



General Assembly

February Session, 2006

Raised Bill No. 329

LCO No. 1708

01708_____TRA

Referred to Committee on Transportation

Introduced by:
(TRA)

**AN ACT CONCERNING THE ADMINISTRATIVE PER SE LICENSE
SUSPENSION PROGRAM.**

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

1 Section 1. Subsection (k) of section 14-227a of the 2006 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2006*):

4 (k) Notwithstanding the provisions of subsection (b) of this section,
5 evidence respecting the amount of alcohol or drug in the blood or
6 urine of an operator of a motor vehicle involved in an accident who
7 has suffered or allegedly suffered physical injury in such accident, or
8 who is otherwise deemed by a police officer to require hospital
9 treatment or observation, which evidence is derived from a chemical
10 analysis of a blood sample taken from or a urine sample provided by
11 such person after such accident at the scene of the accident, while en
12 route to a hospital or at a hospital, shall be competent evidence to
13 establish probable cause for the arrest by warrant of such person for a
14 violation of subsection (a) of this section and shall be admissible and
15 competent in any subsequent prosecution thereof if: (1) The blood
16 sample was taken or the urine sample was provided for the diagnosis

17 and treatment of [such] an injury or at the request of a police officer;
18 (2) if a blood sample was taken, the blood sample was taken in
19 accordance with the regulations adopted under subsection (d) of this
20 section; (3) a police officer has demonstrated to the satisfaction of a
21 judge of the Superior Court that such officer has reason to believe that
22 such person was operating a motor vehicle while under the influence
23 of intoxicating liquor or drug or both and that the chemical analysis of
24 such blood or urine sample constitutes evidence of the commission of
25 the offense of operating a motor vehicle while under the influence of
26 intoxicating liquor or drug or both in violation of subsection (a) of this
27 section; and (4) such judge has issued a search warrant in accordance
28 with section 54-33a authorizing the seizure of the chemical analysis of
29 such blood or urine sample. Such search warrant may also authorize
30 the seizure of the medical records prepared by the hospital in
31 connection with the diagnosis or treatment of such injury.

32 Sec. 2. Section 14-227b of the 2006 supplement to the general statutes
33 is repealed and the following is substituted in lieu thereof (*Effective*
34 *October 1, 2006*):

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

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

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

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

83 such test or analysis when requested by such police officer to do so or
84 that such person submitted to such test or analysis, commenced within
85 two hours of the time of operation, and the results of such test or
86 analysis indicated that such person had an elevated blood alcohol
87 content.

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

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

114 (2) If the person arrested (A) is involved in an accident resulting in a

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

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

138 (g) If such person contacts the department to schedule a hearing, the
139 department shall assign a date, time and place for the hearing, which
140 date shall be prior to the effective date of the suspension, except that,
141 with respect to a person whose license or nonresident operating
142 privilege is suspended in accordance with subdivision (2) of subsection
143 (e) of this section, such hearing shall be scheduled not later than thirty
144 days after such person contacts the department. At the request of such
145 person or the hearing officer and upon a showing of good cause, the
146 commissioner may grant one continuance for a period not to exceed
147 fifteen days. The hearing shall be limited to a determination of the

148 following issues: [(1) Did the police officer have probable cause to
149 arrest the person for operating a motor vehicle while under the
150 influence of intoxicating liquor or any drug or both; (2) was such
151 person placed under arrest; (3) did such person refuse to submit to
152 such test or analysis or did such person submit to such test or analysis,
153 commenced within two hours of the time of operation, and the results
154 of such test or analysis indicated that such person had an elevated
155 blood alcohol content; and (4) was such person operating the motor
156 vehicle.] (1) Was such person placed under arrest for operating a motor
157 vehicle while under the influence of intoxication liquor or any drug, or
158 both; (2) was such person operating the motor vehicle; (3) did such
159 person refuse to submit to such test or analysis or did such person
160 submit to such test or analysis, commenced not later than two hours
161 after the time of operation, and did the results of such test or analysis
162 indicate that such person had an elevated blood alcohol content; and
163 (4) if it has been alleged that such person refused to submit to such test
164 or analysis, did the police officer have probable cause to make the
165 arrest. In the hearing, the results of the test or analysis shall be
166 sufficient to indicate the ratio of alcohol in the blood of such person at
167 the time of operation, [except that if the results of the additional test
168 indicate that the ratio of alcohol in the blood of such person is
169 twelve-hundredths of one per cent or less of alcohol, by weight, and is
170 higher than the results of the first test, evidence shall be presented that
171 demonstrates that the test results and analysis thereof accurately
172 indicate the blood alcohol content at the time of operation] provided
173 that evidence is presented that the test or analysis was commenced not
174 later than two hours after the time of operation. The fees of any
175 witness summoned to appear at the hearing shall be the same as
176 provided by the general statutes for witnesses in criminal cases.

