



Senate

General Assembly

File No. 218

February Session, 2008

Substitute Senate Bill No. 502

Senate, March 27, 2008

The Committee on Transportation reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE DRIVING UNDER THE INFLUENCE AND IGNITION INTERLOCK DEVICE STATUTES.

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

1 Section 1. Section 14-36 of the 2008 supplement to the general
2 statutes is amended by adding subsection (g) as follows (*Effective*
3 *October 1, 2008*):

4 (NEW) (g) The commissioner may place a restriction on the motor
5 vehicle operator's license of any person or on any special operator's
6 permit issued to any person in accordance with the provisions of
7 section 14-37a, as amended by this act, that restricts the holder of such
8 license or permit to the operation of a motor vehicle that is equipped
9 with an approved ignition interlock device, as defined in section 14-
10 227j, for such time as the commissioner shall prescribe, if such person
11 has been: (1) Convicted for a second time of a violation of subdivision
12 (2) of subsection (a) of section 14-227a, and has served not less than
13 one year of the prescribed period of suspension for such conviction, in
14 accordance with the provisions of subsections (g) and (i) of section 14-

15 227a; (2) ordered by the Superior Court not to operate any motor
16 vehicle unless it is equipped with an approved ignition interlock
17 device, in accordance with the provisions of section 14-227j; (3) granted
18 a reversal or reduction of such person's license suspension or
19 revocation, in accordance with the provisions of subsection (k) of
20 section 14-111, as amended by this act; (4) issued a motor vehicle
21 operator's license upon the surrender of an operator's license issued by
22 another state and such previously held license contains a restriction to
23 the operation of a motor vehicle equipped with an ignition interlock
24 device; (5) convicted of a violation of section 53a-56b, as amended by
25 this act, or section 53a-60d, as amended by this act; or (6) permitted by
26 the commissioner to be issued or to retain an operator's license subject
27 to reporting requirements concerning such person's physical condition,
28 in accordance with the provisions of subsection (e) of this section and
29 sections 14-45a to 14-46g, inclusive.

30 Sec. 2. Section 14-37a of the general statutes is repealed and the
31 following is substituted in lieu thereof (*Effective October 1, 2008*):

32 (a) Any person whose operator's license has been suspended
33 pursuant to any provision of this chapter or chapter 248, except
34 pursuant to section 14-215 of the 2008 supplement to the general
35 statutes for operating under suspension or pursuant to section 14-140
36 for failure to appear for [trial] any scheduled court appearance, and
37 any person identified in subsection (g) of this section may make
38 application to the Commissioner of Motor Vehicles for a special permit
39 to operate a motor vehicle to and from such person's place of
40 employment or, if such person is not employed at a fixed location, to
41 operate a motor vehicle only in connection with, and to the extent
42 necessary, to properly perform such person's business or profession.

43 (b) The commissioner may, in the commissioner's discretion upon a
44 showing of significant hardship, grant each such application that is
45 submitted in proper form and contains such information and
46 attestation by the applicant as the commissioner may require. In
47 determining whether to grant such application, the commissioner may

48 also consider the driving record of the applicant and shall ascertain
49 that the suspension is a final order that is not under appeal pursuant to
50 section 4-183. A special operator's permit shall not be issued pursuant
51 to this section to any person for the operation of a motor vehicle for
52 which a public passenger transportation permit or commercial driver's
53 license is required or to any person whose operator's license has been
54 suspended previously pursuant to section 14-227a, as amended by this
55 act, or 14-227b. A special operator's permit shall not be issued pursuant
56 to this section to any person whose operator's license has been
57 suspended pursuant to subparagraph (C) of subdivision (1) of
58 subsection (i) of section 14-227b for refusing to submit to a blood,
59 breath or urine test or analysis until such operator's license has been
60 under suspension for a period of not less than ninety days. A person
61 shall not be ineligible to be issued a special operator's permit under
62 this section solely on the basis of being convicted of two violations of
63 section 14-227a, as amended by this act, unless such second conviction
64 is for a violation committed after a prior conviction.

65 (c) A special operator's permit issued pursuant to this section shall
66 be of a distinctive format and shall include the expiration date and the
67 legend "work only".

