

Legislative History for Connecticut Act

HB 6420	PA 534	1983
House 6671-6866, 6906-6917, 8777-8783		214
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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Tuesday, May 31, 1983

Calendar.

SPEAKER STOLBERG:

SPEAKER: Is there objection? Is there objection? Seeing no objection, the item is passed retained.

CLERK:

Calendar Page 13, Calendar No. 655, File 813, Substitute for House No. 6321, AN ACT CONCERNING THE PROCESSING OF CHILDREN ARRESTED FOR SERIOUS JUVENILE OFFENSES. Favorable Report of the Committee on Judiciary.

REP. GROppo: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROppo: (63rd)

May this be passed temporarily, please, they're waiting for an amendment.

SPEAKER STOLBERG:

The motion is to pass temporarily. Is there objection? Is there objection? Hearing no objection, the item is passed temporarily.

CLERK:

Calendar No. 662, File 809, Substitute for House Bill No. 6420, AN ACT CONCERNING THE PENALTIES FOR DRUNK DRIVING. Favorable Report of the Committee on Judiciary.

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REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. The Clerk has an amendment, LCO 7070.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7070. Will the Clerk please call.

CLERK:

LCO No. 7070, designated House Amendment Schedule "A", offered by Rep. Shays of the 147th District et al.

SPEAKER STOLBERG:

Is there objection to summarization? Is there objection? I'm glad there's no objection. Rep. Tulisano, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, the amendment before us is a total

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revision of the file copy, which I think we all knew had to be done at some point in time, the file copy itself being I think an unenforceable attempt at addressing the drunk driving problem.

The amendment before us, which I think everybody may or may not have a copy of, is a result of after our meeting Thursday with regard to attempting to address some issues, this is a new amendment. Those who have not seen it since Thursday, it came out Friday night.

Before continuing, may I move for its adoption, Mr. Speaker.

Well, Mr. Speaker, let me just continue on some other items that are in this proposal and what will be occurring. Basically, some of the changes that were made on Friday evening address some of the questions that were raised by some members of the General Assembly during Thursday's debate over the proposal.

It does not address all of those, however, it comes a long way to narrowing the differences between members of this General Assembly. It does establish a new provision of driving while impaired, which is now an infraction rather than a misdemeanor as in the original draft amendment that you saw.

It does make some other changes, and let me say

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it does extend the implied consent bill from 3 months to 6 months. There are a number of items concerning penalties in here.

In some issues, the penalties are less than some existing law. In other areas the penalties are extended. For the Assembly's edification, I have moved for its adoption because we have narrowed the issues. I will hereafter personally be offering a number of amendments and hoping to clarify and fine tune this particular proposal that is before you.

With that, Mr. Speaker, I will move for its adoption.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Mr. Speaker, I think I indicated that I thought that basically the substitute before us now narrows the issues, and I subsequently will be introducing other amendments which I think, I hope, that the General Assembly will pay attention to individually in hopes of making this proposal a better and more effective piece of legislation. And I would now like to yield to Rep. Shays.

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SPEAKER STOLBERG:

Rep. Shays, do you accept the yield.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Mr. Speaker, I would first like to thank Rep. Tulisano for all the courtesy that he's extended us during the past few weeks.

This has not been an easy matter, and it's been debated left and right, and it is true this amendment has many people's fingers on it. It has the fingers of the sub-committee on Judiciary, it has the fingers of the Judiciary Committee itself, and a group of legislators who have been meeting, who are not members of the Judiciary Committee.

It also has responded to criticisms made by some of the lawyers in this General Assembly about this proposal. I would just like to briefly and for the record and for your edification outline very precisely the changes that are in this bill that are not part of our present law.

What it does to our present law is modify it, change it, hopefully improve it and strengthen it. It rejects the grid system as has already been pointed out that's in your file copy. But it makes the penalties much stiffer.

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And you can see on the summary that all of you have been presented with and if you note the last summary it says please note, includes some modifications made since Thursday. Those modifications were penned out, and those are the changes that were made from Friday to the present day.

So in case you saw it on Thursday, you then only have to see what the changes were that were crossed out. It changes the penalties. It establishes a new offense called impairment. If someone's blood alcohol content is between .07 and below .10, that is an offense, an infraction.

It establishes what the bill did, we left it in the file copy, 16 and 17 year olds who are convicted of drunk driving will lose their license until age 18. They have to be convicted of drunk driving, and that's important to point out, because if they go through the pre-trial alcohol education program, they really have two stabs before they actually lose their license.

It has a statement regarding plea bargaining that was worked out with Austin McGuigan's office that is acceptable to him and also acceptable to those who want to restrict the plea bargaining that exists. That plea bargaining statement is found on lines 136-139. It says

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that the police can choose the test that they want, but it gives the individual who is accused the right to a second test.

The police can choose the test is on line 234-236. It provides that if there is a refusal to take the test that the refusal to take the test is admissible in court. That's on lines 132 to 135. We keep the bill, what's in the file copy, and say that the Motor Vehicle Department can suspend a suspension.

We have a situation where we have a suspension of a year and the Motor Vehicle Department comes in and reduces the suspension to half a year. Or if you have a two-year suspension, they sometimes reduce it to a year.

And just let me outline a few more changes. It increases the penalties for driving under suspension. There's a separate category. This was done by the sub-committee of the Judiciary that establishes that if you drive while your license is under suspension for alcohol related suspensions that you face a stiffer penalty.

It provides that once there is a decision of guilt, if there is a decision of guilt, that the court can immediately suspend the individual's license, but

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provides that if there's an appeal, that the individual doesn't lose his license until that's resolved.

It eliminates the pilot program which was also part of the file copy, the pilot program which allowed an officer to have an individual who was at .13 and just give him a warning and let him off, it doesn't allow that to happen any more.

It also has an element in the bill that says that accelerated rehabilitation is not available to those who are accused of committing manslaughter in the second degree, that's killing someone with an automobile while intoxicated, or assault in the second degree, which is maiming someone while you're intoxicated.

Those two offenses can no longer be provided accelerated rehabilitation. Accelerated rehabilitation basically skips the whole court system and over a period of a year or so, the individual has no record. It's as if he never committed the offense. You cannot have manslaughter or assault, both in the second degrees, be a part of accelerated rehabilitation.

It provides that chemical tests can be hand-delivered to an individual. We have a computer read-out that an officer can take in the office and just hand the individual the computer read-out, so there's no reason

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to have requirements that it be sent.

View: It says that a first test will not be excluded if the second test is not done in a timely fashion. This is one of the key elements to this bill and probably will have some debate on this today. It establishes that if you refuse to take the test, you lose your license for 6 months. It presently is 90 days.

And the bill has, if you are a second time refusal you lose your license for a year. Or if you're a first time refusal, but you have a prior DWI conviction and you come back and refuse to take a test, then you get a year's loss of license.

It also provides that the arresting officer doesn't have to be the individual who tells the individual who's being arrested of his particular rights. It can be another officer who is at the scene.

And finally, basically, those are the changes. I'm hopeful that during this debate, we won't drag on into trying to document one way or the other how difficult the drunk driving problem we have until we fully understand this amendment and the other amendments that are being offered.

But I would like to point out to you a few statistics. One of the statistics that I would like to

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point out to you is the fact that during the entire Viet Nam War, during 11 years, we lost 56,000 Americans.

During 1 year we lose about 25,000 Americans through drunk driving. During the course of 11 years, that's a total of 275,000 people we lost because of drunk drivers, and in that same period in Viet Nam we lost 56,000 due to the war.

In the State of Connecticut we lose 225 people a year. It would be the equivalent of having a DC-10 crash with almost a full complement of passengers.

Mr. Speaker, I too urge the House to adopt this amendment and tell you that a tremendous amount of work has gone into this by so many different people from both sides of the aisle, and it clearly has input by even those who do not want to see the extent that we've gone in drunk driving.

Some of this has been modified to take in legitimate criticisms raised by those who do not want to see this amendment pass, and I hope it will be adopted unanimously.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "A"?

REP. TULISANO:

Mr. Speaker.

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REP. TULISANO: (29th)

Mr. Speaker, I wanted to once again just make it clear that I would urge everyone to adopt this amendment as is at this point in time. There will be some of the things that Rep. Shays just raised points about which he thought would be debated, which ability to debate those on amendment by amendment basis, some of which I think Rep. Shays and others will agree on and some we will have to debate.

But I think we can get to that very quickly if we adopt this amendment at this point in time.

SPEAKER STOLBERG:

Will you remark further on this amendment which really is the matrix for the rest of the debate on the bill?

REP. MIGLIARO: (80th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Migliaro.

REP. MIGLIARO: (80th)

Thank you, Mr. Speaker. I rise in support of the amendment. I think the amendment is the bill. I think I can speak from experience over the years. I used to be a wrecker operator in my business along with my father,

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and we used to handle all the city towing in the greater Waterbury area.

Over the years, I used to keep a volume of pictures of what we used to dub killer cars. I had accumulated over the years of my experience as wrecker operator 215 pictures of vehicles, and of those 215 pictures, there were approximately 50 killers, what we called killers.

And those 50 cars, better than 90% were attributed to drinking while driving. I think what you have to do is actually witness an accident and go to the scene and be the individual that has to pull a door apart or pry back a seat or pull an individual out of that car to know what it means to see a young individual dead or maimed because of drinking and driving.

I've seen it, and I've had a lot of experience with it, and the one that sticks in my mind over the years was an accident that happened in Prospect, Connecticut. There were 20 individuals on a hay ride, youngsters. It was at 2 A.M. in the morning, and this drunken driver came through at her speed of about 90 miles an hour and went from the back end of that hay ride right through the front, killing the two horses and scattering 20 people all over the highway.

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I was the first one on the scene at that night. I responded with a wrecker and got out there and my first thing that I noticed and witnessed were the animals, not thinking that there were any human beings involved, but when I parked the wrecker with the lights flashing and put the spotlights on, I started to hear moaning from all parts of the field on both sides of the road.

Well, let me tell you, when you have to pick up 20 youngsters, fortunately no one was killed, but 10 were maimed, broken legs and arms and what have you. And the individual that was driving that car couldn't care less.

That individual said they had no business on the road, and he was out of his mind, drunk beyond the point of where I can say that he was actually functionable. That individual went in and was out on the street in less than an hour and back in another car, and that was the extent of it.

He had a nolle on the case. There was no insurance involved, and nobody could collect a dime. But he could care less what he did to 20 individuals. Fortunately, none of them were killed. And I can cite many incidents over the years of cases of this type that I responded, and my family and my brothers as well, and when we pulled

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these individuals out, it wasn't a pretty sight. And I remember one other incident that I think I have to show you the extent of a drunken driver.

SPEAKER STOLBERG:

I ask the members to please be seated and give their attention to Rep. Migliaro.

REP. MIGLIARO: (80th)

The incident I'd like to cite, this individual was so bombed out of his mind we towed the vehicle in. It took two wreckers to bring it in, because it didn't have a front, it didn't have a back, it didn't have any wheels on it. He hit another car doing 90 miles an hour. Believe it or not, the drunk did not get a scratch on it. The other individual went through the roof, a steel roof, opening no more than 12 inches long and 2 inches wide, and you can believe this. That human body from the impact went through that roof.

That individual was maimed and is maimed to this day. The other individual got out of the hospital with slight bruises and the next morning still bombed, called our station and wanted to know if he could pick up his car. He wanted to drive it home.

I had to talk to him. I said, did you see the vehicle? He said, why, there was nothing there, he says,

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a little accident.

But when he came down and saw his vehicle, he couldn't believe it, and what do you think he did? He laughed. He got back in the car he was driving and peeled rubber right out of there, still half bombed from the night before.

The importance of this amendment and this bill can be demonstrated by the amount of casualties, fatalities, and injuries that are occurring repeatedly in the State. Many of these individuals, when they are under the influence, are nothing but killers, legalized killers. Because the law hasn't been strict enough to put it down for what it is, manslaughter. Taking the life of another individual.

As recently as last night, on the news, it happened in Newtown I believe, I heard. Another case of drunken driving. Two people are dead today. It has to be stopped. We have to get tough. And plea bargaining be damned. Let these individuals pay the fine. Let these individuals go to jail and get these people off the road so that the families can go out on a Sunday or a holiday and drive with safety and not have to fear for their lives.

I urge you to support this amendment and the bill in its entirety.

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SPEAKER STOLBERG:

Will those in the gallery please restrain themselves. The Chair is not accustomed to demonstrations from the gallery, and they will not be permitted today as they have not been permitted in the past.

Will you remark further on the amendment?

I would point out that if each of the sponsors feels it's necessary to address this amendment, which may pass unanimously, we will be here well into the evening.

Will you remark further?

Rep. Prague.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. I rise to support this amendment in its entirety. I hope that the body will listen very carefully to any attempt to make adjustments to this amendment.

The amendment as it stands is an effort on the part of many people, including state police, representatives from the Department of Transportation, Department of Motor Vehicles, members of RID, advice from the State Attorney's office.

The amendment as you see it and as you read it, in its entirety is a very important amendment that will

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toughen up our current drunk driving legislation.

There are too many loopholes that we have on the books that allow people to get off with only a slap on the wrist. We absolutely need every bit of this amendment. Take a careful look before you decide to make any changes. Thank you.

SPEAKER STOLBERG:

Will members please be seated. Will staff and guests come to the well of the House. Again, I will just caution the Chamber as Rep. Tulisano pointed out, the course of action that was to be followed.

What you have is a consensus blanket amendment before you that appears to the Chair may pass close to unanimously. To debate it at length prevents us from moving to some of the specific amendments that are the core of the discussion before us and require your attention.

With that in mind, and with the anticipation of a lengthy debate, the Chair would again caution members to examine whether this is the time they want to speak.

REP. ROTHMAN: (111th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Rothman.

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REP. ROTHMAN: (111th)

Thank you, Mr. Speaker. I would just like to associate myself with the comments of the previous speaker and to elaborate just a little bit further that I have in my possession a letter from the medical staff of the Danbury Hospital which represents 336 physicians.

They voted unanimously to support effective legislation aimed at control of drivers operating vehicles while intoxicated. They are urging this Legislature to view such behavior as a serious threat to public health and safety and in so doing to take decisive steps to control and eradicate it. I would also urge you to look at the amendment before you, to listen to the changes that are going to be proposed, to take into account the work that has gone forward in this amendment, and to look closely, if you are deciding to make any changes, because I assure you, any changes may wreck something that has been well thought out, that has been put together with a great deal of thought.

I would also just remind you that the affliction of drunken driving is not like cancer or a toxic shock syndrome, or anything of that nature. It is a cause that is obvious and its cure is in our hands. Thank you, Mr. Speaker.

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SPEAKER STOLBERG:

The Chair again is going to continue to remind the Chamber that it would be advisable to adopt this amendment that has about 80 sponsors on it, and then move to the other amendments, but if you want to continue to discuss this amendment and the debate drags out, we may have no other choice but to pass retain the bill.

REP. Parker.

REP. PARKER: (31st)

You are right, Mr. Speaker, but I'm going to speak about the fiscal note on this amendment before it has changed. I think that all of us know the time has come to enforce our drunk driving laws, at whatever cost.

However, the fiscal note shows revenue and it fails to point out what we know and certainly hope will be the result of this amendment, that there will be increased arrests, there will be increased trials, that the Motor Vehicle Department will be suspending licenses and renewing licenses, that our jails will get new people, and yet the fiscal note fails to point out the appropriation necessary on this.

I think we are all willing to pay the cost; however, I believe the fiscal note is in error. Thank you, Mr. Speaker.

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SPEAKER STOLBERG:

Will you remark further on the amendment? Will you remark further on House Amendment Schedule "A"?

REP. TIFFANY: (36th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tiffany.

REP. TIFFANY: (36th)

Mr. Speaker, a question through you, sir, to Rep. Tulisano or Rep. Shays, and my question would be simply has the Governor's blue ribbon panel on drunk driving reviewed this amendment, and do they support it in its present form?

SPEAKER STOLBERG:

That is posed to whom? Could you indicate to whom it's posed?

REP. TIFFANY: (36th)

Rep. Shays.

SPEAKER STOLBERG:

Rep. Shays, do you care to respond?

REP. SHAYS: (147th)

Yes, Mr. Speaker, in two ways. First off, I should have mentioned that this amendment was drafted with the advice of a letter that was sent to us May 16, where

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the chairman of the task force recommended a number of changes.

We adopted almost every one of his suggested changes, and in addition he was given copies of this amendment, and drafted a letter dated today, and I think Rep. Tulisano would agree that I represent it correctly, in which he endorsed this amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted and ruled technical.

House Amendment Schedule "A".

Strike everything after the enacting clause and substitute the following in lieu thereof:

"Section 1. Section 14-227a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) No person shall operate a motor vehicle upon a public highway of this state or upon any road of a district organized under the provisions of chapter 105, a purpose of which is the construction and maintenance of roads and sidewalks, or upon any private road on which a speed limit has been established

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in accordance with the provisions of section 14-218a, or in any parking area, as defined in section 14-219a, for ten or more cars or upon any school property while under the influence of intoxicating liquor or any drug or both.

(b) NO PERSON SHALL OPERATE A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OF THIS STATE OR UPON ANY ROAD OF A DISTRICT ORGANIZED UNDER THE PROVISIONS OF CHAPTER 105, A PURPOSE OF WHICH IS THE CONSTRUCTION AND MAINTENANCE OF ROADS AND SIDEWALKS, OR UPON ANY PRIVATE ROAD ON WHICH A SPEED LIMIT HAS BEEN ESTABLISHED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14-218a, OR IN ANY PARKING AREA, AS DEFINED IN SECTION 14-219a, FOR TEN OR MORE CARS OR UPON ANY SCHOOL PROPERTY WHILE HIS ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE CONSUMPTION OF INTOXICATING LIQUOR. A PERSON SHALL BE DEEMED IMPAIRED WHEN AT THE TIME OF THE ALLEGED OFFENSE THE RATIO OF ALCOHOL IN THE BLOOD OF SUCH PERSON WAS MORE THAN SEVEN-HUNDREDTHS OF ONE PER CENT OF ALCOHOL, BY WEIGHT, BUT LESS THAN TEN-HUNDREDTHS OF ONE PER CENT OF ALCOHOL, BY WEIGHT.

(c) In any criminal prosecution for a violation of subsection (a) OR (b) of this section, evidence respecting the amount of alcohol or drug in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's breath, blood or urine shall be admissible and competent provided:

- (1) The defendant consented to the taking of the test upon which such analysis is made;
- (2) a true copy of the report of the test result was mailed to OR PERSONALLY DELIVERED TO the defendant within twenty-four hours OR BY THE END OF THE NEXT REGULAR BUSINESS DAY, after such result was known, WHICHEVER IS LATER;
- (3) the test was performed according to methods and with equipment approved by the department of health services and was performed by a person certified for such purpose by said department.

If a blood test is taken, it shall be on a blood sample taken by a person licensed to practice medicine and surgery in this state, a qualified laboratory technician, an emergency medical technician ii or a registered nurse;

- (4) the device used for such test was checked for accuracy at the beginning of each workday and no later than the end of each workday by a person certified by the department of health services;
- (5) the defendant was afforded an opportunity to have an additional chemical test performed and (the officer who arrested or charged the defendant

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immediately) WAS informed (him) of this right, afforded (him) a reasonable opportunity to exercise the same and (made) a notation to that effect WAS MADE upon the records of the police department, PROVIDED THE RESULTS OF THE INITIAL TEST SHALL NOT BE EXCLUDED UNDER THIS SUBSECTION IF THE POLICE MADE REASONABLE EFFORTS TO HAVE SUCH ADDITIONAL TEST PERFORMED AND SUCH TEST WAS NOT PERFORMED WITHIN A REASONABLE TIME; (6) evidence is presented which demonstrates that the test results accurately reflect the blood alcohol content at the time of the alleged offense, and (7) IN THE CASE OF A PROSECUTION UNDER SUBSECTION (a) OF THIS SECTION, additional competent evidence is presented bearing on the question of whether or not the defendant was under the influence of intoxicating liquor or drug or both.

((c)) (d) Evidence admitted under the provisions of subsection (b) (c) shall have the following force and effect: (1) Evidence that at the time of the alleged offense there was five-hundredths of one per cent of less of alcohol, by weight, in the defendant's blood shall be prima facie evidence that the defendant was not under the influence of intoxicating liquor within the meaning of this section; (2) evidence that at such time the ratio of alcohol in the blood was more than five-hundredths of one per cent of alcohol, by weight, but less than ten-hundredths of one per cent of alcohol, by weight, shall not give rise to any presumption that the (person) DEFENDANT was or was not under the influence of intoxicating liquor but such fact may be considered with other competent evidence in determining whether the (person) DEFENDANT was under such influence WITHIN THE MEANING OF THIS SECTION; (3) EVIDENCE THAT AT SUCH TIME THE RATIO OF ALCOHOL IN THE BLOOD WAS MORE THAN SEVEN-HUNDREDTHS OF ONE PER CENT OF ALCOHOL, BY WEIGHT, BUT LESS THAN TEN-HUNDREDTHS OF ONE PER CENT OF ALCOHOL, BY WEIGHT, SHALL CONSTITUTE IMPAIRMENT WITHIN THE MEANING OF THIS SECTION; (4) evidence that at such time the ratio of alcohol in the blood was ten-hundredths of one per cent or more of alcohol, by weight, shall be prima facie evidence that the defendant was under the influence of intoxicating liquor within the meaning of this section.

((d)) (e) The commissioner of health services shall ascertain the reliability of each method and type of device offered for chemical testing purposes of blood, of breath and of urine and certify those methods and types which he finds suitable for use in testing blood,

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testing breath and in testing urine in this state. He shall adopt such regulations governing the conduct of chemical tests, the operation and use of chemical test devices and the training and certification of operators of such devices as he finds necessary to protect the health and safety of persons who submit to chemical tests and to insure reasonable accuracy in testing results.

(f) IN ANY CRIMINAL PROSECUTION FOR A VIOLATION OF SUBSECTION (a) OF THIS SECTION, EVIDENCE THAT THE DEFENDANT REFUSED TO SUBMIT TO A BLOOD, BREATH OR URINE TEST REQUESTED IN ACCORDANCE WITH SECTION 14-227b SHALL BE ADMISSIBLE.

(g) IF A PERSON IS CHARGED WITH A VIOLATION OF THE PROVISIONS OF SUBSECTION (a) OF THIS SECTION, THE CHARGE MAY NOT BE REDUCED, NOLLED OR DISMISSED UNLESS THE PROSECUTING AUTHORITY STATES IN OPEN COURT HIS REASONS FOR THE REDUCTION, NOLLE OR DISMISSAL.

((e) Any person who violates the provisions of this section shall be fined not less than three hundred dollars nor more than one thousand dollars or imprisoned not more than six months or be both fined and imprisoned for the first offense, and shall be imprisoned not less than sixty days nor more than one year for the second offense, and for any subsequent offense, shall be imprisoned not less than six months nor more than one year; provided (1) two days of the sentence imposed for a first offense may not be suspended or reduced in any manner if a blood alcohol test conducted in accordance with subsection (b) of this section or section 14-227b indicated that at the time of the alleged offense the ratio of alcohol in the blood of such person was twenty-hundredths of one per cent or more of alcohol, and (2) thirty days of the sentence imposed for a second or subsequent offense may not be suspended or reduced in any manner, and provided further such thirty-day minimum mandatory sentence may be served by performing community service on fifteen weekends, such service to be approved by the office of adult probation.)

(h) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (a) OF THIS SECTION SHALL: (1) FOR A FIRST OFFENSE, BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BE BOTH FINED AND IMPRISONED, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR SIX MONTHS; (2) FOR A SECOND OFFENSE, BE FINED NOT LESS THAN FIVE HUNDRED

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DOLLARS NOR MORE THAN TWO THOUSAND DOLLARS AND IMPRISONED NOR MORE THAN ONE YEAR, FORTY-EIGHT CONSECUTIVE HOURS OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NON-RESIDENT OPERATING PRIVILEGE SUSPENDED FOR ONE YEAR; (3) FOR A THIRD OFFENSE, BE FINED NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FOUR THOUSAND DOLLARS AND IMPRISONED NOT MORE THAN TWO YEARS, THIRTY DAYS OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR THREE YEARS; AND (4) FOR A FOURTH AND SUBSEQUENT OFFENSE, BE FINED NOT LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN EIGHT THOUSAND DOLLARS AND IMPRISONED NOT MORE THAN THREE YEARS, ONE YEAR OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE PERMANENTLY REVOKED UPON SUCH FOURTH OFFENSE.

(i) ANY PERSON WHO VIOLATES SUBSECTION (b) OF THIS SECTION SHALL BE GUILTY OF AN INFRACTION.

