General Assembly **Amendment**

February Session, 2004 LCO No. **4725**

SB0010104725HD0

Offered by:
REP. COCCO, 127th Dist.

To: Subst. Senate Bill No. **101** File No. 513 Cal. No. 503

(As Amended)

"AN ACT CONCERNING THE ADMINISTRATIVE LICENSE SUSPENSION OF DRUNKEN DRIVERS AND THE PRETRIAL ALCOHOL EDUCATION SYSTEM."

Strike section 2 in its entirety and insert the following in lieu thereof:

"Sec. 2. Section 54-56g of the general statutes, as amended by sections 11 and 13 of public act 03-244 and section 177 of public act 03-6 of the June 30 special session, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) There shall be a pretrial alcohol education system for persons charged with a violation of section 14-227a, as amended, **[**or**]** 14-227g, **[**and the provisions of sections**]** 15-133, as amended, 15-140l, as amended, **[**and**]** or 15-140n, as amended. Upon application by any such person for participation in such system and payment to the court of an application fee of fifty dollars and a nonrefundable evaluation fee of one hundred dollars, the court shall, but only as to the public, order

13 the court file sealed, provided such person states under oath, in open
14 court or before any person designated by the clerk and duly
15 authorized to administer oaths, under penalties of perjury that: (1) If
16 such person is charged with a violation of section 14-227a, as amended,
17 such person has not had such system invoked in such person's behalf
18 within the preceding ten years for a violation of section 14-227a, as
19 amended, (2) if such person is charged with a violation of section 14-
20 227g, such person has never had such system invoked in such person's
21 behalf for a violation of section 14-227a, as amended, or 14-227g, (3)
22 such person has not been convicted of a violation of section 53a-56b or
23 53a-60d, a violation of subsection (a) of section 14-227a, as amended,
24 before or after October 1, 1981, or a violation of subdivision (1) or (2) of
25 subsection (a) of section 14-227a, as amended, on or after October 1,
26 1985, and (4) such person has not been convicted in any other state at
27 any time of an offense the essential elements of which are substantially
28 the same as section 53a-56b or 53a-60d or subdivision (1) or (2) of
29 subsection (a) of section 14-227a, as amended. Unless good cause is
30 shown, a person shall be ineligible for participation in such pretrial
31 alcohol education system if such person's alleged violation of section
32 14-227a, as amended, or 14-227g caused the serious physical injury, as
33 defined in section 53a-3, of another person. The application fee
34 imposed by this subsection shall be credited to the Criminal Injuries
35 Compensation Fund established by section 54-215, as amended.

36 (b) The court, after consideration of the recommendation of the
37 state's attorney, assistant state's attorney or deputy assistant state's
38 attorney in charge of the case, may, in its discretion, grant such
39 application. If the court grants such application, it shall refer such
40 person to the Court Support Services Division for assessment and
41 confirmation of the eligibility of the applicant and to the Department
42 of Mental Health and Addiction Services for evaluation. The Court
43 Support Services Division, in making its assessment and confirmation,
44 may rely on the representations made by the applicant under oath in
45 open court with respect to convictions in other states of offenses
46 specified in subsection (a) of this section. Upon confirmation of

47 eligibility and receipt of the evaluation report, the defendant shall be
48 referred to the Department of Mental Health and Addiction Services
49 by the Court Support Services Division for placement in an
50 appropriate alcohol intervention program for one year, or be placed in
51 a state-licensed substance abuse treatment program. Any person who
52 enters the system shall agree: (1) To the tolling of the statute of
53 limitations with respect to such crime, (2) to a waiver of such person's
54 right to a speedy trial, (3) to complete ten or fifteen counseling sessions
55 in an alcohol intervention program or successfully complete a
56 substance abuse treatment program of not less than twelve sessions
57 pursuant to this section dependent upon the evaluation report and the
58 court order, (4) upon completion of participation in the alcohol
59 intervention program, to accept placement in a treatment program
60 upon recommendation of a provider under contract with the
61 Department of Mental Health and Addiction Services pursuant to
62 subsection (d) of this section or placement in a state-licensed treatment
63 program which [has standards substantially similar to, or higher than,
64 a program of a provider under contract with] meets standards
65 established by the Department of Mental Health and Addiction
66 Services, if the Court Support Services Division deems it appropriate,
67 and (5) if ordered by the court, to participate in at least one victim
68 impact panel. The suspension of the motor vehicle operator's license of
69 any such person pursuant to section 14-227b, as amended by this act,
70 shall be effective during the period such person is participating in such
71 program, provided such person shall have the option of not
72 commencing the participation in such program until the period of such
73 suspension is completed. If the Court Support Services Division
74 informs the court that the defendant is ineligible for the system and the
75 court makes a determination of ineligibility or if the program provider
76 certifies to the court that the defendant did not successfully complete
77 the assigned program or is no longer amenable to treatment, the court
78 shall order the court file to be unsealed, enter a plea of not guilty for
79 such defendant and immediately place the case on the trial list. If such
80 defendant satisfactorily completes the assigned program, such
81 defendant may apply for dismissal of the charges against such

