



Senate

General Assembly

File No. 619

February Session, 2018

Substitute Senate Bill No. 524

Senate, April 19, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM.***

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

1 Section 1. Subsection (d) of section 14-227a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2018*):

4 (d) The Commissioner of Emergency Services and Public Protection
5 shall ascertain the reliability of each method and type of device offered
6 for chemical testing and analysis purposes of blood, of breath and of
7 urine and certify those methods and types which said commissioner
8 finds suitable for use in testing and analysis of blood, breath and urine,
9 respectively, in this state. The Commissioner of Emergency Services
10 and Public Protection shall adopt regulations, in accordance with
11 chapter 54, governing the conduct of chemical tests, the operation and
12 use of chemical test devices, the training and certification of operators
13 of such devices and the drawing or obtaining of blood, breath or urine

14 samples as said commissioner finds necessary to protect the health and
15 safety of persons who submit to chemical tests and to insure
16 reasonable accuracy in testing results. Such regulations shall not
17 require recertification of a police officer solely because such officer
18 terminates such officer's employment with the law enforcement
19 agency for which certification was originally issued and commences
20 employment with another such agency. A person qualified to
21 withdraw blood or any hospital, laboratory or clinic employing or
22 utilizing the services of such a person shall not incur any civil liability
23 as a result of such activities if requested by a law enforcement officer
24 acting in accordance with this section or section 14-227c, as amended
25 by this act, to withdraw blood unless the actions of the person while
26 performing such activities constitutes gross negligence.

27 Sec. 2. Section 14-227c of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective October 1, 2018*):

29 (a) As part of the investigation of any motor vehicle accident
30 resulting in the death of a person, the Chief Medical Examiner, Deputy
31 Chief Medical Examiner, an associate medical examiner, a pathologist
32 as specified in section 19a-405, or an authorized assistant medical
33 examiner, as the case may be, shall order that a blood sample be taken
34 from the body of any operator or pedestrian who dies as a result of
35 such accident. Such blood samples shall be examined for the presence
36 and concentration of alcohol and any drug by the Division of Scientific
37 Services within the Department of Emergency Services and Public
38 Protection or by the Office of the Chief Medical Examiner. Nothing in
39 this subsection or section 19a-406 shall be construed as requiring such
40 medical examiner to perform an autopsy in connection with obtaining
41 such blood samples.

42 (b) A blood or breath sample shall be obtained from any surviving
43 operator whose motor vehicle is involved in an accident resulting in
44 the serious physical injury, as defined in section 53a-3, or death of
45 another person, if (1) a police officer has probable cause to believe that
46 such operator operated such motor vehicle while under the influence

47 of intoxicating liquor or any drug, or both, or (2) such operator has
48 been charged with a motor vehicle violation in connection with such
49 accident and a police officer has a reasonable and articulable suspicion
50 that such operator operated such motor vehicle while under the
51 influence of intoxicating liquor or any drug, or both. The test shall be
52 performed by or at the direction of a police officer according to
53 methods and with equipment approved by the Department of
54 Emergency Services and Public Protection and shall be performed by a
55 person certified or recertified for such purpose by said department or
56 recertified by persons certified as instructors by the Commissioner of
57 Emergency Services and Public Protection. The equipment used for
58 such test shall be checked for accuracy by a person certified by the
59 Department of Emergency Services and Public Protection immediately
60 before and after such test is performed. If a blood test is performed, it
61 shall be on a blood sample taken by a person licensed to practice
62 medicine and surgery in this state, a qualified laboratory technician, a
63 registered nurse, a physician assistant or a phlebotomist. The blood
64 samples obtained from an operator pursuant to this subsection shall be
65 examined for the presence and concentration of alcohol and any drug
66 by the Division of Scientific Services within the Department of
67 Emergency Services and Public Protection.

68 (c) A person qualified to withdraw blood or any hospital, laboratory
69 or clinic employing or utilizing the services of such a person shall not
70 incur any civil liability as a result of such activities if requested by a
71 law enforcement officer acting in accordance with this section to
72 withdraw blood unless the actions of the person while performing
73 such activities constitutes gross negligence.

