



# Senate

General Assembly

**File No. 969**

January Session, 2009

Substitute Senate Bill No. 151

*Senate, May 18, 2009*

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE USE OF IGNITION INTERLOCK DEVICES IN MOTOR VEHICLES.**

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

1 Section 1. Subsection (g) of section 14-227a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2009*):

4 (g) Any person who violates any provision of subsection (a) of this  
5 section shall: (1) For conviction of a first violation, (A) be fined not less  
6 than five hundred dollars or more than one thousand dollars, [and] (B)  
7 be (i) imprisoned not more than six months, forty-eight consecutive  
8 hours of which may not be suspended or reduced in any manner, or  
9 (ii) imprisoned not more than six months, with the execution of such  
10 sentence of imprisonment suspended entirely and a period of  
11 probation imposed requiring as a condition of such probation that  
12 such person perform one hundred hours of community service, as  
13 defined in section 14-227e, and (C) (i) have such person's motor vehicle  
14 operator's license or nonresident operating privilege suspended for

15 one year, or (ii) have such person's motor vehicle operator's license or  
16 nonresident operating privilege suspended for six months and be  
17 prohibited for the one-year period following completion of such period  
18 of suspension from operating a motor vehicle unless such motor  
19 vehicle is equipped with a functioning, approved ignition interlock  
20 device, as defined in section 14-227j; (2) for conviction of a second  
21 violation within ten years after a prior conviction for the same offense,  
22 (A) be fined not less than one thousand dollars or more than four  
23 thousand dollars, (B) be imprisoned not more than two years, one  
24 hundred twenty consecutive days of which may not be suspended or  
25 reduced in any manner, and sentenced to a period of probation  
26 requiring as a condition of such probation that such person perform  
27 one hundred hours of community service, as defined in section 14-  
28 227e, and (C) (i) have such person's motor vehicle operator's license or  
29 nonresident operating privilege suspended for three years or until the  
30 date of such person's twenty-first birthday, whichever is longer, or (ii)  
31 if such person has been convicted of a violation of subdivision (1) of  
32 subsection (a) of this section on account of being under the influence of  
33 intoxicating liquor or of subdivision (2) of subsection (a) of this section,  
34 have such person's motor vehicle operator's license or nonresident  
35 operating privilege suspended for one year and be prohibited for the  
36 two-year period following completion of such period of suspension  
37 from operating a motor vehicle unless such motor vehicle is equipped  
38 with a functioning, approved ignition interlock device, as defined in  
39 section 14-227j; and (3) for conviction of a third and subsequent  
40 violation within ten years after a prior conviction for the same offense,  
41 (A) be fined not less than two thousand dollars or more than eight  
42 thousand dollars, (B) be imprisoned not more than three years, one  
43 year of which may not be suspended or reduced in any manner, and  
44 sentenced to a period of probation requiring as a condition of such  
45 probation that such person perform one hundred hours of community  
46 service, as defined in section 14-227e, and (C) have such person's  
47 motor vehicle operator's license or nonresident operating privilege  
48 permanently revoked upon such third offense. For purposes of the  
49 imposition of penalties for a second or third and subsequent offense

50 pursuant to this subsection, a conviction under the provisions of  
51 subsection (a) of this section in effect on October 1, 1981, or as  
52 amended thereafter, a conviction under the provisions of either  
53 subdivision (1) or (2) of subsection (a) of this section, a conviction  
54 under the provisions of section 53a-56b or 53a-60d or a conviction in  
55 any other state of any offense the essential elements of which are  
56 determined by the court to be substantially the same as subdivision (1)  
57 or (2) of subsection (a) of this section or section 53a-56b or 53a-60d,  
58 shall constitute a prior conviction for the same offense.

59 Sec. 2. Subsection (i) of section 14-227a of the general statutes is  
60 repealed and the following is substituted in lieu thereof (*Effective*  
61 *October 1, 2009*):

62 (i) (1) The Commissioner of Motor Vehicles shall permit a person  
63 whose license has been suspended in accordance with the provisions  
64 of subparagraph (C) (ii) of subdivision (1) or subparagraph (C)(ii) of  
65 subdivision (2) of subsection (g) of this section, as amended by this act,  
66 to operate a motor vehicle if (A) such person has [served not less than  
67 one year of such] completed the required period of such suspension,  
68 and (B) such person has installed an approved ignition interlock device  
69 in each motor vehicle owned or to be operated by such person. No  
70 person whose license is suspended by the commissioner for any other  
71 reason shall be eligible to operate a motor vehicle equipped with an  
72 approved ignition interlock device. (2) All costs of installing and  
73 maintaining an ignition interlock device and all processing and other  
74 administrative costs related to such person's compliance with the  
75 provisions of this subsection shall be borne by the person required to  
76 install such device. (3) The commissioner shall adopt regulations, in  
77 accordance with the provisions of chapter 54, to implement the  
78 provisions of this subsection. The regulations shall establish  
79 procedures for the approval of ignition interlock devices, for the  
80 proper calibration and maintenance of such devices and for the  
81 installation of such devices by any firm approved and authorized by  
82 the commissioner. (4) The provisions of this subsection shall not be  
83 construed to authorize the continued operation of a motor vehicle

84 equipped with an ignition interlock device by any person whose  
85 operator's license or nonresident operating privilege is withdrawn,  
86 suspended or revoked for any other reason. (5) The provisions of this  
87 subsection shall apply to any person whose license has been  
88 suspended in accordance with the provisions of subparagraph (C) (ii)  
89 of subdivision (2) of subsection (g) of this section, as amended by this  
90 act, on or after September 1, 2003.

