



Senate

General Assembly

File No. 267

February Session, 2024

Substitute Senate Bill No. 423

Senate, April 4, 2024

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

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

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) No person shall operate
2 a motor vehicle while ability impaired. A person commits the offense of
3 operating a motor vehicle while ability impaired if such person operates
4 a motor vehicle while having a ratio of alcohol in the blood of such
5 person that is five-hundredths of one per cent or more of alcohol, by
6 weight, but less than eight-hundredths of one per cent of alcohol, by
7 weight.

8 (b) If a police officer issues a citation to any person for a violation of
9 the provisions of subsection (a) of this section, the police officer, acting
10 on behalf of the Commissioner of Motor Vehicles, shall immediately
11 revoke and take possession of the motor vehicle operator's license or, if
12 such person is not licensed or is a nonresident, suspend the operating
13 privilege of such person, for a twenty-four-hour period. The police

14 officer may cause the motor vehicle such person was operating at the
15 time of the violation to be removed. In order to regain possession of such
16 person's operator's license, after such twenty-four-hour period, such
17 person shall appear in person at the police department, state police
18 barracks or other location designated by the police officer, and sign a
19 written acknowledgment of the return of such license. Notwithstanding
20 the provisions of section 14-50b of the general statutes, no restoration
21 fee shall be required to be paid to the commissioner, but the police
22 officer shall make a written report of the violation and the suspension
23 action, in such form and containing such information as the
24 commissioner may prescribe, and shall file or transmit such report to
25 the commissioner in such time and manner as the commissioner shall
26 prescribe.

27 (c) Any person who violates the provisions of subsection (a) of this
28 section shall be fined not less than one hundred dollars, but not more
29 than two hundred dollars, for a first violation and not less than three
30 hundred dollars, but not more than five hundred dollars, for a second
31 or subsequent violation. Upon receipt of a report submitted under
32 subsection (b) of this section, the Commissioner of Motor Vehicles shall
33 suspend, after notice and an opportunity for a hearing, the operator's
34 license or operating privilege of such person for a period of forty-five
35 days.

36 Sec. 2. (NEW) (*Effective July 1, 2024*) (a) The Commissioner of Motor
37 Vehicles shall require any motor vehicle operator who violates the
38 provisions of subsection (a) of section 1 of this act to attend an
39 intoxicated operator's retraining program. The commissioner shall send
40 a notice to such operator, in writing, informing the operator of such
41 requirement and requiring the operator to successfully complete such
42 retraining program not later than sixty days from the date of such notice.
43 A fee of not more than eighty-five dollars shall be charged for such
44 retraining program. The commissioner, after notice and an opportunity
45 for a hearing, may suspend the motor vehicle operator's license of any
46 such operator who fails to attend or successfully complete such
47 retraining program until the operator successfully completes such

48 retraining program. Any such hearing shall be limited to any claim of
49 impossibility of the operator to attend such retraining program or to a
50 determination of mistake or misidentification.

51 (b) The intoxicated operator's retraining program shall be taught by
52 a designee of the Commissioner of Motor Vehicles or by an instructor
53 approved by the commissioner and shall (1) review principles of motor
54 vehicle operation relative to safe driving practices, including the nature
55 and the medical, biological and physiological effects of alcohol and
56 drugs and their impact on the operator of a motor vehicle, (2) emphasize
57 the dangers associated with the operation of a motor vehicle after the
58 consumption of alcohol or drugs by the operator, including the
59 problems of alcohol and drug abuse, (3) discuss the penalties for alcohol
60 and drug-related motor vehicle violations, and (4) emphasize the need
61 to practice safe driving behaviors. The intoxicated operator's retraining
62 program shall be offered by the Department of Motor Vehicles or by any
63 other organization certified by the commissioner to conduct such
64 program in person in a congregate setting, through distance learning or
65 through a combination of both in-person and distance learning,
66 provided such distance learning has interactive components such as
67 mandatory interactions, participation or testing. Any drivers' school, as
68 defined in section 14-68 of the general statutes, that meets the licensure
69 requirements of part IV of chapter 246 of the general statutes shall be
70 eligible to seek certification to offer the intoxicated operator's retraining
71 program. The commissioner shall determine the number of program
72 providers necessary to serve the needs of the public.

