All written comments, questions, and concerns regarding this regulation may be submitted within 30 days of the publication of this notice to the Department of Social Services, Office of Legal Counsel, Regulations & Administrative Hearings, 25 Sigourney Street, Hartford, Connecticut, 06106. Attention: Brenda Parrella, Director. A hearing will be scheduled on the proposed regulation if requested by fifteen persons, by a governmental subdivision of an agency or by an association having not less than fifteen members, if notice of the request is received by the Department within fourteen days after the date of publication of this notice.

When submitting correspondence, please refer to Regulation Control Number 10-12/MPL.

DEPARTMENT OF MOTOR VEHICLES

Standards and Procedures for Retraining of Motor Vehicle Operators

Sections 14-111g-1 through 14-111g-14 of the Regulations of Connecticut State Agencies are amended and the following is substituted in lieu thereof:

Standards and Procedures for Retraining of Motor Vehicle Operators

Sec. 14-111g-1. Definitions

As used in sections 14-111g-1 to 14-111g-14, inclusive, the following terms shall have the following meanings:

(1) "Commissioner" means the Commissioner of Motor Vehicles or his designee;

(2) "Department" means the Department of Motor Vehicles;

(3) "Moving violation" shall have the same meaning stated in section 14-111g of the Connecticut General Statutes, which conviction for such moving violation appears on the driving history of an operator maintained by the department. A conviction of more than one moving violation resulting from the same incident shall be counted as a single moving violation;

(4) "Operator's license" means a valid license or permit to operate a motor vehicle issued by the department;

(5) "Operator's privilege" means the nonresident motor vehicle operator's privilege granted to a licensed resident of another state, province or country under the provisions of subsection (a) of section 14-39 of the Connecticut General Statutes or the privilege of an unlicensed Connecticut resident to obtain a motor vehicle operator's license;

(6) "Rescind" means an official action taken by the department that withdraws a pending operator's license or privilege suspension due to the operator's compliance with the department's requirements prior to the effective date of the operator's license or privilege suspension;

(7) "Restoration" or "restore" means an official action taken by the department that reinstates an operator's license or privilege due to compliance with the department's requirements and with subsection (a) of section 14-50b of the Connecticut General Statutes;

(8) "State" means the State of Connecticut;

(9) "Suspension" means the temporary withdrawal of a motor vehicle operator's license or operator's privilege until compliance is attained;

(10) "Suspension violation" means a conviction for a motor vehicle violation of section 14-222a, 14-224, subsection (a) of section 14-227a, section 53a-56b, 53a-

57 or 53a-60d of the Connecticut General Statutes, which conviction appears on the driving history of an operator maintained by the department. A conviction of more than one suspension violation resulting from the same incident shall be counted as a single suspension violation.

Sec. 14-111g-2. Operator retraining program

(a) The Commissioner may require any motor vehicle operator older than twenty-four (24) years of age on the date convicted of a third moving violation, suspension violation, or a combination of both, as appearing on such operator's official driving history as maintained by the Commissioner, to attend and successfully complete an operator retraining program as provided in section 14-111g-3 of the Regulations of Connecticut State Agencies.

(b) The Commissioner may require any motor vehicle operator twenty-four (24) years of age or less on the date convicted of a second moving violation, suspension violation, or a combination of both, as appearing on such operator's official driving history as maintained by the Commissioner, to attend and successfully complete an operator retraining program as provided in section 14-111g-3 of the Regulations of Connecticut State Agencies.

(c) The Commissioner may send a warning letter to a motor vehicle operator older than twenty-four (24) years of age who has been convicted of moving violations or suspension violations or a combination of both, committed on two separate occasions, or in the case of an operator twenty-four (24) years of age or less who has been convicted of a single moving violation or suspension violation, advising such operator that a subsequent conviction of a moving violation or suspension violation will require participation in the operator retraining program.

