



Substitute Senate Bill No. 1112

Public Act No. 11-74

AN ACT CONCERNING BOATING UNDER THE INFLUENCE AND OTHER REVISIONS TO ENVIRONMENT RELATED STATUTES.

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

Section 1. Subsection (b) of section 15-140l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(b) Any person guilty of reckless operation of a vessel in the first degree while under the influence shall be fined not less than two thousand five hundred dollars or more than five thousand dollars or imprisoned not more than two years, or both, and such person's safe boating certificate, certificate of personal watercraft operation or right to operate a vessel that requires a safe boating certificate shall be suspended by the commissioner in accordance with the provisions of section 15-133.

Sec. 2. Subsection (b) of section 15-140n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(b) Any person guilty of reckless operation of a vessel in the second degree while under the influence shall be fined not less than five hundred dollars or more than one thousand dollars or imprisoned not

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more than six months, or both, and such person's safe boating certificate, certificate of personal watercraft operation or right to operate a vessel that requires a safe boating certificate shall be suspended by the commissioner in accordance with the provisions of section 15-133.

Sec. 3. Subsection (j) of section 15-140q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(j) Notwithstanding the provisions of subsections (b) to (i), inclusive, of this section, any peace officer who obtains the results of a chemical analysis of a blood sample taken from an operator of a vessel involved in an accident who suffered or allegedly suffered physical injury in such accident shall notify the commissioner and submit to the commissioner a written report if such results indicate that at the time of the alleged offense such person had an elevated blood alcohol content, and if such person was arrested for a violation of section 15-132a, subsection (d) of section 15-133 or section 15-140l, as amended by this act, or 15-140n, as amended by this act, in connection with such accident. The report shall be made on a form approved by the commissioner containing such information as the commissioner prescribes and shall be subscribed and sworn under penalty of false statement, as provided in section 53a-157b, by the peace officer. The commissioner shall, after notice and an opportunity for hearing, which shall be conducted in accordance with chapter 54, suspend the safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation of such person for a period of up to ninety days, or, if such person has previously had such person's operating privilege suspended under this section, for a period up to one year. Each hearing conducted under this section shall be limited to a determination of the following issues: (1) Whether the peace officer had probable cause to arrest the person for

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operating a vessel while under the influence of intoxicating liquor or drugs, or both, or while such person has an elevated blood alcohol content; (2) whether such person was placed under arrest; (3) whether such person was operating the vessel; (4) whether the results of the analysis of the blood of such person indicate that such person had an elevated blood alcohol content; and (5) whether the blood sample was obtained in accordance with conditions for admissibility as set forth in [subsection (b) of section 15-140r] section 15-140s, as amended by this act. If, after such hearing, the commissioner finds on any issue in the negative, the commissioner shall not impose a suspension. The fees of any witness summoned to appear at the hearing shall be the same as provided by the general statutes for witnesses in criminal cases.

Sec. 4. Section 15-140r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) Except as provided in section 15-140s, as amended by this act, or subsection (d) of this section, in any criminal prosecution for the violation of section 15-132a, subsection (d) of section 15-133, section 15-140l, as amended by this act, or 15-140n, as amended by this act, or subsection (b) of section 53-206d, evidence respecting the amount of alcohol or drug in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's breath, blood or urine shall be admissible and competent provided: (1) The defendant was afforded a reasonable opportunity to telephone an attorney prior to the performance of the test and consented to the taking of the test upon which such analysis is made; (2) a true copy of the report of the test result was mailed to or personally delivered to the defendant within twenty-four hours or by the end of the next regular business day, after such result was known, whichever is later; (3) the test was performed by or at the direction of a certified law enforcement officer according to methods and with equipment approved by the Department of Public Safety, and if a blood test was performed, it was

