

Legislative History for Connecticut Act

HB 5758	PA 387	scan	1985
House	7028 - 7047		(20)
Senate	3947 - 3961, 3977		(16)
Judiciary	1835, (1848 - 1849)		(3)
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			total 39

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
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PART 19  
6729-7098

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REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. May this item be passed retaining its place on the Calendar.

SPEAKER VAN NORSTRAND:

The motion is to pass retain Calendar item 435. Is there objection?

Seeing none, the matter is passed retaining its place on the Calendar.

CLERK:

Page 7, Calendar No. 527, House Bill 5158, File No. 644, AN ACT INCREASING THE IMPRISONMENT PENALTIES FOR DRUNK DRIVING TO MEET FEDERAL STANDARDS. Favorable Report of the Committee on Appropriations.

REP. DUDCHIK: (104th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Thomas Dudchik.

REP. DUDCHIK: (104th)

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

SPEAKER VAN NORSTRAND:

The question is on acceptance and passage. Will

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you remark, sir?

REP. DUDCHIK: (106th)

Yes, Mr. Speaker. Thank you. In June of 1984, Congress passed legislation providing for incentive grants equal up to 5% of Federal Highway Safety Dollars, Section 402, as they are called, if the states adopt certain specified license suspensions and mandatory jail sentences for persons convicted of drunk driving. These recommendations were part of the President's Commission on Drunk Driving.

Our laws here in Connecticut contain equal or higher periods of license suspension than those included in the Federal language. However, our laws contain lower penalties than the Federal standards with respect to minimum mandatory jail sentences for those convicted of drunk driving.

This legislation before us would impose a mandatory minimum jail sentence or community service sentence for first convictions for driving under the influence of drugs or alcohol, and increase the mandatory jail sentence for a second and third offense.

Under current Connecticut law, there is <sup>now</sup> ~~no~~ mandatory minimum jail sentence for first time offenders.

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Under this legislation, a person convicted of drunk driving for the first time would be sentenced to 48 hours in jail, which may not be suspended or reduced or a sentence to 100 hours of community service. For a second offense, the mandatory jail term would increase from our current 48 hours to 10 days, and for the third conviction, would increase from our current 30 days to 120 days.

Also in this bill, Mr. Speaker, would increase the mandatory jail sentence for driving with a suspended license from our current 5 days to 30 days.

Today, courts presently have a broad discretion to sentence drunk drivers. Typically judges fine or restrict or impose rehabilitative conditions of probation rather than a jail term. This legislation keeps all the current fines, and all the license revocations in our current law. It merely puts some teeth into the law with respect in getting the message out that this legislature means business when it comes to drunk driving.

And if you are caught under the legislation, you are going to get more than a slap on the wrist. You are going away. It is clear that drunk driving is one of the most serious hazards of our age, and it is largely

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preventable. This legislation, Mr. Speaker, will make the punishment fit the crime of jeopardizing the lives of others, and I move its adoption.

SPEAKER VAN NORSTRAND:

The question is on acceptance and passage of the bill.

Will you remark?

REP. POLINSKY: (38th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Janet Polinsky.

REP. POLINSKY: (38th)

Through you, Mr. Speaker, a question to the proponent of the bill.

SPEAKER VAN NORSTRAND:

Please frame your question, madam.

REP. POLINSKY: (38th)

Through you, sir. I have no problems with the bill. However, looking at the fiscal note, it indicates that the Department would probably need somewhere around \$71,000. \$33,000 for two positions, and extra funding for those additional days that individuals will have to serve their 48-hour period.

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Can you tell me, through you, Mr. Speaker, whether this money has been provided for in the budget?

REP. DUDCHIK: (104th)

Through you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Dudchik.

REP. DUDCHIK: (104th)

It is my understanding that it has not been provided. However, a fiscal note also makes note that the state could receive the revenue of approximately of up to \$60,000 which could probably go towards this cost.

SPEAKER VAN NORSTRAND:

Rep. Polinsky.

REP. POLINSKY: (38th)

Through you, Mr. Speaker. I too have read the fiscal note, and I hope we get the \$60,000. In fact, I hope we get a \$1 million, whatever it is. However, when we put together a budget, it does not, while putting it together, take into account the monies that come in from other sources like the federal government for whatever reason.

I think, though I would agree with the bill, I have some problems because I do not believe that we are

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acting responsibility when we pass bills that call for money and don't put the money in. What we are doing in effect is dumping on an agency, and when the agency comes back with a deficiency or complains that it can't carry out the program because no money was given to it, we blame the agency when it is ourselves we should be blaming.

Thank you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Will you remark further on the bill?

REP. METSOPOULOS: (132nd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. John Metsopoulos.

REP. METSOPOULOS: (132nd)

Mr. Speaker, a question through you to the proponent of the bill.

