

## Legislative History for Connecticut Act

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<b>Act Number:</b>	PA 06-173	
<b>Bill Number:</b>	5839	
<b>Senate Pages:</b>	Senate: 3537, 3541-3543	4
<b>House Pages:</b>	House: 2756-2772	17
<b>Committee:</b>	Judiciary: 4146	1

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS

2006

VETO SESSION

VOL. 49  
PART 12  
3473-3745

jmk  
Senate

210  
May 3, 2006

I think if you'd indulge me, if that brings the remarks to an end, I think Senator Cook is entitled to one more big round of applause and appreciation.

[APPLAUSE]

THE CHAIR:

Sine die, Mr. Majority Leader?

SEN. LOONEY:

Feels like we should, Mr. President, but perhaps not quite.

THE CHAIR:

Not quite.

SEN. LOONEY:

Yes, Mr. President, if we might return to the Calendar, and there are some additional items to be placed on the Consent Calendar. Then after that, if we might call a Consent Calendar vote.

First, Mr. President, Calendar Page 4, Calendar 466, House Bill 5839, would move to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

jmk  
Senate

210  
May 3, 2006

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[APPLAUSE]

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First, Mr. President, Calendar Page 4, Calendar 466, House Bill 5839, would move to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

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Senate

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THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Mr. President, those items placed on the first Consent Calendar begin on Calendar Page 2, Calendar 356, Substitute for House Bill 5513.

Calendar Page 4, Calendar 466, Substitute for House Bill 5839.

Calendar 488, House Bill 5123.

Calendar Page 5, Calendar 490, Substitute for House Bill 5034.

Calendar 493, Substitute for House Bill 5532.

Calendar 498, Substitute for House Bill 5023.

Calendar Page 6, Calendar 501, House Bill 5639.

Calendar 504, Substitute for House Bill 5372.

Calendar Page 7, Calendar 508, Substitute for House Bill 5685.

Calendar 509, House Bill 5189.

Calendar Page 14, Calendar 402, House Bill 5298.

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Calendar Page 16, Calendar 120, Substitute for  
Senate Bill 562.

Calendar 274, Substitute for Senate Bill 651.

Calendar 285, Substitute for Senate Bill 156.

Mr. President, that completes those items  
previously placed on the first Consent Calendar.

THE CHAIR:

Mr. Majority Leader.

SEN. LOONEY:

Thank you, Mr. President. There's one item I  
believe we need to remove from the Consent Calendar.  
There may need to be an amendment previously adopted  
that there may be a motion to remove, and that is  
Calendar Page 14, Calendar 402, House Bill 5298. If  
that item might be removed from the Consent Calendar.

THE CHAIR:

So noted. That will be removed from the  
announced Consent Calendar and placed back on the  
Calendar of the day, Agenda of the day.

Mr. Clerk, will you announce that a roll call  
vote is in process on the second Consent Calendar.  
The machine is open. The first Consent Calendar. The  
machine is open.

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Senate

May 3, 2006

THE CLERK:

The Senate is now voting by roll call on the first Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the first Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

If all Members have voted, the machine is closed. The Clerk will announce the result.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.  
Total number voting, 36; necessary for adoption, 19. Those voting "yea", 36; those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

All items on the Consent Calendar have been passed. Senate will stand at ease for a moment.

[SENATE AT EASE]

THE CHAIR [SENATOR CIOTTO OF THE 9<sup>TH</sup> IN THE CHAIR]:

Mr. Majority Leader, please.

SEN. LOONEY:

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GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2006

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PART 9  
2628-2965

rms

House of Representatives

April 21, 2006

Those voting Nay 0

Those absent and not voting 16

DEPUTY SPEAKER KIRKLEY-BEY:

The Bill as amended passes.

DEPUTY SPEAKER ALTOBELLO:

Would the House Clerk please call Calendar Number 342.

CLERK:

On Page 23, Calendar Number 342, Substitute for House Bill Number 5839, AN ACT CONCERNING BLOOD OR BREATH TESTS OF SURVIVING OPERATORS INVOLVED IN MOTOR VEHICLE ACCIDENTS AND PROHIBITING PERSONS FACILITATING ILLEGAL STREET RACING, Favorable Report of the Committee on Public Safety.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Mr. Clerk. Representative Lawlor of the 99th, you have the floor, Sir.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Good afternoon.