(j) (1) THE SUSPENSION OF A MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE IMPOSED UNDER SUBSECTION (h) OF THIS SECTION SHALL TAKE EFFECT IMMEDIATELY UPON SENTENCING, PROVIDED SUCH SUSPENSION SHALL BE STAYED DURING THE PENDENCY OF AN APPEAL OF ANY CONVICTION UNDER SUBSECTION (a) OF THIS SECTION. THE DEFENDANT SHALL SURRENDER HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE TO THE COURT WHICH SHALL FORWARD IT TO THE DEPARTMENT OF MOTOR VEHICLES WITH A NOTATION THAT SUCH LICENSE OR PRIVILEGE WAS SUSPENDED FOR A VIOLATION OF SUBSECTION (a) OF THIS SECTION. (2) THE MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE OF A PERSON FOUND GUILTY UNDER SUBSECTION (a) OF THIS SECTION WHO IS UNDER EIGHTEEN YEARS OF AGE SHALL BE SUSPENDED FOR THE PERIOD OF TIME SET FORTH IN SUBSECTION (h) OF THIS SECTION, OR UNTIL SUCH PERSON ATTAINS THE AGE OF EIGHTEEN YEARS, WHICHEVER PERIOD IS LONGER.

((f)) (k) In addition to (the thirty-day minimum mandatory) ANY FINE OR sentence imposed pursuant to the provisions of subsection ((e)) (h) of this section, the court may order such person to participate in an alcohol education and treatment program within the pretrial alcohol education system.

((g) If a person is arrented as an alleged second or subsequent offender of the provisions of subsection (a)

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of this section and a blood alcohol test conducted in accordance with subsection (b) of this section or section 14-227b indicates that at the time of the alleged offense the ratio of alcohol in the blood of such person was ten-hundredths of one per cent or more of alcohol, by weight, such person shall be charged and prosecuted for a violation of this section and shall not be charged or prosecuted for a lesser violation without the approval of the court.)

((h)) (1) If a person is arrested as an alleged offender of the provisions of subsection (a) of this section and a blood alcohol test conducted in accordance with subsection ((b)) (c) of this section or section 14-227b indicates that at the time of the alleged offense the ratio of alcohol in the blood of such person was ten-hundredths of one per cent or more of alcohol, by weight, the arresting police officer shall immediately revoke the motor vehicle operator's license or nonresident operating privilege of such person for a twenty-four hour period. Such officer shall (1) keep a written record of the revocation of a license, including the name and address of the person and the date and time of the revocation; (2) provide the person with a written statement of the time from which the revocation takes effect, the duration of the revocation, the location where the license may be recovered upon termination of the revocation and acknowledging receipt of the revoked license; and (3) provide the department of motor vehicles with a copy of the notice of revocation of the license of such person, the name and address of such person, the date and time of revocation and the ratio of alcohol in the blood of such person at the time of the alleged offense.

Sec. 2. Section 14-227b of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Any person who operates a motor vehicle in this state shall be deemed to have given his consent to a chemical analysis of his blood, breath or urine and, if said person is a minor, his parent or parents or guardian shall also be deemed to have given his consent.

(b) If any such person, having been placed under arrest for operating a motor vehicle WHILE under the influence of intoxicating liquor or any drug or both OR WHILE HIS ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE CONSUMPTION OF INTOXICATING LIQUOR, and thereafter, after being apprised of his constitutional

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rights, having been requested to submit to a blood, breath or urine test at (his) THE option OF THE POLICE OFFICER and having been informed that his license or nonresident operating privilege will be suspended in accordance with the provisions of (subsections) SUBSECTION (d), (and) (e) OR (f) of this section if he refuses to submit to such test AND THAT EVIDENCE OF SUCH REFUSAL SHALL BE ADMISSIBLE AND MAY BE USED AGAINST HIM IN ANY CRIMINAL PROSECUTION, refuses to submit to (any of such tests) THE DESIGNATED TEST, the test shall not be given: PROVIDED, IF THE PERSON REFUSES TO SUBMIT TO A BLOOD TEST, THE POLICE OFFICER SHALL DESIGNATE THE BREATH OR URINE TEST AS THE TEST TO BE TAKEN.

(c) If the person arrested refuses to submit to such test or analysis, the police officer shall immediately revoke the motor vehicle operator's license or nonresident operating privilege of such person for a twenty-four hour period and prepare a written report of such refusal. Such written report shall be endorsed by a third person who witnessed such refusal. The report shall be made on a form approved by the commissioner of motor vehicles and shall be sworn to under penalty of false statement as provided in section 53a-157 by the police officer before whom such refusal was made. The report shall set forth the grounds for the officer's belief that there was probable cause to arrest such person for operating a motor vehicle WHILE under the influence of intoxicating liquor or any drug or both OR WHILE HIS ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE CONSUMPTION OF INTOXICATING LIQUOR, (resulting in erratic driving, a motor vehicle violation or a motor vehicle accident,) and shall state that such person had refused to submit to such test or analysis when requested by such police officer to do so.

(d) Upon receipt of such report of a first refusal, the commissioner of motor vehicles shall suspend any license or nonresident operating privilege of such person for a period of (ninety days) SIX MONTHS. Any person whose license or operating privilege has been suspended in accordance with this subsection shall automatically be entitled to an immediate hearing before the commissioner. The hearing shall be limited to a determination of the following issues: () Did the police officer have probable cause to arrest the person for operating a motor vehicle WHILE under the influence of intoxicating liquor or drug or both OR WHILE HIS ABILITY

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TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE CONSUMPTION OF INTOXICATING LIQUOR; (2) was such person placed under arrest; (3) did such person refuse to submit to such test or analysis; and (4) was such person operating the motor vehicle. If, after such hearing, the commissioner finds on any one of the said issues in the negative, the commissioner shall reinstate such license of operating privilege.

(e) If a police officer revokes a person's operator's license or nonresident operating privilege for twenty-four hours pursuant to subsection (c), such officer shall (1) keep a written record of the revocation of a license, including the name and address of the person and the date and time of the revocation; (2) provide the person with a written statement of the time from which the revocation takes effect, the duration of the revocation, the location where the license may be recovered upon termination of the revocation and acknowledging receipt of the revoked license; and (3) provide the department of motor vehicles with a copy of the notice of revocation of the license of such person, the name and address of such person (,) AND the date and time of revocation. (and the ratio of alcohol in the blood of such person at the time of alleged offense.)

(f) Upon receipt of a report of a (second or subsequent) refusal (,) BY A PERSON (1) WHOSE MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE HAS PREVIOUSLY BEEN SUSPENDED FOR A REFUSAL. (2) WHO HAS PREVIOUSLY BEEN FOUND GUILTY UNDER SUBSECTION (a) OF SECTION 14-227a OR (3) WHO HAS PREVIOUSLY PARTICIPATED IN THE PRETRIAL ALCOHOL EDUCATION SYSTEM UNDER SECTION 54-56g, the commissioner of motor vehicles shall immediately schedule a hearing concerning the suspension of any license or nonresident operating privilege of such person. The hearing shall be limited to a determination of the following issues: (1) Did the police officer have probable cause to arrest the person for operating a motor vehicle WHILE under the influence of intoxicating liquor or drug or both OR WHILE HIS ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE CONSUMPTION OF INTOXICATING LIQUOR; (2) was such person placed under arrest; (3) did such person refuse to submit to such test or analysis; and (4) was such person operating the motor vehicle. Unless, after such hearing, the commissioner finds on any one of the said issues in the negative, the commissioner shall suspend such license or

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operating privilege of such person for a period of one year for (a second) SUCH refusal to submit to such test and for a period of three years for any SUCH subsequent refusal.

(g) The provisions of this section shall not apply to any person whose physical condition is such that, according to competent medical advice, such test would be inadvisable.

(h) The state shall pay the reasonable charges of any physician who, at the request of a municipal police department, takes a blood sample for purposes of a test under the provisions of this section.

Sec. 3. Section 14-215 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) No person to whom an operator's license has been refused, or whose operator's license or right to operate a motor vehicle in this state has been suspended or revoked, shall operate any motor vehicle during the period of such refusal, suspension or revocation. No person shall operate or cause to be operated any motor vehicle, the registration of which has been refused, suspended or revoked, or any motor vehicle, the right to operate which has been suspended or revoked.

(b) (Any) EXCEPT AS PROVIDED IN SUBSECTION (c) OF THIS SECTION, ANY person who violates any provision of SUBSECTION (a) OF this section shall be fined not less than one hundred fifty dollars nor more than two hundred dollars or imprisoned not more than ninety days or be both fined and imprisoned for the first offense, and for any subsequent offense shall be fined not less than two hundred dollars nor more than six hundred dollars or imprisoned not more than one year or be both fined and imprisoned.

(c) ANY PERSON WHO OPERATES ANY MOTOR VEHICLE DURING THE PERIOD HIS OPERATOR'S LICENSE OR RIGHT TO OPERATE A MOTOR VEHICLE IN THIS STATE IS UNDER SUSPENSION OR REVOCATION ON ACCOUNT OF A VIOLATION OF SUBSECTION (a) OR (1) OF SECTION 14-227a OR A VIOLATION OF SECTION 14-227b OR ON ACCOUNT OF PARTICIPATION IN THE PRETRIAL ALCOHOL EDUCATION SYSTEM UNDER SECTION 54-56g SHALL BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN ONE YEAR OR BE BOTH FINED AND IMPRISONED.

Sec. 4. Subsection (b) of section 14-111 of the general statutes is repealed and the following is substituted in lieu thereof:

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(b) Whenever the holder of any motor vehicle operator's license has been convicted or has forfeited any bond taken or has received a suspended judgment or sentence for any of the following violations, the commissioner shall, without hearing, suspend his operator's license as follows: For a first violation of subsection (a) of section 14-224 (, subsection (a) of section 14-227a) or section 14-110, 14-215 or 53a-119b, for a period of not less than one year and, for a subsequent violation thereof, for a period of not less than five years; for a violation of subsection (a) of section 14-222, for a period of not less than thirty days nor more than ninety days and, for a subsequent violation thereof, for a period of not less than ninety days; for a first violation of section 14-145, for a period of not less than six months and, for a subsequent violation thereof, for a period of not less than five years; for a violation of subsection (b) of section 14-224, for a period of not less than ninety days; for a first violation of subsection (b) of section 14-147, for a period of not less than ninety days and, for a subsequent violation thereof, for a period of not less than five years; for a first violation of subsection (c) of section 14-147, for a period of not less than thirty days and, for a subsequent violation thereof, for a period of not less than one year.

Sec. 5. Subsection (h) of section 14-111 of the general statutes is repealed and the following is substituted in lieu thereof:

(h) When any person who does not hold a Connecticut operator's license is convicted or has his case nolleed or is given a suspended judgment or sentence for a violation of any provision of section 14-36, 14-110, 14-145, subsection (b) of section 14-147, 14-215, 14-224, subsection (a) of section 14-227a or 14-229, the commissioner shall not issue to him a nonresident or resident operator's license during such period as the commissioner may determine, which period shall not be less than the period provided for suspension in subsection (b) of this section OR IN SUBSECTION (h) OF SECTION 14-227a. When any person is convicted or has his case nolleed or is given a suspended judgment or sentence for any violation of any of the provisions of section 14-12, the commissioner shall not issue registration for any motor vehicle owned by such person until thirty days after application therefor.

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Sec. 6. Subsection (k) of section 14-111 of the general statutes is repealed and the following is substituted in lieu thereof:

(k) Whenever any person has been convicted of any violation of section 14-110, 14-145, 14-147, 14-215, 14-219, 14-222, 14-224 or 14-229 (or of subsection (a) of section 14-227a) or has had his case nolleed or judgment or execution suspended or has forfeited his bond, and his license has been suspended or revoked by the commissioner, he may make application to the commissioner for the reversal of such suspension or revocation. Such application shall be in writing and shall state specifically the reasons why such applicant believes that he is entitled to such reversal. If the commissioner determines to grant such hearing, he may require the applicant to file with his a trial fee, the amount of which shall be discretionary with the commissioner. Upon the deposit of such trial fee, the commissioner may make such further investigation as he deems necessary, may hear evidence presented and may return the registration certificate or operator's license to the applicant unconditionally or upon condition. (; provided when such applicant has been convicted of any violation of subsection (a) of section 14-227a or has had judgment or execution suspended or has forfeited his bond, the commissioner may require such applicant to participate in a treatment or rehabilitation program approved by the department of health services.) The commissioner is further empowered to return part or all of such trial fee to such applicant after an opinion has been rendered by him. The amount of all trial fees not so returned shall be deposited at least once every three months with the state treasurer. The commissioner may require such application, fee and hearing as a condition precedent to the return of any license suspended or revoked.

Sec. 7. Section 54-56e of the general statutes is repealed and the following is substituted in lieu thereof:

There shall be a pretrial program for accelerated rehabilitation of persons accused of a crime, not of a serious nature. The court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to an accused who, the court believes, will probably not offend in the future and who has no previous record of conviction of crime and who states under oath in open court under the penalties of perjury that he has never had

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Clerk please call.

CLERK:

LCO NO. 7233, designated House Amendment Schedule "B" offered by Rep. Tulisano of the 29th Districts et al.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano asked leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. TULISANO:

Mr. Speaker, what my amendment does, it replaces lines 33 through, 333 through 340 of the amendment just adopted. It would in effect, extend the new penalty for operating while your license is under suspension or revoked on account of driving under the influence.

The amendment just passed indicates that just for that purpose or participation in the pretrial education program that is not a crime at this point in time. I don't believe it belongs in that amendment. My amendment would extend that penalty to those who are convicted of also of misconduct with a motor vehicle of a class D felony and a class C felony would in fact extend it to cover two more crimes. Take it away with regard to the pretrial education program because that is not illegal

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at this point in time. In some ways it toughens it up extends it, creating a new penalty and in other ways it weakens it. I would move its adoption.

SPEAKER STOLBERG:

Will you remark on House "B".

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Will you remark on House "B". Rep. Shays.

REP. SHAYS: (147th)

Mr. Speaker, through you, a question. Rep. Tulisano, could you specifically state the two offenses that would be made part of the this area where your license is under suspension.

SPEAKER STOLBERG:

Rep. Tulisano, do you care to respond?

REP. TULISANO: (29th)

Through you, Mr. Speaker, reason for suspension will be negligent homicide or misconduct with a motor vehicle, in addition to just drunk driving. You may have your license suspended for those reasons. If we go with the copy the way we've adopted it, it would may be, if you killed somebody, the penalty for driving under suspension after that may be in fact, less than it would be otherwise, and we would be back into the same syndrome we've just recently experienced in Connecticut.

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SPEAKER STOLBERG:

Rep. Shays, you have the floor.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Unfortunately, it does add two areas that could be added -- let me back up and just say, this amendment establishes a separate area for suspensions, related to drunk driving, and what Rep. Tulisano is doing is introducing two different offenses that do not directly relate to drunk driving, and in addition he is taking out what is recommended by the Governor's Task Force, and which you will see in the next bill, and that relates to the issue of, if someone takes the pretrial alcohol education program, should they have their license suspended.

And frankly, the verdict of so many people was that if you go through the program, you should have your license suspended for some period of time.

Remember, anyone who goes through the pretrial alcoholic education program is someone that was arrested for drunk driving. If that go through that program, they do not have an arrest record - correction - they do not have a conviction of drunk driving.

The pretrial alcohol education program's enabled so many people, who are first time offenders to escape any

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conviction whatsoever.

So, it was the recommendation of the Governor's Task Force, it's the recommendation of so many different people, the police, the State's Attorney's office, that if someone goes through this program, at the bare minimum, suspend their license for a period of time.

So, if you do choose to go with this amendment, and that will have to be your choice, what you will effectively be doing, is saying that you do not want someone who goes through the pretrial alcohol education program, to have any penalty whatsoever.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "B"?

REP. SHAYS: (147th)

Mr. Speaker, I have not given up the floor yet.

SPEAKER STOLBERG:

I thought you had. Excuse me, Rep. Shays. Please proceed.

REP. SHAYS: (147th)

Yes, Mr. Speaker. I would urge the members to vote against this amendment, and I would request a roll call vote.

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SPEAKER STOLBERG:

There is a request for a roll call vote. All those in favor of a roll call, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An adequate number is arrived at. When the vote is taken, it will be taken by roll.

Will you remark further on House "B"? Rep. Tulisano.

REP. TULISANO: (29th)

Yes, Mr. Speaker, just so the assembly is clear, the recommendation from the Governor's Task Force has not been finalized, since I'm a member of it, although I acknowledge I have not been able to attend many meetings, however, that recommendation originated from me in the first instance, with regard to that penalty provision as to participating in the pretrial education program.

And it's so nice, by the way, that after everybody else has had their input, the members of the General Assembly now have their input into drafting laws that apply to the people of the State of Connecticut.

And it was after due deliberation and discussion with other members of the General Assembly that we thought that it might be inappropriate at this point in time to have

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that kind of penalty occur.

Secondly, let me just point out that we have heard the hoopla and the hoorah. In the last three weeks, the laws that go forward in one area and backwards in another. We know what we're talking about. We're talking about the evading responsibility question.

It's going to be awfully silly when someone gets a bigger penalty for driving while their license is suspended for driving at .10, and not have that high a penalty after they've killed somebody. It's not going to make sense to the public, but that is going to be the choice of this assembly.

I presented it to you. It is my obligation to present it to you as the Chairman of the Judiciary Committee. The choice is the assembly's.

SPEAKER STOLBERG:

Will you remark? Again, there are a large number of amendments. Let the Chair suggest that if the issue is identified, that we move to a vote as rapidly as we can on the amendments. Rep. Prague.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. One of the main concerns is to nip that drunk driver in the bud the first time he is picked up and sent to the pretrial alcohol education

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program. As it is now, the pretrial alcohol program has no license suspension, and the record is erased after the person completes 8 successful meetings.

Our amendment included a 30 day suspension for that. This amendment that you see before you, doesn't deal with the pretrial alcohol program at all. It eliminates that 30 day suspension.

Now, are we or are we not going to get that drunk driver off the road the first time he's picked up? Or are we going to continue to allow loopholes and be lenient and let them get back on the road again? I think this General Assembly has an obligation to the people of the State of Connecticut to do something the first time that drunk driver is picked up, not to give them second, third and fourth chances. I urge defeat of this amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment?

REP. SAMOWITZ: (129th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Samowitz.

REP. SAMOWITZ: (129th)

Yes, through you, a question to the proponent, well, to Rep. Shays.

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SPEAKER STOLBERG:

Please frame your question.

REP. SAMOWITZ: (129th)

One of the things that I'm a bit confused about, or it seems contrary to what the policy is, if somebody's supposed to go pretrial program, and their license is suspended, how do you propose that they get to the pre-trial program.

REP. SHAYS: (147th)

Through you, Mr. Speaker. I would welcome that individual to the real world, and I would say to him, that while the State of Connecticut is going to allow you to escape any conviction, we are going to have you realize what the impact is, and the impact is, that you may put your license in jeopardy, and specifically, to answer your question, they may have to ride with their wife, or horror, they may have to ride with one of their children who doesn't drive drunk or they may have to ask one of their friends to take him to one of these courses.

It is eight measly courses. Eight. Something tells me that it will be a tremendous inconvenience for some, but they will have to find other ways to get there, and that suits me fine.

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SPEAKER STOLBERG:

Rep. Samowitz, you have the floor.

REP. SAMOWITZ: (129th)

Yes, Mr. Speaker. It seems to me that the policy is self-defeating if we're going to require them to go to this school. As has been pointed out, the object of this legislation is to get the drunk drivers off the road.

I think that by going too far and extending ourselves too much, we may be, in essence defeating the purpose of the whole legislation. I support the bill itself and the amendment, but I think unless there's some provision to allow them to go to these courses, I think that it's self-defeating, and I can't support it at this time.

SPEAKER STOLBERG:

The Chair is going to have to caution the members to examine the amendments very closely before us, and to speak only to the amendment that is before the Chamber at any time. Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Mr. Speaker, I rise for what will probably be the first of several times if we have as many amendments as I understand we do.

We're not going to get drunk drivers off the road, if the drunk driver doesn't have a somewhat change of heart

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about not driving while he's drunk.

And what the alcohol education program is designed to do, and what it is doing, we've only had it a little over a year, and I don't know if there are any statistics available on second offenders who have been through the alcohol education program, but we've only had it a year. We've only had loss of license for refusal to take the test about six months. That's hardly had a chance.

But unless we change the attitude of drivers, and in this country, everyone drives. We have fine highways. We have fast cars. It's a way of life. Not similar to some of the, it's similiar, but not the same as it is in some of the countries of Europe where the roads aren't the way they are today. They don't depend as much on the automobile.

But we've got to change the attitude. The person who we read about in the paper who has killed a busload of children, or the sixth or seventh offender, the sixth or seventh time he's been arrested for drunk driving, that person is not, we're not going to stop him without something drastic. You're not going to do it unless you change their mind. That's what the alcohol education program does. Let's keep them in it. This is one way we can keep them in it.

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If you get too tough, they're not going to take the program. They're going to lose the license for a few months and be right back there. It does work. Believe me.

SPEAKER STOLBERG:

Will you remark further on House "B"?

REP. PRAGUE: (8th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Prague, for the second time on House "B".

REP. PRAGUE: (8th)

Yes, thank you, Mr. Speaker. I just wanted to say that the Governor's Task Force on drunk driving recommends a suspension of the driver's license of one entering the pretrial system for a minimum of thirty days. This letter is signed by Loff ^{ck} McLean, who is Chairman of that Task Force. Thank you.

SPEAKER STOLBERG:

Will you remark further on House "B"? We're about ready to move to a roll call. Will you remark further? If not, will members please be seated. Will staff and guests come to the well. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

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The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

We are in the midst of a vote about House Amendment Schedule "B". The Chair would strongly recommend that members remain in their seats. There are a number of amendments, and if your votes are going to be cast with an awareness of what is contained in the amendments, members would probably benefit from the debate.

Have all the members voted? Have all the members voted? If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Amendment Schedule "B" to House Bill 6420.

Total number voting	147
Necessary for adoption	74
Those voting yea	44
Those voting nay	103
Those absent and not voting	4

SPEAKER STOLBERG:

The amendment fails.

House Amendment Schedule "B".

Delete subsection (c) of section 3 in its entirety

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and substitute the following in lieu thereof:

"(c)" ANY PERSON WHO OPERATES ANY MOTOR VEHICLE DURING THE PERIOD HIS OPERATOR'S LICENSE OR RIGHT TO OPERATE A MOTOR VEHICLE IN THIS STATE IS UNDER SUSPENSION OR REVOCATION ON ACCOUNT OF A VIOLATION OF SUBSECTION (a) OR (1) OF SECTION 14-227a, OR OF SECTION 14-222a, 14-277b OR 53a-57 SHALL BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN ONE YEAR OR BE BOTH FINED AND IMPRISONED."

SPEAKER STOLBERG:

Will you remark further? Rep. Tulisano.

REP. TULISANO: (29th)

May the amendment be printed in the Journal.

SPEAKER STOLBERG:

There's a request that the amendment be printed in the Journal. It will be so ordered.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 7073. May I request that it be printed.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7073, which will be designated House Amendment Schedule "C", if adopted it

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SPEAKER STOLBERG:

Will you remark on House Amendment Schedule "C"?

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Mr. Speaker, I would just before I form my own opinion about this amendment, like to ask the gentleman to explain, if he would explain lines 26, 27 and so on.

It says, if the suspension takes effect, the defendant shall immediately send his motor vehicle operator's license or nonresident operating privilege to the Department of Motor Vehicle. Mr. Speaker, through you, I would like to ask Rep. Tulisano what that means, and what happens to the individual if he does not send in his license.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. The burden is therefore on the individual to submit his license, not the state to go down and get it and give notification. So it's just a burden to the individual. Therefore, the individual's

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REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

That's what the proposed amendment says.

REP. SHAYS: (147th)

Yes. Mr. Speaker, I have no problem with this amendment being adopted.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "C"? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. The amendment is adopted and ruled technical.

House Amendment Schedule "C".

Delete subdivision (l) of subsection (j) of section 1 in its entirety and substitute the following in lieu thereof:

"(1) THE SUSPENSION OF A MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE IMPOSED UNDER SUBSECTION (h) OF THIS SECTION SHALL TAKE EFFECT IMMEDIATELY

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UPON THE EXPIRATION OF ANY PERIOD IN WHICH TO TAKE AN APPEAL OF ANY CONVICTION UNDER SUBSECTION (a) OF THIS SECTION; PROVIDED IF AN APPEAL IS TAKEN, THE SUSPENSION SHALL BE STAYED DURING THE PENDENCY OF SUCH APPEAL. IF THE SUSPENSION TAKES EFFECT, THE DEFENDANT SHALL IMMEDIATELY SEND HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NON-RESIDENT OPERATING PRIVILEGE TO THE DEPARTMENT OF MOTOR VEHICLES."

SPEAKER STOLBERG:

Will you remark further? Rep. Tulisano. Rep. Duffy.

REP. DUFFY: (77th)

Mr. Speaker, the Clerk has an amendment, LCO No. 7236. I'd ask the Clerk to read it, and please allow me to summarize, please.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7236, which will be designated House Amendment Schedule "D". Will the Clerk please call.

CLERK:

LCO No. 7236, designated House Amendment Schedule "D", offered by Rep. Duffy of the 77th District, et al.

SPEAKER STOLBERG:

Rep. Duffy has asked leave to summarize. Is there objection? Seeing no objection, please proceed.

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REP. DUFFY: (77th)

in Mr. Speaker, this makes two clarifications to the amendment that mass amendment that has been adopted. The first is in regards to the admissibility of the refusal to take a test. As the language presently reads, the amendment would merely allow the refusal to be admissible.