SPEAKER VAN NORSTRAND:

Frame your question, sir.

REP. METSOPOULOS: (132nd)

Rep. Dudchik, I am all for stiff drunk driving legislation, but I have a question that has not been able to be answered by anybody so far. We have overcrowded

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prisons now.

With further mandatory imprisonment, where are we going to place these criminals, and in fact, are we going to be encouraging plea bargaining because there will be no room in the prison to put them?

Through you, Mr. Speaker.

REP. DUDCHIK: (104th)

Thank you, Mr. Speaker. In our public hearing portion of the debate on this bill, I could only go by what I heard in the public hearing, and with the simple fact was we heard no one, no one from the Corrections Department come to our Committee and say, hey, if you guys do this, then we are going to have a problem.

And you know, as anything we do in this legislative body, we have to go by what we are told. And if there was some dramatic shortage of bed space that Corrections thought that they might not be able to handle, well, then they would have been there.

And they would have told us. And I think that we do have the current space.

SPEAKER VAN NORSTRAND:

Will you remark further on the bill?

REP. WENC: (60th)

Mr. Speaker.

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SPEAKER VAN NORSTRAND:

Rep. Wenc.

REP. WENC: (60th)

Yes, thank you, Mr. Speaker. I have a question, through you, to the proponent of the bill.

SPEAKER VAN NORSTRAND:

Please state your question, sir.

REP. WENC: (60th)

Yes, Rep. Dudchik, does Connecticut's definition of driving while intoxicated or the crime as defined under the state law meet the same definition as the federal crime?

SPEAKER VAN NORSTRAND:

Rep. Dudchik.

REP. DUDCHIK: (104th)

Thank you. Through you, Mr. Speaker. In my research through the office of legislative research, I believe it does.

SPEAKER VAN NORSTRAND:

Rep. Wenc.

REP. WENC: (60th)

Could you please, excuse me, Mr. Speaker, through you, could you then please tell the Chamber what are the

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elements of the federal legislation with respect to driving while intoxicated and what are the elements of the state statutory definition of driving while intoxicated?

SPEAKER VAN NORSTRAND:

Rep. Dudchik.

REP. DUDCHIK: (104th)

Through you, Mr. Speaker, I am afraid that I am not prepared to do that at this time.

SPEAKER VAN NORSTRAND:

Rep. Wenc.

REP. WENC: (60th)

Yes, Mr. Speaker, well then I have a great concern as to whether or not the definition of driving while intoxicated under the state statute is the same as the definition for driving while intoxicated under the federal legislation, whether or not the same elements of the crime have to be proved on the federal level and on the state level.

If the proponent cannot indicate to the Chamber at this point in time whether or not the elements are the same and spell those out, in particular, then I recommend either two courses, pass retain the bill to make sure

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that the definitional portions are the same, or vote against the bill, because I think it's somewhat incongruous that here we go imposing stricter penalties to match the federal legislation, while at the same time not knowing or not an individual in Connecticut is committing the same crime as is defined under the federal legislation. Thank you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Wenc.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, with regard to this matter, first of all, during the committee hearing I raised some question about first of all mandatory sentences, whether or not they're appropriate or not, and generally speaking I do not believe they are appropriate without taking into consideration each individual.

Further, Rep. Dudchik indicated he wasn't sure whether or not there would be a drain on our current facilities. I can tell this Chamber that I did receive a

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letter and I believe Rep. Wollenberg did also, and I don't know how many others, from the Department indicating that in fact this would be a severe drain on their facilities.

Accordingly, Mr. Speaker, since I know this has cleared both Judiciary and Appropriations, regardless as the Representative has indicated, I have an amendment, and it's LCO 7523, and permission to summarize, Mr. Speaker.

SPEAKER VAN NORSTRAND:

We're awaiting a copy of it at the dais, Rep. Tulisano. The House please stand at ease. Is the Clerk in possession of LCO No. 7523, designated House Amendment Schedule "A"?

CLERK:

I am.

SPEAKER VAN NORSTRAND:

The Clerk please call.

CLERK:

House Amendment Schedule "A", LCO 7523, offered by Rep. Tulisano.

SPEAKER VAN NORSTRAND:

The gentleman seeks leave of the Chamber to

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summarize. Is there objection? Seeing none, you may proceed sir.

REP. TULISANO: (29th)

Mr. Speaker, all of the individuals on both sides of the question so far have raised some really pertinent issues. The fact of the matter is, I have reviewed the federal standards, and although the file copy -- I'm sorry, Mr. Speaker. This attempts to straighten out that a second offender, for purposes of this statute, will be one who commits a violation within five years of a prior conviction, so it's a five year limitation on the second offender status.

