



General Assembly

February Session, 2008

**Raised Bill No. 297**

LCO No. 1813

\*01813\_\_\_\_\_TRA\*

Referred to Committee on Transportation

Introduced by:  
(TRA)

**AN ACT CONCERNING THE DEPARTMENT OF MOTOR VEHICLES  
AND ADMINISTRATIVE PER SE PROCEDURES AND VIOLATIONS.**

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

1 Section 1. Subdivision (74) of subsection (a) of section 14-1 of the  
2 2008 supplement to the general statutes is repealed and the following  
3 is substituted in lieu thereof (*Effective October 1, 2008*):

4 (74) "Second" violation or "subsequent" violation means an offense  
5 committed not more than three years after the date of an arrest which  
6 resulted in a previous conviction for a violation of the same statutory  
7 provision, except in the case of a violation of section 14-215 of the 2008  
8 supplement to the general statutes or 14-224, [or subsection (a) of  
9 section 14-227a,] "second" violation or "subsequent" violation means an  
10 offense committed not more than ten years after the date of an arrest  
11 which resulted in a previous conviction for a violation of the same  
12 statutory provision and in the case of a violation of subsection (a) of  
13 section 14-227a, as amended by this act, "second" violation or  
14 "subsequent" violation means an offense committed not more than  
15 fifty-five years after the date of an arrest which resulted in a previous  
16 conviction for a violation of the same statutory provision.

17 Sec. 2. Subsections (a) and (b) of section 14-227a of the general  
18 statutes are repealed and the following is substituted in lieu thereof  
19 (*Effective October 1, 2008*):

20 (a) No person shall operate a motor vehicle while under the  
21 influence of intoxicating liquor or any drug or both. A person commits  
22 the offense of operating a motor vehicle while under the influence of  
23 intoxicating liquor or any drug or both if such person operates a motor  
24 vehicle (1) while under the influence of intoxicating liquor or any drug  
25 or both, or (2) while such person has an elevated blood alcohol content.  
26 For the purposes of this section, "elevated blood alcohol content"  
27 means a ratio of alcohol in the blood of such person that is eight-  
28 hundredths of one per cent or more of alcohol, by weight, and "motor  
29 vehicle" includes a snowmobile and all-terrain vehicle, as those terms  
30 are defined in section 14-379, except that if such person is operating a  
31 commercial motor vehicle, "elevated blood alcohol content" means a  
32 ratio of alcohol in the blood of such person that is four-hundredths of  
33 one per cent or more of alcohol, by weight.

34 (b) Except as provided in subsection (c) of this section, in any  
35 criminal prosecution for violation of subsection (a) of this section,  
36 evidence respecting the amount of alcohol or drug in the defendant's  
37 blood or urine at the time of the alleged offense, as shown by a  
38 chemical analysis of the defendant's breath, blood or urine shall be  
39 admissible and competent provided: (1) The defendant was afforded a  
40 reasonable opportunity to telephone an attorney prior to the  
41 performance of the test and consented to the taking of the test upon  
42 which such analysis is made; (2) a true copy of the report of the test  
43 result was mailed to or personally delivered to the defendant [within  
44 twenty-four hours or by the end of the next regular business day,] not  
45 later than three business days after such result was known; [,  
46 whichever is later;] (3) the test was performed by or at the direction of  
47 a police officer according to methods and with equipment approved  
48 by the Department of Public Safety and was performed in accordance  
49 with the regulations adopted under subsection (d) of this section; (4)

50 the device used for such test was checked for accuracy in accordance  
51 with the regulations adopted under subsection (d) of this section; (5)  
52 an additional chemical test of the same type was performed at least  
53 [thirty] ten minutes after the initial test was performed or, if requested  
54 by the police officer for reasonable cause, an additional chemical test of  
55 a different type was performed to detect the presence of a drug or  
56 drugs other than or in addition to alcohol, provided the results of the  
57 initial test shall not be inadmissible under this subsection if reasonable  
58 efforts were made to have such additional test performed in  
59 accordance with the conditions set forth in this subsection and such  
60 additional test was not performed or was not performed within a  
61 reasonable time, or the results of such additional test are not  
62 admissible for failure to meet a condition set forth in this subsection;  
63 and (6) evidence is presented that the test was commenced within two  
64 hours of operation. In any prosecution under this section it shall be a  
65 rebuttable presumption that the results of such chemical analysis  
66 establish the ratio of alcohol in the blood of the defendant at the time  
67 of the alleged offense, except that if the results of the additional test  
68 indicate that the ratio of alcohol in the blood of such defendant is  
69 [twelve-hundredths] ten-hundredths of one per cent or less of alcohol,  
70 by weight, and is higher than the results of the first test, evidence shall  
71 be presented that demonstrates that the test results and the analysis  
72 thereof accurately indicate the blood alcohol content at the time of the  
73 alleged offense.

