



# Senate

General Assembly

**File No. 755**

January Session, 2009

Substitute Senate Bill No. 732

*Senate, April 21, 2009*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE SENTENCING OF DRUNKEN DRIVERS.***

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2 repealed and the following is substituted in lieu thereof (*Effective*  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) if such person has been convicted of a violation of

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

51 (A) be fined not less than two thousand dollars or more than eight  
52 thousand dollars, (B) be (i) imprisoned not more than three years, one  
53 year of which may not be suspended or reduced in any manner, and  
54 sentenced to a period of probation requiring as a condition of such  
55 probation that such person perform one hundred hours of community  
56 service, as defined in section 14-227e, or (ii) imprisoned not more than  
57 three years, ninety consecutive days of which may not be suspended or  
58 reduced in any manner, and sentenced to a period of probation  
59 requiring as a condition of such probation that such person maintain at  
60 least one year of continuous sobriety as demonstrated through  
61 continuous alcohol monitoring and perform one hundred hours of  
62 community service, as defined in section 14-227e, and (C) have such  
63 person's motor vehicle operator's license or nonresident operating  
64 privilege permanently revoked upon such third offense. For purposes  
65 of the imposition of penalties for a second or third and subsequent  
66 offense pursuant to this subsection, a conviction under the provisions  
67 of subsection (a) of this section in effect on October 1, 1981, or as  
68 amended thereafter, a conviction under the provisions of either  
69 subdivision (1) or (2) of subsection (a) of this section, a conviction  
70 under the provisions of section 53a-56b or 53a-60d or a conviction in  
71 any other state of any offense the essential elements of which are  
72 determined by the court to be substantially the same as subdivision (1)  
73 or (2) of subsection (a) of this section or section 53a-56b or 53a-60d,  
74 shall constitute a prior conviction for the same offense.

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

78 (i) (1) The Commissioner of Motor Vehicles shall permit a person  
79 whose license has been suspended in accordance with the provisions  
80 of subparagraph (C)(ii) of subdivision (1) or (2) of subsection (g) of this  
81 section to operate a motor vehicle if (A) such person has served not  
82 less than one year of such suspension, (B) maintained ninety  
83 consecutive days of sobriety as demonstrated through continuous  
84 alcohol monitoring, and [(B)] (C) such person has installed an

85 approved ignition interlock device in each motor vehicle owned or to  
86 be operated by such person. No person whose license is suspended by  
87 the commissioner for any other reason shall be eligible to operate a  
88 motor vehicle equipped with an approved ignition interlock device. (2)  
89 All costs of continuous alcohol monitoring and installing and  
90 maintaining an ignition interlock device shall be borne by the person  
91 required to install such device. (3) The commissioner shall adopt  
92 regulations, in accordance with the provisions of chapter 54, to  
93 implement the provisions of this subsection. The regulations shall  
94 establish procedures for the approval of ignition interlock devices, for  
95 the proper calibration and maintenance of such devices and for the  
96 installation of such devices by any firm approved and authorized by  
97 the commissioner. (4) The provisions of this subsection shall not be  
98 construed to authorize the continued operation of a motor vehicle  
99 equipped with an ignition interlock device by any person whose  
100 operator's license or nonresident operating privilege is withdrawn,  
101 suspended or revoked for any other reason. (5) The provisions of this  
102 subsection shall apply to any person whose license has been  
103 suspended in accordance with the provisions of subparagraph (C)(ii)  
104 of subdivision (2) of subsection (g) of this section on or after September  
105 1, 2003, or subparagraph (C)(ii) of subdivision (1) of subsection (g) of  
106 this section on or after July 1, 2009.

