

Legislative History for Connecticut Act

HB 5097	PA 314	Scan	1989
House 7771-7772, 10517-10572			(58)
Senate 3977-3989			(13)
Sud. 1454-1465, 1537-1564, 1572-1574, 1604-1606, 1634-1643, 1722, 1751			(58)
			(129)

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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H-534

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1989

VOL. 32

PART 22

7514-7839

abs

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House of Representatives

Saturday, May 20, 1989

IMPROVING ACCESS AND OPPORTUNITIES IN HIGHER EDUCATION.

(As amended by Senate Amendment Schedules "A" and "B").

Favorable Report of the Committee on GOVERNMENT  
ADMINISTRATION AND ELECTIONS.

REP. FRANKEL: (121st)

Mr. Speaker?

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, I move this bill be referred to the  
Committee on Appropriations.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?  
Seeing none, it is so ordered.

CLERK:

Page 21, Calendar 467, Substitute HB5097. AN ACT  
CONCERNING ADMINISTRATIVE "PER SE" LICENSE SUSPENSIONS.Favorable Report of the Committee on  
APPROPRIATIONS.

REP. FRANKEL: (121st)

Mr. Speaker?

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Yes. I move this bill be referred to the Committee

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on Transportation.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?Seeing none, it is so ordered.

CLERK:

Page 19, Calendar 360, Substitute HB6594. AN  
ACT CONCERNING DESIGNATION OF AQUIFER PROTECTION AREAS.

Favorable Report of the Committee on  
APPROPRIATIONS.

REP. FRANKEL: (121st)

Mr. Speaker?

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Yes, I move this bill be referred to the Committee  
on Planning and Development.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?Seeing none, it is so ordered.

Just a point from the Chair of information. In  
about five minutes, I understand the coffee stand  
downstairs will be open for those members--

APPLAUSE AND CHEERS

CLERK:

Page 3, Calendar 462, Substitute HB7507. AN ACT

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Representative Casey in the affirmative.

Clerk, please announce the tally.

CLERK:

SB819, as amended by Senate "A", in concurrence  
with the Senate

Total Number Voting	147
Necessary for Adoption	74
Those Voting Yea	146
Those Voting Nay	1
Those absent and not Voting	4

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 14, Calendar 467, Substitute for HB5097, AN  
ACT CONCERNING ADMINISTRATIVE "PER SE" LICENSE  
SUSPENSIONS.

Favorable Report of the Committee on  
TRANSPORTATION.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER BALDUCCI:

Distinguished Chairman of the Judiciary Committee,  
Representative Richard Tulisano.

REP. TULISANO: (29th)

I move for acceptance of the Joint Committees

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Favorable Report and passage of the bill.

SPEAKER BALDUCCI:

Questions on passage. Will you remark, sir?

REP. TULISANO: (29th)

Sure, Mr. Speaker. Mr. Speaker, I had intended - in fact I have in my possession the dialogue that occurred last session with regard to this bill, and I was going to read into the record the comments of Representative Prague and I do, herewith, incorporate them by reference concerning with the importance of dealing with drunk driving and the philosophical and numerical basis for being for this law.

Let me say also, I also spent a long time in the last year writing a piece of legislation which responded to those philosophical and numerical concerns about why and where deaths occur, and also helped respond to the number of individuals who are concerned with effective due process for individuals who are accused by the State.

As a result of that, Mr. Speaker, you have before us an administrative per se license suspension which, in my opinion, is a very strong bill. It penalizes people stronger than anything we have seen here if punishment is the answer, but also at the same time maintains due process in a manner which individuals,

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the burden is not thrust to individuals in the State, but remains on the State.

Mr. Speaker, I think it meets minimal Constitutional standards, the bill as before us. I do not, however, Mr. Speaker, think that is appropriate for this Legislature to only reach minimal Constitutional standards. It should strive, as I have said before, for the best we can do to protect individual liberties and rights as well as we can.

I was, Mr. Speaker, going to indicate to you as I will now that I think for all those who think they have to believe and put an administrative bill, per se bill on the record and vote it, this bill will do that job. It will allay most concerns, it will does not allay all of mine.

There will be an amendment, Mr. Speaker, and after that amendment, I will ask to add a few more comments. At this point, Mr. Speaker, I would wish to yield to Representative Prague.

SPEAKER BALDUCCI:

Representative Prague, do you accept the yield?

REP. PRAGUE: (8th)

Yes, I do. Mr. Speaker, through you, I want to thank Representative Tulisano for yielding to me in order to call an amendment.

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The Clerk has LCO 8122. Will he please call, and I be allowed to summarize?

SPEAKER BALDUCCI:

Will the Clerk please call LCO 8122, designated House "A"?

CLERK:

LCO 8122, House "A", offered by Representative Prague, et al.

SPEAKER BALDUCCI:

Questions on summarization. Is there objection? Representative Prague.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. What this amendment does is to strike everything after the enacting clause and substitute language that will, one, allow the arresting officer to take the permanent license of somebody who's arrested drunk driving and give them a temporary license, which will be good for 35 days from the date of arrest.

The officer will send a report signed and witnessed into the Department of Motor Vehicles along with the permanent license. The Commissioner of Motor Vehicles, upon receipt of the report, will then notify the defendant that his license will be suspended as of a certain date, and that he is entitled to a hearing.

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The arresting officer, if the defendant wants him at the hearing, will have...it's a Legislative intent that he'll be able to subpoena him. The amendment does not say that, but it is the Legislative intent that that should happen in order to protect any kind of Constitutional rights.

The person, upon receipt of the notice of suspension within 7 days of mailing, will ask for a hearing if he so desires, and the Commissioner will grant that hearing before the date of suspension.

Ladies and gentlemen, if the person has taken the test and failed, the license will be suspended for 90 days. If the person has taken the test, has refused the test as is already in statute, the license will be suspended for six months upon the first arrest. The importance of this amendment is that the license will be gone within 35 days of arrest.

Ladies and gentlemen, administrative per se continues, the amendment continues to go on to determine what can be discussed at the hearing if the defendant requests a continuance because of something happening in the family, such as a death. The Commissioner can grant a ten day continuance.

If the person does not, number one request a hearing, the license is suspended. If he requests the

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hearing and the Commissioner determines that there is nothing - there are four things to be discussed at the hearing. If the Commissioner does not find one in the negative, then that license is suspended. If the defendant requests a ten day continuance, the Commissioner can grant that request.

The Constitutional rights of the defendant have been carefully protected in this amendment. The amendment meets federal guidelines for funding. The amendment will give us \$550,000 a year for five years in order to implement administrative per se. It currently exists in 23 other states, and it's a good amendment, and it should pass. I move adoption.

SPEAKER BALDUCCI:

Questions on adoption. Will you remark?

REP. PRAGUE: (8th)

Mr. Speaker, this amendment has been carefully crafted by several people who have put a long time into coming up with a compromise that will give the State of Connecticut an administrative per se. I especially want to thank the people who have worked hard on this amendment, including the proponents and the opponents.

We have come together to develop a bill that has proven to be an effective deterrent to drunk driving in the 23 states in which it now exists. The importance

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of this legislation is documented by the fact that the federal government is willing to give us substantial amounts of money so that we can get this legislation into place.

I want to thank everybody who has worked long and hard on this. It's a very good bill for the state, and with that Mr. Speaker, I'd like to yield to Representative Mintz.

SPEAKER BALDUCCI:

Representative Mintz, do you accept the yield?

REP. MINTZ: (140th)

Yes, Mr. Speaker. Thank you. I rise in support of the amendment. I believe that this amendment retains the Constitutional protections of due process that were in the original file, while allowing us to combat a serious problem that affects us all, drunk driving.

I believe that this amendment hopefully will act as a deterrent to have people realize the consequences of having that one drink too many, and thereby subjecting themselves to the loss of their license for 90 days, and I would urge adoption, and at this point I would yield to Representative Gionfriddo.

SPEAKER BALDUCCI:

Representative Gionfriddo of the 33rd, do you accept the yield, sir?

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REP. GIONFRIDDO: (33rd)

Yes, Mr. Speaker. Mr. Speaker, I've worked with Representative Prague and Representative Mintz over the past several days on this amendment, and I don't think any member of the Chamber can imagine how pleased I am to have it before us at this time. I would urge the entire body to approve it post haste.

SPEAKER BALDUCCI:

Will you remark further? Representative Ward of the 86th.

REP. WARD: (86th)

Thank you, Mr. Speaker. I also rise to support the amendment, and I think at least one point bears stressing. In the past in our law, under the alcohol education program, on a first arrest there was often no penalty beyond the fee to enter the program, and then there was the rehabilitation program.

Many people have thought that was a flaw in our existing law, that it really gave a free bite of the apple, although the education component, I think, is important. I don't think the free bite, the free arrest was good.

This, for the first time, puts in a suspension of the license of a first arrest, if that arrest is backed by either a refusal to take the test or a failure of

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the test, so it is a true per se law, and it is a true prompt administrative hearing with the protection of due process rights, so I think it does put a much tougher law in effect for first arrest, and I think that's important.

It will really give the public, and frankly, I think as Legislators, some of those arrested, you're going to hear some screams, and I think that's good, because that may give the publicity to this that's necessary - that there will be a serious penalty, a 90 day loss of license on a first arrest, even if there's no injury in the accident, and even if the person goes through the alcohol education program, so I think we should emphasize that the public ought to be aware of that.

There will be a meaningful penalty - a 90 day loss of license.

REP. MINTZ: (140th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Mintz.

REP. MINTZ: (140th)

For the second time, I would just like to point out that one of the concerns that was raised in the Judiciary Committee was that if you had a per se bill

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and a person was arrested for the first time and went into the program, that you were going to set them up for failure in the program in that during that 90 day suspension they were supposed to be attending classes to educate them about the horrors of drunk driving.

What this amendment does is says that at the option of the defendant, that those classes can start after the suspension has taken place, so we don't have the situation where we're creating an automatic failure because a person couldn't attend the classes. Thank you.

SPEAKER BALDUCCI:

Will you remark further? Representative Flaherty of the 68th.

REP. FLAHERTY: (68th)

Thank you, Mr. Speaker. Briefly, I'd just like to rise in support of the amendment as a co-sponsor of the original bill way back at the beginning of the session.

In looking at it, it seems to answer the test of people who express opinions both for and against it, and I would just like to be on record as supporting it, and I urge adoption of the amendment. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Bolster of th 137th.

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REP. BOLSTER: (137th)

Thank you, Mr. Speaker. I also rise to support this amendment. We have debated, and I think many people have agonized for a number of years over how to address the problem of driving while intoxicated, and this amendment seems to have finally assuaged the reservations and concerns of many people who were honestly well thinking but feared for the way some of the original wording had been put.

It is about time we tried to face up to this problem, and I think this is a good way. It's not going to be easy, and as Representative Ward said, we're probably going to get some constituents out there who are going to scream bloody murder when they lose their licenses for 90 days, but maybe the thing for us to remember is to remind them that they're fortunate that all they're losing is their license for 90 days and not their lives for the rest of eternity.

SPEAKER BALDUCCI:

Representative Fritz of the 90th.

REP. FRITZ: (90th)

Thank you, Mr. Speaker. I too rise in support of the amendment, and I remember in 1983 when we began with the DWI legislation and the debate lasted for seven hours in the Floor of this House, and I can

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remember all the times that per se came before us in the intervening years, and I will say this in behalf of the families of the victims that we have come a long way, and thank God, and I ask all of you to support this amendment today.

SPEAKER BALDUCCI:

Representative Dandrow of the 30th.

REP. DANDROW: (30th)

Yes, thank you, Mr. Speaker. I too rise in support this amendment today, and I would certainly feel that the ghosts of the past would be haunting me if I dare not. Our late Chief of Police in Berlin from my district, Bill Scalese, was one of the most active proponent that it was so necessary in the State of Connecticut that we get drunken drivers off the road, and that we make this a tight, tight law, so that perhaps we wouldn't have as many victims as we have had this past.

Speaking very highly of Edith Prague, he used to call me many a time and ask me please to support. Bill Scalese has just died last year, and in his memory today, I stand here and support this amendment, and hope that you all will adopt it. Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment? Will you

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remark? Representative Taborsak of the 109th.

REP. TABORSAK: (109th)

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

SPEAKER BALDUCCI:

Please proceed, madam.

REP. TABORSAK: (109th)

Through you, Mr. Speaker, if a person drives with their license under either the 90 or 180 day administrative suspension what is the penalty?

SPEAKER BALDUCCI:

Representative Prague.

REP. PRAGUE: (8th)

Mr. Speaker, through you, to Representative Taborsak, the penalty for driving with your license suspended for DWI is 30 days in jail.

SPEAKER BALDUCCI:

Representative Taborsak, you still have... Will you remark further? Representative Tiffany of the 36th.

REP. TIFFANY: (36th)

Thank you, Mr. Speaker. Question, since this amendment comes to the bill, a very quick question. What happens if a fellow is driving home on a Friday night. He's stopped and arrested, given one of these

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temporary licenses, and he's stopped again on Sunday, Sunday night or Monday prior to the time any of the stuff can get through the mail.

He's stopped a second time with this provisional license and he's drunk as a skunk. Does he just get another 35 day license? Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Mr. Speaker, I don't know what the penalty is for somebody who is arrested for the second time before the first offense has had a chance to be recorded. It seems to me if he's arrested the second time, and he's already been, it's already been documented, that he had been arrested once, that the case would then go to court.

I think what I should do though in order for you to get an accurate answer is to defer to one of the attorneys who deal with drunk driving charges in court, and maybe Representative Mintz or Representative Wollenberg, who are co-sponsors of this amendment would like to address that issue.

SPEAKER BALDUCCI:

Representative Tiffany, you still have the...

REP. TIFFANY: (36th)

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Well, I pose the question then to Representative Mintz. I repeat, the guy's stopped Friday night. He's certainly drunk. He gets one of these 35 or 30 day temporary licenses or whatever it is. He manages to get home, sobers up, but gets drunk again Sunday or Monday. He's stopped again prior... Meanwhile the mails are slow and none of the original information has gotten to the Motor Vehicle Department.

What's the consequences of getting stopped a second or third or fourth time while he's still on the 35 day temporary license and before any of these hearings have been held?

SPEAKER BALDUCCI:

Representative Mintz.

REP. MINTZ: (140th)

Through you, Mr. Speaker, it would be a second and third and fourth offense. I think it still falls under these procedures that would have to be followed. I think he's looking at for the second offense, if you give me a second, I believe it's...

I believe the second offense it's...his license can be suspended for one year, but I'm talking about the prison terms - first offense is ten consecutive days, second offense is 120 days that can't be suspended. Third offense is one year that can't be suspended, so

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he's looking at doing some heavy time.

REP. TIFFANY: (36th)

Madam Speaker, Representative Mintz, getting this square in my own mind then, these penalties, however many times he's arrested would be added on. The total then would be for the first offense. In other words, if he were stopped three times on this temporary license, he would get a three time penalty at his first hearing. Is that what you're saying?

DEPUTY SPEAKER POLINSKY:

Representative Mintz.

REP. MINTZ: (140th)

Through you, Madam Speaker, he would have three hearings basically, and at each hearing if it was within a three day period, within the time frame set up, he might have the three hearings - the Motor Vehicle Department may deem it appropriate to have the three hearings combined into one hearing.

That would be an administrative question that would have to be dealt with by the Motor Vehicle Department, but the worse that would happen is there would be consecutive days or however Motor Vehicle set it up.

DEPUTY SPEAKER POLINSKY:

Representative Tiffany.

REP. TIFFANY: (36th)

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Thank you. I am certainly going to support this, but to me that answer to me seems to indicate that through regulations or something that this needs some further work.

Certainly it would be costly for the Motor Vehicle Department to have two or three separate hearings. The case that I've outlined hopefully would be very rare, but unfortunately there are some guys out there who are going to drink and drive so long as they're not in jail in my estimation.

REP. PRAGUE: (8th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further? Representative Prague of the 8th.

REP. PRAGUE: (8th)

Thank you, Madam Speaker. Through you, to Representative Tiffany, one of the important things, Representative Tiffany is the fact that now when somebody is arrested for drunk driving, the arresting officer doesn't have any way of knowing whether he was arrested two days before or a week before because the case has not yet come up in court.

This way when he has to show his license, he doesn't have his license. He has a temporary license,

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so it becomes very obvious to the arresting officer that this guy has been arrested certainly within the past 30 days because he still has that piece of paper.

This will be very helpful to the police.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the amendment?

Representative Farr.

REP. FARR: (19th)

Madam Speaker, there are two important things the bill does. One has been discussed, is a 90 day suspension on a first offense, but the second thing which Representative Tiffany ought to be aware of is that by setting up an administrative process we can act quickly to get somebody's license away from them.

The process will ordinarily result in the license suspension after 35 days. Under current law in this situation Representative Tiffany commented on, where an individual is arrested for driving under the influence, his suspension would not occur until after the court case were disposed of, which might be six months later.

He might be arrested four or five times in that six months, before any suspension went into effect. Under this bill, it's true the suspension, the person would be able to continue to drive for 35 days, and could in fact get arrested within that 35 days again for driving

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under the influence, but at least after 35 days, he would have the license suspended, so that's the second important thing that this bill does. Thank you.

DEPUTY SPEAKER POLINSKY:

You're welcome, sir. Representative Stolberg.

REP. STOLBERG: (93rd)

Madam Speaker, I have a feeling we may be in the verge of a historic moment here. I would like point out that many people have been involved in working on this piece of legislation before us, and particularly the amendment, and the underlying bill.

Last summer we had a meeting involving many of the parties and the work has gone on unremittingly since then. There are two people, I think, who should be singled out for the historic record. One, Representative Prague because of her deep commitment to people and Representative Tulisano for his deep commitment to principle.

I think those two commitments have come together in this amendment. The many citizens who have been deeply harmed by drunk drivers and have asked Representative Prague and others to champion their cause, and also the stubbornness of Representative Tulisano who has a deep commitment to due process, and has endeavored to protect that due process over the years.

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I'm very pleased that those two positions have finally come together with the help of Representative Wollenberg and Representative Gionfriddo and so many others, and I'm pleased that we may be on the edge of passing this legislation at this time.

DEPUTY SPEAKER POLINSKY:

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

REP. FUSSCAS: (155h)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

REP. FUSSCAS: (55th)

Thank you, Madam Speaker. I read the fiscal note on the original bill, but I didn't see the fiscal note on the amendment. Through you, Madam Speaker, does the amendment make any significant changes in the fiscal note?

