vehicle while

223 under the influence of intoxicating liquor or any drug, or both. Such
224 organization may assess a participation fee of not more than twenty-
225 five dollars on any person required by the court to participate in such
226 program.

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

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

234 (b) If any such person, having been placed under arrest for
235 operating a motor vehicle while under the influence of intoxicating
236 liquor or any drug or both, [or while such person's ability to operate
237 such motor vehicle is impaired by the consumption of intoxicating
238 liquor,] and thereafter, after being apprised of such person's
239 constitutional rights, having been requested to submit to a blood,
240 breath or urine test at the option of the police officer, having been
241 afforded a reasonable opportunity to telephone an attorney prior to the
242 performance of such test and having been informed that such person's
243 license or nonresident operating privilege may be suspended in
244 accordance with the provisions of this section if such person refuses to
245 submit to such test or if such person submits to such test and the
246 results of such test indicate that such person has an elevated blood
247 alcohol content, and that evidence of any such refusal shall be
248 admissible in accordance with subsection [(f)] (e) of section 14-227a, as
249 amended by this act, and may be used against such person in any
250 criminal prosecution, refuses to submit to the designated test, the test
251 shall not be given; provided, if the person refuses or is unable to
252 submit to a blood test, the police officer shall designate the breath or
253 urine test as the test to be taken. The police officer shall make a
254 notation upon the records of the police department that such officer
255 informed the person that such person's license or nonresident

256 operating privilege may be suspended if such person refused to submit
257 to such test or if such person submitted to such test and the results of
258 such test indicated that such person had an elevated blood alcohol
259 content.

260 (c) If the person arrested refuses to submit to such test or analysis or
261 submits to such test or analysis, commenced within two hours of the
262 time of operation, and the results of such test or analysis indicate that
263 such person has an elevated blood alcohol content, the police officer,
264 acting on behalf of the Commissioner of Motor Vehicles, shall
265 immediately revoke and take possession of the motor vehicle
266 operator's license or, if such person is a nonresident, suspend the
267 nonresident operating privilege of such person, for a twenty-four-hour
268 period and shall issue a temporary operator's license or nonresident
269 operating privilege to such person valid for the period commencing
270 twenty-four hours after issuance and ending thirty days after the date
271 such person received notice of such person's arrest by the police
272 officer. The police officer shall prepare a written report of the incident
273 and shall mail the report together with a copy of the completed
274 temporary license form, any operator's license taken into possession
275 and a copy of the results of any chemical test or analysis to the
276 Department of Motor Vehicles within three business days. The report
277 shall be made on a form approved by the Commissioner of Motor
278 Vehicles and shall be subscribed and sworn to under penalty of false
279 statement as provided in section 53a-157b by the arresting officer. If
280 the person arrested refused to submit to such test or analysis, the
281 report shall be endorsed by a third person who witnessed such refusal.
282 The report shall set forth the grounds for the officer's belief that there
283 was probable cause to arrest such person for operating a motor vehicle
284 while under the influence of intoxicating liquor or any drug or both [or
285 while such person's ability to operate such motor vehicle is impaired
286 by the consumption of intoxicating liquor,] and shall state that such
287 person had refused to submit to such test or analysis when requested
288 by such police officer to do so or that such person submitted to such
289 test or analysis, commenced within two hours of the time of operation,

290 and the results of such test or analysis indicated that such person had
291 an elevated blood alcohol content.

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

303 (e) Upon receipt of such report, the Commissioner of Motor Vehicles
304 may suspend any license or nonresident operating privilege of such
305 person effective as of a date certain, which date shall be not later than
306 thirty days after the date such person received notice of such person's
307 arrest by the police officer. Any person whose license or operating
308 privilege has been suspended in accordance with this subsection shall
309 automatically be entitled to a hearing before the commissioner to be
310 held prior to the effective date of the suspension. The commissioner
311 shall send a suspension notice to such person informing such person
312 that such person's operator's license or nonresident operating privilege
313 is suspended as of a date certain and that such person is entitled to a
314 hearing prior to the effective date of the suspension and may schedule
315 such hearing by contacting the Department of Motor Vehicles not later
316 than seven days after the date of mailing of such suspension notice.