68 (d) Any person issued a special operator's permit pursuant to this
69 section who operates a motor vehicle during the period of the permit
70 for a purpose not authorized by the conditions of the permit shall,
71 upon receipt of written report of a police officer, in such form as the
72 commissioner may prescribe, of such unauthorized operation, be
73 subject to a civil penalty of not more than five hundred dollars. Any
74 person who makes improper use of a special operator's permit issued
75 pursuant to this section or in any manner alters any such permit or
76 who loans or sells such permit for use by another person shall be
77 subject to the penalties provided by section 14-147.

78 (e) If a person issued a special operator's permit pursuant to this
79 section has his operator's license suspended by the commissioner in
80 connection with any motor vehicle violation or other offense for which

81 suspension action is authorized, the special operator's permit shall be
82 deemed revoked on the effective date of such suspension, and any
83 such person with notice of the suspension who operates a motor
84 vehicle shall be operating under suspension and shall be subject to
85 double the penalties provided by the applicable provisions of
86 subsection (b) of section 14-111 of the 2008 supplement to the general
87 statutes and section 14-215 of the 2008 supplement to the general
88 statutes.

89 (f) Any decision made by the commissioner under this section shall
90 not be subject to appeal pursuant to the provisions of chapter 54 or any
91 other provisions of the general statutes.

92 (g) Any person who is an applicant for a motor vehicle operator's
93 license and whose license or privilege to operate a motor vehicle has
94 been restricted by any other state in a manner that the commissioner
95 deems to be substantially similar to the restrictions imposed by a
96 special operator's permit issued in accordance with this section, may,
97 in the discretion of the commissioner, be issued an operator's license
98 together with a special operator's permit. The special operator's permit
99 shall be required to be held by such person for such time as the
100 commissioner prescribes.

101 [(g)] (h) The commissioner may adopt regulations in accordance
102 with the provisions of chapter 54 to implement the provisions of this
103 section.

104 Sec. 3. Subsection (g) of section 14-227a of the general statutes is
105 repealed and the following is substituted in lieu thereof (*Effective*
106 *October 1, 2008*):

107 (g) Any person who violates any provision of subsection (a) of this
108 section shall: (1) For conviction of a first violation, (A) be fined not less
109 than five hundred dollars or more than one thousand dollars, and (B)
110 be (i) imprisoned not more than six months, forty-eight consecutive
111 hours of which may not be suspended or reduced in any manner, or
112 (ii) imprisoned not more than six months, with the execution of such

113 sentence of imprisonment suspended entirely and a period of
114 probation imposed requiring as a condition of such probation that
115 such person perform one hundred hours of community service, as
116 defined in section 14-227e, and (C) (i) have such person's motor vehicle
117 operator's license or nonresident operating privilege suspended for
118 [one year] eighteen months or (ii) have such person's motor vehicle
119 operator's license or nonresident operating privilege suspended for six
120 months and be prohibited for the one-year period following
121 completion of such period of suspension from operating a motor
122 vehicle unless such motor vehicle is equipped with a functioning,
123 approved ignition interlock device, as defined in section 14-227j; (2) for
124 conviction of a second violation within ten years after a prior
125 conviction for the same offense, (A) be fined not less than one
126 thousand dollars or more than four thousand dollars, (B) be
127 imprisoned not more than two years, one hundred twenty consecutive
128 days of which may not be suspended or reduced in any manner, and
129 sentenced to a period of probation requiring as a condition of such
130 probation that such person perform one hundred hours of community
131 service, as defined in section 14-227e, and (C) (i) have such person's
132 motor vehicle operator's license or nonresident operating privilege
133 suspended for three years or until the date of such person's twenty-
134 first birthday, whichever is longer, or (ii) if such person has been
135 convicted of a violation of subdivision (1) of subsection (a) of this
136 section on account of being under the influence of intoxicating liquor
137 or of subdivision (2) of subsection (a) of this section, have such
138 person's motor vehicle operator's license or nonresident operating
139 privilege suspended for one year and be prohibited for the two-year
140 period following completion of such period of suspension from
141 operating a motor vehicle unless such motor vehicle is equipped with
142 a functioning, approved ignition interlock device, as defined in section
143 14-227j; and (3) for conviction of a third and subsequent violation
144 within ten years after a prior conviction for the same offense, (A) be
145 fined not less than two thousand dollars or more than eight thousand
146 dollars, (B) be imprisoned not more than three years, one year of which
147 may not be suspended or reduced in any manner, and sentenced to a

