



General Assembly

January Session, 2019

Raised Bill No. 1054

LCO No. 5517



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING DRIVING WHILE INTOXICATED.

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

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) A person is guilty of
2 smoking or otherwise inhaling or ingesting a cannabis-type substance
3 while operating a motor vehicle when such person smokes, otherwise
4 inhales or ingests a cannabis-type substance while operating a motor
5 vehicle upon a public highway of this state or upon any road of any
6 specially chartered municipal association or of any district organized
7 under the provisions of chapter 105 of the general statutes, a purpose
8 of which is the construction and maintenance of roads and sidewalks,
9 or in any parking area for ten cars or more, or upon any private road
10 on which a speed limit has been established in accordance with the
11 provisions of section 14-218a of the general statutes or upon any school
12 property. For purposes of this section, "cannabis-type substance"
13 means any of the substances described as "cannabis-type substances"
14 in section 21a-240 of the general statutes.

15 (b) Smoking or otherwise inhaling or ingesting a cannabis-type
16 substance while operating a motor vehicle is a class C misdemeanor.

17 Sec. 2. (NEW) (*Effective October 1, 2019*) (a) A person is guilty of
18 smoking a cannabis-type substance in a motor vehicle as a passenger
19 when such person smokes a cannabis-type substance in a motor
20 vehicle that is being operated by another person upon a public
21 highway of this state or upon any road of any specially chartered
22 municipal association or of any district organized under the provisions
23 of chapter 105 of the general statutes, a purpose of which is the
24 construction and maintenance of roads and sidewalks, or in any
25 parking area for ten cars or more, or upon any private road on which a
26 speed limit has been established in accordance with the provisions of
27 section 14-218a of the general statutes or upon any school property.
28 For purposes of this section, "cannabis-type substance" means any of
29 the substances described as "cannabis-type substances" in section 21a-
30 240 of the general statutes.

31 (b) Smoking a cannabis-type substance in a motor vehicle as a
32 passenger is a class C misdemeanor.

33 Sec. 3. Subsection (d) of section 14-227a of the general statutes is
34 repealed and the following is substituted in lieu thereof (*Effective*
35 *October 1, 2019*):

36 (d) The Commissioner of Emergency Services and Public Protection
37 shall ascertain the reliability of each method and type of device offered
38 for chemical testing and analysis purposes of blood, of breath and of
39 urine and certify those methods and types which said commissioner
40 finds suitable for use in testing and analysis of blood, breath and urine,
41 respectively, in this state. The Commissioner of Emergency Services
42 and Public Protection shall adopt regulations, in accordance with
43 chapter 54, governing the conduct of chemical tests, the operation and
44 use of chemical test devices, the training and certification of operators
45 of such devices and the drawing or obtaining of blood, breath or urine
46 samples as said commissioner finds necessary to protect the health and
47 safety of persons who submit to chemical tests and to insure
48 reasonable accuracy in testing results. Such regulations shall not
49 require recertification of a police officer solely because such officer

50 terminates such officer's employment with the law enforcement
51 agency for which certification was originally issued and commences
52 employment with another such agency. A person qualified to
53 withdraw blood or any hospital, laboratory or clinic employing or
54 utilizing the services of such a person shall not incur any civil liability
55 as a result of such activities if requested by a law enforcement officer
56 acting in accordance with this section or section 14-227c, as amended
57 by this act, to withdraw blood unless an action of the person while
58 performing such activities constitutes gross negligence.

59 Sec. 4. Section 14-227c of the general statutes is repealed and the
60 following is substituted in lieu thereof (*Effective October 1, 2019*):

61 (a) As part of the investigation of any motor vehicle accident
62 resulting in the death of a person, the Chief Medical Examiner, Deputy
63 Chief Medical Examiner, an associate medical examiner, a pathologist
64 as specified in section 19a-405, or an authorized assistant medical
65 examiner, as the case may be, shall order that a blood sample be taken
66 from the body of any operator or pedestrian who dies as a result of
67 such accident. Such blood samples shall be examined for the presence
68 and concentration of alcohol and any drug by the Division of Scientific
69 Services within the Department of Emergency Services and Public
70 Protection or by the Office of the Chief Medical Examiner. Nothing in
71 this subsection or section 19a-406 shall be construed as requiring such
72 medical examiner to perform an autopsy in connection with obtaining
73 such blood samples.