This statement clarifies it, and hopefully goes a long way toward making the act more justifiable in court and more constitutional, in that it states that it shall be admissible for certain purposes, and that in the case of a jury trial, that the court must instruct the jury that any inference that may or may not be drawn from the defendant's refusal to submit to a blood, breath or a urine test, and to the weight that shall be given to that.

The second portion of the amendment, deletes subsection 2 of Subsection B of Section 2, dealing with the refusal to take a test, requiring that the police officer make a notation that he informed the person that he had the right to take a test, and that his license would be suspended if he refused to take a test.

I think it clarifies the bill, and it makes it a requirement that an individual be apprised of the consequences of refusing to take a test. I think it's

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essential. It's essential to the viability of the bill in court when it is going to be challenged, and I move adoption of the amendment, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark on House "D"? Rep. Farr.

REP. FARR: (19th)

Mr. Speaker, through you, a question to Rep. Duffy.

SPEAKER STOLBERG:

Please frame your question.

REP. FARR: (19th)

My concern is with that last sentence, which provides that the police officer make a notation upon the record. If the police department were to have a form filled out by an individual, stating that they had been notified of the fact that this refusal would be admissible, isn't it accurate to say that that form signed by the defendant would not be adequate because there is ~~no~~ notation made. Through you, Mr. Speaker, to Rep. Duffy.

SPEAKER STOLBERG:

Rep. Duffy, do you care to respond?

REP. DUFFY: (77th)

Yes, Mr. Speaker. If I understand, it's to be signed by the police officer, not by the defendant. The police officer shall make the notation, not that the defendant did.

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SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

I guess, Mr. Speaker, I'd like to just comment on this. The first parts of the bill, while they clarify some language, I don't see it's harmful one way or the other. But that last sentence to me, seems to be the classic loophole, because what it says is it doesn't matter whether the defendant was given notice of the fact that the refusal would be used against him. It doesn't matter whether he signed a statement that he was given notice.

There's a technical requirement, and a technical requirement is that a notation has to be made in the record, and if that notation isn't made in the record, then that refusal does not get used. To me, it's what's called a classic loophole in the law, and I would oppose it for that reason.

SPEAKER STOLBERG:

Will you remark further on House "D"? If not, all those in favor of House "D", please indicate by saying aye.

REPRESENTATIVES:

Aye.

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SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The Chair is in doubt. The Chair will try your minds one more time.

We are not voting on House Amendment Schedule "D".

Rep. Duffy.

REP. DUFFY: (77th)

Mr. Speaker, may I ask for a roll call, please.

SPEAKER STOLBERG:

A roll call has been requested. All those in favor of a roll call, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An adequate number is arrived at, and a roll call will be ordered immediately.

Will members please be seated. Will staff and guests come to the well of the House. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately. The House of Representatives is now voting by roll. Would

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the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Have all the members voted? If so, the machine will be locked, and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Amendment Schedule "D" to House Bill 6420.

Total number voting	149
Necessary for adoption	75
Those voting yea	80
Those voting nay	69
Those absent and not voting	2

SPEAKER STOLBERG:

The amendment is adopted and ruled technical.

House Amendment Schedule "D".

Delete subsection (f) of section 1 in its entirety and substitute the following in lieu thereof:

"(f) IN ANY CRIMINAL PROSECUTION FOR A VIOLATION OF SUBSECTION (a) OR (b) OF THIS SECTION, EVIDENCE THAT THE DEFENDANT REFUSED TO SUBMIT TO A BLOOD, BREATH OR URINE TEST REQUESTED IN ACCORDANCE WITH SECTION 14-227b SHALL BE ADMISSIBLE PROVIDED THE REQUIREMENTS OF SUBSECTION (b) OF SAID SECTION HAVE BEEN SATISFIED. IF THE CASE IS TRIED TO A JURY, THE COURT SHALL INSTRUCT THE JURY AS TO ANY INFERENCE THAT MAY OR MAY NOT BE DRAWN FROM THE DEFENDANT'S REFUSAL TO SUBMIT TO A BLOOD, BREATH OR URINE TEST."

Delete subsection (b) of section 2 in its entirety

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and substitute the following in lieu thereof:

"(b) If any such person, having been placed under arrest for operating a motor vehicle WHILE under the influence of intoxicating liquor or any drug or both OR WHILE HIS ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE CONSUMPTION OF INTOXICATING LIQUOR, and thereafter, after being apprised of his constitutional rights, having been requested to submit to a blood, breath or urine test at (his) THE option OF THE POLICE OFFICER and having been informed that his license or nonresident operating privilege will be suspended in accordance with the provisions of (subsections) SUBSECTION (d), (and) (e) OR (f) of this section if he refuses to submit to such test AND THAT EVIDENCE OF SUCH REFUSAL SHALL BE ADMISSIBLE IN ACCORDANCE WITH SUBSECTION (f) OF SECTION 14-227a AND MAY BE USED AGAINST HIM IN ANY CRIMINAL PROSECUTION, refuses to submit to (any or such tests) THE DESIGNATED TEST, the test shall not be given; PROVIDED, IF THE PERSON REFUSES OR IS UNABLE TO SUBMIT TO A BLOOD TEST, THE POLICE OFFICER SHALL DESIGNATE THE BREATH OR URINE TEST AS THE TEST TO BE TAKEN. THE POLICE OFFICER SHALL MAKE A NOTATION UPON THE RECORDS OF THE POLICE DEPARTMENT THAT HE INFORMED THE PERSON THAT HIS LICENSE OR NONRESIDENT OPERATING PRIVILEGE WOULD BE SUSPENDED IF HE REFUSED TO SUBMIT TO SUCH TEST."

SPEAKER STOLBERG:

Will you remark further on the bill?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

The Clerk has an amendment, LCO 7239.

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SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7239, which will be designated House Amendment Schedule "E". Will the Clerk please call and read.

CLERK:

LCO No. 7239, designated House Amendment Schedule "E", offered by Rep. Tulisano of the 29th District, et al.

Delete subdivision (5) of subsection (c) of section 1 in its entirety and substitute the following in lieu thereof: "(f) the defendant was afford an opportunity to have an additional chemical test performed and the officer who arrested or charged the defendant immediately informed him of this right, afforded him a reasonable opportunity to exercise the same and made a notation to that effect upon the records of the police department."

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for adoption of this amendment.

SPEAKER STOLBERG:

Will you remark?

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REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, the amendment that I've just brought before you basically addresses line 88 through 92, and further of the amendment which we adopted originally, the original amendment. It brings it back to existing language.

And the reason for that, Mr. Speaker, is I know everybody wants to get the drunk drivers, and everybody wants convictions once they go to trial, except that in the new language before us, there are at least three reasonables that any judge or any court would have to address, and I am afraid, and I may be overcautious with regard to this, and I admit that, that the language in the file copy, what I will call the file copy, in effect, allows attorneys for accused three shots at a motion to suppress on that one issue alone.

Reasonableness of the time, reasonableness of the alternative, and the other reasonableness in the file copy. Again, it is my obligation to present it to you. This is not a perfect world. Our amendment doesn't make it a perfect law, but it does take away those options from defense attorneys, and goofing up the works by a series of motions to suppress. I would move the adoption of the amendment.

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SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "E"?

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Mr. Speaker, I strongly oppose this amendment, and I would like to direct the members to page 3. Actually on page 2 of the bill, it's subsection c, and I'd like to explain to you what we have in subsection c and then I would like you to understand the significance of what Rep. Tulisano is proposing.

Subsection c outlines 7 steps to be followed when taking a test. If the arresting officer or the police do not get one of these steps correct, none of the test is considered invalid. It will not be prima facie evidence. It cannot be presented in court.

If one of those seven steps, and let me give you an example of the kind of problem we have when we have the implementation of these 7 steps. Just to give you an idea of the kind of problem we have. And we corrected it this year.

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In one of our steps, on step 2, it says, a true copy of the report of the test result was mailed to or personally delivered. If you notice, though, a person is delivered is in capital letters. That's there because we have a machine that can give you a computer readout, and the arresting officer, when they came into the office, and they had the toximeter test, and they were given the results immediately, the courts threw out the results, because it wasn't mailed. It was hand delivered, so we amended it to do that.

Now this is the point I want you to recognize. Seven steps, one step, two step, three step, four step, you get to the fifth step. You've heard what the existing language is. It says, the defendant was afforded an opportunity to have an additional chemical test. That's a very good thing. They should have two tests. So far so good. Then it says, an additional chemical test performed, and, now this is what we bracketed out, the officer who arrested or charged the defendant immediately was informed.

In other words, why does it have to be the arresting officer who informs that individual of his rights. Why it can't be the other individual who was with him. Why can't it be the officer who was in the police station?

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Before he provides any information to the police, they have to notify him of his rights. They have seven steps they have to follow. Why does it have to be the arresting officer? It doesn't. Why do we make it the arresting officer? What benefit is there? Well, the one benefit I see is that a smart lawyer can go in and say, your honor, this test result is invalid because it was not the arresting officer. It was sergeant so and so. And I'll have him on the stand and he'll admit he was the one who notified the individual of his rights. Technicality? Out goes the test.

Now, if that's what you want in your drunk driving law, then you would want to vote for this. There is no reason why it has to be the arresting officer.

I will read to you what is in the amendment, and then you tell me if you have any problem with it. Tell me if this sounds unfair or unreasonable. The defendant was afforded, now this is the amendment that we adopted before we look at the amendment just being presented. This is what really is now our working document. The defendant was afforded an opportunity to have an additional chemical test performed, and was informed of his rights, afforded a reasonable opportunity to exercise the same, and a notation was made to that effect was made upon the

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records of the police department. And then we added this language, provided the results of the initial test shall not be excluded under this subsection if the police made reasonable efforts to have such additional test performed and such test was not performed within a reasonable time.

Now, if the second test is not performed within a reasonable time, and it is not the fault of the police, why should we allow the first test to be thrown out.

Now, in the court case, they can bring up the fact that there's only one test, and they can challenge that there's only one test, but why shouldn't that one test still be admitted as evidence?

Mr. Speaker, I would just like to point out to you, that this amendment will provide one more loophole. We just passed a loophole in the previous amendment, and it's just going to provide one more loophole that can be used to prevent someone who has committed an offense to be convicted.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, for the record, I resent the last

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speaker and the speaker on the last amendment characterizing the proposals before us as loopholes. They are good faith attempts to improve the law.

We may not agree at all times on what is in these laws, and how the best achieved due process and civil liberties in this country, but they are not built in loopholes, and that is for the record, Mr. Speaker.

Secondly, everyone has spoken, opposed to this amendment, with regard to the cop who will give the test. That isn't what my amendment is addressed to. Certainly I told you it was not perfect, ladies and gentlemen of this assembly. I did say, however, that the proposal before us, by the way I only had 24 hours to do all this stuff in, contrary to the three and half weeks everybody else had to write it, you have three potential loopholes, if you want to use that way, challenges to the way it is drafted in the file copy.

They may not see it that way, but I assure you defense attorneys will use it that way, and if you think there's a hole in what we're proposing you, this is a tunnel, and I assure you that it will be used that way.

But again, you're on notice, and you know about it. Now I think we should vote with regard to the amendment.

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SPEAKER STOLBERG:

The Chair would make an observation as I see a number of people seeking the floor. Also, for the record, the Chair would like to extend its gratitude, particularly to Rep. Shays, Rep. Tulisano, and Rep. Frankel, and many others who are on these amendments who worked many, many hours into the nights over the past two weeks to bring before us a distillation of the issues, and I think they've done it well, and both sides are to be commended on their efforts to get a workable bill.

The Chair would also suggest that the issue before us has been superbly laid out by both Rep. Tulisano and Rep. Shays, and if any member would like to enlighten us further on the issues before us, you're invited to remark at this time. I'm not sure whether that's possible, but the floor is open to further remark on House Amendment Schedule "E". Rep. Prague.

REP. PRAGUE: (8th)

Mr. Speaker, I think perhaps you forgot to mention me, as part of that basic group.

SPEAKER STOLBERG:

Rep. Prague, there were some 80 people who at one point or another, there were some contentious points, however, that I think Rep. Tulisano, well, I'm not going

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into -- I thank all the members of their chamber for their contributions to this bill. (Applause)

REP. PRAGUE: (8th)

My Speaker, my purpose in rising was two-fold. One, to make that statement, and one, to ask Rep. Tulisano if he could explain how his amendment would make the proposed amendment better. I'm not clear as to what would make it better. Really, that's not clear to me, and I think that's important.

SPEAKER STOLBERG:

Rep. Prague, the Chair did hear him explain that already once in his original presentation. Certainly, if he cares to either repeat that or elaborate. Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. It is my fear that the way the draft is before us, in lines 92, I think through 97, each time the word reasonable is mentioned in there, that gives the defense attorney the option of claiming that one, the reverse occur, one, reasonable efforts were not made, two, it was not issued within a reasonable period of time.

Therefore, since the attempts of the police were unreasonable, it would not be admissible. There are

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motions to suppress that will be used, and if I were the defense attorney, I would use them individually. First, the first shot, then the second time around, I would try to separate it to kill time. And that is what everybody here says they don't want to do, and I'm telling you now, you're walking right into it again.

SPEAKER STOLBERG:

Again, the issue is crystallized well I think for the members of the Chamber who have followed the dialogue. Will you remark further on House Amendment Schedule "E"?
Rep. Onorato.

REP. ONORATO: (97th)

Mr. Speaker, Rep. Shays asked a question concerning this amendment on why somebody else couldn't inform him of his rights at the station house, or maybe somebody who didn't make the arrest. As everybody knows that the arrest, every arrest in this state is based on probable cause, and it's the officer who has that probable cause, is the one that has to go into court and substantiate that probable cause, not his sidekick who may or may not know of certain facts, but the officer effecting the arrest.

To have somebody do that at the station house later on, telling a defendant two days later, three hours later, oh, by the way, you do have another right over here, and

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then going to Section 91, a reasonable opportunity is going to do more, is going to do the exact opposite, rather, of what we're trying to accomplish here.

As a defense attorney, I'd probably love this amendment right here. As one who worked in the system for 11 years, as a prosecutor, I know exactly what it's going to accomplish, and the purposes that it's going to accomplish, are not the purposes that we're trying to accomplish here. I would urge adoption of the amendment, sir.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "E". Rep. Farr.

REP. FARR: (19th)

Mr. Speaker, briefly, I'd like to clarify a couple of points. First of all, what happens at the present time, is when an individual is arrested, in all probability he's taken back to the state house to be given the first test. The test is not given in the police car on the side of the road, because the toximeter is usually back at the station house. So when you say that the arresting officer has to immediately give him the rights to a second test when you haven't even gotten him to the location of the first test, it doesn't make any sense.

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What we're saying, is that when you bring him back to the station house, there is normally a qualified operator of that machine who gives him the test, and he is the one that would normally give him the right and notify him of the fact that he ought to take a second test.

As far as the argument about the language saying you have to make a reasonable effort, and we're going to have motions to suppress, what I'd point out to you is that under the present language, if you didn't take that test because the police officer couldn't get some certified individual to administer it, then you clearly would have a right to suppress the first one. And what this does is allow that second test, the first test, under some circumstances to come in.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "E"?

REP. MIGLIARO: (80th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Migliaro.

REP. MIGLIARO: (80th)

Thank you, Mr. Speaker. I have some questions to Rep. Tulisano, through you, Mr. Speaker, if I may.

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SPEAKER STOLBERG:

Please frame your first question.

REP. MIGLIARO: (80th)

Yes, through you, Mr. Speaker, Rep. Tulisano, on line 23, of the amendment, it says the defendant was afforded an opportunity to have an additional chemical test. What I'm concerned about with that is that the first test that is taken, if there's an extreme time period elapsed between the first and the second test, the blood, naturally, will show a lower content of alcohol content, and what I'm wondering is, will the second test have a bearing in a court case, and probably dispute the first test.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, just to make it clear that that is existing law and it hasn't had that kind of problem. Secondly, let me just say that in fact, one of the problems with testing that everybody's beginning to find out, with intoximeters and all the other business. We don't even have a test any more, is that in fact, you may take a test today, at this moment, after you've imbibed a lot of alcohol, be under the influence, it takes a certain

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amount of time for that to get into the blood and show up, so that you could tell between the second test, if you took, it's not required, it used to be, through the second and third test, whether the alcohol was going up or down, and in fact, show whether or not he was drunk or not drunk, if he did take a second test.

So I don't think it harms the initial case at all.

REP. MIGLIARO: (80th)

The next question, through you, Mr. Speaker, I have.

SPEAKER STOLBERG:

Rep. Migliaro.

REP. MIGLIARO: (80th)

Under the Moran Act, as far as reading somebody their rights, as far as I understand the law, and again as an ex police officer, I've gone through this, too, how do you tell a drunk, who's incoherent to answer yes or not if he understands his rights, at that given point?

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. That's a real problem, and that's one of the problems with implied consent laws, where everybody's saying they're taking everybody's license

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away. The fact of the matter is, most of the people you stop are not incoherent, and it's really not a problem. They may be under the influence, but they are not incoherent, and they may be able to understand what's happening before them. That's an issue on a case by case basis which I don't think I can answer here, but I don't think it's a real problem most of the time.

REP. MIGLIARO: (80th)

Well, my question through you, Mr. Speaker, what I was leading up to in the form of a question, a hypothetical case. We have an individual who's being arrested at the scene, is incoherent, does not understand that you've read him his rights, and I make a report of this as a police officer.

Now on the stand in court, down the road, if the individual says his rights weren't read to him, because he didn't know or understand his rights, will that have any bearing on reading their rights immediately, as the bill reads here, and the word that gets me, is that the defendant immediately be informed of his right.

Now, when you say immediately, is that at the scene of the accident, or where?

SPEAKER STOLBERG:

Rep. Tulisano, do you care to respond?

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REP. TULISANO: (29th)

Through you, Mr. Speaker, I didn't know there was an accident, but most of these cases do not deal with accidents. Most of the cases we're dealing with are stops for driving under the influence. It is not dealing with an accident.

Obviously, the hearing we've just heard has not been a problem. This is really the standard law that has existed in this state for a number of years, and that is not one of the issues that have been raised, as to one knowing whether or not they had to take a test. This ties in to the implied consent law, and it is not so -- Mr. Migliaro is right. I suppose that issue could be raised in one or two cases. It is not generally raised, and it has never been litigated that I know of. It may have been, but I don't know of it.

REP. MIGLIARO: (80th)

Well, Mr. Speaker, that's the problem that I have with the amendment, because I think, and I'm not going to use the phrase, loophole, because there's exception to that word, but I do believe that it raises many avenues for an individual to use, particularly the word, being informed of their rights immediately, and I have to assume, and on the contrary, many of those who are driving under

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the influence are involved in an accident, whether you want to admit it or not at a given point, more so than not.

And to inform that individual immediately upon that scene, I think is a way out that can say that it never happened with the police officer, and they can enter it in their records that they did inform the individual, because the individual was not coherent enough to understand, I think there would be some question of whether or not a legal arrest had been made or the proper procedures had been followed.

I think the amendment is kind of ambiguous and I would have to urge you not to support it.

SPEAKER STOLBERG:

Will you remark? Rep. Tulisano.

REP. TULISANO: (29th)

For the third time, Mr. Speaker.

SPEAKER STOLBERG:

Is there objection? Seeing no objection, please proceed.

REP. TULISANO: (29th)

Just Mr. Speaker, for the record, rights delayed are maybe rights denied.

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REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Members of the House, as someone who's not a lawyer, I've listened to this debate and I've just tried to put myself in your position, many of whom are not lawyers, and you hear a lawyer talk about a right and you think, my gosh, I believe in my constitution, I believe in rights, and you get uneasy about, maybe he's right. Maybe we should adopt this amendment.

But you've heard from a number of individuals who practice in our court system, and may know it, from their perspective, but I can tell you that the reason why the language was deleted, was not because police officers came to us, but because representatives in John Bailey's office said we don't need that language. It's a loophole, not intended by Rep. Tulisano. I'm not accusing anyone here of saying let's put it in because we'll have a loophole.

But I am telling you this, that it was represented to us as a very ambiguous thing to say immediately. What does that mean. And to say it's the arresting officer. They say, why does it have to be the arresting officer.

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It introduces technicalities which distort whether a person is really innocent or guilty.

Now, on the last point, the language that says, provided the results of the initial test shall not be excluded under this section, if the police made reasonable efforts to have such additional tests performed, and if such test was not performed within a reasonable time, the fact is, if we give an individual a right to a second test, and he doesn't have a result to a second test, we won't have the problem that Rep. Onorato talked about, about a reasonable effort, we won't have the first test counted.

That first test should be counted if it wasn't the fault of the arresting officer. Now the court will have to decide if they only have one test, whether they should convict that individual. But does it make sense -- in effect, if you adopt Rep. Tulisano's amendment, or the amendment being presented by him, in effect, the first test results will not see the light of day, even if it wasn't the arresting officer or the police's fault that you didn't have a second test. And they won't even get into the issue of reasonable, because you won't have a first test.

And that's what I mean about a loophole. I urge

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you to defeat this amendment, and Mr. Speaker, I respectfully request a roll call, and before you ask, I would just like to reiterate that Austin McGuigan's office went over this amendment line by line. They said it was needed. They said it was important to have, and representative from John Bailey's office went over this amendment line by line. We had telephone conversations that lasted hours and hours, and this was their recommendation. Not the police's, but the people who have to implement this law, and they don't foresee a problem.

SPEAKER STOLBERG:

There is a request for a roll call vote. All those in favor of a roll call vote, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An adequate number is arrived at. When the vote is taken, it will be taken by roll. Will members please be seated. Will staff and guests please come to the well of the House. Will you remark further on House Amendment Schedule "E"? If not, the machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

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The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Amendment Schedule "E" to House Bill 6420.

Total number voting 150

Necessary for adoption 76

Those voting yea 62

Those voting nay 88

Those absent and not voting 1

SPEAKER STOLBERG:

The amendment fails.

REP. TULISANO: (29th)

Mr. Speaker, may that amendment be printed in the Journal.

SPEAKER STOLBERG:

So ordered.

REP. WOODCOCK: (14th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. John Woodcock.

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REP. WOODCOCK: (14th)

Thank you, Mr. Speaker. The Clerk has an amendment, LCO 7220. I ask that he call the amendment, and that I be given permission to summarize.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7220, which will be designated House Amendment Schedule "F". Will the Clerk please call.

CLERK:

LCO No. 7220, designated House Amendment Schedule "F", offered by Rep. Woodcock of the 14th District.

SPEAKER STOLBERG:

Rep. Woodcock has asked leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. WOODCOCK: (14th)

Thank you, Mr. Speaker. What the amendment does, is it raises the minimal coverage for those who sell alcoholic beverages to the public, from \$20,000 to \$45,000 and from \$50,000 to \$100,000. Also it changes the notice requirements which would give a person 90 days instead of the present 60 days to notify a bar owner of a claim.

And lastly, it changes the period of bringing the action from one to two years. I move its adoption.

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SPEAKER STOLBERG:

Will you remark?

REP. WOODCOCK: (14th)

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Woodcock.

REP. WOODCOCK: (14th)

Thank you, Mr. Speaker. Ladies and gentlemen of the House, this proposal is very similar to two proposals that received our approval during this session, and which suffered rather mysterious deaths in the State Senate. I think it's quite obvious that we're going to be passing a tougher drunk driving statute here this afternoon, and it's also very obvious that we're going to be sending a message to the people of this state that we in the assembly have heard them well, and that now it's time to have a tough drunk driving law.

I think we should share the responsibility for a tough drunk driving law, by making those who sell alcohol to people who are intoxicated, also share in the responsibility. I don't think we should go halfway.

So, therefore I think this amendment is totally consistent with the other elements that are in the proposal that's before us. I urge its adoption.

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SPEAKER STOLBERG:

Will you remark on House "F"?

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Christopher Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. A question to the proponent of this amendment.

SPEAKER STOLBERG:

Please frame your question.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Through you, Mr. Speaker, Rep. Woodcock, has this amendment and the substance been rejected already by the Senate? I want to clarify that point.

SPEAKER STOLBERG:

Rep. Woodcock, do you care to respond?

REP. WOODCOCK: (14th)

Yes, Mr. Speaker. Through you, no it has not. This amendment is different than the two proposal that were considered by the State Senate.

REP. SHAYS: (147th)

Through you, Mr. Speaker, could you please outline specifically the differences?

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REP. WOODCOCK: (14th)

Through you, Mr. Speaker, yes. The difference has to do with the amount of individual coverage under the liability limits. One proposal that was sent by the House to the Senate provided for \$40,000 minimal coverage. The other proposal that was sent to the Senate provided for \$50,000 minimal coverage. This proposal calls for \$45,000 which hopefully will be a nice compromise figure for our colleagues in the Senate.

REP. SHAYS: (147th)

Through you, Mr. Speaker. Thank you, Rep. Woodcock. I have been one individual who has supported every amendment and every bill that Rep. Woodcock has come out on the floor with, but I'd like to tell you that I don't see it as a compromise if they rejected 40, and they rejected 50, and we're going to say they're going to accept 45.

My biggest concern with drunk driving legislation is that we tack on so many amendments, by the time it gets to the other Chamber, we don't know what we've done, and we end up with a bill that's unacceptable. We've tried this concept. We've expressed our will. This is not the bill to express our will on.