(d) Following an operator's successful completion of the operator retraining program, each additional conviction for either a moving violation or suspension violation, which appears on the operator's official driving history as maintained by the Commissioner and places the operator above the number of convictions stipulated in section 14-111g-2(a) of the Regulations of Connecticut State Agencies for an operator over twenty-four (24) years of age, or as stipulated in section 14-111g-2(b) of the Regulations of Connecticut State Agencies for an operator who is twenty-four (24) years of age or less, will require the operator to repeat the operator retraining program.

(e) Failure to attend or successfully complete the operator retraining program shall result in suspension of the operator's license or operator's privilege until the operator successfully completes the program.

Sec. 14-111g-3. Operator retraining program. Content

(a) The operator retraining program shall consist of at least four (4) hours of classroom training, which shall review principles of motor vehicle operation, develop alternative attitudes for those attitudes contributing to aggressive driving behavior, and emphasize the need to practice safe driving behavior. The curriculum and course content shall provide comprehensive training encompassing the following topics:

(1) Appropriate driving attitudes and behaviors;

(2) The effects of alcohol and drug use on motor vehicle operation; and

(3) Recognition of highway and operator risk factors.

(b) All parts of the operator retraining program shall be conducted by the instructor in the physical presence of the operators and all operators shall be required to attend class for the total scheduled time of the program.

(c) All parts of operator retraining classes shall be conducted only by certified program providers and by instructors approved by the Commissioner.

Sec. 14-111g-4. Certification of program providers

(a) On and after the effective date of sections 14-111g-1 to 14-111g-14, inclusive, of the Regulations of Connecticut State Agencies, the Commissioner may certify one or more program providers to conduct an operator retraining program. For convenience of administration, the Commissioner may determine the number of certified providers needed.

(b) In order to be certified, a provider shall submit an application, in writing, to the Commissioner, in such form and containing such information as the Commissioner shall require. The application fee required by subsection (b) of section 14-111g of the Connecticut General Statute shall be submitted with each application. The Commissioner may deny an application for certification as a provider, or renewal of such certification, to conduct an operator retraining program for any reason or cause the Commissioner deems sufficient. A denial shall be communicated in writing and mailed to the applicant.

(c) Each provider certified shall, at a minimum, meet the following criteria:

(1) The provider shall have a permanent place of business in this state, where all operator retraining program records are to be maintained and accessible to the Commissioner, during normal business hours;

(2) The provider shall file and continuously maintain a surety bond in the amount of fifty thousand dollars ($50,000). Such bond shall be conditioned upon the provider complying with the provisions of any state or federal law or regulation relating to the conduct of any operator retraining program and provided as indemnity for any loss or expense sustained by either the state or any person by reason of any acts or omissions of the provider. Such bond shall be executed in the name of the State of Connecticut for the benefit of any aggrieved party, but the penalty of the bond shall not be invoked except upon order of the Commissioner after a hearing is held before him in accordance with the provisions of chapter 54 of the Connecticut General Statutes;

(3) The provider shall be registered to do business in the State of Connecticut and be in good standing with the Office of the Secretary of State, and shall continuously maintain such status;

(4) The provider shall biennially demonstrate to the Commissioner its compliance with all federal, state and local tax obligations;

(5) The provider shall submit to the commissioner for approval a detailed curriculum and a lesson plan and any amendments to such materials which shall be utilized in each operator retraining class;

(6) The provider shall identify all classroom locations and facilities in which the operator retraining program is to be conducted. The provider shall demonstrate compliance with all governmental zoning, health, safety and fire code requirements for each classroom location and each location shall be subject to inspection by the Commissioner, at any reasonable time;

(7) The provider shall comply with all applicable provisions of the Americans with Disabilities Act, Title 42, United States Code, section 12101, et seq., as amended;

(8) The provider shall comply with all nondiscrimination and affirmative action provisions as required by sections 4a-60 and 4a-60a of the Connecticut General Statutes, as amended, and with Executive Order Numbers 3 and 17 of Governor Thomas J. Meskill, and Executive Order Number 16 of Governor John G. Rowland;