74 (b) A blood, [or] breath or urine sample shall be obtained from any
75 surviving operator whose motor vehicle is involved in an accident
76 resulting in the serious physical injury, as defined in section 53a-3, or
77 death of another person, if (1) a police officer has probable cause to
78 believe that such operator operated such motor vehicle while under
79 the influence of intoxicating liquor or any drug, or both, or (2) such
80 operator has been charged with a motor vehicle violation in connection
81 with such accident and a police officer has a reasonable and articulable
82 suspicion that such operator operated such motor vehicle while under

83 the influence of intoxicating liquor or any drug, or both. The test shall
84 be performed by or at the direction of a police officer according to
85 methods and with equipment approved by the Department of
86 Emergency Services and Public Protection and shall be performed by a
87 person certified or recertified for such purpose by said department or
88 recertified by persons certified as instructors by the Commissioner of
89 Emergency Services and Public Protection. The equipment used for
90 such test shall be checked for accuracy by a person certified by the
91 Department of Emergency Services and Public Protection immediately
92 before and after such test is performed. If a blood test is performed, it
93 shall be on a blood sample taken by a person licensed to practice
94 medicine and surgery in this state, a qualified laboratory technician, a
95 registered nurse, a physician assistant or a phlebotomist. [The blood
96 samples] Any blood sample obtained from an operator pursuant to
97 this subsection shall be examined for the presence and concentration of
98 alcohol and any drug by the Division of Scientific Services within the
99 Department of Emergency Services and Public Protection.

100 (c) Any police officer who obtains from a surviving operator any
101 blood, breath or urine sample pursuant to subsection (b) of this section
102 shall submit to the Commissioner of Motor Vehicles a written report
103 providing the results of such sample on a form approved by the
104 commissioner. If any such sample indicates an elevated blood alcohol
105 content, as defined in subsection (n) of section 14-227b, the
106 commissioner may, after notice and an opportunity for a hearing held
107 in accordance with chapter 54 and section 14-227b, suspend the motor
108 vehicle operator's license or nonresident operating privilege of such
109 person and require such person to install and maintain an ignition
110 interlock device as provided for in subsection (i) of section 14-227b.
111 Such hearing shall be limited to a determination of the following
112 issues: (1) Was the person operating the motor vehicle; (2) was the
113 person's sample obtained in accordance with the provisions of
114 subsection (b) of this section; and (3) was there an elevated blood
115 alcohol content.

116 (d) A person qualified to withdraw blood or any hospital,

117 laboratory or clinic employing or utilizing the services of such a person
118 shall not incur any civil liability as a result of such activities if
119 requested by a law enforcement officer acting in accordance with this
120 section to withdraw blood unless an action of the person while
121 performing such activities constitutes gross negligence.

122 Sec. 5. Subsection (l) of section 46b-124 of the general statutes is
123 repealed and the following is substituted in lieu thereof (*Effective*
124 *October 1, 2019*):

125 (l) Records of cases of juvenile matters involving delinquency
126 proceedings, or any part thereof, containing information that a child
127 has been adjudicated as delinquent for a violation of section 1 of this
128 act, subdivision (e) of section 1-1h, subsection (c) of section 14-147,
129 subsection (a) of section 14-215, section 14-222, subsection (b) of section
130 14-223, subsection (a), (b) or (c) of section 14-224, section 14-227a, as
131 amended by this act, section 14-227g, section 14-227m, section 14-227n,
132 subsection (d) of section 21a-267, section 21a-279a, section 30-88a, [or]
133 subsection (b) of section 30-89 [,] or section 53a-213, shall be disclosed
134 to the Department of Motor Vehicles for administrative use in
135 determining whether administrative sanctions regarding such child's
136 motor vehicle operator's license are warranted. Records disclosed
137 pursuant to this subsection shall not be further disclosed.

138 Sec. 6. Subdivision (1) of subsection (a) of section 54-56g of the
139 general statutes is repealed and the following is substituted in lieu
140 thereof (*Effective October 1, 2019*):

141 (a) (1) There shall be a pretrial alcohol education program for
142 persons charged with a violation of section 14-227a, 14-227g or 14-
143 227m, subdivision (1) or (2) of subsection (a) of section 14-227n or
144 section 15-133 or 15-140n. Upon application by any such person for
145 participation in such program and payment to the court of an
146 application fee of one hundred dollars and a nonrefundable evaluation
147 fee of one hundred dollars, the court shall, but only as to the public,
148 order the court file sealed, provided such person states under oath, in