DEPUTY SPEAKER ALTOBELLO:

Good afternoon, Representative.

REP. LAWLOR: (99<sup>th</sup>)

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I apologize. I didn't have the right file in front of me. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER ALTOBELLO:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the Bill. Representative Lawlor, would you remark further?

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I will. This Bill is intended to solve two specific problems. First, with regard to the aftermath of fatal automobile accidents, under the current law, police officers are allowed to require a motor vehicle operator to submit to a blood or alcohol test when they have probable cause to believe that person was operating under the influence of alcohol.

This Bill would add a requirement that, if the operator has been charged with a motor vehicle violation and the accident did involve a death and the police officer has reasonable and articulable suspicion that the operator is operating under the influence, it may also require a test.

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This, there are several standards for sufficiency of evidence, but this would allow a police officer to require a blood test in the aftermath of a fatal accident with articulable suspicion under those circumstances.

The second portion of the Bill affects what many people refer to as drag racing. But apparently it's more politically correct to refer to it as street racing because drag racing is an actual sport.

And what we're talking about is the unorganized, hazardous, dangerous, reckless practice from time to time on the streets of our state of suddenly organized racing on a street involving a crowd.

In this particular case, the Bill proposes that persons who possess motor vehicles under circumstances indicating that they are in the process of participating in a street race or acting as a starter, time keeper, judge or spectator in such an event, that their motor vehicle, that they would in fact be violating the law. So, Mr. Speaker, I urge passage of the Bill.

DEPUTY SPEAKER ALTOBELLO:

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Question is on passage. Would you remark further? Representative Farr of the 19th, you have the floor, Sir.

REP. FARR: (19<sup>th</sup>)

Yes. Thank you, Mr. Speaker. Mr. Speaker, just a quick question to Representative Lawlor. I think we were both taken by surprise in the order of calling of these Bills. Do you, in Section 2 of the Bill, do you recall what the penalty is for participating in the street racing?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

According to the, according to an explanation in the Fiscal Note, actually, the penalty for street racing is a fine of between \$75 and \$600 or up to one year in prison.

Now, for a first time offense and subsequent offenses, a one-year prison term maximum as well but a higher fine of between \$100 and \$1,000. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Farr.

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REP. FARR: (19<sup>th</sup>)

Thank you, Mr. Speaker. I think that the, both parts of the Bill are, I strongly support the first part. The second part of the Bill on the street racing, unfortunately I didn't see the penalty provision when I was viewing this before.

I guess I'm a little bit concerned about the fact that it also says a spectator shall be subject to that penalty. So it sounds like we're making somebody in violation of the Criminal Statutes for being a spectator of the race.

And I understand that we want to give people, if people are gathering to watch one of these, we probably want to make it illegal to do that.

And I could understand giving them some sort of citations, but it does seem that the penalty may be too severe for that particular part of the offense.  
Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Farr. Representative Boucher of the 143rd, you have the floor, Madam.

REP. BOUCHER: (143<sup>rd</sup>)

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Thank you, Mr. Speaker. Mr. Speaker, a simple question to the proponent of the Bill, please.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Madam.

REP. BOUCHER: (143<sup>rd</sup>)

To the good Representative of the Judiciary, when he defined reasonable suspicion as articulable suspicion, could he please define that term for us in more simple language? Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. It's, the easiest way to explain it, it's a suspicion which you can articulate or explain as exposed to a mere hunch. This is the standard required for police to take a variety of actions, for example, what they call is a tarry stop, when you stop a person and pat them down for weapons.

You can do that only with what they call reasonable suspicion or articulable suspicion. So the articulable meaning you can articulate a reason for your suspicion, not simply a hunch. A higher standard

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is probable cause. That is what is required to make an arrest.

So, for example, if you can explain in a fatal motor vehicle accident such as we're talking about, if you don't have probable cause to actually charge them with DWI but you believe they might be intoxicated based on slurred speech or you smelled something on their breath or something along those lines, you could compel them to provide a, to submit to a blood and alcohol test. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Lawlor. Representative Boucher.

REP. BOUCHER: (143<sup>rd</sup>)

Thank you, Mr. Speaker. That was quite clear. I appreciate it.

DEPUTY SPEAKER ALTOBELLO:

So that gives us the particulars on the articulables. Representative Witkos of the 17th, you have the floor, Sir.