148 period of probation requiring as a condition of such probation that
149 such person perform one hundred hours of community service, as
150 defined in section 14-227e, and (C) have such person's motor vehicle
151 operator's license or nonresident operating privilege permanently
152 revoked upon such third offense. For purposes of the imposition of
153 penalties for a second or third and subsequent offense pursuant to this
154 subsection, a conviction under the provisions of subsection (a) of this
155 section in effect on October 1, 1981, or as amended thereafter, a
156 conviction under the provisions of either subdivision (1) or (2) of
157 subsection (a) of this section, a conviction under the provisions of
158 section 53a-56b, as amended by this act, or 53a-60d, as amended by this
159 act, or a conviction in any other state of any offense the essential
160 elements of which are determined by the court to be substantially the
161 same as subdivision (1) or (2) of subsection (a) of this section or section
162 53a-56b, as amended by this act, or 53a-60d, as amended by this act,
163 shall constitute a prior conviction for the same offense.

164 Sec. 4. Subsection (i) of section 14-227a of the general statutes is
165 repealed and the following is substituted in lieu thereof (*Effective*
166 *October 1, 2008*):

167 (i) (1) The Commissioner of Motor Vehicles shall permit a person
168 whose license has been suspended in accordance with the provisions
169 of subparagraph (C)(ii) of subdivision (1) or subparagraph (C)(ii) of
170 subdivision (2) of subsection (g) of this section to operate a motor
171 vehicle if (A) such person has [served not less than one year of such]
172 completed the required period of such suspension, and (B) such person
173 has installed an approved ignition interlock device in each motor
174 vehicle owned or to be operated by such person. No person whose
175 license is suspended by the commissioner for any other reason shall be
176 eligible to operate a motor vehicle equipped with an approved ignition
177 interlock device. (2) All costs of installing and maintaining an ignition
178 interlock device shall be borne by the person required to install such
179 device. (3) The commissioner shall adopt regulations, in accordance
180 with the provisions of chapter 54, to implement the provisions of this
181 subsection. The regulations shall establish procedures for the approval

182 of ignition interlock devices, for the proper calibration and
183 maintenance of such devices and for the installation of such devices by
184 any firm approved and authorized by the commissioner. (4) The
185 provisions of this subsection shall not be construed to authorize the
186 continued operation of a motor vehicle equipped with an ignition
187 interlock device by any person whose operator's license or nonresident
188 operating privilege is withdrawn, suspended or revoked for any other
189 reason. (5) The provisions of this subsection shall apply to any person
190 whose license has been suspended in accordance with the provisions
191 of subparagraph (C)(ii) of subdivision (2) of subsection (g) of this
192 section on or after September 1, 2003.

193 Sec. 5. Section 14-227f of the general statutes is repealed and the
194 following is substituted in lieu thereof (*Effective October 1, 2008*):

195 (a) Any person whose motor vehicle operator's license or
196 nonresident operating privilege is suspended under subsection (g) of
197 section 14-227a, as amended by this act, for a conviction of a violation
198 of subsection (a) of said section or under section 14-227b for a second
199 or subsequent time shall participate in a treatment program which
200 includes an assessment of the degree of alcohol abuse and treatment,
201 as appropriate, approved by the Commissioner of Motor Vehicles. The
202 commissioner shall not reinstate the operator's license or nonresident
203 operating privilege of any such person (1) whose license has been
204 suspended in accordance with the provisions of subdivision (1) of
205 subsection (g) of section 14-227a, as amended by this act, until such
206 person submits evidence to the commissioner that such person is
207 participating in the treatment program, or (2) whose license has been
208 suspended in accordance with the provisions of subdivision (2) or (3)
209 of subsection (g) of section 14-227a, as amended by this act, or under
210 section 14-227b for a second or subsequent time until such person
211 submits evidence to the commissioner that such person has
212 satisfactorily completed the treatment program. Any person whose
213 certificate is suspended or revoked pursuant to section 15-133, 15-140l
214 or 15-140n shall participate in such treatment program.