(9) The provider shall agree not to disclose any personal information, as defined in section 14-10 of the Connecticut General Statutes, obtained from any motor vehicle operator or from the department, except to the department, or as approved and directed by the Commissioner;

(10) The provider shall identify all operator retraining program instructors and the instructors' qualifications. A current roster of instructors shall be continuously maintained on forms approved by the Commissioner at the provider's permanent place of business and shall be available for inspection. Biennially, the provider shall submit the names and qualifications of each instructor for review and approval by the Commissioner;

(11) Each provider shall be responsible for the conduct and content of instruction provided by its instructors, and for maintaining the required curriculum and professional standards during the program.

(d) Prior to the certification of a provider, the Commissioner shall investigate the provider's character, driving history and criminal history. The provider shall submit to the Commissioner a certified driving history and any information pertaining to a criminal or civil action(s). If the applicant is a business entity, such information shall be provided for the principals and officers of the business entity.

(e) The certification of a provider shall not be transferable.

(f) The certification of a provider by the Commissioner shall be valid for a two-year period. Re-certification of a provider shall be at the discretion of the Commissioner in such form and manner as the Commissioner may determine.

(g) The certification of a provider may be suspended or revoked by the Commissioner for failure to comply with the requirements of section 14-111g of the Connecticut General Statutes or sections 14-111g-1 through 14-111g-14, inclusive, of the Regulations of Connecticut State Agencies. In the event of such occurrence, the provider shall receive a suspension or revocation notice and may request an administrative hearing, in accordance with the provisions of chapter 54 of the Connecticut General Statutes.

(h) Upon certification by the Commissioner, a provider shall, at minimum, comply with the following requirements:

(1) The provider shall maintain complete records of persons who attend the operator retraining program, and provide complete data to the department concerning all persons who have successfully completed the operator retraining program, and separately, data for those who have failed to successfully complete the program, at regular intervals and in such manner as determined by the Commissioner. Determination of successful completion of the program shall be within the discretion of the assigned instructor.

(2) No portion of the operator retraining program shall be sub-contracted or otherwise delegated by a certified provider to a person or firm which is not certified as a provider.

(3) A provider shall submit to the Commissioner a copy of its contract with operators to provide operator retraining and a copy of the receipt, certificate or other document issued by the provider upon successful completion of the operator retraining program. Copies of any changes or alterations to such documents shall be forwarded to the Commissioner within five (5) days.

(i) Each classroom shall be a clean, suitably furnished and equipped facility where the program may be presented in privacy without interruption or distraction.

(j) The provider shall allow language interpreters in the classroom for any operator who is in need of assistance and has informed the provider of such need at the time of enrollment.

(k) The provider shall allow the Commissioner or the Commissioner's designee access to any scheduled operator retraining program class, for the purpose of monitoring compliance or any other aspect of oversight of the provider's performance.

(*l*) The provider shall agree that the state shall have the right to inspect and review any and all of the provider's documents and records of any kind and contained in any format or media pertaining to its performance of the operator retraining program

upon reasonable notice. Additionally, the provider shall agree that the aforementioned records shall be subject to periodic on-site inspection by a representative of the Commissioner.

Sec. 14-111g-5. Change in location

(a) No classroom of a certified provider may be moved to a new location without prior approval of the Commissioner. No facility shall be approved until the Commissioner is satisfied that the new location meets all of the provisions listed in subsection (c)(6) of section 14-111g-4 of the Regulations of Connecticut State Agencies.

(b) Any change in the location of the business office of a provider shall be reported to the Commissioner within five (5) days.

(c) Should a provider discontinue use of a business office or classroom location, the provider shall notify the Commissioner within five (5) business days.

Sec. 14-111g-6. Change in curriculum

(a) No deviation in the curriculum and lesson plan approved by the Commissioner, as provided for in subsection (c)(5) of section 14-111g-4 of the Regulations of Connecticut State Agencies, shall be made by the provider or by any of its approved instructors, without the prior approval of the Commissioner. The Commissioner may require amendments or adjustments to the curriculum as deemed advisable or appropriate.