And also, attempts to define what community service is, and how in fact it may be implemented by the courts, and Mr. Speaker, I therefore move for adoption of the amendment.

SPEAKER VAN NORSTRAND:

The question is on adoption of House "A". Will you remark? Will you remark?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Tulisano.

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REP. TULISANO: (29th)

I went a little astray when summarizing Mr. Speaker, so what I'm attempting to do is in fact conform the file copy with regard to what a second offender is, and a subsequent offender, to the same thing that is in the federal law.

Rep. Wenc indicated, is it the same. Although Rep. Dudchik did not answer that question, the fact of the matter is, it is not the same. The federal statute says, any person convicted of a second violation of driving under the influence of alcohol within five years after the conviction for the same offense, and this amendment, Mr. Speaker would conform that section, not just any time, and thereby reducing the possible drain on both our budget and exacerbating the overcrowding situation.

Further, the federal standard says something about community service. We do not have that in place, any way of implementing it. I have another part of this bill which outlines what community service is, how a community service plan is established, and that any private agency must be first approved by the Department of Corrections before it can administer a community service plan. I would move its adoption, Mr. Speaker.

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SPEAKER VAN NORSTRAND:

The question is on adoption of House "A". Will you remark? Will you remark? If not, all in favor indicate --

REP. FARR: (19th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Robert Farr.

REP. FARR: (19th)

Mr. Speaker, just a question through you to Rep. Tulisano.

SPEAKER VAN NORSTRAND:

Please frame your question, sir.

REP. FARR: (19th)

What is the present law concerning second offenders in Connecticut? What's the time frame right now?

SPEAKER VAN NORSTRAND:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. In my opinion, Mr. Speaker, it's unlimited.

SPEAKER VAN NORSTRAND:

Rep. Farr.

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REP. FARR: (19th)

Through you, Mr. Speaker. My understanding is that they keep the records for seven years at the Motor Vehicle Department. Through you, Mr. Speaker, to Rep. Tulisano, is that not accurate?

SPEAKER VAN NORSTRAND:

Rep. Tulisano, do you care to comment?

REP. TULISANO: (29th)

Through you, Mr. Speaker, a second offender -- the records at the Motor Vehicle Department may be only kept five years, not seven. The participation in the alcohol rehabilitation program, I think is seven years, but that doesn't mean you're not a second offender. It's a matter of where the record is at Motor Vehicle, and I don't know what the court records are popping out.

SPEAKER VAN NORSTRAND:

Will you remark further on the adoption of House "A"? If not, all in favor, indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

All opposed, indicate by saying nay. The ayes have it. House "A" is adopted and ruled technical.

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House Amendment Schedule "A".

In line 5, after "For" insert "CONVICTION OF"

In line 6, bracket "offense" and insert "VIOLATION" in lieu thereof

In line 12, after "SERVICE" insert the following:  
"AS DEFINED IN SECTION 3 OF THIS ACT"

In line 15, after "for" insert "CONVICTION OF" and after "second" insert "VIOLATION WITHIN FIVE YEARS AFTER A CONVICTION FOR THE SAME"

In line 22, after "(3) for" insert "CONVICTION OF" and after "third" insert "VIOLATION WITHIN FIVE YEARS AFTER A PRIOR CONVICTION FOR THE SAME"

In line 29, after "(4) for" insert "CONVICTION OF"

In line 30, after "subsequent" insert "VIOLATION WITHIN FIVE YEARS AFTER A PRIOR CONVICTION FOR THE SAME"

After line 56, add section 3 as follows:

"Sec. 3. (NEW) As used in this section and section 1 of this act:

(a) (1) "Community service" means the placement of defendants in unpaid positions with nonprofit or tax-supported agencies for the performance of a specified number of hours of work or service within a given period of time.

(2) "Community service plan" means an agreement between the court and the defendant which specifies (A) the number of required community service hours, (B) the type of agency for placement, (C) the period of time in which the community service will be completed, (D) the tentative schedule, (E) a brief description of the responsibilities, (F) conditions and sanctions for failure to fulfill the plan, and (G) the supervisor of the plan.

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(b) In sentencing a defendant to perform community service, the court shall fix the conditions and terms of such sentence and shall review the community service plan prepared by private not-for-profit community correction agencies, and upon approval, sentence such defendant in accordance with such plan. No sentence of community service shall be imposed without the consent of the defendant.

(c) Any organization administering sentences of community service shall prepare and file with the court a copy of all community service plans and shall notify the court when a defendant has successfully completed such plan.

(d) Any organization administering sentences of community service shall prepare a written statement outlining noncompliance by a defendant and shall without unnecessary delay notify the state's attorney for that judicial district requesting that a hearing be held to determine whether the sentence of community service should be revoked.