107 Sec. 3. Subsection (a) of section 14-227f of the general statutes is  
108 repealed and the following is substituted in lieu thereof (*Effective*  
109 *October 1, 2009*):

110 (a) Any person whose motor vehicle operator's license or  
111 nonresident operating privilege is suspended under subsection (g) of  
112 section 14-227a, as amended by this act, for a conviction of a violation  
113 of subsection (a) of said section or under section 14-227b for a second  
114 or subsequent time shall participate in a treatment program which  
115 includes an assessment of the degree of alcohol abuse and treatment,  
116 as appropriate, approved by the Commissioner of Motor Vehicles. The  
117 commissioner shall not reinstate the operator's license or nonresident  
118 operating privilege of any such person until such person submits

119 evidence to the commissioner that such person has satisfactorily  
120 completed the treatment program and has not consumed alcohol for  
121 ninety consecutive days as demonstrated by continuous alcohol  
122 monitoring. Any person whose certificate is suspended or revoked  
123 pursuant to section 15-133, 15-140l or 15-140n shall participate in such  
124 treatment program.

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

128 (2) Any person whose license has been revoked in accordance with  
129 subparagraph (C) of subdivision (3) of subsection (g) of section 14-  
130 227a, as amended by this act, on or after October 1, 1999, may, at any  
131 time after [six years] one year from the date of such revocation, request  
132 a hearing before the commissioner, conducted in accordance with the  
133 provisions of chapter 54, and the provisions of subdivision (1) of this  
134 subsection for reversal or reduction of such revocation. The  
135 commissioner shall require such person to provide evidence that any  
136 reversal or reduction of such revocation shall not endanger the public  
137 safety or welfare. Such evidence shall include, but not be limited to,  
138 proof that such person has successfully completed an alcohol  
139 education and treatment program, [and] proof that such person has  
140 not been convicted of any offense related to alcohol, controlled  
141 substances or drugs during the preceding [six years] year, and proof  
142 that such person has not consumed any alcohol for six consecutive  
143 months as demonstrated by continuous alcohol monitoring as defined  
144 in section 14-212, as amended by this act. The commissioner shall  
145 require any person, as a condition of granting such reversal or  
146 reduction, to install and maintain an approved ignition interlock  
147 device, in accordance with the provisions of subsection (i) of section  
148 14-227a, as amended by this act. The approved ignition interlock  
149 device shall be installed and maintained from the date such reversal or  
150 reduction is granted until [ten] five years has passed since the date of  
151 such [revocation] reversal or reduction. The commissioner may adopt  
152 regulations, in accordance with the provisions of chapter 54, to

153 establish standards to implement the provisions of this section.

154 Sec. 5. Section 14-212 of the general statutes is repealed and the  
155 following is substituted in lieu thereof (*Effective October 1, 2009*):

156 Terms used in this chapter shall be construed as follows, unless  
157 another construction is clearly apparent from the language or context  
158 in which the term is used or unless the construction is inconsistent  
159 with the manifest intention of the General Assembly:

160 (1) The following terms shall be construed as they are defined in  
161 section 14-1: "Authorized emergency vehicle", "commissioner",  
162 "driver", "fuels", "gross weight", "head lamp", "high-mileage vehicle",  
163 "highway", "light weight", "limited access highway", "maintenance  
164 vehicle", "motor bus", "motorcycle", "motor vehicle registration",  
165 "nonresident", "nonskid device", "number plate", "officer", "operator",  
166 "owner", "passenger motor vehicle", "passenger and commercial motor  
167 vehicle", "person", "pneumatic tires", "pole trailer", "registration",  
168 "registration number", "second offense", "semitrailer", "shoulder",  
169 "solid tires", "stop", "subsequent offense", "tail lamp", "tractor", "tractor-  
170 trailer unit", "trailer", "truck" and "vanpool vehicle";

171 (2) "Carrier" means (A) any local or regional school district, any  
172 educational institution providing elementary or secondary education  
173 or any person, firm or corporation under contract to such district or  
174 institution engaged in the business of transporting school children; (B)  
175 any person, firm or corporation providing transportation for  
176 compensation exclusively to persons under the age of twenty-one  
177 years; or (C) any corporation, institution or nonprofit organization  
178 providing transportation as an ancillary service primarily to persons  
179 under the age of eighteen years;