I urge you to recognize that if we tack on amendments that are somewhat related, but aren't specific to the point, we are going to end up with a bill that you will not like in the end.

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And I urge you to reject this amendment, notwithstanding it has some value and I know I have supported it in the other two times. This is not the way to go. This is not the right place and the right time for this amendment. Please reject this amendment. Don't send a bill up to the Senate where you think they may have trouble with an amendment that they have already considered.

SPEAKER STOLBERG:

Will you remark further on House "F" again? The issue is very, very clearly stated to the Chamber.

Will you remark further? If not all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

REP. WOODCOCK: (14th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Woodcock.

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REP. WOODCOCK: (14th)

I request a roll call, please.

SPEAKER STOLBERG:

The request is for a roll call. All those in favor of a roll call please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An inadequate number is clearly arrived at. I think the vote was clear. The amendment is defeated.

Will you remark further?

REP. PRAGUE: (8th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Prague.

REP. PRAGUE: (8th)

Will the Clerk please call amendment LCO 7074, and I be allowed to summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7074, which will be designated House Amendment Schedule "G". Will the Clerk please call.

CLERK:

LCO No. 7074 designated House Amendment Schedule

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"G" offered by Rep. Shays of the 147th District et al.

SPEAKER STOLBERG:

Rep. Prague has asked leave to summarize. Is there objection? Seeing no objection, please proceed. Rep. Tulisano for what purpose do you rise?

REP, TULISANO: (29th)

Mr. Speaker, there have been some amendments that have been adopted and this would, in fact, wipe those out. Is that the intent of the individuals, or are we all aware of that? Will that be?

REP. PRAGUE: (8th)

No, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Prague and Rep. Tulisano, if you'll just wait a moment and the Chair will respond to the question. We are in the process of Rep. Prague summarizing her amendment. At the appropriate time, if this amendment would impact on prior amendments, that would be an appropriate time to comment on that.

Right now, Rep. Prague has permission to summarize Schedule "G".

Rep. Prague, do you wish to summarize?

REP. PRAGUE: (8th)

Yes, Mr. Speaker.

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SPEAKER STOLBERG:

Please proceed.

REP. PRAGUE: (8th)

This amendment would provide that a blood alcohol content of .10 and above in and of itself constitutes a criminal offense.

The amendment states that anyone picked up for driving while under the influence who then registers .10 and above, would be deemed to be driving under the influence. This evidence would be in and of itself, the determining factor in the disposition of the case.

Driving while intoxicated is a serious offense. And Connecticut needs a per se law making it easier to convict drunk drivers thereby clearing our roads of people who continue to drink and drive.

The fact is, that when the criminal justice system lets off a drunk driver through plea bargaining, it does no favor to him or to the rest of us. We can no longer let these drunk drivers off with a slap on the wrist.

The Governor's task force on drunk driving has strongly recommended a per se law. The presidential commission on drunk driving recommends the elimination of plea bargaining.

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SPEAKER STOLBERG:

Rep. Prague, you have the floor.

REP. PRAGUE: (8th)

Yes, Mr. Speaker. I have been informed that Rep. Tulisano has not finished all his amendments. I thought when Rep. Woodcock presented his, that Rep. Tulisano was done. At this point I would like to yield the floor to Rep. Tulisano and I will come back with my amendment.

SPEAKER STOLBERG:

Rep. Prague, would you withdraw Schedule "G" at this time?

REP. PRAGUE: (8th)

Yes, momentarily.

SPEAKER STOLBERG:

Schedule "G" is withdrawn.

Will you remark further on the bill as amended.

REP. DUFFY: (77th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Duffy.

REP. DUFFY: (77th)

The Clerk has an amendment, LCO No. 7231. I ask the Clerk to call the amendment and I ask that I be allowed

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to summarize.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7231, which will be designated at this time House Amendment Schedule "H". Rep. Duffy has asked leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. DUFFY: (77th)

Mr. Speaker --

SPEAKER STOLBERG:

Would the Clerk please call Schedule "H".

CLERK:

LCO No. 7231 designated House Amendment Schedule "H" offered by Rep. Tulisano of the 29th District et al.

SPEAKER STOLBERG:

Rep. Duffy has asked leave to summarize. Please proceed.

REP. DUFFY: (77th)

Mr. Speaker, this amendment would alter the method of imposing penalties in a drunk driving case by making it the discretion of the judge to impose a fine or imprisonment or both.

I think, this is a necessary discretionary tool which must be given to the judge because of the prison overcrowding situation that we have. The same situation has

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occurred in Massachusetts where over 800 prisoners have been jailed in drunk driving cases and they have had to release other prisoners to accommodate them and I think in that type of situation, it is essential that the judge have the discretion.

This amendment also sharply increases the periods of license suspension for each offense under drunk driving. The first offense would be a suspension of 9 months instead of six months. The suspension for a second offense would be two years instead of one year. For three years, for the third offense, and for a fourth offense, it would be for a five-year license revocation.

I think by keeping it within the judge's discretion it removes another serious challenge to the viability of this law. I want to make sure that our actions are not misunderstood here. Three or four years ago before I was a member of this Assembly --

SPEAKER STOLBERG:

Rep. Duffy, have you given us the summarization?
Will you move adoption?

REP. DUFFY: (77th)

I move adoption, Mr. Speaker.

SPEAKER STOLBERG:

Now will you remark?

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REP. DUFFY: (77th)

Yes, Mr. Speaker.

SPEAKER STOLBERG:

Please proceed.

REP. DUFFY: (77th)

Thank you. Mr. Speaker, before I was a member of this Chamber, this Chamber considered an equally controversial matter that was equally of note to the public and that was the reenactment of the death penalty statute in this state.

And, Mr. Speaker, I was outraged as a citizen when this Assembly acted with haste and left the law with several flaws that allowed it to be declared unconstitutional. I am very fearful that if we do not enact this amendment and several others that will be forthcoming, that the law will be available to the same challenge and I would feel terrible and my conscience would not allow that.

I campaigned very hard on the issue of drunk driving. I feel just as strongly as every other member in this Chamber. We happen to have a client in our office who was just hit by a drunk driver over the weekend. The person may live or die, we do not know. But, Mr. Speaker, we have a grave responsibility here. This law must be able to withstand

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the challenge of every defendant. We cannot adopt it in haste. I am glad we are having the opportunity to go through each amendment. I think each of these amendments makes the law stronger and makes it more able to be upheld in court, and that is what our ultimate aim must be.

We must make sure that this law cannot be declared unconstitutional because then we will have failed in our mission completely.

I strongly urge the adoption of this amendment.

SPEAKER STOLBERG:

Will you remark further on House "H",

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. I'd like to ask the proponent of the amendment why he would even suggest that there would be an unconstitutionality with the present language that has already been adopted.

SPEAKER STOLBERG:

Rep. Duffy.

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REP. DUFFY: (77th)

Through you, Mr. Speaker, this again would allow a defendant and it would require a ruling of the highest court in the state that to whether this infringes upon the judge's discretion in sentencing which is a long history of cases in this state and in other states in the Supreme Court say is within the judge's discretion.

REP. SHAYS: (147th)

Thank you. Speaking on the amendment, Mr. Speaker, and to the members of the House, I have no trouble with some of the penalties that are in the amendment, but there's a very, very important element to this amendment that is different than the first amendment, amendment A that you've already adopted and we are considering part of the file copy.

On Page 4 of your summary, the existing penalties that exist under our present law, you'll recognize that there's a fine for your first time around and your second or third time there's no fine, and then you'll see a jail sentence. You'll see the jail sentence is imposed and it has up to six months for the first year of sentence, up to a year for the second, and it says, 30 days to a year, 60 days to one year. If you are like me, I see a law that says 60 days to one year and I think, well, that

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must mean that the judge has to give at least 60 days. But then we say, or suspended, but 30 days can't be suspended. And then you'll see in the far side, license suspension one year, five years and five years for subsequent. If you turn over to page 5, you'll see what the amendment "A" did, which you have already adopted. It sets up fines for all three levels. It establishes jail terms that are fairly consistent, and it sets up what we call a minimum mandatory sentence.

A second jail sentence 48 hours can't be suspended. A third time offense 30 days can't be suspended and we eliminate the community service which was clearly something that was not satisfactory. We say for a fourth offense a three year sentence and one year is, can't be suspended.

The problem with this amendment is it says a fine or jail, or a fine or jail.

Members of the House, I know we're trying your patience and I know there are a number of other amendments that are going to come on after this. I just would hope that you recognize that what the amendment just offer does to the amendment that you passed the first time around, it says, you can give a fine or a jail sentence, and therefore when they have in their language a sentence that can't be suspended, it means nothing because they can

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do a fine or jail sentence, or they can do both.

And the key, the key to a successful drunk driving is to have, to eliminate and get drunk drivers off our streets, is to have both the fine, both the jail sentence and a license suspension.

We do not take away the discretion of the judge. He can give up to a year, but he can't give less than the minimum that can't be suspended. We give him that discretion. The constitutionality issue is to me, just a total red herring, and I'd like to ask you one question and I'd like to ask you to think of it.

Why is it, why is it that we have enough room in our cemeteries for the victims of drunk drivers, and we're hearing right now that we don't have enough jail space for the people who send those victims to the cemeteries?

Why?

REP. SCHLESINGER: (114th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Schlesinger,

REP. SCHLESINGER: (114th)

Thank you, Mr. Speaker. I rise in opposition to this amendment and first of all, I'd like to say I also rose in favor of the jail overcrowding measures several

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weeks ago. I think we have to divorce the two issues. Jail overcrowding is a problem. We should adopt regulations on how to handle that in a very orderly fashion.

Drunk driving is another problem. And when I set out to work on the subcommittee of the Judiciary Committee on this topic, one thing that I wanted to make clear to the subcommittee and the Judiciary Committee is that mandatory penalties for subsequent offenders is necessary. Mandatory jail sentences. That is a statement. If we're going to make any statement here today, just one, is that if you're a P defender and you get the pretrial and you come back again and you come back again, you're gonna do some time. That's one thing I think we want to establish here today.

If we fail to establish that, I think we've failed with the whole drunk driving effort, so let's not be ambiguous, let's be specific, and again, for those in the Chamber who are not aware, in the amendment that we passed, amendment "A", it's a 48 hour non-suspendable sentence for the second time around and for the third time around it's 30 days. Let's face it, on the third time around you're picked up for going over .1. You're gonna do some time. Let's at least say that much.

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REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Knowing the amendment that was just proposed, I don't think there's any attempt at all, contrary to what the body may be led to believe, to try to evade the mandatory 30 day on the third offense of 48 hour. There is going to be a problem, however, when someone can't pay \$2,000. You know, I've heard a lot of moaning and groaning about somebody who only got a \$300 fine for drunk driving.

Well, if you only have \$300 and it took you five years to save it, that's a lot of money, so justice should be individually applied, and what we are closely getting around to in this, the General Assembly, is the fact that justice is irrelevant as to individuals and what punishment is as to individuals.

Rep. Shays talked about room in jails as to room in cemeteries. That's not the point before us at all. In fact, this doesn't even deal with individuals who take the life as a result of being a drunk driver. Nor does it even deal with the fact that the individual who hurt

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somebody as a result of they're a drunk driver. It deals with driving under the influence.

.10 from a magic machine that isn't admissable in Connecticut, so let's talk about what we're really dealing with. We're dealing with individuals who may or may not be able to pay the fines. It is consistent with our other statutes. It is an attempt to make this bill a better piece of legislation. It is not an attempt to do what other individuals said here today.

It does do one other thing, however. It does make some of the penalties by the way, for driving under the influence harsher than the file copy. The file copy only requires six months loss of license, Our proposal requires nine months loss of license.

And guess what, folks? The existing law is one year loss of license. So if you're all going to walk out of here and say you've stiffened the penalties when you walk out of this place, you haven't. You've changed the procedure, you may have for due process. You may have taken away somebody's rights, but you didn't strengthen the penalties. You may have, in fact, reduced them as to loss of license. Okay?

You ought to know that. And if you think you're better off than you were four years ago, you ought to see what our drunk driving bill looked like four years ago when

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all the advocates were saying here you have to get stiffer and tougher on drunk drivers, almost full circle. Not quite, but almost. It used to be 48 hours mandatory for second offenders. It was five years loss of license for second offenders. There were all of those things. We're just putting them back in the law,

All the attempts to improve it have brought us back full circle. I hope it achieves the goals we're all trying to achieve.

But if I see what's coming down the line on the pretrial education program, the next bill before us, we will be absolutely where we were four years ago. A pretrial education program that nobody uses. By the way folks, plea bargaining has not been abandoned in any of the proposals before you. I hear a lot of that on the floor here. The same plea bargain provision that has been the law for five years is still in the law and Rep. Prague and Rep. Shays encouraged you to pass it. They put it in a different section of the law.

It's exactly what's been going on all the way along. So don't go home and kidding yourselves on what you've done here today. You want to make a better law, fine, but don't think you are. I think Rep. Duffy's proposal does make a better law. It does stiffen it from the file copy. It does

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not go as far as existing law. I would support passage of the bill.

SPEAKER STOLBERG:

We are still on House Amendment Schedule "H". Will you remark further, Rep. Farr,

REP. FARR: (19th)

Mr. Speaker, I'd like to clarify two points. Rep. Tulisano said when we pass these bills, we're not going to increase the penalties, we're going to reduce them. That's true if you accept some of Rep. Tulisano's amendments on the pretrial alcohol education program, because what we propose to do with that is to treat somebody who's gone through that program as a second offender and I think that will, in fact, mean that he's not going to get a lesser suspension than he does under the present rule.

Secondly, let me answer the question of overcrowding. How do we deal with 800 people that Massachusetts has that have been sentenced to mandandatory sentence? I just point out we're talking about two days. If you sentence 800 people to two days, it's 1600 days of jail time, and you divide that by 365 and it comes out to a need for less than five cells, or five retainment facilities in the State of Connecticut. There's no reason these people have to be

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kept in high density or high security prisons. I think we can find five locations in either some of the present retention facilities we have or the Commissioner of Corrections can set up some very low security facilities for these people.

SPEAKER STOLBERG:

Will the members please be seated.

REP. ROTHMAN: (111th)

Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "H". Rep. Rothman.

REP. ROTHMAN: (111th)

Mr. Speaker, just briefly. What we're talking about really is changes in attitude, and changes in attitude are going to come about when we take the bull by the horns. We say what we mean and then we do it, and I think that is what we're talking about in this particular amendment. The amendment does not address the question of a change in attitude and by doing that, we stick with something that people know what to expect and then we enforce that.

And we're talking about enforcement.

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SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "H". Rep. Prague.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. I rise in opposition to this amendment because what this amendment does is weaken any of the penalties on the second and third offense. I think we have to decide whether we're here to strengthen our drunk driving laws or to again just weaken them.

The 48 hour minimum mandatory sentencing on the second offense should stay there. It shouldn't be either or. On the third offense where there's a 30 day minimum mandatory sentencing in our amendment, it should stay there. There should be no either or.

Either we're going to have a tough drunk driving law or we're going to have another weak one which we already have.

I oppose this amendment.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "H". Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker and members of the House. Speaking for the second time. It's really, the issue is not whether we have this amendment has tougher penalties

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than Amendment "A". That's not the issue. In some cases they're tougher and in some cases they aren't. The issue is whether you want a second time offender to have a minimum mandatory two day sentence. If you do, you do not want to vote for this amendment.

If you want a third time offender to have a minimum 30 day sentence that cannot be suspended, you do not want to vote for this amendment. Now you may not want that and then you should vote for it.

In other words, if you do not want a minimum two day sentence for a second time offender, then you would vote for this amendment that was presented. If you do not want a minimum mandatory sentence of 30 days for a third time offender, then you would vote for this amendment. I would like to encourage this House to recognize that this amendment has the word or, and the only time, and Rep. Tulisano can stand up and say, well we have a minimum 48 hour sentence and we have a minimum 30 day. That's only if they impose a sentence. And under this amendment, they don't have to impose the sentence because there's the word or in there.

So I hope that you will reject this amendment. I hope you will agree with us that you should send someone to jail for two days if they are a second time offender

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and let me point out to you something. When they go to jail for two days, they spend two hours, because they go in on a Saturday, and they're out in two hours because of the way the corrections department works it out. So, you know, that's another story on another day, to be fought.

But it's clear we do need a minimum mandatory sentence.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "H". Rep. Tulisano.

REP. TULISANO: (29th)

Clearly, once again, despite the way it may be just have been presented to you, the framers of the amendment clearly do not try to abolish the 48 mandatory second time around or 30 day mandatory sentence for the third time around.

I'm not going to fool you. You're all going to go home if you reject this amendment and think everybody's going to go away for two days. Rep. Shays said it was two hours. Well, at least if they're going to put them away under the amendment we present before you, they're going to go away for two days, they'll work that out, we know that. And I'm sure most of the people that are going

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to be sentenced as second offenders, will get the two days. That's what the law used to be in Connecticut, and it worked then. It was never enforced, because they went to community service. There's lots of things that happen out there. We're trying to make a law that works.

Third offenders, 30 days. We support that easily. The fact of the matter, it happens one out of a thousand or two thousand cases. It has no effect. We're not trying to talk about room in jails. We're talking about the fines combined with the jail sentence.

What do you do with the poor person who can't do it. The recent Supreme Court case said you can't give them additional time. What are we going to do? The option will be to use the jail sentence. I don't know what you're going to do when you reach that situation.

But the penalties aren't going to be effectively imposed constitutionally? Then again, once more, our good intentions have led us down the merry path and we have a bill which will not be enforced.

I'm going to remind you one more time again today. I want you to remember what's happened to the intoximeter in Connecticut. We bought it before it had regulations, we passed a law allowing people to take it before we knew whether it worked or not, and now we are stuck.

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I don't want that burden. I hope you will pass the amendment.

SPEAKER STOLBERG:

We are on House Amendment Schedule "H". Again, I think those discussing the amendments have done an excellent job of distilling them. Will you remark further, Rep. Schlesinger.

REP. SCHLESINGER: (114th)

Just to request a roll call.

SPEAKER STOLBERG:

The request is for a roll call. All those in favor of a roll call, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An adequate number is arrived at. When the vote is taken, it will be taken by roll. Will you remark further? If not, will the members please be seated. Will the staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

The House of Representatives is voting by roll at

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this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Amendment Schedule "H" to House Bill 6420.

Total number voting	150
Necessary for adoption	76
Those voting yea	58
Those voting nay	92
Those absent and not voting	1

SPEAKER STOLBERG:

The amendment is defeated.

REP. TULISANO: (29th)

May that be printed in the Journal, that amendment?

SPEAKER STOLBERG:

So ordered.

House Amendment Schedule "H".

Delete subsection (h) of section 1 in its entirety and substitute the following in lieu thereof:

"(h) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (a) OF THIS SECTION SHALL: (1) FOR A FIRST

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OFFENSE, BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BE BOTH FINED AND IMPRISONED, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR NINE MONTHS; (2) FOR A SECOND OFFENSE, BE FINED NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN THREE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN ONE YEAR, FORTY-EIGHT CONSECUTIVE HOURS OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, OR BE BOTH FINED AND IMPRISONED, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR TWO YEARS; (3) FOR A THIRD OFFENSE, BE FINED NOT LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN SIX THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN TWO YEARS, THIRTY DAYS OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, OR BE BOTH FINED AND IMPRISONED, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR THREE YEARS; AND (4) FOR A FOURTH AND SUBSEQUENT OFFENSE, BE FINED NOT LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN TEN THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN THREE YEARS, ONE YEAR OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, OR BE BOTH FINED AND IMPRISONED, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR FIVE YEARS."

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

The Clerk has an amendment LCO 7216.

SPEAKER STOLBERG:

The Clerk has an amendment; LCO 7216 which will be designated House Amendment Schedule "I". Will the Clerk please call.

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CLERK:

LCO No. 7216, designated House Amendment Schedule "I" offered by Rep. Tulisano of the 29th District,

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano asks leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, the amendment before us deals with creating a class D felony for those who would evade responsibility and they cause serious physical injury or death. I would move its adoption.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Mr. Speaker, I think this would close all those discrepancies in our law that exist as a result of legislation that was passed last year concerning individuals who the penalties involved with serious physical injury or death as a result of drunk driving, it maintains the same sort of spread between penalties as we used to have before that changed. I'm afraid we may have created some of these discrepancies today. However, this is an attempt

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to correct last year's legislation and I would hope everybody would join its passage.

SPEAKER STOLBERG:

Will you remark further on House "I"? Will you remark further?

REP. PRAGUE: (8th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Prague.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker, I rise to support this amendment, even though I don't think it goes far enough. I think that if somebody hits and runs and causes physical injury or death, that it should be a much more severe penalty than a felony, than a D felony.

However, under the circumstances, this is what we have and I rise to support it.

SPEAKER STOLBERG:

Thank you, Rep. Prague, Will you remark further on House "I"? Rep. Duffy.

REP. DUFFY: (77th)

Mr. Speaker, I strongly urge the adoption of this amendment. I think it goes a long way toward removing one of the largest loopholes in the drunk driving law

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that we have. I think it shows the intent to strengthen the law and make the amendment that we passed this amendment "A" better, more workable, and stronger, and I strongly urge its adoption.

SPEAKER STOLBERG:

Will you remark further on House "I", If not, all those in favor of House "I" please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary nay. House "I" is adopted and ruled technical.

House Amendment Schedule "I".

After line 573, add section 8 as follows:

"Sec. 8. Section 14-224 of the general statutes, as amended by senate bill number 1060 of the current session, is repealed and the following is substituted in lieu thereof:

(a) EACH PERSON OPERATING A MOTOR VEHICLE WHO IS KNOWINGLY INVOLVED IN AN ACCIDENT WHICH CAUSES SERIOUS PHYSICAL INJURY, AS DEFINED IN SECTION 53a-3, TO OR RESULTS IN THE DEATH OF ANY OTHER PERSON SHALL AT ONCE STOP AND RENDER SUCH ASSISTANCE AS MAY BE NEEDED AND SHALL GIVE HIS NAME, ADDRESS AND OPERATOR'S LICENSE NUMBER AND REGISTRATION NUMBER TO THE PERSON INJURED OR TO ANY OFFICER OR WITNESS TO THE DEATH OR SERIOUS PHYSICAL INJURY OF ANY PERSON, AND IF SUCH OPERATOR OF THE MOTOR

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VEHICLE CAUSING THE DEATH OR SERIOUS PHYSICAL INJURY OF ANY PERSON IS UNABLE TO GIVE HIS NAME, ADDRESS AND OPERATOR'S LICENSE NUMBER AND REGISTRATION NUMBER TO THE PERSON INJURED OR TO ANY WITNESS OR OFFICER, FOR ANY REASON OR CAUSE, SUCH OPERATOR SHALL IMMEDIATELY REPORT SUCH DEATH OR SERIOUS PHYSICAL INJURY OF ANY PERSON TO A POLICE OFFICER, A CONSTABLE, A STATE POLICE OFFICER OR AN INSPECTOR OF MOTOR VEHICLES OR AT THE NEAREST POLICE PRECINT OR STATION, AND SHALL STATE IN SUCH REPORT THE LOCATION AND CIRCUMSTANCES OF THE ACCIDENT CAUSING THE DEATH OR SERIOUS PHYSICAL INJURY OF ANY PERSON AND HIS NAME, ADDRESS, OPERATOR'S LICENSE NUMBER AND REGISTRATION NUMBER.

(b) Each person operating a motor vehicle who is knowingly involved in an accident which causes PHYSICAL INJURY, AS DEFINED IN SECTION 53a-3, (whether or not resulting in death,) to any other person or injury or damage to property shall at once stop and render such assistance as may be needed and shall give his name, address and operator's license number and registration number to the person injured or to the owner of the injured or damaged property, or to any officer or witness to the (death of any person or to the) PHYSICAL injury to person or injury or damage to property, and if such operator of the motor vehicle causing the (death or) PHYSICAL injury of any person or injury or damage to any property is unable to give his name, address and operator's license number and registration number to the person injured or the owner of the property injured or damaged, or to any witness or officer, for any reason or cause, such operator shall immediately report such (death or) PHYSICAL injury of any person or injury or damage to property to a police officer, a constable, a state police officer or an inspector of motor vehicles or at the nearest police precinct or station, and shall state in such report the location and circumstances of the accident causing the (death or) PHYSICAL injury of any person or the injury or damage to property and his name, address, operator's license number and registration number.

(b) (c) No person shall operate a motor vehicle upon any public highway for a wager or for any race or for the purpose of making a speed record.

(d) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (a) OF THIS SECTION SHALL BE FINED NOT MORE THAN FIVE THOUSAND DOLLARS OR BE IMPRISONED NOT LESS THAN ONE YEAR NOR MORE THAN FIVE YEARS OR BE BOTH FINED AND IMPRISONED.

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((c)) (e) Any person who violates (any provision) THE PROVISIONS OF SUBSECTION (b) or (c) of this section shall be fined not less than seventy-five dollars nor more than six hundred dollars or be imprisoned not more than one year or be both fined and imprisoned, and for any subsequent offense shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned not more than one year or be both fined and imprisoned."

