



House of Representatives

File No. 834

General Assembly

January Session, 2005

(Reprint of File No. 629)

Substitute House Bill No. 6882
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 3, 2005

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:

1 Section 1. (NEW) (*Effective October 1, 2005*) Any person whose motor
2 vehicle operator's license has been suspended who operates a motor
3 vehicle after the expiration of such period of suspension without
4 obtaining the reinstatement of such license shall (1) during the first
5 sixty days after such expiration, be deemed to have failed to renew
6 such license and be subject to the penalty for failure to renew a motor
7 vehicle operator's license under subsection (c) of section 14-41 of the
8 general statutes, and (2) after said sixty-day period, be subject to the
9 penalty for operating a motor vehicle without a license under section
10 14-36 of the general statutes, as amended by this act. Any operator so
11 charged shall not be prosecuted under section 14-215 of the general
12 statutes, as amended by this act, for the same act constituting a
13 violation under this section.

14 Sec. 2. Subsection (b) of section 14-111 of the general statutes is
15 repealed and the following is substituted in lieu thereof (*Effective*
16 *October 1, 2005, and applicable to any suspension of an operator's license on*
17 *or after October 1, 2000*):

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

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

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

44 (h) (1) Any person who violates any provision of this section shall,
45 for a first offense, be deemed to have committed an infraction and be

46 fined not less than seventy-five dollars or more than ninety dollars
47 and, for any subsequent offense, shall be fined not less than two
48 hundred fifty dollars or more than three hundred fifty dollars or be
49 imprisoned not more than thirty days, or both.

50 (2) In addition to the penalty prescribed under subdivision (1) of
51 this subsection, any person who violates any provision of this section
52 who (A) has, prior to the commission of the present violation,
53 committed a violation of this section or subsection (a) of section 14-215,
54 shall be fined not more than five hundred dollars or sentenced to
55 perform not more than one hundred hours of community service, or
56 (B) has, prior to the commission of the present violation, committed
57 two or more violations of this section or subsection (a) of section 14-
58 215, or any combination thereof, shall be sentenced to a term of
59 imprisonment of ninety days which may not be suspended or reduced
60 in any manner.

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

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

72 (2) Except as provided in subsection (c) of this section, in addition to
73 the penalty prescribed under subdivision (1) of this subsection, any
74 person who violates any provision of subsection (a) of this section who
75 (A) has, prior to the commission of the present violation, committed a
76 violation of subsection (a) of this section or section 14-36, as amended
77 by this act, shall be fined not more than five hundred dollars or

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

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

87 (k) (1) Whenever any person has been convicted of any violation of
88 section 14-110, 14-147, 14-215, as amended by this act, 14-222 or 14-224
89 and such person's license has been suspended by the commissioner []
90 or, if such person has had his or her license suspended in accordance
91 with the provisions of section 14-111c or [section] 14-111n, such person
92 may make application to the commissioner for the reversal or
93 reduction of the term of such suspension. Such application shall be in
94 writing and shall state specifically the reasons why such applicant
95 believes that the applicant is entitled to such reversal or reduction. The
96 commissioner shall consider each such application and the applicant's
97 driver control record, as defined in section 14-111h, and may grant a
98 hearing to the applicant in accordance with the provisions of chapter
99 54 and section 14-4a.

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

106 Sec. 6. Section 14-227b of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective January 1, 2006*):

108 (a) Any person who operates a motor vehicle in this state shall be
109 deemed to have given such person's consent to a chemical analysis of

110 such person's blood, breath or urine and, if such person is a minor,
111 such person's parent or parents or guardian shall also be deemed to
112 have given their consent.