DEPUTY SPEAKER POLINSKY:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker, to Representative Fusscas, no.

DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

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REP. FUSSCAS: (55th)

Through you, Madam Speaker, do we continue to charge \$50 for the temporary license?

DEPUTY SPEAKER POLINSKY:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker, there is no charge in this amendment, nor was there any charge in the file copy. There was a charge last year in the legislation that was proposed, and if you remember, Representative Fusscas, that was a bone of contention, and it was hotly debated on the Floor.

This year it was deliberately left out to avoid that conflict. We will have to wait and see what happens next year or the year after or the year after, but currently there is no charge for a hearing in this amendment.

DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

REP. FUSSCAS: (55th)

Thank you. One other question. The cost of the program, then will approximate \$445,000, and the DOT has set aside \$600,000 to administer it. Therefore, the funds are within the budget. Is that correct?

DEPUTY SPEAKER POLINSKY:

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Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker, that is correct. We get federal money every year to implement highway safety programs that come directly to the Department of Transportation into their highway safety program. The Department of Transportation has agreed to transfer \$600,000 to the Department of Motor Vehicles to implement this program.

Shortly after this program is implemented we will get our federal reimbursement of \$550,000.

DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

REP. FUSSCAS: (55th)

Thank you, Madam Speaker. I guess another question, through you. What if we're transferring \$600,000 from DOT to Motor Vehicles for safety programs, what safety programs are they not going to do in order to make available the \$600,000 to Motor Vehicle?

DEPUTY SPEAKER POLINSKY:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker, it's my understanding that this \$600,000 that they are transferring to the

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Department of Motor Vehicles is highway safety program the federal government has said in about 45 days turn around time the money will come into the state, so I don't see any program suffering with this shifting around of dollars. They didn't specifically say that any programs were going to suffer.

DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

REP. FUSSCAS: (55th)

I guess, through you, Madam Speaker, if the federal government gives us a grant of \$600,000 to implement highway safety programs, and that money is going to be now used for the per se, what programs were they intending to use? What highway safety, or don't they do anything with highway safety? They just take the money. I really don't know.

REP. PRAGUE: (8th)

Through you, Madam Speaker, Representative Fusscas, we get over a million dollars a year from the federal government for highway safety programs. DOT is involved in seat belts, and various other programs. I don't know what they are specifically. They didn't tell us, and if somebody knows, that would be fine, but they managed to implement highway safety programs, and they get their money from the feds with which to do it.

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REP. FUSSCAS: (55th)

Through you, Madam Speaker, if you said you anticipate that the feds will reimburse the State of Connecticut a half a million dollars? If so, what's the program in which that reimbursement emanates from or comes from?

DEPUTY SPEAKER POLINSKY:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker. There are grants from the federal government to implement to pay for to pay states to help them with their administrative per se programs. They're 408 and 402 grants, and as a matter of fact, Representative Fusscas, this is such an important piece of legislation that the federal government is now considering another grant called 410 for which regulations will be developed in the late fall, that will give us additional dollars under certain circumstances.

DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

REP. FUSSCAS: (55th)

Through you, Madam Speaker, I'm not sure, reading the original fiscal note that I would bet the farm that that money will come back into the State of

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Connecticut.

Could you tell the Body how many states have received these grants, and the total amount of money that has, in fact, been reimbursed to the states? We have 22 states with per se.

REP. PRAGUE: (8th)

23.

REP. FUSSCAS: (55th)

23. How many of those states have received this grant. Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker. There are other criteria that states have to meet in order to get \$550,000. They have to raise their legal age to 21. They have to implement a per se at .10, you're determined to be drunk. There are eight criteria that we have to meet in order to get these federal dollars.

This is the only piece of drunk driving legislation that we lack in order for us to be eligible for these dollars.

REP. FUSSCAS: (55th)

Through you, Madam Speaker, if I may repeat the question. How many of the 23 states that have per se

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legislation, that meet all this criteria receive this grant? Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Prague.

REP. PRAGUE: (8th)

Through you, Madam Speaker. I don't really know how many other states are getting it. I know that we're eligible. I have been in constant contact with the National Highway Traffic Safety Administration. They have assured me that if we implement an administrative per se, that we the State of Connecticut, which is my main concern will be eligible for \$550,000 a year for five years.

Other states that have implemented administrative per se may not meet the full criteria to make them eligible. Maybe they're just beginning to develop programs. Maybe they don't have an alcohol education program. Maybe they haven't raised the age to 21. We have met all those requirements, and for us this is the last requirement we need to meet to make us eligible.

I can assure you, Representative Fusscas, that I have documentation in writing from the National Highway Traffic Safety Administration that tells us that we will be eligible for that grant money after we implement this legislation.

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DEPUTY SPEAKER POLINSKY:

Representative Fusscas.

REP. FUSSCAS: (55th)

Thank you. Thank you, Representative Prague.

REP. PRAGUE: (8th)

You're welcome.

REP. FUSSCAS: (55th)

I guess that...I think asking the fiscal implications of any bill is a very legitimate and proper pursuit of questioning. It would seem to me from the answers that the federal reimbursement is something that may be questionable. The \$600,000 that is being transferred to the Motor Vehicle Department out of other highway safety programs - I really don't know what those programs, what the money is going to take away in other highway safety programs, but I'd like to point out that the per se program is highway safety, and it's probably a very good exchange, and I support the bill. Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment "A"?

Will you remark further? Representative Winkler.

REP. WINKLER: (41st)

Thank you, Madam Speaker. I too rise in support of this amendment. Heaven knows many lives have been lost

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because of accidents involving DWI individuals. This legislation is a beginning, and let's not miss the opportunity. Thank you.

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Thank you, Madam Speaker. In support of Representative Prague's responses to Representative Fusscas, we participate in a series of meetings with both the Department of Motor Vehicles and the Department of Transportation concerning the funding. Since Motor Vehicle is under the regulation protection subcommittee, we had to do this.

We did not place - the program is in Motor Vehicle. We did not place funds there. The funds are placed in the Department of Transportation, which is eligible to receive federal funding under programs 402 and 408, the Highway Public Safety Programs.

It is my understanding, and we gave this assurance to both Departments, that the money would be forthcoming from the federal government, and it would be a pass through through the Department of Transportation budget.

We did check this very carefully and had research done by our legal counsel, who assured us that it could

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be done that way. We also have documentation from the federal government that it will be done that way, so I would like to reassure Representative Fusscas and anyone else in the House who may have some question about that, the money will be forthcoming. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?

Representative Wollenberg.

REP. WOLLENBERG: (21st)

Thank you, Madam Speaker. Madam Speaker, I'm on this amendment somehow, and that's alright. I've been an opponent of this long and loud, and I think the one that is going to deter at all is loss of license, and that's what we're doing here today.

Now we can talk about dollars and what it costs to do this and what it doesn't cost, and is there money in the budget, or is it going to come from the feds. Well, it may come from the feds and in three years, I understand it runs out anyway, but don't let that stop us. It shouldn't stop us, but don't think for a minute that this is the panacea for deaths on the highway.

I'm going to vote for this because I believe what we have here has been structured so that there is due process left in. People have an opportunity, and

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Representative Tulisano and I have argued against these kinds of things over the years.

He may argue against something today, but in spite of that, if we keep the protections in as we have in this bill, and as we fought hard to keep in, then somebody who drinks and drives ought to be tagged, and we have said that time and time again, and that's what we're doing with this bill today.

There are questions as to what happens when the second and third and fourth time if you're under the 35 day temporary license. What happens to you? Well, it follows the procedure down. I don't know that happens to the guy who drives without a license, who's been in jail three or four time for loss of license, who's lost the registration to his car, who drives the wrong way up a down ramp, and hits a school bus, and kills seven kids.

I don't know what we do about that, but ladies and gentlemen of this Chamber, neither does anyone else in this Chamber. That's not what this bill does. This bill gets you and I and your neighbor and your kids and your parents and those people and it does something for drunk driving by doing that.

Thank goodness we kept the program. People from time to time criticize the program. It does do some

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good, and there was a fight to keep that in. Representative Tulisano has objection because a limited license provision was taken out. The limited license would have allowed people to go to the education program only. Eight trips, not satisfactory.

This is probably one of the toughest drunk driving per se bills in the United States. We hear about Minnesota and theirs. Let me tell you what happens in Minnesota. In Minnesota, if you lose your license through the per se and administratively, then the case in court is nollied. The case in court is nollied. Enough punishment that you lose your license.

They also have a limited license provision, and it works, we are told. We are told here that that can't work. Well, maybe that's for another day. We have got administrative per se. I think that is good. We have maintained some of the safeguards, some of the constitutional safeguards that we ought to maintain: confronting the witness against you, the right to a hearing and those things. And ladies and gentlemen, there aren't all that many of these things that go through and somebody gets his license back. Don't worry about that.

But it is an opportunity if an error has been made by the arresting officer for correction. And that's

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important, and we have got to keep it, and we do. But, let's hope that we can come back here, after we get this behind us, because this has been like a cloud hanging over this Chamber, the Chamber upstairs, this whole building and this whole Legislature, administrative per se.

Okay, we've got it today. It's not going to solve those bad ones that you read about, never in this world, but it is going to keep your kids, my kids, our parents, you and I maybe even - although I don't know - off the road because we don't want to lose that license. And that is the important thing that we do here.

And again, Representative Tulisano, I just want to say how hard he has worked over the years for this, and I wish he could be on it. I hope that maybe he will see the light and get on it, as I have. Let's move it.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House "A"? Will you remark further? Representative Osler.

REP. OSLER: (150th)

Thank you, Madam Speaker. Just very briefly, I think it is so encouraging to find that there is a great deal of agreement on this. I remember how depressed we all were last year or the year before - I

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forget which it was - when we thought we had it, and then all of a sudden on the last day, we didn't have administrative per se.

The only thing that I can think of that my town used to do that also was very helpful for drunk driving was every day in the little lower corner of the front page of the local paper was a little notice naming the person or persons who had been arrested for drunk driving that day. It was never on a back page. It was always on the front page. The name mentioned, and you often knew the person. And that, too, exerted a little peer pressure, and I think maybe it wouldn't hurt some of our towns to go back to those simpler days. Wouldn't have much effect in the big city, but certainly in small towns, it is not a bad idea.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House "A"? If not, let us try, let us try your minds. All those in favor of House "A", please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed, nay.

REPRESENTATIVES:

No.

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DEPUTY SPEAKER POLINSKY:

The eyes clearly have it. House "A" is adopted and ruled technical.

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House Amendment Schedule "A":

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

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

(a) Any person who operated 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 MANSLAUGHTER IN THE SECOND DEGREE WITH A MOTOR VEHICLE OR ASSAULT IN THE SECOND DEGREE WITH A MOTOR VEHICLE OR 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 the option of the police officer, having been afforded a reasonable opportunity to telephone an attorney prior to the performance of such test and having been informed that his license or nonresident operating privilege will be suspended in accordance with the provision of [subsection (d), (e), or (f) of] this section is he refuses to submit to such test OR IF HE SUBMITS TO SUCH TEST AND THE RESULTS OF SUCH TEST INDICATE THAT AT THE TIME OF THE ALLEGED OFFENSE THE RATIO OF ALCOHOL IN HIS BLOOD WAS TEN-HUNDREDTHS OF ONE PER CENT OR MORE OF ALCOHOL, BY WEIGHT, and the evidence of ANY 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 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

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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 OR IF HE SUBMITTED TO SUCH TEST AND THE RESULTS OR SUCH TEST INDICATED THAT AT THE TIME OF THE ALLEGED OFFENSE THE RATIO OF ALCOHOL IN HIS BLOOD WAS TEN-HUNDREDTHS OF ONE PER CENT OR MORE OF ALCOHOL, BY WEIGHT.

(c) If the person arrested refuses to submit to test or analysis OR SUBMITS TO SUCH TEST OR ANALYSIS AND THE RESULTS OF SUCH TEST OR ANALYSIS INDICATED THAT AT THE TIME OF THE ALLEGED OFFENCE THE RATIO OF ALCOHOL IN THE BLOOD OF SUCH PERSON WAS TEN-HUNDREDTHS OF ONE PER CENT OR MORE OF ALCOHOL, BY WEIGHT, the police officer, ACTING ON BEHALF OF THE COMMISSIONER OF MOTOR VEHICLES, shall immediately revoke AND TAKE POSSESSION OF the motor vehicle operator's license or, IF SUCH PERSON IS A NONRESIDENT, SUSPEND THE nonresident operating privilege of such person, for a twenty-four-hour period AND SHALL ISSUE A TEMPORARY OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE TO SUCH ISSUANCE AND ENDING THIRTY-FIVE DAYS AFTER THE DATE SUCH PERSON RECEIVED NOTICE OF HIS ARREST BY THE POLICE OFFICER. [and] THE POLICE OFFICER SHALL prepare a written report of [such refusal]. Such written report shall be endorsed by a third person who witnessed such refusal] THE INCIDENT AND SHALL MAIL THE REPORT TOGETHER WITH A COPY OF THE COMPLETED TEMPORARY LICENSE FORM, ANY OPERATOR'S LICENSE TAKEN INTO POSSESSION AND A COPY OF THE RESULTS OF ANY CHEMICAL TEST OR ANALYSIS TO THE DEPARTMENT OF MOTOR VEHICLES WITHIN THREE BUSINESS DAYS. 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 OR WHO ADMINISTERED OR CAUSED TO BE ADMINISTERED SUCH TEST OR ANALYSIS. IF THE PERSON ARRESTED REFUSED TO SUBMIT TO SUCH TEST OR ANALYSIS, THE REPORT SHALL BE ENDORSED BY A THIRD PERSON WHO WITNESSED SUCH REFUSAL. The report shall set forth the grounds for the officer's belief that there was probable cause to arrest such person for MANSLAUGHTER IN THE SECOND DEGREE WITH A MOTOR VEHICLE OR ASSAULT IN THE SECOND DEGREE WITH A MOTOR VEHICLE OR 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 shall state that such person had refused to submit to such test or analysis when requested by such police officer to do so

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OR THAT SUCH PERSON SUBMITTED TO SUCH TEST OR ANALYSIS AND THE RESULTS OR ANALYSIS INDICATED THAT THE TIME OF THE ALLEGED OFFENSE THAT RATIO OF ALCOHOL IN THE BLOOD OF SUCH PERSON WAS TEN-HUNDREDTHS OF ONE PER CENT FOR MORE OF ALCOHOL, BY WEIGHT.

(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 six months] EFFECTIVE AS OF A DATE CERTAIN, WHICH DATE SHALL BE NOT LATER THAN THIRTY-FIVE DAYS AFTER THE DATE SUCH PERSON RECEIVED NOTICE OF HIS ARREST BY THE POLICE OFFICER. Any person whose license or operating privilege has been suspended in accordance with this subsection shall automatically be entitled to [an immediate] A hearing before the commissioner TO BE HELD PRIOR TO THE EFFECTIVE DATE OF THE SUSPENSION. THE COMMISSION SHALL SEND A SUSPENSION NOTICE TO SUCH PERSON INFORMING SUCH PERSON THAT THIS OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE IS SUSPENDED AS OF A DATE CERTAIN AND THAT HE IS ENTITLED TO A HEARING PRIOR TO THE EFFECTIVE DATE OF THE SUSPENSION AND MAY SCHEDULE SUCH HEARING BY CONTACTING THE DEPARTMENT OF MOTOR VEHICLES NOT LATER THAN SEVEN DAYS AFTER THE DATE OF MAILING OF SUCH SUSPENSION NOTICE.

(e) IF SUCH PERSON DOES NOT CONTACT THE DEPARTMENT TO SCHEDULE A HEARING, THE COMMISSIONER SHALL AFFIRM THE SUSPENSION CONTAINED IN THE SUSPENSION NOTICE FOR THE APPROPRIATE PERIOD SPECIFIED IN SUBSECTION (h) OF THIS SECTION.

(f) IF SUCH PERSON CONTACTS THE DEPARTMENT TO SCHEDULE A HEARING, THE DEPARTMENT SHALL ASSIGN A DATE, TIME AND PLACE FOR THE HEARING, WHICH DATE SHALL BE PRIOR TO THE EFFECTIVE DATE OF THE SUSPENSION. UPON A SHOWING OF GOOD CAUSE, THE COMMISSIONER MAY GRANT ONE CONTINUANCE FOR A PERIOD NOT TO EXCEED TEN DAYS. IF A CONTINUANCE IS GRANTED, THE COMMISSIONER SHALL EXTEND THE VALIDITY OF THE TEMPORARY OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE ISSUED PURSUANT TO SUBSECTION (c) OF THIS SECTION FOR A PERIOD NOT TO EXCEED THE PERIOD OF SUCH CONTINUANCE. 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 MANSLAUGHTER IN THE SECOND DEGREE WITH A MOTOR VEHICLE OR FOR ASSAULT IN THE SECOND DEGREE WITH A MOTOR VEHICLE OR 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

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person placed under arrest, (3) did such person refuse to submit to such test or analysis OR DID SUCH PERSON SUBMIT TO SUCH PERSON SUBMIT TO SUCH TEST OR ANALYSIS AND THE RESULTS OF SUCH TEST OR ANALYSIS INDICATED THAT 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; and (4) was such person operating the motor vehicle.

(g) If, after such hearing, the commissioner finds on any one of the said issues in the negative, the commissioner shall reinstate such license or operating privilege. IF, AFTER SUCH HEARING, THE COMMISSIONER DOES NOT FIND ON ANY ONE OF THE SAID ISSUES IN THE NEGATIVE OR IF SUCH PERSON FAILS TO APPEAR AT SUCH HEARING, THE COMMISSIONER SHALL AFFIRM THE SUSPENSION CONTAINED IN THE SUSPENSION NOTICE FOR THE APPROPRIATE PERIOD SPECIFIED IN SUBSECTION (b) OF THIS SECTION. THE COMMISSIONER SHALL RENDER A DECISION AT THE CONCLUSION OF SUCH HEARING OR SEND A NOTICE OF HIS DECISION BY CERTIFIED MAIL TO SUCH PERSON NOT LATER THAN THIRTY-FIVE DAYS OR, IF A CONTINUANCE IS GRANTED, NOT LATER THAN THIRTY-FIVE DAYS FROM THIS DATE SUCH PERSON RECEIVED NOTICE OF HIS ARREST BY THE POLICE OFFICER. THE NOTICE OF SUCH DECISION SENT BY CERTIFIED MAIL TO THE ADDRESS OF SUCH PERSON AS SHOWN BY THE RECORDS OF THE COMMISSIONER SHALL BE SUFFICIENT NOTICE TO SUCH RECORDS OF THE COMMISSIONER SHALL BE SUFFICIENT NOTICE TO SUCH PERSON THAT HIS OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE IS REINSTATED OR SUSPENDED, AS THE CASE MAY BE. UNLESS A CONTINUANCE IS GRANTED TO SUCH PERSON PURSUANT TO SUBSECTION (f) OF THIS SECTION, IF THE COMMISSIONER FAILS TO RENDER A DECISION WITHIN THIRTY-FIVE DAYS FROM THE DATE SUCH PERSON RECEIVED NOTICE OF HIS ARREST BY THE POLICE OFFICER, THE COMMISSIONER SHALL REINSTATE SUCH PERSON'S OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE, PROVIDED NOTWITHSTANDING SUCH REINSTATEMENT THE COMMISSIONER MAY RENDER A DECISION NOT LATER THAN TWO DAYS THEREAFTER SUSPENDING SUCH OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE.