SPEAKER STOLBERG:

Will you remark further on the bill as amended?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

The Clerk has an amendment, LCO 6480.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 6480, which will be designated House "J". Will the Clerk please call.

CLERK:

LCO NO. 6480 designated House Amendment Schedule "J" offered by Rep. Tulisano of the 29th District.

SPEAKER STOLBERG:

Rep. Tulisano has asked leave to summarize. Is there objection? Seeing no objection, please proceed.

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REP. TULISANO: (29th)

Mr. Speaker, the amendment before us now amends two sections of our statutes, 30-88a and 30-89 and creates a minimum fine of \$250, maximum \$500 for the now present \$50, for individuals who attempt to procure liquor on behalf of a minor or make a false statement in procuring liquor, or an individual who tampers with their driver's license trying to change it so that they might be able to use it to misrepresent his age, or user exhibit it to make believe they're the individual.

It's to get to individuals who try to obtain liquor and get to some of the root problem of driving under the influence and I would move its adoption.

SPEAKER STOLBERG:

Will you remark further on House "J"?

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker, I think this is a good amendment and I hope it's adopted.

SPEAKER STOLBERG:

Will you remark further on House "J", If not,

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all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. House "J" is adopted and ruled technical.

House Amendment Schedule "J".

After line 571, insert the following new sections and renumber the remaining sections accordingly:

"Sec. 7. Section 30-88a of the general statutes is repealed and the following is substituted in lieu thereof:

Each person who attains the age of nineteen years and has a motor vehicle or motorcycle operator's license, containing a full-face photograph of such person, may use and each permittee may accept such license as legal proof of the age of the licensee for the purpose of this chapter. Any person who misrepresents his age or uses or exhibits, for the purpose of procuring alcoholic liquor, an operator's license belonging to any other person, shall be fined not LESS THAN TWO HUNDRED NOR more than (fifty) FIVE HUNDRED dollars (or) AND imprisoned (not more than) thirty days. (or both.)

Sec. 8. Section 30-89 of the general statutes is repealed and the following is substituted in lieu thereof:

Any person to whom the sale of alcoholic liquor is by law forbidden who purchases or attempts to purchase such liquor or who makes any false statement for the purpose of procuring such liquor, and any minor who enters a tavern, except a person over age eighteen who is an employee or permit holder under section 30-90a, shall be fined not LESS THAN TWO HUNDRED NOR more than (one) FIVE hundred dollars AND IMPRISONED THIRTY DAYS."

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SPEAKER STOLBERG:

Will you remark further? Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

The Clerk has an amendment LCO 7089.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7089, which will be designated House Amendment Schedule "K". Will the Clerk please call.

CLERK:

LCO NO. 7089 designated House Amendment Schedule "K" offered by Rep. Tulisano of the 29th District.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano asks leave to summarize. Is there objection? Seeing no objection, please proceed in a moment, Rep. Tulisano. I think the House is getting a little disorderly.

We are about to have summarization of House Amendment Schedule "K". Rep. Tulisano.

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REP. TULISANO: (29th)

Mr. Speaker, this deals with the penalty provision again parallels what is in the original a and adds one section. And frankly, Mr. Speaker, I thought of this this morning, and I hope we will adopt it though there may be some questions with regard to the same.

I'm trying to determine what a second offender is for purposes of the second offender statutes that we just passed in terms of penalties.

I have indicated, that a second offender that is anybody that was convicted in Connecticut after October 1, 1981, or as heretofore may be amended. That is just a cutoff date taken out of the air. I present it to the floor of the House, because I believe we have to make some determination. We're getting cases coming down all which ways of what is or what is not a second offender. We're creating a real different law now than we had in the past, so we ought to start determining when the second offender cases begin to be counted.

I hope we'll adopt this amendment.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "K".

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REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Christopher Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. I think Rep. Tulisano has recognized a point that does need to be clarified. However, I just would like to ask him a question in regard to it and I will say that this was a request that I know Sen. Owens had wanted to see in the bill and should be as well as a judge who suggested that if we passed the legislation without saying how far back they should go, it would be difficult for them to know how to treat an individual as a second or third or fourth offender if they didn't know how far back they should go, but through you, Mr. Speaker, I would like to ask if he would look at language 40, 41 and 42 and tell me if he feels that that will be sufficient direction for the court in order to determine that we in fact, are going back to October 1, 1981.

In other words, we only make provisions to section 14-227a and I'm wondering if we do not need language in there that talks about the bill as amended in 1958 and so on and so on and so on.

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REP. TULISANO: (29th)

Mr. Speaker, I think the language was indicated is any offense from October 1, 1981 or as amended thereafter is sufficient. We're not counting offenses before that date. I know that may be subject to debate, but this is just a cutoff date which I established by my own head, and it could have been anywhere, but we had to start some place and this is where we're going to have to start making determinations.

And I think it's sufficient notice. The intent is to start counting with your first offense on or after October 1, 1981. I can't make it any clearer, I think, for purposes of legislative intent.

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

I'm wondering if I could ask for the tolerance of the House to have just a moment of recess, not recess but at ease for a period of a minute so I could show Rep. Tulisano something and ask his opinion about it.

SPEAKER STOLBERG:

The House will stand at ease for a moment.

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We're discussing House Amendment Schedule "K", Rep. Shays has the floor, Rep. Shays, are you prepared to continue at this time.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. I thank the patience of the House. We were just checking the specific language because we had another amendment that worded it a little differently, and I think this amendment is fine and I urge the House to adopt it.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "K". If not, all those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted and ruled technical.

House Amendment Schedule "K".

Delete subsection (h) of section 1 in its entirety and substitute the following in lieu thereof:

"(h) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (a) OF THIS SECTION SHALL: (1) FOR A FIRST OFFENSE, BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN

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SIX MONTHS, OR BE BOTH FINED AND IMPRISONED, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR SIX MONTHS; (2) FOR A SECOND OFFENSE, BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN TWO THOUSAND DOLLARS AND IMPRISONED NOT MORE THAN ONE YEAR, FORTY-EIGHT CONSECUTIVE HOURS OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR ONE YEAR; (3) FOR A THIRD OFFENSE, BE FINED NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FOUR THOUSAND DOLLARS AND IMPRISONED NOT MORE THAN TWO YEARS, THIRTY DAYS OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED FOR THREE YEARS; and (4) FOR A FOURTH AND SUBSEQUENT OFFENSE, BE FINED NOT LESS THAN TWO THOUSAND DOLLARS NOR MORE THAN EIGHT THOUSAND DOLLARS AND IMPRISONED NOT MORE THAN THREE YEARS, ONE YEAR OF WHICH MAY NOT BE SUSPENDED OR REDUCED IN ANY MANNER, AND HAVE HIS MOTOR VEHICLE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE PERMANENTLY REVOKED UPON SUCH FOURTH OFFENSE. FOR PURPOSES OF THE IMPOSITION OF PENALTIES FOR A SECOND, THIRD OR FOURTH AND SUBSEQUENT OFFENSE PURSUANT TO THIS SUBSECTION, A CONVICTION UNDER THE PROVISIONS OF SECTION 14-227a AS SAID SECTION EXISTED ON OCTOBER 1, 1981, OR AS AMENDED THEREAFTER, SHALL CONSTITUTE A PRIOR OFFENSE."

SPEAKER STOLBERG:

Will you remark further on the bill.

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker and members of the House. The Clerk has the last amendment I will present here today, though I still think there are other provisions in here which raise questions, equal protection problems. I don't think we should, we'll let the courts decide that one because I

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don't think we should take up their time any longer today, but there is one basic policy decision I think has to be made here, and that's addressed in LCO No. 7234.

SPEAKER STOLBERG:

The Clerk has an amendment LCO No. 7234 which will be designed House Amendment Schedule "L". Will the Clerk please call.

CLERK:

LCO NO. 7232, designated House Amendment Schedule "L" offered by Rep. Tulisano of the 29th District et al.

SPEAKER STOLBERG:

Rep. Tulisano asked leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, 7234 deals with changing the copy in lines 261 through 275, I believe it is, which would in effect go back to the existing law dealing with implied consent.

The file copy before us says if you do not take the breath test, or whatever chemical test is requested of you, you could lose your license for six months for failure to take the test. That is the same as the penalty this House voted on for driving under the influence.

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Our current law making it three months for loss of license is only been in existence since the past October.

I certainly believe that it is appropriate to give that law a chance and to make an effective law. It seems to me by doing what the file copy proposes, you will no longer having anybody taking breath tests.

I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark on House Amendment Schedule "L"?

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Rep. Tulisano, I haven't looked at this amendment and I would before commenting on it, would like to ask you a question. Am I to understand that what your amendment does, is still allow for the six months for the first time offense, but? No? Through you, Mr. Speaker, could the gentleman, I know he explained it well. I just didn't understand it.

SPEAKER STOLBERG:

Rep. Tulisano.

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REP. TULISANO: (29th)

Through you, Mr. Speaker, this would in effect bring it back to three months for the first, 90 days for the first refusal, second refusal one year, third refusal three years. The existing language not going to the six months as in the file copy.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Members of the House, I think that is probably the most important amendment to be decided today and I hope that we can explain it adequately so you understand whichever way you go on it.

The present law is three months' suspension, if you refuse to take the test and I would just like to have you take a look at, so you understand what we presently have. If you look at Section 2, if you look at line 222, just so you understand this concept, then I'll speak specifically to the amendment.

In Section 2, section 14-227b it starts in line 222 of the bill, and I'll start reading on lines 224. It says, any person who operates a motor vehicle in this state shall be deemed to have given his consent to a chemical analysis of his blood, breath, or urine. And if

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said person is a minor, his parents or guardian shall also be deemed to have given his consent.

Now what we have as present law is what they call the applied consent statute. When we take a license, agree that if we are ever asked, we agree, we in fact, have already agreed. Every one of us here. That does not say that we can say no, but if we say no, there are certain penalties involved.

Now going to what Rep. Tulisano has done, he is suggesting that the present law which says if you are asked by the judge, excuse me, correction, if you are asked by the police officer, to take a test, he has to warn you about a number of things. He has to warn you that you'll lose your license for three months. If you come in under present law as a second or subsequent refusal, in other words, if you, excuse me if you've refused it once and you've lost your license for 90 days, you come in a second time, you lose your license for one year if you refuse to take the test.

Now what we have right now that was amendment "A" that was first adopted, we have this concept. We say if you refuse to take the test, you lose your license not for 90 days for a first time refusal, but you lose it for six months. And I'll come back to you and tell you why that's

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so very vital to a successful drunk driving bill.

The second thing that we have done, is we have said that if you refuse the second time, we'll keep it the way it is. You lose it for a year, or, and this is the important element, if you have previously been convicted of drunk driving, if you have gone through the pretrial alcoholic education program, if you have done those things and you come and you refuse to take the test for the first time, you will be given a year.

Now I'd like to tell you why we did those things. Why it was the suggestion of the Governor's commission on drunk driving. Why it was the suggestion of the state attorney's office. Why it was the suggestion of the police to lengthen that up.

It's imperative that the administrative penalty, an administrative penalty is the loss of a license, be as strict as the penalty for the abuse that you would have been tried under. If we only have 60 days and we have now strengthened the penalties that this bill does, there is a tremendous incentive not to take the test. Frankly, you'd have to be a fool to take the test, because now we've increased the penalties, but we still say, well you only lose your license for three months, and yet, that's if you refuse to take it. Yet if you're convicted, you

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lose your license for six months and you get a jail sentence, excuse me, a potential jail sentence, or you get a fine as well. So if you adopt this amendment, what you will be doing, is you will, in effect, be encouraging people not to take the test, and that is so important. You do not get convictions if you do not have people taking the test.

Now another unfortunate aspect to the pretrial alcoholic education program is that when people go through that program, they learn something. They not only learn how bad drunk driving is, they learn what a fool they were to take the test. That's one of the things they talked about. They say man, I'll never do it another time. Well they certainly won't do it another time if they're going to be treated as a first time refusal and only get 90 days. I mean, that's not going to work. You've got to have, the very key, the very essence of a strong drunk driving bill, this is the very core of this bill right now, is to have the refusal to take the test severe enough so that they will want to take the test.

And let's not forget, if they take the test, they could also be found innocent. They may be found, in effect, not to be driving DWI, not to have the alcohol content that the arresting officer thought. So I encourage you

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not to vote for this amendment. This amendment would gut the bill, it really would. It would gut the bill in the sense that it would mean that our drunk driving laws will not work. People will not take the test.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "L". Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, there were others who were going to speak on this particular bill, this particular amendment because it does bring us to the issue. And it's probably the most important discussion we're going to have here for the afternoon. What you have here is a total thrust of all the bills and amendments is the prime example which has occurred in society time and time again. And that is that the ends justify the means.

There's no concern to informed citizens who know what the law is, there is no concern to somebody who enters a pretrial diversion program in an attempt to change social attitudes, the base cause of drunk driving. This is not Sweden, Mr. Speaker. This is not a homogenous community, Mr. Speaker. This is a multitude of peoples with ideas and concepts which we have to deal with. We cannot treat like robots. But what we have is a number

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of concerned citizens who are uninformed about all of these areas, who are concerned, and find simplistic easy answers to all of our problems.

We have well intentioned legislators stampeded to enact legislation which may either be unconstitutional, unjust or unfair and worst of all as we have seen time and time again, unenforceable.

Last Thursday we almost got pushed to vote on this bill before we had a chance to review it and after a long fight, we could hold it so that we could have a cute state's attorney come here and say, provisions were unenforceable. We haven't had that opportunity to review that here.

But what you have now is penalties for not taking a test. Penalties equal to that as if you were convicted as to loss of license for non-cooperation with the authorities. It's not the same thing as if you've done something. Just think of what this whole thing means together. That if you don't take the test, you lose your license for six months. Well, obviously, you should take the test. And then we're going to convict you. Isn't that nice? Welcome to America. We'll use our muscle to extract a penalty. It may be constitutional, I'm not arguing that. Is it fear, is it right, is it the country you want to live in.

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And not only that, the problem they make you take the test on a machine called the toximeter 3000. Can you refuse to take that? Especially since it was invalid? I don't know the answer to that question.

Or we can go to the City of Hartford and that's what they call probable cause today. This is probable cause to stop you from drunk driving. This little machine that I have here. And let me tell you, I won't do it here before the floor of the House, but you saw it last week. If I put listerine into it, the machine goes haywire and is .20. And that's what we're relying on. I'd be happy to show anybody in this Hall. You saw it last week.

You're supposed to add that on to a few other things. That's what we now call probable cause. Going to stop me with this machine, which the listerine will make go off and say if you don't take the test, you lose the license. When you do take the test, I promise you. There used to be another way of doing that, they used to use the rack, but they don't use that any more and I guess we're much more sophisticated.

Take that also. That's now, if an individual may or may not have been found guilty of drunk driving, may not have even been charged with drunk driving, or could have

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even been prosecuted for drunk driving, but if you take the socially responsible position of being educated and re-educated through drunk driving task force, I mean the pretrial education program, and then don't take a test, God will take your license away for a year for that one.

Now where's the encouragement to re-educate people in all of that? Think of where we're going. We only have one more year left to this Session. What are we going to do for encores next year and the year after? We already have understate authorities able to go into bars, we're always condoning it here, saying, one of you look like you're under 18 years old or under 19 years old. We're going to lock the doors and have ID checks for everybody. Welcome to the United States of America.

Not probable cause for each and every one they're going to stop and ask, but we're going to imprison you, and hold you, and check all of your IDs. That's part of what we're dealing with.

SPEAKER STOLBERG:

A point of order has been raised. Rep. Shays, what is your point of order.

REP. SHAYS: (147th)

Thank you, Mr. Speaker, I think the gentleman with all due respect, is straying from the amendment, and the

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amendment is whether we have, allow for a longer penalty if you refuse to take the test, and we're not doing all these other things the gentleman is suggesting, and I just feel that he is straying from the amendments.

SPEAKER STOLBERG:

Rep. Tulisano, I realize that this is your final amendment and the key amendment. Once the amendments have been completed and we do have the bill as amended before us, a further summary could be in order at that time. If you could address the points in the amendment, I think that would be helpful.

REP. TULISANO: (29th)

Well, Mr. Speaker, I've just indicated clearly that you have to tie this amendment in with other aspects of what we're going. One of the big problems in this General Assembly is, we take things piecemeal and we don't tie it together as a scheme of law which must be enforced. We find that problem day in and day out.

But the issue is very clear. Six months for failure to cooperate. If you do cooperate, we punish you. Tie that to the other things that we will talk about later. Tie that to the fact that if you go into the pretrial, we'll punish you twice as much. Tie that to the fact that you're a second offender, when you may not have been an

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offender at all.

We've had three months' existence in this state since past October. We would like it to work. Believe it or not, Mr. Shays and members of the Gallery and members of this House, we want to get to the root causes of drunk driving. And let me tell you now that there is nobody who is going to be recommended if they ever call a lawyer, who'll say, okay, take the test because of this penalty. With the whole thrust of this together, every lawyer's going to tell their client, don't take the test any more. You'll get your six months' loss of license, but you'll never have to worry about being a second offender status. You'll never have to do anything else and you don't have to worry about trying the pretrial education program.

Here we are again, good intentions, bad law.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "L". Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. Mr. Speaker, I'm sorry to rise up so quickly after Rep. Tulisano has spoken, but he clearly has left some misimpressions that we need to clarify, and through you, Mr. Speaker, I would like to ask him a question.

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Rep. Tulisano, this machine that you are holding up. Are you in any way suggesting to this General Assembly that that machine will be eligible for evidence in a court case. Would anyone convict anyone using that machine?

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I didn't say that was the fact at all. I said it was the use of stopping people to take the test, the use of probable cause on the Hartford streets today.

REP. SHAYS: (147th)

Thank you. And through you, Mr. Speaker, are you suggesting in any way, that the court case that said because we did not have any regulations governing the use of this machine, are you suggesting to this General Assembly that the court ruled in any way on the validity of that machine?

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, how can I answer the question? It has nothing to do with this amendment.

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REP. SHAYS: (147th)

Mr. Speaker, speaking on this issue, Rep. Tulisano is making the point to you that the toximeter which is a very pivotal, is a very important instrument in determining the blood count through a breath test is invalid and he shows you something that is not an intoximeter. What he shows you is a tool that a police officer may use just to see if maybe there is probable cause to go down and use an intoximeter.

Now, I had someone go down to that machine because what he had you do is he had you blow, and I know some of you did it. You took a little listerine and then you used the machine and boy, it just lit up, and it would imply to you and to me that somehow, you know, this is a crazy system we have.

So I asked a member RID to go down and take the test. And what they first had to do was they had to test the machine to make sure that it was clean and working properly. They had to wait 15 minutes to make sure the individual was, the individual was --

REP. TULISANO; (29th)

Mr. Speaker, I'll rise to a point of order also.

SPEAKER STOLBERG:

Rep. Tulisano.

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REP. TULISANO: (29th)

You're just talking about a machine now. That's all the discussion is now. Let's get back to the amendment as I was requested to do,

REP. SHAYS: (147th)

Mr. Speaker,

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

May I respond to why it's necessary, because the issue was raised by the gentleman, I feel in order to enlighten this General Assembly as to the validity of this machine and why it's so important that they take the test, rather than, and the whole issue is, Mr. Speaker, whether someone should take the test or not, and the administrative penalty if they don't.

And Rep. Tulisano is questioning the reliability of the machine, as if in some way we are asking them to do something, or using a machine that will not tell a legitimate story and I'm just trying to demonstrate to this full House how legitimate that story is and I'm responding to his statements, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays, if you could conclude your remarks on

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House Amendment Schedule "L".

REP. SHAYS: (147th)

Mr. Speaker, I don't know how to take that but I think what I would like to suggest is that I have a test result that would show the individual who took this test. They waited, they took it right away and they got a count of .40 and the person who took the test said you know, you're in comatose state, you're a dead man.

They took the alcohol in their mouth. It was the listerine, they took the test. You're a dead man, They gave him six printouts because that's what's required and then they had the individual take the test seven minutes later. Do you know what they read? .004. Correction, .008. And then they took it about 15 minutes later and they had .000. The point is, Mr. Speaker, members of the House, this machine is a very accurate machine. It does a good job, and we can't, we have to understand how it's used.

The police do not give you listerine, they do not give you a test right away. They have to wait 15 minutes. They make sure you don't eat. They make sure you don't smoke. They make sure you don't put a popsicle in your mouth. They make sure you don't do, and if you regurgitate, throw up, then they wait another 15 minutes. What they need

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to do is get the breath in the bottom of your lung, and they have a procedure for that, and I'm just suggesting to these members, that don't be impressed by a machine that is held up. It has no validity, it's not used by the police in that way, and I would also make one last point.

The regulations were not adopted because Dr. Lloyd has not adopted regulations. The General Assembly has not approved regulations. The regulations, it states in our statute, that the Department of Health must promulgate regulations and I'll refer to the exact line. It's line 123. 123 to 131.

And it just states there that the Department of, the director of health has to promulgate regulations governing the use of that and they haven't done it. The court ruled not on the validity of the intoximeter, they just ruled on whether we had done our regulations, and we haven't. So the test of the intoximeter is not valid until we adopt our regulations. That is the issue.

Now I just would like to close by pointing out to you and again, I really appreciate the tolerance of this House that the very center of this issue is whether we can encourage people to take the test and the only penalty if they don't is the loss of license. They aren't sent to

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jail, they aren't fined. They lose their license. It's the minimum that we have to do in order to encourage people to take the test, and if we adopt the amendment of Rep. Tulisano's, people will be encouraged not to take the test even more than ever because we strengthen the penalties and now there's an incentive. We increase the penalties for fines and jail and suspension if they're convicted, we've got to make sure we do it on the other side as well.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Let me just point out, Atty. Shays indicated what he was going to advise all of his clients, should this bill happen. But let me tell you what Atty. Tulisano is going to do when he has his clients call him up in the middle of the night.

When they call up and they say, shall I take the test or not, I'm going to say, do not take the test. Today, I say, take the test. And the test results in taking a test are really good for lots of things. Determining statistics of how much alcohol people are drinking, how you best treat people when you get into the

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pretrial education program, how much control they have themselves. There's lots of good reasons to have a test result. But if in the practice, people are not going to encourage it, we will be in fact creating just the opposite of what we intended to do.

And let me make it clear again, because in case no one was listening, I never said this was a valid machine for courts. It is, however, a valid machine the police use to determine whether or not they will require you to take that more intensive test, the intoximeter 3000. This is what they're using. Okay.

I hate to tell you, but all the professional jokes will be driving around with listerine after today, unfortunately, but lots of people knew that already, and I wasn't even sure it blew out the intoximeter 3000. I'm more dubious of its distinction as a means of getting drunk drivers than I ever was after Rep. Shays told me that. A more effective way would be \$1,000 machine of video taping somebody of what they're doing, rather than \$3,000 machine whose scientific analysis is open to question. But be that as it may. I still want to tell you that the point of the matter is the request to take the test which now will result in a potential six month loss of license for doing no wrong will be because and can be because of a

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machine like this one. It's not absolute, I sent it over to a toxologist. I tried to get the intoximeter 3000 up here for everybody today. This is the only machine that's been in the Capitol in six months that anybody could look at. They told me it was broken in one of the barracks that I called and it has been broken periodically for the last six months. So I don't know if those tests are valid or not.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "L". Rep. Farr.

REP. FARR: (19th)

Mr. Speaker, I'd like to correct a couple of comments that Rep. Attorney Tulisano talked about the fact that you have, that a police officer can ask someone to take the test and that's probable cause. If he takes that little hand held test. I would point out that there is nothing in our laws that in any ways requires anybody to even breathe into that machine. And we're not putting anything in the law that says they have to use that particular machine. That's not an approved machine. As far as the argument that you have probable cause and that becomes the probable cause, the fact of the matter is you have to have probable cause to ask someone to take a test

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and probable cause has to exist prior to requesting the test.

But let me make another point, and that's the question of whether attorneys are going to advise people to take the test or not if there's a 30 day suspension. First of all, that's not really the issue before us, because that's not what we're debating right now. What we're debating right now is simply the issue of whether someone who goes in, who's already gone through the alcohol education program, or already previously been convicted shall have the right not to take a test and only have a suspension of 90 days of his license.

Because, frankly, that's a tremendous loophole in the present law. We treat somebody who has already been arrested once as if he has no knowledge about the procedure, and in fact, he does.

Mr. Speaker, I would request that when a vote be taken, it be taken by roll call.

SPEAKER STOLBERG:

There is a request for a roll call vote. Would all those in favor of a roll call vote please indicate by saying aye.

REPRESENTATIVES:

Aye.

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SPEAKER STOLBERG:

An adequate number is arrived at. When the vote is taken, it will be taken by roll. Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, through you, a question to Rep. Farr.

SPEAKER STOLBERG:

Please frame your question.

REP. TULISANO: (29th)

Rep. Farr. Is it your opinion, therefore, that any time a police officer asks a motorist to blow into this machine, he may refuse?

SPEAKER STOLBERG:

Rep. Farr, do you care to respond?

REP. FARR: (19th)

Yes. Through you, Mr. Speaker, to Rep. Tulisano, if the individual has not been placed under arrest, he has a right to refuse to take any test, yes, that's my understanding of the present law.