74 Sec. 3. Subsections (g) and (h) of section 14-227a of the general  
75 statutes are repealed and the following is substituted in lieu thereof  
76 (*Effective October 1, 2008*):

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

83 sentence of imprisonment suspended entirely and a period of  
84 probation imposed requiring as a condition of such probation that  
85 such person perform one hundred hours of community service, as  
86 defined in section 14-227e, and (C) have such person's motor vehicle  
87 operator's license or nonresident operating privilege suspended for  
88 one year; (2) for conviction of a second violation [within ten years after  
89 a prior conviction] for the same offense, (A) be fined not less than one  
90 thousand dollars or more than four thousand dollars, (B) be  
91 imprisoned not more than two years, one hundred twenty consecutive  
92 days of which may not be suspended or reduced in any manner, and  
93 sentenced to a period of probation requiring as a condition of such  
94 probation that such person perform one hundred hours of community  
95 service, as defined in section 14-227e, and (C) (i) have such person's  
96 motor vehicle operator's license or nonresident operating privilege  
97 suspended for three years or until the date of such person's twenty-  
98 first birthday, whichever is longer, or (ii) if such person has been  
99 convicted of a violation of subdivision (1) of subsection (a) of this  
100 section on account of being under the influence of intoxicating liquor  
101 or of subdivision (2) of subsection (a) of this section, have such  
102 person's motor vehicle operator's license or nonresident operating  
103 privilege suspended for one year and be prohibited for the two-year  
104 period following completion of such period of suspension from  
105 operating a motor vehicle unless such motor vehicle is equipped with  
106 a functioning, approved ignition interlock device, as defined in section  
107 14-227j; and (3) for conviction of a third and subsequent violation  
108 [within ten years after a prior conviction] for the same offense, (A) be  
109 fined not less than two thousand dollars or more than eight thousand  
110 dollars, (B) be imprisoned not more than three years, one year of which  
111 may not be suspended or reduced in any manner, and sentenced to a  
112 period of probation requiring as a condition of such probation that  
113 such person perform one hundred hours of community service, as  
114 defined in section 14-227e, and (C) have such person's motor vehicle  
115 operator's license or nonresident operating privilege permanently  
116 revoked upon such third offense. For purposes of the imposition of

117 penalties for a second or third and subsequent offense pursuant to this  
118 subsection, a conviction under the provisions of subsection (a) of this  
119 section in effect on October 1, 1981, or as amended thereafter, a  
120 conviction under the provisions of either subdivision (1) or (2) of  
121 subsection (a) of this section, a conviction under the provisions of  
122 section 53a-56b or 53a-60d or a conviction in any other state of any  
123 offense the essential elements of which are determined by the court to  
124 be substantially the same as subdivision (1) or (2) of subsection (a) of  
125 this section or section 53a-56b or 53a-60d, shall constitute a prior  
126 conviction for the same offense.

127 (h) (1) Each court shall report each conviction under subsection (a)  
128 of this section to the Commissioner of Motor Vehicles, in accordance  
129 with the provisions of section 14-141. The commissioner shall suspend  
130 the motor vehicle operator's license or nonresident operating privilege  
131 of the person reported as convicted for the period of time required by  
132 subsection (g) of this section. The commissioner shall determine the  
133 period of time required by said subsection (g) based on the number of  
134 convictions such person has had within the specified time period  
135 according to such person's driving history record, notwithstanding the  
136 sentence imposed by the court for such conviction. For the purpose of  
137 determining such period of time required by subsection (g) of this  
138 section, as amended, the commissioner shall maintain a record of each  
139 conviction reported under subsection (a), as amended, for ten years,  
140 except that for any such conviction on or after October 1, 2008, the  
141 commissioner shall maintain such record for fifty-five years. (2) The  
142 motor vehicle operator's license or nonresident operating privilege of a  
143 person found guilty under subsection (a) of this section who is under  
144 eighteen years of age shall be suspended by the commissioner for the  
145 period of time set forth in subsection (g) of this section, or until such  
146 person attains the age of eighteen years, whichever period is longer. (3)  
147 The motor vehicle operator's license or nonresident operating privilege  
148 of a person found guilty under subsection (a) of this section who, at the  
149 time of the offense, was operating a motor vehicle in accordance with a  
150 special operator's permit issued pursuant to section 14-37a shall be