(h) THE COMMISSIONER SHALL SUSPEND THE OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE, AND REVOKE THE TEMPORARY OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE ISSUED PURSUANT TO SUBSECTION (c) OF THIS SECTION, OF A PERSON WHO DID NOT CONTACT THE DEPARTMENT TO SCHEDULE A HEARING, WHO FAILED TO APPEAR AT A HEARING OR AGAINST WHOM, AFTER A HEARING, THE COMMISSIONER HELD PURSUANT TO SUBSECTION (g) OF THIS SECTION, AS OF THE EFFECTIVE DATE CONTAINED IN THE SUSPENSION OF NOTICE OR THE DATE THE COMMISSIONER

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RENDERS HIS DECISION, WHICHEVER IS LATER, FOR A PERIOD OF: (1) (A) NINETY DAYS, IF SUCH PERSON SUBMITTED TO A TEST OR ANALYSIS AND THE RESULTS OF SUCH TEST OR ANALYSIS INDICATED 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, OR (B) SIX MONTHS IF SUCH PERSON HAS PREVIOUSLY HAD HIS OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED UNDER THIS SECTION, AND (3) TWO YEARS, IF SUCH PERSON HAS TWO OR MORE TIMES PREVIOUSLY HAD HIS OPERATOR'S LICENSE OR NONRESIDENT OPERATING PRIVILEGE SUSPENDED UNDER THIS SECTION.

[(e) If a police officer revokes a person's operator's licence 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 such notice of revocation of the license of such person, the name and address of such person and the date and time of revocation.

(f) Upon receipt of a report of a 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 said issues in the negative, the commissioner shall suspend

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such license or operating privilege of such person for a period of one year for such refusal to submit to such test and for a period of three years for any such subsequent refusal.]

[(g)] (i) The provisions of this section shall apply with the same effect to the refusal by any person to submit to an additional chemical test as provided in subdivision (5) of subsection (c) of section 14-227a.

[(h)] (j) 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 unadvisable.

[(i)] (k) 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.

(l) THE COMMISSIONER OF MOTOR VEHICLES SHALL ADOPT REGULATIONS IN ACCORDANCE WITH CHAPTER 54 TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

Sec. 2. 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 while under the influence of intoxicating liquor or any drug or both. A person commits the offense of operating a motor vehicle while under the influence of intoxicating liquor or any drug or both if he operates a motor vehicle on a public highway of this state or on any road of a district organized under the provisions of chapter 105, a purpose which is the construction and maintenance of roads and sidewalks, or on any private road on which a speed limit has been established in accordance with the provisions of section 14-288a, or in a parking area for ten or more cars or on any school property (1) while under the influence of intoxicating liquor or any drug or both or (2) while the ratio of alcohol in the blood of such person is ten-hundredths of one per cent or more of alcohol, by weight.

(b) No person shall operate a motor vehicle on a public highway of this state or on 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 on any private road on which a speed limit has been established in accordance with the provisions of section 14-281a, or in any parking area for ten or more cars or on 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 ration 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) Except as provided in subsection (d) of this section, in any criminal prosecution for 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 was afforded a reasonable opportunity to telephone an attorney prior to the performance on the test and 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 by or at the direction of a police officer according to methods and with equipment approved by the department of health services and was performed by a person certified or recertified for such purpose by said department or recertified by persons certified as instructors by the commissioner of health services. 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 immediately before and after such test was performed by a person certified by the department of health services; (5) an additional chemical test of the same type was performed at least thirty minutes after the initial test was performed, provided however the results of the initial test shall not be inadmissible under this subsection if reasonable efforts were made to have such additional test performed in accordance with the conditions set forth in this subsection and such additional test was not performed or was not performed within a reasonable time, or the results of such additional test are not admissible for failure to meet a condition set forth in this subsection; and (6) evidence is presented which demonstrates that the test results and the analysis thereof accurately reflect the blood alcohol content at the time of the alleged offense.

(d) In any prosecution for a violation of

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subdivision (1) of subsection (a) of this section, reliable evidence respecting the amount of alcohol or drugs in the defendant's blood or urine at the time of the alleged offense, as show by a chemical analysis of the defendant's blood, breath or urine, otherwise admissible under subsection (c) of this section, shall be admissible only at the request of the defendant.

(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, testing breath and in testing urine in this state. He shall adopt regulations governing the conduct of chemical tests, the operation and use of chemical test devices and the training, certification and annual recertification 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) If 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 a case involving a violation of subsection (a) of this section 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.

(g) If a person is charge with a violation of the provisions of subsection (a) of this section, the charge may not be reduced, nolle or dismissed unless the prosecuting authority states in open court his reasons for the reduction, nolle or dismissal.

(h) Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars nor more than one thousand dollars and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have his motor vehicle operator's license or nonresident operating privilege suspended

for one year; (2) for conviction of a second violation within five years after a conviction for the same offense, be fined not less than five hundred dollars nor more than two thousand dollars and imprisoned not more than one year, ten CONSECUTIVE 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 two years; (3) for conviction of a third violation within five years after a prior conviction for the same offense, be fined not less than one thousand dollars nor more than four thousand dollars and imprisoned not more than two years, one hundred twenty CONSECUTIVE 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 conviction of a fourth and subsequent violation within five years after a prior conviction for the same 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 subsection (a) of section 14-227a in effect on October 1, 1981, or as amended thereafter, and a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section shall constitute a prior offense.

(i) Any person who violates subsection (b) of this section shall have committed 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 the expiration of any period in which an appeal of any conviction under subsection (a) of this section may be taken; 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 nonresident operating privilege to the department of motor vehicles. (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

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such person attains the age of eighteen years, whichever period is longer.

(k) In addition to any fine or sentence imposed pursuant to the provision of subsection (h) of this section, the court may order such person to participate in an alcohol education and treatment program.

(l) [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 (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 such 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.

(m) Notwithstanding the provisions of subsection (c) of this section, evidence respecting the amount of alcohol or drug in the blood of an operator of a motor vehicle involved in an accident who has suffered or allegedly suffered physical injury in such accident, which evidence is derived from a chemical analysis of a blood sample taken from such person at a hospital after such accident, shall be competent evidence to establish probable cause for the arrest by warrant of such person for a violation of subsection (a) of this section and shall be admissible and competent in any subsequent prosecution thereof if: (1) The blood sample was taken in the regular course of business of the hospital for the diagnosis and treatment of such injury; (2) the blood sample was taken by a person licensed to practice medicine in this state, a qualified laboratory technician, an emergency technician II or a registered nurse; (3) a police officer has demonstrated to the satisfaction of a judge of the superior court that such officer has reason to believe that such person was

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operating a motor vehicle while under the influence of intoxicating liquor or drug or both and that the chemical analysis of such blood sample constitutes evidence of the commission of the offense of operating a motor vehicle while under the influence of intoxicating liquor or drug or both in violation of subsection (a) of section 14-227a; and (4) such judge has issued a search warrant in accordance with section 54-33a authorizing the seizure of the chemical analysis of such blood sample.

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) 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 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) of section 14-227a [, subsection (d) or (f) of section 14-227b,] or section 53a-56b or 53a-60d OR PURSUANT TO SECTION 14-227b, shall be fined not less than five hundred dollars nor more than one thousand dollars and imprisoned not more than one year, thirty CONSECUTIVE days of which may not be suspended or reduced in any manner.

Sec. 4. Subsection (b) of section 54-56g of the general statutes is repealed and the following is substituted in lieu thereof:

(b) The court, after consideration of the recommendation of the state's attorney, assistant state's attorney or deputy assistant state's attorney

in change of the case, may, in its discretion, grant such application. If the court grants such application, it shall refer such person to the bail commission for assessment and recommendations with respect to placement in a program of alcohol education and treatment. Upon completion of the evaluation, the court shall determine whether such person is eligible for the pretrial alcohol education system. If the court determined that the defendant is eligible, the defendant shall be referred to the bail commission for placement in the system for one year. Any person who enters the system shall agree: (1) To the tolling of the statute of limitations with respect to such crime, (2) to a waiver of his right to a speedy trial, (3) to participate in at least eight meetings or counseling sessions in a program of alcohol education and treatment pursuant to this section, and (4) to accept more intensive treatment or other forms of education or treatment or to participate in additional meetings or counseling sessions if the bail commission deems it appropriate. The suspension of the motor vehicle operator's license of any such person pursuant to section 14-227b shall be effective during the period such person is participating in such program, PROVIDED SUCH PERSON SHALL HAVE THE OPTION OF NOT COMMENDING PARTICIPATION IN SUCH PROGRAM UNTIL THE PERIOD OF SUCH SUSPENSION IS COMPLETED. If the court determined the defendant ineligible for the system or if the program provider certifies to the court that the defendant did not successfully complete the program of alcohol education or treatment to which he was assigned or is no longer amendable to treatment under such program, the court shall order the information or complaint to be unsealed, enter a plea of not guilty for such defendant and immediately place the case on the trial list. If such defendant satisfactorily completes the program of alcohol education or treatment to which he is assigned, he may apply for dismissal of the charges against him and the court, on reviewing the record of his participation in such program, submitted by the bail commission and on finding such satisfactory completion, shall dismiss the charges. If the defendant does not apply for dismissal of the charges against his after satisfactorily completing the program of alcohol education or treatment to which he was assigned, the court, upon receipt of the record of his participation in such program, submitted by the bail commission, may on its own motion make a finding of such satisfactory completion and dismiss the charges. A record of participation in such program shall be

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retained by the bail commission for a period of seven years from the date of application. The bail commission shall transmit to the department of motor vehicles a record of participation in such program for each person who satisfactorily completes such program. The department of motor vehicle shall maintain for a period of seven years the record of a person's participation in such programs as part of such person's driving record.

Sec. 5. This act shall take effect on January 1, 1990."

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DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Burnham.

REP. BURNHAM: (147th)

Thank you, Madam Speaker. Very quickly, I think it is a credit to Bob Farr on this side and Edith on the other side that this bill has come this far, from the waning hours of last year, when the bill did die. Plain and simply, this bill is going to save lives. We all know someone who died or was injured in a drunk driving accident by a drunk driver. The estimates that I saw last year felt that anywhere from 20-30 people, Connecticut residents, will be spared because of this bill.

I think it's a great credit for all those who worked together to get this bill before us, and I urge its passage.

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DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on the bill as amended? Will you remark further?

Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, as I indicated in my introductory remarks, we worked very hard to put something together that meets minimal constitutional standards, and I cannot stand here before you and tell you the same things that I told you during the last debate on this issue. It certainly has come a long way. .

I certainly was told last year by members of this General Assembly that they wanted to vote on a per se bill that did all of the things that Representative Prague wanted it to do, but also protected due process rights. And we have tried to bring before you today a bill that does that.

However, I would like to join Representative Wollenberg is just pointing out to you that we have a history of changes in our drunk driving laws from the late 1970's, all of which were to be the final answer. This will not be the final answer. You may recall when we have, quote, unquote, "per se" itself before, when we changed from what your behavior was when you were driving to what your blood content was only. You may

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recall one time when that blood content was .15, and now it is .10. Then, we changed it just because you were .10, even if you were really driving okay, you would be arrested for drunk driving criminally. And now we had to change it to administrative per se, that because we wanted it to happen faster, and you will also be published, as Representative Ward indicated. You were arrested and therefore you should not get what he called a "free bite." And therefore, he wants you to receive some punishment, without conviction necessarily for drunk driving.

We have continuously been doing that in this state and around the nation. Representative Prague is correct. 23 states have this, obviously more than 23 do not have this, and that may be a sign of something, that there is some hope left. But you know, I was not going to say anything, and I think some of the members know that, until what happened-- until I saw what happened in China in the last month.

And you know, to me, to watch the students in Beijing or Shanghai carrying a statue of liberty down the streets and quoting our forefathers to us, and they were prepared to suffer and take risk in our society for liberty-- Somehow or other, I couldn't stand here and let them stand alone. I firmly believe in the

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deepest part of my heart that we cannot have a risk-free society, and we may or may not save some lives this year. I hope we do. But in the end, we know the statistics show that the curve goes up again after a period of time.

And it seems to me that our liberties and the way we pass laws here are more important and should be much more important to us. That doesn't take away from the importance of dealing with drunk driving or the horrors or the pain that people have suffered that drunk driving had. It just means that in this society, we are something better, and we should expect more from ourselves.

I look at what has happened, since this kind of a debate started about administrative licenses, and it started with - again, as I said before - per se. Now, we are at administrative per se, and your behavior is no longer reason to be guilty of anything. The fact that you do not meet somebody's standard is the reason why you are going to be guilty and punished for something. I look forward to the future when, of course now that we have this on line, we will of course reduce .10 to .08 or .05, and now we will bring in a whole bunch of other people we didn't think about when we passed these laws. That's the future.

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I also look to the future with what I saw ourselves do, and I was part of it beginning of this year. We want to get drug dealers, and so we create a forfeiture law with civil side, and not the criminal side. And as I said when Representative Belden asked me about it: we were on the cutting edge. We were on the cutting edge. But, if we are doing this time after time, on penalty after penalty, on issue after issue, we are going over the edge. And maybe I went too far on that, made it possible just like I helped make this one possible.

I see every time Representative Mushinsky brings out a bill dealing with the environment, we have many administrative penalties now, and we are talking about \$25,000 a day. That's more than murderers get fined. That is more than most criminals get fined, one, probably because they can't afford to pay it. But, be that as it may, we are talking about administrative penalties with not all the due process, with all the rights of individuals.

I look at what happened in Washington two weeks ago, when the head of the new department dealing with drugs came out and said, "We should create an administrative penalty for parents of children who are arrested with drugs, so that they will have some sort of civil penalty imposed upon them," for their failure

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to be good parents. I guess that is what he meant.

And again, we are going over the edge.

The answer will now become: we will call it civil. We will call it administrative, and therefore the issues of due process, the issues of liberty, the issues of the individual versus the state will no longer become as important as they were. And again, I reiterate. I wasn't going to open my mouth this year, but there were some other people who still think this is important to us. There are people in Moscow today who think it is important today, who are taking risks, political risks, and risks for their lives of standing up for what they believe in.

And I assure you, Madam Speaker, that my political life was put on the edge the last couple of years, because I stood up for what I believed in. And I stand here today, not necessarily to tell you to vote against and argue against this bill now. I stand here to remind people of what this is all about, what our country has been all about, and ask all of you to remember the future. And if there is going to be a place to stop, let it stop now. Let this be the end of it. Let's stop calling things administrative and civil penalties. Let's get back to what we are all about. Let's provide everybody with due process, and the

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burden should always be on the state.

You are not guilty when you are arrested. You are not guilty when you are accused, whether it be by the court, a Commissioner of Motor Vehicles, a Commissioner of DOT, or a Commissioner of DEP. You have rights as citizens, and those rights should be defended to the end.

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on the bill as amended? Will you remark further?

Representative Farr.

REP. FARR: (19th)

Madam Speaker, I couldn't let the opportunity pass. Having debated Representative Tulisano on numerous occasions for numerous years on the issue of drunk driving, it is indeed refreshing to hear him, instead of saying that we who support such legislation seek to have us like Russia. This year he says we are moving away from the direction of Russia and China, because they are now apparently having more liberty than we have.

I just want to point out to the body that despite all of his protestations, that this bill has nothing to do with liberty. We are not talking in this bill about

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putting people in jail. This has to do with your right to drive on our streets. It's as simple as that. Administrative per se has to do with your privilege of using your driver's license on the streets of Connecticut, and we are passing this bill because we feel that this is an effective way to weigh that balance, the person's privilege to drive, against other people's privilege to live.

And that is the issue, and I think this is a good bill, and I would urge passage of the bill.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?

Representative Schmidle.

REP. SCHMIDLE: (106th)

Thank you, Madam Speaker. In the words of the grand old sage of this Chamber, "This is a good bill, and it ought to pass."

DEPUTY SPEAKER POLINSKY:

Will you remark further? Representative Taborsak of the 109th.

REP. TABORSAK: (109th)

If I could float my little black cloud over the bill as amended. I think perhaps all the chronic alcoholics must live in the 109th District. This bill is not going to imbue them with the civic

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responsibility that they need to refrain from driving, Madam Speaker. And I don't want anyone to think it is a panacea. There is something that protects people's lives on the street and that protects them against drunk drivers, and it is called cops.

And they drive in my community with their racks of lights on their car and protect you in that way. And, Madam Speaker, I would much rather be voting to help local police departments be out on the street and protect us from drunk drivers, than to assure my colleagues that this will prevent the chronic alcoholic with five or six suspensions for DWI from not drinking and from not getting in his car, and I will use the "his" pronoun, and endangering the lives of our citizens.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended?  
Will you remark further? If not--

REP. PRAGUE: (8th)

Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Sorry. Representative Prague.

REP. PRAGUE: (8th)

Thank you, Madam Speaker. This bill has proven an effective deterrent in the states in which it has been

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implemented. There is nothing that is going to stop all people who drink and drive from doing that, but if it stops 9% or 10% in our state, that equates into lives. It has proven to do this in other states. We owe it to the people in this state.

Nothing is perfect, but because nothing is perfect doesn't mean that we should stop trying. And I am happy that this bill is before us. It could be my life or your life or the life of one of our kids. If it saves one life, it has been worth all the effort.

Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, Madam.

Will you remark further on the bill as amended? Will you remark further? If not, will all members please take their seats. Staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members please report to the Chamber. The House is voting by roll call. Members to the Chamber please.