REP. TULISANO: (29th)

Mr. Speaker, another question, through you.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. Could Rep. Farr tell us

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if he knows under what basis Milford and the City of Hartford are using similar machines to stop people and if it is his opinion that they are violating the law?

SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

Through you, Mr. Speaker, I'm not aware of the fact anybody is stopping people because of the existence or the non-existence of the machine. I assume they are probably stopping people because they have probable cause to do it, or they are stopping everyone in a special area. I don't know whether that's the case or not.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I will ask the question more precisely, I hope.

Would the use of one of these similar type machines just as effective, to determine probable cause, be in Rep. Farr's opinion, illegal under our present statutes.

SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

I don't know whether it's illegal to use the machine. What I represented to this body is that an individual who is not under arrest, has a right to refuse the use of that

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machine and that there is no penalty as a result of that.

REP. TULISANO: (29th)

Through you, Mr. Speaker, one more question. And if the individual who is stopped, refuses to use the machine, and is then placed under arrest for interfering with a police officer, would that be a valid defense?

SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

I'm not aware of the fact that there is anything in interfering with a police officer which requires someone to take a breath test, and so I would assume that yes, that would be a valid defense. If that were the only basis for the charge.

SPEAKER STOLBERG:

Counselors, if I could suggest that these interrogatories be continued as consisely as possible. Rep. Tulisano.

REP. TULISANO: (29th)

It is most important, Mr. Speaker. I think I have the answers to the questions I want. Thank you.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "L". Rep. Prague.

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REP. PRAGUE: (8th)

Thank you, Mr. Speaker. I rise in opposition to this amendment. I don't mean to compete with the eloquence and the legal knowledge of Rep. Tulisano, but I can tell you that the second time somebody is picked up, they would lose their license for six months, but if it's a first refusal, well, then it's only 90 days, so anybody going through the pretrial alcohol program is told by their buddies, listen don't take the test because next time you're picked up, if you refuse to take the test, you only lose your license for 90 days, and if you took the test as you are supposed to under this amendment, you would lose your license for six months.

This particular amendment weakens the drunk driving amendments, and I would urge you, ladies and gentlemen not to support this amendment. It is not supported by the Governor's task force. It's not supported by the state's attorney's office and I would urge you to defeat this amendment.

REP. THORP: (89th)

Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "L". Rep. Thorp.

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REP. THORP: (89th)

Mr. Speaker, ladies and gentlemen. We've had a few comments which seem to impune the integrity of the machinery. The machine that we're talking about is basically an electronic gas analyzer. It is not altogether dissimilar from the electronic gas analyzers that one has attached to him, or to his breathing mechanisms when he undergoes major surgery.

In those circumstances of course, we're all relying upon the information that is furnished the anesthesiologist to make sure that our lives are preserved and that we are maintained in good health.

I have asked the rhetorical question, how come if when we have surgery, we don't mind having these kinds of devices attached to us and the readings from which are used to save our lives, how come when it comes to reading our breaths and measuring the alcoholic gas content in them, all of a sudden we become very suspicious.

I suggest that they are basically the same machines. They are basically used under carefully controlled conditions and that the least of our worries should really be the reliability of the machinery being used.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "L". Rep. Wollenberg.

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REP. WOLLENBERG: (21st)

Mr. Speaker, I have sat listening to what people are having to say and most of them, of course have been proponents of a tougher drunk driving law and I just wonder if in order to be able to go back home with a tougher drunk driving law we aren't losing sight of ultimately stopping some of the carnage on the highways.

I really don't understand why Rep. Tulisano keep getting up and speaking and other lawyers. It was said once before when I spoke on some issue, this is a lawyer's bill. They're going to make money on it. Well, what we have in the file copy of the amendment, is a lawyer's bill. And we're standing up and arguing against it. Because we have been there. We know how these things work and this will not work.

I've talked with several state's attorneys. I did not talk to Mr. Bailey. I talked to some of the state's attorneys who are trying these cases every day. The first think they said almost to a person was, can't we get some consistency. With what you're attempting to do now, it will be two years before we get on line with this again, as to what we can do and what we can't do.

There will be seminars all over the state for lawyers and state's attorneys, trying to decide what we

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passed here today. I'm going to vote for a drunk driving bill, but I'd like to think in addition, I'm voting for something that's going to make some sense over the long haul, and if we get people into the program, that makes sense over the long haul.

Other things that have been talked about, and we have in this bill, just make it so tough that as Atty. Tulisano said, when we get --

SPEAKER STOLBERG:

Rep. Shays, for what purpose do you rise?

REP. SHAYS: (147th)

I sincerely apologize to Rep. Wollenberg, but we still have an amendment on the floor of whether we have a first time refusal if it's 90 days or six months, and I haven't heard him address that particular issue, sir.

SPEAKER STOLBERG:

Rep. Wollenberg, the discussion is on House Amendment Schedule "L". If you would address that in your remarks, please.

REP. WOLLENBERG: (21st)

Yes, Mr. Speaker, what I'm getting at it goes hand in hand with 90 days or six months, whether we have an effective bill. When someone calls me at 2:00 in the morning, prior to last October, I said don't take the test.

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In October when we had the three months, I said, take the test, get into the program, it will probably do you some good. We don't all try to get everyone off all the time.

Now when they call, I'm going to say, don't take the test, we'll take our chances again. These people are not popping out all over the place. State's attorneys are not that easy a mark. Let the people get into this program, and if you make it six months, the incentive is not going to be there and whether we like it or not, there has to be an incentive for these people to get into the program.

Believe me, if you say lose your license for a year to some of these people, or take off a hand, they say, which hand. We have to have the incentive. This will give it the incentive and I hope you'll approve this amendment.

SPEAKER STOLBERG:

Will all members please be seated. Will staff and guests come to the well of the House. We are now on House Amendment Schedule "L". Will you remark further?

Rep. Rothman.

REP. ROTHMAN: (111th)

I must have lost something along the line. It seems to me we were talking about when you have a license you give

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an implied consent that you are going to be able to take a test. I find nothing wrong with that. If someone is driving erratically. If they are showing probable cause to be stopped, then why shouldn't they be asked to take a test. I find absolutely nothing wrong with that, particularly when you find out that you may have saved a life.

I completely oppose this amendment. I think if we're going to undo, if we pass this amendment, we will undo what we have already done. Are we talking now about really, not just having tough drunken driving laws, are we talking about having effective laws. And if we don't oppose this amendment, we have just lost everything that we have battled for the last two or three hours in this Assembly.

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will members please be seated. Would the staff and guests come to the well of the House. Will you remark further on House Amendment Schedule "L"?

Will you remark further? If not, the machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber

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immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

Would the Clerk please announce the tally.

SPEAKER STOLBERG:

Rep. Dyson was on his feet.

REP. DYSON: (94th)

In the affirmative, please.

SPEAKER STOLBERG:

Rep. Dyson in the affirmative.

Would the Clerk please announce the tally.

CLERK:

House Bill 6420, Amendment "L".

Total number voting 149

Necessary for adoption 75

Those voting yea 53

Those voting nay 96

Those absent and not voting 2

SPEAKER STOLBERG:

The amendment fails. Will you remark further on

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the bill as amended?

REP. KEZER: (22nd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Kezer.

REP. KEZER: (22nd)

Thank you, Mr. Speaker. I intend to vote for this bill today, and I've been trying to carefully watch the amendments come and go and most of them are debated fully. However, I would caution this Assembly that Amendment "J" kind of came and went in a flash of about 30 seconds and even though it's something I have some severe reservations about, I would urge that the Senate in its wisdom would probably do something with this one.

This was the amendment that dealt with --

SPEAKER STOLBERG:

Rep. Kezer, I'm not sure whether it's appropriate to address an amendment.

REP. KEZER: (22nd)

Well, it's now part of the bill we're voting on, Mr. Speaker.

SPEAKER STOLBERG:

Well, okay, if you could remark on the bill. There are other amendments still to be offered, Rep. Kezer.

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REP. KEZER: (22nd)

I'm sorry. Well, do you want me to wait until later and I'll address it, or would you like me to say it now?

SPEAKER STOLBERG:

At your pleasure, Rep. Kezer.

REP. KEZER: (22nd)

I'd just briefly comment that Amendment "J" simply talked about someone who used a false identification in the form of a license. Now I don't condone that practice, and I know the kids will do this and one of the reasons is, we make it too easy for them to obtain one of these through the motor vehicle department, but you should be aware that the amendment says, not only is there a fine, but it is a mandatory 30 days in jail, and I just want to know, where on earth are we going to put these 16, 17, 18 year olds in jail for 30 days, so I would just caution you that that's in there and hopefully maybe the Senate would put that in as a possible and if, or, but not a shell.

Thank you.

REP. PRAGUE: (8th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Edith Prague.

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REP. PRAGUE: (8th)

Thank you, Mr. Speaker. The Clerk has an amendment, LCO 7074. Will he please read and I be allowed to summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7074, previously designated House Amendment Schedule "G". Will the Clerk please call.

REP. PRAGUE: (8th)

Thank you.

CLERK:

LCO 7074, previously designated House "G" offered by Rep. Prague of the 8th et al.

SPEAKER STOLBERG:

Rep. Prague has asked leave to summarize. Is there any objection? Seeing no objection, please proceed.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. This amendment is a so-called per se amendment. This would allow that any person picked up for driving while intoxicated who then registers .10 and above would be deemed to be driving while drunk.

This evidence would be in and of itself the determining factor in the disposition of the case. Driving

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while intoxicated is a serious offense and Connecticut needs a per se law, making it easier to convict drunk drivers thereby clearing our roads of people who continue to drink and drive.

The fact is, that when the criminal justice system lets off a drunk driver through plea bargaining, it does no favor to him or to the rest of us. We can no longer let these drunk drivers off with a slap on the wrist. The Governor's task force on drunk driving has strongly recommended a per se law. The presidential commission on drunk driving recommends the elimination of plea bargaining.

Fellow legislators, we must get the drunk drivers who inflict the tragic toll of death off of our roads. I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on House "G".

REP. PRAGUE: (8th)

At this point, I would like to yield to Rep. Farr.

SPEAKER STOLBERG:

Rep. Farr, do you accept the yield? Rep. Farr.

REP. FARR: (19th)

Yes, Mr. Speaker. Mr. Speaker, I'd like to comment on this bill, or on this amendment. This is the second

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part really of the major bill. Unfortunately, it was interspersed with about 15 other amendments, and I realize the hour's late and we're losing some attention here. I'd like to take a few minutes to explain what this bill does.

This bill under lines 56 and 57 in the amendment, The amendment essentially restates the previous amendment we already passed. And then in lines 56 and 57 it creates a new offense, and that offense is operating a motor vehicle while the ratio of alcohol in the blood of said person is ten one hundredths of per cent or more of alcohol by weight. This is as explained in the so-called per se amendment.

What do we mean by per se? Per se means in of itself. At the present time, the alcohol content in your blood is not in of itself an offense. All it does is create prima facia evidence of the fact that you're intoxicated. So an individual can come in with any reading conceivable and that's not evidence that you committed an offense. It simply prima facia evidence of the fact that you're intoxicated.

What happened and I want to draw an analogy to what happened in the motor vehicle area, so you'll understand what we mean by per se. In the motor vehicle area we used to have a law that said speeding was an offense

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but speeding meant driving at a speed too fast for conditions. And Mr. Speaker, what used to happen is that an individual could come in and be clocked at 80 miles an hour, and argue before a jury that 80 miles an hour was reasonable for conditions. So we literally used to have trials of people driving at extremely high rates of speed because they would argue that the law says, reasonable for conditions, and the speeding, and that radar reading of the speed that they were clocked at was only prima facia evidence of the fact they were driving at an unreasonable speed.

And in order to correct that problem, when we decided we wanted to crack down on speeding, we created a new offense, and that new offense said that if you're going over 55 miles an hour, that in of itself is an offense. We no longer wish to tie our courts up with the argument of people that their high rate of speed is reasonable.

I think there are three questions we have to ask if we're going to pass a per se law in the State of Connecticut. One of them is it reasonable. Two, is it constitutional? Three, is it desirable.

The first question, is it reasonable? I would point out to this body that what we're saying is that if

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alcohol, blood alcohol contents of .1 or above shall be in of itself an offense, and I would just like to point out that what that normally means for 180 lb. man to get over .1, it means the consumption of five drinks. We're not talking about a casual drinker, we're not talking about someone who has had a couple of drinks. We're talking about a high consumption of alcohol.

Secondly, I would point out that Connecticut has long recognized .1 as raising that prima facie evidence. The federal, National Safety Board in their exams, has indicated that someone with an alcohol reading of as low as .04 may show signs of intoxication, but someone between .07 and .08 is always intoxicated. So we're talking about a reading of .1 or above, which according to the studies that have been done on a national basis, is always going to leave someone intoxicated.

Secondly, I would point out that the federal guidelines under the new federal act in order to get reimbursement require a per se law with a reading of .1. A year ago, 21 states had per se laws. In November, 25 states had per se laws. In April, 29 states had per se laws. This morning, 32 states have per se laws. This is not the exception, this is the rule.

Number two, is it constitutional? I would point

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out in the 32 states that have per se laws, no state has had that law overturned. The State of Minnesota has had the law on the books for 12 years.

Number three, is it necessary? I want to re-emphasize what happens under the present law. At the present time, no matter what the alcohol content in your blood, you have the right to go before a jury and argue that you can handle your liquor and the fact that you had five drinks or seven drinks or 10 drinks is not in of itself, evidence of the fact that you're intoxicated.

And so what happens is we tie our courts up and our prosecutors up trying these matters. The per se law that is proposed here is one that is very strongly endorsed by the Governor's task force. It is very strongly endorsed by the chief of police in the State of Connecticut. It is very strongly endorsed by the president's task force. In short, it has endorsement of any group that has worked in the question of alcohol enforcement.

I would urge passage of this amendment,

SPEAKER STOLBERG:

Will you remark further on House "G".

REP. TULISANO: (29th)

Mr. Speaker.

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SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

A question to Rep. Prague, through you, Mr. Speaker.

SPEAKER STOLBERG:

Please frame your question.

REP. TULISANO: (29th)

Mr. Speaker, did the proposal before us, because we're trying to make some sense out of it, does that shift the burden to the defendant, or is it an attempt to have a separate, a separate crime from that of driving under the influence?

SPEAKER STOLBERG:

Rep. Prague.

REP. PRAGUE: (8th)

Mr. Speaker, that's a legal question and I think I would defer that to Rep. Farr who is also a lawyer. I can answer the question as far as per se law goes and it being recommended by the Governor's task force on drunk driving, that 32 other states have the law --

SPEAKER STOLBERG:

Rep. Prague, Rep. Tulisano has the floor. He has framed a question. Would you care to respond to the question. I would like to yield to Rep. Farr.

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SPEAKER STOLBERG:

Rep. Farr, do you accept the yield?

REP. FARR: (19th)

Yes, Mr. Speaker. Could Rep. Tulisano repeat the question?

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

The question is to Rep. Prague, the proponent of the amendment who has indicated knowledge of what the .10 bill is. Maybe Rep. Farr can help us. Is it an attempt to shift the burden to the defendant or is it an attempt to set up a separate crime of driving at .10. We can't make heads or tails of it.

SPEAKER STOLBERG:

Rep. Farr, do you care to respond?

REP. FARR: (19th)

Yes. Mr. Speaker, I'm surprised that Rep. Tulisano would have difficulty determining that. It is clearly a second, separate offense.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, then another question to

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Rep. Prague, what are the penalties for driving at .10?

SPEAKER STOLBERG:

Rep. Prague, do you care to respond?

REP. PRAGUE: (8th)

I'm not quite sure, Mr. Speaker, whether Rep. Tulisano is playing a game or not, but --

SPEAKER STOLBERG:

Rep. Prague, Rep. Tulisano has posed a question in this Chamber. All of us are lawmakers and I think he has framed a legitimate question. Do you care to respond?

REP. PRAGUE: (8th)

Yes, I do, Mr. Speaker, to the best of my ability. I think .10 and over as registered on the intoximeter indicates that a person is drunk and this would be admitted as evidence in the court. If the man driving is determined to be drunk, then whether it's his first offense, second offense, or third offense, he will be duly given the penalties that he deserves.

SPEAKER STOLBERG:

Rep. Tulisano, you have the floor.

REP. TULISANO: (29th)

Maybe I'll ask this question to Rep. Farr. Mr. Farr, Rep. Prague has indicated that .10 is evidence of driving drunk. You have indicated it is evidence of

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a separate offense. Which is the correct answer?

SPEAKER STOLBERG:

Rep. Farr, do you care to respond?

REP. FARR: (19th)

Yes, it is, in fact a separate offense because it has to be a separate offense, and let me just expand upon that to point out that that is the way it's handled in every state. It is, in fact, a separate offense under this provision. It is, the crime is operating while you have a blood alcohol content of point .10 or above. It does not raise a presumption about being intoxicated or not. It is a separate offense.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Then through you, Mr. Speaker, to Rep. Prague. Is it safe to assume therefore, that although you may be at .10 from the explanation we just received, you may not be necessarily operating while intoxicated, is that correct?

SPEAKER STOLBERG:

Rep. Prague, do you care to respond?

REP. PRAGUE: (8th)

Mr. Speaker, .10 registered on the intoximeter is determined by the presidential commission on drunk driving

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to be driving under the influence. I'm not sure what Rep. Tulisano is asking me, to be perfectly honest. I can only tell you that .10 is the point at which a person is determined to be driving under the influence. I can't answer it any clearer than that.

SPEAKER STOLBERG:

Before we proceed too much further, let me again remind all of the members that many individuals have put in a lot of time on this. I think we're drawing toward a conclusion of debate on the bill as amended. I think the debate has been constructive and if we could now address House "G", we may be able to move on to the bill shortly. Rep. Tulisano, you have the floor.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I'll try Rep. Farr. Rep. Farr, what are the penalties for the offense of driving at .10.

SPEAKER STOLBERG:

Rep. Farr, do you care to respond,

REP. FARR: (19th)

Yes, Mr. Speaker, the penalties would be the same penalties as it would for conviction of driving under the influence.

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REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

That we're to assume therefore, that, well let me correct that. Am I correct however, that at .10 one may not be operating under the influence, is that correct?

SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

As I stated earlier in my opening remarks, the National Safety Council has indicated in their studies that once you get above .08 everyone is under the influence.

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Under the Connecticut law, as this bill passes, will it be operating under the influence?

SPEAKER STOLBERG:

Rep. Farr.

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REP. FARR: (19th)

Will what be operating under the influence?

REP. TULISANO: (29th)

10

REP. FARR: (19th)

Thank you, Mr. Speaker, that no, there are two separate offenses. That as in every state that has a per se law, and that's some 33 states, every state that I'm aware of does it the same way.

There is a provision for operating under the influence and under the influence you don't have to have any blood test as such, but if you're going to be convicted of being above .10, obviously, you have to have some evidence of your blood alcohol content, and it's pretty difficult to prove that without a test.

SPEAKER STOLBERG:

Will you remark further on House "G", Rep. Tulisano.

REP. TULISANO: (29th)

I withdraw the question, Mr. Speaker, I'll make a statement later on.

SPEAKER STOLBERG:

Will you remark further on House "G"? Will you remark further? Rep. Frankel.

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REP. FRANKEL: (121st)

Thank you, Mr. Speaker, Ladies and gentlemen, the debate on the bill and this amendment has been lengthy. I've made three observations about House "G" which we're on now and how it integrates with the bill.

The first of which is procedural. At this point, we have adopted House "A", House "C", House "D", House "I", House "J" and House "K". The first line of the amendment is before is, strike everything after the enacting clause and substitute the following in lieu thereof.

Now it may well be that one or two of those amendments may well not be affected by the adoption of House "G", but I fear that if we were to adopt this amendment, we are going to undo a number of the amendments that this House has previously adopted. A situation I think would be unfortunate, and inappropriate.

Secondly, I think what has occurred up until today with the various individuals and the various points of view coming very close together and nearly coming into full agreement on House "A" has been laudible. I think we have a very workable bill as the bill stands amended now. I don't think all sides are happy, but I think this amendment takes us far afield from where we

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ought to be. A per se law, if that's what this does, and I'll address whether in fact I think it does it, but a per se law means an automatic law. You're automatically guilty. You take the test, you're automatically guilty, forget about the rest of the evidence. Per se, automatic. That's what it means. I think that's going a bit too far. I think we have toughened up our drunk driving laws which I think is the goal we set out to do.

I think this amendment takes us beyond where we ought to be, it's my opinion, not necessarily those of the members of the Chamber. But I think it will first undo some of the amendments that we've already adopted. It will if it indeed is a per se law, put an automatic conviction upon anyone who takes the test. The machine becomes the test. If the machine says you're guilty, you're guilty. And I don't know if we want to be at that place at this point in time.

But, thirdly, I'm not even certain if this is a so-called per se law. The law of today says that ten one hundredths of one per cent is evidence. That's the law. It's evidence today, and that's what I think this amendment says, but I'm not even sure if it is a per se law, but I suppose that's irrelevant, for if it is a per se law, I think it's inappropriate. If indeed it is

not, it does no harm in and of itself except that it well may wipe out a serious of amendments that we already have.

So at this time, I would urge the Chamber to stick with what I think is a fairly well-balanced package and to reject the amendment before us, House Amendment "G".

SPEAKER STOLBERG:

Will you remark further on House "G". Rep. Farr.

REP. FARR: (19th)

Mr. Speaker, I first have to take offense with the suggestion that we ought not to pass this because we would wipe out the previous amendments. There was an agreement, as you recall, that Rep. Tulisano would go first with his amendment, and the reason for that was so that we would not make his amendment inconsistent with this amendment were we to pass it. And, in fact, Rep. Prague got up and moved it and Rep. Tulisano suggested that gee, she should not go forward, we should wait until the end.

And now to hear the other side argue that gee, we're going to wipe them out, that's clearly not the intention. LCO has clearly in the past taken care of the inconsistencies because there's no intention of adopting this amendment to do anything other than to add the question of per se.

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Let me address the second issue that I'm rather shocked to hear Rep. Frankel suggest that there is some kind of automatic guilt by virtue of a per se law. That is as far from the truth as you can imagine. Any more than it is automatic guilt today when you're clocked on radar at 55 miles an hour.

Let me just read to you the Search and Seizure Law Report which is a defense journal on the issue of per se. And just read you a couple of quick sentences. Faced with a per se statute, defense counsel should realize that the validity of the blood alcohol reading is still subject to question. All of the normal grounds for attacking the test results should still be pursued in attempting to invalidate the blood alcohol reading.

It is simply not true that failure to pass the test is in any way a finding of guilt. And let me read you one other thing that I think is important. When they talk about coming together and finding agreement on this, let me just point, read to you, the letter we received today from the chairman of the Governor's task force on drunk driving. And read you one paragraph.

While LCO No. 7070, which was the original amendment, the general provision, if passed, would be a great improvement over present drunk driving laws. We

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will be denying our prosecutors in court and therefore the people of the state, a very effective tool for fighting drunk driving if LCO 7074, the per se is not also adopted. According to recent information from the National Highway Traffic Safety Administration, Connecticut would also continue to be out of line with a majority of the states to have enacted per se laws. It would be out of line with the recommendation of the president's commission on drunk driving. It will be out of line with the recommendations of the Connecticut Governor's task force on driving while intoxicated.

I would suggest to this body that if we talk about an agreement, we're talking about agreements between those people who don't seek to have effective law enforcement in the drunk driving area, where it certainly don't support laws that would do that and when we talk about agreements, there certainly was no agreement with the Governor's task force, there was certainly no agreement with the police chiefs in the state, there was certainly no agreements with RID, there was certainly no agreements with others who were working for effective law enforcement in the State of Connecticut.

And I point out again, 33 states as of today have such laws. Thirty-three states. If we're going to have

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effective laws, I suggest that this is needed.

Mr. Speaker, could I ask for a roll call on this?

SPEAKER STOLBERG:

The question is for a roll call vote. All those in favor of a roll call, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An adequate number is arrived at, When the vote is taken, it will be taken by roll. Will you remark further on House "G". Rep. Duffy.

REP. DUFFY: (77th)

Mr. Speaker, through you, a question to Rep. Farr.

SPEAKER STOLBERG:

Please frame your question.

REP. DUFFY: (77th)

Rep. Farr, you mentioned the letter from the task force on drunk driving. Is that a letter from the chairman individually, or a letter from the task force?

REP. FARR: (19th)

Like most letters, it's signed by an individual. It's on the stationery of the Governor's task force on driving while intoxicated.

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REP. DUFFY: (77th)

Mr. Speaker, may I ask the question again, does it represent a vote of the commission, or does it represent solely the opinion of the chairman? Through you, Mr. Speaker.

SPEAKER STOLBERG:

To whom?

REP. DUFFY: (77th)

Rep. Farr.

SPEAKER STOLBERG:

Rep. Farr, do you care to respond?

REP. FARR: (19th)

Yes, Mr. Speaker. It's my understanding Rep. Tulisano is not on that committee. I assume he did not vote for this as to whether other members were polled, I have no way of knowing.

And incidentally --

REP. DUFFY: (77th)

Mr. Speaker, I believe I still have the floor.

SPEAKER STOLBERG:

Rep. Duffy.

