



General Assembly

January Session, 2015

Raised Bill No. 7025

LCO No. 5268



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG, AND WHILE A CHILD IS IN THE MOTOR VEHICLE.

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

1 Section 1. Section 14-227a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 No person shall operate a motor vehicle while under the influence
4 of intoxicating liquor or any drug or both. A person commits the
5 offense of operating a motor vehicle while under the influence of
6 intoxicating liquor or any drug or both if such person operates a motor
7 vehicle (1) while under the influence of intoxicating liquor or any drug
8 or both, [or] (2) while such person has an elevated blood alcohol
9 content, or (3) violates subdivision (1) or (2) of this subsection while a
10 child under sixteen years of age is in the motor vehicle. For the
11 purposes of this section, "elevated blood alcohol content" means a ratio
12 of alcohol in the blood of such person that is eight-hundredths of one
13 per cent or more of alcohol, by weight, except that if such person is
14 operating a commercial motor vehicle, "elevated blood alcohol

15 content" means a ratio of alcohol in the blood of such person that is
16 four-hundredths of one per cent or more of alcohol, by weight, and
17 "motor vehicle" includes a snowmobile and all-terrain vehicle, as those
18 terms are defined in section 14-379.

19 (b) Except as provided in subsection (c) of this section, in any
20 criminal prosecution for violation of subsection (a) of this section,
21 evidence respecting the amount of alcohol or drug in the defendant's
22 blood or urine at the time of the alleged offense, as shown by a
23 chemical analysis of the defendant's breath, blood or urine shall be
24 admissible and competent provided: (1) The defendant was afforded a
25 reasonable opportunity to telephone an attorney prior to the
26 performance of the test and consented to the taking of the test upon
27 which such analysis is made; (2) a true copy of the report of the test
28 result was mailed to or personally delivered to the defendant within
29 twenty-four hours or by the end of the next regular business day, after
30 such result was known, whichever is later; (3) the test was performed
31 by or at the direction of a police officer according to methods and with
32 equipment approved by the Department of Emergency Services and
33 Public Protection and was performed in accordance with the
34 regulations adopted under subsection (d) of this section; (4) the device
35 used for such test was checked for accuracy in accordance with the
36 regulations adopted under subsection (d) of this section; (5) an
37 additional chemical test of the same type was performed at least ten
38 minutes after the initial test was performed or, if requested by the
39 police officer for reasonable cause, an additional chemical test of a
40 different type was performed to detect the presence of a drug or drugs
41 other than or in addition to alcohol, provided the results of the initial
42 test shall not be inadmissible under this subsection if reasonable efforts
43 were made to have such additional test performed in accordance with
44 the conditions set forth in this subsection and such additional test was
45 not performed or was not performed within a reasonable time, or the
46 results of such additional test are not admissible for failure to meet a
47 condition set forth in this subsection; and (6) evidence is presented that

48 the test was commenced within two hours of operation. In any
49 prosecution under this section it shall be a rebuttable presumption that
50 the results of such chemical analysis establish the ratio of alcohol in the
51 blood of the defendant at the time of the alleged offense, except that if
52 the results of the additional test indicate that the ratio of alcohol in the
53 blood of such defendant is ten-hundredths of one per cent or less of
54 alcohol, by weight, and is higher than the results of the first test,
55 evidence shall be presented that demonstrates that the test results and
56 the analysis thereof accurately indicate the blood alcohol content at the
57 time of the alleged offense.

58 (c) In any prosecution for a violation of subdivision (1) of subsection
59 (a) of this section, reliable evidence respecting the amount of alcohol in
60 the defendant's blood or urine at the time of the alleged offense, as
61 shown by a chemical analysis of the defendant's blood, breath or urine,
62 otherwise admissible under subsection (b) of this section, shall be
63 admissible only at the request of the defendant.

64 (d) The Commissioner of Emergency Services and Public Protection
65 shall ascertain the reliability of each method and type of device offered
66 for chemical testing and analysis purposes of blood, of breath and of
67 urine and certify those methods and types which said commissioner
68 finds suitable for use in testing and analysis of blood, breath and urine,
69 respectively, in this state. The Commissioner of Emergency Services
70 and Public Protection shall adopt regulations, in accordance with
71 chapter 54, governing the conduct of chemical tests, the operation and
72 use of chemical test devices, the training and certification of operators
73 of such devices and the drawing or obtaining of blood, breath or urine
74 samples as said commissioner finds necessary to protect the health and
75 safety of persons who submit to chemical tests and to insure
76 reasonable accuracy in testing results. Such regulations shall not
77 require recertification of a police officer solely because such officer
78 terminates such officer's employment with the law enforcement
79 agency for which certification was originally issued and commences
80 employment with another such agency.