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

321 (g) If such person contacts the department to schedule a hearing, the

322 department shall assign a date, time and place for the hearing, which
323 date shall be prior to the effective date of the suspension. At the
324 request of such person or the hearing officer and upon a showing of
325 good cause, the commissioner may grant one continuance for a period
326 not to exceed fifteen days. If a continuance is granted, the
327 commissioner shall extend the validity of the temporary operator's
328 license or nonresident operating privilege issued pursuant to
329 subsection (c) of this section for a period not to exceed the period of
330 such continuance. The hearing shall be limited to a determination of
331 the following issues: (1) Did the police officer have probable cause to
332 arrest the person for operating a motor vehicle while under the
333 influence of intoxicating liquor or drug or both; [or while such person's
334 ability to operate such motor vehicle was impaired by the
335 consumption of intoxicating liquor;] (2) was such person placed under
336 arrest; (3) did such person refuse to submit to such test or analysis or
337 did such person submit to such test or analysis, commenced within
338 two hours of the time of operation, and the results of such test or
339 analysis indicated that such person had an elevated blood alcohol
340 content; and (4) was such person operating the motor vehicle. In the
341 hearing, the results of the test or analysis shall be sufficient to indicate
342 the ratio of alcohol in the blood of such person at the time of operation,
343 except that if the results of the additional test indicate that the ratio of
344 alcohol in the blood of such person is twelve-hundredths of one per
345 cent or less of alcohol, by weight, and is higher than the results of the
346 first test, evidence shall be presented that demonstrates that the test
347 results and analysis thereof accurately indicate the blood alcohol
348 content at the time of operation. The fees of any witness summoned to
349 appear at the hearing shall be the same as provided by the general
350 statutes for witnesses in criminal cases.

351 (h) If, after such hearing, the commissioner finds on any one of the
352 said issues in the negative, the commissioner shall reinstate such
353 license or operating privilege. If, after such hearing, the commissioner
354 does not find on any one of the said issues in the negative or if such
355 person fails to appear at such hearing, the commissioner shall affirm

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

375 (i) The commissioner shall suspend the operator's license or
376 nonresident operating privilege, and revoke the temporary operator's
377 license or nonresident operating privilege issued pursuant to
378 subsection (c) of this section, of a person who did not contact the
379 department to schedule a hearing, who failed to appear at a hearing or
380 against whom, after a hearing, the commissioner held pursuant to
381 subsection (h) of this section, as of the effective date contained in the
382 suspension notice or the date the commissioner renders a decision,
383 whichever is later, for a period of: (1) (A) Except as provided in
384 subparagraph (B) of this subdivision, ninety days, if such person
385 submitted to a test or analysis and the results of such test or analysis
386 indicated that such person had an elevated blood alcohol content, (B)
387 one hundred twenty days, if such person submitted to a test or
388 analysis and the results of such test or analysis indicated that the ratio
389 of alcohol in the blood of such person was sixteen-hundredths of one

390 per cent or more of alcohol, by weight, or (C) six months if such person
391 refused to submit to such test or analysis, (2) if such person has
392 previously had such person's operator's license or nonresident
393 operating privilege suspended under this section, (A) except as
394 provided in subparagraph (B) of this subdivision, nine months if such
395 person submitted to a test or analysis and the results of such test or
396 analysis indicated that such person had an elevated blood alcohol
397 content, (B) ten months if such person submitted to a test or analysis
398 and the results of such test or analysis indicated that the ratio of
399 alcohol in the blood of such person was sixteen-hundredths of one per
400 cent or more of alcohol, by weight, and (C) one year if such person
401 refused to submit to such test or analysis, and (3) if such person has
402 two or more times previously had such person's operator's license or
403 nonresident operating privilege suspended under this section, (A)
404 except as provided in subparagraph (B) of this subdivision, two years
405 if such person submitted to a test or analysis and the results of such
406 test or analysis indicated that such person had an elevated blood
407 alcohol content, (B) two and one-half years if such person submitted to
408 a test or analysis and the results of such test or analysis indicated that
409 the ratio of alcohol in the blood of such person was sixteen-hundredths
410 of one per cent or more of alcohol, by weight, and (C) three years if
411 such person refused to submit to such test or analysis.