REP. DUFFY: (77th)

Mr. Speaker, I would point out that this is a revolutionary change in our statutes, and I find it very

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difficult to review it, having just received it about five minutes ago, and I think it undoes much of what I think was a very well thought out, well researched, well discussed debate this afternoon and I don't think we should be flying by the seat of our pants in adopting something of this nature after we've been discussing this for this long. And I strongly oppose this amendment.

SPEAKER STOLBERG:

Will you remark further on House "G".

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Just to, one question before I remark to Rep. Farr. Through you, Mr. Speaker, are the penalties in the 32 other states for the per se equivalent to those states penalties for driving under the influence?

REP. FARR: (19th)

Mr. Speaker, through you, quite honestly, I haven't read all 33 other states' statutes. Those of which I have read, the answer would be yes.

SPEAKER STOLBERG:

Rep. Tulisano.

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REP. TULISANO: (29th)

Through you, Mr. Speaker, just so we can get a general idea as to how many states that might be in which the penalties for .10 are the same as for driving under the influence?

SPEAKER STOLBERG:

Rep. Farr, do you care to respond?

REP. FARR: (19th)

Yes. Mr. Speaker, I believe at this point have read five statutes from other states.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Yes, Mr. Speaker. Obviously, I oppose this amendment. One reason why is I don't know what it means and I'll be very honest with you. I'm not playing games. I think from the statements from one of the major proponents says it shifts the burden. The statement from the other proponent says it doesn't do that, it creates another crime. I think as I read the draft, it attempts to create another crime, ie, driving .10.

The proponents of the amendment both indicate, one indicates you do not have to be drunk to violate this crime. The other proponent indicates yeah, you're drunk,

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that's why you violate this provision. There are conflicting statements. I think I know what they're trying to get to, but that is not the way to adopt public policy.

And certainly, I too can say I spoke to the chief state's attorney and what he recommends and what everybody recommends, but it is this General Assembly's duty to write the laws for this state. We keep writing them for prosecutors. That isn't the way America was founded, it isn't the way it should continue to go on.

But I really think it is inappropriate to have exactly the same penalties for when you've done something wrong, ie, driving under the influence for when you have not done something quite as wrong, ie, driving at .10. That's what the proponents of this amendment have said. However, they keep the penalties exactly the same. On that basis alone, I think it is enough reason to reject this particular amendment.

I would think it would be appropriate and I'm happy to wait a while to have a .10 statute if you have it as a violation or an infraction. That might be appropriate, but to go to the same penalties as driving under the influence with all of this problems of insurance, license suspension and all the rest of it, creates a great big

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problem. And by the way, it's one more reason to recommend, don't take the test.

SPEAKER STOLBERG:

Will the members please be seated. Staff and guests come to the well of the House. We are still remarking on House Amendment Schedule "G". Rep. Prague,

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. In response to Rep. Tulisano, it was determined by the presidential commission on drunk driving that .10 and over was driving under the influence. The bill that is on the floor has a driving while impaired, which Rep. Tulisano agrees is less than .10, it's up to .10, which is .09. He agreed that at that level, you were driving while impaired.

Driving while .10 and over is driving under the influence, and if we don't enact this amendment, and act this into law, what we're going to have is continuing the plea bargaining and getting cases just thrown out of court by plea bargaining. If we have a per se law, we then can determine that people are driving under the influence.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "G"? Rep. Rothman.

REP. ROTHMAN: (111th)

Mr. Speaker, we've heard a lot about the presidential commission and this particular per se law. We know, or I think I know, anyway, from some of the debate that we've had, that certainly if we enact this particular amendment, we will have a more effective bill and law.

What I would like to say to us when we're talking about a money crunch in this state, what it means to us in dollars and cents, I have received from the Department of Transportation, that over a three year period by enacting this piece of legislation, we will be eligible for another \$525,000 funds from the federal government. I think that alone is another incentive when we couple that with the fact that we're talking about making a law that is going to be much more effective, we're going to actually get the money to have, maybe do something about our roads or maybe even rehabilitate some of these people, then Goodness knows, it seems to me, we've come a long way if we can do this.

The third thing I would just like to talk to you about is that not only enacting this per se law will we get money from the government; from the federal government but we will also save the state money through a lesser amount of paper work that will go along with

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processing drunk driving. I urge your vote on this particular amendment.

SPEAKER STOLBERG:

Will the members please be seated.

We are about ready to take a roll call. Would members please be seated. Will staff and guests come to the well? Will you remark further on House Amendment Schedule "G". Rep. Riefberg.

REP. RIEFBERG: (108th)

Thank you, Mr. Speaker, Mr. Speaker, I will be brief. I urge opposition to this amendment. Today when one goes to court and one has an alcohol blood content as measured on a test as .10 or more, that individual is presumed to be driving under the influence.

The presumption is rebuttable. And one can introduce evidence to show that individual had certain characteristics about him or her be it the time of the test, the weight, the amount of alcohol, the circumstances under which the test was given, a number of things that can be done to an individual to show that in fact at the time that one was driving, that individual was not under the influence.

So what you're saying is, today we're creating .10 as being a separate crime, and I don't know why.

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.10 has not been determined by anyone in this state to be driving under the influence, and yet we're creating the same penalties for driving in .10 as we are for creating driving under the influence. You're not giving that individual the right to go in and show that in fact, that person was not driving under the influence.

I urge rejection of this amendment. It is a bad amendment, and I urge everyone to vote against it. Thank you.

SPEAKER STOLBERG:

Will you remark further on House "G". Rep. Parker.
REP. PARKER: (31st)

Thank you, Mr. Speaker. I rise for further explanation of something that was said, not by the last speaker, but the speaker before him. And I read directly from the fiscal note on this amendment. The per se law is one of four basic requirements for qualification for additional highway federal funds. It may be possible, I repeat, it may be possible if the state fulfills the remaining requirements, that the state could receive additional federal funds in the future.

These are the, this is the \$300,000 grant that was talked about by the speaker.

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SPEAKER STOLBERG:

Will you remark further on House Amendment
Schedule "G". Rep. Farr.

REP. FARR: (19th)

Mr. Speaker, very briefly, to make a couple of points. It's too bad some of the opponents of this amendment haven't read the bill in chief, because in the bill in chief, we in fact have established a per se law. The bill in chief says that .70 to or below .1 is per se, a violation. And that's all we're doing here is establishing .1 or above as a violation. And let me also point out the argument that this is somehow complex or complicated is not true. We have done exactly the same thing in the speeding area, above 55 miles an hour, is per se, a violation of the law. It is no longer a question whether it is safe or reasonable, and all this amendment says is that above .1 is a violation of the law. It's no longer an argument about whether it is, whether you can handle your liquor or not, but what it may be an argument about, is whether the test that was given was accurate, and that doesn't in any way preclude you from raising the validity of the test. Thank you.

SPEAKER STOLBERG:

Will the members please be seated. Would the staff

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and guests come to the well of the House. Will you remark further on House Amendment Schedule "G". If not, the machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally.

CLERK:

House Bill 6420, Amendment "G".

Total number voting	148
Necessary for passage	75
Those voting yea	59
Those voting nay	89
Those abesent and not voting	3

SPEAKER STOLBERG:

The amendment is defeated. Will you remark further on the bill? If not, will members please be seated. Will staff and guests please come to the well of the House.

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REP. FUSSCAS: (55th)

Mr. Speaker. It was a nice try.

SPEAKER STOLBERG:

Will you remark further on the bill as amended.

Rep. Fusscas.

REP. FUSSCAS: (55th)

Mr. Speaker, the Clerk has an amendment, LCO 7083. Will he please call the amendment, and may I take leave of the Chamber to summarize.

SPEAKER STOLBERG:

Rep. Fusscas, you have two amendments here, did you call 7082, or 7083?

REP. FUSSCAS: (55th)

7083, sir.

SPEAKER STOLBERG:

7083. The Clerk has an amendment, LCO 7083, which will be designated House Amendment Schedule "M", as in monkey.

Will the Clerk please call.

CLERK:

LCO 7083 designated House "M" offered by Rep. Fusscas of the 55th District, Rep. Prague of the 8th.

SPEAKER STOLBERG:

Rep. Fusscas has asked leave to summarize. Is

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there objection? Seeing no objection, please proceed.

REP. FUSSCAS: (55th)

Thank you, Mr. Speaker. This amendment as in mad and mothers against drunk drivers, merely imposes a mandatory one year sentence for vehicular manslaughter and a three year suspension of a license. I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark?

REP. FUSSCAS: (55th)

Thank you, Mr. Speaker. You know the last couple of terms we passed some laws that said if you carried a hand gun without a license you received a mandatory one year sentence, or if you committed a felony with a hand gun, you also got a mandatory one year sentence. This merely says that if you're drunk and you kill someone, the sentence imposed will be no less than merely carrying a hand gun without a license, and I see no difference between a person who is loaded behind an automobile and he kills someone than a person who through negligence discharges a weapon and kills someone.

Or even more so, it's a greater offense in my estimation than carrying a hand gun without a license. I urge this Chamber to adopt this amendment. Thank you.

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SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "M"? Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I unfortunately have to rise to oppose this amendment. It's kind of strange having to be in the most responsible position on the floor today, and having to do some unpopular things. But you know, again, as I indicated in earlier amendments, we do no longer need a system of justice. All you need is a computer to mete out punishment.

Do we know whether this would be good or bad for the accused? Do we know whether or not victims or want or do not want this kind of punishment imposed on a person who has perpetrated a crime such as killing someone while they're drunk. And by the way, should anyone want to know, yes, I have suffered the same incidents and experienced it within my own family of people killed by drunk drivers, two at one time, and another close friend thereafter. Three people very close to me, two related. I know what it's all about.

But it certainly doesn't make much sense in our system of justice for a person who's intent to take a life, is somewhat less than purposely punching somebody

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in the mouth and killing them, and they're not necessarily going to serve one year in jail, automatically without any suspension. It may very well be that somebody should, but it may very well be that it would not do any good for either that individual or society to require it, and we really ought to leave the judges to their discretion in those areas. I hope we'll defeat the amendment.

SPEAKER STOLBERG:

This is a very succinct, fully explained amendment before the Chamber. Will you remark further on it? Rep. Prague.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. I rise to support this amendment. Heavens knows we have fatality and carnage on our roads and highways in this state and until people take responsibility for themselves, we are never going to save the lives of people who could be innocently the victim.

Anybody who drinks and gets drunk and gets behind the wheel of that car and kills somebody ought to know that this is what's going to happen to them. Maybe this kind of a law will prevent people from getting drunk and then getting into their cars. If we put people in jail and take away their freedom, if they have killed somebody, that's a very little punishment in my opinion.

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SPEAKER STOLBERG:

Will all the members please be seated. Will staff and guests come to the well of the House.

The amendment is clear beyond a doubt. It has been explained. To have the debate on the concept of drunk driving on every single amendment, it appears is belaboring the Chamber considerably.

Will you remark further on House Amendment Schedule "M"? Rep. Casey.

REP. CASEY: (118th)

Mr. Speaker, in all due respect, I think this one goes a little bit further, because there are other victims here, and I hope that it's not Peter Fuscas' wife or somebody that's related to yourself sir, that's just perchance.

When you become drunk, you do not have control, supposedly, of what you're doing, and if it just happens once, and you have that unfortunate psychological, mental error of getting into a car and causing an accident that killed somebody, not only do you have that trauma that you do something do foolish as to drive in the first place, now you're going to be sent to jail on top of it. It's a bad amendment, and should be defeated.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "M"?

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Rep. Fusscas, for the second time.

REP. FUSSCAS: (55th)

For the second time, Mr. Speaker. This is not inconsistent with Massachusetts law, and may I also point out that the hit and run amendment that we passed earlier, although it provides a little more flexibility, says that if a prison sentence is going to be imposed it will be for not less than one year.

And this is not inconsistent with other laws that we've passed in the State of Connecticut, and I think it's a sentence that's well deserved. Thank you.

SPEAKER STOLBERG:

Will all members please be seated. We're about to vote on House Amendment Schedule "M". All those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The nos clearly have it. The amendment is defeated.

Will you remark further on the bill? Will you

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remark further on the bill?

REP. CREAN: (81st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Crean.

REP. CREAN: (81st)

I know it's been a long day, Mr. Speaker, and I don't want to belabor a point. I think the debate was excellent on a very important problem we having the state, but I would point out to some of the speakers here who have consistently said, he and his, and when he is taken to jail, his wife will come with his children to see him. That this is a problem for not only for one gender, but a problem for all the citizens of our state. Thank you.

SPEAKER STOLBERG:

Will you remark further on the bill as amended?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. VanNorstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, I'll be very brief. That's a famous warning.

This has been another one of the difficult marathons.

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The level of debate has been somewhat better, but I would suspect there are not three or four people in this whole room that could tell their constituents what they voted for as the law on drunk driving when they leave here tonight.

That is not the way to do business, in my judgment. I think, I understand that the bill is going to pass readily. I understand the politics of drunk driving. I think we're making some mistakes. I think it's the same kind of things we've had in years gone by. I think Rep. Wollenberg mentioned it earlier. You're in a constant guessing game. You're in a constant learning game. I know the demands.

I think we have some constitutional problems here. I think we have a bill that the Senate will love, because of some of the things we've done. It's a balancing act. It always is. And I know everyone acts with good heart, and puts their best effort to it. It's a complex subject, evidentiary presumptions, and the like.

I just think we've gone too far in terms of weighing the penalties, and again, it's always balancing. We've made the penalties much stiffer. We now get a situation in here where you can't even be assured of a chance at a second test. It's going to create as Rep. Tulisano said

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earlier, a great opportunity for lawyers. What's a reasonable time for that second test? Did they police act reasonably? Who knows if that person's passed out, is it their obligation to reasonably slap them in the face until they get him awake to say something? Who knows? That's the mistake.

Those kinds of things on something as important as this, as complex as this should be avoided.

On the other side of the coin, and that's the part of the balancing act, when you make the penalties, and again, I understand the politics of drunk driving, when you make the penalties as stiff as this, you are going to greatly increase the requests for jury trials. You are going to back things up. Plea bargaining is not going to be your fear. Moving the business at all is going to be one of your fears.

And the last thing which I think is sad, and I know it related to the discussion on one amendment, and reminds me of something I saw over the weekend, I think it was on 60 Minutes, about the experience in New Jersey, where it's 14 days for treatment, 7 days jail, and people take jail and get nowhere, and some try to tell them, take the 14, learn something, maybe change your life. I think

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we've done a lot to discourage treatment of any type, whether the 8 hours that Rep. Shays referred to are adequate. I don't suggest they are, but we're not solving the problem, and that's in a state that declared as its public policy some years ago that this is a disease. That's a mistake.

SPEAKER STOLBERG:

Will you remark further on the bill as amended?

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, on a prior amendment, I began to indicate some of the problems I see with this whole issue. The basic goal is and always has been to get drunk drivers off the road, because we're trying to preserve life, because we're trying stop injury, because we're trying to save property damages, property damage.

All of these things have been tried before, and as I indicated earlier, you know the bill that we're going to pass today, in many instances, except for the implied consent law, up to six months, comes almost full circle to what we had three years when we had to start toughening up, four years ago, the drunk driving laws.

And all of those that were out were now back in again with proposals to have a 48 hour mandatory offense on second

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offenders, etc. Well, we've tried that before. It didn't work. We're back again.

The reason it didn't work is that penalties are really reactionary in their scope. They never get to the root problem, and everyone here may delude themselves and believe that they have and will get to the root problem of drunk drivers, but the experience, despite what you may hear in Scandinavia, the experience in England, indicates that it don't achieve that goal. It indicates that after a period of time deaths and injuries go back to the same rates.

And what's going to happen, and I can see it happening from the next bill, is we will discourage education. We will discourage changes attitude. We will not address the social problems as they exist in the United States. This is a separate country, different attitudes. It's not homogenous. Different backgrounds. And we have a multi-faceted problem here. Much harder to deal with than in other single ethnic countries. But we are deluding ourselves, and if by next year we don't address those problems, we will go like New Jersey and Boston, people in jail, letting muggers out, by the way in Boston, because they've got to put drunk drivers in, drunk drivers who didn't hurt or injure anybody. I want

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I want to make that very clear.

But we will have that happening and we will not have solved the problem. And I don't want to be the fly on the wall five years from now, or looking for answers. All of us are, and have been looking for answers. This is one group's answer. Nothing new. It was the group's answer five years ago. We tried it and changed it. Here we go again.

I hope it works this time. Give it a couple of years and see if it does.

SPEAKER STOLBERG:

Will you remark further on the bill as amended? Rep. Tulisano, did you want to bring to the attention of the Chair an item on House "J"? You introduced your remarks that way, I believe.

REP. TULISANO: (29th)

Mr. Speaker, with regard to House Amendment Schedule "J", I would like to move for suspension of the rules for immediate reconsideration.

SPEAKER STOLBERG:

Rep. Tulisano moves for suspension of the rules for immediate consideration of House Amendment Schedule "J". Is there objection? Seeing no objection, House Amendment Schedule "J" is back before us for consideration. Rep. Tulisano.

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REP. TULISANO: (29th)

Mr. Speaker, House "J", as I looked at it some time ago when I prepared it, and I had thought it was worked out, but it had not been, calls for a mandatory, it looks like it may call for a mandatory 30 days in jail for violation of 30-88a and 30-89. Remember I indicated support for that, for a kid who falsifies their driver's license as a false I.D., or purchases alcohol for another.

Me, being who I am, you all could understand that I would never be for a mandatory jail sentence, particularly in that instance, and I think it would go too far. It was not intended to be that way, and I would like to reconsider this amendment, and reintroduce another amendment.

SPEAKER STOLBERG:

All right. The motion then is. I believe the Clerk has received a new amendment. Is that correct? Okay, I'm not sure whether the Clerk has -- let the Chair suggest the following. Let the Chair suggest the following. House "J" is back before us. It seems, Rep. Tulisano inadvertently the last two brackets on line 28 were put in. Is the Chair correct that if those brackets preceeding "not" and at the end of line 28, were removed, it would then meet your intention?

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REP. TULISANO: (29th)

Through you, Mr. Speaker, that would certainly get there further. I would like to make some more changes to make it better, if I had my druthers.

SPEAKER STOLBERG:

There is precedent in the Chamber for a very limited and technical verbal amendment, which I recall I didn't like when it was made, but with the deletion --

REP. VAN NORSTRAND: (141st)

A point of order, Mr. Speaker.

SPEAKER STOLBERG:

A point of order. Rep. VanNorstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, the Chair appears to be on a course which I think would readily recognize those precedents were bad when they were made, and shouldn't be followed again, not in a deliberate body. I believe we should have written amendments as required by the rules.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I think there's an amendment on its way over. I don't think anything would be hurt if we waited. I suspect we'll be here another hour or so.

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SPEAKER STOLBERG:

Okay, the Chair will recommend the following. If there are not further amendments, hopefully, to be offered, we have reconsidered "J". If we could entertain a motion to pass this item temporarily, when the other amendment arrives, we will recall it. I think the points raised are correct. Then we will have the written amendment before us. It could be introduced. It sounds as though that might be a consensus correction, and then we can vote the bill.

Rep. Tulisano, would you like to move that this item be passed temporarily.

REP. TULISANO: (29th)

Mr. Speaker, I move that this item be passed temporarily.

SPEAKER STOLBERG:

Is there objection? Is there objection? Seeing no objection, then the item is passed temporarily.

CLERK:

Please turn to page 7, Calendar 372, Senate Bill No. 191, AN ACT CONCERNING THE SAVINGS BANK LIFE INSURANCE COMPANY. Favorable Report of the Committee on Insurance and Real Estate.

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privilege?

CLERK:

Page 13, returning to Calendar No. 662, Substitute for House Bill No. 6420, AN ACT CONCERNING THE PENALTIES FOR DRUNK DRIVING, Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for the acceptance and passage as amended.

SPEAKER STOLBERG:

Very good.

REP. TULISANO: (29th)

So the instructions came down again, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark? Let me remind the Chamber, Rep. Tulisano, of the status of Calendar No. 662. We have adopted a number of amendments. We were about ready to vote on the bill when a meeting of a number of the parties felt that there was a problem with House Amendment Schedule "J", which had been adopted. Rep. Tulisano then moved

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reconsideration which was passed under suspension of the rules. Therefore, we are now open to action on House "J", and, as I understand it, another amendment has arrived from the LCO's office. What is your pleasure with House "J", Rep. Tulisano?

REP. TULISANO: (29th)

Mr. Speaker, I move rejection of House Amendment Schedule "J".

SPEAKER STOLBERG:

The motion is rejection of House "J". Will you remark.

REP. TULISANO: (29th)

Mr. Speaker, I think as I indicated in reconsideration, that required mandatory penalties which I didn't think were appropriate. It was not put in there intentionally. I therefore, hope it will be rejected forthwith.

SPEAKER STOLBERG:

Will you remark further on rejection of House "J"? If not, all those in favor of rejection, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. House "J" is

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rejected.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO No. 7099, and -- I'm sorry.

SPEAKER STOLBERG:

Rep. Tulisano?

REP. TULISANO: (29th)

Mr. Speaker, permission to summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO No. 7099, which will be designated House Amendment Schedule "N". Will the Clerk please call?

CLERK:

LCO No. 7099, designated House Amendment Schedule "N", offered by Rep. Tulisano of the 29th District.

REP. TULISANO: (29th)

Mr. Speaker, permission to summarize?

SPEAKER STOLBERG:

Rep. Tulisano has asked permission to summarize. Please proceed.

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REP. TULISANO: (29th)

Mr. Speaker, this deals with individuals who mutilates their license for the purpose of changing the age, etc. It keeps the fine at not less than \$200 nor more than \$500, or imprisonment -- Mr. Speaker, I withdraw this amendment.

SPEAKER STOLBERG:

The House will stand at ease.

REP. TULISANO: (29th)

Mr. Speaker, I withdraw the amendment. I'll amend another bill.

SPEAKER STOLBERG:

Thank you very much, Rep. Tulisano. I'm sorry I concur with you. The substitute amendment is not drafted as it appears it should have been. Will you remark further on the bill that is before us now? I will join you in sponsorship of that amendment on the appropriate bill, Rep. Tulisano.

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

Mr. Speaker, I would first like to thank

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Rep. Tulisano because he noticed the amendment was not drafted according to the way he wanted it to be on the first time, House Amendment "J", and he, for the courtesy of this entire House, withdrew his amendment. And I thank him for that.

I would like to just respond about this bill as it has been now amended by a few amendments. It's been amended by "C", "D", "I", and "K". Mr. Speaker and members of the House, and also by "A", obviously which was the foundation amendment. House Amendment "A", along with these other amendments, is not a radical change from the present law. It does not provide, as some people have seemed to imply, tremendous inconsistencies and confusions. You have, before you, a summary of what House Amendment "A" does.

And that is clear that it is merely modifications to the present statute. And the reasons it's modifications to the present statutes is that many people who have to work with that law said don't draft a new drunk driving law. Just make the one we have work better.

In addition, you have Amendment "C" which provides that if a license is suspended in court, that it is stayed until the appeal process works out. That was presented by Rep. Tulisano. It makes it a better bill.

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You have House Amendment Schedule "D" which deals with the record keeping and directions to the jury. While I opposed that amendment, it's still an amendment that does no harm to the bill and some people may feel improves it.

House Amendment "I" deals with hit-and-run and makes it a D felony.

And, House Amendment "K" merely clarifies what is a prior offense, going back to the year 1981. So you have an amendment that you have had an opportunity to look at for a long time. It has been improved by Rep. Tulisano and others and I think that you can go out from this Chamber proud of what you have accomplished. And this bill will continually need to be monitored. We'll have to fine tune it and make other changes as new revelations are presented.

But, it clearly is an amendment that deserves passage by this House.

SPEAKER STOLBERG:

Will all members please be seated. Will staff and guests come to the well of the House. Will you remark further on the bill as amended?

REP. TULISANO: (29th)

Mr. Speaker.

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SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I personally will vote against this bill today, because I think in some ways it violates my own conscience of what is right. Only one provision of that, frankly, not the whole bill. It portends things to come, tied up with other things that have gone on in our society. I am very fearful of what the future holds for us.

As I began to say earlier, there's a prime example of the beginnings of what has always been everywhere -- the ends justify the means. We must attack drunk drivers. We cannot solve the problems by taking away due process and civil liberties and civil rights. What happened here today, should you all go home and think you abolished plea bargaining, that's not true. The exact procedure that exists in the law today has now been written into this statute. So, if you think you abolished plea bargaining, you didn't.

For all of you who introduced legislation requiring a one year suspension of license on conviction of drunk drivers, I want you to know that you reduced the penalty to six months. For all of those who thought that they

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were stiffening the penalties, you may have, in fact, reduced them to some extent.

On balance, however, I would agree with Rep. Shays that generally it's a decent piece of legislation now. With all of the pros and cons as we come back and forth. I think there's some equal protection clauses in it. To have raised those issues here would have been to no avail today and I'm sure the courts will deal with that, especially with regard to the 17 and 18-year-olds.