180 (3) "Continuous alcohol monitoring" means automatically testing  
181 breath, blood or transdermal alcohol concentration levels and tamper  
182 attempts at least once every hour, regardless of location of the person  
183 who is being monitored, and regularly transmitting the data;

184 [(3)] (4) "Curb" includes the boundary of the traveled portion of any  
185 highway, whether or not the boundary is marked by a curbstone;

186 [(4)] (5) "Intersection" means the area embraced within the  
187 prolongation of the lateral curb lines of two or more highways which  
188 join one another at an angle, whether or not one of the highways  
189 crosses the other;

190 [(5)] (6) "Motor vehicle" includes all vehicles used on the public  
191 highways;

192 [(6)] (7) "Parking area" means lots, areas or other accommodations  
193 for the parking of motor vehicles off the street or highway and open to  
194 public use with or without charge;

195 [(7)] (8) "Rotary" or "roundabout" means a physical barrier legally  
196 placed or constructed at an intersection to cause traffic to move in a  
197 circuitous course;

198 [(8)] (9) "Student" means any person under the age of twenty-one  
199 years who is attending a preprimary, primary or secondary school  
200 program of education;

201 [(9)] (10) "Student transportation vehicle" means any motor vehicle  
202 other than a registered school bus used by a carrier for the  
203 transportation of students, including children requiring special  
204 education; and

205 [(10)] (11) "Vehicle" is synonymous with "motor vehicle".

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(a)
Sec. 4	October 1, 2009	14-111(k)(2)
Sec. 5	October 1, 2009	14-212

**JUD**      *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	180,000	180,000
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	TF - Cost	45,774	45,774
Department of Motor Vehicles	TF - Cost	200,000	
Judicial Dept. (Probation)	GF - Cost	Potential Significant	Potential Significant
Correction, Dept.	GF - Savings	Potential Significant	Potential 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 \$225,774 beginning in FY 10. The department will require three additional Motor Vehicle Analyst positions (\$60,000 plus fringes 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.

There is a one-time cost to DMV of \$200,000 in FY 10 for

<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.

development and computer programming of the alcohol sobriety monitoring system.

The bill establishes an additional sentencing option for any person convicted of driving under the influence of intoxicating liquor or while such person’s blood alcohol content is elevated. Specifically, the bill reduces the prison term for offenders and requires them to submit to electronic monitoring of their sobriety while they are under probation supervision in the community. The extent to which this new sentencing option would be used is unknown. On average, it costs the state \$9,211 to supervise an offender on probation in the community (including the cost of electronic monitoring under the bill) as compared to \$44,165 to incarcerate the offender.

Criminal Penalties for DWI					
		Current Law		Bill	Fines (unchanged by the bill)
2008 convictions		Jail / Probation			
First Offense	4,128	Up to 6 months w/mandatory min of 2 days	Up to 6 months (suspended) w/probation + 100 hours of community service	None	\$500 - \$1,000
Second Offense	808	Up to 2 years w/mandatory min of 120 consecutive days + probation + 100 hours community service		Up to 2 years w/mandatory min of 60 consecutive days + probation w/at least 120 days of continuous sobriety + 100 hours community service	\$1,000 - \$4,000
Third and Subsequent Offense	298	Up to 3 years w/mandatory min of 1 year + probation + 100 hours community service		Up to 3 years w/mandatory min of 90 days + probation w/at least 1 year of continuous sobriety + 100 hours community service	\$2,000 - \$8,000

**The Out Years**

**State Impact:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$	FY 14 \$
Department of	TF - Cost*	185,400	190,962	196,691

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Motor Vehicles				
Comptroller Misc. Accounts (Fringe Benefits)	TF - Cost*	47,147	48,561	50,018
Judicial Dept. (Probation)	GF - Cost*	Potential Significant	Potential Significant	Potential Significant
Correction, Dept.	GF - Savings*	Potential Significant	Potential Significant	Potential Significant

Note: TF=Transportation Fund; GF=General Fund  
\*These figures have been adjusted for inflation at a rate of 3%

***Municipal Impact:*** None

**OLR Bill Analysis**

**sSB 732**

***AN ACT CONCERNING THE SENTENCING OF DRUNKEN DRIVERS.***

**SUMMARY:**

The bill authorizes, and in some instances seems to require, reduced criminal penalties for operating a motor vehicle under the influence of alcohol (DUI). Regarding a first conviction, it appears to require the court to impose a license suspension of three months instead of one year, with a requirement that for the nine months following the three-month suspension, the motor vehicle the offender operates must be equipped with a functioning ignition interlock device by the Department of Motor Vehicle Commissioner (DMV) (see COMMENT).

