
OLR Bill Analysis

sHB 6701

AN ACT CONCERNING CHILD ENDANGERMENT WHILE OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.

SUMMARY:

This bill increases the criminal penalties for three driving under the influence (DUI)-related crimes involving passengers who are children (under age 16). It applies to first DUI convictions; 2nd degree manslaughter with a motor vehicle; and 2nd degree assault with a motor vehicle (for the latter two crimes, the increased penalty only applies if the child was killed or seriously injured, respectively).

The increased penalty for a first DUI conviction under the bill includes a longer maximum prison term than subsequent convictions (which are not changed by the bill). Also, by law, someone driving under the influence with a child under age 16 as a passenger may also be charged with risk of injury to a minor (CGS § 53-21) (see BACKGROUND).

EFFECTIVE DATE: October 1, 2013

DRIVING UNDER THE INFLUENCE

The bill increases the penalty for a first DUI conviction to a class D felony if a child was in the vehicle at the time of the violation. A class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both. Currently, a first DUI conviction is punishable by (1) up to six months in prison with a mandatory minimum of two days or up to six months suspended with probation requiring 100 hours of community service and (2) a \$500 to \$1,000 fine.

By making this offense a felony, the bill subjects violators to certain consequences that apply to felonies but not misdemeanors. For example, a person forfeits his or her right to vote upon conviction of a

felony and commitment to prison. But the law allows this right to be restored after the person has paid all fines and completed any required prison and parole time (CGS §§ 9-46, 9-46a).

The bill does not affect the law's penalties for subsequent DUI convictions. By law, subsequent DUI convictions have maximum prison terms of two to three years (less than a first conviction with a child passenger under the bill), as well as mandatory minimums of 120 days to one year (see BACKGROUND).

Second Degree Manslaughter

The bill increases the penalty for 2nd degree manslaughter with a motor vehicle, from a class C to a class B felony, if the violation results in the death of a child who was a passenger in the vehicle at the time of the offense. A class B felony is punishable by up to 20 years in prison, a fine of up to \$15,000, or both. A class C felony is punishable by up to 10 years in prison, a fine of up to \$10,000, or both.

By law, a person commits 2nd degree manslaughter with a motor vehicle 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 drugs. By law, in addition to the imprisonment or fine set forth above, (1) the operator's driver's license is suspended for one year and (2) he or she can only operate vehicles equipped with an ignition interlock device for two years after the license is restored.

By law, conviction of a class B felony, as distinct from a class C felony, is subject to certain consequences and sanctions in addition to the criminal penalties. For example, the state board of education must revoke the license of a teacher convicted of a class B felony (CGS § 10-145i). Juvenile courts must automatically transfer to the adult docket cases involving children at least age 14 charged with class B felonies, once an attorney has been appointed for the child (CGS § 46b-127).

Second Degree Assault with a Motor Vehicle

Finally, the bill increases the penalty for 2nd degree assault with a

motor vehicle, from a class D to a class C felony, if the violation results in serious physical injury to a child who was a passenger in the vehicle at the time of the offense.

By law, a person commits 2nd degree assault with a motor vehicle when, while operating a motor vehicle under the influence of alcohol or drugs, he or she causes serious physical injury to another person as a consequence of the effect of alcohol or drugs. This crime also has the same license suspension and ignition interlock device penalties as 2nd degree manslaughter with a motor vehicle.

BACKGROUND

Risk of Injury to a Minor

Under the risk of injury statute, any person who, among other things, 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).

Penalties for DUI

A person convicted of DUI is subject to the criminal penalties listed in Table 1. In assessing these penalties, the law considers a subsequent conviction one that occurs within 10 years of a prior conviction for the same offense.

Also, a first offender may generally apply for admission to the Pretrial Alcohol Education Program. The court must dismiss the DUI charges if the driver satisfactorily completes the program (CGS § 54-56g).

If someone holding a commercial driver’s license is convicted of DUI, he or she is disqualified from driving a commercial motor vehicle for one year (CGS § 14-44k).

Table 1: DUI Criminal Penalties

<i>Conviction</i>	<i>Prison Sentence</i>	<i>Fine</i>	<i>License Suspension*</i>
First	Either (1) up to six months with a mandatory minimum of two days or (2) up to six months suspended with	\$500-\$1,000	45 days, followed by one year driving only a vehicle equipped with an ignition interlock device

	probation requiring 100 hours of community service		
Second	Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service	\$1,000-\$4,000	<ul style="list-style-type: none"> ● Offender under age 21: 45 days or until driver turns 21, whichever is longer ● Offender age 21 or older: 45 days ● Regardless of age: suspension is followed by three years of driving only a vehicle equipped with an ignition interlock device, and operation during first year is limited to travel to or from work, school, treatment program, or ignition interlock service center
Subsequent	Up to three years, with mandatory minimum of one year and probation with 100 hours community service	\$2,000-\$8,000	<p>License revoked; can apply for reinstatement after two years.</p> <p>If reinstated, offender must drive only interlock-equipped vehicles for as long as the offender drives, except that the commissioner may lift this requirement after 15 years, for good cause.</p>

*For a driver under age 18, the suspension period lasts for the periods specified above or until he or she turns 18, whichever is longer (CGS § 14-227a(h)).

Related Bills

sSB 1166, reported favorably by the Judiciary Committee, (1) increases from three to five years the maximum prison sentence for fourth and subsequent DUI convictions and (2) requires the Department of Motor Vehicles commissioner, when suspending someone’s license for a violation of the implied consent law, to order the person to install ignition interlock devices in motor vehicles owned or operated by the person (by law, motorists implicitly consent to be tested for drugs or alcohol when they drive).

sHB 6495 (File 368), reported favorably by the Transportation Committee, allows people with second DUI convictions to drive to probation appointments in the first year of driving only cars equipped with ignition interlock devices (§§ 52-54).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)