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

136 (c) If the person arrested refuses to submit to such test or analysis or
137 submits to such test or analysis, commenced within two hours of the
138 time of operation, and the results of such test or analysis indicate that
139 such person has an elevated blood alcohol content, the police officer,
140 acting on behalf of the Commissioner of Motor Vehicles, shall
141 immediately revoke and take possession of the motor vehicle
142 operator's license or, if such person is a nonresident, suspend the
143 nonresident operating privilege of such person, for a twenty-four-hour

144 period. The police officer shall prepare a written report of the incident
145 and shall mail the report and a copy of the results of any chemical test
146 or analysis to the Department of Motor Vehicles within three business
147 days. The report shall be made on a form approved by the
148 Commissioner of Motor Vehicles and shall be subscribed and sworn to
149 under penalty of false statement as provided in section 53a-157b by the
150 arresting officer. If the person arrested refused to submit to such test or
151 analysis, the report shall be endorsed by a third person who witnessed
152 such refusal. The report shall set forth the grounds for the officer's
153 belief that there was probable cause to arrest such person for operating
154 a motor vehicle while under the influence of intoxicating liquor or any
155 drug or both and shall state that such person had refused to submit to
156 such test or analysis when requested by such police officer to do so or
157 that such person submitted to such test or analysis, commenced within
158 two hours of the time of operation, and the results of such test or
159 analysis indicated that such person had an elevated blood alcohol
160 content.

161 (d) If the person arrested submits to a blood or urine test at the
162 request of the police officer, and the specimen requires laboratory
163 analysis in order to obtain the test results, the police officer shall not
164 take possession of the motor vehicle operator's license of such person
165 or, except as provided in this subsection, follow the procedures
166 subsequent to taking possession of the operator's license as set forth in
167 subsection (c) of this section. If the test results indicate that such
168 person has an elevated blood alcohol content, the police officer,
169 immediately upon receipt of the test results, shall notify the
170 Commissioner of Motor Vehicles and submit to the commissioner the
171 written report required pursuant to subsection (c) of this section.

172 (e) (1) Except as provided in subdivision (2) of this subsection, upon
173 receipt of such report, the Commissioner of Motor Vehicles may
174 suspend any license or nonresident operating privilege of such person
175 effective as of a date certain, which date shall be not later than thirty
176 days after the date such person received notice of such person's arrest
177 by the police officer. Any person whose license or operating privilege

178 has been suspended in accordance with this subdivision shall
179 automatically be entitled to a hearing before the commissioner to be
180 held prior to the effective date of the suspension. The commissioner
181 shall send a suspension notice to such person informing such person
182 that such person's operator's license or nonresident operating privilege
183 is suspended as of a date certain and that such person is entitled to a
184 hearing prior to the effective date of the suspension and may schedule
185 such hearing by contacting the Department of Motor Vehicles not later
186 than seven days after the date of mailing of such suspension notice.

187 (2) If the person arrested (A) is involved in an accident resulting in a
188 fatality, or (B) has previously had such person's operator's license or
189 nonresident operating privilege suspended under the provisions of
190 section 14-227a during the ten-year period preceding the present
191 arrest, upon receipt of such report, the Commissioner of Motor
192 Vehicles may suspend any license or nonresident operating privilege
193 of such person effective as of the date specified in a notice of such
194 suspension to such person. Any person whose license or operating
195 privilege has been suspended in accordance with this subdivision shall
196 automatically be entitled to a hearing before the commissioner. The
197 commissioner shall send a suspension notice to such person informing
198 such person that such person's operator's license or nonresident
199 operating privilege is suspended as of the date specified in such
200 suspension notice, and that such person is entitled to a hearing and
201 may schedule such hearing by contacting the Department of Motor
202 Vehicles not later than seven days after the date of mailing of such
203 suspension notice. Any suspension issued under this subdivision shall
204 remain in effect until such suspension is affirmed or such license or
205 operating privilege is reinstated in accordance with subsections (f) and
206 (h) of this section.

