



# Senate

General Assembly

**File No. 250**

January Session, 2023

Substitute Senate Bill No. 1082

*Senate, March 28, 2023*

The Committee on Transportation reported through SEN. COHEN of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF TRANSPORTATION REGARDING A REDUCTION IN BLOOD ALCOHOL LIMITS FOR IMPAIRED DRIVING AND BOATING.***

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

1 Section 1. Subsection (a) of section 14-227a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective January*  
3 *2, 2024*):

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

13 such person is operating a commercial motor vehicle, "elevated blood  
14 alcohol content" means a ratio of alcohol in the blood of such person that  
15 is four-hundredths of one per cent or more of alcohol, by weight, and  
16 "motor vehicle" includes a snowmobile and all-terrain vehicle, as those  
17 terms are defined in section 14-379. For purposes of this section, section  
18 14-227b, as amended by this act, and section 14-227c, (A) "advanced  
19 roadside impaired driving enforcement" means a program developed  
20 by the National Highway Traffic Safety Administration with the  
21 International Association of Chiefs of Police and the Technical Advisory  
22 Panel, which focuses on impaired driving enforcement education for  
23 police officers, or any successor to such program; (B) "drug influence  
24 evaluation" means an evaluation developed by the National Highway  
25 Traffic Safety Administration and the International Association of  
26 Chiefs of Police that is conducted by a drug recognition expert to  
27 determine the level of a person's impairment from the use of drugs and  
28 the drug category causing such impairment; (C) "drug recognition  
29 expert" means a person certified by the International Association of  
30 Chiefs of Police as having met all requirements of the International Drug  
31 Evaluation and Classification Program; and (D) "nontestimonial portion  
32 of a drug influence evaluation" means a drug influence evaluation  
33 conducted by a drug recognition expert that does not include a verbal  
34 interview with the subject.

35 Sec. 2. Subsection (n) of section 14-227b of the general statutes is  
36 repealed and the following is substituted in lieu thereof (*Effective January*  
37 *2, 2024*):

38 (n) For the purposes of this section, "elevated blood alcohol content"  
39 means (1) a ratio of alcohol in the blood of such person that is [eight-  
40 hundredths] five-hundredths of one per cent or more of alcohol, by  
41 weight, (2) if such person is operating a commercial motor vehicle, a  
42 ratio of alcohol in the blood of such person that is four-hundredths of  
43 one per cent or more of alcohol, by weight, or (3) if such person is less  
44 than twenty-one years of age, a ratio of alcohol in the blood of such  
45 person that is two-hundredths of one per cent or more of alcohol, by  
46 weight.

47 Sec. 3. Subsection (a) of section 14-227m of the general statutes is  
48 repealed and the following is substituted in lieu thereof (*Effective January*  
49 *2, 2024*):

50 (a) No person shall operate a motor vehicle in which a child under  
51 eighteen years of age is a passenger while such person (1) is under the  
52 influence of intoxicating liquor or any drug or both, or (2) has an  
53 elevated blood alcohol content. For the purposes of this section,  
54 "elevated blood alcohol content" means a ratio of alcohol in the blood of  
55 such person that is [eight-hundredths] five-hundredths of one per cent  
56 or more of alcohol, by weight, except that if such person is operating a  
57 commercial motor vehicle, "elevated blood alcohol content" means a  
58 ratio of alcohol in the blood of such person that is four-hundredths of  
59 one per cent or more of alcohol, by weight, and if such person is under  
60 twenty-one years of age, "elevated blood alcohol content" means a ratio  
61 of alcohol in the blood of such person that is two-hundredths of one per  
62 cent or more of alcohol by weight; and "motor vehicle" includes a  
63 snowmobile and all-terrain vehicle, as those terms are defined in section  
64 14-379.

65 Sec. 4. Subsection (a) of section 14-227n of the general statutes is  
66 repealed and the following is substituted in lieu thereof (*Effective January*  
67 *2, 2024*):

68 (a) (1) No person shall operate a school bus, student transportation  
69 vehicle or other motor vehicle specially designated for carrying children  
70 while such person (A) is under the influence of intoxicating liquor or  
71 any drug or both, or (B) has an elevated blood alcohol content.

72 (2) No person shall operate a school bus, student transportation  
73 vehicle or other motor vehicle specially designated for carrying children  
74 in which a child under eighteen years of age is a passenger while such  
75 person (A) is under the influence of intoxicating liquor or any drug or  
76 both, or (B) has an elevated blood alcohol content.