177 (h) If, after such hearing, the commissioner finds on any one of the
178 said issues in the negative, the commissioner shall reinstate such
179 license or operating privilege. If, after such hearing, the commissioner
180 does not find on any one of the said issues in the negative or if such
181 person fails to appear at such hearing, the commissioner shall affirm

182 the suspension contained in the suspension notice for the appropriate
183 period specified in subsection (i) or (j) of this section. The
184 commissioner shall render a decision at the conclusion of such hearing
185 or send a notice of the decision by bulk certified mail to such person
186 not later than thirty days or, if a continuance is granted, not later than
187 forty-five days from the date such person received notice of such
188 person's arrest by the police officer. The notice of such decision sent by
189 bulk certified mail to the address of such person as shown by the
190 records of the commissioner shall be sufficient notice to such person
191 that such person's operator's license or nonresident operating privilege
192 is reinstated or suspended, as the case may be. Unless a continuance of
193 the hearing is granted pursuant to subsection (g) of this section, if the
194 commissioner fails to render a decision within thirty days from the
195 date such person received notice of such person's arrest by the police
196 officer, the commissioner shall reinstate such person's operator's
197 license or nonresident operating privilege, provided notwithstanding
198 such reinstatement the commissioner may render a decision not later
199 than two days thereafter suspending such operator's license or
200 nonresident operating privilege.

201 (i) Except as provided in subsection (j) of this section, the
202 commissioner shall suspend the operator's license or nonresident
203 operating privilege of a person who did not contact the department to
204 schedule a hearing, who failed to appear at a hearing or against whom,
205 after a hearing, the commissioner held pursuant to subsection (h) of
206 this section, as of the effective date contained in the suspension notice
207 or the date the commissioner renders a decision, whichever is later, for
208 a period of: (1) (A) Except as provided in subparagraph (B) of this
209 subdivision, ninety days, if such person submitted to a test or analysis
210 and the results of such test or analysis indicated that such person had
211 an elevated blood alcohol content, (B) one hundred twenty days, if
212 such person submitted to a test or analysis and the results of such test
213 or analysis indicated that the ratio of alcohol in the blood of such
214 person was sixteen-hundredths of one per cent or more of alcohol, by
215 weight, or (C) six months if such person refused to submit to such test

216 or analysis, (2) if such person has previously had such person's
217 operator's license or nonresident operating privilege suspended under
218 this section, (A) except as provided in subparagraph (B) of this
219 subdivision, nine months if such person submitted to a test or analysis
220 and the results of such test or analysis indicated that such person had
221 an elevated blood alcohol content, (B) ten months if such person
222 submitted to a test or analysis and the results of such test or analysis
223 indicated that the ratio of alcohol in the blood of such person was
224 sixteen-hundredths of one per cent or more of alcohol, by weight, and
225 (C) one year if such person refused to submit to such test or analysis,
226 and (3) if such person has two or more times previously had such
227 person's operator's license or nonresident operating privilege
228 suspended under this section, (A) except as provided in subparagraph
229 (B) of this subdivision, two years if such person submitted to a test or
230 analysis and the results of such test or analysis indicated that such
231 person had an elevated blood alcohol content, (B) two and one-half
232 years if such person submitted to a test or analysis and the results of
233 such test or analysis indicated that the ratio of alcohol in the blood of
234 such person was sixteen-hundredths of one per cent or more of
235 alcohol, by weight, and (C) three years if such person refused to
236 submit to such test or analysis.