REP. WITKOS: (17<sup>th</sup>)

Thank you, Mr. Speaker. Good afternoon.

DEPUTY SPEAKER ALTOBELLO:

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Good afternoon, Representative.

REP. WITKOS: (17<sup>th</sup>)

I just want to comment for the many negative votes that this Bill received in Public Safety. And one of the concerns we had, and I'd like to just bring this up to the Chairman if I may for a point of question.

DEPUTY SPEAKER ALTOBELLO:

Please proceed.

REP. WITKOS: (17<sup>th</sup>)

Unfortunately, there was a tragic accident several weeks ago in, I think it was the City of North Haven, Town of North Haven where a motorcycle operator was seen doing wheelies, doing 90 miles an hour down the street. It hit a parked car and suffered severe injuries.

And that was witnessed by several, several spectators. If somebody paid him to see if you could do a wheelie down the street for a wage, could everybody that was on the sidelines watching that take place be subject to this penalty? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

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Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. No, I don't believe so. I think under well-established principles of constitutional law, in order for there to be a crime, there has to be at least two elements. One is a guilty mind and the other is a guilty act.

So in the particular circumstances which the Representative described, there would be the guilty act, acting as a spectator, without the guilty mind.

And I think the court would interpret this Statute to require one would have to be an active participant spectator, in other words a supporter, a booster, helping to organize it, cheering it on, as opposed to what we might otherwise refer to as an innocent bystander.

So I think in order to have a successful prosecution under this Statute to meet what they call the mens rea requirement, the guilty mind requirement, you'd have to have some evidence that this person willingly came to this location for the purpose of participating in the event as a spectator, not

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somebody who happened to be there watching it take place. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Witkos.

REP. WITKOS: (17<sup>th</sup>)

Thank you. That's very interesting, Mr. Speaker, because what happens if there was a wager and somebody says we're going to meet at this roadway, we're going to race and then only those active participants who wanted to see the race would come in and watch it?

And, under the scenario that Representative Lawlor just gave, unless they were a booster or a supporter, then they wouldn't be found guilty under this Section because they wouldn't be considered a spectator. So I guess I'd ask for a clarification of the word spectator. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Witkos, would you kindly repeat your question?

REP. WITKOS: (17<sup>th</sup>)

Certainly. I'd like, through you, Mr. Speaker, a definition of the word spectator as it fits into this language. Through you.

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DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative  
Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I think when there's not  
an actual definition in the Statute, which there's  
not, you would resort to the normal definition of the  
word, which would be a fan, an observer, someone  
participating, like a person at a sporting event.

The spectators would be the persons who paid to  
be in the seats. That would not include the people  
working in the stadium or parking cars or selling  
items, that type of stuff. I mean, that would be the  
Standard English definition of it. A court would look  
to that.

So, in this particular case, to successfully  
prosecute somebody, you would have to prove beyond a  
reasonable doubt not simply that they were there  
watching but also they were there willfully intending  
to participate in the sport as a spectator, as a fan,  
as an observer getting some enjoyment out of it.

Through you, Mr. Speaker.

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Representative Witkos.

REP. WITKOS: (17<sup>th</sup>)

Thank you, Mr. Speaker. And I believe one would attend functions like this to gain fun out of them. I mean, why would I go and watch a race or a wager if I wasn't going to enjoy it? Isn't that the reason why we go to these types of events?

And that's the part of the Bill and the reason I voted no in the Public Safety Committee, because if I just happen to walk along, and we see this in all different types of events where there's wagers.

If there's a fight, people seem to circle around and watch. Are they active participants? Well, we'd hope they would help break the people up but they're just standing there and watching. Does that make them guilty?

Well, did you do something about it to prevent that from happening? And that's also, I believe there's case law that was done where you didn't act to prevent something that was happening and you just were a spectator, you can be found guilty from that perspective.

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So I'm going to urge the Chamber to vote no on this legislation until it can be fixed later on.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative Winkler of the 41st, you have the floor, Madam.

REP. WINKLER: (41<sup>st</sup>)

Thank you, Mr. Speaker. A question through you to Representative Lawlor.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Madam.

