



OLR RESEARCH REPORT

January 25, 2012

2012-R-0060

PENALTIES FOR DRIVING UNDER THE INFLUENCE WITH MINOR PASSENGERS

By: Paul Frisman, Principal Analyst

You asked whether Connecticut has any laws specifically penalizing, or enhancing the penalty for, driving under the influence (DUI) while transporting a child in the vehicle. You also want to know (1) if such a driver can be prosecuted under other state laws, (2) the percentage of alcohol-impaired traffic fatalities or injuries in the state involving the death or injury of such a child passenger, and (3) the percentage of all state DUI arrests involving a minor in the vehicle.

SUMMARY

Connecticut does not have a law imposing a separate or enhanced penalty on a driver charged with DUI who was transporting a child (age 15 or less) when charged. However, a driver charged with DUI who has a child age 15 or younger as a passenger may be charged with risk of injury to a minor (CGS § [53-21](#)) in addition to DUI. Risk of injury in such a case is punishable by between one and 10 years in prison, a maximum fine of \$10,000, or both. The penalty would be in addition to any sentence the motorist receives if convicted of DUI.

Also, a driver who, under the influence of alcohol or drugs, causes the death or serious injury of another person, could face charges of 2nd-degree manslaughter with a motor vehicle or 2nd-degree assault with a motor vehicle, respectively, regardless of the victim's age. Other criminal charges may apply, depending on the circumstances (see below).

We searched the federal Fatality Analysis Reporting System (FARS) for recent instances where a child passenger in a car driven by an alcohol-impaired driver was killed or injured in Connecticut. (The National Highway Traffic Safety Administration considers a traffic death to be alcohol-impaired when a fatal crash involves a driver with a blood alcohol concentration of at least 0.08). Specifically, we searched for Connecticut accidents where there was driver alcohol involvement, and in which occupants age 15 or younger were in the driver's vehicle.

We found one instance in 2010 where a 14-year-old boy was killed in a crash involving the intoxicated driver of the car in which he was riding. The 14-year-old was one of 121 (0.008%) state alcohol-impaired driving fatalities in 2010 (*Traffic Safety Facts, Connecticut, 2006-2010*). The driver pleaded guilty to first-degree manslaughter. In 2009, three children were injured in a crash that killed the intoxicated driver of the car in which they were passengers. Newspaper articles (attached) provide details about these incidents.

We were unable to learn the number of accidents involving only injuries because the FARS reporting system only records crashes in which someone died. We were unable to learn the percentage of DUI arrests involving the presence of a minor passenger because the state does not track such information.

POSSIBLE CHARGES IN CRASHES INVOLVING A DRIVER CHARGED WITH DUI WHO HAS A MINOR PASSENGER

Risk of Injury to a Minor

By law, any person who willfully or unlawfully causes or permits a child under age 16 to be placed in a situation where the child's life or limb is endangered is guilty of a class C felony (CGS § [53-21](#)). A class C felony is punishable by up to 10 years in prison and a fine of up to \$10,000, or both.

Crashes Causing Injuries or Death

Second Degree Manslaughter with a Motor Vehicle. CGS § [53a-56b](#) establishes the crime of 2nd degree manslaughter with a motor vehicle. A person commits this offense when, while operating a motor vehicle under the influence of alcohol or any drug, he or she causes the death of another person as a consequence of the effect of the alcohol or drug. The penalty is a prison term of up to 10 years, a fine of up to \$10,000, or both. The operator's driver's license also is suspended for one year and he or she can only operate vehicles equipped with an ignition interlock device for two years after completing the suspension period.

Second Degree Assault with a Motor Vehicle. CGS § [53a-60d](#) establishes the crime of 2nd degree assault with a motor vehicle. A person commits the offense when, while operating a motor vehicle under the influence of alcohol or any drug, he or she causes serious physical injury to another person as a consequence of the effect of the alcohol or drug. The penalty is a prison term of up to five years, a fine of up to \$5,000, or both. The operator's driver's license also is suspended for one year and he or she can only operate vehicles equipped with an ignition interlock device for two years after completing the suspension period. By law, a “serious physical injury” is one that creates a substantial risk of death, or causes serious disfigurement, serious impairment of health, or serious loss or impairment of the function of any bodily organ (CGS § [53a-3 \(4\)](#)).

CONNECTICUT FATAL CRASHES INVOLVING ALCOHOL AND MINORS

2009

According to the July 16, 2009 *Hartford Courant*, a 40-year-old Bristol man died on March 29, 2009, when, driving with his two sons and their young friend as passengers, he drove into a curve on Route 6 at more than twice the speed limit. His BAC (0.22) was nearly three times the legal limit (0.08). We have attached two newspaper articles on the crash. FARS data for this crash indicates that the three children, ages 15, 13, and 12, each suffered a “non-incapacitating evident injury.” This is defined as an injury that is evident to observers at the scene of the collision.

2010

A January 23, 2010 crash at the intersection of Chandler and Coolidge streets in Hartford killed a 14-year-old passenger and injured seven other people, according to the *Courant*. The *Courant* said that at least two cars were involved in the accident, both of which rolled over. One vehicle crashed into a utility pole, pulling down live electrical wires. The FARS data indicates the driver of the vehicle transporting the 14-year-old had a BAC of 0.18. The 14-year-old was one of 121 (0.008%) people killed in alcohol-impaired state traffic accidents in 2010. The *Courant* reported that the driver of the car in which the 14-year-old was riding pleaded guilty to first-degree manslaughter, which is punishable by up to 20 years in prison, a fine of up to \$15,000, or both.

PF:ro