215 (b) The treatment program shall be designed by the commissioner,
216 with the advice and assistance of the Motor Vehicle Operator's License
217 Medical Advisory Board established pursuant to section 14-46b, any
218 state agency or any other public or private entity engaged in the
219 provision of responsible services for the treatment of alcohol and drug
220 addiction as the commissioner may request. The program shall consist
221 of intensive treatment and a phase of continuing aftercare supervision
222 and monitoring on an individual basis. The program may be provided
223 by one or more private organizations approved by the commissioner
224 which meet qualifications established by him, provided the entire costs
225 of the program shall be paid from fees charged to the participants, the
226 amounts of which shall be subject to the approval of the commissioner.

227 (c) Upon receipt of notification from the commissioner of the
228 requirement to participate in the program, such person may, within
229 thirty days, petition the commissioner in writing for a waiver of such
230 requirement on the following grounds: (1) The petitioner is presently
231 undergoing a substantial treatment program for alcohol or drug
232 addiction, or has completed such a program subsequent to his most
233 recent arrest, either as a result of an order of the Superior Court or on a
234 voluntary basis, and (2) the petitioner does not, in the opinion of a
235 licensed physician based upon a personal examination, have a current
236 addiction problem which affects his ability to operate a motor vehicle
237 in a safe manner or pose a significant risk of having such a problem in
238 the foreseeable future. In reviewing and determining whether to grant
239 any such petition, the commissioner shall request and give due
240 consideration to the advice of the Motor Vehicle Operator's License
241 Medical Advisory Board. Any person aggrieved by the decision of the
242 commissioner may appeal such decision in accordance with the
243 provisions of chapter 54.

244 (d) The commissioner shall adopt regulations in accordance with
245 chapter 54 to implement the provisions of this section.

246 Sec. 6. Subdivision (2) of subsection (k) of section 14-111 of the 2008
247 supplement to the general statutes is repealed and the following is

248 substituted in lieu thereof (*Effective October 1, 2008*):

249 (2) Any person whose license has been revoked in accordance with
250 subparagraph (C) of subdivision (3) of subsection (g) of section 14-
251 227a, as amended by this act, on or after October 1, 1999, may, at any
252 time after six years from the date of such revocation, request a hearing
253 before the commissioner, conducted in accordance with the provisions
254 of chapter 54, and the provisions of subdivision (1) of this subsection
255 for reversal or reduction of such revocation. The commissioner shall
256 require such person to provide evidence that any reversal or reduction
257 of such revocation shall not endanger the public safety or welfare.
258 Such evidence shall include, but not be limited to, proof that such
259 person has successfully completed an alcohol education and treatment
260 program, and proof that such person has not been convicted of any
261 offense related to alcohol, controlled substances or drugs during the
262 preceding six years. The commissioner shall require any person, as a
263 condition of granting such reversal or reduction, to install and
264 maintain an approved ignition interlock device, in accordance with the
265 provisions of subsection (i) of section 14-227a, as amended by this act.
266 The approved ignition interlock device shall be installed and
267 maintained from the date such reversal or reduction is granted until
268 [ten] four years has passed since the date of such [revocation] reversal
269 or reduction. The commissioner may adopt regulations, in accordance
270 with the provisions of chapter 54, to establish standards to implement
271 the provisions of this section.

272 Sec. 7. Subdivision (74) of subsection (a) of section 14-1 of the 2008
273 supplement to the general statutes is repealed and the following is
274 substituted in lieu thereof (*Effective October 1, 2008*):

275 (74) "Second" violation or "subsequent" violation means an offense
276 committed not more than three years after the date of an arrest which
277 resulted in a previous conviction for a violation of the same statutory
278 provision, except in the case of a violation of section 14-215 of the 2008
279 supplement to the general statutes or 14-224, [or subsection (a) of
280 section 14-227a,] "second" violation or "subsequent" violation means an

281 offense committed not more than ten years after the date of an arrest
282 which resulted in a previous conviction for a violation of the same
283 statutory provision, and in the case of a violation of subsection (a) of
284 section 14-227a, as amended by this act, "second" violation or
285 "subsequent" violation means an offense committed not more than
286 twenty years after the date of an arrest which resulted in a previous
287 conviction for a violation of the same statutory provision.