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performed on a blood sample taken by a person licensed to practice medicine and surgery in this state, a qualified laboratory technician, an emergency medical technician II or a registered nurse in accordance with the regulations adopted under subsection (b) of this section; (4) the device used for such test was checked for accuracy in accordance with the regulations adopted under subsection (b) of this section; (5) an additional chemical test of the same type was performed at least [thirty] ten minutes after the initial test was performed or, if requested by the peace officer for reasonable cause, an additional chemical test of a different type was performed to detect the presence of a drug or drugs other than or in addition to alcohol, except that the results of the initial test shall not be inadmissible under this subsection if reasonable efforts were made to have such additional test performed in accordance with the conditions set forth in this subsection and such additional test was not performed or was not performed within a reasonable time, or the results of such additional test are not admissible for failure to meet a condition set forth in this subsection; and (6) evidence is presented that the test was commenced within two hours of operation of the vessel or expert testimony establishes the reliability of a test commenced beyond two hours of operation of the vessel. In any prosecution under this section it shall be a rebuttable presumption that the results of such chemical analysis establish the ratio of alcohol in the blood of the defendant at the time of the alleged offense, except that if the results of the additional test indicate that the ratio of alcohol in the blood of such defendant is ten-hundredths of one per cent or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and the analysis thereof accurately indicate the blood alcohol content at the time of the alleged offense.

(b) The Commissioner of Public Safety shall ascertain the reliability of each method and type of device offered for chemical testing and analysis of blood, of breath and of urine and certify those methods and

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types which the Commissioner of Public Safety finds suitable for use in testing and analysis of blood, breath and urine, respectively, in this state. The Commissioner of Public Safety, after consultation with the Commissioner of Public Health, shall adopt regulations, in accordance with chapter 54, governing the conduct of chemical tests, the operation and use of chemical test devices and the training and certification of operators of such devices and the drawing or obtaining of blood, breath or urine samples as the Commissioner of Public Safety finds necessary to protect the health and safety of persons who submit to chemical tests and to insure reasonable accuracy in testing results. Such regulations shall not require recertification of a peace officer solely because such officer terminates such officer's employment with the law enforcement agency for which certification was originally issued and commences employment with another such agency.

(c) If a person is charged with a violation of section 15-132a, subsection (d) of section 15-133, 15-140l, as amended by this act, or 15-140n, as amended by this act, the charge may not be reduced, nolle or dismissed unless the prosecuting authority states in open court such prosecutor's reasons for the reduction, nolle or dismissal.

(d) In any criminal prosecution for a violation of section 15-132a, subsection (d) of section 15-133 or section 15-140l, as amended by this act, or 15-140n, as amended by this act, evidence that the defendant refused to submit to a blood, breath or urine test requested in accordance with section 15-140q, as amended by this act, shall be admissible provided the requirements of subsection (a) of said section have been satisfied. If a case involving a violation of section 15-132a, subsection (d) of section 15-133 or section 15-140l, as amended by this act, or 15-140n, as amended by this act, is tried to a jury, the court shall instruct the jury as to any inference that may or may not be drawn from the defendant's refusal to submit to a blood, breath or urine test.

Sec. 5. Section 15-140s of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective July 1, 2011*):

Evidence respecting the amount of alcohol or drug in the blood or urine of an operator of a vessel involved in an accident who has suffered or allegedly suffered physical injury in such accident, which evidence is derived from a chemical analysis of a blood or urine sample taken from such person at the scene of the accident, while en route to a hospital or at a hospital after such accident, shall be competent evidence to establish probable cause for the arrest by warrant of such person for a violation of [subsection (d) of section] section 15-132a, 15-133, 15-140l, as amended by this act, or 15-140n, as amended by this act, and shall be admissible and competent in any subsequent prosecution thereof if: (1) The blood or urine sample was taken in the regular course of business of the hospital for the diagnosis and treatment of such injury; (2) the blood sample was taken by a person licensed to practice medicine in this state, a qualified laboratory technician, an emergency technician II or a registered nurse; (3) a police officer has demonstrated to the satisfaction of a judge of the Superior Court that such officer has reason to believe that such person was operating a vessel while under the influence of intoxicating liquor or drug, or both, and that the chemical analysis of such blood or urine sample constitutes evidence of the commission of the offense of operating a vessel upon the waters of this state while under the influence of intoxicating liquor or drug, or both, in violation of [subsection (d) of section] section 15-132a, 15-133, 15-140l, as amended by this act, or 15-140n, as amended by this act; and (4) such judge has issued a search warrant in accordance with section 54-33a authorizing the seizure of the chemical analysis of such blood or urine sample.