SPEAKER BALDUCCI:

Have all the members voted and is their vote properly recorded? If so, the machine will be locked.

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The Clerk please take a tally.

The Clerk please announce the tally.

CLERK:

HB5096, as amended by House Amendment  
Schedule "A".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	142
Those voting Nay	4
Those absent and not Voting	5

SPEAKER BALDUCCI:

The bill as amended is passed.

REP. MIGLIARO: (80th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Migliaro, for what purpose do you  
rise?

REP. MIGLIARO: (80th)

I missed the vote. Would the Transcript please  
show that I would have voted for the bill had I been  
here in the affirmative.

SPEAKER BALDUCCI:

The Transcript will so note.

CLERK:

Page 3, Calendar 489, Substitute for HB7270. AN

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Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

Will you remark?

SENATOR MATTHEWS:

Yes, thank you, Mr. President. This bill defines physical therapists assistants in the scope of the practice. The House amendment eliminates supervision by electronic means between physical therapists and assistant as a permissible means of supervision.

The then physical therapist will be part of the Public Health code and the scope of practice will be defined.

THE CHAIR:

Further remarks? Senator Matthews.

SENATOR MATTHEWS:

If there are no comments, then I would request that we place it on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 575, File 570, Substitute HB5097, AN ACT CONCERNING ADMINISTRATIVE PER SE LICENSE SUSPENSIONS. As amended by House Amendment Schedule "A". Favorable Report of the Committee on TRANSPORTATION.

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THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President, I would move the Joint Committee's Favorable Report and adoption of the bill in accordance with House "A".

THE CHAIR:

Will you remark?

SENATOR AVALLONE:

Yes. This is a bill in which the Judiciary Committee, Transportation Committee, Appropriations Committee has had substantial involvement over the last several years. It is a hard hitting attempt to deal with the drunken driving problem in our State. Statistics indicate that unnecessary death and carnage is occurring on our state and local roads. And that this bill worked upon by many, many people is an attempt to deal with that problem.

Administrative Per Se is a system whereby one's license can be suspended if your blood alcohol level reaches certain limits, as arrived at by the office through taking various methodologies and that your license may be suspended under certain circumstances, irrespective of the result of the criminal charges.

I don't know of a bill that one...in my Committee

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has been worked on so hard when it did not originate in the Judiciary Committee and I want to give Senator Meotti and the Transportation Committee a great deal of applause for the work that he and others have done on this bill.

During last year's Session you will recall that I attempted to put in some due process protections into what I feel is a very tough bill, a very good bill. In the Judiciary Committee we voted out a bill that I feel was much tougher than the one we have before us and that was as a result of what this Circle, the House of Representatives and the people in the State of Connecticut said that they want it.

This is a good bill. It is a tough bill. It includes several of those due process protections that we were all concerned with last year. But it certainly should send a clear message that we will not tolerate drunken drivers on our roads. That we will not tolerate the carnage, the loss of life and property on our roads as a result of drunken drivers.

It is an extremely well thought out bill. Again, I wish it were in certain respects stronger. Not only in the enforcement side but on the due process side. I met with, during the interim from last year's Session, members of MADD and other groups. I want to commend

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them for their diligence, for their hard work, they have stayed on this issue, they have stayed on all of us. I don't know that I have ever seen a special interest group work as hard. They were honored by the Governor earlier this year for their work in this particular, this issue.

I want to commend them, the people with whom I have worked and spoken to. We may not have always agreed, but their purpose and intentions have always been superb, their diligence has always been superb and I want to commend them for the job that they have done on a very, very difficult piece of legislation.

I know that we all make promises in our campaigns. I know we always attempt to meet those promises. During my campaign I pledged that we would do an administrative per se bill in this Session of the General Assembly if I had anything to do with it. I have fulfilled that pledge to my constituents and the people throughout this State.

I want to commend my Co-Chairman in the House, Richard Tulisano, Ranking Member, Senator Upson, and Representative Wollenberg for the hours and hours of time that have gone into research, to make sure that it is not only a good bill, but a fair bill and they deserve a tremendous amount of recognition.

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The bill that came out of the Judiciary Committee was voted 27 to nothing. There have been changes. I commend the people who have worked on those compromises and I commend this bill as a part of Connecticut's answer or our Legislature's answer to drunken drivers and I commend it to you. Thank you.

THE CHAIR:

Further remarks? Senator Powers.

SENATOR POWERS:

Thank you, Mr. President. I rise in support of the bill. This is a bill that we all know has been before us or at least the subject has been before us in the past for a number of years, but I want to publicly state for the record, my thanks to Senator Tony Avallone, and certainly the people he mentioned in the House for the work that they have done.

In my opinion, in the past Senator Avallone has stood up to an issue that the people wanted to have passed very much, including Senator Avallone, but I think in good conscience he saw some parts of the bill that were unacceptable for a number of reasons, partially on a Constitutional basis and for other reasons and Senator Avallone stood up to the inaccurate and unfortunate pressure that was put to bear on him politically, which I think is unfortunate, but I think

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it's a tribute to him and the members of the House that he mentioned that have worked very hard on the bill, culminating, in what I hope to be the passage of the legislation unanimously by the Senate and ultimately the signature of the Governor and I would urge the members of the Circle to support the legislation.

THE CHAIR:

Senator Thomas Sullivan.

SENATOR SULLIVAN:

Mr. President, I rise too to support this bill and to identify myself with the remarks of my colleague Senator Powers. So without any further embellishment I think that all appreciate and in my estimate, Senator Avallone's stance in this matter and his courage and the difficulties that sometimes arise in bills of this particular nature. And I also, along with Senator Powers, urge the acceptance of this bill.

THE CHAIR:

Senator Kevin Sullivan.

SENATOR SULLIVAN:

Thank you, Mr. President. Sometimes the wheels of government turn slowly, but nonetheless, it is rewarding when they turn surely. We are at a point today that many of us have been hoping for, working for, some instances, praying for for some time. And

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that is the enactment of a strong, effective, anti-drunk driving bill for the people of the State of Connecticut.

It is certainly true that the bill, as Senator Avallone has said, could have, perhaps should have even been better than the one before us. But what is significant is that the bill is here today, that I sense that this Chamber is at last ready to embrace it and send it forward.

And as others before me have said and I must say as well, I suspect and I know that we would not be at this point without the support and the hard work that Senator Avallone has put into this legislation.

It's nice to know that having started with this bill as I think the first one I signed on to in my first year in the Senate, supported in my second year, that now many of us are here finally in this third year to see the bill enacted for all the good that it is going to do and all the lives it is going to save.

THE CHAIR:

Further remarks? Senator Upson.

SENATOR UPSON:

Thank you, Mr. President. Just to echo my support for Senator Avallone and not for myself on this bill. I appreciate his kind remarks, but I want to give him

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the credit. Last year I feel it was done in a hurry, what was attempting to be done and this year I think it's done in a calm reflection.

I don't know anyone who is against drunk driving...excuse me, when I say against drunk driving, stronger drunk driving laws. All the questionnaires we sent out the returns are we want to do something, that is the people of Connecticut, with drunk driving. The same as with the death penalty.

These are two issues which are important. So I do support this. I do think we still...there is still a problem with the jails. We still have a problem with overcrowding and all these together are going to be difficult on the Criminal system. However, we need it, we need a strong message, so I support this. Thank you.

THE CHAIR:

Senator Blumenthal.

SENATOR BLUMENTHAL:

Thank you, Mr. President. I would like to join my colleagues in the Circle in commending Senator Avallone and others who have worked on this bill. As Vice-Chairman of the Judiciary Committee I have observed his work firsthand and have participated in at least some of the many, many hours that he devoted to

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striking a balance, a very difficult balance between civil rights and civil liberties on which this country is founded and the need to do something about the problem of drunk driving, something stronger than we have done by strictly our criminal laws, something that will use the administrative process in a prompt and sure fashion to make sure that those who drive and drink don't do so for very long.

In some sense the debate and this bill are an extension of the one that we did on Friday evening, because this bill, like that one, deals with the problem of drug addiction. We know from the statistics and from what we have learned about alcohol addiction that it represents at least as great a problem and probably an even more destructive one than drugs and those related crimes.

We are doing something about that problem today, but we also need to provide the resources as we did Friday evening, to deal effectively with this problem and to make this system work as surely as it must in order to deal with the problem. Thank you.

THE CHAIR:

Further remarks? Senator Maloney.

SENATOR MALONEY:

Thank you, Mr. President. As a Co-sponsor of this

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bill I rise, obviously, to support it, thank all who have worked so hard, particularly the volunteers out there in the community that have pressed as vigorously over the years as they have for this bill.

This bill is indeed badly needed. This past Fall, for example, just in my community alone there were three individuals who were killed by people who were drinking or were drunk while they were driving, one of them happened to be a neighbor of mine on my street, three houses down, was killed on her way to church. A serious tragedy, one unfortunately that has been repeated over and over again around the State of Connecticut.

The State of Connecticut in years past had an admirable reputation on being tough on highway safety. This bill goes a long way toward restoring that reputation and towards increasing the safety that we all expect and deserve in traveling on our roads.

I congratulate everyone who had a hand in this matter and I would urge everyone in the Circle to join with us in passing this bill today.

THE CHAIR:

Further remarks? Senator Herbst.

SENATOR HERBST:

Thank you, Mr. President. I rise too to

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congratulate all of those people involved in bringing this bill once again before us. Those of us who sponsored the first bill that went down in defeat were hit with constituting marks such as it will probably never come up again, sure you make promises, but in the heat of everything else it is going to be forgotten. And yet, there was a concerted effort from the time of the defeat of the first bill to this present bill.

It's a bill that really, I think, not only answers an issues call, but I think more than anything else, it is a bill that is going to restore confidence of the voter and the citizens of Connecticut in the process. And for that reason, Mr. President, I am going to request a roll call vote.

THE CHAIR:

Further remarks? Senator Freedman.

SENATOR FREEDMAN:

Thank you, Mr. President. I would like to associate myself with all the remarks made here this afternoon. I think when we left here last May we were quite upset because the particular bill that appeared before us didn't address a lot of our concerns, particularly all the civil rights that were involved. I think this bill addresses those concerns. I think it gets the message out to the citizens of this state that

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we are concerned, that we are worried about the driver who gets behind the wheel with a drink or two much in his blood system.

During the summer I'm sure many of us heard from our constituents about some of the case histories, which are pretty gory and if this bill can prevent any of those case histories from repeating themselves, it takes a step to saving our citizens of our State.

Hopefully, we will all be able to take the red ribbons off of our cars and proceed forward with this and hopefully because of this bill we will not have to put any black armbands on. Thank you, Mr. President.

THE CHAIR:

Further remarks? Clerk please make an announcement for immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Will all Senators please return to the Chamber.  
Immediate roll call has been ordered in the Senate.  
Will all Senators please return to the Chamber.

THE CHAIR:

Question before the Chamber is a motion to adopt Calendar 575, Substitute HB5097, File 570 as amended by House Amendment Schedule "A". The machine is open.  
Please record your vote. Senator Scarpetti. Thank

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you. Has everyone voted? The machine is closed.

Clerk please tally the vote.

The result of the vote:

36 Yea

0 Nay

The bill is adopted.

Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President, I have had many privileges in this General Assembly and to serve even in the 11th Senatorial District, but it's always a matter of personal pride when a former member of this Circle joins us and my pleasure is compounded because that individual happens to be my father.

He served in 1951 in this Chamber, served earlier in the House of Representatives, has been a guiding light in my life, has taught me at an early age what it meant to be a public servant and what in fact it meant to be a State Senator. And I would ask my colleagues to rise and give him our normal greeting. (Applause)

THE CHAIR: (President Pro Tempore in the Chair)

Senator Harper.

SENATOR HARPER:

Thank you, Mr. President. I rise for the purpose an announcement. The meeting, joint meeting and

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that to apply limited licenses and I use that specifically, limited license as it applies to DWI and excludes all other types of suspensions.

I would also like to speak briefly on HB5097 or as it is better known as the administrative per se. The Department certainly supports the concept of HB5097 and also, with the concerns of the sponsors of that bill, as well as the general public. A sense of outrage that's felt as the terrible tragedies associated with the drinking and driving, the proposed bill seeks to have those arrested for drunken driving removed from our roads in as swift a manner as possible.

The Department must make this Committee aware that the agency, the Department of Motor Vehicles, is responsible for the implementing and the administration of this program and it certainly is going to need the sufficient funding of appropriations, if you will, that will insure the program running as effectively as it would be intended to be.

Proper implementation of the bill also hinges on the cooperation between the Department and the State as well as local police departments. We, at the Department of Motor Vehicles pledge to you that we will support and work very closely in developing communications that will allow the timely implementing of the mandate of HB5097 if it were to come.

There is one other suggestion that I'd like to offer at this time if I may, as it relates to the administrative per se, is that there are three sections we would hope, as it was submitted, so that in your deliberations you would consider in terms of altering.

One has to do with subsection g, where in the language of that section indicates that the commissioner can rely on the reports of the police departments on their findings. However, what has not been added is a statement that the commissioner can presume that the test for administrative, has been correctly administrated and that the machines are properly operating. What we're suggesting is

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the onus, or the responsibility of making that determination shall be on the part of the defendant.

Secondly, is in subsection m of the legislation as presented --

REP. TULISANO: Can I ask you? How can we do that? I mean, (inaudible).

COMM. LAWRENCE DEL PONTE: I'm sorry?

SEN. TULISANO: How do they do that if it's not in the defendant's knowledge?

COMM. LAWRENCE DEL PONTE: It has to be part of his defensive plea would be my assumption and my recommendation.

REP. TULISANO: How does he prove it? Don't forget, part of this bill says cops don't have to show up. You can rely on reports, and only if you sign the subpoena do they have to come, and yet now you're saying, here's another burden to shift to the defendant. He has to prove only the information which can come out of the police department, I guess.

COMM. LAWRENCE DEL PONTE: We've had, obviously, Mr. Tulisano, and you're probably aware of the fact of the number of cases that have been lost on that factor alone on whether the equipment had been appropriately tested or not. We would have to go through that same exercise.

Currently, a defendant can cop, can cop, what a terrible expression, can claim that and has to prove that the equipment in fact, was not, or can question us whether we know whether that equipment was running properly or not.

REP. TULISANO: You would take that away from him?

COMM. LAWRENCE DEL PONTE: No, we're not suggesting that anything be taken away. We're just suggesting that the responsibility be placed on, as part of their defense, to substantiate that fact.

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REP. TULISANO: What I'm saying to you, though, part of the other, the rest of the bill says, basically, you're trying to eliminate hearings for the most part. So you're going to eliminate hearings. But you're now saying, shifting something in there that in fact will encourage more hearings. I mean, you have to have a hearing on that issue, then, and he has to subpoena the police.

COMM. LAWRENCE DEL PONTE: Due process would be the prelude, I mean, has the prelude that says you can't have a hearing before your license is suspended.

REP. TULISANO: I'm just saying, read it with the rest of the stuff that is already written in there. That means, then the cops would come in person, right?

COMM. LAWRENCE DEL PONTE: He can.

REP. TULISANO: No, no, the proposal says the cop doesn't have to come.

COMM. LAWRENCE DEL PONTE: Does not have to come.

REP. TULISANO: So the defendant comes to your place. The cop doesn't show up.

COMM. LAWRENCE DEL PONTE: Yes.

REP. TULISANO: But now you've said to him, you now have the burden of asking this cop who didn't show up about the test. Isn't that what you're really saying to us.

COMM. LAWRENCE DEL PONTE: Not necessarily. There has to be some way wherein the defendant can confirm that that machine was. Currently, there's a requirement that every day, or every time a test is given, that machine has to be proven to be operational.

REP. TULISANO: As you know, I don't practice law before your agency, so I don't know. How would they do there?

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COMM. LAWRENCE DEL PONTE: It may be a blessing,  
Representative Tulisano. It may be lucky for that.

REP. TULISANO: You're right. But how do they do that?

COMM. LAWRENCE DEL PONTE: Michael will answer how  
specifically (inaudible)

REP. TULISANO: How do they do that, Michael?

MICHAEL KROCHMALNY: At the present time. My name is  
Michael Krochmalny. I'm the director of  
adjudications and I run the hearings for the  
Department. At the present time, of course, we  
only have the refusal cases before us. We do not  
have to delve into whether or not the machine was  
properly calibrated.

Our question to you in our written testimony, asks  
that you clarify to us. You have stated that the  
cop doesn't have to be there. We presume from  
that, then, that we do not have to get into the  
issues which will be tried in a criminal court as  
to whether or not the machine was properly  
calibrated.

REP. TULISANO: Oh, then the mere fact that he says it  
was properly calibrated on the test, should be an  
assumption that it was properly calibrated.

MICHAEL KROCHMALNY: We would like to have the  
clarification that it is the presumption we can  
make. Otherwise, the hearing that we are  
proposing, anticipating those from a half hour  
hearing to a four or five day --

REP. TULISANO: Okay, I understand now.

MICHAEL KROCHMALNY: For those issues to --

REP. TULISANO: I understand. I gotcha.

COMM. LAWRENCE DEL PONTE: Subsection f where you  
describe 7 days, we would hope you clarify that  
exactly whether it be calendar days, business days  
or DMV days and I only say that because of our  
unique hours at the Department of Motor Vehicle.  
It can be very serious to some people.

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REP. TULISANO: Oh, I understand. We raised that issue once and we were laughed at.

COMM. LAWRENCE DEL PONTE: I'm suggesting that you not laugh at that.

REP. TULISANO: I don't laugh at it. I understand you are closed on Mondays and that you're only open half a day on Saturdays.

COMM. LAWRENCE DEL PONTE: Yes. And late on Thursday.

REP. TULISANO: I understand that you have different hours. What days would you suggest to make it work properly.

COMM. LAWRENCE DEL PONTE: Whatever you say. Calendar days would certainly be appropriate as far as I'm concerned.

REP. TULISANO: Okay.

REP. TULISANO: You know, there are other per se states, with all kinds of per se with a title. Many of them have limited licenses. Have you checked that out?

COMM. LAWRENCE DEL PONTE: Yes, we have. (inaudible) in the very broad sense, too, I don't think they're discriminatory and I say I don't think. I'm not specific.

The bill that's being suggested here certainly is going to impose a certain amount of difficulties and it's going to be very discriminatory in my mind, anyway. If it's going to exclude all other suspensions for those reasons. And frankly, I think it's counterproductive, personally.