412 (j) Notwithstanding the provisions of subsections (b) to (i),
413 inclusive, of this section, any police officer who obtains the results of a
414 chemical analysis of a blood sample taken from an operator of a motor
415 vehicle involved in an accident who suffered or allegedly suffered
416 physical injury in such accident shall notify the Commissioner of
417 Motor Vehicles and submit to the commissioner a written report if
418 such results indicate that such person had an elevated blood alcohol
419 content, and if such person was arrested for violation of section
420 14-227a, as amended by this act, in connection with such accident. The
421 report shall be made on a form approved by the commissioner
422 containing such information as the commissioner prescribes, and shall
423 be subscribed and sworn to under penalty of false statement, as

424 provided in section 53a-157b, by the police officer. The commissioner
425 may, after notice and an opportunity for hearing, which shall be
426 conducted in accordance with chapter 54, suspend the motor vehicle
427 operator's license or nonresident operating privilege of such person for
428 a period of up to ninety days, or, if such person has previously had
429 such person's operator's license or nonresident operating privilege
430 suspended under this section for a period of up to one year. Each
431 hearing conducted under this subsection shall be limited to a
432 determination of the following issues: (1) Whether the police officer
433 had probable cause to arrest the person for operating a motor vehicle
434 while under the influence of intoxicating liquor or drug or both; [or
435 while the person's ability to operate the motor vehicle was impaired by
436 the consumption of intoxicating liquor;] (2) whether such person was
437 placed under arrest; (3) whether such person was operating the motor
438 vehicle; (4) whether the results of the analysis of the blood of such
439 person indicate that such person had an elevated blood alcohol
440 content; and (5) whether the blood sample was obtained in accordance
441 with conditions for admissibility and competence as evidence as set
442 forth in subsection [(1)] (j) of section 14-227a, as amended by this act. If,
443 after such hearing, the commissioner finds on any one of the said
444 issues in the negative, the commissioner shall not impose a suspension.
445 The fees of any witness summoned to appear at the hearing shall be
446 the same as provided by the general statutes for witnesses in criminal
447 cases, as provided in section 52-260, as amended.

448 (k) The provisions of this section shall apply with the same effect to
449 the refusal by any person to submit to an additional chemical test as
450 provided in subdivision (5) of subsection [(c)] (b) of section 14-227a, as
451 amended by this act.

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

455 (m) The state shall pay the reasonable charges of any physician who,
456 at the request of a municipal police department, takes a blood sample

457 for purposes of a test under the provisions of this section.

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

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

469 Sec. 3. Section 14-227c of the general statutes is repealed and the
470 following is substituted in lieu thereof (*Effective July 1, 2002*):

471 As part of the investigation of any motor vehicle accident resulting
472 in a fatality, the Chief Medical Examiner, Deputy Chief Medical
473 Examiner, an associate medical examiner, a pathologist as specified in
474 section 19a-405, or an authorized assistant medical examiner, as the
475 case may be, shall order that a blood sample be taken from the body of
476 any operator or pedestrian who dies as a result of such accident. Such
477 blood samples shall be examined for the presence and concentration of
478 alcohol by the Division of Scientific Services within the Department of
479 Public Safety or by the Office of the Chief Medical Examiner. To the
480 extent provided by law, a blood or breath sample may also be obtained
481 from any surviving operator whose motor vehicle is involved in such
482 an accident. The test shall be performed by or at the direction of a
483 police officer according to methods and with equipment approved by
484 the Department of Public Safety and shall be performed by a person
485 certified or recertified for such purpose by said department or
486 recertified by persons certified as instructors by the Commissioner of
487 Public Safety. The equipment used for such test shall be checked for
488 accuracy by a person certified by the Department of Public Safety

489 immediately before and after such test is performed. If a blood test is
490 performed, it shall be on a blood sample taken by a person licensed to
491 practice medicine and surgery in this state, a qualified laboratory
492 technician, an emergency medical technician II, a registered nurse or a
493 phlebotomist, [as defined in subsection (m) of section 14-227a.] The
494 blood samples obtained from the surviving operator shall be examined
495 for the presence and concentration of alcohol by the Division of
496 Scientific Services within the Department of Public Safety. Nothing in
497 this section or section 19a-406 shall be construed as requiring such
498 medical examiner to perform an autopsy in connection with obtaining
499 such blood samples.