151 suspended by the commissioner for twice the period of time set forth  
152 in subsection (g) of this section. (4) If an appeal of any conviction  
153 under subsection (a) of this section is taken, the suspension of the  
154 motor vehicle operator's license or nonresident operating privilege by  
155 the commissioner, in accordance with this subsection, shall be stayed  
156 during the pendency of such appeal.

157 Sec. 4. Subsections (c) to (h), inclusive, of section 14-227b of the  
158 general statutes are repealed and the following is substituted in lieu  
159 thereof (*Effective October 1, 2008*):

160 (c) If the person arrested refuses to submit to such test or analysis or  
161 submits to such test or analysis, commenced within two hours of the  
162 time of operation, and the results of such test or analysis indicate that  
163 such person has an elevated blood alcohol content, the police officer,  
164 acting on behalf of the Commissioner of Motor Vehicles, shall  
165 immediately revoke and take possession of the motor vehicle  
166 operator's license or, if such person is a nonresident, suspend the  
167 nonresident operating privilege of such person, for a twenty-four-hour  
168 period. The police officer shall prepare a [written] report of the  
169 incident and shall mail or otherwise transmit in accordance with this  
170 subsection the report and a copy of the results of any chemical test or  
171 analysis to the Department of Motor Vehicles within [three] five  
172 business days. The report shall [be made on a form approved] provide  
173 such information as prescribed by the Commissioner of Motor Vehicles  
174 and shall be subscribed and sworn to under penalty of false statement  
175 as provided in section 53a-157b by the arresting officer. The report  
176 shall contain a certification by the arresting officer that such officer had  
177 probable cause to arrest such person for a violation of subsection (a) of  
178 section 14-227a, as amended. If the person arrested refused to submit  
179 to such test or analysis, the report shall be endorsed by a third person  
180 who witnessed such refusal. The report shall set forth the grounds for  
181 the officer's [belief that there was] certification of probable cause to  
182 arrest such person for [operating a motor vehicle while under the  
183 influence of intoxicating liquor or any drug or both] a violation of

184 subsection (a) of section 14-227a, as amended, and shall state that such  
185 person had refused to submit to such test or analysis when requested  
186 by such police officer to do so or that such person submitted to such  
187 test or analysis, commenced within two hours of the time of operation,  
188 and the results of such test or analysis indicated that such person had  
189 an elevated blood alcohol content. The Commissioner of Motor  
190 Vehicles may accept a police report under this subsection that is  
191 prepared and transmitted as an electronic record, including electronic  
192 signature or signatures, in accordance with the provisions of sections  
193 1-266 to 1-286, inclusive, and subject to such security procedures as the  
194 commissioner may prescribe.

195 (d) If the person arrested submits to a blood or urine test at the  
196 request of the police officer, and the specimen requires laboratory  
197 analysis in order to obtain the test results, the police officer shall not  
198 take possession of the motor vehicle operator's license of such person  
199 or, except as provided in this subsection, follow the procedures  
200 subsequent to taking possession of the operator's license as set forth in  
201 subsection (c) of this section. If the test results indicate that such  
202 person has an elevated blood alcohol content, the police officer,  
203 immediately upon receipt of the test results, shall notify the  
204 Commissioner of Motor Vehicles and submit to the commissioner the  
205 [written] report required pursuant to subsection (c) of this section.