Sec. 14-111g-7. Approval of instructors

(a) Each instructor who provides any portion of an operator retraining program shall be approved by the Commissioner to teach operator training in this State, and shall have completed course work, of length and of content approved by the Commissioner, specifically related to operator retraining.

(b) The Commissioner shall not approve any applicant as an instructor of an operator retraining program who has not successfully completed a certified provider's operator retraining program course which consists of, at a minimum, thirty (30) hours and which includes, at a minimum, the following course content:

(1) Identification of problem driving attitudes and behaviors;

(2) Development of appropriate motor vehicle operation driving attitudes and behaviors;

(3) Recognition of highway and operating risk factors;

(4) Motor vehicle operation strategies which seek the prevention of future moving or suspension violations;

(5) The effects of alcohol and drug use on motor vehicle operation; and

(6) Connecticut's motor vehicle operation laws and any applicable motor vehicle operation regulations.

(c) Prior to approval of an instructor, the Commissioner shall review the applicant's character, driving history and criminal record. The instructor applicant shall submit a certified driving history and information pertaining to any criminal convictions on forms provided by the Commissioner.

(d) Each instructor, in order to maintain the Commissioner's approval, shall successfully complete an additional program of operator retraining instruction biennially, consisting of not less than three (3) hours, as shall be specified by the Commissioner.

Sec. 14-111g-8. Fees

(a) The provider shall not charge any fee beyond that authorized by section 14-111g of the Connecticut General Statutes.

(b) A provider may require that the fee be paid prior to enrollment of an operator in a retraining program. No operator who has enrolled in an operator retraining

program class and has prepaid the fee shall be denied admission to the class without just cause as specified in subsection (b) of section 14-111g-14 of the Regulations of Connecticut State Agencies.

(c) The Commissioner may suspend or revoke any provider's certification for the provider's failure to submit the data concerning class attendance and completion described in subsection (h)(1) of section 14-111g-4 of the Regulations of Connecticut State Agencies. In the event of such occurrence, the provider shall receive a suspension or revocation notice and may request an administrative hearing, in accordance with the provisions of chapter 54 of the Connecticut General Statutes.

Sec. 14-111g-9. Notice to operators

(a) Upon receipt of reliable information that an operator over twenty-four (24) years of age has been convicted of a moving violation, a suspension violation or a combination of both committed on at least three (3) separate occasions, or in the case of an operator twenty-four (24) years of age or less who has been convicted of a moving violation, a suspension violation, or a combination of both committed on at least two separate occasions, the Commissioner may send a notice, in writing, to such operator, by bulk certified mail to the operator's address of record on the files of the department, informing the operator that he or she is required to attend an operator retraining program within sixty (60) days, and that failure to successfully complete such operator retraining program within that time shall result in suspension of the operator's license or privilege until all requirements for restoration are attained. The notice shall contain sufficient information to enable the operator to contact a certified provider and to arrange to enroll in the operator retraining program.

(b) The Commissioner, for good cause shown, may extend the time for completion of an operator retraining program, upon a written request, or may permit the operator to attend and successfully complete an equivalent operator retraining program in another state or province or an operator retraining course given by a branch of the armed forces. The determination of equivalency shall be made by the Commissioner in the Commissioner's discretion.

(c) Successful completion of an operator retraining program shall be noted on the operator's driving history as maintained by the department for a period of three (3) years. Each certified provider shall present to the operator, upon successful completion of an operator retraining program and without an additional fee, a certificate of completion which shall include, at a minimum, the operator's name, residence address, and mailing address (if different), date of birth, license number, the date and location of the successful completion of the operator retraining program, the name of the certified provider, and the name of the approved instructor.

Sec. 14-111g-10. Enrollment

(a) Enrollment in an operator retraining program shall be made directly with a certified provider by the operator.