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

211 (g) If such person contacts the department to schedule a hearing, the
212 department shall assign a date, time and place for the hearing, which
213 date shall be prior to the effective date of the suspension, except that,
214 with respect to a person whose license or nonresident operating
215 privilege is suspended in accordance with subdivision (2) of subsection
216 (e) of this section, such hearing shall be scheduled not later than thirty
217 days after such person contacts the department. At the request of such
218 person or the hearing officer and upon a showing of good cause, the
219 commissioner may grant one continuance for a period not to exceed
220 fifteen days. The hearing shall be limited to a determination of the
221 following issues: (1) Did the police officer have probable cause to
222 arrest the person for operating a motor vehicle while under the
223 influence of intoxicating liquor or any drug or both; (2) was such
224 person placed under arrest; (3) did such person refuse to submit to
225 such test or analysis or did such person submit to such test or analysis,
226 commenced within two hours of the time of operation, and the results
227 of such test or analysis indicated that such person had an elevated
228 blood alcohol content; and (4) was such person operating the motor
229 vehicle. In the hearing, the results of the test or analysis shall be
230 sufficient to indicate the ratio of alcohol in the blood of such person at
231 the time of operation, except that if the results of the additional test
232 indicate that the ratio of alcohol in the blood of such person is
233 twelve-hundredths of one per cent or less of alcohol, by weight, and is
234 higher than the results of the first test, evidence shall be presented that
235 demonstrates that the test results and analysis thereof accurately
236 indicate the blood alcohol content at the time of operation. The fees of
237 any witness summoned to appear at the hearing shall be the same as
238 provided by the general statutes for witnesses in criminal cases.

239 (h) If, after such hearing, the commissioner finds on any one of the
240 said issues in the negative, the commissioner shall reinstate such
241 license or operating privilege. If, after such hearing, the commissioner
242 does not find on any one of the said issues in the negative or if such
243 person fails to appear at such hearing, the commissioner shall affirm
244 the suspension contained in the suspension notice for the appropriate

245 period specified in subsection (i) or (j) of this section. The
246 commissioner shall render a decision at the conclusion of such hearing
247 or send a notice of the decision by bulk certified mail to such person
248 not later than thirty days or, if a continuance is granted, not later than
249 forty-five days from the date such person received notice of such
250 person's arrest by the police officer. The notice of such decision sent by
251 certified mail to the address of such person as shown by the records of
252 the commissioner shall be sufficient notice to such person that such
253 person's operator's license or nonresident operating privilege is
254 reinstated or suspended, as the case may be. Unless a continuance of
255 the hearing is granted pursuant to subsection (g) of this section, if the
256 commissioner fails to render a decision within thirty days from the
257 date such person received notice of such person's arrest by the police
258 officer, the commissioner shall reinstate such person's operator's
259 license or nonresident operating privilege, provided notwithstanding
260 such reinstatement the commissioner may render a decision not later
261 than two days thereafter suspending such operator's license or
262 nonresident operating privilege.

263 (i) [The] Except as provided in subsection (j) of this section, the
264 commissioner shall suspend the operator's license or nonresident
265 operating privilege of a person who did not contact the department to
266 schedule a hearing, who failed to appear at a hearing or against whom,
267 after a hearing, the commissioner held pursuant to subsection (h) of
268 this section, as of the effective date contained in the suspension notice
269 or the date the commissioner renders a decision, whichever is later, for
270 a period of: (1) (A) Except as provided in subparagraph (B) of this
271 subdivision, ninety days, if such person submitted to a test or analysis
272 and the results of such test or analysis indicated that such person had
273 an elevated blood alcohol content, (B) one hundred twenty days, if
274 such person submitted to a test or analysis and the results of such test
275 or analysis indicated that the ratio of alcohol in the blood of such
276 person was sixteen-hundredths of one per cent or more of alcohol, by
277 weight, or (C) six months if such person refused to submit to such test
278 or analysis, (2) if such person has previously had such person's

