



General Assembly

Amendment

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Offered by:

REP. LAWLOR, 99th Dist.

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To: Subst. House Bill No. 6882

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Cal. No. 455

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

1 Change the effective date of section 2 to "Effective October 1, 2005,
2 and applicable to any suspension of an operator's license on or after
3 October 1, 2000"

4 After the last section, add the following and renumber sections and
5 internal references accordingly:

6 "Sec. 501. Subsection (k) of section 14-111 of the general statutes is
7 repealed and the following is substituted in lieu thereof (*Effective*
8 *October 1, 2005*):

9 (k) (1) Whenever any person has been convicted of any violation of
10 section 14-110, 14-147, 14-215, 14-222 or 14-224 and such person's
11 license has been suspended by the commissioner [,] or, if such person
12 has had his or her license suspended in accordance with the provisions

13 of section 14-111c or [section] 14-111n, such person may make
14 application to the commissioner for the reversal or reduction of the
15 term of such suspension. Such application shall be in writing and shall
16 state specifically the reasons why such applicant believes that the
17 applicant is entitled to such reversal or reduction. The commissioner
18 shall consider each such application and the applicant's driver control
19 record, as defined in section 14-111h, and may grant a hearing to the
20 applicant in accordance with the provisions of chapter 54 and section
21 14-4a.

22 (2) Any person whose license has been revoked in accordance with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

28 Sec. 502. Section 14-227b of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective January 1, 2006*):

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

35 (b) If any such person, having been placed under arrest for
36 operating a motor vehicle while under the influence of intoxicating
37 liquor or any drug or both, and thereafter, after being apprised of such
38 person's constitutional rights, having been requested to submit to a
39 blood, breath or urine test at the option of the police officer, having
40 been afforded a reasonable opportunity to telephone an attorney prior
41 to the performance of such test and having been informed that such
42 person's license or nonresident operating privilege may be suspended
43 in accordance with the provisions of this section if such person refuses
44 to submit to such test or if such person submits to such test and the

45 results of such test indicate that such person has an elevated blood
46 alcohol content, and that evidence of any such refusal shall be
47 admissible in accordance with subsection (e) of section 14-227a and
48 may be used against such person in any criminal prosecution, refuses
49 to submit to the designated test, the test shall not be given; provided, if
50 the person refuses or is unable to submit to a blood test, the police
51 officer shall designate the breath or urine test as the test to be taken.
52 The police officer shall make a notation upon the records of the police
53 department that such officer informed the person that such person's
54 license or nonresident operating privilege may be suspended if such
55 person refused to submit to such test or if such person submitted to
56 such test and the results of such test indicated that such person had an
57 elevated blood alcohol content.

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

79 that such person submitted to such test or analysis, commenced within
80 two hours of the time of operation, and the results of such test or
81 analysis indicated that such person had an elevated blood alcohol
82 content.

83 (d) If the person arrested submits to a blood or urine test at the
84 request of the police officer, and the specimen requires laboratory
85 analysis in order to obtain the test results, the police officer shall not
86 take possession of the motor vehicle operator's license of such person
87 or, except as provided in this subsection, follow the procedures
88 subsequent to taking possession of the operator's license as set forth in
89 subsection (c) of this section. If the test results indicate that such
90 person has an elevated blood alcohol content, the police officer,
91 immediately upon receipt of the test results, shall notify the
92 Commissioner of Motor Vehicles and submit to the commissioner the
93 written report required pursuant to subsection (c) of this section.

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

109 (2) If the person arrested (A) is involved in an accident resulting in a
110 fatality, or (B) has previously had such person's operator's license or
111 nonresident operating privilege suspended under the provisions of

112 section 14-227a during the ten-year period preceding the present
113 arrest, upon receipt of such report, the Commissioner of Motor
114 Vehicles may suspend any license or nonresident operating privilege
115 of such person effective as of the date specified in a notice of such
116 suspension to such person. Any person whose license or operating
117 privilege has been suspended in accordance with this subdivision shall
118 automatically be entitled to a hearing before the commissioner. The
119 commissioner shall send a suspension notice to such person informing
120 such person that such person's operator's license or nonresident
121 operating privilege is suspended as of the date specified in such
122 suspension notice, and that such person is entitled to a hearing and
123 may schedule such hearing by contacting the Department of Motor
124 Vehicles not later than seven days after the date of mailing of such
125 suspension notice. Any suspension issued under this subdivision shall
126 remain in effect until such suspension is affirmed or such license or
127 operating privilege is reinstated in accordance with subsections (f) and
128 (h) of this section.

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

133 (g) If such person contacts the department to schedule a hearing, the
134 department shall assign a date, time and place for the hearing, which
135 date shall be prior to the effective date of the suspension, except that,
136 with respect to a person whose license or nonresident operating
137 privilege is suspended in accordance with subdivision (2) of subsection
138 (e) of this section, such hearing shall be scheduled not later than thirty
139 days after such person contacts the department. At the request of such
140 person or the hearing officer and upon a showing of good cause, the
141 commissioner may grant one continuance for a period not to exceed
142 fifteen days. The hearing shall be limited to a determination of the
143 following issues: (1) Did the police officer have probable cause to
144 arrest the person for operating a motor vehicle while under the
145 influence of intoxicating liquor or any drug or both; (2) was such

146 person placed under arrest; (3) did such person refuse to submit to
147 such test or analysis or did such person submit to such test or analysis,
148 commenced within two hours of the time of operation, and the results
149 of such test or analysis indicated that such person had an elevated
150 blood alcohol content; and (4) was such person operating the motor
151 vehicle. In the hearing, the results of the test or analysis shall be
152 sufficient to indicate the ratio of alcohol in the blood of such person at
153 the time of operation, except that if the results of the additional test
154 indicate that the ratio of alcohol in the blood of such person is
155 twelve-hundredths of one per cent or less of alcohol, by weight, and is
156 higher than the results of the first test, evidence shall be presented that
157 demonstrates that the test results and analysis thereof accurately
158 indicate the blood alcohol content at the time of operation. The fees of
159 any witness summoned to appear at the hearing shall be the same as
160 provided by the general statutes for witnesses in criminal cases.