The bill authorizes a judge to sentence a defendant for a second DUI conviction to a mandatory minimum of 60 consecutive days in prison instead of 120 consecutive days if the judge also sentences the defendant to a period of probation with the condition to (1) maintain at least 120 days of continuous sobriety as demonstrated through continuous alcohol monitoring and screening and (2) perform 100 hours of community service as defined by law (see COMMENT).

The bill defines “continuous alcohol monitoring” as automatically testing breath, blood, or transdermal (through the skin) alcohol concentration levels and tamper attempts at least once every hour, regardless of location of the person who is being monitored, and regularly transmitting the data.

The bill requires that DUI offenders, as a condition of post-suspension operation of a vehicle, to complete various periods of continuous days of sobriety as demonstrated through continuous alcohol monitoring.

The bill allows someone whose license has been revoked for a third or subsequent conviction for DUI to request a hearing before the DMV commissioner for reversal or reduction of the revocation at any time after one year instead of after six years from the date of revocation. It requires that, as a condition of reversal or reduction, the person prove he or she has not consumed any alcohol for six consecutive months as demonstrated by continuous alcohol monitoring.

By law, the commissioner, as a condition of granting such a reversal or reduction, must require the offender to install and maintain an approved ignition interlock device on each vehicle he or she owns or operates. The bill requires that the device be installed and maintained from the date the reversal or reduction is granted until five instead of 10 years have passed since the date of such reversal or reduction instead of from the date of the revocation.

Apparently, the offender must pay all costs of continuous alcohol monitoring, although the bill seems to explicitly require this for those convicted of DUI for the first or second time but not for those convicted for the third or subsequent time who are seeking a reduction or reversal of a permanent revocation.

EFFECTIVE DATE: October 1, 2009

### **§§1 & 2 — FIRST DUI CONVICTION**

Under current law, for a conviction of a first violation, an offender must:

1. be fined not less \$500 nor more than \$1,000;
2. have his or her motor vehicle operator's license or nonresident operating privilege suspended for one year; and
3. be imprisoned up to six months, 48 consecutive hours of which may not be suspended or reduced in any manner, or imprisoned not more than six months, with the execution of the sentence of imprisonment suspended entirely and a period of

probation imposed requiring as a condition 100 hours of community service.

The bill appears to require a different license suspension if the offense was because of alcohol consumption and not drugs. It appears to require that the court (1) suspend the offender's motor vehicle operator's license or nonresident operating privilege for three months and (2) prohibit for the nine-month period following completion of the three-month suspension the operator from operating a motor vehicle unless it is equipped with a functioning, approved ignition interlock device, as defined by law.

But under a different provision, the bill also directs the DMV commissioner to permit such an offender whose license has been suspended for a first conviction on or after July 1, 2009, to operate a motor vehicle if the offender:

1. has served not less than one year of such suspension;
2. maintained 90 consecutive days of sobriety as demonstrated through continuous alcohol monitoring, and
3. has installed an approved ignition interlock device in each motor vehicle he or she owns or operates.

It is unclear how these two provisions work together (see COMMENT).

## **§§ 1 & 2 — SECOND DUI CONVICTION**

By law a person who is convicted of DUI of alcohol for a second violation within 10 years after a prior conviction for the same offense must have his operator's license suspended:

1. for three years or until the date of the operator's 21<sup>st</sup> birthday, whichever is longer, or
2. if the violation occurred in Connecticut and conviction involved alcohol (instead of drugs), for one year and be prohibited for the

two-year period following completion of the one-year suspension from operating a motor vehicle unless it is equipped with an ignition interlock device.