REP. TULISANO: Yeah, but all I'm asking you is, we are asked to look at other states that have per se as a guide, to why we should do it, and part of that does include limited licenses in those other states.

COMM. LAWRENCE DEL PONTE: It may very well be, yes, Sir.

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REP. TULISANO: Thank you.

REP. AVALLONE: Commissioner, I have a couple of questions. I have asked this question now for about a year and a half and I haven't really gotten an answer yet, maybe you can help me. Proponents of this bill indicate that the State of Connecticut is going to lose a tremendous amount of funding because we're not meeting federal guidelines in terms of the suspension of the license within a specified period of time.

I'm trying to find out whether those federal laws and that loss is from the loss of license from the date of arrest, or from the date the court, there's a finding of guilty. Can you help me with that?

COMM. LAWRENCE DEL PONTE: I don't know precisely. What is, as far as we're concerned, the suspension as the effective day is the day that the court notifies us that --

SEN. AVALLONE: I understand that. But from the time the person either pleads guilty or is found guilty, there is a period of time which elapses administratively, before that license is actually suspended. Is that correct?

COMM. LAWRENCE DEL PONTE: Yeah.

SEN. AVALLONE: Okay.

COMM. LAWRENCE DEL PONTE: And that varies, too, Senator.

SEN. AVALLONE: And it varies from geographical district and judicial district based upon how soon you're given the information.

COMM. LAWRENCE DEL PONTE: Right.

SEN. AVALLONE: Now, it's also my understanding that at one point in the past, that period of time could have been as much as six or nine months. But I understand now the information that we have from your department is that those from the time that the individual is found guilty in court--

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COMM. LAWRENCE DEL PONTE: Yes.

SEN. AVALLONE: -- of an offense for which his or her license could be suspended. Do you have a time period for us, how long it takes now before they're actually notified and that they have to submit their license?

MICHAEL KROCHMALNY: First of all, I'd like to differentiate of course between 227a and 227b. The 227a violations go through the criminal courts entirely. We have a data processing system which picks up as soon as we get the transmittal from court the succeeding Monday. Everybody whose report has come in is processed. They get a notice that they under suspension on the next Saturday, two weeks from that date.

SEN. AVALLONE: That's for the refusal?

MICHAEL KROCHMALNY: That's just for 227a, people who are (inaudible--not speaking into mike) we get a transmittal, we immediately send that out within the next week. For a 227b violation, we have to set hearings with the Department and hold a hearing. That has, in the past, gone anywhere from two months up to six or eight months.

We're now down to the lowest level we've been since we had 2,000 hearings a year back in 1982 and that is for those 227b reports that we get from the police departments, we're setting a hearing in all of our locations but one, and that is Norwich, for approximately six weeks from the date that we get the notice.

Norwich, we have only one hearing space and quite a lot of activity. Not because the people down there tend to drink more, but because they have, I think, very good enforcement down in that area, from New London up to Norwich, we have a higher percentage of hearings in that area and right now we're backed up to more like probably eight to twelve weeks there.

But for people who come into the Wethersfield

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office, we're setting hearings now for six weeks and that we consider a notice, four to six weeks (inaudible) in terms of notice of a hearing anyway.

SEN. AVALLONE: And you have no information for us as to whether or not this federal funding or alleged loss of federal funding relates. There's a time period, 45 or 60 days.

MICHAEL KROCHMALNY: My understanding, depending upon what federal funding we're talking about.

SEN. AVALLONE: I don't know. I just hear it out there and I'd like to just get some clarification.

MICHAEL KROCHMALNY: The only one that I've been familiar with has been in working on the (inaudible) here, and the fact that in order to get the federal funding available for reimbursement there, there has to be a time period of 45 days between arrest and suspension for that violation.

COMM. LAWRENCE DEL PONTE: That's not your question, is it Senator? The question is what the current procedure is.

SEN. AVALLONE: Yeah.

COMM. LAWRENCE DEL PONTE: I'll get you the information precisely, 45 days as it relates to per se.

SEN. AVALLONE: Now I'm learning something else. In order for us, but I also hear there's guarantees of this federal funding and I'd just like to know again, you're saying for this funding that's supposed to come down as a result if we pass per se, that one of the requirements is that there be a loss of license 45 days from arrest. Is that correct?

MICHAEL KROCHMALNY: That is my understanding.

SEN. AVALLONE: Okay.

REP. TULISANO: Can you answer me, how many people, notice that in Wethersfield at least, it takes about six weeks to get a notice of suspension for failure to take test.

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MICHAEL KROCHMALNY: Notice of a hearing.

REP. TULISANO: Notice of a hearing. Right. How many people opt to take that hearing, do you have any idea percentagewise?

MICHAEL KROCHMALNY: Percentagewise, I don't know because the second, the subsequent offenders get an automatic hearing set up for them, so we have more of those people don't come because they're subsequent offenders. They face obvious strict significant DWI losses (inaudible) so they don't come to our hearing. The people who request it are first time offenders are probably 95% to 90% actually do come to the hearing.

REP. TULISANO: And then what happens?

MICHAEL KROCHMALNY: Our percentage rate is probably about 75% of those people who are suspended.

REP. TULISANO: Are suspended. Seventy-five out of the 90 that ask. So that means your suspension for people who ask for the hearing is about 80%? 90%? Because ten automatically accepted it. Eight per cent accepted it but are not asking for a hearing, correct? And the rest ask for a hearing and 75% lose.

SEN. AVALLONE: I'd like to ask you another question, and I have never appeared before these hearing officers, either. But I am told by representatives of not only law enforcement, but the legal profession and also people who advocate for stronger drunken driving laws, that one of the reasons that, one of the main reasons why people, that 25% are not found, either the machine isn't calibrated, or it's something that the officer can testify to that was present in court. Can you tell us whether that's accurate or what the reason is, what you find the reason is, where that 25% is.

MICHAEL KROCHMALNY: The failure of the officer to appear at the hearing will be a much smaller percentage than that 25%. The policy of the Department had been that if the officer failed to

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appear, we would continue the hearing and if the officer failed to appear a second time, that we would then dismiss the hearing.

At the present time, we're notifying the police departments and we've worked out a system with the State Police to notify them so they can assure that their officers will in fact appear. Our dismissals are without prejudice, which means that they can be brought back by the initiating authority.

We are working with them to find out why, in fact, they're not appearing. A significant number of them do call and we continue hearings so that the officer can appear. We certainly try to accommodate them. We hold the hearings in the locations where the arrest was made so the officer doesn't have to travel across the state.

SEN. AVALLONE: Thank you.

REP. CARUSO: Let me see if I understand this. If I'm brought in because I refuse to take the test, and I go down to whatever GA it is and I enter the pretrial alcohol rehabilitation program. Regardless of whether I enter that, and regardless of whether or not I successfully complete that, you still would have me in for a hearing on that separate issue.

MICHAEL KROCHMALNY: Yes, because you violated another section of the law, 227b.

REP. CARUSO: And the prosecutor doesn't have any discretion as to that charge?

MICHAEL KROCHMALNY: No, he doesn't.

REP. CARUSO: Thank you.

SEN. AVALLONE: Representative Ritter.

REP. RITTER: Just one question, and that is, while it may be a philosophical problem with it, is there an administrative problem of doing it (inaudible) license?

COMM. LAWRENCE DEL PONTE: Yes there is, a very serious one.

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REP. RITTER: Would you need more staff? What would you need if we ordered a limited license.

COMM. LAWRENCE DEL PONTE: Well, we'd certainly have to redefine how we issue licenses. Our record retention capacities would have to change. There would have to be a much closer monitoring thing. We also have a very serious concern about the law enforcement component of limited licenses and how they would be used.

You know, a very obvious reason would be to provide the ability to go back and forth to work, probably the primary consideration. But within that context, some bad things can happen, and they have happened in other states that have --

REP. RITTER: Yes, I understand --

COMM. LAWRENCE DEL PONTE: But there is an administrative problem that has to be dealt with.

REP. RITTER: It might be helpful. I mean, I'm not predicting where this Committee would go, but particularly there's a lot of people who like that idea. If you could get back to us with the different concerns you would have in administering such a bill.

COMM. LAWRENCE DEL PONTE: Well, we'd be more than willing to sit down and work something out that would allow it to happen. The discrimination aspect of the thing bothers me very much.

REP. RITTER: I was talking about the practical aspect of us. Thank you.

MICHAEL KROCHMALNY: Can I say just one thing. From my perspective and the hearings that we hold, I can see the obvious question is, was someone in fact using a license for the purpose intended. Do we have to bring the employers to determine whether or not they were on the work schedule, someone who is on a modified work schedule, or a traveling salesman. Does that mean they can use the license all the time, or just when they're doing their work.

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We see a number of (inaudible) that would engender treating each licensee.

REP. TULISANO: How do other states do it? Would you mind checking some of your compatriots out? What do they do? I mean, you obviously have a compact. You can talk to other folks, right?

COMM. LAWRENCE DEL DEL PONTE: We'll get that piece of information along with that other question.

REP. TULISANO: Thank you. Representative Mintz.

REP. MINTZ: Can't we put in a statute the burden would be on the defendant to show that he was using it in the course of employment, as you want to do in certain other statutes? It would be easy enough to put the burden on the defendant in per se. Maybe we can do it here, too.

REP. TULISANO: That goes against the purpose of this legislation. Thank you.

REP. TULISANO: Don Kiley. Sergeant, don't leave. We'll get back to you. We have to go to the public a little bit.

DON KILEY: Mr. Chairman, members of the Committee, I'm Don Kiley, State Director of the National Federation of Independent Business. We have over 5200 Connecticut businesses that are our members and come from all walks of commercial life.

We're the corner grocery, manufacturing, farmers, auto repair, construction, plumbers, in short, just about any service firm that you can name. We wish to endorse HB6787, AN ACT CONCERNING CIVIL LIBERTIES FOR BAD CHECKS.

There are 1791 retail firms in our organization and 1182 service firms, about 56% of our membership. The passing of bad checks by people who know the check is worthless is one of their most vexing problems. Although the current law allows some penalty, the check kiter knows the business person can ill afford the time and trouble it takes to collect on a bad check through the lengthy process that is prescribed in our statutes.

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rotten when in fact, he was learning disabled and it was very, very tough. A year ago my son would have to be pulled down out of the closet to get him to go to school and this year, because he is finally placed where he belongs he gets himself dressed and he goes out with a smile and I'm very appreciative and we never would have done it alone. Thank you.

SEN. AVALLONE: Thank you.

MARILYN DENNY: Thank you. Those are our witnesses. If you have questions.

REP. TULISANO: Laughlin, I want everyone to know, we're taking Mr. McClean out of order. He's under the public list and we stopped them after one hour but we really shouldn't have been on the public list. How's that? That's because we are being accused of only doing the public, I mean the official list.

LAUGHLIN MCCLEAN: Representative Tulisano, Senator Avallone, and members of the Committee, it's really a pleasure for me to be on the other side of the table here with Representative Tulisano as we both seek to do something for the State of Connecticut which will have the effect of reducing the terrible toll of drunken driving on the people of this state. I was the Chairman of the Governor's Task Force on driving while intoxicated and I'm appearing here today in support of HB5097 which provides for immediate per se license suspension.

The Governor, in 1982 as part of an intensified campaign to rid Connecticut roads of drunk drivers appointed a 13 member task force - a cross section of the state, geographically, occupationally and otherwise. It had members of the state government of all branches. I served as Chairman of the Committee and Representative Tulisano was a valuable contributing member of it. When he appointed the Task Force, Governor O'Neill said that drunk driving is a far more serious problem than many people realize, citing the large number of Americans killed in automobile accidents and the high percentage of Connecticut traffic deaths caused by motorists who were legally drunk.

To gain an overall picture of what was going on we consulted with representatives of the various participants of the state's DWI system. They outlined their functions, problems, and recommendations. We held 11 public hearings from one end of the state to the other to hear from its citizens of all kinds - young, old, victims of drunken drivers, police officers, relatives of victims, prosecutors to get their ideas about what they thought would be the most effective way to reduce the terrible cost in lives, injuries and property damage caused by drunk drivers.

In addition, we studied the activities of similar groups in other states and the Blue Ribbon Presidential Commission on drunken driving. We reviewed all of the articles and studies we could get our hands on provided by public and private agencies. Based upon all this study and analysis and after widely publishing and getting comments on our exposure draft the Task Force submitted it's final report to Governor O'Neill in November of 1983. Now, I have reviewed the process followed by the Task Force in it's deliberations because I wanted the Committee to know the careful consideration which went into the formulation of its recommendations.

Most of the legislative recommendation of the Task Force report have become law. Most notable of these was the law which makes a person per se guilty of driving under the influence if that person has a blood alcohol concentration level of .10 percent or higher while driving a motor vehicle. This was a significant step in establishing an enforceable standard for the crime of drunken driving and let's make no mistake about it. It is a crime and in bringing drunken drivers to justice and thus providing a deterrent to them and to others. But now is the time to enact into law the companion piece of the legislation recommended by the Governor's Task Force and among others by the National Highway Traffic Administration and by the Presidential Commission on Drunk Driving.

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It's the immediate per se license suspension. As of July 1, 1988, 22 states plus the District of Columbia have enacted such laws. Under such laws, I'm sure you all know, the license of a driver charged with driving under the influence would be immediately suspended if upon testing the blood alcohol level it is .10% or higher or if the driver refuses to take a test. Such suspension would be carried out by the arresting officer on behalf of the Commissioner of Motor Vehicles. With a temporary operating permit issued for a reasonable time, the bill provides 31 days to permit an administrative and a court appeal of the suspension, if grounds for such appeal exists.

I understand under the present draft of HB5097 the suspension periods would be 90 days if the person took a test and failed, six months if the person refused to take a test, one year if the person previously had had his license suspended for drunken driving and two years if his license had previously been twice suspended for the same cause. The advantage of administrative license suspension can be summarized as follows: the loss of the license is swift and sure. It adds greatly to the deterrent effect and to the confidence in the drunken driving enforcement system by both police officers who are frankly, in many cases, discouraged and by the public.

Studies show that drivers whose licenses have been suspended or revoked have fewer subsequent violations and crashes than those whose licenses are not removed. Research indicates that such laws would result in a cut of night time fatalities, the ones most likely to involve alcohol by fully 9%.  
Yes?

SEN. AVALLONE: Can you tell me what studies you are referring to in particular?

LAUGHLIN MCCLEAN: As to the license, whether fewer subsequent violations and crashes I was referring to the NITSA study of 1986, page eight. As to the research indicating that such laws will result in the cut of night time fatalities I am referring to the Insurance Institute for Highway Safety.

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SEN. AVALONE: I looked at that and in the prologue to that, and I am not a statistician or a student of statistics,

LAUGHLIN MCCLEAN: Nor am I.

SEN. AVALONE: But I recall in reading that, the author defined is modeled as novel. Do you remember that.

LAUGHLIN MCCLEAN: I don't remember those words, no.

SEN. AVALONE: Well, those are the words that I recall and I'm wondering if you can get me some information as to why the author of that particular study would have used that particular word in the development of his or her statistics?

LAUGHLIN MCCLEAN: Why don't I try to get you the whole study?

SEN. AVALONE: I read the study.

LAUGHLIN MCCLEAN: Oh, you did.

SEN. AVALONE: I don't know, again, I don't know whether his model is novel or is not novel but I find when a study is quoted to me as often as that one is and I find that the individuals who created it, describe or use the word novel in their approach, I would think that would raise questions in your mind as it raised in my mind.

LAUGHLIN MCCLEAN: Why don't we find out?

SEN. AVALONE: That's, well, I've been asking the question a lot and I don't seem to get any answers.

LAUGHLIN MCCLEAN: By the way, from a previous speaker there was some confusion about the period of time in which a license could be suspended and qualify for certain federal funds. I've checked several documents, it's definitely 45 days from the day of arrest.

SEN. AVALONE: From the day of arrest.

LAUGHLIN MCCLEAN: Right.

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REP. O'NEILL: Just a question, please. Do you have any statistics that show individuals who are arrested for drunk driving with a bona fide drivers license and individuals arrested for drunk driving with a suspended license or no license at all?

LAUGHLIN MCCLEAN: I don't think I've ever seen that presented that way. I am discouraged to report to you that some studies have been produced which show that people whose licenses are suspended, about 80% of them continue to drive.

: yeah.

LAUGHLIN MCCLEAN: But if you consider 20% don't drive, if you consider the State of Connecticut has around 200 deaths per year in alcohol related accidents, I'm not willing to pass up 40 deaths.

REP. O'NEILL: Do you have statistics to show of those 200 deaths or related accidents how many had bona fide drivers licenses and how many did not, have suspended license or no license?

LAUGHLIN MCCLEAN: No I don't.

REP. O'NEILL: Well, then I don't think you can use those as figures.

LAUGHLIN MCCLEAN: Well, to the extent that 20% of the people who have suspended licenses don't drive during their suspension period, we've taken 20% of those people off the highway. I don't see reason for us passing that up.

SEN. AVALONE: I'm very interested in that because that would weigh very heavily in my mind. Can you explain to me how you draw that conclusion from those statistics?

LAUGHLIN MCCLEAN: I have some studies, I think from NITSA,

SEN. AVALONE: No, I understand, if I understand the statistic correctly, you are saying that 80% of the people, why don't you explain it to me again because I try to understand the statistics you are

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giving me but I don't see how you draw the conclusion from those statistics? Why don't you say it again?

LAUGHLIN MCCLEAN: Well, I think I accept your criticism. I made a big jump there. There are around 200 deaths in the State of Connecticut attributed each year to

SEN. AVALLONE: DWI related deaths.

LAUGHLIN MCCLEAN: alcohol related accidents. And I did make a big jump when I said well, 20% of the, it's probably a smaller figure.

SEN. AVALLONE: Okay, you see, that's what we hear all the time and a man of your intelligence it's important for me to understand the conclusions you draw. It's very important that we be precise because we hear this all the time and I want you to know how much I respect your opinion so it's important that when we receive testimony that it be accurate and that we not draw false conclusions from information.

LAUGHLIN MCCLEAN: Well, I think your comments are well taken. I'll try to get it straightened out. But I would like to point out that suppose we are only talking about 2 or 3 or 4 or 5 deaths?

SEN. AVALLONE: I'm not disagreeing.

LAUGHLIN MCCLEAN: You see what I mean. Isn't that important?

SEN. AVALLONE: But the process is also important.