(e) The court may, at any time, for good cause shown, terminate the sentence of community service or modify or enlarge the terms or conditions or require the defendant to serve the original incarcerative sentence for violation of any of the conditions of the sentence of community service.

(f) The department of correction shall approve any organization administering sentences of community service under this section."

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SPEAKER VAN NORSTRAND:

Will you remark on the bill?

REP. FARR: (19th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Robert Farr.

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REP. FARR: (19th)

Mr. Speaker, very briefly, just so the Chamber understands. This is not a bill that mandates jail terms for second offender. It's a bill that mandates either community service or a jail term, and in fact the fiscal note indicates that in the vast majority of cases there will be community service, so while there is a possibility under this bill some people will be serving jail time, for second offenders, the vast majority of people will be doing community service.

I support the bill, but I think we ought to be aware of what it does.

SPEAKER VAN NORSTRAND:

Will you remark further on the bill as amended? Will you remark further? If not, staff and guests please come to the well of the House. The machine will be opened. The Clerk please announce a roll call.

CLERK:

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

SPEAKER VAN NORSTRAND:

Have all the members voted and are your votes

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properly recorded? If so, the machine will be locked.

The Clerk please take a tally.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Fox.

REP. FOX: (144th)

In the affirmative, please.

SPEAKER VAN NORSTRAND:

Rep. Fox of the 144th in the affirmative.

REP. GARAVEL: (110th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Paul Garavel.

REP. GARAVEL: (110th)

Mr. Speaker, I apologize. In the affirmative,  
please.

SPEAKER VAN NORSTRAND:

Rep. Garavel of the 110th in the affirmative.

REP. HARTLEY: (73rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Hartley.

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REP. HARTLEY: (73rd)

In the affirmative, please.

SPEAKER VAN NORSTRAND:

Rep. Hartley of the 73rd in the affirmative.

The Clerk please announce the tally.

CLERK:

House Bill 5158, as amended by House "A".

Total number voting	147
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Necessary for passage	74
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Those voting yea	147
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Those voting nay	0
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Those absent and not voting	4
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SPEAKER VAN NORSTRAND:

The bill as amended is passed.

CLERK:

Page 6, Calendar No. 508, Substitute for House Bill No. 6504, File No. 613, AN ACT CONCERNING THE PROCEDURES FOR CONTESTING AN ELECTION FOR THE OFFICE OF STATE SENATOR OR STATE REPRESENTATIVE. Favorable Report of the Committee on Government Administration and Elections.

REP. JAEKLE: (122nd)

Mr. Speaker.

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the members of their immediate, natural family. And if there is no further objection, I ask that this be placed on consent.

THE CHAIR:

Any objection? Hearing none, so ordered.

THE CLERK:

Page 3, Cal. 719, House Bill No. 5158, Files 644 and 1138. An Act Increasing the Imprisonment Penalties For Drunk Driving To Meet Federal Standards. (As amended by House Amendment Schedule "A".) Favorable Report of the Committee on Appropriations.

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

I would move acceptance of the joint Committee's Favorable Report and passage of the bill, in concurrence with the House, Mr. President.

THE CHAIR:

Clerk, please call the amendment.

THE CLERK:

Senate Amendment Schedule "A", L.C.O. No. 7931, introduced by Senator Johnston of the 9th.

THE CHAIR:

Senator Richard Johnston.

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SENATOR RICHARD JOHNSTON:

I wish to withdraw that amendment at this point, Mr. President.

THE CHAIR:

All right. The amendment is withdrawn. Further amendments?

THE CLERK:

No further amendments.

THE CHAIR:

We're now on the bill. Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Yes, Mr. President, thank you. This is a very significant piece of legislation. This is a bill that was passed on last week in the House of Representatives, and the essence of this legislation is increased penalties in the drunk driving area. And increasing the penalties, so as to bring such penalties in compliance with federal standards. With respect to a first time conviction, of a person under the influence of alcohol or drugs while driving statutes, such conviction would require serving a sentence of either forty eight consecutive hours in jail, or performing a hundred hours of community service. Additionally, second, third, or subsequent convictions which occur within the first five years of the first conviction, would subject a person to increased penalties.

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And finally, the minimum mandatory jail sentence for driving with a suspended license would be from five to thirty days. And the House Amendment "A", establishes the procedures for which a sentence of community service might occur in the community. And if there is no objection, Mr. President, because this is an important piece of legislation, I'd ask that this be passed unanimously on consent.

THE CHAIR:

Any objection to placing this on consent? Senator Barrows.

SENATOR BARROWS:

Mr. President, through you, to Senator Johnston. I just have a question. I'd like to know, is there a choice that this person would have if he was caught drinking and driving? Does he have a choice to serve time in prison or do work? Or is it up to the judge's discretion?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President, to Senator Barrows. That would be in the court's discretion.