81 (e) In any criminal prosecution for a violation of subsection (a) of
82 this section, evidence that the defendant refused to submit to a blood,
83 breath or urine test requested in accordance with section 14-227b shall
84 be admissible provided the requirements of subsection (b) of said
85 section have been satisfied. If a case involving a violation of subsection
86 (a) of this section is tried to a jury, the court shall instruct the jury as to
87 any inference that may or may not be drawn from the defendant's
88 refusal to submit to a blood, breath or urine test.

89 (f) If a person is charged with a violation of the provisions of
90 subsection (a) of this section, the charge may not be reduced, nolle or
91 dismissed unless the prosecuting authority states in open court such
92 prosecutor's reasons for the reduction, nolle or dismissal.

93 (g) (1) Any person who violates [any provision] subdivision (1) or
94 (2) of subsection (a) of this section shall: [(1)] (A) For conviction of a
95 first violation, [(A)] (i) be fined not less than five hundred dollars or
96 more than one thousand dollars, and [(B)] (ii) be [(i)] (I) imprisoned not
97 more than six months, forty-eight consecutive hours of which may not
98 be suspended or reduced in any manner, or [(ii)] (II) imprisoned not
99 more than six months, with the execution of such sentence of
100 imprisonment suspended entirely and a period of probation imposed
101 requiring as a condition of such probation that such person perform
102 one hundred hours of community service, as defined in section 14-
103 227e, and [(C)] (iii) have such person's motor vehicle operator's license
104 or nonresident operating privilege suspended for forty-five days and,
105 as a condition for the restoration of such license, be required to install
106 an ignition interlock device on each motor vehicle owned or operated
107 by such person and, upon such restoration, be prohibited for the one-
108 year period following such restoration from operating a motor vehicle
109 unless such motor vehicle is equipped with a functioning, approved
110 ignition interlock device, as defined in section 14-227j; [(2)] (B) for
111 conviction of a second violation within ten years after a prior
112 conviction for the same offense, [(A)] (i) be fined not less than one
113 thousand dollars or more than four thousand dollars, [(B)] (ii) be

114 imprisoned not more than two years, one hundred twenty consecutive
115 days of which may not be suspended or reduced in any manner, and
116 sentenced to a period of probation requiring as a condition of such
117 probation that such person: [(i)] (I) Perform one hundred hours of
118 community service, as defined in section 14-227e, [(ii)] (II) submit to an
119 assessment through the Court Support Services Division of the Judicial
120 Branch of the degree of such person's alcohol or drug abuse, and [(iii)]
121 (III) undergo a treatment program if so ordered, and [(C)] (iii) have
122 such person's motor vehicle operator's license or nonresident operating
123 privilege suspended for forty-five days and, as a condition for the
124 restoration of such license, be required to install an ignition interlock
125 device on each motor vehicle owned or operated by such person and,
126 upon such restoration, be prohibited for the three-year period
127 following such restoration from operating a motor vehicle unless such
128 motor vehicle is equipped with a functioning, approved ignition
129 interlock device, as defined in section 14-227j, except that for the first
130 year of such three-year period, such person's operation of a motor
131 vehicle shall be limited to such person's transportation to or from work
132 or school, an alcohol or drug abuse treatment program, an ignition
133 interlock device service center or an appointment with a probation
134 officer; and [(3)] (C) for conviction of a third and subsequent violation
135 within ten years after a prior conviction for the same offense, [(A)] (i)
136 be fined not less than two thousand dollars or more than eight
137 thousand dollars, [(B)] (ii) be imprisoned not more than three years,
138 one year of which may not be suspended or reduced in any manner,
139 and sentenced to a period of probation requiring as a condition of such
140 probation that such person: [(i)] (I) Perform one hundred hours of
141 community service, as defined in section 14-227e, [(ii)] (II) submit to an
142 assessment through the Court Support Services Division of the Judicial
143 Branch of the degree of such person's alcohol or drug abuse, and [(iii)]
144 (III) undergo a treatment program if so ordered, and [(C)] (iii) have
145 such person's motor vehicle operator's license or nonresident operating
146 privilege permanently revoked upon such third offense, except that if
147 such person's revocation is reversed or reduced pursuant to subsection

148 (i) of section 14-111, such person shall be prohibited from operating a
149 motor vehicle unless such motor vehicle is equipped with a
150 functioning, approved ignition interlock device, as defined in section
151 14-227j, for the time period prescribed in subdivision (2) of subsection
152 (i) of section 14-111.