REP. TULISANO: That's a legitimate question. If you are talking about only 2% who don't operate but you had 98% of the people without licenses in fact operating, who because they have never been punished whatsoever they are more apt to get into accidents. I mean the rate might be higher with them and the fact that they have no licenses and therefore, no insurance, if they do in fact cause an accident, aren't they a greater burden to the potential victims? Is that what we encourage by doing some of this stuff?

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If you are saying that 80% or more are now operating and obviously because they are so irresponsible they are operating without their license, they are probably, this is again, I don't have any statistics on it, then we can may be infer that they would be more apt to be less responsible in other things that they do. Then aren't we therefore creating a bigger danger to the public if we allow that to go on?

LAUGHLIN MCCLEAN: Well, I'd like to point out that the total of suspensions includes more than just the administrative suspensions. I don't know of any figures as to the administrative suspensions but I suspect that the deterrent effect is very great on somebody who has got a piece of paper and he goes into a store and he wants to cash a check and he doesn't have his drivers license. I suspect it's going to have a deterrent effect on him too, when he goes to buy an automobile and he can't produce his drivers license, he can only produce the 31 day certificate. I suspect when he applies for credit a lot of places, this is going to have a lot of pressure on him in terms of deterrent for the future so those are other aspects of it too.

Well, anyway given the advantages which we find in the studies it seems clear that now is the time for the General Assembly to respond to the outrage from the public who observe drunken drivers legally and undeterred back on the streets driving again after killing, injuring or damaging innocent people while the judicial process and the pretrial educational program ride slowly along. I'm not saying the I'm opposed to the pretrial education program but it takes a heck of a long time to work its way out.

We heard that outrage expressed at public hearings of the Task Force all over the state. It still is being expressed in the state so I urge this Committee to approve the per se immediate license suspension bill.

SEN. AVALLONE: Representative Mintz.

REP. MINTZ: Yes, since you are from Aetna, I'd just like to ask a question that I don't know the answer to if I have my license suspended, I own a car

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that's insured, my license is suspended, I drive with that license suspended, is the insurance company mandated to still cover the cost of that accident?

LAUGHLIN MCCLEAN: Unfortunately, I'm not in the automobile end of our business, Representative Mintz. I honestly don't know the answer to that.

: (inaudible)

REP. MINTZ: Yes they do. From the audience.

LAUGHLIN MCCLEAN: Okay, you got me. Sorry.

REP. MINTZ: Thank you.

REP. TULISANO: Representative Prague.

REP. PRAGUE: I want to thank you Laughlin for waiting so long and staying to testify before the Committee. If somebody currently is arrested while their license, for drunk driving, while their license is under suspension on the books there is a mandatory 30 days jail sentence in Connecticut. I just want to make that as a statement but I want to ask you a question, in the studies you have read in the 23 states that have administrated Per Se has there been a deduction in the highway fatalities in which alcohol was a factor?

LAUGHLIN MCCLEAN: The studies which I have read definitely indicate there has been.

REP. PRAGUE: Thank you.

SEN. AVALLONE: Let me ask a couple of other questions then. Is that rate equal to, greater than or less than in Connecticut?

REP. PRAGUE: Connecticut doesn't have Per Se.

SEN. AVALLONE: That's correct. That's exactly the point Representative Prague.

LAUGHLIN MCCLEAN: Senator these studies usually are done with controlled groups, you know they take five states that have administrative suspension, five states that don't and over a period of time

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they will compare any changes in the, I have not seen one in which the statistics from Connecticut were in the control states.

SEN. AVALLONE: Okay, all I am trying to find out is what the studies say what the conclusions are relative to Connecticut because some of the statistics I have seen show that using the same standard, that is, night time deaths related to alcohol, if the fatality rate in Connecticut has gone down faster than in most of the states that have administrative Per Se. I don't know if that says anything because I don't know all of the laws that have been passed in those 22 states.

I'd like you to comment about an article that I saw in one of our papers last summer that did, again, a study, for whatever it's worth, of 14 states. Seven of which had what was considered to be tough anti-drunk driving laws and seven that had not passed what this article called strong anti-drunk driving laws. In both groups, using this fatality rate, deaths went down. Within a very close percentage. The conclusion that this author drew was that it was public perception about drunk driving and how terrible it is and how unacceptable it is and ought to be to society that was making the difference.

LAUGHLIN MCCLEAN: I see what you mean.

SEN. AVALLONE: I'm trying to find out, you know, we all talk about studies. We'd all like objective evidence to say that one thing is right or wrong. I'd just like you to comment on that.

LAUGHLIN MCCLEAN: Are you referring to the Zador and Lunds study of August 198,

SEN. AVALLONE: I don't remember the names, I think it was

LAUGHLIN MCCLEAN: Well they came to the conclusion, somewhat along the line of what you are remembering and that study has been severely criticized by the Insurance Institute For Highway Safety on the very grounds that you are alluding to - that the control groups were not carefully defined. Sure, you might have Administrative Per Se in a state and you don't

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have as much drop as a neighboring state, but the neighboring state for the first time ever has got Per Se drunken driving standards, you see, so how do you, that study was criticized on the basis that the control groups weren't carefully constructed, you see.

SEN. AVALLONE: Very good. Well, that's what I needed to know.

LAUGHLIN MCCLEAN: Okay.

SEN. AVALLONE: Representative Wollenberg?

REP. WOLLENBERG: It seems, and I agree that one of the strongest deterrents we have is to take somebody's license and we've been this route. At one time we took somebody's license before we had the program, if you will, we used to take their license years ago and then we used to cop out their reckless driving and only get 90 days or 30 days or something lost license. I've got a bill in that says even if you go into the program the first time you lose your license for 30 days.

Same thing takes effect, the arresting officer can hold your license for the 24 hours just as he can now but together with that are all the due process safeguards that we have and that I object to not being in this bill. My objection is that a police officer driving by, if he hardly even has to have probable cause anymore, and you can lose your license. I don't know why we have to go that far. That's why I am saying, even if you go into the program you lose your license for 30 days.

LAUGHLIN MCCLEAN: Well, I can see some advantage in your program but I guess I do have to respectfully disagree, the bill specifically says that the police officer must state in writing, under oath what the probable cause grounds were. So I don't think the premise that he can take it away without probable cause is a sound one.

REP. WOLLENBERG: But we have that now, he has to say there is probable cause, essentially.

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LAUGHLIN MCCLEAN: But under this bill he is going to have to put it in writing and he is going to have to swear to it. So it is beefed up some, you might say.

REP. WOLLENBERG: But what's the harm in having him facing your accuser as this country is based on this premises?

LAUGHLIN MCCLEAN: Well, the fundamental you start with is that as an administrative proceeding and why is it an administrative proceeding because it is not a criminal proceeding. Why is it not a criminal proceeding? Because the law, years and years and years ago was established that the right to an automobile license is a grant from the state and conditions can be attached to it by the state for it's granting and it's withdrawal.

REP. WOLLENBERG: I have no problem with all you are saying.

LAUGHLIN MCCLEAN: Under administrative law, generally, hearing officers are entitled to rely upon the written record of the state agencies involved. I think in this bill it is especially beefed up because the guy who makes the written record has to swear to it.

REP. WOLLENBERG: We have

LAUGHLIN MCCLEAN: I'm not prepared to sit here and think that very many of our police officers are going to swear to something that isn't true.

REP. WOLLENBERG: We have the officer on the beat doing this and I'm not sure that the training

gap in tape - side a to side b

saying is that why don't we have this due process that this country was founded on even for this. And I'm not sure that you are going to help any taking the license is going to help, pulling the license,

LAUGHLIN MCCLEAN: Well, we agree at least that fall then.

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REP. WOLLENBERG: Yes, but this law doesn't say that if you go in the program you don't, you might still have your license. My bill says you lose your license if you go in the program.

LAUGHLIN MCCLEAN: I think this bill you would not have your license if you went in the program because your license would be suspended for 90 days. At least you get through part of the program with your license still under suspension. You see?

REP. WOLLENBERG: I don't know, I don't think we ought to throw away all these inherent things.

LAUGHLIN MCCLEAN: On the due process issue the Administrative Per Se thing has been reviewed, I think by about four or five supreme courts in the states

REP. WOLLENBERG: I don't know that to be true but in spite of that I mean, there is a problem out there, I acknowledge that. We must do something about it. But everyone has been saying Administrative Per Se and we just asked you about, you know, you are saying the control groups control whether or not with Administrative Per Se we are better off or we are worse off or whatever. You know I don't think the proof is there that this really does the job and to throw away the rights that we have, as a reaction, and I understand the reaction, people are upset out there and they ought to be upset with drunk driving. I just don't think we need to do that with one fell swoop, whether the Supreme Court says it's okay or not. That's all.

LAUGHLIN MCCLEAN: Well, Representative Wollenberg, I can only tell you that I sat through 11 hearings and heard the most tragic stories.

REP. WOLLENBERG: No question but,

LAUGHLIN MCCLEAN: And then the rage from people when the very next day or week they saw the guy driving down the street, you see?

REP. WOLLENBERG: We are not going to stop the person who has been arrested four or five times, who's done time in jail, who has no license and is

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driving the unregistered pick-up truck the wrong way on the superhighway and hits the bus and kills seven kids. I don't know how we are going to stop that person. If you tell me that then I'll pass any law you give us today, but what we are talking about is you and I and our neighbors and everyone else who is picked up for drunk driving in the first instance and we've gone into an education program.

I think we should do more with education in this field, start earlier and all those kinds of things but I don't know how we are going to stop that kind of person from driving while intoxicated. If he's got an alcoholic problem, he doesn't have a license, he probably doesn't even have a registered car. If you can tell me that, I'll pass any law you got for us.

LAUGHLIN MCCLEAN: Well, in the meantime, do we pass up these other means of bringing some control to the situation?

REP. WOLLENBERG: I think we can have some control.

LAUGHLIN MCCLEAN: I don't understand the logic of it.

REP. WOLLENBERG: I think we can have some control. Take their license, that's what you wanted, that's

LAUGHLIN MCCLEAN: That's what we want to do.

REP. WOLLENBERG: Yes, but I don't think a police officer should be able to be the controlling force on whether or not his determination is the one that matters. That's all.

LAUGHLIN MCCLEAN: Well, respectfully, Representative Wollenberg, you heard the Commission of Motor Vehicles telling us about the time lags. Even between conviction and court, what is it six weeks, eight weeks, some tremendous period of time,

REP. WOLLENBERG: Six weeks before you have

LAUGHLIN MCCLEAN: Before they even send out the notice,

REP. WOLLENBERG: Before they have the hearing

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LAUGHLIN MCCLEAN: And then if they can't find the guy and all this kind of business.

REP. WOLLENBERG: Oh, no no no. I can't

LAUGHLIN MCCLEAN: I think that was it, six to eight weeks after conviction before the notice even goes out.

REP. WOLLENBERG: No, if he's convicted they say it comes up on their, they get a report out from the court and almost the next day the notice goes out. That's on a guilty, if he's found guilty. If he refuses to take the test he said within six weeks they are sending out, they are giving him the hearing. They send out the notice and then they give him the hearing within about six weeks.

LAUGHLIN MCCLEAN: Well, you may very well be right, I thought it was the other way, but.

REP. WOLLENBERG: He said it was six months at one time.

LAUGHLIN MCCLEAN: You may be quite right, I don't know.

REP. WOLLENBERG: More people are going to lose their license under my bill.

LAUGHLIN MCCLEAN: I think you are right. I think it was a shorter time after conviction but of course previous to that was how many months before it came to trial.

REP. WOLLENBERG: Well, all it takes is money. All we have to do is put money into the program, hire more hearing officers and do it.

SEN. AVALLONE: Let me ask this quick question. In your research was there any indication that, I understand that a quick suspension of the license was, under the studies an important factor in deterring future crime. Was the length of that time studied as to, and did it have any, in other words, was it important that it be 90 days or 60

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days or 30 days or 10 days or was it the immediacy of the conduct? Was there any testimony or any evidence of that?

LAUGHLIN MCCLEAN: Well, the only thing you have to be careful about is the suspension period for refusal has to be longer than for taking the test and flunking it. Otherwise, there is no incentive to take the test.

SEN. AVALLONE: I understand.

LAUGHLIN MCCLEAN: That's the only kind of,

SEN. AVALLONE: Because what I'm thinking about is this, when I looked at the initial history of how these things got put together before I was a legislator we did say that there was, the history seems to indicate that there was some import given to the immediate taking away of the license. That got translated somehow into 24 hours. What I'm wondering is do we achieve a substantial amount of what you are trying to achieve under this particular Administrative Per Se law by increasing the 24 hour period to seven days.

Let's say, so that the officer with whom you seem to have a little bit more faith than me would have the authority to take the license away at the time of arrest without any hearing for a seven day period as opposed to going through this administrative proceeding to take it away for 90 days. I'm just wondering if we don't achieve more by lengthening that original period of time in which immediate is at the time of arrest, not 90 days or 60 days or 30 days down the road but by taking it away immediately for seven days as opposed to 24. Was any thought given to that?

LAUGHLIN MCCLEAN: No, the Task Force did not actually deal with the number of days so out of the Task Force I can't answer the question. Out of the literature I don't remember anything that deals with that necessarily but I think one thing you have to be very careful about is to make sure it articulates well so you don't give people incentive just to plead guilty. You've got to figure out that it works into all those schedules.

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SEN. AVALLONE: I understand. What I am suggesting to you is a system that at the time of arrest, instead of the license being taken away for 24 hours which is done immediately, supplemental to any penalties that are on the books, if we did that for a seven day period so the immediate, the impact can't be any more immediate than at the time of arrest, and if we put into that, at that time, a more substantial period than 24 hours, let's say seven days and then made the court appearance within two weeks.

So now before the person even goes to court or has a lawyer and any other rights, he's had his/her license suspended for seven days. I'm just wondering if there is a balance to be struck here so that we don't, maybe we don't need to get into a program if increasing that initial period will accomplish the same thing. And I'm just trying to find out if you have any evidence that says that is wrong or that's right.

LAUGHLIN MCCLEAN: Well the federal standards, I believe are 90 days.

: That's right.

LAUGHLIN MCCLEAN: Those must have been based on something. I mean,

SEN. AVALLONE: (inaudible) disagree with that but,

LAUGHLIN MCCLEAN: I've visited the National Highway Traffic Safety place in Washington, they've got tremendous staff down there.

SEN. AVALLONE: I can understand that if you are going to go through a process and you are going to suspend someone's license, it ought to be for a sufficient period of time to create a substantial impact.

LAUGHLIN MCCLEAN: Yes, I don't.

SEN. AVALLONE: I don't have any problems with,

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LAUGHLIN MCCLEAN: They have tremendous staff and I might add tremendous studies and their standard as I remember is 90 days. I've got to believe that it must be based on their conclusions that that is what is necessary.

SEN. AVALLONE: I don't. . .

LAUGHLIN MCCLEAN: But I don't argue that there might be some interim period.

SEN. AVALLONE: Okay.

REP. TULISANO: Laughlin, we are going to share all those studies with you. You talk to George, didn't you?

LAUGHLIN MCCLEAN: Yes,

REP. TULISANO: We are all going to look at all that big pile of stuff.

SEN. AVALLONE: Representative Mintz.

REP. MINTZ: Yes, in response to Representative Wollenberg actually under Representative Wollenberg's proposal I believe that the person would lose their license quicker than under this bill. Representative Wollenberg's proposal is that if you enter the KE Program you lose your license for 30 days at that point. My experience in the court system is that a person gets arrested for drunk driving, they have a court date within three to five days, at that time they apply for the alcohol education program, it's continued for anywhere from two to four weeks to make a determination by the, I think it's the Bail Commissioners Office now, that they are eligible for that program, they come back at that date and the program is either granted or denied. If it's granted, then Representative Wollenberg's bill would kick in and the suspension would take effect at that time.

Under this proposal, the suspension doesn't take place for at least 31 days, they have a right to a hearing, the hearing can be continued, I'm not quite sure, it has to take place within 15 days of

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the time that they asked for the hearing. It can be continued for good cause, I'm not sure if the Motor Vehicle Department can continue it based on good cause that they don't have enough time to have enough people to have the hearings because they are so backlogged.

I mean, it doesn't say in here and I'm not sure if it does. Then under this proposal some people might not get their license suspended because they actually have a hearing. Under Representative Wollenberg's proposal, every single person that gets the AE program, gets their license suspended for 30 days. So isn't that in effect, a better deterrent than this bill?

LAUGHLIN MCCLEAN: Well, I think,

REP. MINTZ: Because it acts quicker, more people will get suspended.

LAUGHLIN MCCLEAN: Well, no, respectfully, it seems to me you've lost the immediacy. The guy takes the test he flunks it, the policeman takes his license away from him.

REP. MINTZ: That's not what this bill says.

LAUGHLIN MCCLEAN: Yes, it is.

REP. MINTZ: Sir, the effective date of suspension is such,

LAUGHLIN MCCLEAN: It takes his plastic license away from him.

REP. MINTZ: The effective date of the suspension of such persons operating license or non-residence operator's privilege which date shall be 31 days from the date of servence of such notice. It doesn't get suspended until 31 days after the arrest.

LAUGHLIN MCCLEAN: But he gets a piece of paper that is not the kind of license that you and I,

REP. MINTZ: He can drive.

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LAUGHLIN MCCLEAN: Admittedly, but he has lost that plastic piece of paper with his picture on it, his identification, the thing that lets him cash checks in stores, the thing that lets him identify himself for all kinds of things so he is beginning to, you've lost the immediacy.

REP. MINTZ: But one of the things you said in your testimony was the outrage of the victims seeing someone driving down the street the next day. Under this proposal they are still allowed to do that.

LAUGHLIN MCCLEAN: Well, that's true. That's true but picking up on what Representative Wollenberg said we've got to observe due process procedures here and you've got to give the guy time to try to prove, if he can, that there was something wrong with the arrest procedure. Otherwise you are going to violate due process. That's all the temporary license is intended for, is to allow

REP. WOLLENBERG: But what about the 30 days, that's a good pro quo. You can take your choice, you don't have to go in the program. You can keep your license and go through the whole ten yards but you don't get in the program so it's on your license and

: If you get convicted it's a years suspension.

REP. WOLLENBERG: yes.

SEN. AVALLONE: Representative Lawlor.

REP. LAWLOR: Can you tell us if your Commission patterned this proposal after what is in place in other states or is this essentially a new system of Administrative Per Se?