82 defendant and the court, on reviewing the record of the defendant's
83 participation in such program submitted by the Court Support
84 Services Division and on finding such satisfactory completion, shall
85 dismiss the charges. If the defendant does not apply for dismissal of
86 the charges against such defendant after satisfactorily completing the
87 assigned program the court, upon receipt of the record of the
88 defendant's participation in such program submitted by the Court
89 Support Services Division, may on its own motion make a finding of
90 such satisfactory completion and dismiss the charges. Upon motion of
91 the defendant and a showing of good cause, the court may extend the
92 one-year placement period for a reasonable period for the defendant to
93 complete the assigned program. A record of participation in such
94 program shall be retained by the Court Support Services Division for a
95 period of seven years from the date of application. The Court Support
96 Services Division shall transmit to the Department of Motor Vehicles a
97 record of participation in such program for each person who
98 satisfactorily completes such program. The Department of Motor
99 Vehicles shall maintain for a period of seven years the record of a
100 person's participation in such program as part of such person's driving
101 record. The Court Support Services Division shall transmit to the
102 Department of Environmental Protection the record of participation of
103 any person who satisfactorily completes such program who has been
104 charged with a violation of the provisions of section 15-133, as
105 amended, 15-140l, as amended, or 15-140n, as amended. The
106 Department of Environmental Protection shall maintain for a period of
107 seven years the record of a person's participation in such program as a
108 part of such person's boater certification record.

109 (c) At the time the court grants the application for participation in
110 the **[**pretrial alcohol education system**]** alcohol intervention program,
111 such person shall also pay to the court a nonrefundable program fee of
112 three hundred twenty-five dollars if such person is ordered to
113 participate in the ten-session program and a nonrefundable program
114 fee of five hundred dollars if such person is ordered to participate in
115 the fifteen-session program. **[**, except that no**]** If the court grants

116 participation in a treatment program, such person shall be responsible
117 for the costs associated with participation in such program. No person
118 may be excluded from [such] either program for inability to pay such
119 fee or cost, provided (1) such person files with the court an affidavit of
120 indigency or inability to pay, (2) such indigency or inability to pay is
121 confirmed by the Court Support Services Division, and (3) the court
122 enters a finding thereof. If the court finds that a person is indigent or
123 unable to pay for a treatment program, the costs of such program shall
124 be paid for from the pretrial account established under section 54-56k.
125 If the court denies the application, such person shall not be required to
126 pay the program fee. If the court grants the application, and such
127 person is later determined to be ineligible for participation in such
128 pretrial alcohol education system or fails to complete the assigned
129 program, the program fee shall not be refunded. All such evaluation
130 and program fees shall be credited to the pretrial account established
131 under section 54-56k.

132 (d) The Department of Mental Health and Addiction Services shall
133 contract with service providers, develop standards and oversee
134 appropriate alcohol programs to meet the requirements of this section.
135 Said department shall adopt regulations in accordance with chapter 54
136 to establish standards for such alcohol programs. Any person ordered
137 to participate in a treatment program shall do so at a state-licensed
138 treatment program which meets the standards established by said
139 department. Any defendant whose employment or residence makes it
140 unreasonable to attend an alcohol intervention program or a treatment
141 program in this state may attend a program in another state which has
142 standards substantially similar to, or higher than, those of this state,
143 subject to the approval of the court and payment of the application,
144 evaluation and program fees, as appropriate, as provided in this
145 section.

146 (e) The court may, as a condition of granting such application,
147 require that such person participate in a victim impact panel program
148 approved by the Court Support Services Division of the Judicial
149 Department. Such victim impact panel program shall provide a

150 nonconfrontational forum for the victims of alcohol-related or drug-
151 related offenses and offenders to share experiences on the impact of
152 alcohol-related or drug-related incidents in their lives. Such victim
153 impact panel program shall be conducted by a nonprofit organization
154 that advocates on behalf of victims of accidents caused by persons who
155 operated a motor vehicle while under the influence of intoxicating
156 liquor or any drug, or both. Such organization may assess a
157 participation fee of not more than twenty-five dollars on any person
158 required by the court to participate in such program."