THE CHAIR:

Senator Barrows.

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SENATOR BARROWS:

Through you, to Senator Johnston. It always seems like there is always this discretion there, that the legal people have. And what bothers me is, sometimes the poor are the ones that usually suffer through these discretions. And it seems like, if a man is poor, and he's caught drinking and driving, he's the one who's going to have to serve time, while a person that's wealthy and affluent, and that's off, and has a good job, he'll probably serve community time. And this is the problem that I have with this bill.

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Thank you, Mr. President. I'm not certain whether that was a question or objection to it being placed on consent.

THE CHAIR:

I think that he perhaps, wanted to frame it into a question. Would you reframe or rephrase your question, Senator Barrows? Apparently, he didn't know whether or not that was just a comment or a question. Did you intend it as a question?

SENATOR BARROWS:

I'd like to rephrase that as a question, because this is the problem that I have with it. Whenever there is a

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choice left up to the court system, it's always the poor person who always suffers at the end. And I would like to call for a roll call vote on this, if possible.

THE CHAIR:

Roll call will be noted. Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

I have nothing to add, Mr. President.

THE CHAIR:

Thank you. Further remarks? Senator Giulietti.

SENATOR GIULIETTI:

I rise to speak in favor of this bill. The reason why I am in favor of this legislation, is it is the only piece of drunk driving legislation that I've seen in front of the General Assembly, and that we've voted on, that deals with the individual. An individual who has committed the crime of drunk driving. The other bills we voted on have been different. This is the only bill that pinpoints an individual, that punishes an individual, more severely for drunk driving. And that's why it should be passed. Thank you.

THE CHAIR:

Senator Truglia.

SENATOR TRUGLIA:

Thank you, Mr. President. A question to the Senator, if I may.

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THE CHAIR:

You may proceed.

SENATOR TRUGLIA:

There are those who say this bill might be a little too severe, a little too restrictive. And I'm going to support the bill. But just for those who have asked, I'm going to ask a question, through the Chair, to the Chairman of the Committee. In the past, how many people have we actually had on record for being arrested and convicted for drunken driving in Connecticut, say in either a one year period, or a two or three year period?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

May I have that question again, Mr. President?

THE CHAIR:

Senator Truglia, please reframe the question.

SENATOR TRUGLIA:

Yes. I said that I've been asked by some people, that this bill, as it now stands, is a little too severe. I'm going to support the bill. But the question that I have in mind, so that I can bring it back to some of the people who are questioning me, is in the past, say the last year or perhaps two or three years, how many people have we actually

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had be arrested for drunken driving, and convicted?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President, to the Senator. We had testimony before the Committee, relative to those statistics. I don't have them on hand today. But I can obtain them for you.

SENATOR TRUGLIA:

Thank you. May I just ask another question, Mr. President?

THE CHAIR:

You may proceed.

SENATOR TRUGLIA:

Through you. If this bill then, were to become State statute, what do you see, in terms of its cutting down on the amount of drunken driving? Would you say a ten percent, a fifteen percent, a fifty or fifty five percent? What would you say would be the effects of this bill?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President, I don't believe that I can pinpoint with a percentage, accurately, the effect that this will have in the drunk driving area. However, I will tell you

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that personally, I feel that it will be a deterrent, and have a significant deterrence upon people that drive and drink.

THE CHAIR:

Senator Truglia.

SENATOR TRUGLIA:

Thank you, Sir, and thank you, Senator.

THE CHAIR:

Senator Kevin Johnston.

SENATOR KEVIN JOHNSTON:

Mr. President. Of course, all of us, and I think most of the citizens of the State, want to cut back on drunk driving, and be serious about it. But I guess, in my own mind, I want to know exactly what we're doing here. Through you, a question to the Chairman of the Judiciary Committee. Conviction for drunk driving. What are we talking about in terms of percentage of alcohol, and how much alcohol gets you to that rating of one percent, or one-and-a-half...?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President. If Senator Kevin Johnston is asking me what the blood alcohol percentage has to be, it would be .10, to subject one perhaps, to the penalty of driving while under the influence.

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THE CHAIR:

Senator Kevin Johnston.

SENATOR KEVIN JOHNSTON:

Through you, Mr. President. Can you give us, the members of the Circle, an idea of what that means, in terms of layman's language, and number of drinks in a certain amount of time?

THE CHAIR:

Well, I don't know if he personally has had that experience, but he'll make a stab at it.

SENATOR KEVIN JOHNSTON:

Through his testimony at the Committee hearings.

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President. For me it would be six drinks, for Senator Kevin Johnston, it might be one drink.

THE CHAIR:

I think what you're talking about, or what you're trying to attain, your question would be, the presumptive level being .10, and how many drinks in the normal person, it would take to reach the presumptive level of .10, Senator Johnston.