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

245 (k) Notwithstanding the provisions of subsections (b) to (j),
246 inclusive, of this section, any police officer who obtains the results of a
247 chemical analysis of a blood sample taken from an operator of a motor
248 vehicle involved in an accident who suffered or allegedly suffered

249 physical injury in such accident shall notify the Commissioner of
250 Motor Vehicles and submit to the commissioner a written report if
251 such results indicate that such person had an elevated blood alcohol
252 content, and if such person was arrested for violation of section
253 14-227a, as amended by this act, in connection with such accident. The
254 report shall be made on a form approved by the commissioner
255 containing such information as the commissioner prescribes, and shall
256 be subscribed and sworn to under penalty of false statement, as
257 provided in section 53a-157b, by the police officer. The commissioner
258 may, after notice and an opportunity for hearing, which shall be
259 conducted in accordance with chapter 54, suspend the motor vehicle
260 operator's license or nonresident operating privilege of such person for
261 [a period of up to ninety days, or, if such person has previously had
262 such person's operator's license or nonresident operating privilege
263 suspended under this section for a period of up to one year] the
264 appropriate period specified by subsection (i) of this section. Each
265 hearing conducted under this subsection shall be limited to a
266 determination of the following issues: (1) Whether [the police officer
267 had probable cause to arrest the person for operating a motor vehicle
268 while under the influence of intoxicating liquor or drug or both; (2)
269 whether] such person was placed under arrest for a violation of section
270 14-227a, as amended by this act; [(3)] (2) whether such person was
271 operating the motor vehicle; [(4)] (3) whether the results of the analysis
272 of the blood of such person indicate that such person had an elevated
273 blood alcohol content; and [(5)] (4) whether the blood sample was
274 obtained in accordance with conditions for admissibility and
275 competence as evidence as set forth in subsection (j) of section 14-227a,
276 as amended. If, after such hearing, the commissioner finds on any one
277 of the said issues in the negative, the commissioner shall not impose a
278 suspension. The fees of any witness summoned to appear at the
279 hearing shall be the same as provided by the general statutes for
280 witnesses in criminal cases, as provided in section 52-260, as amended.

281 (l) The provisions of this section shall apply with the same effect to
282 the refusal by any person to submit to an additional chemical test [as

283 provided in subdivision (5) of subsection (b) of section 14-227a] if
284 requested by the police officer for reasonable cause.

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

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

291 (o) For the purposes of this section, "elevated blood alcohol content"
292 means (1) a ratio of alcohol in the blood of such person that is eight-
293 hundredths of one per cent or more of alcohol, by weight, [or] (2) if
294 such person is operating a commercial motor vehicle, a ratio of alcohol
295 in the blood of such person that is four-hundredths of one per cent or
296 more of alcohol, by weight, or (3) if such person is under twenty-one
297 years of age, a ratio of alcohol in the blood of such person that is two-
298 hundredths of one per cent or more of alcohol, by weight.

299 (p) The Commissioner of Motor Vehicles shall adopt regulations, in
300 accordance with chapter 54, to implement the provisions of this
301 section.

302 Sec. 3. Subsection (c) of section 14-227g of the general statutes is
303 repealed and the following is substituted in lieu thereof (*Effective*
304 *October 1, 2006*):

305 (c) The provisions of subsections (b), (d), (f), (g), (h), (i), (j), and (k) of
306 section 14-227a, as amended by this act, adapted accordingly, shall be
307 applicable to a violation of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	14-227a(k)
Sec. 2	<i>October 1, 2006</i>	14-227b

Sec. 3	October 1, 2006	14-227g(c)
--------	-----------------	------------

Statement of Purpose:

To clarify and eliminate unnecessary provisions in the statutes concerning driving under the influence of alcohol and implied consent to chemical alcohol testing.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]