



Senate

General Assembly

File No. 524

February Session, 2010

Senate Bill No. 272

Senate, April 13, 2010

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

AN ACT CONCERNING DRUNK BOATING.

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

1 Section 1. Subsection (c) of section 15-140q of the 2010 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (c) If the person arrested refuses to submit to such test or analysis,
5 or submits to such test or analysis [commenced within two hours of
6 the time of operation,] and the results of such test or analysis indicate
7 that at the time of the alleged offense such person had an elevated
8 blood alcohol content, the peace officer shall immediately revoke the
9 safe boating certificate, right to operate a vessel that requires a safe
10 boating certificate for operation or certificate of personal watercraft
11 operation, if any, of such person for a twenty-four-hour period. The
12 peace officer shall prepare a written report of the incident and shall
13 mail the report together with any certificate taken into possession and
14 a copy of the results of any chemical test or analysis, to the
15 commissioner within three business days. The report shall be made on
16 a form approved by the commissioner and shall be subscribed and

17 sworn to under penalty of false statement as provided in section 53a-
18 157b by the peace officer before whom such refusal was made or who
19 administered or caused to be administered such test or analysis. If the
20 person arrested refused to submit to such test or analysis, the report
21 shall be endorsed by a third person who witnessed such refusal. The
22 report shall set forth the grounds for the officer's belief that there was
23 probable cause to arrest such person for operating such vessel while
24 under the influence of intoxicating liquor or any drug, or both, or
25 while such person has an elevated blood alcohol content and shall state
26 that such person refused to submit to such test or analysis when
27 requested by such peace officer or that such person submitted to such
28 test or analysis [, commenced within two hours of the time of
29 operation,] and the results of such test or analysis indicated that such
30 person at the time of the alleged offense had an elevated blood alcohol
31 content.

32 Sec. 2. Subsection (g) of section 15-140q of the 2010 supplement to
33 the general statutes is repealed and the following is substituted in lieu
34 thereof (*Effective from passage*):

35 (g) If such person contacts the department to schedule a hearing, the
36 commissioner shall assign a date, time and place for the hearing, which
37 date shall be prior to the effective date of the suspension. At the
38 request of such person and upon a showing of good cause, the
39 commissioner may grant one continuance for a period not to exceed
40 thirty days. The hearing shall be limited to a determination of the
41 following issues: (1) Whether the peace officer had probable cause to
42 arrest the person for operating the vessel while under the influence of
43 intoxicating liquor or drugs, or both, or while such person has an
44 elevated blood alcohol content; (2) whether such person was placed
45 under arrest; (3) whether such person (A) refused to submit to such
46 test or analysis, or (B) submitted to such test or analysis [, commenced
47 within two hours of the time of operation,] and the results of such test
48 or analysis indicated that at the time of the alleged offense that such
49 person had an elevated blood alcohol content; and (4) whether such
50 person was operating the vessel. At the hearing, the results of the test

51 or analysis shall be sufficient to indicate the ratio of alcohol in the
52 blood of such person at the time of operation, except that if the results
53 of an additional test, administered pursuant to section 15-140r, indicate
54 that the ratio of alcohol in the blood of such person is eight-
55 hundredths of one per cent or less of alcohol, by weight, and is higher
56 than the results of the first test, evidence shall be presented that
57 demonstrates that the test results and analysis thereof accurately
58 indicate the blood alcohol content at the time of operation. The fees of
59 any witness summoned to appear at the hearing shall be the same as
60 provided in section 52-260.

61 Sec. 3. Subsection (a) of section 15-140r of the 2010 supplement to
62 the general statutes is repealed and the following is substituted in lieu
63 thereof (*Effective from passage*):

64 (a) Except as provided in subsection (d) of this section, in any
65 criminal prosecution for the violation of section 15-132a, subsection (d)
66 of section 15-133, section 15-140l or 15-140n or subsection (b) of section
67 53-206d, evidence respecting the amount of alcohol or drug in the
68 defendant's blood or urine at the time of the alleged offense, as shown
69 by a chemical analysis of the defendant's breath, blood or urine shall
70 be admissible and competent provided: (1) The defendant was
71 afforded a reasonable opportunity to telephone an attorney prior to the
72 performance of the test and consented to the taking of the test upon
73 which such analysis is made; (2) a true copy of the report of the test
74 result was mailed to or personally delivered to the defendant within
75 twenty-four hours or by the end of the next regular business day, after
76 such result was known, whichever is later; (3) the test was performed
77 by or at the direction of a certified law enforcement officer according to
78 methods and with equipment approved by the Department of Public
79 Safety, and if a blood test was performed, it was performed on a blood
80 sample taken by a person licensed to practice medicine and surgery in
81 this state, a qualified laboratory technician, an emergency medical
82 technician II or a registered nurse in accordance with the regulations
83 adopted under subsection (b) of this section; (4) the device used for
84 such test was checked for accuracy in accordance with the regulations

85 adopted under subsection (b) of this section; (5) an additional chemical
 86 test of the same type was performed at least thirty minutes after the
 87 initial test was performed or, if requested by the peace officer for
 88 reasonable cause, an additional chemical test of a different type was
 89 performed to detect the presence of a drug or drugs other than or in
 90 addition to alcohol, except that the results of the initial test shall not be
 91 inadmissible under this subsection if reasonable efforts were made to
 92 have such additional test performed in accordance with the conditions
 93 set forth in this subsection and such additional test was not performed
 94 or was not performed within a reasonable time, or the results of such
 95 additional test are not admissible for failure to meet a condition set
 96 forth in this subsection; and (6) evidence is presented that the test was
 97 commenced within two hours of operation of the vessel or expert
 98 testimony establishes the reliability of a test commenced beyond two
 99 hours of operation of the vessel. In any prosecution under this section
 100 it shall be a rebuttable presumption that the results of such chemical
 101 analysis establish the ratio of alcohol in the blood of the defendant at
 102 the time of the alleged offense, except that if the results of the
 103 additional test indicate that the ratio of alcohol in the blood of such
 104 defendant is ten-hundredths of one per cent or less of alcohol, by
 105 weight, and is higher than the results of the first test, evidence shall be
 106 presented that demonstrates that the test results and the analysis
 107 thereof accurately indicate the blood alcohol content at the time of the
 108 alleged offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	15-140q(c)
Sec. 2	<i>from passage</i>	15-140q(g)
Sec. 3	<i>from passage</i>	15-140r(a)

ENV *Joint Favorable C/R*

JUD

JUD *Joint Favorable*

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:*** None***Municipal Impact:*** None***Explanation***

The bill, which eliminates the two-hour timeframe for a blood alcohol test for certain purposes, does not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 272*****AN ACT CONCERNING DRUNK BOATING.*****SUMMARY:**

This bill eliminates the two-hour timeframe in which a blood alcohol test or analysis must be performed for it to be used as evidence (1) for a peace officer to revoke a safe boating certificate for 24 hours or (2) in a hearing contesting boating certificate suspension before the environmental protection commissioner. The bill also requires expert testimony to establish the reliability of a blood alcohol test performed more than two hours after the operation of the vessel for it to be used in any criminal prosecution for operating a vessel under the influence or carrying a firearm under the influence.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Environment Committee

Joint Favorable Change of Reference
Yea 27 Nay 0 (03/15/2010)

Judiciary Committee

Joint Favorable
Yea 38 Nay 0 (03/29/2010)