SENATOR RICHARD JOHNSTON:

Yes, Mr. President. What I was seeking to describe, is

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that is a question you really can't answer, unless you look at one's height, weight, and the volume that you drink within a certain stated amount of time.

THE CHAIR:

Senator Kevin Johnston.

SENATOR KEVIN JOHNSTON:

Thank you, Mr. President. One further question, and a little different. When, as I understand reading the file of the existing penalty for a second conviction, after one has gone through the educational program, or through the first conviction, the second conviction would be the forty eight hour mandatory jail sentence, or a hundred hours of community service. I guess my question would be, number one, is when did we establish those... when did we set that law? When did that go into effect?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President. My belief is that that occurred just a few sessions ago, but again, I don't have that exact date, and I can obtain it for the Senator.

THE CHAIR:

Senator Kevin Johnston.

SENATOR KEVIN JOHNSTON:

Through you, Mr. President. I presume... I guess my next question would be, have we found any, other than a political groundswell, for getting tough? Have we seen statistics that would show, from the Police Department, or what have you, that would give rise to this change in the legislation now?

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Through you, Mr. President. Answering that question in perhaps, a general way, this is one of the issues commanding perhaps the most compelling testimony and evidence before a couple of committees of cognizance this session, at least for me. And that was before the Judiciary Committee and the General Law Committee. I believe the testimony and evidence presented, seemed to bear out that there is significant tragedy and loss of life and property, that occurs, to this day, in this State. And I remember that one in three deaths that occur on our roads in the State of Connecticut, relates to alcohol. In conferring with Senator Avallone, the ranking member of Judiciary, we believe that the last changes made to the driving while under the influence statutes were made in 1983 session. And it is my belief, speaking for myself

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again, that that has had some deterrent effect perhaps, but perhaps more is needed. And I believe people will think, now, before they drive or drive and drink.

THE CHAIR:

Further questions? Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President. I'd just like to clarify one point for Senator Johnston, Kevin Johnston. He indicated that we are talking about first, second, third convictions. When one takes the pretrial alcohol program, that is not a conviction. And so, one would now, the first time one were arrested, and went through the program, the second time they were arrested would really be the first conviction. And so it's possible for someone, with these stiffer sentences, already to have come before the courts, having been arrested one prior time, and yet, not having his or her license suspended, and having gone through the alcohol pretrial program. I am also one who believes, as Senator Kevin Johnston, that we seem to be taking an approach, in the dealing with a very, very serious problem, that we can prevent people from driving under the influence by increasing the penalties. I don't share that opinion. I don't think we can do that. We deal with a couple of kinds of people in this area. One is the problem drinker. The one who nothing will stop that individual from drinking,

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and driving his motor vehicle. These are the repeat offenders. Over and over again. We've heard the horror stories. Of people in California and states across our country, who involve themselves in very serious accidents, on numerous occasions. Those people are not going to be prevented from driving under the influence, no matter what we set the penalties at. There are people on record who have gone to jail for one, two, three, up to five years, and come out and commit the same crime. The way we're going to solve this problem, is by educating those people who come into the system the first time. And there seems to be a prevailing thought in our society, that we ought to put people in jail immediately, and that's the answer. That's not the answer. I got a phone call the other day, from a member of R.I.D. who was very upset with the way I intended to vote on a particular piece of legislation. And the lady indicated that we ought to get rid of the alcohol pretrial program, because it wasn't working. And how people had sat in court, and come back over and over again, haven't gone through the program, haven't cooperated. They were, however, being sent back to the program. And she said it had been a failure. Well, nothing could be farther from the truth. That program, if you look at the statistics, show that the recidivism rate is extremely low. We are getting to those people the first

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time who can be influenced. That individual who went out and was driving under the influence of alcohol or drugs, you send them to a program and you explain to him how serious it is. What can happen to him, or her, if they come back after having gone through successfully the program. And you'll find that the vast majority of those people do not come back. They have been reached. Society has been protected. So please, let's not delude ourselves to think that these serious penalties are the answer to the problem. They may be one component, and only one small component, of what we have to do, and the commitment we have to make to solve this problem and protect the people of the State of Connecticut. I will support this legislation, only because an individual who has gone through the program, is now really a second offender to me. Someone who has come across this problem twice. And that's the reason that I will go along with this more serious penalty. But we all should be prepared, in the future, to bite the bullet, to commit the resources that are necessary to affect this program, and to affect an outcome and a solution to a very serious problem. Thank you.

THE CHAIR:

Remark further? Senator Santaniello.

SENATOR SANTANIELLO:

Is there volume?

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THE CHAIR:

You should try again, Senator.

