



General Assembly

Amendment

February Session, 2012

LCO No. 3943

SB0006303943SD0

Offered by:

SEN. WILLIAMS, 29th Dist.
SEN. LOONEY, 11th Dist.
SEN. COLEMAN, 2nd Dist.
SEN. DOYLE, 9th Dist.
SEN. LEBEAU, 3rd Dist.

SEN. DUFF, 25th Dist.
SEN. SLOSSBERG, 14th Dist.
SEN. STILLMAN, 20th Dist.
SEN. HARTLEY, 15th Dist.

To: Senate Bill No. 63

File No. 28

Cal. No. 72

"AN ACT CONCERNING THE TIMING OF TESTS FOR BLOOD ALCOHOL LEVELS IN OPERATING UNDER THE INFLUENCE CASES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (b) of section 14-227a of the 2012 supplement
4 to the general statutes is repealed and the following is substituted in
5 lieu thereof (*Effective October 1, 2012*):

6 (b) Except as provided in subsection (c) of this section, in any
7 criminal prosecution for violation of subsection (a) of this section,
8 evidence respecting the amount of alcohol or drug in the defendant's
9 blood or urine at the time of the alleged offense, as shown by a
10 chemical analysis of the defendant's breath, blood or urine shall be
11 admissible and competent provided: (1) The defendant was afforded a

12 reasonable opportunity to telephone an attorney prior to the
13 performance of the test and consented to the taking of the test upon
14 which such analysis is made; (2) a true copy of the report of the test
15 result was mailed to or personally delivered to the defendant within
16 twenty-four hours or by the end of the next regular business day, after
17 such result was known, whichever is later; (3) the test was performed
18 by or at the direction of a police officer according to methods and with
19 equipment approved by the Department of Emergency Services and
20 Public Protection and was performed in accordance with the
21 regulations adopted under subsection (d) of this section; (4) the device
22 used for such test was checked for accuracy in accordance with the
23 regulations adopted under subsection (d) of this section; (5) an
24 additional chemical test of the same type was performed at least ten
25 minutes after the initial test was performed or, if requested by the
26 police officer for reasonable cause, an additional chemical test of a
27 different type was performed to detect the presence of a drug or drugs
28 other than or in addition to alcohol, provided the results of the initial
29 test shall not be inadmissible under this subsection if reasonable efforts
30 were made to have such additional test performed in accordance with
31 the conditions set forth in this subsection and such additional test was
32 not performed or was not performed within a reasonable time, or the
33 results of such additional test are not admissible for failure to meet a
34 condition set forth in this subsection; and (6) evidence is presented that
35 the test was commenced within two hours of operation or, if the test
36 was not commenced within two hours of operation, evidence is
37 presented that demonstrates that the test results and analysis thereof
38 accurately indicate the blood alcohol content at the time of the alleged
39 offense. In any prosecution under this section it shall be a rebuttable
40 presumption that the results of such chemical analysis establish the
41 ratio of alcohol in the blood of the defendant at the time of the alleged
42 offense, except that if the results of the additional test indicate that the
43 ratio of alcohol in the blood of such defendant is ten-hundredths of one
44 per cent or less of alcohol, by weight, and is higher than the results of
45 the first test, evidence shall be presented that demonstrates that the
46 test results and the analysis thereof accurately indicate the blood

47 alcohol content at the time of the alleged offense.

48 Sec. 2. Subsection (c) of section 14-227b of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *October 1, 2012*):

51 (c) If the person arrested refuses to submit to such test or analysis or
52 submits to such test or analysis [, commenced within two hours of the
53 time of operation,] and the results of such test or analysis indicate that
54 such person has an elevated blood alcohol content, the police officer,
55 acting on behalf of the Commissioner of Motor Vehicles, shall
56 immediately revoke and take possession of the motor vehicle
57 operator's license or, if such person is a nonresident, suspend the
58 nonresident operating privilege of such person, for a twenty-four-hour
59 period. The police officer shall prepare a report of the incident and
60 shall mail or otherwise transmit in accordance with this subsection the
61 report and a copy of the results of any chemical test or analysis to the
62 Department of Motor Vehicles within three business days. The report
63 shall contain such information as prescribed by the Commissioner of
64 Motor Vehicles and shall be subscribed and sworn to under penalty of
65 false statement as provided in section 53a-157b by the arresting officer.
66 If the person arrested refused to submit to such test or analysis, the
67 report shall be endorsed by a third person who witnessed such refusal.
68 The report shall set forth the grounds for the officer's belief that there
69 was probable cause to arrest such person for a violation of subsection
70 (a) of section 14-227a and shall state that such person had refused to
71 submit to such test or analysis when requested by such police officer to
72 do so or that such person submitted to such test or analysis [,
73 commenced within two hours of the time of operation,] and the results
74 of such test or analysis indicated that such person had an elevated
75 blood alcohol content. The Commissioner of Motor Vehicles may
76 accept a police report under this subsection that is prepared and
77 transmitted as an electronic record, including electronic signature or
78 signatures, subject to such security procedures as the commissioner
79 may specify and in accordance with the provisions of sections 1-266 to
80 1-286, inclusive. In any hearing conducted pursuant to the provisions

81 of subsection (g) of this section, it shall not be a ground for objection to
82 the admissibility of a police report that it is an electronic record
83 prepared by electronic means.