161 (h) If, after such hearing, the commissioner finds on any one of the
162 said issues in the negative, the commissioner shall reinstate such
163 license or operating privilege. If, after such hearing, the commissioner
164 does not find on any one of the said issues in the negative or if such
165 person fails to appear at such hearing, the commissioner shall affirm
166 the suspension contained in the suspension notice for the appropriate
167 period specified in subsection (i) or (j) of this section. The
168 commissioner shall render a decision at the conclusion of such hearing
169 or send a notice of the decision by bulk certified mail to such person
170 not later than thirty days or, if a continuance is granted, not later than
171 forty-five days from the date such person received notice of such
172 person's arrest by the police officer. The notice of such decision sent by
173 certified mail to the address of such person as shown by the records of
174 the commissioner shall be sufficient notice to such person that such
175 person's operator's license or nonresident operating privilege is
176 reinstated or suspended, as the case may be. Unless a continuance of
177 the hearing is granted pursuant to subsection (g) of this section, if the
178 commissioner fails to render a decision within thirty days from the
179 date such person received notice of such person's arrest by the police

180 officer, the commissioner shall reinstate such person's operator's
181 license or nonresident operating privilege, provided notwithstanding
182 such reinstatement the commissioner may render a decision not later
183 than two days thereafter suspending such operator's license or
184 nonresident operating privilege.

185 (i) [The] Except as provided in subsection (j) of this section, the
186 commissioner shall suspend the operator's license or nonresident
187 operating privilege of a person who did not contact the department to
188 schedule a hearing, who failed to appear at a hearing or against whom,
189 after a hearing, the commissioner held pursuant to subsection (h) of
190 this section, as of the effective date contained in the suspension notice
191 or the date the commissioner renders a decision, whichever is later, for
192 a period of: (1) (A) Except as provided in subparagraph (B) of this
193 subdivision, ninety days, if such person submitted to a test or analysis
194 and the results of such test or analysis indicated that such person had
195 an elevated blood alcohol content, (B) one hundred twenty days, if
196 such person submitted to a test or analysis and the results of such test
197 or analysis indicated that the ratio of alcohol in the blood of such
198 person was sixteen-hundredths of one per cent or more of alcohol, by
199 weight, or (C) six months if such person refused to submit to such test
200 or analysis, (2) if such person has previously had such person's
201 operator's license or nonresident operating privilege suspended under
202 this section, (A) except as provided in subparagraph (B) of this
203 subdivision, nine months if such person submitted to a test or analysis
204 and the results of such test or analysis indicated that such person had
205 an elevated blood alcohol content, (B) ten months if such person
206 submitted to a test or analysis and the results of such test or analysis
207 indicated that the ratio of alcohol in the blood of such person was
208 sixteen-hundredths of one per cent or more of alcohol, by weight, and
209 (C) one year if such person refused to submit to such test or analysis,
210 and (3) if such person has two or more times previously had such
211 person's operator's license or nonresident operating privilege
212 suspended under this section, (A) except as provided in subparagraph
213 (B) of this subdivision, two years if such person submitted to a test or

214 analysis and the results of such test or analysis indicated that such
215 person had an elevated blood alcohol content, (B) two and one-half
216 years if such person submitted to a test or analysis and the results of
217 such test or analysis indicated that the ratio of alcohol in the blood of
218 such person was sixteen-hundredths of one per cent or more of
219 alcohol, by weight, and (C) three years if such person refused to
220 submit to such test or analysis.

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

229 ~~[(j)]~~ (k) Notwithstanding the provisions of subsections (b) to ~~[(i)]~~ (j),
230 inclusive, of this section, any police officer who obtains the results of a
231 chemical analysis of a blood sample taken from an operator of a motor
232 vehicle involved in an accident who suffered or allegedly suffered
233 physical injury in such accident shall notify the Commissioner of
234 Motor Vehicles and submit to the commissioner a written report if
235 such results indicate that such person had an elevated blood alcohol
236 content, and if such person was arrested for violation of section
237 14-227a in connection with such accident. The report shall be made on
238 a form approved by the commissioner containing such information as
239 the commissioner prescribes, and shall be subscribed and sworn to
240 under penalty of false statement, as provided in section 53a-157b, by
241 the police officer. The commissioner may, after notice and an
242 opportunity for hearing, which shall be conducted in accordance with
243 chapter 54, suspend the motor vehicle operator's license or nonresident
244 operating privilege of such person for a period of up to ninety days, or,
245 if such person has previously had such person's operator's license or
246 nonresident operating privilege suspended under this section for a
247 period of up to one year. Each hearing conducted under this

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

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

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

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

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

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

280 Sec. 503. Subsection (b) of section 14-37a of the general statutes is
281 repealed and the following is substituted in lieu thereof (*Effective from*
282 *passage*):

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