279 operator's license or nonresident operating privilege suspended under
280 this section, (A) except as provided in subparagraph (B) of this
281 subdivision, nine months if such person submitted to a test or analysis
282 and the results of such test or analysis indicated that such person had
283 an elevated blood alcohol content, (B) ten months if such person
284 submitted to a test or analysis and the results of such test or analysis
285 indicated that the ratio of alcohol in the blood of such person was
286 sixteen-hundredths of one per cent or more of alcohol, by weight, and
287 (C) one year if such person refused to submit to such test or analysis,
288 and (3) if such person has two or more times previously had such
289 person's operator's license or nonresident operating privilege
290 suspended under this section, (A) except as provided in subparagraph
291 (B) of this subdivision, two years if such person submitted to a test or
292 analysis and the results of such test or analysis indicated that such
293 person had an elevated blood alcohol content, (B) two and one-half
294 years if such person submitted to a test or analysis and the results of
295 such test or analysis indicated that the ratio of alcohol in the blood of
296 such person was sixteen-hundredths of one per cent or more of
297 alcohol, by weight, and (C) three years if such person refused to
298 submit to such test or analysis.

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

307 [(j)] (k) Notwithstanding the provisions of subsections (b) to [(i)] (j),
308 inclusive, of this section, any police officer who obtains the results of a
309 chemical analysis of a blood sample taken from an operator of a motor
310 vehicle involved in an accident who suffered or allegedly suffered
311 physical injury in such accident shall notify the Commissioner of
312 Motor Vehicles and submit to the commissioner a written report if

313 such results indicate that such person had an elevated blood alcohol
314 content, and if such person was arrested for violation of section
315 14-227a in connection with such accident. The report shall be made on
316 a form approved by the commissioner containing such information as
317 the commissioner prescribes, and shall be subscribed and sworn to
318 under penalty of false statement, as provided in section 53a-157b, by
319 the police officer. The commissioner may, after notice and an
320 opportunity for hearing, which shall be conducted in accordance with
321 chapter 54, suspend the motor vehicle operator's license or nonresident
322 operating privilege of such person for a period of up to ninety days, or,
323 if such person has previously had such person's operator's license or
324 nonresident operating privilege suspended under this section for a
325 period of up to one year. Each hearing conducted under this
326 subsection shall be limited to a determination of the following issues:
327 (1) Whether the police officer had probable cause to arrest the person
328 for operating a motor vehicle while under the influence of intoxicating
329 liquor or drug or both; (2) whether such person was placed under
330 arrest; (3) whether such person was operating the motor vehicle; (4)
331 whether the results of the analysis of the blood of such person indicate
332 that such person had an elevated blood alcohol content; and (5)
333 whether the blood sample was obtained in accordance with conditions
334 for admissibility and competence as evidence as set forth in subsection
335 (j) of section 14-227a. If, after such hearing, the commissioner finds on
336 any one of the said issues in the negative, the commissioner shall not
337 impose a suspension. The fees of any witness summoned to appear at
338 the hearing shall be the same as provided by the general statutes for
339 witnesses in criminal cases, as provided in section 52-260.

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

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

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

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

355 [(o)] (p) The Commissioner of Motor Vehicles shall adopt
356 regulations, in accordance with chapter 54, to implement the
357 provisions of this section.

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

361 (b) The commissioner may, in the commissioner's discretion upon a
362 showing of significant hardship, grant each such application that is
363 submitted in proper form and contains such information and
364 attestation by the applicant as the commissioner may require. In
365 determining whether to grant such application, the commissioner may
366 also consider the driving record of the applicant and shall ascertain
367 that the suspension is a final order that is not under appeal pursuant to
368 section 4-183. A special operator's permit shall not be issued pursuant
369 to this section to any person for the operation of a motor vehicle for
370 which a public passenger transportation permit or commercial driver's
371 license is required or to any person whose operator's license has been
372 suspended previously pursuant to section 14-227a or 14-227b, as
373 amended by this act. A special operator's permit shall not be issued
374 pursuant to this section to any person whose operator's license has
375 been suspended pursuant to subparagraph [(B)] (C) of subdivision (1)
376 of subsection (i) of section 14-227b, as amended by this act, for refusing
377 to submit to a blood, breath or urine test or analysis until such