500 Sec. 4. Section 14-227e of the general statutes is repealed and the
501 following is substituted in lieu thereof (*Effective July 1, 2002*):

502 As used in this section and subsection [(h)] (g) of section 14-227a, as
503 amended by this act:

504 (a) (1) "Community service" means the placement of defendants in
505 unpaid positions with nonprofit or tax-supported agencies for the
506 performance of a specified number of hours of work or service within
507 a given period of time.

508 (2) "Community service plan" means an agreement between the
509 court and the defendant which specifies (A) the number of required
510 community service hours, (B) the type of agency for placement, (C) the
511 period of time in which the community service will be completed, (D)
512 the tentative schedule, (E) a brief description of the responsibilities, (F)
513 conditions and sanctions for failure to fulfill the plan, and (G) the
514 supervisor of the plan.

515 (b) In sentencing a defendant to perform community service, the
516 court shall fix the conditions and terms of such sentence and shall
517 review the community service plan and, upon approval, sentence such
518 defendant in accordance with such plan. No sentence of community
519 service shall be imposed without the consent of the defendant.

520 (c) Any organization administering sentences of community service
521 shall prepare and file with the court a copy of all community service
522 plans and shall notify the court when a defendant has successfully
523 completed such plan.

524 (d) Any organization administering sentences of community service
525 shall prepare a written statement outlining noncompliance by a
526 defendant and shall without unnecessary delay notify the state's
527 attorney for that judicial district requesting that a hearing be held to
528 determine whether the sentence of community service should be
529 revoked.

530 (e) The court may at any time, for good cause shown, terminate the
531 sentence of community service or modify or enlarge the terms or
532 conditions or require the defendant to serve the original incarcerative
533 sentence for violation of any of the conditions of the sentence of
534 community service.

535 Sec. 5. Subsection (a) of section 14-227f of the general statutes is
536 repealed and the following is substituted in lieu thereof (*Effective July*
537 *1, 2002*):

538 (a) Any person whose motor vehicle operator's license or
539 nonresident operating privilege is suspended under subsection [(h)]
540 (g) of section 14-227a, as amended by this act, for a conviction of a
541 second or subsequent violation of subsection (a) of said section or
542 under section 14-227b, as amended by this act, for a second or
543 subsequent time shall participate in a treatment program approved by
544 the Commissioner of Motor Vehicles. The commissioner shall not
545 reinstate the operator's license or nonresident operating privilege of
546 any such person until such person submits evidence to the
547 commissioner that he has satisfactorily completed the treatment
548 program.

549 Sec. 6. Subsection (c) of section 14-227g of the general statutes is
550 repealed and the following is substituted in lieu thereof (*Effective July*
551 *1, 2002*):

552 (c) The provisions of subsections [(c), (e), (g), (h), (j), (k) and (l)] (b),
553 (d), (f), (g), (h), (i) and (j) of section 14-227a, as amended by this act,
554 adapted accordingly, shall be applicable to a violation of subsection (a)
555 of this section.

556 Sec. 7. Subsection (h) of section 14-111 of the general statutes is
557 repealed and the following is substituted in lieu thereof (*Effective July*
558 *1, 2002*):

559 (h) When any person who does not hold a Connecticut operator's
560 license is convicted or has his case nolleed or is given a suspended
561 judgment or sentence for a violation of any provision of section 14-36,
562 14-110, 14-145, subsection (b) of section 14-147, 14-215, 14-224,
563 subsection (a) of section 14-227a, as amended by this act, or 14-229, the
564 commissioner shall not issue to him a nonresident or resident
565 operator's license during such period as the commissioner may
566 determine, which period shall not be less than the period provided for
567 suspension in subsection (b) of this section or in subsection [(h)] (g) of
568 section 14-227a, as amended by this act. When any person is convicted
569 or has his case nolleed or is given a suspended judgment or sentence for
570 any violation of any of the provisions of section 14-12, the
571 commissioner shall not issue registration for any motor vehicle owned
572 by such person until thirty days after application therefor.

