



General Assembly

Substitute Bill No. 101

February Session, 2004

* _____SB00101TRAJUD031004_____*

AN ACT CONCERNING DRUNK DRIVERS.

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

1 Section 1. Section 14-227b of the general statutes, as amended by
2 sections 48 and 49 of public act 03-278, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2004*):

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

9 (b) If any such person, having been placed under arrest for
10 operating a motor vehicle while under the influence of intoxicating
11 liquor or any drug or both, and thereafter, after being apprised of such
12 person's constitutional rights, having been requested to submit to a
13 blood, breath or urine test at the option of the police officer, having
14 been afforded a reasonable opportunity to telephone an attorney prior
15 to the performance of such test and having been informed that such
16 person's license or nonresident operating privilege may be suspended
17 in accordance with the provisions of this section if such person refuses
18 to submit to such test or if such person submits to such test and the
19 results of such test indicate that such person has an elevated blood
20 alcohol content, and that evidence of any such refusal shall be

21 admissible in accordance with subsection (e) of section 14-227a, as
22 amended, and may be used against such person in any criminal
23 prosecution, refuses to submit to the designated test, the test shall not
24 be given; provided, if the person refuses or is unable to submit to a
25 blood test, the police officer shall designate the breath or urine test as
26 the test to be taken. The police officer shall make a notation upon the
27 records of the police department that such officer informed the person
28 that such person's license or nonresident operating privilege may be
29 suspended if such person refused to submit to such test or if such
30 person submitted to such test and the results of such test indicated that
31 such person had an elevated blood alcohol content.

32 (c) If the person arrested refuses to submit to such test or analysis or
33 submits to such test or analysis, commenced within two hours of the
34 time of operation, and the results of such test or analysis indicate that
35 such person has an elevated blood alcohol content, the police officer,
36 acting on behalf of the Commissioner of Motor Vehicles, shall
37 immediately revoke and take possession of the motor vehicle
38 operator's license or, if such person is a nonresident, suspend the
39 nonresident operating privilege of such person, for a twenty-four-hour
40 period. The police officer shall prepare a written report of the incident
41 and shall mail the report and a copy of the results of any chemical test
42 or analysis to the Department of Motor Vehicles within three business
43 days. The report shall be made on a form approved by the
44 Commissioner of Motor Vehicles and shall be subscribed and sworn to
45 under penalty of false statement as provided in section 53a-157b by the
46 arresting officer. If the person arrested refused to submit to such test or
47 analysis, the report shall be endorsed by a third person who witnessed
48 such refusal. The report shall set forth the grounds for the officer's
49 belief that there was probable cause to arrest such person for operating
50 a motor vehicle while under the influence of intoxicating liquor or any
51 drug or both and shall state that such person had refused to submit to
52 such test or analysis when requested by such police officer to do so or
53 that such person submitted to such test or analysis, commenced within
54 two hours of the time of operation, and the results of such test or

55 analysis indicated that such person had an elevated blood alcohol
56 content.

57 (d) If the person arrested submits to a blood or urine test at the
58 request of the police officer, and the specimen requires laboratory
59 analysis in order to obtain the test results, the police officer shall not
60 take possession of the motor vehicle operator's license of such person
61 or, except as provided in this subsection, follow the procedures
62 subsequent to taking possession of the operator's license as set forth in
63 subsection (c) of this section. If the test results indicate that such
64 person has an elevated blood alcohol content, the police officer,
65 immediately upon receipt of the test results, shall notify the
66 Commissioner of Motor Vehicles and submit to the commissioner the
67 written report required pursuant to subsection (c) of this section.

68 (e) (1) [Upon] Except as provided in subdivision (2) of this
69 subsection, upon receipt of such report, the Commissioner of Motor
70 Vehicles may suspend any license or nonresident operating privilege
71 of such person effective as of a date certain, which date shall be not
72 later than thirty days after the date such person received notice of such
73 person's arrest by the police officer. Any person whose license or
74 operating privilege has been suspended in accordance with this
75 [subsection] subdivision shall automatically be entitled to a hearing
76 before the commissioner to be held prior to the effective date of the
77 suspension. The commissioner shall send a suspension notice to such
78 person informing such person that such person's operator's license or
79 nonresident operating privilege is suspended as of a date certain and
80 that such person is entitled to a hearing prior to the effective date of
81 the suspension and may schedule such hearing by contacting the
82 Department of Motor Vehicles not later than seven days after the date
83 of mailing of such suspension notice.

