



**Substitute House Bill No. 6882**

**Public Act No. 05-215**

**AN ACT CONCERNING THE PENALTY FOR OPERATING A MOTOR VEHICLE WITHOUT AN OPERATOR'S LICENSE AND DURING AND AFTER A PERIOD OF LICENSE SUSPENSION, THE LENGTH OF LICENSE SUSPENSION AND THE ELIGIBILITY FOR A SPECIAL OPERATOR'S LICENSE.**

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

Section 1. (NEW) (*Effective October 1, 2005*) Any person whose motor vehicle operator's license has been suspended who operates a motor vehicle after the expiration of such period of suspension without obtaining the reinstatement of such license shall (1) during the first sixty days after such expiration, be deemed to have failed to renew such license and be subject to the penalty for failure to renew a motor vehicle operator's license under subsection (c) of section 14-41 of the general statutes, and (2) after said sixty-day period, be subject to the penalty for operating a motor vehicle without a license under section 14-36 of the general statutes, as amended by this act. Any operator so charged shall not be prosecuted under section 14-215 of the general statutes, as amended by this act, for the same act constituting a violation under this section.

Sec. 2. Subsection (b) of section 14-111 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005, and applicable to any suspension of an operator's license on*

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*or after October 1, 2000):*

(b) (1) Whenever the holder of any motor vehicle operator's license has been convicted or has forfeited any bond taken or has received a suspended judgment or sentence for any of the following violations, the commissioner shall, without hearing, suspend his operator's license as follows: For a first violation of subsection (a) of section 14-224 or section 14-110, 14-215 or 53a-119b, as amended by this act, for a period of not less than one year and, for a subsequent violation thereof, for a period of not less than ~~[five]~~ two years; for a violation of subsection (a) of section 14-222, for a period of not less than thirty days or more than ninety days and, for a subsequent violation thereof, for a period of not less than ninety days; for a violation of subsection (b) of section 14-224, for a period of not less than ninety days; for a first violation of subsection (b) of section 14-147, for a period of not less than ninety days and, for a subsequent violation thereof, for a period of not less than five years; for a first violation of subsection (c) of section 14-147, for a period of not less than thirty days and, for a subsequent violation thereof, for a period of not less than one year.

(2) The commissioner may suspend the motor vehicle operator's license of any person (A) who was arrested for a felony, and (B) for whom there is an outstanding warrant for rearrest for failing to appear when legally called with regard to such felony. The suspension shall terminate no later than the date on which such person appears before the court with regard to such felony or such failure to appear.

Sec. 3. Subsection (h) of section 14-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(h) (1) Any person who violates any provision of this section shall, for a first offense, be deemed to have committed an infraction and be fined not less than seventy-five dollars or more than ninety dollars

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and, for any subsequent offense, shall be fined not less than two hundred fifty dollars or more than three hundred fifty dollars or be imprisoned not more than thirty days, or both.

(2) In addition to the penalty prescribed under subdivision (1) of this subsection, any person who violates any provision of this section who (A) has, prior to the commission of the present violation, committed a violation of this section or subsection (a) of section 14-215, shall be fined not more than five hundred dollars or sentenced to perform not more than one hundred hours of community service, or (B) has, prior to the commission of the present violation, committed two or more violations of this section or subsection (a) of section 14-215, or any combination thereof, shall be sentenced to a term of imprisonment of ninety days which may not be suspended or reduced in any manner.

Sec. 4. Subsection (b) of section 14-215 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) (1) Except as provided in subsection (c) of this section, any person who violates any provision of subsection (a) of this section shall, for a first offense, be fined not less than one hundred fifty dollars or more than two hundred dollars or imprisoned not more than ninety days, or be both fined and imprisoned, and, for any subsequent offense, shall be fined not less than two hundred dollars or more than six hundred dollars or imprisoned not more than one year, or be both fined and imprisoned.

(2) Except as provided in subsection (c) of this section, in addition to the penalty prescribed under subdivision (1) of this subsection, any person who violates any provision of subsection (a) of this section who (A) has, prior to the commission of the present violation, committed a violation of subsection (a) of this section or section 14-36, as amended

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by this act, shall be fined not more than five hundred dollars or sentenced to perform not more than one hundred hours of community service, or (B) has, prior to the commission of the present violation, committed two or more violations of subsection (a) of this section or section 14-36, as amended by this act, or any combination thereof, shall be sentenced to a term of imprisonment of ninety days which may not be suspended or reduced in any manner.

Sec. 5. Subsection (k) of section 14-111 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(k) (1) Whenever any person has been convicted of any violation of section 14-110, 14-147, 14-215, as amended by this act, 14-222 or 14-224 and such person's license has been suspended by the commissioner [,] or, if such person has had his or her license suspended in accordance with the provisions of section 14-111c or [section] 14-111n, such person may make application to the commissioner for the reversal or reduction of the term of such suspension. Such application shall be in writing and shall state specifically the reasons why such applicant believes that the applicant is entitled to such reversal or reduction. The commissioner shall consider each such application and the applicant's driver control record, as defined in section 14-111h, and may grant a hearing to the applicant in accordance with the provisions of chapter 54 and section 14-4a.