84 Sec. 3. Subsection (g) of section 14-227b of the general statutes is
85 repealed and the following is substituted in lieu thereof (*Effective*
86 *October 1, 2012*):

87 (g) If such person contacts the department to schedule a hearing, the
88 department shall assign a date, time and place for the hearing, which
89 date shall be prior to the effective date of the suspension, except that,
90 with respect to a person whose operator's license or nonresident
91 operating privilege is suspended in accordance with subdivision (2) of
92 subsection (e) of this section, such hearing shall be scheduled not later
93 than thirty days after such person contacts the department. At the
94 request of such person or the hearing officer and upon a showing of
95 good cause, the commissioner may grant one or more continuances.
96 The hearing shall be limited to a determination of the following issues:
97 (1) Did the police officer have probable cause to arrest the person for
98 operating a motor vehicle while under the influence of intoxicating
99 liquor or any drug or both; (2) was such person placed under arrest; (3)
100 did such person refuse to submit to such test or analysis or did such
101 person submit to such test or analysis [, commenced within two hours
102 of the time of operation,] and the results of such test or analysis
103 indicated that such person had an elevated blood alcohol content; and
104 (4) was such person operating the motor vehicle. In the hearing, the
105 results of the test or analysis shall be sufficient to indicate the ratio of
106 alcohol in the blood of such person at the time of operation, [provided]
107 except that, if such test was not commenced within two hours of the
108 time of operation, evidence shall be presented that demonstrates that
109 the test results and analysis thereof accurately indicate the blood
110 alcohol content at the time of operation. The fees of any witness
111 summoned to appear at the hearing shall be the same as provided by
112 the general statutes for witnesses in criminal cases. Notwithstanding
113 the provisions of subsection (a) of section 52-143, any subpoena
114 summoning a police officer as a witness shall be served not less than

115 seventy-two hours prior to the designated time of the hearing.

116 Sec. 4. Subsection (a) of section 15-140r of the 2012 supplement to
117 the general statutes is repealed and the following is substituted in lieu
118 thereof (*Effective October 1, 2012*):

119 (a) Except as provided in section 15-140s or subsection (d) of this
120 section, in any criminal prosecution for the violation of section 15-132a,
121 subsection (d) of section 15-133, section 15-140l or 15-140n or
122 subsection (b) of section 53-206d, evidence respecting the amount of
123 alcohol or drug in the defendant's blood or urine at the time of the
124 alleged offense, as shown by a chemical analysis of the defendant's
125 breath, blood or urine shall be admissible and competent provided: (1)
126 The defendant was afforded a reasonable opportunity to telephone an
127 attorney prior to the performance of the test and consented to the
128 taking of the test upon which such analysis is made; (2) a true copy of
129 the report of the test result was mailed to or personally delivered to the
130 defendant within twenty-four hours or by the end of the next regular
131 business day, after such result was known, whichever is later; (3) the
132 test was performed by or at the direction of a certified law enforcement
133 officer according to methods and with equipment approved by the
134 Department of Emergency Services and Public Protection, and if a
135 blood test was performed, it was performed on a blood sample taken
136 by a person licensed to practice medicine and surgery in this state, a
137 qualified laboratory technician, an emergency medical technician II or
138 a registered nurse in accordance with the regulations adopted under
139 subsection (b) of this section; (4) the device used for such test was
140 checked for accuracy in accordance with the regulations adopted
141 under subsection (b) of this section; (5) an additional chemical test of
142 the same type was performed at least ten minutes after the initial test
143 was performed or, if requested by the peace officer for reasonable
144 cause, an additional chemical test of a different type was performed to
145 detect the presence of a drug or drugs other than or in addition to
146 alcohol, except that the results of the initial test shall not be
147 inadmissible under this subsection if reasonable efforts were made to
148 have such additional test performed in accordance with the conditions

149 set forth in this subsection and such additional test was not performed
 150 or was not performed within a reasonable time, or the results of such
 151 additional test are not admissible for failure to meet a condition set
 152 forth in this subsection; and (6) evidence is presented that the test was
 153 commenced within two hours of operation of the vessel [or expert
 154 testimony establishes the reliability of a test commenced beyond two
 155 hours of operation of the vessel] or, if the test was not commenced
 156 within two hours of operation, evidence is presented that
 157 demonstrates that the test results and analysis thereof accurately
 158 indicate the blood alcohol content at the time of the alleged offense. In
 159 any prosecution under this section, it shall be a rebuttable presumption
 160 that the results of such chemical analysis establish the ratio of alcohol
 161 in the blood of the defendant at the time of the alleged offense, except
 162 that if the results of the additional test indicate that the ratio of alcohol
 163 in the blood of such defendant is ten-hundredths of one per cent or less
 164 of alcohol, by weight, and is higher than the results of the first test,
 165 evidence shall be presented that demonstrates that the test results and
 166 the analysis thereof accurately indicate the blood alcohol content at the
 167 time of the alleged offense."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	14-227a(b)
Sec. 2	October 1, 2012	14-227b(c)
Sec. 3	October 1, 2012	14-227b(g)
Sec. 4	October 1, 2012	15-140r(a)