206 (e) (1) Except as provided in subdivision (2) of this subsection, upon  
207 receipt of such report, the Commissioner of Motor Vehicles may  
208 suspend any operator's license or nonresident operating privilege of  
209 such person effective as of a date certain, which date shall be not later  
210 than thirty days after the date such person received notice of such  
211 person's arrest by the police officer. Any person whose operator's  
212 license or nonresident operating privilege has been suspended in  
213 accordance with this subdivision shall automatically be entitled to a  
214 hearing before the commissioner to be held in accordance with the  
215 provisions of chapter 54 and prior to the effective date of the  
216 suspension. The commissioner shall send a suspension notice to such

217 person informing such person that such person's operator's license or  
218 nonresident operating privilege is suspended as of a date certain and  
219 that such person is entitled to a hearing prior to the effective date of  
220 the suspension and may schedule such hearing by contacting the  
221 Department of Motor Vehicles not later than seven days after the date  
222 of mailing of such suspension notice.

223 (2) If the person arrested (A) is involved in an accident resulting in a  
224 fatality, or (B) has previously had such person's operator's license or  
225 nonresident operating privilege suspended under the provisions of  
226 section 14-227a, as amended, [during the ten-year period preceding the  
227 present arrest,] upon receipt of such report, the Commissioner of  
228 Motor Vehicles may suspend any operator's license or nonresident  
229 operating privilege of such person effective as of the date specified in a  
230 notice of such suspension to such person. Any person whose  
231 operator's license or nonresident operating privilege has been  
232 suspended in accordance with this subdivision shall automatically be  
233 entitled to a hearing before the commissioner to be held in accordance  
234 with the provisions of chapter 54. The commissioner shall send a  
235 suspension notice to such person informing such person that such  
236 person's operator's license or nonresident operating privilege is  
237 suspended as of the date specified in such suspension notice, and that  
238 such person is entitled to a hearing and may schedule such hearing by  
239 contacting the Department of Motor Vehicles not later than seven days  
240 after the date of mailing of such suspension notice. Any suspension  
241 issued under this subdivision shall remain in effect until such  
242 suspension is affirmed or such operator's license or nonresident  
243 operating privilege is reinstated in accordance with subsections (f) and  
244 (h) of this section.

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

249 (g) If such person contacts the department to schedule a hearing, the  
250 department shall assign a date, time and place for the hearing, which  
251 date shall be prior to the effective date of the suspension, except that,  
252 with respect to a person whose operator's license or nonresident  
253 operating privilege is suspended in accordance with subdivision (2) of  
254 subsection (e) of this section, such hearing shall be scheduled not later  
255 than thirty days after such person contacts the department. At the  
256 request of such person or the hearing officer and upon a showing of  
257 good cause, the commissioner may grant one [continuance for a period  
258 not to exceed fifteen days] or more continuances. The hearing shall be  
259 limited to a determination of the following issues: (1) [Did the police  
260 officer have probable cause to arrest the person for operating a motor  
261 vehicle while under the influence of intoxicating liquor or any drug or  
262 both; (2) was] Was such person placed under arrest; [(3)] (2) did such  
263 person refuse to submit to such test or analysis or did such person  
264 submit to such test or analysis, commenced within two hours of the  
265 time of operation, and the results of such test or analysis indicated that  
266 such person had an elevated blood alcohol content; and [(4)] (3) was  
267 such person operating the motor vehicle. In the hearing, the results of  
268 the test or analysis shall be sufficient to indicate the ratio of alcohol in  
269 the blood of such person at the time of operation, except that if the  
270 results of the additional test indicate that the ratio of alcohol in the  
271 blood of such person is [twelve-hundredths] ten-hundredths of one  
272 per cent or less of alcohol, by weight, and is higher than the results of  
273 the first test, evidence shall be presented that demonstrates that the  
274 test results and analysis thereof accurately indicate the blood alcohol  
275 content at the time of operation. The fees of any witness summoned to  
276 appear at the hearing shall be the same as provided by the general  
277 statutes for witnesses in criminal cases.