(2) Any person whose license has been revoked in accordance with subparagraph (C) of subdivision (3) of subsection (g) of section 14-227a on or after October 1, 1999, may, at any time after ten years from the date of such revocation, make application to the commissioner in accordance with the provisions of subdivision (1) of this subsection for reversal or reduction of such revocation.

Sec. 6. Section 14-227b of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective January 1, 2006*):

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

(b) If any such person, having been placed under arrest for operating a motor vehicle while under the influence of intoxicating liquor or any drug or both, and thereafter, after being apprised of such person's constitutional rights, having been requested to submit to a blood, breath or urine test at the option of the police officer, having been afforded a reasonable opportunity to telephone an attorney prior to the performance of such test and having been informed that such person's license or nonresident operating privilege may be suspended in accordance with the provisions of this section if such person refuses to submit to such test or if such person submits to such test and the results of such test indicate that such person has an elevated blood alcohol content, and that evidence of any such refusal shall be admissible in accordance with subsection (e) of section 14-227a and may be used against such person in any criminal prosecution, refuses to submit to the designated test, the test shall not be given; provided, if the person refuses or is unable to submit to a blood test, the police officer shall designate the breath or urine test as the test to be taken. The police officer shall make a notation upon the records of the police department that such officer informed the person that such person's license or nonresident operating privilege may be suspended if such person refused to submit to such test or if such person submitted to such test and the results of such test indicated that such person had an elevated blood alcohol content.

(c) If the person arrested refuses to submit to such test or analysis or submits to such test or analysis, commenced within two hours of the

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

(d) If the person arrested submits to a blood or urine test at the request of the police officer, and the specimen requires laboratory analysis in order to obtain the test results, the police officer shall not take possession of the motor vehicle operator's license of such person or, except as provided in this subsection, follow the procedures subsequent to taking possession of the operator's license as set forth in subsection (c) of this section. If the test results indicate that such person has an elevated blood alcohol content, the police officer, immediately upon receipt of the test results, shall notify the

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Commissioner of Motor Vehicles and submit to the commissioner the written report required pursuant to subsection (c) of this section.

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

(2) If the person arrested (A) is involved in an accident resulting in a fatality, or (B) has previously had such person's operator's license or nonresident operating privilege suspended under the provisions of section 14-227a during the ten-year period preceding the present arrest, upon receipt of such report, the Commissioner of Motor Vehicles may suspend any license or nonresident operating privilege of such person effective as of the date specified in a notice of such suspension to such person. Any person whose license or operating privilege has been suspended in accordance with this subdivision shall automatically be entitled to a hearing before the commissioner. The commissioner shall send a suspension notice to such person informing such person that such person's operator's license or nonresident operating privilege is suspended as of the date specified in such suspension notice, and that such person is entitled to a hearing and

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may schedule such hearing by contacting the Department of Motor Vehicles not later than seven days after the date of mailing of such suspension notice. Any suspension issued under this subdivision shall remain in effect until such suspension is affirmed or such license or operating privilege is reinstated in accordance with subsections (f) and (h) of this section.

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

(g) If such person contacts the department to schedule a hearing, the department shall assign a date, time and place for the hearing, which date shall be prior to the effective date of the suspension, except that, with respect to a person whose license or nonresident operating privilege is suspended in accordance with subdivision (2) of subsection (e) of this section, such hearing shall be scheduled not later than thirty days after such person contacts the department. At the request of such person or the hearing officer and upon a showing of good cause, the commissioner may grant one continuance for a period not to exceed fifteen days. The hearing shall be limited to a determination of the following issues: (1) Did the police officer have probable cause to arrest the person for operating a motor vehicle while under the influence of intoxicating liquor or any drug or both; (2) was such person placed under arrest; (3) did such person refuse to submit to such test or analysis or did such person submit to such test or analysis, commenced within two hours of the time of operation, and the results of such test or analysis indicated that such person had an elevated blood alcohol content; and (4) was such person operating the motor vehicle. In the hearing, the results of the test or analysis shall be sufficient to indicate the ratio of alcohol in the blood of such person at the time of operation, except that if the results of the additional test

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

(h) If, after such hearing, the commissioner finds on any one of the said issues in the negative, the commissioner shall reinstate such license or operating privilege. If, after such hearing, the commissioner does not find on any one of the said issues in the negative or if such person fails to appear at such hearing, the commissioner shall affirm the suspension contained in the suspension notice for the appropriate period specified in subsection (i) or (j) of this section. The commissioner shall render a decision at the conclusion of such hearing or send a notice of the decision by bulk certified mail to such person not later than thirty days or, if a continuance is granted, not later than forty-five days from the date such person received notice of such person's arrest by the police officer. The notice of such decision sent by certified mail to the address of such person as shown by the records of the commissioner shall be sufficient notice to such person that such person's operator's license or nonresident operating privilege is reinstated or suspended, as the case may be. Unless a continuance of the hearing is granted pursuant to subsection (g) of this section, if the commissioner fails to render a decision within thirty days from the date such person received notice of such person's arrest by the police officer, the commissioner shall reinstate such person's operator's license or nonresident operating privilege, provided notwithstanding such reinstatement the commissioner may render a decision not later than two days thereafter suspending such operator's license or nonresident operating privilege.