However, with regard to the implied consent law, I think we are going too far. I think we are sending a message to people not to take the test. And I think that's what will happen. With this kind of implied consent law, with the growing acceptance of roadblocks to stop people without probable cause, with the growing acceptance to go into bars and places of gathering and to close the doors and to lock people in until you do identity checks, we lead ourselves to a place I do not want to go. A country I do not want to be in, frankly, because that's just the beginning. Because when and if and hopefully we do solve this problem, there will be another problem which will say let's take away some rights, let's take away some due process because we have to address the problem.

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And it's creeping, it's creeping up on us every day. It happens in the national government. Let's have national ID's. The whole thing is happening. I'd just ask that you be watchful and mindful of what you're doing next year and the year after. This may not be the worst thing that happens to us, but let's not hope it doesn't open the floodgates to other things.

SPEAKER STOLBERG:

Will you remark further on the bill. If not, will members please be seated --

REP. SCHMIDLE: (106th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Schmidle.

REP. SCHMIDLE: (106th)

Mr. Speaker, I have been contacted by a great many people about the problem of drunken driving and drinking on the road, as have most of us here, I would say. One of the most -- one of the things that hits me the hardest is that on four separate occasions I have been contacted by the first-graders in Rockwell School in Bethel. They have written me letters. They have done the posters which you've all had the opportunity to

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look at outside. They have invited me to come to their class and they ask me things like what can children do to stop drunken driving? You know, how do I answer? Why do people drink and drive, they ask. Can you help us get rid of drunken drivers on the roads? They're not all spelled correctly, but I sure can figure out what they're trying to say. Can I stop drunken drivers, say they.

Have you ever been to an accident after a drunken driver was hit. When the first graders in our school get cranked up over drunken driving, I really think it's time for us to do something and I urge you to support this bill. Thank you.

SPEAKER STOLBERG:

Will you remark further on the bill as amended?

REP. ROTHMAN: (111th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Rothman.

REP. ROTHMAN: (111th)

Mr. Speaker, I think Rep. Tulisano was exactly correct when he said this is maybe a portent of things to come. We are right now in a nation and in a state where we have attitudes in conflict. We have behavior that is contrary now to what we know to be in our own best

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intersts. And, what we're talking about is starting to change public attitude about drunken drivers.

Can this attitude be changed? Yes, it can be and I will give you a couple of instances where in the past years we are seeing it changed. During the last decade, Americans have learned how to save energy. They have started to conserve and we have seen the results of that conservation. That is just one instance where public attitude has changed.

Another instance with smoking. We're beginning to see more and more people put down the cigarettes, realizing that it is not healthful. We are seeing in places of buisness and in restaurants and wherever we travel and go that the attitudes there are changing.

We, as I said, are on a course now that is beginning to change. Change our whole attitude and that is exactly what we're talking about today. I'm not sure that this is going to be the end-all. Truly, it's probably just the first step in that direction. But it certainly is a step in the right direction and I urge passage of this amendment. Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the bill as amended?
Will you remark further? If not, will all members please

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be seated? Will staff and guests please come to the well of the House? Staff and guests to the well of the House. Will staff and guests come to the well of the House? Members please be seated. The machine will be opened.

The House of Representatives is now voting by roll. Will members please return to the Chamber immediately. The House of Representatives is now voting by roll. Will members please return to the Chamber immediately?

30:05 Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally?

CLERK:

House Bill No. 6420, as amended by House Amendment Schedules "A", "C", "D", "I", and "K".

Total number Voting	148
Necessary for Passage	75
Those voting Yea	139
Those voting Nay	9
Those absent and not Voting	3

SPEAKER STOLBERG:

The bill is passed.

Are there any announcements or points of personal privilege at this time? If not, will the Clerk please

will be printed. If it is not adopted, there is a request that it be printed, and that request is granted conditionally. Will the Clerk please call LCO 7073.

CLERK:

LCO No. 7073, designated House Amendment Schedule "C", offered by Rep. Tulisano of the 29th District et al.

SPEAKER STOLBERG:

Rep. Tulisano has asked leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, this amendment attempts to rewrite Sections 177, lines 177 through 190 of the amendment, to indicate that a suspension of motor vehicle operator's license takes effect immediately upon the expiration of an appeal period.

The way the file copy seems to be written, it may have a license being suspended, reinstated four days later, and then having to be suspended again. So you may have it being handled three and four times, and you've run the risk of it being lost. This I think is a better method of achieving what is attempting to be done in the original amendment as adopted. I would move this amendment's adoption.

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license still would be under suspension, because what happens, the Motor Vehicle Department in effect puts it into the computer. If a cop stops you and you show a license, they automatically call in to see if it's a valid license or under suspension.

So the mere expiration of the time period would make the license suspension go into effect, without the state having to do anything. In my opinion, it effects the intent of this part of the bill.

As to the individual, he wouldn't be subject to any penalty if he doesn't send it in, except it would be his obligation. It's just like he's not under any obligation to send it in now after it's suspended now. It just continues to be suspended.

REP. SHAYS: (147th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

A clarification. Rep. Tulisano, if an individual does not send in his license, am I to still understand that his license is under suspension, and he would be driving illegally whether or not he sends it in.

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acted on first because that was the primary action of the Senate. That was the primary body of data before us on this issue.

Then, in this case, we should have taken House "A", depending upon action on Senate "A", we still needed to take action on House "A", either reject or readopt and then move on to other amendments, such as House Amendment Schedule "B". That was not done and could lead to a number of ambiguities and the Chair would bring that to the attention of both the Chamber and will bring it to the attention of the House and Senate members of the conference committee when the conference committee is appointed and meets.

Will the Clerk please return to the Call of the Calendar. Recall the last item.

CLERK:

Calendar 662, Substitute for House Bill 6420, AN ACT CONCERNING THE PENALTIES FOR DRUNK DRIVING, AS AMENDED BY HOUSE AMENDMENT, SCHEDULES "A", "C", "D", "I", and "K". Favorable Report of the Committee on Judiciary.

The Senate adopted Senate "A" 6/6.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

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REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report, passage of the bill in concurrence with the Senate.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 7548.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7548, Senate Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO 7548 designated Senate "A", offered by Sen. Owens of the 22nd.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano has asked leave to summarize. Is there objection. Seeing no objection, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, this amendment makes three major changes within, one of which of those changes is, in my opinion, substantial. The Body should listen. First it deletes the phrase in within the pretrial alcohol education

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system for sentencing purposes and that's fine, it gives the judge more flexibility. So he may sentence someone to a motor vehicle department program or a pretrial program whichever is in existence at the time.

Second, it institutes a mandatory one year license suspension for anyone convicted of the following offenses: manslaughter in the second degree with a motor vehicle while intoxicated or assault in the second degree with a motor vehicle while intoxicated.

Third, it institutes and this is the most interesting part, a mandatory five day jail term for persons who operate a motor vehicle while license is under suspension for the following reasons: driving while intoxicated, manslaughter or assault, and for one's refusal to take a blood alcohol test so that if one's license were suspended for cause, as listed, and then you were driving while under suspension, this House adopted a \$500 minimum penalty, then the Senate has added a five day mandatory jail sentence.

In addition to those four cause reasons, if one in fact was, failed to take the test, license was suspended and then operated, they have included that as similar to the four cause suspensions.

Mr. Speaker, I find that provision somewhat onerous.

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I will support this amendment, and I will ask the House to do it and I will ultimately vote no on the bill because of those reasons. We cannot jeopardize the bill at this point in time. It is within six months now we have gone from, within two years from failure to take the test to a 30 day loss of license to a three month loss of license to a six months loss of license last week, and now if you drive afterwards, a five days in jail. We are accelerating faster than a missile on its course to the moon, actually.

But be that as it may, there are lots of good things in this bill and I'm not prepared to jeopardize it at this pint in time. I just want to put you on notice that that is what is in it, and you can expect some of us to be back next year to correct that.

There is also another thing I would like to point out to this Chamber. If you think we're getting stricter again, on the one year license suspension that is obviously after conviction at the present time, and this bill does nothing to do it. Should this question come up, the commissioner has, for not less than one year already must suspend people. He often does that before the trial, so in some manner, some ways, you get speedier license suspension --

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REP. CHASE: (120th)

Mr. Speaker. A minor point of order.

SPEAKER STOLBERG:

There are no minor or major points of order, they're all treated the same, Rep. Chase.

REP. CHASE: (120th)

I think the gentleman has summarized the bill. He's speaking now on the issue of drunk driving. I just would wish that he would move adoption of the amendment.

REP. TULISANO: (29th)

I did, Mr. Speaker, they weren't listening.

SPEAKER STOLBERG:

Rep. Tulisano has summarized. Rep. Tulisano moves adoption. Will you remark? Rep. Tulisano.

REP. TULISANO: (29th)

As I indicated earlier, I would move for adoption but I asked and urged everyone to vote for it, but I would not support it for these particular reasons.

SPEAKER STOLBERG:

Rep. Tulisano, we're now encouraging debate on the amendment. Will you remark.

REP. TULISANO: (29th)

Mr. Speaker, I certainly wouldn't encourage debate on the amendment. I think everybody should pass the

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amendment, just the way it is. I just want to put people on notice when one of your constituents wants to know how come it took so long to lift the license it's because we thought we were doing something effective today. We may have done just the opposite. I may be wrong, but I want us on notice that when we come back next year to clean it up, the record indicates where the problems might be, and we can address those issues.

SPEAKER STOLBERG:

Will you remark further on the amendment? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The amendment is adopted. Will you remark further on the bill? If not, will members please be seated. Will staff and guests come to the well of the House. Will you remark further? If not, the machine will be opened.

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The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

ACTING SPEAKER MARKHAM:

Have all the members voted? Have all members voted? Will members please check the roll call machine to see if their vote is properly cast?

The machine will be locked and the Clerk will take a tally.

Will the Clerk announce the tally please.

CLERK:

House Bill 6420 as amended by House, as amended by Senate "A".

Total number voting	141
Necessary for passage	71
Those voting yea	130
Those voting nay	11
Those absent and not voting	10

ACTING SPEAKER MARKHAM:

The bill as amended is adopted.

CLERK:

Calendar 661, Substitute for House Bill 5335,

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SENATOR SCHNELLER:

I would ask that the bill be passed retained maintaining its place on the calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR SKOWRONSKI:

Mr. President, I would ask that the bill be, with the consent of the chairman, passed temporarily to see perhaps we might have some discussion, and I inquire of you, through you, whether Senator Skelley would object to a PT marking at this time.

THE CHAIR:

Senator Skelley.

SENATOR SKELLEY:

No, Mr. President. I would prefer to have the bill passed retained.

THE CHAIR:

The motion is pass retaining. Without objection, so ordered.

THE CLERK:

On page 9, Calendar 845, File No. 809, Substitute for House Bill No. 6420. An Act Concerning The Penalties For Drunk Driving. (As amended by House Amendment Schedules "A", "C", "D", "I" and "K". Favorable Report of the Committee on Judiciary. The Clerk has an amendment.

THE CHAIR:

Senator Owens.

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SENATOR OWENS:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill as amended by the various House Amendments that were enumerated and I will explain.

THE CHAIR:

Motion is to adopt House Amendment "A", "C", "D", "I" and "K".

Without objection, so ordered.

SENATOR OWENS:

Have we called the amendment, Mr. President?

THE CLERK:

Senate Amendment Schedule "A", LCO No. 7548. Senator Owens.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

I'd move adoption of the amendment and waive its reading.

THE CHAIR:

Without objection, you may proceed. The amendment that I would discuss very briefly with the circle really makes a drunk driving bill that has already passed in the House a little tougher and also addresses the problem that they missed in their effort to be exact and I think it's a good amendment. It deletes the phrase, "within the pre-trial alcohol education system" so that the court has greater flexibility in ordering a person to participate in an education, in the drunk driving program. It also institutes a mandatory five day jail term for any person

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who operates a motor vehicle while a license is under suspension for the following offenses: driving while intoxicated, refusal to take a blood or alcohol test and manslaughter in the second degree with a motor vehicle while intoxicated and assault in the second degree with a motor vehicle while intoxicated. One of the problems that we have had through the years in addressing the drunk driving statute is that every time we kind of toughen it out, toughen it up or do something that's necessary, we find that there are people who continue to drive with impunity and, in fact, go into the courtrooms, they drive while they're under suspension, pay a hundred and a hundred and fifty dollar fine and keep going back out. I've seen that the history on those that come before the court for driving under suspension with the problems that we have in our jails and our prisons means that fines are imposed in lieu of any type of penalty in jail terms and the only time we seem to get a jail term is when the individual can't pay the fine. So that we have these drivers who are charged, convicted of serious motor vehicle offenses, i.e., driving while intoxicated, manslaughter in the second degree or with underlying circumstances of drunk driving convictions or involved with the excessive use of alcohol that has resulted in the death of another, they take the suspension and just continue on out driving with impunity, as I said before, and paying a fine. This means, this amendment, if we adopt this amendment, this means that we are plugging a loophole at the other end, that those individuals who are, in fact, convicted of drunk driving and losers of their license know, even if it's for a first offense and they don't get a jail

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term or the second offense, they know that if they are convicted of driving while their license is under suspension and they go back to court and they're convicted, that the court will have no option but to say to you, your time has come. You've violated the trust. You've violated the rules of the court and the judges of the court and a mandatory five day jail term will, in fact, be imposed. In addition to that, it institutes a mandatory one year license suspension for anyone convicted of the following offenses: manslaughter in the second degree with a motor vehicle while intoxicated, assault in the second degree with a motor vehicle while intoxicated, and it covers those. I just think that the people who worked on this in the House and worked out a spirit of compromise missed a few of these things and we were lucky over the week-end and in the last few days to pick these up and I think it tightens it up so it makes a good amendment and I'm sure that this will go back down and we won't have any big problem with it. I'd ask at this time for adoption of the amendment before I get to the bill.

THE CHAIR:

Will you remark further on the amendment? If not, all those in favor signify by saying aye. Those opposed, nay. The ayes have it.
The amendment's adopted.

SENATOR OWENS:

On the bill itself, Mr. President, probably one of the major concerns that have been voiced in the State of Connecticut during the

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last election and the elections prior thereto are the serious problems that have been incurred by the excessive use of alcohol by those who use the highways and the lack of serious penalties when individuals are, in fact, brought before the bar of justice, the penalties have not been enough. The incarceration has been the exception rather than the rule. We have had instances of people that are charged with drunken driving and convicted of same for two and three times and they keep going out, keep doing the same thing, causing the same havoc and loss of life, causing injuries to others, and we had two schools and there's been basically two schools of thought while this bill has evolved. We have those who have voiced, it seems to me, in some times inordinate penalties that were a little bit unrealistic and at the opposite end of the spectrum, we had those that felt that penalties were not in order at all, that we should talk about education and getting people into programs and getting them rehabilitated. As you know, last year we passed a bill that increased, that required that those who did not take a chemical test when there was probable cause to believe they were under the influence of liquor that they would lose their license for ninety days and this bill would increase that from ninety days to a hundred and eighty days, so we addressed that. So I point out to you that there have been, everyone's heard from RID and MAAD and many of these organizations that have rightfully been concerned because in many instances there's been loss of life, there's been maiming in their homes, and they've been preoccupied with this and rightly so. They've written to us and they've complained to us and they brought a serious problem and made us aware of a

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very, very serious problem. As I said before, we had to balance the spectrum with others that thought the educational program was a good thing and I support, certainly, a good education program because that's important but when we balanced the equities on this, obviously the consensus of the House, and I'm sure the consensus of the Senate, would be that we have to address this and be more responsive to the needs of the public and I do feel that this bill addresses that. What this bill does, and I prepared a summary and I will, I'll just outline it very briefly. It imposes a one year mandatory license which we did with respect to the amendment, but on the bill itself, it increases the fines, jail sentences and license suspensions for those convicted of driving while intoxicated. It really makes these tougher and it addresses the problem. It establishes a new offense of driving while impaired, blood alcohol content of above .07 or below .10 and imposes a penalty of an infraction. I can say that the original plan was to make that a criminal misdemeanor. I thought and someone had talked about a .05 to a .10 level and I thought that could conceivably be two or three beers and maybe that's not what we were trying to come at and to not make it where they have a criminal penalty, .07 to below .10 is obviously impaired but does not reach the test by any expert's opinion of being under the influence or being intoxicated. It suspends the license of any sixteen or seventeen year old who is convicted of driving under the influence until they attain the age of eighteen. It's unfortunate that we have to address that, but it is unfortunate that we do have that type of situation that does occur in our communities in the State.

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Another area that it addresses is that it restricts the use of plea bargaining by requiring the prosecuting attorney to state in open court his reasons for any reduction, nolle or dismissal and before we've had the argument that there's too many of these cases, so we ought to drop it, change it to reckless driving, change it to failure to drive in the established lane, changing it to something and these have been done in the interest of reducing backlog particularly where injuries hadn't occurred, and where there were no serious problems with victims, but this means that the prosecutor, if he has reasons to believe that the case does not have merit, and that he can't get a conviction for driving under the influence, he must state his reasons for nolling or changing those charges in an open court so the court and the judge fully understand the reason and the judge would have to concur with that if that's the situation and that means that that's a matter of public record, that people can go back and get an explanation. Maybe the test was faulty. Maybe for some reason they couldn't prove operation, a myriad of reasons, but the prosecutor could no longer stand up and say, "This case is nollied." He has to say, "The reasons I am nolling this case or changing these charges are a, b, and c, Your Honor, and I want you to consider those," and the court will make the ultimate decision. It also allows the police, instead we're giving the police the benefit here. Up until now, the accused has selected the first chemical test and been allowed to select the type of test that he might want to use. This will allow the police to select the first chemical test that's to be used, the one that they're comfortable

with, the one that they've worked with be it blood, breath or urine. It prohibits a use of excelerated pretrial rehabilitation, something that's been on the books for a long time, for those individuals charged with killing or seriously maiming someone with an automobile while under the influence and this has, in fact, been used so that people who have been charged end up a year or two later with no criminal record and people having been dead or seriously injured on the highways. We're plugging a hole. We're stopping a serious problem. It makes the defendent's refusal to submit to a chemical test admissable in the court, something that the United States Supreme Court said there was nothing wrong with and made laudatory. It eliminates the authority of the Motor Vehicles Commissioner to shorten the license suspension of anyone convicted of driving under the influence. It establishes a separate offense for driving when a license is under suspension for DWI offenses and imposes stronger penalties. It authorizes the court to sentence a first offender convicted of driving under the influence into an alcohol education treatment program in addition to imposing the fine, license suspension and/or jail sentence if that is necessary, and also it does something which I had some regrets about but probably its time has come, it eliminated community service as an option to a thirty day jail sentence. Under the existing statute, if you get, under the existing statute, instead of doing the thirty days in jail, you could go in and work out for some type of a program to work in a hospital on week-ends or do community service. We felt that that was not enough of a deterrent and the people who worked on this bill and supported it and

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dedicated their time and effort to it, felt that that was a sop, that that was not a fair response, so we say to you, if someone gets thirty days in jail and that's the sentence, they're not just going to be able to walk down to the Y or walk down and do some, to the Red Cross, and do some community work in lieu thereof. They're going to have to do the time and they're going to have to realize that. It repeals the pilot program allowing the police to give only a warning for those who had blood alcohol content of up to 13, another what we consider to be ambivilous part of the legislation, specify that the first chemical test will not be excluded if the second test is not done in a timely manner. Again, the statute that we had if you look at it, it was so disciplined and so fraught with technicalities that a police officer almost had to be a supreme court justice to go about the steps on the highway and many of them were giving it up. This bill will allow them to become, they don't have to have the expertise of a supreme court justice to arrest and charge someone with drunken driving. Again, it increases the length of the suspension for those who refuse to take the test. We passed it at ninety days the last time. It goes to six months which makes it aware that we mean business. Again, there are some other technical aspects as with respect to eliminating requirements of arresting officers to be advising of rights. We've taken a lot of basic technicalities out of these bills, out of this particular piece of legislation. We've addressed them and we want to make certain that the substatant provisions and the intention of the legislators is not to be thwarted on the road. It's not to be thwarted in the

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court room. We want to make sure we want the message to go out loud and clear to the people of this State that we are responsive to what they have told us about drunken driving and I feel that this bill has been worked on in the House and by members of the Senate. There's been a great deal of effort on this. I think that we are responding and I ask passage of this bill. I'd ask, if there's no objection, that the bill be placed on consent.

THE CHAIR:

Without objection, so ordered. The Senate will stand at ease.

SENATOR OWENS:

On the last bill, instead of asking that it be placed on consent, I was wondering if we could have a roll call because I'd like to ask for immediate transmittal to the House since there was an amendment on the bill.

THE CHAIR:

Roll call is in order. Clerk, please make an announcement for an immediate roll call.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all Senators please take their seats. An immediate roll call has been called for in the Senate. Will all Senators please be seated.

THE CHAIR:

Question before the Chamber is a motion to adopt Calendar No. 845, Substitute for House Bill No. 6420, File No. 809. The machine is open. Please record your vote. The machine is closed. Clerk, please tally the

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vote. Result of the vote. 36 yea, zero nay. The bill is adopted.

THE CLERK:

Calendar 854, Substitute for House Bill No. 5250, File No. 973. An Act Establishing The Connecticut Hazardous Waste Management Service. (As amended by House Amendment Schedule "A").

Favorable Report of the Committee on Appropriations.

THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill as amended by the House. I would first move the House amendment.

THE CHAIR:

Motion's to adopt House Amendment "A". Any objection? House Amendment "A" is adopted. Senator Skowronski.

SENATOR SKOWRONSKI:

That's the way to do it, Mr. President. Now on the bill as amended, Mr. President, it would establish the Connecticut Hazardous Waste Management Service which would promote and encourage the safe management of hazardous waste in Connecticut. The Service would first prepare a need assessment for hazardous waste disposal areas in the State to be followed by a plan for management of the waste and then an inventory of preferred sites and then finally, by 1986, the private concerns would come in and establish hazardous waste disposal area. This Service would have the power

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REP. SORENSEN: (continued)
that there still is a gray area. There still is -- whether or not the individual has the right to decide that beforehand. We still have cases going around in Connecticut. We've had the recent case of the individual who had the problem with the anesthesia in the dentist's office where it was almost coming down to the point where the husband was, there was consideration of the husband being tried for manslaughter, for murder, because there was no real clear cut decision made.

REP. I think what this bill would allow would eliminate that gray area and would say to the courts that this individual, under Connecticut statute, has the right if he or she so desires to make that predetermination. And I think what you would be doing is eliminating the gray area that now exists, Representative.

REP. SAMOWITZ: Thank you. And I'd just like to say one thing. I certainly pray for you, the State of Connecticut and your constituency that you have a long, prolonged health and you're restored to health as soon as possible.

REP. SORENSEN: Thank you.

SEN. SERRANI: Thank you, Rep. Sorensen. Any questions back in the Hartford studio? If not, we'll turn it back there for the next speaker, if there are no other questions, Rep. Looney.

REP. LOONEY: Yes, Rep. Parker has a question for Rep. Sorensen.

REP. PARKER: Rep. Sorensen, in regard to Bill 6420, An Act Concerning Drunk Driving and Speeding Law, the bill says absolutely nothing except calling for strengthening of the penalties and provisions concerning driving while under the influence of intoxicating liquor or drugs or speeding. I note that you are co-sponsor of the bill and I would very much like to hear what specifically in mind you had so far as penalties were concerned.

REP. SORENSEN: Certainly. What I tried to say in that bill, Rep. Parker, as did all the co-sponsors of that bill, that the committee, we felt, needed some vehicles to counteract the carnage that we're seeing on the highways caused by drunk driving. We felt we wanted to leave it open to the point where individuals would be able on the committee to

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REP. SORENSEN: (continued)

decide at some point along the way what they felt was a necessary and indeed fair and just, if you will, penalty or punishment for driving under the influence. There are so many different proposals from the first offense, losing your license for 10 years, or for manslaughter, depending upon what the offense was. We didn't want to get into specifics. We wanted to leave it up to the committee to decide what they felt were just and necessary penalties for this particular offense.

REP. LOONEY: Thank you. Rep. Parker.

REP. PARKER: Yes, Rep. Sorensen. We have, as you say, numerous bill on this subject. Would you favor revocation of a license on the second offense, with suspension the first, or would you favor a mandatory jail sentence? And I'm asking these questions because, as yet, the committee does have a variety of bills, but we have not had speakers that have been more specific than what is in the bill.

REP. SORENSEN: Certainly, Nina. I think probably what I would favor would be an absolute revocation on the first offense. To me, it's necessary enough with the problems that are caused by the individuals who are driving under the influence of drugs or alcohol that revocation of a license, or at least a two-year suspension of the license with mandatory educational programs and rehabilitation programs before that individual can regain their license. And if they did regain their license, it would be under a temporary basis with limited driving hours and limited driving capabilities.

I think it's time that we stopped coddling the individuals and saying, okay, we realize it's a disease. Just don't do it again and slap them on the wrist and send them out. I think the days we can do that are gone and I think it's time that we take a very strong stand in that area.

REP. PARKER: Thank you very much.

REP. LOONEY: Are there any questions from any other members of the committee of Rep. Sorensen at this time? Okay, then we will call our next speaker and that is Mary Hogan.

MARY HOGAN: Good morning, Rep. Looney, members of the committee. I'm Mary Hogan, a registered lobbyist for Connecticut Right

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