573 Sec. 8. Subsection (a) of section 14-111g of the general statutes is
574 repealed and the following is substituted in lieu thereof (*Effective July*
575 *1, 2002*):

576 (a) For the purposes of this subsection, "moving violation" means
577 any violation of section 14-218a, 14-219, 14-222, 14-223, [subsection (b)
578 of section 14-227a,] 14-230 to 14-249, inclusive, 14-279, 14-289b, 14-299,
579 14-301, 14-302, 14-303, and "suspension violation" means a violation of
580 section 14-222a, 14-224, subsection (a) of section 14-227a, as amended
581 by this act, section 53a-56b, 53a-57 or 53a-60d. The Commissioner of
582 Motor Vehicles may require any licensed motor vehicle operator who
583 is twenty-four years of age or less, who has been convicted of a

584 moving violation or a suspension violation, or both, committed on two
585 or more occasions to attend a motor vehicle operator's retraining
586 program. The commissioner may require any licensed motor vehicle
587 operator over twenty-four years of age, who has been convicted of a
588 moving violation or a suspension violation or a combination of said
589 violations, committed on three or more occasions to attend a motor
590 vehicle operator's retraining program. The retraining program shall (1)
591 review principles of motor vehicle operation, (2) develop alternative
592 attitudes for those attitudes contributing to aggressive driving
593 behavior and (3) emphasize the need to practice safe driving behavior.
594 The retraining program shall be offered by the Department of Motor
595 Vehicles or by any other organization conducting such a program
596 certified by the commissioner. The commissioner shall notify such
597 operator, in writing, of such requirement. A fee of not more than sixty
598 dollars shall be charged for the retraining program. The commissioner,
599 after notice and opportunity for hearing, may suspend the motor
600 vehicle operator's license of any such operator who fails to attend or
601 successfully complete the program until the operator successfully
602 completes the program. The hearing shall be limited to any claim of
603 impossibility of the operator to attend the retraining program, or to a
604 determination of mistake or misidentification.

605 Sec. 9. Subsection (b) of section 51-164n of the general statutes, as
606 amended by section 5 of public act 01-186, is repealed and the
607 following is substituted in lieu thereof (*Effective July 1, 2002*):

608 (b) Notwithstanding any provision of the general statutes to the
609 contrary, any person who is alleged to have committed (1) a violation
610 under the provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-18, 7-
611 35, 7-41, 7-83, 7-104, 7-283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-
612 322, 9-350, 10-193, 10-197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-
613 170aa, 12-292, 12-326g, subsection (4) of section 12-408, subsection (3),
614 (5) or (6) of section 12-411, section 12-435c, 12-476a, 12-476b, 12-487,
615 13a-71, 13a-107, 13a-113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124,
616 13a-139, 13a-140, 13a-143b, 13a-247, 13a-253, subsection (f) of section
617 13b-42, section 13b-90, 13b-221, 13b-224, 13b-292, 13b-336, 13b-337, 13b-