288 Sec. 8. (NEW) (*Effective October 1, 2008*) The Commissioner of Motor
289 Vehicles shall maintain a record for a period of twenty years of each
290 conviction of any person for a violation of section 14-227a of the
291 general statutes, as amended by this act, as part of such person's
292 driving record. Such record shall include any such conviction that has
293 occurred within a period of ten years preceding October 1, 2008.

294 Sec. 9. Subsection (b) of section 53a-56b of the general statutes is
295 repealed and the following is substituted in lieu thereof (*Effective*
296 *October 1, 2008*):

297 (b) Manslaughter in the second degree with a motor vehicle is a
298 class C felony and the court shall suspend the motor vehicle operator's
299 license or nonresident operating privilege of any person found guilty
300 under this section for one year. The court shall also order such person
301 not to operate any motor vehicle that is not equipped with an
302 approved ignition interlock device, as defined in section 14-227j, for a
303 period of two years after such person's operator's license or
304 nonresident operating privilege is restored by the Commissioner of
305 Motor Vehicles.

306 Sec. 10. Subsection (b) of section 53a-60d of the general statutes is
307 repealed and the following is substituted in lieu thereof (*Effective*
308 *October 1, 2008*):

309 (b) Assault in the second degree with a motor vehicle is a class D
310 felony and the court shall suspend the motor vehicle operator's license
311 or nonresident operating privilege of any person found guilty under
312 this section for one year. The court shall also order such person not to

313 operate any motor vehicle that is not equipped with an approved
 314 ignition interlock device, as defined in section 14-227j, for a period of
 315 two years after such person's operator's license or nonresident
 316 operating privilege is restored by the Commissioner of Motor Vehicles.

| | | |
|---|-----------------|--------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2008 | 14-36 |
| Sec. 2 | October 1, 2008 | 14-37a |
| Sec. 3 | October 1, 2008 | 14-227a(g) |
| Sec. 4 | October 1, 2008 | 14-227a(i) |
| Sec. 5 | October 1, 2008 | 14-227f |
| Sec. 6 | October 1, 2008 | 14-111(k)(2) |
| Sec. 7 | October 1, 2008 | 14-1(a)(74) |
| Sec. 8 | October 1, 2008 | New section |
| Sec. 9 | October 1, 2008 | 53a-56b(b) |
| Sec. 10 | October 1, 2008 | 53a-60d(b) |

Statement of Legislative Commissioners:

In sections 1, 9 and 10, after the words "ignition interlock device", the phrase "as defined in section 14-227j" was added for clarity.

TRA *Joint Favorable Subst.*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 09 \$ | FY 10 \$ |
|--|-------------|-------------|-------------|
| Department of Motor Vehicles | TF - Cost | 180,000 | 190,000 |
| Comptroller Misc. Accounts (Fringe Benefits) ¹ | TF - Cost | 46,800 | 112,000 |
| Correction, Dept.; Judicial Dept. | GF - Cost | Significant | Significant |

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

Requiring the use of interlock devices by first time offenders will result in an annual cost to the Department of Motor Vehicles of \$226,800 beginning in FY 09. The department will require three additional Motor Vehicle Analyst positions (\$60,000 plus fringes¹ for each) for processing and verifying compliance with the provisions in this bill. The cost estimate takes into consideration that there are 12,000 DUI arrests annually, with about 4,000 DUI convictions per year. Under the current law program, there are about 400 second and third time offenders using interlock devices.

The bill extends the “lookback” period, from 10 to 20 years, for determining any prior offense for driving under the influence of alcohol or drugs. On average, each year there are 775 DUI convictions

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

for second offenses² and 75 DUI convictions for third and subsequent offenses.³ It is anticipated that doubling the “lookback” period would substantially increase the number of offenders with second or third DUI convictions. This would result in a significant state cost for incarceration and probation supervision. The bill also reduces the limit on blood alcohol content that is necessary to convict an operator of a commercial motor vehicle of driving under the influence, which could result in costs for incarceration and probation.