84 (2) If the person arrested (A) is involved in an accident resulting in a
85 fatality, or (B) has previously had such person's operator's license or
86 nonresident operating privilege suspended under the provisions of
87 section 14-227a, as amended, during the ten-year period preceding the

88 present arrest, upon receipt of such report, the Commissioner of Motor
89 Vehicles may suspend any license or nonresident operating privilege
90 of such person effective as of the date specified in a notice of such
91 suspension to such person. Any person whose license or operating
92 privilege has been suspended in accordance with this subdivision shall
93 automatically be entitled to a hearing before the commissioner. The
94 commissioner shall send a suspension notice to such person informing
95 such person that such person's operator's license or nonresident
96 operating privilege is suspended as of the date specified in such
97 suspension notice, and that such person is entitled to a hearing and
98 may schedule such hearing by contacting the Department of Motor
99 Vehicles not later than seven days after the date of mailing of such
100 suspension notice. Any suspension issued under this subdivision shall
101 remain in effect until such suspension is affirmed or such license or
102 operating privilege is reinstated in accordance with subsections (f) and
103 (h) of this section.

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

108 (g) If such person contacts the department to schedule a hearing, the
109 department shall assign a date, time and place for the hearing, which
110 date shall be prior to the effective date of the suspension, except that,
111 with respect to a person whose license or nonresident operating
112 privilege is suspended in accordance with subdivision (2) of subsection
113 (e) of this section, such hearing shall be scheduled within thirty days
114 after such person contacts the department. At the request of such
115 person or the hearing officer and upon a showing of good cause, the
116 commissioner may grant one continuance for a period not to exceed
117 fifteen days. The hearing shall be limited to a determination of the
118 following issues: (1) Did the police officer have probable cause to
119 arrest the person for operating a motor vehicle while under the
120 influence of intoxicating liquor or any drug or both; (2) was such
121 person placed under arrest; (3) did such person refuse to submit to

122 such test or analysis or did such person submit to such test or analysis,
123 commenced within two hours of the time of operation, and the results
124 of such test or analysis indicated that such person had an elevated
125 blood alcohol content; and (4) was such person operating the motor
126 vehicle. In the hearing, the results of the test or analysis shall be
127 sufficient to indicate the ratio of alcohol in the blood of such person at
128 the time of operation, except that if the results of the additional test
129 indicate that the ratio of alcohol in the blood of such person is
130 twelve-hundredths of one per cent or less of alcohol, by weight, and is
131 higher than the results of the first test, evidence shall be presented that
132 demonstrates that the test results and analysis thereof accurately
133 indicate the blood alcohol content at the time of operation. The fees of
134 any witness summoned to appear at the hearing shall be the same as
135 provided by the general statutes for witnesses in criminal cases.

136 (h) If, after such hearing, the commissioner finds on any one of the
137 said issues in the negative, the commissioner shall reinstate such
138 license or operating privilege. If, after such hearing, the commissioner
139 does not find on any one of the said issues in the negative or if such
140 person fails to appear at such hearing, the commissioner shall affirm
141 the suspension contained in the suspension notice for the appropriate
142 period specified in subsection (i) of this section. The commissioner
143 shall render a decision at the conclusion of such hearing or send a
144 notice of the decision by bulk certified mail to such person not later
145 than thirty days or, if a continuance is granted, not later than forty-five
146 days from the date such person received notice of such person's arrest
147 by the police officer. The notice of such decision sent by certified mail
148 to the address of such person as shown by the records of the
149 commissioner shall be sufficient notice to such person that such
150 person's operator's license or nonresident operating privilege is
151 reinstated or suspended, as the case may be. Unless a continuance of
152 the hearing is granted pursuant to subsection (g) of this section, if the
153 commissioner fails to render a decision within thirty days from the
154 date such person received notice of such person's arrest by the police
155 officer, the commissioner shall reinstate such person's operator's

156 license or nonresident operating privilege, provided notwithstanding
157 such reinstatement the commissioner may render a decision not later
158 than two days thereafter suspending such operator's license or
159 nonresident operating privilege.