378 operator's license has been under suspension for a period of not less
 379 than ninety days. A person shall not be ineligible to be issued a special
 380 operator's license under this section solely on the basis of being
 381 convicted of two violations of section 14-227a unless such second
 382 conviction is for a violation committed after a prior conviction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005, and applicable to any suspension of an operator's license on or after October 1, 2000</i>	14-111(b)
Sec. 3	<i>October 1, 2005</i>	14-36(h)
Sec. 4	<i>October 1, 2005</i>	14-215(b)
Sec. 5	<i>October 1, 2005</i>	14-111(k)
Sec. 6	<i>January 1, 2006</i>	14-227b
Sec. 7	<i>from passage</i>	14-37a(b)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Motor Vehicles	TF - Revenue Gain	Minimal	Minimal
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a minimal fiscal impact by clarifying that a person who operates a motor vehicle after a period of suspension has ended but before such person's license is restored has committed the violation of failing to renew a license or operating without a license, not the offense of operating while under suspension (which carries a larger fine and potential imprisonment).

The bill increases the penalties for certain repeat violators, which is expected to result in a minimal state revenue gain from fines and potential cost for incarceration or probation supervision. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The bill would result in an increase in the number of restoration fees paid to the Department of Motor Vehicles and thereby yield a minimal revenue gain to the Transportation Fund. The bill makes certain other minor changes to the duties of the Department of Motor Vehicles that could be accommodated within budgeted resources.

House Amendment "A" made various changes to the motor vehicle statutes that have no fiscal impact.

OLR Bill Analysis

sHB 6882 (as amended by House "A")*

AN ACT CONCERNING THE PENALTY FOR OPERATING A MOTOR VEHICLE WITHOUT AN OPERATOR'S LICENSE AND DURING AND AFTER A PERIOD OF LICENSE SUSPENSION**SUMMARY:**

This bill establishes penalties for operating a motor vehicle without obtaining a reinstatement of a license after the suspension period has expired. Under current law, such violators are apparently subject to the penalties for operating with a suspended license.

The bill reduces the mandatory license suspension periods for a second offense from at least five to at least two years for certain motor vehicle offenses. It specifies that this reduction applies to any suspension that occurred on or after October 1, 2000.

The bill imposes additional penalties for certain people convicted of operating a motor vehicle without first obtaining a license, violating a condition of a conditional license, or operating a motor vehicle with a suspended or revoked license or registration, or with a refused license.

The bill allows someone whose license was permanently revoked for a third conviction for driving under the influence of alcohol or drugs (DUI) to, at any time after 10 years from the revocation date, apply to the motor vehicles commissioner for a reversal or reduction of the revocation.

The law requires an administrative license suspension process for drivers who refuse to submit to a blood alcohol test or whose test results indicate an elevated BAC (.08% or more or .02% or more if the driver is under age 21). The bill doubles the license suspension periods if the offender is under age 21. This increase also applies to nonresident operating privileges.

The bill makes people ineligible for a special driving permit that allows certain work-related driving if they have been previously convicted of

DUI. But it specifies that a person is not ineligible solely on the basis of being convicted of two DUI violations unless the second conviction is for a violation committed after a prior conviction.

*House Amendment "A" adds the provisions dealing with (1) reversing or reducing a license revocation, (2) doubling the administrative license suspension periods for people under age 21, (3) making people ineligible for a special license for a prior DUI conviction, and (4) making the provision reducing the mandatory license suspension apply to suspensions that occurred on or after October 1, 2000.

EFFECTIVE DATE: October 1, 2005, except for the provision that doubles the license suspension for drivers under age 21, which is effective January 1, 2006, and the provision concerning special licenses, which is effective upon passage.

OPERATING A MOTOR VEHICLE WITHOUT OBTAINING A REINSTATEMENT OF A LICENSE (§ 1)

Under the bill, anyone whose motor vehicle license has been suspended and who operates a motor vehicle after the suspension period has expired without obtaining a license reinstatement:

1. during the first 60 days after the expiration, is deemed to have committed an infraction which carries a \$75 fine and
2. after the 60-day period, is deemed to have committed an infraction for a first offense (the current fine plus fees is \$158), and for a second offense, must be fined from \$250 to \$350, be imprisoned up to 30 days, or both.