91 Sec. 3. Section 14-227f of the general statutes is repealed and the  
92 following is substituted in lieu thereof (*Effective October 1, 2009*):

93 (a) Any person whose motor vehicle operator's license or  
94 nonresident operating privilege is suspended under subsection (g) of  
95 section 14-227a, as amended by this act, for a conviction of a violation  
96 of subsection (a) of said section or under section 14-227b for a second  
97 or subsequent time shall participate in a treatment program which  
98 includes an assessment of the degree of alcohol abuse and treatment,  
99 as appropriate, approved by the Commissioner of Motor Vehicles. The  
100 commissioner shall not reinstate the operator's license or nonresident  
101 operating privilege of any such person (1) whose license has been  
102 suspended in accordance with the provisions of subdivision (1) of  
103 subsection (g) of section 14-227a, as amended by this act, until such  
104 person submits evidence to the commissioner that such person is  
105 participating in the treatment program, or (2) whose license has been  
106 suspended in accordance with the provisions of subdivision (2) or (3)  
107 of subsection (g) of section 14-227a, as amended by this act, or under  
108 section 14-227b for a second or subsequent time until such person  
109 submits evidence to the commissioner that such person has  
110 satisfactorily completed the treatment program. Any person whose  
111 certificate is suspended or revoked pursuant to section 15-133, 15-140l  
112 or 15-140n shall participate in such treatment program.

113 (b) The treatment program shall be designed by the commissioner,  
114 with the advice and assistance of the Motor Vehicle Operator's License  
115 Medical Advisory Board established pursuant to section 14-46b, any  
116 state agency or any other public or private entity engaged in the

117 provision of responsible services for the treatment of alcohol and drug  
118 addiction as the commissioner may request. The program shall consist  
119 of intensive treatment and a phase of continuing aftercare supervision  
120 and monitoring on an individual basis. The program may be provided  
121 by one or more private organizations approved by the commissioner  
122 which meet qualifications established by him, provided the entire costs  
123 of the program shall be paid from fees charged to the participants, the  
124 amounts of which shall be subject to the approval of the commissioner.

125 (c) Upon receipt of notification from the commissioner of the  
126 requirement to participate in the program, such person may, within  
127 thirty days, petition the commissioner in writing for a waiver of such  
128 requirement on the following grounds: (1) The petitioner is presently  
129 undergoing a substantial treatment program for alcohol or drug  
130 addiction, or has completed such a program subsequent to his most  
131 recent arrest, either as a result of an order of the Superior Court or on a  
132 voluntary basis, and (2) the petitioner does not, in the opinion of a  
133 licensed physician based upon a personal examination, have a current  
134 addiction problem which affects his ability to operate a motor vehicle  
135 in a safe manner or pose a significant risk of having such a problem in  
136 the foreseeable future. In reviewing and determining whether to grant  
137 any such petition, the commissioner shall request and give due  
138 consideration to the advice of the Motor Vehicle Operator's License  
139 Medical Advisory Board. Any person aggrieved by the decision of the  
140 commissioner may appeal such decision in accordance with the  
141 provisions of chapter 54.

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

144 Sec. 4. Subdivision (2) of subsection (k) of section 14-111 of the  
145 general statutes is repealed and the following is substituted in lieu  
146 thereof (*Effective October 1, 2009*):

147 (2) Any person whose license has been revoked in accordance with  
148 subparagraph (C) of subdivision (3) of subsection (g) of section 14-  
149 227a, as amended by this act, on or after October 1, 1999, may, at any

150 time after six years from the date of such revocation, request a hearing  
 151 before the commissioner, conducted in accordance with the provisions  
 152 of chapter 54, and the provisions of subdivision (1) of this subsection  
 153 for reversal or reduction of such revocation. The commissioner shall  
 154 require such person to provide evidence that any reversal or reduction  
 155 of such revocation shall not endanger the public safety or welfare.  
 156 Such evidence shall include, but not be limited to, proof that such  
 157 person has successfully completed an alcohol education and treatment  
 158 program, and proof that such person has not been convicted of any  
 159 offense related to alcohol, controlled substances or drugs during the  
 160 preceding six years. The commissioner shall require any person, as a  
 161 condition of granting such reversal or reduction, to install and  
 162 maintain an approved ignition interlock device, in accordance with the  
 163 provisions of subsection (i) of section 14-227a, as amended by this act.  
 164 The approved ignition interlock device shall be installed and  
 165 maintained from the date such reversal or reduction is granted until  
 166 [ten] four years has passed since the date of such [revocation] reversal  
 167 or reduction. The commissioner may adopt regulations, in accordance  
 168 with the provisions of chapter 54, to establish standards to implement  
 169 the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	14-227a(g)
Sec. 2	October 1, 2009	14-227a(i)
Sec. 3	October 1, 2009	14-227f
Sec. 4	October 1, 2009	14-111(k)(2)