160 (i) The commissioner shall suspend the operator's license or
161 nonresident operating privilege of a person who did not contact the
162 department to schedule a hearing, who failed to appear at a hearing or
163 against whom, after a hearing, the commissioner held pursuant to
164 subsection (h) of this section, as of the effective date contained in the
165 suspension notice or the date the commissioner renders a decision,
166 whichever is later, for a period of: (1) (A) Except as provided in
167 subparagraph (B) of this subdivision, ninety days, if such person
168 submitted to a test or analysis and the results of such test or analysis
169 indicated that such person had an elevated blood alcohol content, (B)
170 one hundred twenty days, if such person submitted to a test or
171 analysis and the results of such test or analysis indicated that the ratio
172 of alcohol in the blood of such person was sixteen-hundredths of one
173 per cent or more of alcohol, by weight, or (C) six months if such person
174 refused to submit to such test or analysis, (2) if such person has
175 previously had such person's operator's license or nonresident
176 operating privilege suspended under this section, (A) except as
177 provided in subparagraph (B) of this subdivision, nine months if such
178 person submitted to a test or analysis and the results of such test or
179 analysis indicated that such person had an elevated blood alcohol
180 content, (B) ten months if such person submitted to a test or analysis
181 and the results of such test or analysis indicated that the ratio of
182 alcohol in the blood of such person was sixteen-hundredths of one per
183 cent or more of alcohol, by weight, and (C) one year if such person
184 refused to submit to such test or analysis, and (3) if such person has
185 two or more times previously had such person's operator's license or
186 nonresident operating privilege suspended under this section, (A)
187 except as provided in subparagraph (B) of this subdivision, two years
188 if such person submitted to a test or analysis and the results of such
189 test or analysis indicated that such person had an elevated blood

190 alcohol content, (B) two and one-half years if such person submitted to
191 a test or analysis and the results of such test or analysis indicated that
192 the ratio of alcohol in the blood of such person was sixteen-hundredths
193 of one per cent or more of alcohol, by weight, and (C) three years if
194 such person refused to submit to such test or analysis.

195 (j) Notwithstanding the provisions of subsections (b) to (i),
196 inclusive, of this section, any police officer who obtains the results of a
197 chemical analysis of a blood sample taken from an operator of a motor
198 vehicle involved in an accident who suffered or allegedly suffered
199 physical injury in such accident shall notify the Commissioner of
200 Motor Vehicles and submit to the commissioner a written report if
201 such results indicate that such person had an elevated blood alcohol
202 content, and if such person was arrested for violation of section
203 14-227a, as amended, in connection with such accident. The report
204 shall be made on a form approved by the commissioner containing
205 such information as the commissioner prescribes, and shall be
206 subscribed and sworn to under penalty of false statement, as provided
207 in section 53a-157b, by the police officer. The commissioner may, after
208 notice and an opportunity for hearing, which shall be conducted in
209 accordance with chapter 54, suspend the motor vehicle operator's
210 license or nonresident operating privilege of such person for a period
211 of up to ninety days, or, if such person has previously had such
212 person's operator's license or nonresident operating privilege
213 suspended under this section for a period of up to one year. Each
214 hearing conducted under this subsection shall be limited to a
215 determination of the following issues: (1) Whether the police officer
216 had probable cause to arrest the person for operating a motor vehicle
217 while under the influence of intoxicating liquor or drug or both; (2)
218 whether such person was placed under arrest; (3) whether such person
219 was operating the motor vehicle; (4) whether the results of the analysis
220 of the blood of such person indicate that such person had an elevated
221 blood alcohol content; and (5) whether the blood sample was obtained
222 in accordance with conditions for admissibility and competence as
223 evidence as set forth in subsection (j) of section 14-227a, as amended.

224 If, after such hearing, the commissioner finds on any one of the said
225 issues in the negative, the commissioner shall not impose a suspension.
226 The fees of any witness summoned to appear at the hearing shall be
227 the same as provided by the general statutes for witnesses in criminal
228 cases, as provided in section 52-260.

229 (k) The provisions of this section shall apply with the same effect to
230 the refusal by any person to submit to an additional chemical test as
231 provided in subdivision (5) of subsection (b) of section 14-227a, as
232 amended.

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

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

239 (n) For the purposes of this section, "elevated blood alcohol content"
240 means (1) a ratio of alcohol in the blood of such person that is eight-
241 hundredths of one per cent or more of alcohol, by weight, or (2) if such
242 person is under twenty-one years of age, a ratio of alcohol in the blood
243 of such person that is two-hundredths of one per cent or more of
244 alcohol, by weight.

245 (o) The Commissioner of Motor Vehicles shall adopt regulations, in
246 accordance with chapter 54, to implement the provisions of this
247 section.

This act shall take effect as follows:	
Section 1	October 1, 2004

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Joint Favorable Subst. C/R

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