74 Sec. 3. Subsection (g) of section 14-270 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2018*):

77 (g) Any person who violates the provisions of any permit issued
78 under this section or fails to obtain such a permit, when operating any
79 motor vehicle or combination of vehicles described in section 14-163c,

80 shall be subject to the following penalties, which penalties shall be
81 assessed against the owner of a commercial motor vehicle when the
82 owner, the owner's agent or employee is the person operating the
83 vehicle, or against the lessee of such vehicle when the lessee, the
84 lessee's agent or employee is the person operating a leased or rented
85 commercial vehicle:

86 (1) A person operating a vehicle with a permit issued under this
87 section that exceeds the weight specified in such permit shall be subject
88 to a penalty calculated by subtracting the permitted weight from the
89 actual vehicle weight and the rate of the fine shall be fifteen dollars per
90 one hundred pounds or fraction thereof of such excess weight;

91 (2) A person who fails to obtain a permit issued under section 14-
92 262 or 14-264 and who is operating a vehicle at a weight that exceeds
93 the statutory limit for weight shall be subject to a penalty calculated by
94 subtracting the statutory limit for weight from the actual vehicle
95 weight and the rate of the fine shall be fifteen dollars per one hundred
96 pounds or fraction thereof of such excess weight;

97 (3) A person operating a vehicle with a permit issued under this
98 section that exceeds the length specified in such permit shall be subject
99 to a minimum fine of three hundred dollars;

100 (4) A person operating a vehicle with a permit issued under this
101 section that exceeds the width specified in such permit shall be subject
102 to a minimum fine of three hundred dollars;

103 (5) A person operating a vehicle with a permit issued under this
104 section that exceeds the height specified in such permit shall be subject
105 to a minimum fine of one thousand dollars;

106 (6) A person operating a vehicle with a permit issued under this
107 section on routes not specified in such permit, shall be fined (A) one
108 thousand five hundred dollars for each violation of the statutory limit
109 for length, width, height or weight, and (B) shall be subject to a penalty
110 calculated by subtracting the statutory weight limit of subsection (b) of

111 section 14-267a from the actual vehicle weight and such weight
112 difference shall be fined at the rate provided for in subparagraph (G)
113 of subdivision (2) of subsection (f) of section 14-267a; or

114 (7) A person (A) operating a vehicle with an indivisible load and
115 violating one or more of the provisions of subdivisions (1) to (6),
116 inclusive, of this subsection shall be required to obtain a permit, or (B)
117 operating a vehicle with a divisible load and violating one or more of
118 the provisions of subdivisions (1) to (6), inclusive, of this subsection
119 shall be required to be off loaded to the permit limit.

120 Sec. 4. Section 53a-60a of the general statutes is repealed and the
121 following is substituted in lieu thereof (*Effective October 1, 2018*):

122 (a) A person is guilty of assault in the second degree with a firearm
123 when he commits assault in the second degree as provided in section
124 53a-60, and in the commission of such offense he uses or is armed with
125 and threatens the use of or displays or represents by his words or
126 conduct that he possesses a pistol, revolver, machine gun, shotgun,
127 rifle or other firearm. No person shall be found guilty of assault in the
128 second degree and assault in the second degree with a firearm upon
129 the same transaction but such person may be charged and prosecuted
130 for both such offenses upon the same information.

131 (b) Assault in the second degree with a firearm is a class D felony
132 [for which one year of the sentence imposed may not be suspended or
133 reduced by the court] or, if the offense resulted in serious physical
134 injury, a class C felony, for which in either case one year of the
135 sentence imposed may not be suspended or reduced by the court.

136 Sec. 5. Section 53a-214 of the general statutes is repealed and the
137 following is substituted in lieu thereof (*Effective October 1, 2018*):

138 (a) A landlord or lessor of a [dwelling] residential or nonresidential
139 unit subject to the provisions of chapter 830 or 832, an owner of such a
140 unit, or the agent of such landlord, lessor or owner is guilty of criminal
141 lockout when, without benefit of a court order, he deprives a tenant, as

142 defined in subsection (l) of section 47a-1, or a lessee of a nonresidential
143 unit, of access to [his dwelling] the tenant's residential or
144 nonresidential unit or [his personal] possessions.