On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

The Out Years

State Impact:

| Agency Affected | Fund-Effect | FY 11 \$ | FY 12 \$ | FY 13 \$ |
|--|--------------------|-----------------|-----------------|-----------------|
| Department of Motor Vehicles | TF - Cost* | 195,700 | 201,571 | 207,618 |
| Comptroller Misc. Accounts (Fringe Benefits) | TF - Cost* | 115,360 | 118,821 | 122,386 |
| Correction, Dept.; Judicial Dept. | GF - Cost | Significant | Significant | Significant |

Note: TF=Transportation Fund; GF=General Fund

*These figures have been adjusted for inflation at a rate of 3%

Municipal Impact: None

² Conviction of a second violation carries a mandatory minimum prison sentence of 120 days, and a period of probation.

³ Conviction of a third or subsequent offense carries a mandatory minimum prison sentence of 1 year, and a period of probation.

OLR Bill Analysis**sSB 502*****AN ACT CONCERNING REVISIONS TO THE DRIVING UNDER THE INFLUENCE AND IGNITION INTERLOCK DEVICE STATUTES.*****SUMMARY:**

This bill (1) modifies the current ignition interlock device and license suspension requirements for a person convicted of driving under the influence of alcohol or drugs (DWI) and certain other alcohol-related offenses and (2) requires the Department of Motor Vehicles (DMV) to keep prior convictions for DWI on a driver history for 20 rather than 10 years for purposes of determining second or subsequent violations of the law.

Under current law, a court may require a person to drive only motor vehicles equipped with an ignition interlock device after a mandatory suspension or revocation of a driver's license or operating privileges following the person's second or subsequent DWI conviction. This bill:

1. lengthens the license suspension period following a person's first DWI conviction from one year to 18 months, but provides an alternative of a six-month suspension followed by a requirement to drive only ignition interlock-equipped vehicles for one year;
2. requires a person whose driving license or operating privilege was revoked after a third DWI conviction to drive only ignition interlock-equipped vehicles for four years following license or privilege restoration;
3. applies ignition interlock device requirements for two years

following the mandatory one year license suspension required following a conviction for second degree manslaughter with a motor vehicle and second degree assault with a motor vehicle, both of which involve driving while under the influence of alcohol or drugs as an element of the crime; and

4. makes related changes.

The bill does not affect (1) the separate and unrelated suspension requirements under the administrative per se law that apply before the criminal charge is adjudicated or (2) the ignition interlock requirements that apply after a second DWI conviction.

It requires the driver to pay for the ignition interlock device and meet the existing DMV regulations regarding the device's calibration, installation, and maintenance.

EFFECTIVE DATE: October 1, 2008

USE OF IGNITION INTERLOCK-EQUIPPED VEHICLES

First DWI Conviction

Under current law, in addition to imprisonment and a fine, a person convicted of DWI for the first time must have his or her license or nonresident operating privilege suspended for one year. The bill instead requires that the person's license or privilege be suspended for (1) 18 months or (2) six months, followed by a one-year period in which he or she cannot drive a motor vehicle unless it is equipped with a functioning, DMV-approved ignition interlock device.

The bill prohibits the DMV commissioner from reinstating the license of a first-time offender who has applied for reinstatement and use of an ignition interlock until the person submits evidence of participation in a commissioner-approved treatment program. By law, anyone convicted of DWI, even for the first time, must complete a treatment program as a prerequisite for reinstatement. However, these treatment programs typically last longer than six months, so a first-time offender is likely not to have completed the program by the time

the six-month suspension is finished.

Third or Subsequent DWI Conviction

By law, a person convicted of a third or subsequent DWI offense within 10 years must have his or her license or privilege permanently revoked. Currently, after six years of the revocation have passed, the offender can petition the commissioner to reverse or reduce the revocation. If the commissioner grants the petition, the device must be installed and maintained in the driver's vehicles until 10 years have passed since the date of the revocation. The bill instead requires that the device be maintained for four years from the date of the reversal or reduction of the revocation, whenever that actually occurs.

