



General Assembly

Amendment

January Session, 2015

LCO No. 9193



Offered by:
REP. ADINOLFI, 103rd Dist.

To: Subst. House Bill No. 6822 File No. 472 Cal. No. 301

(As Amended)

**"AN ACT CONCERNING DEPARTMENT OF MOTOR VEHICLE'S
RECOMMENDATIONS REGARDING TECHNICAL AND MINOR
CHANGES TO THE DEPARTMENT OF MOTOR VEHICLE
STATUTES AND THE ISSUANCE OF TEMPORARY LICENSES,
OPERATION OF GOLF CARTS AND A STUDY OF THE LIMITED
LICENSE PROGRAM."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 14-227a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2015*):

5 (a) No person shall operate a motor vehicle while under the
6 influence of intoxicating liquor or any drug or both. A person commits
7 the offense of operating a motor vehicle while under the influence of
8 intoxicating liquor or any drug or both if such person operates a motor
9 vehicle (1) while under the influence of intoxicating liquor or any drug
10 or both, [or] (2) while such person has an elevated blood alcohol

11 content, or (3) violates subdivision (1) or (2) of this subsection while a
12 child under sixteen years of age is in the motor vehicle. For the
13 purposes of this section, "elevated blood alcohol content" means a ratio
14 of alcohol in the blood of such person that is eight-hundredths of one
15 per cent or more of alcohol, by weight, except that if such person is
16 operating a commercial motor vehicle, "elevated blood alcohol
17 content" means a ratio of alcohol in the blood of such person that is
18 four-hundredths of one per cent or more of alcohol, by weight, and
19 "motor vehicle" includes a snowmobile and all-terrain vehicle, as those
20 terms are defined in section 14-379.

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

45 were made to have such additional test performed in accordance with
46 the conditions set forth in this subsection and such additional test was
47 not performed or was not performed within a reasonable time, or the
48 results of such additional test are not admissible for failure to meet a
49 condition set forth in this subsection; and (6) evidence is presented that
50 the test was commenced within two hours of operation. In any
51 prosecution under this section it shall be a rebuttable presumption that
52 the results of such chemical analysis establish the ratio of alcohol in the
53 blood of the defendant at the time of the alleged offense, except that if
54 the results of the additional test indicate that the ratio of alcohol in the
55 blood of such defendant is ten-hundredths of one per cent or less of
56 alcohol, by weight, and is higher than the results of the first test,
57 evidence shall be presented that demonstrates that the test results and
58 the analysis thereof accurately indicate the blood alcohol content at the
59 time of the alleged offense.

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

66 (d) The Commissioner of Emergency Services and Public Protection
67 shall ascertain the reliability of each method and type of device offered
68 for chemical testing and analysis purposes of blood, of breath and of
69 urine and certify those methods and types which said commissioner
70 finds suitable for use in testing and analysis of blood, breath and urine,
71 respectively, in this state. The Commissioner of Emergency Services
72 and Public Protection shall adopt regulations, in accordance with
73 chapter 54, governing the conduct of chemical tests, the operation and
74 use of chemical test devices, the training and certification of operators
75 of such devices and the drawing or obtaining of blood, breath or urine
76 samples as said commissioner finds necessary to protect the health and
77 safety of persons who submit to chemical tests and to insure

78 reasonable accuracy in testing results. Such regulations shall not
79 require recertification of a police officer solely because such officer
80 terminates such officer's employment with the law enforcement
81 agency for which certification was originally issued and commences
82 employment with another such agency.

