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## OLR Bill Analysis

### sSB 423

#### ***AN ACT IMPROVING HIGHWAY SAFETY BY PROHIBITING DRIVING WHILE ABILITY IMPAIRED AND STUDYING METHODS TO DETECT CANNABIS-IMPAIRED DRIVING.***

#### **SUMMARY**

This bill prohibits driving with a blood alcohol content (BAC) of at least 0.05% but less than 0.08% (i.e., driving while ability impaired (DWAI)). Under the bill, DWAI is a noncriminal offense, subject to fines and license suspension penalties. By law, and unchanged by the bill, people who drive with a BAC of 0.08% or higher are considered to be driving under the influence (DUI) and face criminal penalties and a period of license suspension, followed by a period of mandatory ignition interlock device use. The bill prohibits reducing a DUI charge to the lesser DWAI offense.

The bill specifies procedures that police officers must follow upon issuing a citation for DWAI, which include immediately suspending a violator's driver's license for 24 hours.

Under the bill, DWAI is punishable by a 45-day driver's license suspension and a fine of (1) \$100 to \$200 for a first offense or (2) \$300-\$500 for a subsequent offense. Drivers who commit a DWAI violation must also complete an intoxicated operator's retraining program, which DMV must establish under the bill.

The bill also requires the Department of Transportation (DOT) and Department of Emergency Services and Public Protection (DESPP) to jointly report annually to the Transportation and Public Safety committees on drug recognition experts (DREs) and cannabis impairment testing.

EFFECTIVE DATE: October 1, 2024, except the (1) annual report

provision is effective upon passage and (2) retraining program is effective July 1, 2024.

## **24-HOUR SUSPENSION AND POLICE PROCEDURES**

After issuing a DWAI citation, the bill requires a police officer, acting on the DMV commissioner's behalf, to immediately take the violator's driver's license or suspend his or her operating privilege. The police officer may have the vehicle the person was driving removed (e.g., towed).

To get his or her license back after the 24-hour suspension, the bill requires the violator to go to the police department, state police barracks, or another location the police officer selects and sign a written acknowledgment that his or her license was returned. It specifies that he or she does not have to pay a license restoration fee.

The bill requires police officers to write a report of the violation and the 24-hour suspension action and file or transmit the report to DMV. DMV must determine the report's form, the information it must include, and when and how police officers must send it to DMV. After receiving a report, DMV must notify the violator that their license will be suspended for 45 days and give him or her an opportunity to request a hearing.

## **RETRAINING PROGRAM**

Under the bill, DMV must require DWAI violators to attend an intoxicated operators retraining program that is taught by DMV or a DMV-approved organization and covers the content the bill requires (see below). The bill sets a fee for the program at up to \$85.

The bill requires DMV to send a written notice informing the violator that he or she must complete the program within 60 days after the notice date. If the violator does not attend or complete the program within that timeframe, the DMV commissioner may suspend the violator's driver's license until he or she does so. The commissioner must give notice of this suspension and offer an opportunity for a hearing, but the hearing is limited to claims that it is impossible for the driver to attend the

program or that there was a mistake or misidentification.

The bill allows DMV to adopt regulations to implement the retraining program.

***Program Content and Format***

Under the bill, the retraining program must:

1. review driving principles and safe driving practices, including the biological, medical, and psychological effects of alcohol and drugs and their impact on drivers;
2. emphasize the dangers of driving after drinking alcohol or using drugs, including the problems of drug and alcohol abuse;
3. discuss penalties for alcohol- and drug-related motor vehicle violations; and
4. emphasize the need to practice safe driving.

The program may be offered in-person in a congregate setting, through distance learning, or both. If any portion of the program is conducted through distance learning, it must include interactive components, such as mandatory interactions, participation, or testing.

***Program Providers***

The bill allows the retraining program to be offered by DMV or by any other organization DMV certifies and it requires that DMV determine how many providers are necessary to serve the public. The bill specifies that state-licensed driving schools may apply to provide the program.

Under the bill, organizations and driving schools seeking certification or recertification to offer the program must apply to DMV, in the way the commissioner determines, and pay a \$350 application fee. Applicants must:

1. be registered to do business in Connecticut and in good standing with the secretary of the state;

2. file and maintain a \$50,000 surety bond, conditioned on compliance with applicable laws and provided as indemnity for losses or expenses the state or a person sustains due to the provider's actions or omissions;
3. have a permanent place of business in Connecticut where its program records will be stored and accessible to DMV during normal business hours;
4. submit a detailed program curriculum and lesson plans to DMV for approval, as well as any changes to them; and
5. electronically send information to DMV on enrollment and class completion, in the way the commissioner determines.

Before certifying an applicant, DMV must investigate the applicant's character, driving history, and criminal history (or the applicant's principals and officers, if the applicant is a business entity). The applicant must submit any information on past criminal or civil actions.

Under the bill, a provider's certification is not transferable and is valid for two years. The commissioner has discretion to recertify a provider.

### **ANNUAL REPORT**

Under the bill, DOT and DESPP must annually submit a report, starting by January 1, 2025, to the Public Safety and Security and Transportation committees. At a minimum, the report must include the following information:

1. the current number of police officers accredited as drug recognition experts in the state;
2. improvements or technological advancements related to roadside screening for detecting cannabis impaired drivers, including oral fluid testing; and
3. recommendations to (a) increase police officers' access to drug recognition expert training and (b) implement any tests,

strategies, or procedures to reliably and validly identify instances of impaired driving from cannabis use.

## **BACKGROUND**

### ***Related Bill***

sSB 424, favorably reported by the Transportation Committee, (1) lowers the general BAC per se limit for criminal DUI from 0.08% to 0.05% and (2) establishes an identical reporting requirement for DOT and DESPP.

## **COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute

Yea 24 Nay 12 (03/18/2024)