(b) The provider shall give timely notification to all persons enrolled for a scheduled retraining class if, for any reason or cause, the class shall not be held at the time or place specified. Such notification of the postponement or cancellation of any class also shall be provided to the department. Each operator retraining class shall be limited to approximately twenty-five (25) and in no event more than forty (40) attendees. The provider shall not conduct a retraining class in any facility or classroom where the number of persons in attendance exceeds the lawful capacity, as specified in the applicable fire and safety code.

Sec. 14-111g-11. Records to be maintained. Attendance

(a) Each certified provider shall maintain in its files information requested by the Commissioner, including the name, residence address, mailing address (if different), date of birth, telephone number and operator's license number, for each person enrolled in a operator retraining program; the identity of the approved instructor; and the location and date of the operator retraining program attended. Each provider shall submit to the department such information at such intervals and in such form as shall be directed by the Commissioner.

(b) The information in subsection (a) of this section shall be maintained by each provider for three (3) years following the date of each completed operator retraining program class.

Sec. 14-111g-12. Request for hearing. Issues. Stay

(a) If an operator, who has been required by the Commissioner to complete an operator retraining program, does not attend or does not successfully complete the operator retraining program before the effective date of a suspension, the Commissioner shall suspend the operator's license or operator's privilege on the effective date stated in the department notice of a suspension.

(b) An operator subject to suspension action under subsection (a) of this section may request an administrative hearing in accordance with the provisions of Chapter 54 and section 14-111g of the Connecticut General Statutes.

(c) Upon request for a hearing, the suspension of the operator's license or operator's privilege shall be stayed pending the decision of the hearing officer.

(d) Each hearing held pursuant to this section shall be limited to the determination of the following issues:

(1) Whether it is impossible for the operator to attend an operator retraining program;

(2) Whether there is a mistake or misidentification of the operator; or

(3) Whether the conviction(s) appearing in the official driving history as maintained by the department are not attributable to the operator, or are otherwise inaccurate.

(e) Unless the hearing officer finds in the affirmative on one or more of the stated issues, the hearing officer shall order that the suspension be imposed and remain in effect until the operator complies with the requirements of section 14-111g of the Connecticut General Statutes and section 14-111g-2 of the Regulations of Connecticut State Agencies.

Sec. 14-111g-13. Provider indemnification

(a) Each provider shall agree that the department, and any official or employee of the department or the state shall not be responsible for any errors, omissions, or discrepancies in the information furnished to the provider. Each provider shall agree to defend, indemnify and save harmless the department and its officials and employees of the department and the state from any and all claims and suits, and from any liability of any kind whatsoever arising or alleged to arise out of the provider's performance of any aspect of the operator retraining program.

(b) Each provider shall agree to be solely responsible for the handling and disposition of complaints and claims made by operators or by any other parties arising out of any aspect of performance of the operator retraining program.

(c) For the purpose of its compliance with subsections (a) and (b) of this section, each provider shall maintain a policy or policies of public liability insurance, and such other forms of insurance as may be necessary, in the amount of not less than two million dollars, combined single limit, which policy or policies shall name the

department and the state as additional parties. Satisfactory evidence of such insurance coverage shall be furnished to the department.

Sec. 14-111g-14. Miscellaneous

(a) Each provider shall require positive identification from each operator attending an operator retraining program.

(b) Nothing in sections 14-111g-1 through 14-111g-14, inclusive, of the Regulations of Connecticut State Agencies shall prohibit a provider from denying admission to the program, or to any portion thereof, if the operator is unruly, disruptive or under the influence of drugs or alcohol. A denial of admission under such circumstances shall be treated as a failure to complete the program.

Statement of purpose: To clarify recent changes in the law regarding bond requirements and the Commissioner's approval of the curriculum involved in the retraining of drivers.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 14-111g of the General Statutes, after publication in the Connecticut Law Journal on February 22, 2011, of the notice of the proposal to amend such regulations.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: June 3, 2011, Melody A. Currey, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, Connecticut General Statutes: July 25, 2011.

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: October 25, 2011.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: November 1, 2011.