The bill specifies that someone charged with this offense may not also be prosecuted for operating a motor vehicle while his license is suspended. That offense generally carries a penalty for a first offense of a \$150 to \$200 fine, a prison term of up to 90 days, or both, and for any subsequent offense, a fine of \$200 to \$600, a prison term of up to one year, or both.

REDUCTION OF LICENSE SUSPENSION PERIODS FOR CERTAIN SECOND OFFENDERS (§ 2)

The bill reduces the mandatory license suspension period from at least five years to at least two years for people convicted for the second time for any of the following offenses:

1. evading responsibility (§ 14-224),
2. swearing or affirming falsely to the motor vehicles commissioner regarding enforcement of the motor vehicle laws (§ 14-110),
3. operating a motor vehicle with a suspended registration or license (§ 14-215), and
4. using a motor vehicle without the owner's permission or tampering with a motor vehicle (§ 53a-119b).

The bill specifies that the reduction applies to any suspension that occurred on or after October 1, 2000.

OPERATING A MOTOR VEHICLE WITHOUT OBTAINING A LICENSE OR IN VIOLATION OF A LIMITED LICENSE (§ 3)

By law, no one:

1. may operate a motor vehicle on any public highway of this state or on a private road on which a speed limit has been established until he has obtained a motor vehicle operator's license, or
2. having been issued a limited license, may operate (a) a motor vehicle in violation of the limitations imposed by the license or (b) any motor vehicle other than the motor vehicle for which his right to operate is limited.

Anyone who violates this law, for a first offense, is deemed to have committed an infraction (the current fine is \$75), for any subsequent offense, is subject to a fine of \$250 to \$350, imprisonment for up to 30 days, or both.

The bill imposes additional penalties for certain violators. Under the bill:

1. anyone who has either violated this law before, or committed the offense of operating a motor vehicle while registration or license is refused, suspended, or revoked is subject to an additional fine of up to \$500 or up to 100 hours of community service and
2. anyone who has committed either of these offenses at least twice before, or each one at least once before, must be given the additional mandatory sentence of 90 days in prison.

OPERATING A MOTOR VEHICLE WITH A SUSPENDED OR REVOKED LICENSE OR REGISTRATION (§ 4)

By law, anyone who operates a motor vehicle with a suspended or revoked license or registration or with a license that has been refused is subject:

1. for a first offense, to a fine of \$150 to \$200, up to 90 days in prison, or both and
2. for any subsequent offense, to a fine of \$200 to \$600, up to one year in prison, or both.

The bill imposes additional penalties for certain violators. Under the bill:

1. anyone who has either violated this law before, or committed the offense of operating a motor vehicle without first obtaining a license, is subject to an additional fine of up to \$500, or up to 100 hours of community service and
2. anyone who has committed either of these offenses at least twice before, or each one at least once, before must be given the additional mandatory sentence of 90 days in prison.

These additional penalties do not apply to people who were driving with a suspended or revoked license on account of violating the driving under the influence or the implied consent law or being convicted of manslaughter in the second degree with a motor vehicle or assault in the second degree with a motor vehicle. Under current law, unchanged by the bill, these people are subject to a fine of between \$500 and \$1,000 and imprisonment of up to one year. In the

absence of any mitigating circumstances as determined by the court, 30 consecutive days of the sentence imposed may not be suspended or reduced. The court must specifically state the mitigating circumstances in writing for the record.

APPLICATION TO MOTOR VEHICLES COMMISSIONER TO REVERSE OR REDUCE LICENSE REVOCATION FOR DUI (§ 5)

The bill allows someone whose license was permanently revoked for a third conviction for DUI to, at any time after 10 years from the revocation date, apply to the motor vehicles commissioner for a reversal or reduction of the revocation (See BACKGROUND).