**APP**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Motor Vehicles	TF - Cost	See Below	See Below
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	TF - Cost	See Below	See Below
Department of Motor Vehicles	TF - Revenue Impact	See Below	See Below

Note: TF=Transportation Fund

**Municipal Impact:** None

**Explanation**

Allowing the use of ignition interlock devices (IID) by first time offenders and recouping all processing and administrative costs incurred by the DMV from all IID users has revenue and expenditure impact on the Department of Motor Vehicles (DMV) and the Transportation Fund beginning in FY 10 but the magnitude cannot be determined because it is unknown how many of the 4,000 DUI convictions would choose the IID as the alternative to the one-year license suspension.

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<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

DMV will require up to three additional Motor Vehicle Analyst positions (\$65,000 plus fringes<sup>1</sup> for each) for processing and verifying compliance with the provisions in this bill. Under the current law program, there are about 400 second and third time offenders using interlock devices and one Motor Vehicle Analyst for processing and verification of compliance.

The bill appears to extend the financial responsibility for administrative costs to those currently choosing IIDs (i.e., second and third DWI offenders and those convicted of 2<sup>nd</sup> degree assault with a motor vehicle or 2<sup>nd</sup> degree manslaughter with a motor vehicle). Current agency regulations require that only costs charged by the testing laboratories and associated costs involved in obtaining an ignition interlock device to be charged to the offender. The DMV would revise its existing regulation (14-227a-17a) to include the agency's processing and other administrative costs to also be paid by the offender as required by the bill.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sSB 151*****AN ACT CONCERNING THE USE OF IGNITION INTERLOCK DEVICES IN MOTOR VEHICLES.*****SUMMARY:**

This bill modifies the current ignition interlock device and license suspension requirements for a person convicted of driving under the influence of alcohol or drugs (DWI).

Under current law, a person may be required 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. provides, as an alternative to the current one-year license suspension for a first DWI conviction, 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. makes anyone required to drive an ignition interlock-equipped vehicle responsible for all processing and administrative costs related to compliance with the statutory requirements; 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 person's second DWI conviction.

It requires the driver to pay for the ignition interlock device and meet the existing Department of Motor Vehicle (DMV) regulations regarding the device's calibration, installation, and maintenance.

EFFECTIVE DATE: October 1, 2009

## **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 permits, as an alternative to the one-year suspension, a six-month suspension, 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 commissioner from reinstating a first-time offender's license who has applied for reinstatement and use of an ignition interlock until the person submits evidence that he or she is participating in a commissioner-approved treatment program. By law, anyone convicted of DWI, even for a 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 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 for a reversal or reduction of the revocation. If the commissioner grants the petition, the ignition interlock 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.

### ***Payment of Costs Related to Compliance***

Currently, someone required to use an ignition interlock-equipped vehicle must pay all costs associated with installing and maintaining the device. The bill, in addition, requires the person to pay all processing and other administrative costs related to the person's compliance with the requirements. This appears to encompass, among other things, all of DMV's costs relating to: (1) processing the initial applications for use of the devices and review of driver history to determine eligibility; (2) data entry in DMV records; (3) periodic monitoring of vehicle calibration reports for compliance; (4) administrative action, including re-suspension, resulting from lack of timely calibration or other program violations; and (5) final review that the driver has met all requirements prior to restoration of unrestricted driving privileges.

The bill appears to extend this responsibility for administrative costs to those currently under ignition interlock requirements as well (i.e., second and third DWI offenders and those convicted of 2<sup>nd</sup> degree assault with a motor vehicle or 2<sup>nd</sup> degree manslaughter with a motor vehicle).

## **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 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 is set at .025% (the per se intoxication level is .08%). Sometime after the vehicle has been 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.

Four DMV-approved vendors 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.

## **BACKGROUND**

### ***Legislative History***

The Senate referred the bill (File 387) to the Judiciary Committee on April 9 and the committee reported it favorably on April 15. It was then referred to the Public Safety and Security Committee on April 22 which reported it favorably on April 28. The Senate referred it to the Appropriations Committee on April 30 and the committee favorably reported a substitute bill on May 5. The substitute bill (1) removed a provision that increased the one-year license suspension for a first DWI offense to 18 months and (2) added the provision making anyone subject to an ignition interlock requirement responsible for all processing and administrative costs related to compliance with the requirements of the law.

## **COMMITTEE ACTION**

Transportation Committee

Joint Favorable

Yea 35 Nay 0 (03/13/2009)

Judiciary Committee

Joint Favorable

Yea 34 Nay 0 (04/15/2009)

Public Safety and Security Committee

Joint Favorable

Yea 20 Nay 0 (04/28/2009)

Appropriations Committee

Joint Favorable Substitute

Yea 51 Nay 0 (05/05/2009)