SENATOR SANTANIELLO:

Thank you. Usually I don't rise to take exception to my good friend, Senator Avallone. I do agree with his statements, the majority of them. But I have to take one exception on the stiffer penalty. I know for a fact that it is a deterrent. I'll cite a case, and I'll eliminate the name. It has a little humor attached to it. We had a gentleman in my area, in my district, who on his last offense of drunken driving, ran into a police car. He was so taken back by the fact that he had an accident, and that he spent time in jail, that he sold his car, and is now walking. Now, that is an effective, or one example of the effectiveness, of a stiffer penalty. If this gentleman hadn't gone to jail, he'd be on the road now, driving. I entirely agree with him on the education. That's a must, and that certainly is a great asset to the law. I am going to support this law, primarily because it has the education factor in it, and it has the stiffer penalty clause in it, which I know happens to work. It doesn't work in all cases, but it does work in some. Thank you.

THE CHAIR:

Further remarks? Any objection to placing this on the consent calendar? Hearing no objection, so ordered.

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calendar.

THE CLERK:

HB 6722, HB 5158, HB 6232, HB 6963  
On page 3, Cal. 690, 719, 720, and 722.  
HB 7492, HB 7453, HB 7460, HB 7500  
On page 4, Cal. 723, 725, 726, and 727.  
HB 7522, HB 7613  
On page 5, Cal. No. 728 and 732.  
HB 7692  
On page 6, Cal. 734.  
HB 7208  
On page 7, Cal. 742.  
HB 7631  
On page 8, Cal. 745.  
HB 5789  
And on page 14, Cal. 781.

THE CHAIR:

Are there any changes or omissions? Senator McLaughlin.

SENATOR MCLAUGHLIN:

Yes, Mr. President. I'd like to request that Cal. No. 732, House Bill 7613, last file, 854, be removed from the consent calendar? Page 5.

THE CHAIR:

Thank you. Any other changes or omissions? The machine is open, please record your vote. Has everyone voted? The machine is closed, Clerk please tally the vote.

Result of the vote: 36 yea, 0 nay. The consent calendar is adopted. A separate call will have to be issued. Please make an announcement for immediate roll call on that item that was removed.

JOINT  
STANDING  
COMMITTEE  
HEARINGS

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THE GOVERNOR HAS ALSO PROPOSED A 30 DAY LICENSE SUSPENSION AS A CONDITION OF PARTICIPATION IN THE PRETRIAL SYSTEM. WE SUGGEST YOU AMEND SENATE BILL 531 TO PROVIDE FOR A 30 DAY SUSPENSION RATHER THAN A 30 DAY SURRENDER OF LICENSE AND THAT THE SUSPENSION BEGIN AT COURT. THIS WOULD AVOID CONFUSION IN IMPLIMENTATION.

HB 6275 INSTITUTES A \$15 APPLICATION FEE FOR THE PRETRIAL EDUCATION PROGRAM TO BE USED FOR A SPECIAL REVOLVING FUND TO BE ADDED TO THE VICTIMS COMPENSATION FUND. WE HAVE NO OBJECTION TO THIS FEE, BUT WE ARE CONCERNED ABOUT THE WORDING OF THIS BILL AS IT SEEMS TO SUGGEST ALL FEES, INCLUDING THE \$250 ENTRY FEE, BE DESIGNATED FOR COMPENSATION. THOSE FEES AT PRESENT, AS YOU KNOW, GO INTO THE GENERAL FUND AND CADAC IS ALLOCATED MONEY TO RUN THE PROGRAMS.

WE WOULD HOPE YOU WOULD CONSIDER THE GOVERNOR'S SUGGESTION THAT THE REVOLVING FUND BE REESTABLISHED AND ADMINISTERED BY CADAC, AS THE ORIGINAL LAW PROVIDED, FOR FUNDING PAES AND OTHER EDUCATION AND TREATMENT PROGRAMS.

SEVERAL OF THE BILLS BEFORE YOU AFFECT DWI PENALTIES. WE BELIEVE THAT THE EXISTING PENALTIES ARE ADEQUATE AND THAT MANY OF THE PROPOSED CHANGES ARE ADMINISTRATIVELY UNWORKABLE OR UNREALISTIC BOTH IN TERMS OF THE ABILITY OF THE COURTS AND THE CORRECTIONS SYSTEM TO HANDLE THESE PROSECUTIONS AND IN TERMS OF THE PROPOSED PENALTIES BEING INEFFECTIVE FOR A SUBSTANCE ABUSING OFFENDER. BILLS IN THIS CATEGORY WHICH WE OPPOSE ARE SENATE BILL 917 AND HOUSE BILLS 515<sup>8</sup> AND 6602.