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

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

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

111 unless such motor vehicle is equipped with a functioning, approved
112 ignition interlock device, as defined in section 14-227j; [(2)] (B) for
113 conviction of a second violation within ten years after a prior
114 conviction for the same offense, [(A)] (i) be fined not less than one
115 thousand dollars or more than four thousand dollars, [(B)] (ii) be
116 imprisoned not more than two years, one hundred twenty consecutive
117 days of which may not be suspended or reduced in any manner, and
118 sentenced to a period of probation requiring as a condition of such
119 probation that such person: [(i)] (I) Perform one hundred hours of
120 community service, as defined in section 14-227e, [(ii)] (II) submit to an
121 assessment through the Court Support Services Division of the Judicial
122 Branch of the degree of such person's alcohol or drug abuse, and [(iii)]
123 (III) undergo a treatment program if so ordered, and [(C)] (iii) have
124 such person's motor vehicle operator's license or nonresident operating
125 privilege suspended for forty-five days and, as a condition for the
126 restoration of such license, be required to install an ignition interlock
127 device on each motor vehicle owned or operated by such person and,
128 upon such restoration, be prohibited for the three-year period
129 following such restoration from operating a motor vehicle unless such
130 motor vehicle is equipped with a functioning, approved ignition
131 interlock device, as defined in section 14-227j, except that for the first
132 year of such three-year period, such person's operation of a motor
133 vehicle shall be limited to such person's transportation to or from work
134 or school, an alcohol or drug abuse treatment program, an ignition
135 interlock device service center or an appointment with a probation
136 officer; and [(3)] (C) for conviction of a third and subsequent violation
137 within ten years after a prior conviction for the same offense, [(A)] (i)
138 be fined not less than two thousand dollars or more than eight
139 thousand dollars, [(B)] (ii) be imprisoned not more than three years,
140 one year of which may not be suspended or reduced in any manner,
141 and sentenced to a period of probation requiring as a condition of such
142 probation that such person: [(i)] (I) Perform one hundred hours of
143 community service, as defined in section 14-227e, [(ii)] (II) submit to an
144 assessment through the Court Support Services Division of the Judicial
145 Branch of the degree of such person's alcohol or drug abuse, and [(iii)]

146 (III) undergo a treatment program if so ordered, and [(C)] (iii) have
147 such person's motor vehicle operator's license or nonresident operating
148 privilege permanently revoked upon such third offense, except that if
149 such person's revocation is reversed or reduced pursuant to subsection
150 (i) of section 14-111, such person shall be prohibited from operating a
151 motor vehicle unless such motor vehicle is equipped with a
152 functioning, approved ignition interlock device, as defined in section
153 14-227j, for the time period prescribed in subdivision (2) of subsection
154 (i) of section 14-111.

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

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

210 (3) For purposes of the imposition of penalties for a second or third
211 and subsequent offense pursuant to this subsection, a conviction under
212 the provisions of subsection (a) of this section in effect on October 1,
213 1981, or as amended thereafter, a conviction under the provisions of

214 [either] subdivision (1), [or] (2) or (3) of subsection (a) of this section, a
215 conviction under the provisions of section 53a-56b or 53a-60d or a
216 conviction in any other state of any offense the essential elements of
217 which are determined by the court to be substantially the same as
218 subdivision (1), [or] (2) or (3) of subsection (a) of this section or section
219 53a-56b or 53a-60d, shall constitute a prior conviction for the same
220 offense.

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

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

247 the suspension required under subsection (i) of section 14-227b, and
248 (B) such person has installed an approved ignition interlock device in
249 each motor vehicle owned or to be operated by such person, and
250 verifies to the commissioner, in such manner as the commissioner
251 prescribes, that such device has been installed. For a period of one year
252 after the installation of an ignition interlock device by a person who is
253 subject to subparagraph [(C)] (B) of subdivision [(2)] (1) of subsection
254 (g) of this section, such person's operation of a motor vehicle shall be
255 limited to such person's transportation to or from work or school, an
256 alcohol or drug abuse treatment program, an ignition interlock device
257 service center or an appointment with a probation officer. Except as
258 provided in sections 53a-56b and 53a-60d, no person whose license is
259 suspended by the commissioner for any other reason shall be eligible
260 to operate a motor vehicle equipped with an approved ignition
261 interlock device.

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

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

280 commissioner and the Court Support Services Division of the Judicial
281 Branch whenever a person required to install such device commits a
282 violation with respect to the installation, maintenance or use of such
283 device.

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

289 (5) The provisions of this subsection shall apply to any person
290 whose license has been suspended in accordance with the provisions
291 of subparagraph [(C)] (A) or (B) of subdivision (1) on or after January
292 1, 2012, or subparagraph [(C)] (A) or (B) of subdivision (2) of
293 subsection (g) of this section on or after [January 1, 2012] October 1,
294 2015.

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

310 (7) There is established the ignition interlock administration account
311 which shall be a separate, nonlapsing account in the General Fund. The

312 commissioner shall deposit all fees paid pursuant to subdivision (6) of
313 this subsection in the account. Funds in the account may be used by
314 the commissioner for the administration of this subsection.

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

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2015	14-227a