



# House of Representatives

General Assembly

**File No. 743**

January Session, 2013

Substitute House Bill No. 6701

*House of Representatives, May 6, 2013*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. Subsection (g) of section 14-227a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

4 (g) Any person who violates any provision of subsection (a) of this  
5 section shall: (1) For conviction of a first violation, (A) be fined not less  
6 than five hundred dollars or more than one thousand dollars, except as  
7 provided in subparagraph (D) of this subdivision, and (B) be (i)  
8 imprisoned not more than six months, forty-eight consecutive hours of  
9 which may not be suspended or reduced in any manner, except as  
10 provided in subparagraph (D) of this subdivision, or (ii) imprisoned  
11 not more than six months, except as provided in subparagraph (D) of  
12 this subdivision, with the execution of such sentence of imprisonment  
13 suspended entirely and a period of probation imposed requiring as a

14 condition of such probation that such person perform one hundred  
15 hours of community service, as defined in section 14-227e, and (C)  
16 have such person's motor vehicle operator's license or nonresident  
17 operating privilege suspended for forty-five days and, as a condition  
18 for the restoration of such license, be required to install an ignition  
19 interlock device on each motor vehicle owned or operated by such  
20 person and, upon such restoration, be prohibited for the one-year  
21 period following such restoration from operating a motor vehicle  
22 unless such motor vehicle is equipped with a functioning, approved  
23 ignition interlock device, as defined in section 14-227j, and (D) be  
24 guilty of a class D felony if a child under sixteen years of age was a  
25 passenger in the motor vehicle at the time of the violation; (2) for  
26 conviction of a second violation within ten years after a prior  
27 conviction for the same offense, (A) be fined not less than one  
28 thousand dollars or more than four thousand dollars, (B) be  
29 imprisoned not more than two years, one hundred twenty consecutive  
30 days of which may not be suspended or reduced in any manner, and  
31 sentenced to a period of probation requiring as a condition of such  
32 probation that such person: (i) Perform one hundred hours of  
33 community service, as defined in section 14-227e, (ii) submit to an  
34 assessment through the Court Support Services Division of the Judicial  
35 Branch of the degree of such person's alcohol or drug abuse, and (iii)  
36 undergo a treatment program if so ordered, and (C) (i) if such person is  
37 under twenty-one years of age at the time of the offense, have such  
38 person's motor vehicle operator's license or nonresident operating  
39 privilege suspended for forty-five days or until the date of such  
40 person's twenty-first birthday, whichever is longer, and, as a condition  
41 for the restoration of such license, be required to install an ignition  
42 interlock device on each motor vehicle owned or operated by such  
43 person and, upon such restoration, be prohibited for the three-year  
44 period following such restoration from operating a motor vehicle  
45 unless such motor vehicle is equipped with a functioning, approved  
46 ignition interlock device, as defined in section 14-227j, except that for  
47 the first year of such three-year period, such person's operation of a  
48 motor vehicle shall be limited to such person's transportation to or

49 from work or school, an alcohol or drug abuse treatment program or  
50 an ignition interlock device service center, or (ii) if such person is  
51 twenty-one years of age or older at the time of the offense, have such  
52 person's motor vehicle operator's license or nonresident operating  
53 privilege suspended for forty-five days and, as a condition for the  
54 restoration of such license, be required to install an ignition interlock  
55 device on each motor vehicle owned or operated by such person and,  
56 upon such restoration, be prohibited for the three-year period  
57 following such restoration from operating a motor vehicle unless such  
58 motor vehicle is equipped with a functioning, approved ignition  
59 interlock device, as defined in section 14-227j, except that for the first  
60 year of such three-year period, such person's operation of a motor  
61 vehicle shall be limited to such person's transportation to or from work  
62 or school, an alcohol or drug abuse treatment program or an ignition  
63 interlock device service center; and (3) for conviction of a third and  
64 subsequent violation within ten years after a prior conviction for the  
65 same offense, (A) be fined not less than two thousand dollars or more  
66 than eight thousand dollars, (B) be imprisoned not more than three  
67 years, one year of which may not be suspended or reduced in any  
68 manner, and sentenced to a period of probation requiring as a  
69 condition of such probation that such person: (i) Perform one hundred  
70 hours of community service, as defined in section 14-227e, (ii) submit  
71 to an assessment through the Court Support Services Division of the  
72 Judicial Branch of the degree of such person's alcohol or drug abuse,  
73 and (iii) undergo a treatment program if so ordered, and (C) have such  
74 person's motor vehicle operator's license or nonresident operating  
75 privilege permanently revoked upon such third offense, except that if  
76 such person's revocation is reversed or reduced pursuant to subsection  
77 (i) of section 14-111, such person shall be prohibited from operating a  
78 motor vehicle unless such motor vehicle is equipped with a  
79 functioning, approved ignition interlock device, as defined in section  
80 14-227j, for the time period prescribed in subdivision (2) of subsection  
81 (i) of section 14-111. For purposes of the imposition of penalties for a  
82 second or third and subsequent offense pursuant to this subsection, a  
83 conviction under the provisions of subsection (a) of this section in