618 338, 13b-410a, 13b-410b, 13b-410c, subsection (a), (b) or (c) of section
619 13b-412, section 13b-414, subsection (d) of section 14-12, section 14-20a,
620 14-27a, subsection (e) of section 14-34a, subsection (d) of section 14-35,
621 section 14-43, 14-49, 14-50a, 14-58, subsection (b) of section 14-66,
622 section 14-66a, 14-66b, 14-67a, subsection (f) of section 14-80h, section
623 14-97a, section 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152, 14-
624 153, 14-163b, a first violation as specified in subsection (f) of section 14-
625 164i, section 14-219 specified in subsection (e) of said section,
626 [subsection (b) of section 14-227a,] section 14-240, 14-249, 14-250,
627 subsection (a), (b) or (c) of section 14-261a, section 14-262, 14-264, 14-
628 267a, 14-269, 14-270, 14-275a, 14-278, 14-279, subsection (e) of section
629 14-283, section 14-291, 14-293b, 14-319, 14-320, 14-321, 14-325a, 14-326,
630 14-330, 14-332a, subdivision (1), (2) or (3) of section 14-386a, section 15-
631 33, subsection (a) of section 15-115, section 16-256, 16-256e, 16a-15, 16a-
632 22, subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145, 17a-
633 149, 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-137, 17b-407, 17b-
634 451, 17b-734, subsection (b) of section 17b-736, 19a-30, 19a-33, 19a-39,
635 19a-87, subsection (b) of section 19a-87a, section 19a-91, 19a-105, 19a-
636 107, 19a-108, 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-
637 297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-
638 425, 19a-502, 20-7a, 20-14, 20-158, 20-231, 20-257, 20-265, 20-324e,
639 subsection (a) of section 20-341, section 20-341i, 20-597, 20-608, 20-610,
640 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, 21-76a, 21a-21, 21a-25,
641 21a-26, 21a-30, 21a-31, subsection (a) of section 21a-37, section 21a-46,
642 21a-61, 21a-63, 21a-77, subsection (b) of section 21a-79, section 21a-85,
643 21a-154, 21a-159, 21a-201, 21a-211, 22-13, 22-14, 22-15, 22-16, 22-29, 22-
644 34, 22-35, 22-36, 22-37, 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-
645 39e, 22-49, 22-54, 22-61, 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-
646 123, 22-279, 22-280a, 22-318a, 22-320h, 22-324a, 22-326, 22-342,
647 subsection (b) or (e) of section 22-344, section 22-359, 22-366, 22-391, 22-
648 413, 22-414, 22-415, 22a-66a, 22a-246, subsection (a) of section 22a-250,
649 subsection (e) of section 22a-256h, section 22a-449, 22a-461, 23-37, 23-
650 38, 23-46, 23-61b, subsection (a) or (b) of section 23-65, section 25-37,
651 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-49, 26-54, 26-59, 26-61, 26-64,
652 26-79, 26-89, 26-97, 26-107, 26-117, 26-128, 26-131, 26-132, 26-138, 26-

653 141, 26-207, 26-215, 26-221, 26-222, 26-224a, 26-227, 26-230, 26-234, 26-
654 267, 26-269, 26-294, 28-13, 29-6a, 29-109, 29-161a, 29-161b, 29-198, 29-
655 210, 29-243, 29-277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-86a, 31-3,
656 31-10, 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25,
657 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-
658 51k, 31-52, 31-52a, 31-54, subsection (a) or (c) of section 31-69, section
659 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b, 31-134, subsection (g) of
660 section 31-273, section 31-288, 36a-787, 42-230, 44-3, 45a-450, 45a-634,
661 45a-658, subdivision (13) or (14) of section 46a-54, section 46a-59, 46b-
662 22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16, 53-133, subsection (a) or
663 (b) of section 53-211, section 53-212a, 53-249a, 53-252, 53-264, 53-301,
664 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323, 53-331, 53-344 or 53-
665 450, or (2) a violation under the provisions of chapter 268, or (3) a
666 violation of any regulation adopted in accordance with the provisions
667 of section 12-484, 12-487 or 13b-410, shall follow the procedures set
668 forth in this section.

669 Sec. 10. Section 54-56g of the general statutes, as amended by
670 sections 2 and 3 of public act 01-201 and section 9 of public act 01-8 of
671 the June special session, is repealed and the following is substituted in
672 lieu thereof (*Effective July 1, 2002*):

673 (a) There shall be a pretrial alcohol education system for persons
674 charged with a violation of section 14-227a, as amended by this act, or
675 14-227g. Upon application by any such person for participation in such
676 system and payment to the court of an application fee of fifty dollars
677 and a nonrefundable evaluation fee of one hundred dollars, the court
678 shall, but only as to the public, order the court file sealed, provided
679 such person states under oath, in open court or before any person
680 designated by the clerk and duly authorized to administer oaths,
681 under penalties of perjury that: (1) If such person is charged with a
682 violation of section 14-227a, as amended by this act, such person has
683 [never] not had such system invoked in such person's behalf [and that]
684 within the preceding ten years for a violation of section 14-227a, as
685 amended by this act, (2) if such person is charged with a violation of
686 section 14-227g, such person has never had such system invoked in