153 (2) Any person who violates subdivision (3) of subsection (a) of this
154 section shall: (A) For conviction of a first violation, (i) be fined not less
155 than five hundred dollars or more than two thousand dollars, (ii) be
156 imprisoned not more than one year, forty-eight consecutive hours of
157 which may not be suspended or reduced in any manner, and (iii)
158 sentenced to a period of probation requiring as a condition of such
159 probation that such person: (I) Perform one hundred hours of
160 community service, as defined in section 14-227e, (II) have such
161 person's motor vehicle operator's license or nonresident operating
162 privilege suspended for forty-five days and, as a condition for the
163 restoration of such license, be required to install an ignition interlock
164 device on each motor vehicle owned or operated by such person and,
165 upon such restoration, be prohibited for the one-year period following
166 such restoration from operating a motor vehicle unless such motor
167 vehicle is equipped with a functioning, approved ignition interlock
168 device, as defined in section 14-227j, (III) participate in an alcohol or
169 drug abuse treatment program, and (IV) participate in a victim impact
170 panel program approved by the Court Support Services Division of the
171 Judicial Branch; (B) for conviction of a second violation within ten
172 years after a prior conviction for the same offense, (i) be fined not less
173 than five hundred dollars or more than five thousand dollars, (ii) be
174 imprisoned not less than one year or more than five years, thirty
175 consecutive days of which may not be suspended or reduced in any
176 manner, and (iii) sentenced to a period of probation requiring as a
177 condition of such probation that such person: (I) Perform one hundred
178 hours of community service, as defined in section 14-227e, (II) have
179 such person's motor vehicle operator's license or nonresident operating
180 privilege suspended for forty-five days and, as a condition for the

181 restoration of such license, be required to install an ignition interlock
182 device on each motor vehicle owned or operated by such person and,
183 upon such restoration, be prohibited for the three-year period
184 following such restoration from operating a motor vehicle unless such
185 motor vehicle is equipped with a functioning, approved ignition
186 interlock device, as defined in section 14-227j, (III) participate in an
187 alcohol or drug abuse treatment program, and (IV) participate in a
188 victim impact panel program approved by the Court Support Services
189 Division of the Judicial Branch; and (C) for conviction of a third and
190 subsequent violation within ten years after a prior conviction for the
191 same offense, (i) be fined not less than five hundred dollars or more
192 than ten thousand dollars, (ii) be imprisoned not less than one year or
193 more than ten years, one hundred eighty consecutive days of which
194 may not be suspended or reduced in any manner, and (iii) sentenced to
195 a period of probation requiring as a condition of such probation that
196 such person: (I) Perform one hundred hours of community service, as
197 defined in section 14-227e, (II) have such person's motor vehicle
198 operator's license or nonresident operating privilege permanently
199 revoked upon such third offense, except that if such person's
200 revocation is reversed or reduced pursuant to subsection (i) of section
201 14-111, such person shall be prohibited from operating a motor vehicle
202 unless such motor vehicle is equipped with a functioning, approved
203 ignition interlock device, as defined in section 14-227j, for the time
204 period prescribed in subdivision (2) of subsection (i) of section 14-111,
205 (III) participate in an alcohol or drug abuse treatment program, and
206 (IV) participate in a victim impact panel program approved by the
207 Court Support Services Division of the Judicial Branch;

208 (3) For purposes of the imposition of penalties for a second or third
209 and subsequent offense pursuant to this subsection, a conviction under
210 the provisions of subsection (a) of this section in effect on October 1,
211 1981, or as amended thereafter, a conviction under the provisions of
212 [either] subdivision (1), [or] (2) or (3) of subsection (a) of this section, a
213 conviction under the provisions of section 53a-56b or 53a-60d or a

214 conviction in any other state of any offense the essential elements of
215 which are determined by the court to be substantially the same as
216 subdivision (1), [or] (2) or (3) of subsection (a) of this section or section
217 53a-56b or 53a-60d, shall constitute a prior conviction for the same
218 offense.