145 (b) Criminal lockout is a class C misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	14-227a(d)
Sec. 2	October 1, 2018	14-227c
Sec. 3	October 1, 2018	14-270(g)
Sec. 4	October 1, 2018	53a-60a
Sec. 5	October 1, 2018	53a-214

Statement of Legislative Commissioners:

In Section 4(b), redundant language was bracketed.

JUD Joint Favorable Subst. -LCO

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Various State Agencies	GF - Eliminates Potential Cost	See Below	See Below
Correction, Dept.; Judicial Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

There is an elimination of a potential cost to various state agencies resulting from the bill, which provides immunity from civil liability to both individuals who withdraw blood and their employers at the request of a law enforcement officer. To the extent a state agency employs such an individual this bill protects either party from future litigation as a result of such instances.

This bill also increases the penalty for 2nd degree assault with a firearm when serious physical injury occurs and results in a potential cost to the state due to the possibility of increased length of incarceration or probation. There are currently 14 people incarcerated with this charge. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,900¹ while the average

¹ Inmate marginal cost is based on reduced consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a reduction in staffing costs or utility expenses because these would only be realized if a unit or facility closed.

marginal cost for supervision in the community is less than \$700² each year.

The bill also expands the crime of criminal lockout and results in no fiscal impact to the state. Thirty people violated this law last year but all charges were dismissed and no one is incarcerated with this charge.

The bill also requires that penalties related to permit violations for commercial vehicle permits shall be assessed against the owner of the vehicle rather than the operator. This results in no fiscal impact.

The Out Years

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

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

OLR Bill Analysis**SB 524*****AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.*****SUMMARY**

This bill provides civil immunity for someone who withdraws blood, at the request of a law enforcement officer, in connection with an investigation of (1) driving under the influence or (2) a motor vehicle accident causing a death or serious injury (§§ 1 & 2). The immunity applies to the activities of a person qualified to withdraw blood or any hospital, laboratory, or clinic employing or using the person's services. It does not apply to gross negligence.

The bill also:

1. requires that violations of permit requirements for overweight and oversize vehicles be assessed against a commercial vehicle's owner or lessee, instead of the vehicle's operator (§ 3);
2. increases the penalty for 2nd degree assault with a firearm, from a class D felony to a class C felony, when serious physical injury results (§ 4); and
3. expands the crime of criminal lockout to cover lockouts of nonresidential (e.g., commercial) property (§ 5).

EFFECTIVE DATE: October 1, 2018

§ 3 — OVERSIZE AND OVERWEIGHT VEHICLE PERMITS

The state Department of Transportation issues permits for vehicles that exceed certain height, width, length, or weight limits. Existing law establishes various penalties for permit violations (e.g., if the vehicle exceeds the permit's weight limits the fine is \$15 per 100 pounds over

the limit).

Under current law, the penalties are assessed against the vehicle's operator. The bill provides that, for commercial motor vehicles, the penalties must be assessed against the vehicle's owner or lessee when the owner or lessee or the owner's or lessee's agent or employee is operating the vehicle.

§ 4 — SECOND DEGREE ASSAULT WITH A FIREARM

The bill increases the penalty, from a class D felony to a class C felony, when a 2nd degree assault with a firearm results in serious physical injury. Thus, it increases the (1) maximum prison term from five years to 10 years and (2) maximum fine from \$5,000 to \$10,000.

Under existing law, unchanged by the bill, there is a mandatory one year prison term for this crime.

§ 5 — PROPERTY LOCKOUTS

The bill expands the crime of criminal lockout to include when a lessor or owner, or an agent of either, deprives a lessee of access to a nonresidential unit or possessions in or on the property of the unit without a court order. Current law applies only to residential units.

By law, criminal lockout is a class C misdemeanor, punishable by up to three months in prison, a fine of up to \$500, or both.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 24 Nay 16 (04/04/2018)