Sec. 6. Section 1-24 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

The following officers may administer oaths: (1) The clerks of the Senate, the clerks of the House of Representatives and the chairpersons

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of committees of the General Assembly or of either branch thereof, during its session; (2) state officers, as defined in subsection (t) of section 9-1, judges and clerks of any court, family support magistrates, judge trial referees, justices of the peace, commissioners of the Superior Court, notaries public, town clerks and assistant town clerks, in all cases where an oath may be administered, except in a case where the law otherwise requires; (3) commissioners on insolvent estates, auditors, arbitrators and committees, to parties and witnesses, in all cases tried before them; (4) assessors and boards of assessment appeals, in cases coming before them; (5) commissioners appointed by governors of other states to take the acknowledgment of deeds, in the discharge of their official duty; (6) the moderator of a school district meeting, in such meeting, to the clerk of such district, as required by law; (7) the first selectman, in any matter before the board of selectmen; (8) the Chief Medical Examiner, Deputy Medical Examiner and assistant medical examiners of the Office of the Medical Examiner, in any matter before them; (9) registrars of vital statistics, in any matter before them; (10) any chief inspector or inspector appointed pursuant to section 51-286; (11) registrars of voters, deputy registrars, assistant registrars, and moderators, in any matter before them; (12) special assistant registrars, in matters provided for in subsections (b) and (c) of section 9-19b and section 9-19c; (13) the Commissioner of Public Safety and any sworn member of any local police department or the Division of State Police within the Department of Public Safety, in all affidavits, statements, depositions, complaints or reports made to or by any member of any local police department or said Division of State Police or any constable who is under the supervision of said commissioner or any of such officers of said Division of State Police and who is certified under the provisions of sections 7-294a to 7-294e, inclusive, and performs criminal law enforcement duties; (14) judge advocates of the United States Army, Navy, Air Force and Marine Corps, law specialists of the United States Coast Guard, adjutants, assistant adjutants, acting adjutants and personnel adjutants, commanding

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officers, executive officers and officers whose rank is lieutenant commander or major, or above, of the armed forces, as defined in section 27-103, to persons serving with or in the armed forces, as defined in said section, or their spouses; (15) investigators, deputy investigators, investigative aides, secretaries, clerical assistants, social workers, social worker trainees, paralegals and certified legal interns employed by or assigned to the Public Defender Services Commission in the performance of their assigned duties; (16) bail commissioners employed by the Judicial Department in the performance of their assigned duties; (17) juvenile matter investigators employed by the Division of Criminal Justice in the performance of their assigned duties; (18) the chairperson of the Connecticut Siting Council or the chairperson's designee; (19) the presiding officer at an agency hearing under section 4-177b; (20) family relations counselors employed by the Judicial Department and support enforcement officers and investigators employed by the Department of Social Services Bureau of Child Support Enforcement and the Judicial Department, in the performance of their assigned duties; (21) the chairperson, vice-chairperson, members and employees of the Board of Pardons and Paroles, in the performance of their assigned duties; [and] (22) the Commissioner of Correction or the commissioner's designee; and (23) sworn law enforcement officers, appointed under section 26-5, within the Department of Environmental Protection, in all affidavits, statements, depositions, complaints or reports made to or by any such sworn law enforcement officer.

Sec. 7. Section 26-64 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

Any person who violates any provision of this part for which no other penalty is provided shall be fined eighty-seven dollars except that any person who takes, attempts to take or assists in taking any fish or bait species in violation of subsection (a) of section 26-27, such fine

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shall be suspended and the case dismissed for any first time violator who provides proof of purchase of the requisite license subsequent to the violation but prior to the imposition of such fine.

Sec. 8. Subsection (f) of section 26-27 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(f) The Commissioner of Environmental Protection [may] shall designate one day in each calendar year when no license shall be required for sport fishing.

Approved July 8, 2011