149 open court or before any person designated by the clerk and duly
 150 authorized to administer oaths, under penalties of perjury that: (A) If
 151 such person is charged with a violation of section 14-227a, as amended
 152 by this act, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a)
 153 of section 14-227n, subsection (d) of section 15-133 or section 15-140n,
 154 such [person has not had such program invoked in such person's
 155 behalf within the preceding ten years] violation is not alleged to have
 156 occurred during the ten-year period immediately following the day on
 157 which such person was last granted entry into the program for a
 158 violation of section 14-227a, as amended by this act, 14-227g or 14-
 159 227m, subdivision (1) or (2) of subsection (a) of section 14-227n,
 160 subsection (d) of section 15-133 or section 15-140n, (B) such person has
 161 not been convicted of a violation of section 53a-56b or 53a-60d, a
 162 violation of subsection (a) of section 14-227a before, on or after October
 163 1, 1981, a violation of subdivision (1) or (2) of subsection (a) of section
 164 14-227a on or after October 1, 1985, a violation of section 14-227g, a
 165 violation of section 14-227m or a violation of subdivision (1) or (2) of
 166 subsection (a) of section 14-227n, (C) such person has not been
 167 convicted of a violation of section 15-132a, subsection (d) of section 15-
 168 133, section 15-140l or section 15-140n, (D) such person has not been
 169 convicted in any other state at any time of an offense the essential
 170 elements of which are substantially the same as section 53a-56b, 53a-
 171 60d, 15-132a, 15-140l or 15-140n, subdivision (1) or (2) of subsection (a)
 172 of section 14-227a, section 14-227m, subdivision (1) or (2) of subsection
 173 (a) of section 14-227n or subsection (d) of section 15-133, and (E) notice
 174 has been given by such person, by registered or certified mail on a
 175 form prescribed by the Office of the Chief Court Administrator, to each
 176 victim who sustained a serious physical injury, as defined in section
 177 53a-3, which was caused by such person's alleged violation, that such
 178 person has applied to participate in the pretrial alcohol education
 179 program and that such victim has an opportunity to be heard by the
 180 court on the application.

181 Sec. 7. Subsection (h) of section 54-56g of the general statutes is
 182 repealed and the following is substituted in lieu thereof (*Effective*

183 *October 1, 2019*):

184 (h) The provisions of this section shall not be applicable in the case
 185 of any person charged with a violation of section 1 of this act or section
 186 14-227a, as amended by this act, 14-227g or 14-227m, [or] subdivision
 187 (1) or (2) of subsection (a) of section 14-227n or section 53a-213 (1)
 188 while operating a commercial motor vehicle, as defined in section 14-1,
 189 or (2) who holds a commercial driver's license or commercial driver's
 190 instruction permit at the time of the violation.

191 Sec. 8. Subsection (b) of section 54-56p of the general statutes is
 192 repealed and the following is substituted in lieu thereof (*Effective*
 193 *October 1, 2019*):

194 (b) This section shall not be applicable to any person (1) who, at the
 195 time of the motor vehicle violation, holds a commercial driver's license
 196 or commercial driver's instruction permit or is operating a commercial
 197 motor vehicle, as defined in section 14-1, or (2) charged with a motor
 198 vehicle violation causing serious injury or death, a motor vehicle
 199 violation classified as a felony unless good cause is shown, or a
 200 violation of section 1 of this act or section 14-227a, as amended by this
 201 act, 14-227g, [or] 14-227m, 14-227n, 14-296aa or 53a-213.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>October 1, 2019</i>	New section
Sec. 3	<i>October 1, 2019</i>	14-227a(d)
Sec. 4	<i>October 1, 2019</i>	14-227c
Sec. 5	<i>October 1, 2019</i>	46b-124(l)
Sec. 6	<i>October 1, 2019</i>	54-56g(a)(1)
Sec. 7	<i>October 1, 2019</i>	54-56g(h)
Sec. 8	<i>October 1, 2019</i>	54-56p(b)

Statement of Purpose:

To (1) establish the offenses of smoking or otherwise inhaling or ingesting a cannabis-type substance while operating a motor vehicle

and smoking a cannabis-type substance as a passenger in a motor vehicle as class C misdemeanors, (2) provide immunity to certain persons withdrawing blood for a blood alcohol test, (3) provide that the Commissioner of Motor Vehicles may suspend driving privileges of and require the use of an ignition interlock device by a surviving operator of a motor vehicle who has an elevated blood alcohol content based on a blood, breath or urine sample of such operator involved in an accident resulting in the serious physical injury or death of a person, and (4) clarify and improve the effectiveness of the statutes prohibiting the operation of a motor vehicle under the influence of alcohol or drugs.

[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.]