The application must be in writing and specify the reasons why the applicant believes he is entitled to a reversal or reduction. The commissioner must consider the application and the applicant's driver control record, and may grant a hearing.

ADMINISTRATIVE LICENSE SUSPENSIONS (§ 6)

The law requires an administrative license suspension process for drivers who refuse to submit to a blood alcohol test or whose test results indicate an elevated BAC (.08% or more or .02% or more if he is under age 21). Table 1 specifies the penalties.

Table 1: Administrative Per Se License Suspension Periods

<i>Per Se Offense</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third or Subsequent Offense</i>
Test Refused	6 months	One year	3 years
BAC of: .08% or more .02% or more if under age 21	90 days	9 months	2 years
BAC of .16% or more	120 days	10 months	2 years, six months

The bill doubles these administrative license suspension periods if the offender is under age 21.

WORK-ONLY DRIVERS' PERMITS (§ 7)

Under current law, anyone who has had a driver's license suspended may apply for a special driving permit that allows certain work-related driving. Such a permit may not be granted to a person (1) with a previous suspension; (2) who operated a vehicle while under suspension; (3) who failed to appear for trial; or (4) under suspension for refusing to submit to a DUI blood, breath, or urine test until at least 90 days of his mandatory six-month suspension has run.

The bill makes people ineligible if they have been previously convicted of DUI. But the bill specifies that a person is not ineligible solely on the basis of being convicted of two DUI violations unless the second conviction is for a violation committed after a prior conviction.

BACKGROUND

Related Law — License Reinstatement

Any person whose operator's license or right to operate a motor vehicle in this state has been suspended or revoked by the commissioner of motor vehicles must pay a restoration fee of \$125 (CGS §14-50b).

CGS § 14-227a — Driving While Under the Influence of Alcohol or Drugs

Driving Under the Influence or with an "Elevated" BAC. The law prohibits driving (1) while under the influence of alcohol or drugs or (2) with an "elevated blood alcohol content." A person is "under the influence" if his ability to drive is affected to an appreciable degree (*Infield v. Sullivan*, 151 Conn. 506 (1964)). This may be prosecuted with or without any direct evidence of his BAC. A person has an "elevated blood alcohol content" if his BAC is .08% alcohol by weight or above. The law also makes it illegal for someone under age 21 to drive with a BAC of .02% or more. While this is defined under a different statute (CGS § 14-227g), most of the criminal drunk driving provisions apply by reference to anyone under age 21 violating the prohibition.

Driving Under the Influence (DUI)-Criminal Penalties

A person convicted of DUI is subject to the criminal penalties listed in Table 2.

Table 2: DUI Criminal Penalties

<i>Conviction</i>	<i>Jail Sentence</i>	<i>Fine</i>	<i>License Suspension</i>
First	Either (a) up to six months with a mandatory minimum of two days or (b) up to six months suspended with probation requiring 100 hours of community service	\$500- \$1,000	One year
Second	Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service	\$1,000- \$4,000	Three years (or until age 21 if longer)
Third and Subsequent	Up to three years, with mandatory minimum of one year and probation with 100 hours community service	\$2,000- \$8,000	Permanent Revocation

In assessing these penalties, the law considers as a subsequent conviction one that occurs within 10 years of a prior conviction for the same offense. Also, any conviction that occurs in another state for an offense that the court determines has “substantially the same” essential elements as Connecticut’s criminal drunk driving offenses, manslaughter in the 2nd degree with a motor vehicle, or assault in the 2nd degree with a motor vehicle will constitute a prior conviction of the same offense for purposes of determining someone’s prior criminal history. (2nd degree manslaughter or assault with a motor vehicle involves driving while under the influence of liquor or drugs.)

Legislative History

On May 5, the House referred the bill (File 629) to the Transportation Committee, which reported it favorably unchanged on May 11.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 40 Nay 0

Transportation Committee

Joint Favorable Report

Yea 30 Nay 0