LAUGHLIN MCCLEAN: No, at the time we did it, I think there were five states that already had done it.

REP. LAWLOR: In this way, with these same procedures?

LAUGHLIN MCCLEAN: Essentially the same, I mean you could find details that differ but Minnesota,

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District of Columbia, Iowa, Oklahoma, Delaware. We listed Virginia but I later had reason to believe that maybe we hadn't quite understood.

REP. LAWLOR: And all of those states,

LAUGHLIN MCCLEAN: West Virginia, I'm sorry. But at least in Minnesota, District of Columbia, Iowa, Oklahoma and Delaware.

REP. LAWLOR: And in all of those states, the person has to appear in person at the Motor Vehicle Office to request a hearing within seven days?

LAUGHLIN MCCLEAN: I'm not sure about seven days or ten days or

REP. LAWLOR: But they have to appear in person?

LAUGHLIN MCCLEAN: I'm not even sure about that, whether he can appear by writing or by attorney or I'm not sure about the details of it. But the general concept of immediate suspension, picked up by police officer and at the interim, temporary permitage.

REP. LAWLOR: Who actually wrote this bill? Do you know?

LAUGHLIN MCCLEAN: I did. With some help from Mr. Tulisano and a lot of other people I was sort of the scribbler.

REP. LAWLOR: Can I ask you, did the Commission or the Task Force or whatever it was did you ever consider the number of times people are arrested for drunk driving and are found not guilty or the charges are actually dropped? Did you consider how often that actually happens?

LAUGHLIN MCCLEAN: I don't, no, I don't think we made any specific findings on it.

REP. LAWLOR: Well you mentioned before that people would come and testify about the tragedy of their lives, did the opposite ever happen? Did these people who were arrested and actually not guilty?

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LAUGHLIN MCCLEAN: Oh, I guess I'm just, don't have the basis on which to answer that, I'm sorry.

REP. LAWLOR: Did the Commission ever attempt to ascertain how Connecticut's actual drunk driving laws stood in comparison to other states - aside from the Per Se issue, in terms of the length of suspension for first conviction, the minimum jail sentences, etc., fines.

LAUGHLIN MCCLEAN: Well, at the time we passed the Per Se drunken driving law my remembrance is, and I'm sure I'm not off more than a few figures, we were about the 38th state to pass it.

REP. LAWLOR: Aside from Per Se though,

LAUGHLIN MCCLEAN: Well, that's the big jump that has occurred in drunken driving laws in the last couple of decades.

REP. LAWLOR: My question is in terms of the actual penalties for first conviction, a year in prison, a minimum of two days to serve or 200 hours, a \$500 fine and a one year suspension of your driver's license. Did you ever attempt to rank that in the context of the 50 states to determine where we stand?

LAUGHLIN MCCLEAN: I don't remember that we did. I think my impression though, I'm just trying to do the best I can, was that we were not in bad shape in terms of actual penalties.

REP. LAWLOR: Okay. Under the bill as it's written what would happen if a person who is arrested and charged with operating under the influence did not appear in person at a motor vehicle office to request a hearing and a week later on their first court appearance the prosecutor, on reading the report, asks that the charges be dismissed because there was no probable cause to arrest that person. Would they still lose their license?

LAUGHLIN MCCLEAN: I suppose they'd lose it for the 90 day period. Not permanently.

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REP. LAWLOR: My final question is did you ever consider the system in Massachusetts of suspending driver's licenses for people arrested?

LAUGHLIN MCCLEAN: I don't think the Massachusetts system was in effect, see this, our Task Force met in 82 and 83. My impression is the Massachusetts law came later.

REP. LAWLOR: Well, if I can explain it very briefly to you in Massachusetts persons arrested are brought to court the day after their arrest and the judge is empowered to suspend their license for up to 90 days and he does that at the arraignment after he makes a finding of probable cause. Assuming I've given you an accurate summary of it, would you feel comfortable with that type of system?

LAUGHLIN MCCLEAN: It seems to me that it comes pretty close to the Administrative Per Se.

REP. LAWLOR: Except that somebody looks at the report before the license is suspended.

LAUGHLIN MCCLEAN: And except that you burden the court system which is already overburdened.

REP. LAWLOR: Six of one, half dozen of the other.

LAUGHLIN MCCLEAN: Well, not necessarily, I don't think, respectfully. I think that the courts have more to do of importance, it seems to me, than short term license suspensions to add that to their burdens. I'd rather have them dealing with more heinous kind of crimes which they are apparently not doing too well in many jurisdictions in terms of disposing of things quickly.

REP. LAWLOR: Would it surprise you if I said that a 90 day suspension of someone's drivers license is probably among the most, in terms of numbers, among the most severe penalties that are dolled out in our court system today?

LAUGHLIN MCCLEAN: Penalties for what?

REP. LAWLOR: For any crime.

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LAUGHLIN MCCLEAN: You mean it's not more than sending a guy to prison for life.

REP. LAWLOR: In terms of the number of cases that go through the system and the sentences that are passed out for each case, a 90 day suspension is probably one of the more serious penalties that a judge would pass out in a given day.

LAUGHLIN MCCLEAN: I guess, frankly, I can't respond to that until you define for me what is serious and what isn't serious.

REP. LAWLOR: In most cases the charges dropped. Cases where the charges aren't dropped they maybe pay a \$30 or \$50 fine. In cases where they don't do that, perhaps they are put on probation for a year, unsupervised probation. That's the vast majority of cases.

LAUGHLIN MCCLEAN: Well, I don't know. I'm having trouble coming to grips with the concept of the 90 day license suspension is the most serious penalty assessed by our court system. If it is God help us.

REP. LAWLOR: One of the more serious that would be passed out in the courts in a day, that's

LAUGHLIN MCCLEAN: More serious, well, now we're starting to back away a little bit.

REP. LAWLOR: That's all.

SEN. AVALLONE: Representative Prague.

REP. PRAGUE: Thank you Senator. Laugh, are you aware that in order for us to get \$580,000 a year to implement and for operating expenses for Administrative Per Se that the 90 day license suspension, on the first arrest, is a federal mandate. That without that we would not get the federal funding and we would get that federal funding of \$580,000 for five years. If we implement Administrative Per Se with the 90 day license suspension upon the first arrest that that is a federal mandate.

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LAUGHLIN MCCLEAN: Well, I think in response to Senator Avallone's question a while ago, I said that I thought the 90, the federal requirement was 90 days.

REP. PRAGUE: Thank you.

SEN. AVALLONE: Just to go at it one more time I question if the period of suspension has to be 90 days. The question I've always asked is how long is it, is there a time period in which that suspension has to begin.

: Yes.

SEN. AVALLONE: From the date of arrest. You've indicated to me that in order to qualify we have to have something in place that says that the license will be suspended within 45 days of arrest.

LAUGHLIN MCCLEAN: That's an average figure some take a little longer but on the average it has to be suspended within 45 days.

SEN. AVALLONE: Okay, you are giving me information here I haven't had before and I like it. It seems to be accurate. Now you say an average of 45 days.

LAUGHLIN MCCLEAN: Let's see how fast I can put my hands on that. I'm not sure I can but I'll try. Cannot exceed an average of 45 days.

SEN. AVALLONE: Okay, will you read the whole sentence to me so I can,

LAUGHLIN MCCLEAN: It's in the definition of prompt.

SEN. AVALLONE: Okay.

LAUGHLIN MCCLEAN: You have to have a prompt suspension.

SEN. AVALLONE: Okay.

LAUGHLIN MCCLEAN: Prompt means that the overall average time from arrest to suspension of a driver's license either cannot exceed an average of 45 days or cannot exceed an average of 90 days and

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a state submits a plan showing how it intends to achieve a 45 day average. In other words, they give you a transition period if you are working toward it.

SEN. AVALLONE: I see. Can I get a copy of what you,

LAUGHLIN MCCLEAN: Sure.

SEN. AVALLONE: Because I've never seen it.

LAUGHLIN MCCLEAN: Yes, I'll make it for you.

SEN. AVALLONE: Thank you. I appreciate it.

LAUGHLIN MCCLEAN: You are welcome.

REP. TULISANO: You say you must have a 90 day suspension within 45 days of arrest, an average of 45 days of arrest. Isn't there something more to it than that? I mean mustn't there be something more to it than that?

LAUGHLIN MCCLEAN: Well, it starts out the prompt suspension of the drivers license for a period not less than 90 days in the case of a first offender DWI, not less than one year in the case of a repeat offender,

REP. TULISANO: Okay, that's different. I mean, you've just said a first offender DWI and yet we've been talking about arrests.

LAUGHLIN MCCLEAN: Yes.

REP. TULISANO: And there is a difference it seems to me that there has to be a finding someplace along the line if the rule says that the person was DWI. I mean that's an assumption,

LAUGHLIN MCCLEAN: Yes,

REP. TULISANO: DWI is a finding, arrest is not the finding of DWI is it?

LAUGHLIN MCCLEAN: Well, Representative Tulisano you, I've always known you as having a very quick mind

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and you spotted that very quick, actually I think they are using DWI in a more generic sense of arrest on account of drunk driving.

REP. TULISANO: But it wasn't DWI.

LAUGHLIN MCCLEAN: I don't think they are using it in the sense of the court has ejudicated. You see.

SEN. AVALLONE: This is exactly a point I've tried to make 100 times. You've now told us on several occasions about this 45 day period and the source that you are relying to answer that question, which is the paper in front of you, again, I would ask you, can you draw the conclusion, reasonably from what is in front of you and what you testified to. I've asked it for a year and a half and nobody has given me the answer. You are the first person who has definitively given me the answer. I've asked you for your source and now I think as reasonable men we can disagree as to the interpretation of what your source is saying.

LAUGHLIN MCCLEAN: You are going to hate me for this. I don't think as reasonable men we can disagree.

SEN. AVALLONE: Okay.

LAUGHLIN MCCLEAN: I think when you read the whole thing.

SEN. AVALLONE: Okay. Would you read it again?

LAUGHLIN MCCLEAN: I think when you read the whole thing it's very clear that they are talking about immediate suspension after arrest. That cannot mean after a conviction for DWI so I think reasonable people reading this have to conclude,

REP. TULISANO: But we are not talking about conviction of DWI that puts you into criminal. We accept that we are not talking about criminal justice conviction in a courthouse. I accept that as a given. But isn't there still, and I may be wrong, I say you either have to have a finding someplace if somebody was DWI or we have to take what you are saying that says is, once you are charged, with or without basis, because the arrest has occurred, with a faulty basis you still have to have an

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average of 90 day suspension within 45 days. Is that what you told me the federal government says? No matter what happens as long as the, if you had a cop come out here with a number of arrests, all false, that would screw up our account? I don't think you mean that?

LAUGHLIN MCCLEAN: No, I don't mean that. I don't think the federal government,

REP. TULISANO: Okay, now we are going to come back a step now, now we have to have some basis for finding somebody as DWI.

SEN. AVALLONE: That's all I'm saying, other than an arrest.

REP. TULISANO: Now it may not be in the court system. We have to have a finding first, don't we?

LAUGHLIN MCCLEAN: Well,

SEN. AVALLONE: You see, because what I think what we are trying to say is that let us assume that you are correct and there is a positive impact from suspension and from quick justice. We agree with that. Then we are told that we are going to lose this money if these things aren't done. All I am trying to suggest to you is: if that is not true, if it's 45 days from a finding some of the alternatives that are being presented are harsher and are faster than Administrative Per Se. That's all we are trying to find out.

LAUGHLIN MCCLEAN: Sure. I understand. I understand.

SEN. AVALLONE: If I can, you know, I don't mean to be testy but I've been asking this question for a year and a half.

LAUGHLIN MCCLEAN: I would like to respectfully suggest to you, refer this to your legislative counsel. The Act is there, somebody just has to sit down and read it.

REP. TULISANO: Refer. Guess what guys, go to work.

SEN. AVALLONE: We finally have something. Because I've never knew what the source.

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LAUGHLIN MCCLEAN: This is an obvious paraphrase.

SEN. AVALLONE: I understand but there is a source  
someplace,

LAUGHLIN MCCLEAN: yes, right.

SEN. AVALLONE: That we can go to and generally the  
proponents of legislation have the onus of doing  
that and not the opponents of legislation. So  
let's work together. Let's try to find the source  
and see if we can come up with a consistent answer.

LAUGHLIN MCCLEAN: All right. We are all struggling  
towards the same goal.

SEN. AVALLONE: Exactly. I wish everybody understood  
that. Thank you.

LAUGHLIN MCCLEAN: All right.

REP. TULISANO: Bonnie Stewart.

BONNIE STEWART: Hello, my name is Bonnie Stewart and  
I'm a staff attorney for Connecticut Business and  
Industry Association. Our membership includes  
firms of all sizes and types, however the vast  
majority have fewer than 100 employees. I'm here  
today to speak about three bills, the first being  
HB6787, which regards bad checks.

CBIA supports HB6787. I've given you my written  
testimony. I'm just going to highlight some of the  
reasons why. The present procedure for small  
businesses to go and recover their losses on bad  
checks is extremely lengthy and costly. It's  
costly in terms of both time and money. If a small  
business should decide to go the court route,  
again, time is a problem because it takes away time  
from the business and second, the cost of not only  
the time away from the business but the monetary  
cost from the action.

Bad check writers are aware of the problems in this  
process. They know that it takes a long time.  
They know if they are caught they are not really  
going to have to pay much back. It will be at  
worst, three times the face value of the bad check

they wrote. So there is really no deterrent. Passage of this bill would help improve the present process dramatically because it would, I would hope, help deter the present bad check writers, the repetitive ones, as well as helping the small business recoup some of their losses.

The other two bills that I would like to address are HB6799, AN ACT EXTENDING THE STATUTE OF LIMITATIONS IN CERTAIN PRODUCT LIABILITY CLAIMS and HB7510, AN ACT CONCERNING PRODUCT LIABILITY CLAIMS INVOLVING LATENT HARM. American manufacturers continue to grapple with the costly problem of products liability. In a study conducted two years ago by Yale University it was shown that 47%, nearly half of all product manufacturers in the United States removed product lines from the marketplace. Twenty-five percent discontinued product research and 39% decided against introducing new products all as a result of increased exposure to liability.

In removing products already on the market, manufacturers are responding to continuing changes in the rules governing liability for their products. Changes they obviously could not predict in advance. Had the manufacturers been able to predict their products would have been deemed effective they would have either altered the design or simply not produced the product in the first place. There is a definite agreement that it is not desirable to have dangerous products manufactured or remain on their market. However, what is very undesirable about the current product system, product liability system is it's uncertainty.

One example of how far reaching the two bills are is as follows: a company manufacturers and installs a gas tank. Seventy years later that product was sold and after that product was sold and installed the gas tanks begin to leak. The person, because he's been around the tank area, is in harm because of his continuing exposure to the gas from the gas tank leak. Under HB6799, Section E1, a person could bring a product liability claim against the company, the manufacturer of the 70 year old gas tank as the statute of repose would be eliminated under that bill.

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eligible for that settlement trust because their claims have been outlawed before they arose by this--

(cass 4) (cass 3 and 4 don't connect, small gap)  
Not even has a chance to arise from the injury because of long latency periods. The previous speaker did not know what it was aimed at. It's obviously aimed at the toxic tort. The toxic substance which has a long latency period. Which takes 30 and 40 and sometimes 50 years to manifest itself.

And these are the people who should not be locked out of the courthouse before their claims have arisen.

As between the two bills, HB6799 is much the preferable one. It's a much more comprehensive one in outlining the exceptions. As a matter of fact the language it gives me is identical to the Uniform Products Liability Act, a rather conservative measure proposed by some congressional sources some years back. And - so I think it's preferable to HB7510 if there is any choice.

SEN. AVALLONE: Any questions? Thank you very much.

MAT SHATNER: Thank you.

REP. TULISANO: Tony Polvino..

Drunken driving

TONY POLVINO: Good evening, Representative Tulisano, Representative Avallone, and Representative Wollenberg. I am here today in my capacity as a member of the Board of Directors of the Connecticut Criminal Defense Lawyers' Association, to urge the committee to reject HB5097, the Administrative Per Se Bill.

Our arguments are essentially that this bill, as presently written, has some grave constitutional implications for, particularly, the due process rights of the arrested person.

Under our present system whereby the underlying criminal matter will have had a chance to ripen, come to judgement either by way of a trial or by way, most frequently, of the defendant pleading

guilty. The defendant will at least have had an opportunity to fully litigate under strict rules of evidence, subject to disclosure by the state of any possible defects in the machine, any possible defects in the training of the operator, and so forth, the reliability and probity of any test that is to be given.

Further is going to have an opportunity to litigate, again under strict rules of evidence, with the state bearing the burden of proving that the individual has refused to take the test, that precise issue. If the individual chooses to go to a full trial, which most of them do not, the question of whether or not there has been a valid refusal is resolved at the court there.

If the individual chooses to waive that right, plead out, and then to the administrative hearing, they can't then be heard to complain that the procedures are a little more lax, the constitutional protections may not be as strong. They have at least had that opportunity. It doesn't cost the state any extra to proceed on the basis that we presently do, whereby the constitutional right to properly confront and cross examine the evidence against you is preserved to these individuals. Because once an individual has pleaded guilty so few of them, in the experience of my firm and the experience of my brother lawyers with whom I've spoken on this issue, take advantage of a full hearing at the DMV simply to preserve their license for six months when they already are facing, by pleading guilty, a minimum of a one-year suspension. There's no additional cost to the state.

I'm not going to burden you unduly with my comments further, except to respond to your questions. I do note in passing the comment made, I believe by Representative Prague, that the state would stand to inherit something in the nature of \$580 thousands of dollars per year for the course of the next several years if we were to establish and enact such an administrative per se bill.

I'm not sure if my arithmetic is entirely correct, but if memory serves, the population of the state of Connecticut is plus or minus 3 millions of

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people. Six hundred thousand dollars going into 3 millions of people is about 20-cents-a-head. I'm not entirely sure that this committee ought to be looking for any reason to trade away the due process rights the constitution both of the state of Connecticut and of the federal government guaranteed to us for 20-cents-a-head.

I think my constitutional rights are worth more. I think the rights of my clients are worth more. Even if they are accused of drunk driving.

I am not entirely filled with negative comment. Section 3 of this proposed legislation has a very, very commendable change to our present law. And that is the change as to the punishment for violation of Section 14-215(c), the operating under a DWI related suspension. This bill leaves the 30-day suspension minimum mandatory in effect, but provides that the court does have the discretion to permit the person convicted of this offense to serve it by way of consecutive week-ends, if you will. Forty-eight hour increments.