Other DWI-Related Crimes

Someone commits manslaughter in the second degree with a motor vehicle when, as a consequence of driving the motor vehicle while under the influence of alcohol or drugs, the person causes another person's death. The crime is a class C felony. A person can be charged with assault in the second degree with a motor vehicle when, as a consequence of driving the motor vehicle while under the influence of alcohol or drugs, the person causes serious physical injury to another. The crime is a Class D felony. In either instance, besides a possible fine and term of imprisonment, the court must suspend the offender's driver's license or nonresident operating period for a period of one year.

For either of these offenses, the bill requires the court also to order that the offender operate only a motor vehicle equipped with an ignition interlock device for a period of two years after his license or operating privilege has been restored by the motor vehicle commissioner.

LICENSE APPLICANTS RESTRICTED IN OTHER STATES

If someone applying for a Connecticut driver's license has a license or operating privilege that has been restricted in any other state in a way that the commissioner deems similar to the restrictions imposed

by a special operator's permit issued by Connecticut, the bill allows the commissioner to issue him a Connecticut driver's license and special operator's permit. The permit must be held by the person for the time the commissioner prescribes.

IGNITION INTERLOCK-RELATED LICENSE OR PERMIT RESTRICTION

The bill permits the commissioner to place a restriction on a driver's license or special permit for employment-related driving that restricts the holder to operating only ignition interlock-equipped motor vehicles for any of the several possible applications of the requirement contained in the law and this bill. These include the following situations:

1. after a second DWI conviction and the required suspension has been served;
2. when someone has been ordered by the court to operate such vehicles as a condition of release on bail, probation, or participation in the pretrial alcohol education system;
3. when granted a reversal or reduction of suspension or revocation after a third DWI conviction;
4. when issued a license upon surrender of a license from another state that contains an interlock restriction;
5. after conviction for second degree assault or second degree manslaughter with a motor vehicle and the required suspension has been served; and
6. when permitted by the commissioner to get or retain a license subject to reporting requirements concerning the person's physical condition as required by the laws regarding review of licensees with medical conditions requiring review.

DETERMINATION OF PRIOR DWI OFFENSES

Current law specifies that someone commits a second or subsequent

offense for driving under the influence of alcohol or drugs when the current offense occurs no more than 10 years after the date of an arrest that resulted in a previous conviction for a violation of the same statutory provision. The bill increases this “lookback” period for determining any prior offense from 10 to 20 years. The expanded lookback period applies to both the criminal law and the administrative per se law. The bill requires the DMV commissioner to maintain a record of any DWI conviction for a period of 20 years and requires the records to include all convictions that have occurred since October 1, 1998.

BACKGROUND

Second DWI Conviction

The ignition interlock provisions of the law that apply following a second DWI conviction are not changed by the bill. The law requires a three-year suspension, but if the conviction was due to alcohol rather than drugs, the offender can serve a one-year suspension and apply to the DMV for operation of ignition interlock-equipped vehicles for two years in lieu of the second and third years of the suspension.

Ignition Interlock Devices

When an ignition interlock device is installed on a motor vehicle, it prevents the vehicle from starting unless a breath sample is provided that shows a blood-alcohol level below the threshold set for the device. In Connecticut, this threshold is .025% (The per se intoxication level is .08%). Sometime after the vehicle is started (usually six to 20 minutes) it requires provision of a second “in use” sample. If this sample is more than the threshold level, countermeasures such as blinking headlights, horn, or both are activated to draw attention to the vehicle.

There are four DMV-approved vendors that provide ignition interlock devices in Connecticut. The user typically has to pay an installation fee for the device, a monthly lease payment, a charge for downloading the information stored in the device and for calibration (which in Connecticut occurs every 60 days), and in some cases a charge when the device is removed after the required period for its use

has elapsed. The monthly fee for the device can vary depending on the length of the lease period.

Related Bills

Another bill, SB 296 (File No. 76), makes the same changes with respect to ignition interlock requirements for first and third DWI convictions as this bill does. A second bill, SB 297 (File No. 69), adopts a 20-year lookback period for prior DWI offenses, but makes it prospective only; that is, the commissioner tracks for 20 years convictions that occur on or after October 1, 2008.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/07/2008)