84 effect on October 1, 1981, or as amended thereafter, a conviction under  
85 the provisions of either subdivision (1) or (2) of subsection (a) of this  
86 section, a conviction under the provisions of section 53a-56b, as  
87 amended by this act, or 53a-60d, as amended by this act, or a  
88 conviction in any other state of any offense the essential elements of  
89 which are determined by the court to be substantially the same as  
90 subdivision (1) or (2) of subsection (a) of this section or section 53a-56b,  
91 as amended by this act, or 53a-60d, as amended by this act, shall  
92 constitute a prior conviction for the same offense.

93 Sec. 2. Section 53a-56b of the general statutes is repealed and the  
94 following is substituted in lieu thereof (*Effective October 1, 2013*):

95 (a) A person is guilty of manslaughter in the second degree with a  
96 motor vehicle when, while operating a motor vehicle under the  
97 influence of intoxicating liquor or any drug or both, he causes the  
98 death of another person as a consequence of the effect of such liquor or  
99 drug.

100 (b) Manslaughter in the second degree with a motor vehicle is (1) a  
101 class C felony, [and the] or (2) a class B felony if such person causes the  
102 death of a child under sixteen years of age who was a passenger in the  
103 motor vehicle at the time of the offense. The court shall suspend the  
104 motor vehicle operator's license or nonresident operating privilege of  
105 any person found guilty under this section for one year. The court shall  
106 also order such person not to operate any motor vehicle that is not  
107 equipped with an approved ignition interlock device, as defined in  
108 section 14-227j, for a period of two years after such person's operator's  
109 license or nonresident operating privilege is restored by the  
110 Commissioner of Motor Vehicles.

111 Sec. 3. Section 53a-60d of the general statutes is repealed and the  
112 following is substituted in lieu thereof (*Effective October 1, 2013*):

113 (a) A person is guilty of assault in the second degree with a motor  
114 vehicle when, while operating a motor vehicle under the influence of  
115 intoxicating liquor or any drug or both, he causes serious physical

116 injury to another person as a consequence of the effect of such liquor or  
117 drug.

118 (b) Assault in the second degree with a motor vehicle is (1) a class D  
119 felony, [and the] or (2) a class C felony if such person causes serious  
120 physical injury to a child under sixteen years of age who was a  
121 passenger in the motor vehicle at the time of the offense. The court  
122 shall suspend the motor vehicle operator's license or nonresident  
123 operating privilege of any person found guilty under this section for  
124 one year. The court shall also order such person not to operate any  
125 motor vehicle that is not equipped with an approved ignition interlock  
126 device, as defined in section 14-227j, for a period of two years after  
127 such person's operator's license or nonresident operating privilege is  
128 restored by the Commissioner of Motor Vehicles.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	14-227a(g)
Sec. 2	October 1, 2013	53a-56b
Sec. 3	October 1, 2013	53a-60d

**JUD**      *Joint Favorable Subst.*

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.

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Judicial Dept.	GF - Potential Revenue Gain	See Below	See Below
Correction, Dept.; Judicial Dpt (Probation)	GF - Potential Cost	See Below	See Below

**Municipal Impact:** None

**Explanation**

The bill modifies statutes for three driving under the influence related crimes, making it a harsher penalty if it involves a passenger under 16. In FY 12, there were over 2,000 violations of these offenses with total penalty revenue of approximately \$1.3 million. It is not known how many of these offenses involved a passenger under 16 but future violations will result in increased penalty revenue and potential incarceration.

To the extent that offenders are prosecuted for the expanded offenses under this bill, potential costs for incarceration or probation supervision in the community, or judicial revenue would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

**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**

<b><i>Conviction</i></b>	<b><i>Prison Sentence</i></b>	<b><i>Fine</i></b>	<b><i>License Suspension*</i></b>
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First	Either (1) up to six months with a mandatory minimum of two days or (2) up to six months suspended with probation requiring 100 hours of community service	\$500-\$1,000	45 days, followed by one year driving only a vehicle equipped with an ignition interlock device
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"> <li>● Offender under age 21: 45 days or until driver turns 21, whichever is longer</li> <li>● Offender age 21 or older: 45 days</li> <li>● 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</li> </ul>
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)