77 (3) For the purposes of this section, "motor vehicle specially  
78 designated for carrying children" means any motor vehicle, except for a

79 registered school bus or student transportation vehicle as defined in  
80 section 14-212, that is designated or used by a person, firm or  
81 corporation for the transportation of children to or from any program or  
82 activity organized primarily for persons under the age of eighteen years,  
83 with or without charge to the individual being transported, but does not  
84 include a passenger motor vehicle normally used for personal, family or  
85 household purposes that is operated by a person without a public  
86 passenger endorsement; and "elevated blood alcohol content" means a  
87 ratio of alcohol in the blood of such person that is [eight-hundredths]  
88 five-hundredths of one per cent or more of alcohol, by weight, except  
89 that if such person is operating a commercial motor vehicle, "elevated  
90 blood alcohol content" means a ratio of alcohol in the blood of such  
91 person that is four-hundredths of one per cent or more of alcohol, by  
92 weight, and if such person is under twenty-one years of age, "elevated  
93 blood alcohol content" means a ratio of alcohol in the blood of such  
94 person that is two-hundredths of one per cent or more of alcohol, by  
95 weight.

96 Sec. 5. Subsection (d) of section 15-133 of the general statutes is  
97 repealed and the following is substituted in lieu thereof (*Effective January*  
98 *2, 2024*):

99 (d) No person shall operate a vessel: (1) While under the influence of  
100 intoxicating liquor or any drug, or both, or (2) while such person has an  
101 elevated blood alcohol content. For the purposes of this section and  
102 sections 15-140l and 15-140n, "elevated blood alcohol content" means:  
103 (A) A ratio of alcohol in the blood of such person that is [eight-  
104 hundredths] five-hundredths of one per cent or more of alcohol, by  
105 weight, or (B) if such person is under twenty-one years of age, a ratio of  
106 alcohol in the blood of such person that is two-hundredths of one per  
107 cent or more of alcohol, by weight. For the purposes of this section and  
108 sections 15-132a, 15-140l, 15-140n, 15-140o and 15-140q, as amended by  
109 this act, "operate" means that the vessel is underway or aground and not  
110 moored, anchored or docked.

111 Sec. 6. Subdivision (4) of subsection (g) of section 15-140q of the

112 general statutes is repealed and the following is substituted in lieu  
113 thereof (*Effective January 2, 2024*):

114 (4) At a hearing held under this subsection, the results of the test, if  
115 administered, shall be sufficient to indicate the ratio of alcohol in the  
116 blood of such person at the time of operation, except that if the results  
117 of an additional test, administered pursuant to section 15-140r, indicate  
118 that the ratio of alcohol in the blood of such person is [eight-hundredths]  
119 five-hundredths of one per cent or less of alcohol, by weight, and is  
120 higher than the results of the first test, evidence shall be presented that  
121 demonstrates that the test results and analysis thereof accurately  
122 indicate the blood alcohol content at the time of operation. The fees of  
123 any witness summoned to appear at a hearing under this subsection  
124 shall be the same as provided in section 52-260.

125 Sec. 7. Subsection (n) of section 15-140q of the general statutes is  
126 repealed and the following is substituted in lieu thereof (*Effective January*  
127 *2, 2024*):

128 (n) For the purposes of this section, "elevated blood alcohol content"  
129 means: (1) A ratio of alcohol in the blood of such person that is [eight-  
130 hundredths] five-hundredths of one per cent or more of alcohol, by  
131 weight, or (2) if such person is under twenty-one years of age, a ratio of  
132 alcohol in the blood of such person that is two-hundredths of one per  
133 cent or more of alcohol, by weight.

134 Sec. 8. Section 38a-498c of the general statutes is repealed and the  
135 following is substituted in lieu thereof (*Effective January 2, 2024*):

136 No individual health insurance policy providing coverage of the type  
137 specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469  
138 delivered, issued for delivery, amended, renewed or continued in this  
139 state shall deny coverage for health care services rendered to treat any  
140 injury sustained by any person when such injury is alleged to have  
141 occurred or occurs under circumstances in which (1) such person has an  
142 elevated blood alcohol content, or (2) such person has sustained such  
143 injury while under the influence of intoxicating liquor or any drug or

144 both. For the purposes of this section, "elevated blood alcohol content"  
145 means a ratio of alcohol in the blood of such person that is [eight-  
146 hundredths] five-hundredths of one per cent or more of alcohol, by  
147 weight.