219 (h) (1) Each court shall report each conviction under subsection (a)
220 of this section to the Commissioner of Motor Vehicles, in accordance
221 with the provisions of section 14-141. The commissioner shall suspend
222 the motor vehicle operator's license or nonresident operating privilege
223 of the person reported as convicted for the period of time required by
224 subsection (g) of this section. The commissioner shall determine the
225 period of time required by subsection (g) of this section based on the
226 number of convictions such person has had within the specified time
227 period according to such person's driving history record,
228 notwithstanding the sentence imposed by the court for such
229 conviction. (2) The motor vehicle operator's license or nonresident
230 operating privilege of a person found guilty under subsection (a) of
231 this section who, at the time of the offense, was operating a motor
232 vehicle in accordance with a special operator's permit issued pursuant
233 to section 14-37a shall be suspended by the commissioner for twice the
234 period of time set forth in subsection (g) of this section. (3) If an appeal
235 of any conviction under subsection (a) of this section is taken, the
236 suspension of the motor vehicle operator's license or nonresident
237 operating privilege by the commissioner, in accordance with this
238 subsection, shall be stayed during the pendency of such appeal.

239 (i) (1) The Commissioner of Motor Vehicles shall permit a person
240 whose license has been suspended in accordance with the provisions
241 of subparagraph [(C)] (A) or (B) of subdivision (1), [or] subparagraph
242 [(C)] (A) or (B) of subdivision (2) of subsection (g) of this section to
243 operate a motor vehicle if (A) such person has served either the
244 suspension required under said [subparagraph (C)] subsection (g) or
245 the suspension required under subsection (i) of section 14-227b, and
246 (B) such person has installed an approved ignition interlock device in

247 each motor vehicle owned or to be operated by such person, and
248 verifies to the commissioner, in such manner as the commissioner
249 prescribes, that such device has been installed. For a period of one year
250 after the installation of an ignition interlock device by a person who is
251 subject to subparagraph [(C)] (B) of subdivision [(2)] (1) of subsection
252 (g) of this section, such person's operation of a motor vehicle shall be
253 limited to such person's transportation to or from work or school, an
254 alcohol or drug abuse treatment program, an ignition interlock device
255 service center or an appointment with a probation officer. Except as
256 provided in sections 53a-56b and 53a-60d, no person whose license is
257 suspended by the commissioner for any other reason shall be eligible
258 to operate a motor vehicle equipped with an approved ignition
259 interlock device.

260 (2) All costs of installing and maintaining an ignition interlock
261 device shall be borne by the person required to install such device. No
262 court sentencing a person convicted of a violation of subsection (a) of
263 this section may waive any fees or costs associated with the installation
264 and maintenance of an ignition interlock device.

265 (3) The commissioner shall adopt regulations, in accordance with
266 the provisions of chapter 54, to implement the provisions of this
267 subsection. The regulations shall establish procedures for the approval
268 of ignition interlock devices, for the proper calibration and
269 maintenance of such devices and for the installation of such devices by
270 any firm approved and authorized by the commissioner and shall
271 specify acts by persons required to install and use such devices that
272 constitute a failure to comply with the requirements for the installation
273 and use of such devices, the conditions under which such
274 noncompliance will result in an extension of the period during which
275 such persons are restricted to the operation of motor vehicles equipped
276 with such devices and the duration of any such extension. The
277 commissioner shall ensure that such firm provide notice to both the
278 commissioner and the Court Support Services Division of the Judicial
279 Branch whenever a person required to install such device commits a

280 violation with respect to the installation, maintenance or use of such
281 device.

282 (4) The provisions of this subsection shall not be construed to
283 authorize the continued operation of a motor vehicle equipped with an
284 ignition interlock device by any person whose operator's license or
285 nonresident operating privilege is withdrawn, suspended or revoked
286 for any other reason.

287 (5) The provisions of this subsection shall apply to any person
288 whose license has been suspended in accordance with the provisions
289 of subparagraph [(C)] (A) or (B) of subdivision (1) on or after January
290 1, 2012, or subparagraph [(C)] (A) or (B) of subdivision (2) of
291 subsection (g) of this section on or after [January 1, 2012] October 1,
292 2015.

293 (6) Whenever a person is permitted by the commissioner under this
294 subsection to operate a motor vehicle if such person has installed an
295 approved ignition interlock device in each motor vehicle owned or to
296 be operated by such person, the commissioner shall indicate in the
297 electronic record maintained by the commissioner pertaining to such
298 person's operator's license or driving history that such person is
299 restricted to operating a motor vehicle that is equipped with an
300 ignition interlock device and, if applicable, that such person's
301 operation of a motor vehicle is limited to such person's transportation
302 to or from work or school, an alcohol or drug abuse treatment
303 program, an ignition interlock device service center or an appointment
304 with a probation officer, and the duration of such restriction or
305 limitation, and shall ensure that such electronic record is accessible by
306 law enforcement officers. Any such person shall pay the commissioner
307 a fee of one hundred dollars prior to the installation of such device.