THE PRETRIAL ALCOHOL EDUCATION AND TREATMENT SYSTEM FOR FIRST OFFENDERS HAS BEEN A FACTOR IN INCREASING DWI ARRESTS FROM 5,000 IN 1981 TO 18,000 IN 1984. INSTEAD OF OVER 50 PER CENT OF DWI CASES BEING NOLLED OR REDUCED TO A LESSER CHARGE AS HAD BEEN THE CASE PRIOR TO THE PROGRAM. PLEA BARGAINING HAS BEEN SIGNIFICANTLY REDUCED SINCE THE INCEPTION OF THE PROGRAM

THE CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF JOSEPH S. COATSWORTH  
VICE PRESIDENT, GOVERNMENT RELATIONS  
CONNECTICUT HOSPITAL ASSOCIATION

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(HB5158)

SENATOR JOHNSTON, REPRESENTATIVE WOLLENBERG, MEMBERS OF THE JUDICIARY COMMITTEE, I AM HERE ON BEHALF OF CONNECTICUT'S HOSPITALS TO URGE YOUR SUPPORT FOR STRICTER PENALTIES FOR DRIVING WHILE INTOXICATED.

IT HAS BEEN WELL-DOCUMENTED THAT ALCOHOL IS THE LARGEST CONTRIBUTING FACTOR IN FATAL MOTOR VEHICLE ACCIDENTS. NATIONALLY, ESTIMATES ARE THAT OVER 50 PERCENT OF ALL TRAFFIC FATALITIES ARE ALCOHOL-RELATED. ACCORDING TO THE STATE DEPARTMENT OF MOTOR VEHICLES, ALCOHOL WAS DETERMINED TO BE A CONTRIBUTING FACTOR IN 39 PERCENT OF CONNECTICUT'S 411 ACCIDENTS IN 1983. THIS IS CONSIDERED A CONSERVATIVE ESTIMATE BECAUSE IT DOES NOT INCLUDE THOSE WHO WERE IMPAIRED BY ALCOHOL BUT NOT LEGALLY DRUNK. IN ADDITION, THOUSANDS OF CONNECTICUT RESIDENTS ARE INJURED EACH YEAR IN MOTOR VEHICLE ACCIDENTS BECAUSE OF DRUNK DRIVING. ACCORDING TO A 1981 CONNECTICUT POLL TELEPHONE SURVEY, 18.8 PERCENT OF RESPONDENTS REPORTED DRIVING WHILE INTOXICATED DURING THE PAST 30 DAYS. OF THESE, 10.4 PERCENT REPORTED DRINKING AND DRIVING MORE THAN ONCE DURING THAT 30-DAY PERIOD.

THE ASSOCIATED COSTS ARE ENORMOUS. THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ESTIMATES THAT DRUNK DRIVING COSTS THE RESIDENTS OF CONNECTICUT OVER \$166 MILLION EACH YEAR. IN ADDITION TO LOST WAGES AND PRODUCTIVITY AND MEDICAL AND LEGAL EXPENSES, WE ALL PAY HIGHER HEALTH AND AUTOMOBILE INSURANCE RATES. IT HAS BEEN ESTIMATED THAT OVER 25¢ OF OUR AUTOMOBILE INSURANCE DOLLAR GOES TO PAY FOR DAMAGE CAUSED BY THE DRUNK DRIVER.

MANY OF THE VICTIMS OF ACCIDENTS INVOLVING DRUNK DRIVERS ARE SEEN FIRST IN THE EMERGENCY ROOMS OF CONNECTICUT'S GENERAL HOSPITALS. MANY OF THOSE WHO SURVIVE FACE EXTENDED STAYS AS HOSPITAL INPATIENTS. PERSONS WHO WORK IN HOSPITAL EMERGENCY ROOMS, SURGERY AND INTENSIVE CARE UNITS PROBABLY HAVE THE WORST STORIES TO TELL ABOUT DRUNK DRIVERS AND THEIR VICTIMS. THE HOSPITAL COMMUNITY BELIEVES THAT PASSAGE OF LEGISLATION AIMED AT REDUCING THE INCIDENCE OF DRIVING WHILE INTOXICATED, IN ADDITION TO SAVING LIVES AND REDUCING SERIOUS INJURIES, WILL MATERIALLY CONTRIBUTE TO THE CONTROL OF

RISING HOSPITAL COSTS BY REDUCING THE HEALTH CARE RESOURCES EXPENDED ON INJURIES THAT ARE LARGELY PREVENTABLE.

FOR THESE REASONS WE URGE YOU TO SUPPORT THE BILLS BEFORE YOU THAT SEEK TO ERODE THE SOCIAL ACCEPTABILITY OF DRIVING WHILE INTOXICATED BY INCREASING THE PENALTIES ASSOCIATED WITH THIS BEHAVIOR.