The bill requires that the offender also maintain 90 consecutive days of sobriety as demonstrated through continuous alcohol monitoring, at the offender's expense, as a condition of having driving privileges restored.

### **§ 1 — THIRD OR SUBSEQUENT DUI CONVICTION**

Under current law, for a conviction of a third and subsequent DUI violation within 10 years after a prior conviction for the same offense, the offender must be:

1. fined between \$2,000 and \$8,000;
2. have his or her motor vehicle operator's license or nonresident operating privilege permanently revoked; and
3. imprisoned up to three years, with a mandatory minimum of one year of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition 100 hours of community service.

The bill provides an alternative for the mandatory minimum prison portion of the sentence. It authorizes imprisonment for a mandatory minimum of 90 consecutive days instead of one year, and also a period of probation with a condition that the offender maintain at least one year of continuous sobriety as demonstrated through continuous alcohol monitoring.

### **§ 3 — ADDITIONAL REQUIREMENTS FOR REINSTATING SUSPENDED LICENSES**

By law, anyone whose motor vehicle operator's license or nonresident operating privilege is suspended for (1) a DUI conviction or (2) a second or subsequent administrative per se violation must participate in a DMV-commissioner-approved treatment program that includes an assessment of the degree of alcohol abuse and treatment,

as appropriate. The law prohibits the commissioner from reinstating the operator's license or nonresident operating privilege of any such person until the operator submits evidence to the commissioner that he or she has satisfactorily completed the treatment program. The bill also requires the person to submit evidence satisfactory to the commissioner that he or she has not consumed alcohol for 90 consecutive days as demonstrated by continuous alcohol monitoring.

#### **§ 4 — REINSTATEMENT OF REVOKED LICENSE**

The bill allows any person whose license has been revoked for a third or subsequent DUI conviction to request a hearing before the DMV commissioner for reversal or reduction of the revocation at any time after one year, instead of six years, from the date of revocation.

By law, the commissioner must require the person to provide evidence that any reversal or reduction will not endanger the public safety or welfare. The evidence must include proof that such he or she has successfully completed an alcohol education and treatment program. Under current law, the evidence must also show that he or she has not been convicted of any offense related to alcohol, controlled substances, or drugs during the preceding six years. The bill requires instead that the evidence also show (1) no related convictions during the preceding year, instead of six years, and (2) that the offender has not consumed any alcohol for six consecutive months as demonstrated by continuous alcohol monitoring. The bill does not specify whether the offender is required to pay for the cost of continuous alcohol monitoring in this context.

By law, the commissioner must require any person, as a condition of granting such a reversal or reduction, to install and maintain an approved ignition interlock device. The bill requires that the approved ignition interlock device be installed and maintained from the date the reversal or reduction is granted until five instead of 10 years has passed since the date of such reversal or reduction instead of from the revocation.

#### **BACKGROUND**

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**DUI**

The law prohibits driving (1) while under the influence of alcohol or drugs or (2) with an “elevated blood alcohol content” (DUI). A person is “under the influence” if his ability to drive is affected to an appreciable degree (*Infield v. Sullivan*, 151 Conn. 506 (1964)). This may be prosecuted with or without any direct evidence of his BAC. A person has an “elevated blood alcohol content” if his or her BAC is .08% alcohol by weight or above. The law also makes it illegal for someone under age 21 to drive with a BAC of .02% or more. While this is defined under a different statute (CGS § 14-227g), most of the criminal drunk driving provisions apply by reference to anyone under age 21 violating the prohibition.

A person convicted of DUI is subject to the penalties listed in Table 1.