REP. WINKLER: (41<sup>st</sup>)

Yes. Representative Lawlor, normally in the ER when there has been an accident and the staff is looking for alcohol or drugs of abuse, normally the alcohol is done on the blood and a urine specimen is sent for drugs of abuse.

And I'm wondering why we're not doing a drug screen on urine as opposed to blood? Could you explain that, please?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

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Thank you, Mr. Speaker. I'd have to double-check on this, but I believe when it refers to the blood test, it's a test to determine the blood alcohol level. So the method of the test is not required under the Statute.

So, for example, it could be a breath test, a blood draw or a urine test. Those would be the three tests I'm aware of to determine what the blood alcohol level is. So I think when it refers to a blood test, it's referring to testing the blood for its alcohol content.

Through you, Mr. Speaker. Because that is the existing law that the Representative is referring to, not the proposed change. So I know that the existing law requires one of three tests, breath, blood or urine. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Winkler.

REP. WINKLER: (41<sup>st</sup>)

Thank you, Mr. Speaker. No, Representative Lawlor, that's not what I'm saying. What I'm reading here in the legislation is that we are doing a blood

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test looking for influence of intoxicating liquor,  
which is fine.

We always do blood alcohol, alcohols in the ER.  
But we're also looking for drugs of abuse if that, if  
they're being suspected. And what I'm saying is that  
is normally done with a urine screen, a urine specimen  
for a drug screen as opposed to being done with blood.

And I'm just saying that it doesn't say this.  
What we're looking at is strictly blood that's being  
drawn. And I'm wondering if this shouldn't be changed  
for that purpose? Through you, Sir.

DEPUTY SPEAKER ALTOBELLO:

Thank you. Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. It's a good point. I  
have not heard that point before. I would only point  
out that the language that's being referred to is, in  
fact, the existing law that's been the procedure for  
quite some time.

And so it's a valid point, it's just being raised  
for the first time and it's referring to the portion  
of the Bill which already exists in state law, not the  
new language.

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So it may very well be a valid point. I'm not sure of the arguments for or against, but that's not what we're proposing to change. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Winkler.

REP. WINKLER: (41<sup>st</sup>)

Thank you, Madam, Mr. Speaker, and I thank Representative Lawlor. I do know it's existing language. I do know we are expanding this, looking at drugs of abuse as well as liquor when there has been a motor vehicle accident where somebody has died.

I thank him for his comments. I think we should look at this because I think this is something that we do need to look at because I, I think we should correct it. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Winkler. Would you remark further on the Bill? Would you remark further on the Bill? Would you remark further on this Bill?

If not, staff and guests, please come to the Well of the House. Members, please take your seats. And the machine will be opened.

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CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER ALTOBELLO:

Have all the Members voted? Have all the Members voted? If all the Members have voted, please check the Board to make sure your vote has been properly cast.

If all the Members have voted, the machine will be locked. And the Clerk will take a tally. The Clerk, please announce the tally.

CLERK:

Emergency Certified House Bill Number 5839.

Total Number Voting	136
Necessary for Passage	69
Those voting Yea	136
Those voting Nay	0
Those absent and not voting	15

DEPUTY SPEAKER ALTOBELLO:

The Bill passes. Would the Clerk please call Calendar Number 255.

CLERK:

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY

PART 13  
3918-4165

2006

March 20, 2006

Joint Committee on Judiciary  
Room 2500  
Legislative Office Building  
Hartford, Connecticut 06106

Dear Sir(s):

In reference to the 2006 Raised Bill No. 5839 titled AN ACT CONCERNING BLOOD OR BREATH TESTS OF SURVIVING OPERATORS INVOLVED IN MOTOR VEHICLE ACCIDENTS AND PROHIBITING PERSONS FACILITATING DRAG RACING.

I would like to disagree with the term Drag Racing being used in the second half of this bill title.

Drag Racing is a legal sanctioned family sport. It has nothing to do with Street Racing or illegal Street Racing that you are referring to in your raised bill. Even the term illegal Drag Racing would be incorrect because Drag Racing is a legal family sport/hobby and there is nothing illegal about it.

I would like to suggest that you change the term Drag Racing or illegal Drag Racing that is used in your bill title and Statement of Purpose to: Street Racing or illegal Street Racing.

Please remember Street Racing is **not** Drag Racing and Drag Racing is a legal sanctioned family sport. Thank You.

Truly yours,

Art Parent