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(i) [The] Except as provided in subsection (j) of this section, the commissioner shall suspend the operator's license or nonresident operating privilege of a person who did not contact the department to schedule a hearing, who failed to appear at a hearing or against whom, after a hearing, the commissioner held pursuant to subsection (h) of this section, as of the effective date contained in the suspension notice or the date the commissioner renders a decision, whichever is later, for a period of: (1) (A) Except as provided in subparagraph (B) of this subdivision, ninety days, if such person submitted to a test or analysis and the results of such test or analysis indicated that such person had an elevated blood alcohol content, (B) one hundred twenty days, if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one per cent or more of alcohol, by weight, or (C) six months if such person refused to submit to such test or analysis, (2) if such person has previously had such person's operator's license or nonresident operating privilege suspended under this section, (A) except as provided in subparagraph (B) of this subdivision, nine months if such person submitted to a test or analysis and the results of such test or analysis indicated that such person had an elevated blood alcohol content, (B) ten months if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one per cent or more of alcohol, by weight, and (C) one year if such person refused to submit to such test or analysis, and (3) if such person has two or more times previously had such person's operator's license or nonresident operating privilege suspended under this section, (A) except as provided in subparagraph (B) of this subdivision, two years if such person submitted to a test or analysis and the results of such test or analysis indicated that such person had an elevated blood alcohol content, (B) two and one-half years if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of

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such person was sixteen-hundredths of one per cent or more of alcohol, by weight, and (C) three years if such person refused to submit to such test or analysis.

(j) The commissioner shall suspend the operator's license or nonresident operating privilege of a person under twenty-one years of age who did not contact the department to schedule a hearing, who failed to appear at a hearing or against whom, after a hearing, the commissioner held pursuant to subsection (h) of this section, as of the effective date contained in the suspension notice or the date the commissioner renders a decision, whichever is later, for twice the appropriate period of time specified in subsection (i) of this section.

[(j)] (k) Notwithstanding the provisions of subsections (b) to [(i)] (j), inclusive, of this section, any police officer who obtains the results of a chemical analysis of a blood sample taken from an operator of a motor vehicle involved in an accident who suffered or allegedly suffered physical injury in such accident shall notify the Commissioner of Motor Vehicles and submit to the commissioner a written report if such results indicate that such person had an elevated blood alcohol content, and if such person was arrested for violation of section 14-227a in connection with such accident. The report shall be made on a form approved by the commissioner containing such information as the commissioner prescribes, and shall be subscribed and sworn to under penalty of false statement, as provided in section 53a-157b, by the police officer. The commissioner may, after notice and an opportunity for hearing, which shall be conducted in accordance with chapter 54, suspend the motor vehicle operator's license or nonresident operating privilege of such person for a period of up to ninety days, or, if such person has previously had such person's operator's license or nonresident operating privilege suspended under this section for a period of up to one year. Each hearing conducted under this subsection shall be limited to a determination of the following issues:

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(1) Whether the police officer had probable cause to arrest the person for operating a motor vehicle while under the influence of intoxicating liquor or drug or both; (2) whether such person was placed under arrest; (3) whether such person was operating the motor vehicle; (4) whether the results of the analysis of the blood of such person indicate that such person had an elevated blood alcohol content; and (5) whether the blood sample was obtained in accordance with conditions for admissibility and competence as evidence as set forth in subsection (j) of section 14-227a. If, after such hearing, the commissioner finds on any one of the said issues in the negative, the commissioner shall not impose a suspension. The fees of any witness summoned to appear at the hearing shall be the same as provided by the general statutes for witnesses in criminal cases, as provided in section 52-260.

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

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

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

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

[(o)] (p) The Commissioner of Motor Vehicles shall adopt

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regulations, in accordance with chapter 54, to implement the provisions of this section.

Sec. 7. Subsection (b) of section 14-37a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The commissioner may, in the commissioner's discretion upon a showing of significant hardship, grant each such application that is submitted in proper form and contains such information and attestation by the applicant as the commissioner may require. In determining whether to grant such application, the commissioner may also consider the driving record of the applicant and shall ascertain that the suspension is a final order that is not under appeal pursuant to section 4-183. A special operator's permit shall not be issued pursuant to this section to any person for the operation of a motor vehicle for which a public passenger transportation permit or commercial driver's license is required or to any person whose operator's license has been suspended previously pursuant to section 14-227a or 14-227b, as amended by this act. A special operator's permit shall not be issued pursuant to this section to any person whose operator's license has been suspended pursuant to subparagraph [(B)] (C) of subdivision (1) of subsection (i) of section 14-227b, as amended by this act, for refusing to submit to a blood, breath or urine test or analysis until such operator's license has been under suspension for a period of not less than ninety days. A person shall not be ineligible to be issued a special operator's license under this section solely on the basis of being convicted of two violations of section 14-227a unless such second conviction is for a violation committed after a prior conviction.

Approved July 6, 2005