My practice is very heavily involved with the defense of criminal charges. Unfortunately, a substantial number of them do involve violations of this particular statute. I have no personal opposition to the notion that there should be a mandatory jail sentence for this. I do, however, see first-hand, in my practice, the impact that this kind of 30-day sentence has on the families of these people.

This gives the chance that the defendant can maintain an opportunity to feed his or her family and not create some additional charges on the state because there's a month without income and no vacation time and no leave time and really puts some people who did not commit the crime into jeopardy.

I have nothing further to state at this point. I'm open to questions.

SEN. AVALONE: No questions? Thank you very much.

TONY POLVINO: Thank you very much.

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REP. TULISANO: Michael Jainchill - Michael Jainchill.

: He has left and has asked if he could submit testimony.

REP. TULISANO: Certainly. Michael - I'm sorry, Michele Lovorgne - Joe Morton - Martin. Jon Alander.

JON ALANDER: Alander.

: where you came from - where you'd be sitting

: I didn't want you to left without anybody to talk to.

: (Inaudible)

JON ALANDER: Hi! I'm Jon Alander. I'm the Executive Director of New Haven Legal Assistants' Association and I'm here on behalf of the four legal services programs in Connecticut. I'd like to speak on behalf of HB7511, AN ACT CONCERNING INTEREST ON LAWYERS' TRUST ACCOUNTS.

With the Chair's permission, Maureen Whalen who's a former client of ours got missed in - in the people who were brought up beforehand and if it is possible, I would like to have her say a few words when I'm finished.

REP. TULISANO: (inaudible)

JON ALANDER: I understand that. I thought I'd ask.

REP. TULISANO: (inaudible) rules of etiquette.  
(laughter) Usually we cause . . .

JON ALANDER: The four legal services programs in Connecticut employ 83 attorneys and a total of 89 support staff. The combined budgets of the four programs are \$7.4 million dollars and in 1987 we served 13,146 persons.

Our mission is to provide high quality legal services to low income individuals and families, the elderly, and persons with disabilities. For

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felony cases involving violence or personal injury to receive reasonable notice whenever the accused or convicted person is released or has escaped from custody.

Now, I know that Connecticut has statutes in place for some of the points I mentioned.

SEN. AVALLONE: Almost all of them.

MEGHAN LYNCH: Almost all of them, but what we think is that victim's rights legislation in Connecticut is basically piecemeal. What it needs...they all need to be pulled together and put into either one chapter as was done in Utah or they need to be like raised to the Constitutional level, which was proposed in Arizona. By giving the basic and simple rights at a constitutional magnitude, it would place the rights of the victim on the same level as the rights of the accused and it would ensure that victim's rights would never again be viewed as expendable or subordinate to the rights that defendants enjoy.

I urge this Committee to take the first step and grant a joint favorable report to raise HB7441.

SEN. AVALLONE: Thank you very much. We appreciate you coming and your patience. Theresa Twigg. I'm not asking any questions today. I promise.

ATTY. THERESA TWIGG: Thank you, my name is Theresa Twigg and I am representing the Insurance Association of Connecticut. I would like to comment briefly on a few bills that are before you this evening. The first is the administrative per se bill and the related bill HB7047. (HB 5097)

We would like to support the Committee's efforts to address this problem of the drunk driver on the road, but we recognize that this Committee does have the extremely difficult task of trying to balance the individual rights with the need to protect the public. If you feel that the administrative per se suspension is an appropriate solution then we urge its adoption. And if not, we would strongly encourage the Committee to try and design and swiftest and surest method of dealing with drunk drivers that is possible.

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SEN. AVALLONE: Can I ask you a question? Are you aware of this Insurance Institute study that everybody keeps referring to?

ATTY. THERESA TWIGG: I'm not sure which one you are talking about. I have attached a copy of some Insurance Highway Safety facts concerning patterns of alcohol use...

SEN. AVALLONE: I have read the study and I just wondered if you had a copy of it?

ATTY. THERESA TWIGG: I can get you a copy of it if you want.

SEN. AVALLONE: Can you please?

ATTY. THERESA TWIGG: Can you tell more specifics about it?

SEN. AVALLONE: It's not important.

ATTY. THERESA TWIGG: We'll talk about it later.

REP. MINTZ: Just to ask you some of the questions that I was asking before. What you said...when a person's license is suspended you can't revoke the policy, is that correct?

ATTY. THERESA TWIGG: Right. The insurance statutes only allow cancellation or non-renewal for certain specified events and I believe it has to be revocation rather than suspension.

REP. MINTZ: Okay. But if a person's license is suspended and they drive, could that be construed as being in violation of the contract?

ATTY. THERESA TWIGG: I think it probably would be a violation of the terms of the contract so they would not have coverage.

REP. MINTZ: So they would not have coverage so when...if a person drives while under suspension and gets in an accident, the victim of that accident would not have recourse against the perpetrator's insurance coverage?

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ATTY. THERESA TWIGG: I think that's probably true.  
I'll double check it for you.

REP. MINTZ: And if they didn't have any other assets,  
like house, they would have to go under their own  
under-insured or uninsured coverage.

ATTY. THERESA TWIGG: Yes.

REP. MINTZ: Which usually is not as extensive as  
someone else's policy?

ATTY. THERESA TWIGG: Well, I think it usually is,  
because under current law you have to purchase  
uninsured motorist coverage equal to your liability  
coverage unless you request otherwise and most  
people aren't aware of that option. But you are  
right. You would have to get it from your own  
carrier rather than the...

REP. MINTZ: Would it affect your own rates at that  
point?

ATTY. THERESA TWIGG: Would that affect your own rates?  
I don't know how that figures into the rates.

REP. MINTZ: Could you find out on both those issues  
and get back to me, please?

ATTY. THERESA TWIGG: Yes.

SEN. AVALLONE: Thank you Terry.

ATTY. THERESA TWIGG: I have a few other bills to talk  
about. I would like to address HB6799 and HB7510,  
both of which deal with extending the statute of  
repose for late injuries, products liabilities  
claims. We have several serious concerns with  
these bills. As was discussed earlier the statutes  
of repose are designed to eliminate the indefinite  
exposure. There is a problem with the natural  
tendency of a jury to impose judgment by hindsight  
to judge by the state-of-the-art existing today  
rather than what existed at the time of the  
manufacture or the exposure.

Bill 5097--"An Act Concerning Administrative 'Per Se' License  
Suspensions"--SUPPORT

A bill to suspend the licenses of particular violators as quickly and certainly as possible.

The Department of Motor Vehicles supports the efforts of the General Assembly in improving the safety of Connecticut's highways by enacting an administrative per se law.

Such a law is a realistic complement to the current administration of the refusal to submit to a blood, breath or urine test. However, there are three areas of concern which we feel must be addressed in order to provide the Department with a workable law. They are: the issues before the Commissioner in a test hearing; the provision that the Department develop regulations; and, how the per se law interacts with the Uniform Administrative Procedures Act.

In our present hearings for refusal the issues are limited to the four set out in statute. In subsection (g) of the bill the language has been added to include cases where a test was taken and ten-hundredths of one per cent or more of alcohol was detected. Language is also added indicating that the Commissioner can rely on the report for his findings. However, what has not been added is a statement that the Commissioner can presume that the test was administered correctly and that the machine was operating properly.

Without specific language, those issues will be open to debate at the hearing and issues for appeal. Since those are questions which will be determined in the criminal cases, they should not also be considered at the administrative hearing, or we will be bogged down by the same issues as will be debated in court.

Subsection (m) has been added to require the Commissioner to adopt regulations. We question the need for this. The statute is quite specific, and similar to the current Sec. 14-227b, for which we have perceived no need for regulations. By requiring the Department to adopt regulations, the bill creates several areas of dispute: must the Department have such regulations in effect prior to any action under the statute? do the regulations add additional requirements? The Department suggests that this section be deleted in its entirety. If the legislature does not wish to do so, then the "shall" should be replaced with "may."

Finally, the Department feels the legislature must address the relationship between the proposed law and the Uniform Administrative Procedures Act. The UAPA provides for stays to be granted by the court pending appeals of agency decisions. Should this be the case? We ask that specific language be added to the bill. Most appeals from Departmental decisions are clearly for the stay which can be granted by the court with no real hope of changing the decision.

We do have one additional comment: in subsection (f) the bill requires that the licensee or his attorney appear within seven days from the service of the notice of suspension. This should be clarified, because "calendar day," "normal business day" and the "DMV business day" are all different. If the bill is

construed to mean calendar day, as it probably would without further clarification, then a licensee would have very limited time on a long weekend when the Department is closed from noon Friday until Tuesday morning.

## TESTIMONY FROM:

Commissioner Ted Cummings, Jr.  
Connecticut Alcohol & Drug Abuse Commission

RE: HB 5097 AAC ADMINISTRATIVE "PER SE" LICENSE  
SUSPENSIONS

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The Connecticut Alcohol and Drug Abuse Commission passed a resolution at its January meeting to "endorse the concept of Per Se Diversion License Suspension legislation providing such legislation includes due process provisions and sufficient fiscal resources for means of implementation".

While HB 5097 AN ACT CONCERNING ADMINISTRATIVE "PER SE" LICENSE SUSPENSIONS seems to address the due process issue, we have not seen a fiscal note as yet which would ensure proper administration of such a suspension process.

We believe, however, that given adequate resources, Per Se Suspension has a place in Connecticut's comprehensive, systematic approach to prevent drunk driving. We do not feel that it would be in conflict with the Pretrial Alcohol Education System administered by this agency. In fact, the Pretrial program already deals with individuals whose licenses have been suspended. Approximately 20 percent of those who go through the program have refused to take a test for intoxication and have had their licenses suspended.

(04911)

Before the Committee On Judiciary  
March 21, 1989

STATEMENT OF LAUCLIN H. MCLEAN, CHAIRMAN

THE GOVERNOR'S TASK FORCE ON DRIVING WHILE INTOXICATED

In Support Of Bill No. 5097--Per Se License Suspension

As a part of the state's intensified campaign to rid Connecticut roads of drunk drivers, in the summer of 1982 Governor William O'Neill appointed a thirteen member Governor's Task Force On Driving While Intoxicated. The Task Force members included a cross-section of the state, geographically, occupationally, and otherwise: State executive, legislative, and judicial branches, housewives, clergy, attorneys, businessmen, a physician, and victims of drunken drivers. I served as Chairman of the Task Force and Representative Tulisano was a valuable contributing member of it.

When he appointed the Task Force, Governor O'Neill said that Drunk driving is a far more serious problem than many people realized, citing the large numbers of Americans killed in auto accidents in which alcohol was a factor, and noting the high percentage of Connecticut traffic deaths caused by motorists who were legally drunk.

To gain an overall picture of the driving while intoxicated system in Connecticut, the Task Force consulted with representatives of the various participants in the State's DWI system. They outlined their functions, problems and recommendations.

The Task Force held eleven public hearings from one end of the State to the other to hear from its citizens of all kinds--young people, older people, victims of drunken drivers and their relatives, police officers, prosecutors,-- their ideas about what could or should be done about the terrible costs in lives, injuries, and property damages caused by drunken drivers.

The Task Force studied the activities of similar groups in other states, as well as the blue ribbon Presidential Commission On Drunk Driving. It also reviewed all of the articles and studies on which it could get its hands of government and private agencies and individuals concerning drunken driving.

Based upon all of this study and analysis, and after widely publishing and getting comments on an exposure draft, the Task Force submitted its final report to Governor O'Neill in November of 1983.

I have reviewed the process followed by the Task Force in its deliberations because I wanted the Committee to know the careful consideration which went into the formulation of its recommendations. I am glad to report to this committee that most of the legislative recommendations in the Task Force report have become law. Most notable of these was the law which makes a person per se guilty of driving under the influence if that person has a blood alcohol concentration of .10 percent or higher while driving a motor vehicle. This was a significant step in establishing an enforceable standard for the crime of drunken driving (and let's make no mistake about it--it is a crime), and in bringing drunken drivers to justice and thus providing a deterrent to them and to others.

Now is the time to enact into law the companion piece of legislation recommended by the Governor's Task Force, and by the Presidential Commission On Drunk Driving--the immediate per se license suspension. As of July 1, 1988, 22 states plus the District of Columbia had enacted such laws.

Under such a law the license of a driver charged with driving under the influence would be immediately suspended if upon testing the blood alcohol content level is .10 percent or higher, or if the driver refuses to take a test. Such suspension would be carried out by the arresting police officer on behalf of the Motor Vehicles Department, with a temporary operating permit issued for a reasonable time to permit an administrative and court appeal of the suspension, if grounds for such an appeal existed.

I understand that under the present draft of Bill No. 5097 the suspension periods would be for 90 days if a person took a test and failed, 6 months if the person refused to take a test, 1 year if a person previously had had his license suspended for drunken driving, and 2 years if his license had previously been twice suspended for the same cause.

The advantages of administrative license suspension can be summarized as follows:

- Loss of license is swift and sure, adding greatly to the deterrent effect and to confidence in the drunken driving enforcement system.

- Studies show that drivers whose licenses have been suspended or revoked have fewer subsequent violations and crashes than those whose licenses are not removed.

- Research indicates that such laws will result in a cut of nighttime fatalities, the ones most likely to involve alcohol, by fully 9 percent.

Given these advantages, it seems clear that now is the time for the General Assembly to respond to the outrage from the public who observe drunken drivers legally and undeterred back on the streets driving again, after killing, injuring, or damaging innocent people, while the judicial process, and the pretrial educational program, grind slowly along. We heard that outrage expressed at public hearings of the Task Force. It is still being expressed across this State today.

I urge this Committee to approve the per se immediate license suspension bill.

Before the Committee On Judiciary  
March 21, 1989

STATEMENT OF LAUCLIN H. MCLEAN, VICE PRESIDENT, PUBLIC POLICY ISSUES  
AETNA LIFE & CASUALTY

IN SUPPORT OF BILL NO. 5097--IMMEDIATE PER SE LICENSE  
SUSPENSION

The Aetna and the insurance industry generally are very concerned about, and active in, advancing the cause of highway safety. Deterring drunken driving on our highways is an important part of that effort. For this reason the Aetna has authorized me to advise the Committee that it fully concurs as a company in the statement which I made as Chairman of the Governor's Task Force On Driving While Intoxicated in support of immediate per se license suspension legislation.



**STATE OF CONNECTICUT**  
**DEPARTMENT OF MOTOR VEHICLES**  
STATE STREET      WETHERSFIELD, CONNECTICUT 06109-1896

**1641**

**STATEMENT BEFORE THE**  
**JUDICIARY COMMITTEE**

**THE HONORABLE ANTHONY AVALLONE**

**AND**

**THE HONORABLE RICHARD TULISANO**

**CO-CHAIRPERSONS**

**MARCH 20, 1989**

**LAWRENCE F. DELPONTE, COMMISSIONER**

**DEPARTMENT OF MOTOR VEHICLES**

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Senator Avallone, Representative Tulisano and members of the Judiciary Committee, my name is Lawrence F. DelPonte and I am Commissioner of the Department of Motor Vehicles. Your Committee today is hearing testimony on a number of bills dealing with the issue of Drinking and Driving the Department has submitted written testimony on all of these bills; however, I would like to speak briefly to one, H.B. 5097 "An Act Concerning Administrative "Per Se" license suspension.

The Department supports passage of H.B 5097. The Department shares with the sponsors of the bill, as well as the general public, the sense of outrage felt at the terrible tragedies associated with drinking and driving. The proposed bill seeks to have those arrested for drunk driving removed from our roads and highways in as swift a manner as possible. To ensure that another life is not lost to those driving irresponsibly.

The Department must make this Committee aware that, as the agency responsible for implementing and administering this program, it will need a sufficient appropriation to ensure that the program is run effectively so that it may accomplish its necessary and needed goal.

The Department estimates it will need approximately \$700,000.00 to develop and implement this program. Those monies are needed

in order to have the proper administrative framework established so that the proposed bill accomplishes the goal we both wish it too.

Proper implementation of the bill also hinges on cooperation between our Department and the state and local police departments. The Department of Motor Vehicles pledges its support to work closely with law enforcement personnel to maintain the proper communication that is so necessary in order for the critical timeframes to be met.

Finally, attached to this testimony are some specific legal questions that the Department feels must be answered prior to implementation to ensure the purpose of "Administrative Per Se" is attained. As the bill is written, a person could avoid a license suspension through legal appeal.

In summary, I wish to reiterate again my support of the intent of H.B. 5097. Too many lives have been lost and too many families have been traumatized by the irresponsibility of those drinking and driving. It is a tragedy that can be and must be avoided.

Thank you for your time. I or Mr. Michael Krochmalny, Director of Adjudication, would be happy to answer any question you may have at this time.

Bill 7047--"An Act Concerning the Suspension of the Operator's  
License of Drunken Drivers"--OPPOSE

This bill would create a period of administrative suspension for persons arrested for driving while intoxicated.

The Department opposes committee bill 7047 as a further complication of the DWI statutes in Connecticut. This 30 day suspension would take place from several weeks to a month after arrest. The licensee might already be enrolled in AEP, causing transportation problems. If the licensee were not in AEP, the 30 day suspension would be in addition to the suspension imposed under subsection ch). If the licensee had also refused, there would be a third suspension period. Licenses could be on-and-off several different times creating confusion for them, Department of Motor Vehicle and law enforcement.

It would be far better to integrate the 14-227a penalty and an "immediate" suspension as suggested in the administrative per se bill, Committee Bill 5097.

STATEMENT  
INSURANCE ASSOCIATION OF CONNECTICUT  
BEFORE THE JUDICIARY COMMITTEE  
REGARDING CB 5097 and RCB 7047  
MONDAY, MARCH 20, 1989

CB 5097 An Act Concerning Administrative "Per Se" License Suspensions.

RCB 7047 An Act Concerning the Suspension of the Operator's Licenses  
of Drunken Drivers.

The Insurance Association of Connecticut supports this Committee's effort to address the problem of drunk drivers. This is an extremely serious problem. Drunk drivers are responsible for a large percentage of the deaths and injuries that occur on our roads each year.

We recognize that the Committee has the difficult task of balancing individual rights with the need to protect the public. If the Committee feels that "administrative per se" suspension is a appropriate solution, we urge its adoption. If not, we strongly encourage the Committee to design the swiftest, surest method possible to deal with drunk drivers in a fair and timely fashion.