**Table 1: DUI Criminal Penalties**

<b>Conviction</b>	<b>Prison Sentence</b>	<b>Fine</b>	<b>License Suspension</b>
First	Either (a) up to six months with a mandatory minimum of two days or (b) up to six months suspended with probation requiring 100 hours of community service	\$500- \$1,000	One year
Second	Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service	\$1,000- \$4,000	Three years (or until age 21 if longer)*
Third and Subsequent	Up to three years, with mandatory minimum of one year and probation with 100 hours community service	\$2,000- \$8,000	Permanent Revocation*

\*(The law allows shorter suspension or revocation periods if an ignition interlock device is installed under certain circumstances. See below.)

### ***Administrative Sanctions; Administrative Per Se***

This law requires an administrative license suspension process for drivers who refuse to submit to the test or whose test results indicate an elevated BAC (.08% or more or .02% or more if under age 21). The law provides a hearing process that the DMV commissioner must follow before imposing the sanctions specified in Table 2.

**Table 2: Administrative Per Se License Suspension Periods**

<b><i>Per Se Offense</i></b>	<b><i>First Offense</i></b>	<b><i>Second Offense</i></b>	<b><i>Third or Subsequent Offense</i></b>
Test Refused	6 months	One year	3 years
BAC of: .08% or more	90 days	9 months	2 years
BAC of .16% or more	120 days	10 months	2 years, 6 months

The penalties also apply to someone who takes the initial test but refuses to take the second test. These provisions do not apply to someone whose condition makes such tests medically inadvisable. These administrative license suspension penalties are in addition to any suspension penalties imposed as a result of conviction on any criminal DUI charge (see Table 1 above).

### ***Enhanced Administrative Penalties for Drivers under Age 21***

Anyone under age 21 who does not contact DMV for a hearing, fails to show up for a scheduled hearing, or who receives an adverse hearing decision is subject to a license suspension that is twice as long as the period imposed on someone age 21 or older for a similar type of violation.

This enhanced administrative license suspension is even longer for a 16- or 17-year-old for a first per se offense. Specifically, the suspension

for a first per se violation by a 16- or 17-year-old is 18 months for a test refusal, (2) one year for a test result of .02% but under .16%, and (3) one year for a test result of .16% or more

### **Related Bills**

SB 151 (File 387) modifies current requirements for ignition interlock devices and license suspensions for DUI offenses to, among other things, lengthen the license suspension for a first DUI conviction from one year to 18 months, but provide an alternative of a six-month suspension followed by a requirement to operate only vehicles equipped with an ignition interlock device for one year.

SB 152 (File 388) prohibits, with some exceptions, possession of an open alcoholic beverage container in the passenger area of a motor vehicle on a highway or highway right-of-way.

SB 153 (File 385) (1) decreases from .08% to .04% the presumptive level for determining if a driver of a commercial motor vehicle is operating with an elevated blood alcohol level and (2) makes several procedural changes to the criminal and administrative per se laws governing DUI.

sHB 6160 requires that a prior conviction for operating a vessel under the influence (OUI), or reckless operation of a vessel in the first or second degree be considered a prior conviction for Driving Under the Influence (DUI) for determining what criminal penalty to impose for a DUI offense. Conversely, it requires that a prior conviction for DUI be considered a prior conviction for OUI for determining what criminal penalty to impose for an OUI offense.

The bill imposes a similar reciprocal requirement for determining the length of an administrative license suspension the DMV and Department of Environmental Protection commissioners must impose.

### **COMMENT**

#### ***Continuous Sobriety***

The bill requires certain periods of continuous "sobriety." This term

is not defined by the bill, the General Statutes, or common law.

**First Offender**

The bill appears to require the court to sentence a first DUI offender whose conviction was because of alcohol to a three-month license suspension followed by a nine-month period during which her or she may only operate a motor vehicle if it is equipped with a functioning, approved ignition interlock device. But the bill also appears to prohibit the DMV commissioner from allowing such an offender to drive again until he or she serves at least a one-year suspension and has maintained 90 consecutive days of sobriety as demonstrated through continuous alcohol monitoring. Thus, the suspension the court imposes appears to be different from the suspension the bill mandates the DMV commissioner to impose for the same offense.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 5 (04/03/2009)