148 Sec. 9. Section 38a-525c of the general statutes is repealed and the  
149 following is substituted in lieu thereof (*Effective January 2, 2024*):

150 No group health insurance policy providing coverage of the type  
151 specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469  
152 delivered, issued for delivery, amended, renewed or continued in this  
153 state shall deny coverage for health care services rendered to treat any  
154 injury sustained by any person when such injury is alleged to have  
155 occurred or occurs under circumstances in which (1) such person has an  
156 elevated blood alcohol content, or (2) such person has sustained such  
157 injury while under the influence of intoxicating liquor or any drug or  
158 both. For the purposes of this section, "elevated blood alcohol content"  
159 means a ratio of alcohol in the blood of such person that is [eight-  
160 hundredths] five-hundredths of one per cent or more of alcohol, by  
161 weight.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 2, 2024</i>	14-227a(a)
Sec. 2	<i>January 2, 2024</i>	14-227b(n)
Sec. 3	<i>January 2, 2024</i>	14-227m(a)
Sec. 4	<i>January 2, 2024</i>	14-227n(a)
Sec. 5	<i>January 2, 2024</i>	15-133(d)
Sec. 6	<i>January 2, 2024</i>	15-140q(g)(4)
Sec. 7	<i>January 2, 2024</i>	15-140q(n)
Sec. 8	<i>January 2, 2024</i>	38a-498c
Sec. 9	<i>January 2, 2024</i>	38a-525c

**TRA**      *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.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Mental Health & Addiction Serv., Dept.	Other Fund - Potential	See Below	See Below

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 24 \$	FY 25 \$
Various Municipalities	Potential Revenue	See Below	See Below

**Explanation**

The bill lowers the blood alcohol content (BAC) limit for impaired drivers and boaters from 0.08% to 0.05%. To the extent that there are additional arrests because of this change, the bill results in a potential cost for probation and a revenue gain from fines, a portion of which are remitted to the municipality in which the violation occurs. On average, the marginal cost for supervision in the community is less than \$800<sup>1</sup> each year. In FY 22, there was roughly \$900,000 in elevated BAC related

<sup>1</sup> 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.

fines.

To the extent the bill increases pretrial impaired driver intervention program referrals and participation, the non-appropriated Pre-Trial account under the Department of Mental Health and Addiction Services (DMHAS) could experience both increased program fee revenue as well as increased costs for participants for whom program fees are waived. For context, the evaluation fee is \$150 per person and the alcohol education component program fee is \$400.

The bill will also necessitate state and local law enforcement agencies to update their policies and training curriculums, but this is not anticipated to result in a fiscal impact.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of offenses.



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**OLR Bill Analysis****sSB 1082*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF TRANSPORTATION REGARDING A REDUCTION IN BLOOD ALCOHOL LIMITS FOR IMPAIRED DRIVING AND BOATING.*****SUMMARY**

This bill lowers the general blood alcohol content (BAC) per se limit for impaired driving and boating from 0.08% to 0.05%. By law, people who drive a motor vehicle or operate a boat while their BAC exceeds the per se limit are considered to be driving or boating with an “elevated BAC,” which is illegal in and of itself, regardless of a person’s impairment. The limit applies to both (1) criminal driving under the influence (DUI) and impaired boating statutes and (2) administrative license suspension for DUI (referred to as “administrative per se”) and impaired boating.

By law, the general per se limit applies in most cases, but a lower limit applies to people who are (1) driving a commercial vehicle (0.04%) or (2) driving or operating a boat under age 21. The limits apply to people operating (1) motor vehicles anywhere, including their own property; (2) snowmobiles and all-terrain vehicles; and (3) boating vessels that are underway or aground and are not moored, anchored, or docked.

The bill also makes numerous technical and conforming changes, such as updating BAC references in the insurance statutes.

EFFECTIVE DATE: January 2, 2024

**BACKGROUND*****BAC Testing and Administrative License Suspension***

The DUI law prohibits driving a motor vehicle (1) while under the

influence of alcohol or drugs (or both) or (2) with an elevated BAC. A police officer may measure a driver's BAC by testing the driver's blood, breath, or urine. Anyone who drives implicitly consents to this testing. Parents or guardians are also considered to have given their consent if the driver is a minor. When arresting someone for DUI and before administering the test, the police officer must give the driver a chance to call a lawyer and inform the driver:

1. of his or her constitutional rights,
2. that his or her license will be suspended if they refuse to take the test or if the test results indicate an elevated BAC, and
3. that evidence of a refusal may be used against him or her in a criminal prosecution.

The law requires an administrative license suspension process for drivers suspected of impairment who refuse to submit to the test or whose test results indicate an elevated BAC. This process runs parallel to the criminal process for DUI charges. People who are found, after a DMV hearing, to have driven with an elevated BAC face a 45-day license suspension followed by a period of mandatory ignition interlock device use (CGS § 14-227b(c)).

The law establishes a largely parallel process for the Department of Energy and Environmental Protection to test a boater's BAC and impose administrative sanctions on boaters who operate vessels with an elevated BAC or who refuse to submit to BAC testing (CGS § 15-140q).

### **COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute

Yea 21 Nay 15 (03/10/2023)