73 (c) Each organization or drivers' school seeking certification or
74 recertification to conduct the intoxicated operator's retraining program
75 shall submit an application to the Department of Motor Vehicles in such
76 form as the commissioner shall require and an application fee of three
77 hundred fifty dollars. Each such applicant shall:

78 (1) Be registered to do business in this state and continuously
79 maintain good standing with the office of the Secretary of the State;

80 (2) File and continuously maintain a surety bond in the amount of

81 fifty thousand dollars. Such bond shall be conditioned upon compliance
82 with the provisions of any state or federal law or regulation concerning
83 the conduct of an intoxicated operator's retraining program and
84 provided as indemnity for any loss or expense sustained by either the
85 state or any person by reason of any acts or omissions of the program
86 provider. Such bond shall be executed in the name of the state of
87 Connecticut for the benefit of any aggrieved party, but the penalty of
88 the bond shall not be invoked except upon order of the commissioner
89 after a hearing held before the commissioner in accordance with the
90 provisions of chapter 54 of the general statutes;

91 (3) Have a permanent place of business in this state where all
92 intoxicated operator's retraining program records shall be maintained
93 and accessible to the commissioner during normal business hours;

94 (4) Submit for approval by the commissioner a detailed curriculum
95 and lesson plan, including any changes to such curriculum and lesson
96 plan, which shall be used in each intoxicated operator's retraining class;
97 and

98 (5) Electronically transmit information concerning enrollment and
99 class completion to the commissioner at such times and in such form as
100 prescribed by the commissioner.

101 (d) Prior to the certification of an applicant, the commissioner shall
102 investigate the applicant's character, driving history and criminal
103 history. If the applicant is a business entity, such investigation shall
104 include the principals and officers of such entity. The applicant shall
105 submit to the commissioner any information pertaining to current or
106 past criminal or civil actions. The certification of a program provider by
107 the commissioner shall not be transferable and shall be valid for a two-
108 year period. Recertification of a provider shall be at the discretion of the
109 commissioner and in such form and manner as determined by the
110 commissioner.

111 (e) The commissioner may adopt regulations, in accordance with the
112 provisions of chapter 54 of the general statutes, to implement the

113 provisions of this section.

114 Sec. 3. Subsection (f) of section 14-227a of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective October*
116 *1, 2024*):

117 (f) [If] (1) Except as provided in subdivision (2) of this subsection, if a
118 person is charged with a violation of the provisions of subsection (a) of
119 this section, the charge may not be reduced, nolle or dismissed unless
120 the prosecuting authority states in open court such prosecutor's reasons
121 for the reduction, nolle or dismissal.

122 (2) If a person is charged with a violation of the provisions of
123 subsection (a) of this section, the charge may not be reduced to the lesser
124 offense of operating a motor vehicle while ability impaired in violation
125 of section 1 of this act.

126 Sec. 4. (NEW) (*Effective from passage*) (a) As used in this section, "drug
127 recognition expert" has the same meaning as provided in section 7-
128 294kk of the general statutes and "cannabis" has the same meaning as
129 provided in section 21a-420 of the general statutes.

130 (b) Not later than January 1, 2025, and annually thereafter, the
131 Commissioners of Emergency Services and Public Protection and
132 Transportation shall jointly submit a report, in accordance with the
133 provisions of section 11-4a of the general statutes, to the joint standing
134 committee of the General Assembly having cognizance of matters
135 relating to public safety and security and transportation. Such report
136 shall, at a minimum: (1) note the current number of police officers
137 accredited as drug recognition experts in the state, (2) make
138 recommendations for increasing access to drug recognition expert
139 training for police officers, (3) identify any improvements or
140 technological advancements with regard to roadside screening tests
141 used to detect instances of impaired driving from the use of cannabis,
142 including the use of oral fluid drug testing, and (4) make
143 recommendations for implementing any such tests or other strategies
144 and procedures to reliably and validly detect instances of impaired

145 driving from the use of cannabis.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>July 1, 2024</i>	New section
Sec. 3	<i>October 1, 2024</i>	14-227a(f)
Sec. 4	<i>from passage</i>	New section

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 25 \$	FY 26 \$
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal
Motor Vehicle Dept.	TF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact: None

Explanation

Section 1 creates a new violation for driving while ability-impaired (DWAI) which results in a potential minimal revenue gain from fines.

Section 2 requires that any person with a DWAI violation attend an operator retraining program offered by the Department of Motor Vehicles (DMV) or a DMV-certified organization. As under current law, the individual must pay a fee of not more than \$85 to attend such program. This is not expected to result in a fiscal impact to the state because, as under current practice, it is expected that the fee would be paid directly to the vendor to cover the vendor's costs.

Section 2 also provides a process for new organizations to become certified to conduct the operator retraining program. To the extent that new organizations seek this certification from DMV, this section results in minimal revenue gain from application fees.

Section 4 requires the Commissioners of Emergency Services and Public Protection and Transportation to report annually on issues

related to drug recognition experts and roadside cannabis testing efforts, which does not result in a fiscal impact because this is within the expertise of both departments.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the amount of fines collected from violations or as otherwise described.

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)