687 such person's behalf for a violation of section 14-227a, as amended by
688 this act, or 14-227g, (3) such person has not been convicted of a
689 violation of section 53a-56b or 53a-60d, a violation of subsection (a) of
690 section 14-227a, as amended by this act, before or after October 1, 1981,
691 or a violation of subdivision (1) or (2) of subsection (a) of section
692 14-227a, as amended by this act, on or after October 1, 1985, and [that]
693 (4) such person has not been convicted in any other state at any time of
694 an offense the essential elements of which are substantially the same as
695 section 53a-56b or 53a-60d or subdivision (1) or (2) of subsection (a) of
696 section 14-227a, as amended by this act. Unless good cause is shown, a
697 person shall be ineligible for participation in such pretrial alcohol
698 education system if such person's alleged violation of section 14-227a,
699 as amended by this act, or 14-227g caused the serious physical injury,
700 as defined in section 53a-3, as amended, of another person. The fee
701 imposed by this subsection shall be credited to the Criminal Injuries
702 Compensation Fund established by section 54-215.

703 (b) The court, after consideration of the recommendation of the
704 state's attorney, assistant state's attorney or deputy assistant state's
705 attorney in charge of the case, may, in its discretion, grant such
706 application. If the court grants such application, it shall refer such
707 person to the Bail Commission for assessment and confirmation of the
708 eligibility of the applicant and to the Department of Mental Health and
709 Addiction Services for evaluation. The Bail Commission, in making its
710 assessment and confirmation, may rely on the representations made by
711 the applicant under oath in open court with respect to convictions in
712 other states of offenses specified in subsection (a) of this section. Upon
713 confirmation of eligibility and receipt of the evaluation report, the
714 defendant shall be referred to the Department of Mental Health and
715 Addiction Services by the Bail Commission for [evaluation and]
716 placement in an appropriate alcohol intervention program for one
717 year. Any person who enters the system shall agree: (1) To the tolling
718 of the statute of limitations with respect to such crime, (2) to a waiver
719 of such person's right to a speedy trial, (3) to [participate in at least]
720 complete ten or fifteen counseling sessions in an alcohol intervention

721 program pursuant to this section [or, if such person was charged with
722 a violation of subdivision (2) of subsection (a) of section 14-227a, where
723 the ratio of alcohol in the blood of such person was sixteen-hundredths
724 of one per cent or more of alcohol, by weight, to participate in at least
725 fifteen counseling sessions in an alcohol program pursuant to this
726 section, and complete the assigned program] dependent upon the
727 evaluation report and the court order, (4) to accept placement in a
728 treatment program upon recommendation of a provider under
729 contract with the Department of Mental Health and Addiction Services
730 pursuant to subsection (d) of this section or placement in a treatment
731 program which has standards substantially similar to, or higher than, a
732 program of a provider under contract with the Department of Mental
733 Health and Addiction Services if the Bail Commission deems it
734 appropriate, and (5) if ordered by the court, to participate in at least
735 one victim impact panel. The suspension of the motor vehicle
736 operator's license of any such person pursuant to section 14-227b, as
737 amended by this act, shall be effective during the period such person is
738 participating in such program, provided such person shall have the
739 option of not commencing the participation in such program until the
740 period of such suspension is completed. If the Bail Commission
741 informs the court that the defendant is ineligible for the system and the
742 court makes a determination of ineligibility or if the program provider
743 certifies to the court that the defendant did not successfully complete
744 the assigned program or is no longer amenable to treatment, the court
745 shall order the court file to be unsealed, enter a plea of not guilty for
746 such defendant and immediately place the case on the trial list. If such
747 defendant satisfactorily completes the assigned program, such
748 defendant may apply for dismissal of the charges against such
749 defendant and the court, on reviewing the record of the defendant's
750 participation in such program submitted by the Bail Commission and
751 on finding such satisfactory completion, shall dismiss the charges. If
752 the defendant does not apply for dismissal of the charges against such
753 defendant after satisfactorily completing the assigned program the
754 court, upon receipt of the record of the defendant's participation in
755 such program submitted by the Bail Commission, may on its own