308 (7) There is established the ignition interlock administration account
309 which shall be a separate, nonlapsing account in the General Fund. The
310 commissioner shall deposit all fees paid pursuant to subdivision (6) of

311 this subsection in the account. Funds in the account may be used by
312 the commissioner for the administration of this subsection.

313 (8) Notwithstanding any provision of the general statutes to the
314 contrary, upon request of any person convicted of a violation of
315 subsection (a) of this section whose operator's license is under
316 suspension on January 1, 2012, the Commissioner of Motor Vehicles
317 may reduce the term of suspension prescribed in subsection (g) of this
318 section and place a restriction on the operator's license of such person
319 that restricts the holder of such license to the operation of a motor
320 vehicle that is equipped with an approved ignition interlock device, as
321 defined in section 14-227j, for the remainder of such prescribed period
322 of suspension.

323 (9) Any person required to install an ignition interlock device under
324 this section shall be supervised by personnel of the Court Support
325 Services Division of the Judicial Branch while such person is subject to
326 probation supervision, or by personnel of the Department of Motor
327 Vehicles if such person is not subject to probation supervision, and
328 such person shall be subject to any other terms and conditions as the
329 commissioner may prescribe and any provision of the general statutes
330 or the regulations adopted pursuant to subdivision (3) of this
331 subsection not inconsistent herewith.

332 (10) Notwithstanding the periods prescribed in subsection (g) of this
333 section and subdivision (2) of subsection (i) of section 14-111 during
334 which a person is prohibited from operating a motor vehicle unless
335 such motor vehicle is equipped with a functioning, approved ignition
336 interlock device, such periods may be extended in accordance with the
337 regulations adopted pursuant to subdivision (3) of this subsection.

338 (j) In addition to any fine or sentence imposed pursuant to the
339 provisions of subsection (g) of this section, the court may order such
340 person to participate in an alcohol education and treatment program.

341 (k) Notwithstanding the provisions of subsection (b) of this section,

342 evidence respecting the amount of alcohol or drug in the blood or
343 urine of an operator of a motor vehicle involved in an accident who
344 has suffered or allegedly suffered physical injury in such accident,
345 which evidence is derived from a chemical analysis of a blood sample
346 taken from or a urine sample provided by such person after such
347 accident at the scene of the accident, while en route to a hospital or at a
348 hospital, shall be competent evidence to establish probable cause for
349 the arrest by warrant of such person for a violation of subsection (a) of
350 this section and shall be admissible and competent in any subsequent
351 prosecution thereof if: (1) The blood sample was taken or the urine
352 sample was provided for the diagnosis and treatment of such injury;
353 (2) if a blood sample was taken, the blood sample was taken in
354 accordance with the regulations adopted under subsection (d) of this
355 section; (3) a police officer has demonstrated to the satisfaction of a
356 judge of the Superior Court that such officer has reason to believe that
357 such person was operating a motor vehicle while under the influence
358 of intoxicating liquor or drug or both and that the chemical analysis of
359 such blood or urine sample constitutes evidence of the commission of
360 the offense of operating a motor vehicle while under the influence of
361 intoxicating liquor or drug or both in violation of subsection (a) of this
362 section; and (4) such judge has issued a search warrant in accordance
363 with section 54-33a authorizing the seizure of the chemical analysis of
364 such blood or urine sample. Such search warrant may also authorize
365 the seizure of the medical records prepared by the hospital in
366 connection with the diagnosis or treatment of such injury.

367 (l) If the court sentences a person convicted of a violation of
368 subsection (a) of this section to a period of probation, the court may
369 require as a condition of such probation that such person participate in
370 a victim impact panel program approved by the Court Support
371 Services Division of the Judicial Branch. Such victim impact panel
372 program shall provide a nonconfrontational forum for the victims of
373 alcohol-related or drug-related offenses and offenders to share
374 experiences on the impact of alcohol-related or drug-related incidents

375 in their lives. Such victim impact panel program shall be conducted by
376 a nonprofit organization that advocates on behalf of victims of
377 accidents caused by persons who operated a motor vehicle while
378 under the influence of intoxicating liquor or any drug, or both. Such
379 organization may assess a participation fee of not more than seventy-
380 five dollars on any person required by the court to participate in such
381 program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	14-227a

Statement of Purpose:

To add an offense for driving under the influence of intoxicating liquor or any drug with a child under sixteen years of age in the vehicle with potential sentences that exceed sentences for driving under the influence without a child in the vehicle.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]