278 (h) If, after such hearing, the commissioner finds on any one of the  
279 said issues in the negative, the commissioner shall reinstate such  
280 license or operating privilege. If, after such hearing, the commissioner  
281 does not find on any one of the said issues in the negative or if such  
282 person fails to appear at such hearing, the commissioner shall affirm

283 the suspension contained in the suspension notice for the appropriate  
284 period specified in subsection (i) or (j) of this section. The  
285 commissioner shall render a decision at the conclusion of such hearing  
286 or send a notice of the decision by bulk certified mail to such person  
287 not later than [thirty] sixty days [or, if a continuance is granted, not  
288 later than forty-five days] from the date such person received notice of  
289 such person's arrest by the police officer. The notice of such decision  
290 sent by bulk certified mail to the address of such person as shown by  
291 the records of the commissioner shall be sufficient notice to such  
292 person that such person's operator's license or nonresident operating  
293 privilege is reinstated or suspended, as the case may be. [Unless a  
294 continuance of the hearing is granted pursuant to subsection (g) of this  
295 section, if the commissioner fails to render a decision within thirty  
296 days from the date such person received notice of such person's arrest  
297 by the police officer, the commissioner shall reinstate such person's  
298 operator's license or nonresident operating privilege, provided  
299 notwithstanding such reinstatement the commissioner may render a  
300 decision not later than two days thereafter suspending such operator's  
301 license or nonresident operating privilege.]

302 Sec. 5. Subsection (k) of section 14-227b of the general statutes, as  
303 amended by section 34 of senate bill 1700 of the January 2008, special  
304 session, is repealed and the following is substituted in lieu thereof  
305 (*Effective October 1, 2008*):

306 (k) Notwithstanding the provisions of subsections (b) to (j),  
307 inclusive, of this section, any police officer who obtains the results of a  
308 chemical analysis of a blood sample taken from an operator of a motor  
309 vehicle involved in an accident who suffered or allegedly suffered  
310 physical injury in such accident, or who was determined by a police  
311 officer to require treatment or observation at a hospital, shall notify the  
312 Commissioner of Motor Vehicles and submit to the commissioner a  
313 written report if such results indicate that such person had an elevated  
314 blood alcohol content, and if such person was arrested for violation of  
315 section 14-227a, as amended by this act, in connection with such

316 accident. The report shall be made on a form approved by the  
 317 commissioner containing such information as the commissioner  
 318 prescribes, and shall be subscribed and sworn to under penalty of false  
 319 statement, as provided in section 53a-157b, by the police officer. The  
 320 commissioner may, after notice and an opportunity for hearing, which  
 321 shall be conducted by a hearing officer on behalf of the commissioner,  
 322 in accordance with chapter 54, suspend the motor vehicle operator's  
 323 license or nonresident operating privilege of such person for the  
 324 appropriate period specified in subsection (i) or (j) of this section. Each  
 325 hearing conducted under this subsection shall be limited to a  
 326 determination of the following issues: (1) [Whether the police officer  
 327 had probable cause to arrest the person for operating a motor vehicle  
 328 while under the influence of intoxicating liquor or drug or both; (2)  
 329 whether] Whether such person was placed under arrest; [(3)] (2)  
 330 whether such person was operating the motor vehicle; [(4)] (3) whether  
 331 the results of the analysis of the blood of such person indicate that such  
 332 person had an elevated blood alcohol content; and [(5)] (4) whether the  
 333 blood sample was obtained in accordance with conditions for  
 334 admissibility and competence as evidence as set forth in subsection [(j)]  
 335 (k) 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 Sec. 6. Subsection (o) of section 14-227b of the general statutes is  
 341 repealed and the following is substituted in lieu thereof (*Effective*  
 342 *October 1, 2008*):

343 (o) For the purposes of this section, "elevated blood alcohol content"  
 344 means (1) a ratio of alcohol in the blood of such person that is eight-  
 345 hundredths of one per cent or more of alcohol, by weight, (2) if such  
 346 person is operating a commercial motor vehicle, a ratio of alcohol in  
 347 the blood of such person that is four-hundredths of one per cent or  
 348 more of alcohol, by weight, or [(2)] (3) if such person is under twenty-

349 one years of age, a ratio of alcohol in the blood of such person that is  
350 two-hundredths of one per cent or more of alcohol, by weight.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	14-1(a)(74)
Sec. 2	<i>October 1, 2008</i>	14-227a(a) and (b)
Sec. 3	<i>October 1, 2008</i>	14-227a(g) and (h)
Sec. 4	<i>October 1, 2008</i>	14-227b(c) to (h)
Sec. 5	<i>October 1, 2008</i>	14-227b(k)
Sec. 6	<i>October 1, 2008</i>	14-227b(o)

**Statement of Purpose:**

To strengthen and clarify the DUI administrative per se provisions of the Department of Motor Vehicles.

*[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.]*