756 motion make a finding of such satisfactory completion and dismiss the
757 charges. Upon motion of the defendant and a showing of good cause,
758 the court may extend the one-year placement period for a reasonable
759 period for the defendant to complete the assigned program. A record
760 of participation in such program shall be retained by the Bail
761 Commission for a period of seven years from the date of application.
762 The Bail Commission shall transmit to the Department of Motor
763 Vehicles a record of participation in such program for each person who
764 satisfactorily completes such program. The Department of Motor
765 Vehicles shall maintain for a period of seven years the record of a
766 person's participation in such program as part of such person's driving
767 record.

768 (c) At the time the court grants the application for participation in
769 the pretrial alcohol education system, such person shall also pay to the
770 court a nonrefundable program fee of [four] three hundred twenty-five
771 dollars [or, if such person was charged with a violation of subdivision
772 (2) of subsection (a) of section 14-227a, where the ratio of alcohol in the
773 blood of such person was sixteen-hundredths of one per cent or more
774 of alcohol, by weight, a nonrefundable program fee of six hundred
775 dollars] if such person is ordered to participate in the ten-session
776 program and a nonrefundable program fee of five hundred dollars if
777 such person is ordered to participate in the fifteen-session program,
778 except that no person may be excluded from such program for
779 inability to pay such fee, provided (1) such person files with the court
780 an affidavit of indigency or inability to pay, (2) such indigency is
781 confirmed by the Bail Commission, and (3) the court enters a finding
782 thereof. If the court denies the application, such person shall not be
783 required to pay the program fee. If the court grants the application,
784 and such person is later determined to be ineligible for participation in
785 such pretrial alcohol education system or fails to complete the assigned
786 program, the program fee shall not be refunded. All such evaluation
787 and program fees shall be credited to the pretrial account.

788 (d) The Department of Mental Health and Addiction Services shall
789 contract with service providers, develop standards and oversee

790 appropriate alcohol programs to meet the requirements of this section.
 791 Said department shall adopt regulations in accordance with chapter 54
 792 to establish standards for such alcohol programs. Any defendant
 793 whose employment or residence makes it unreasonable to attend an
 794 alcohol program in this state may attend a program in another state
 795 which has standards substantially similar to, or higher than, those of
 796 this state, subject to the approval of the court and payment of the
 797 application, evaluation and program fees as provided in this section.

798 (e) The court may, as a condition of granting such application,
 799 require that such person participate in a victim impact panel program
 800 approved by the Court Support Services Division of the Judicial
 801 Department. Such victim impact panel program shall provide a
 802 nonconfrontational forum for the victims of alcohol-related or drug-
 803 related offenses and offenders to share experiences on the impact of
 804 alcohol-related or drug-related incidents in their lives. Such victim
 805 impact panel program shall be conducted by a nonprofit organization
 806 that advocates on behalf of victims of accidents caused by persons who
 807 operated a motor vehicle while under the influence of intoxicating
 808 liquor or any drug, or both. Such organization may assess a
 809 participation fee of not more than twenty-five dollars on any person
 810 required by the court to participate in such program.

This act shall take effect as follows:	
Section 1	<i>July 1, 2002</i>
Sec. 2	<i>July 1, 2002</i>
Sec. 3	<i>July 1, 2002</i>
Sec. 4	<i>July 1, 2002</i>
Sec. 5	<i>July 1, 2002</i>
Sec. 6	<i>July 1, 2002</i>
Sec. 7	<i>July 1, 2002</i>
Sec. 8	<i>July 1, 2002</i>
Sec. 9	<i>July 1, 2002</i>
Sec. 10	<i>July 1, 2002</i>

TRA

Joint Favorable Subst. C/R

JUD

JUD *Joint Favorable Subst.*

PH *Joint Favorable*