State of Connecticut
Regulation of
Department of Motor Vehicles
Concerning
Administrative Procedures for "Per Se" Suspension of Motor Vehicles Operator's License

Section 1. Section 14-227b-1 to 14-227b-3, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 14-227b-1. Definitions

For the purpose of [Sections] sections 14-227b-1 to 14-227b-29a, inclusive, of the Regulations of Connecticut State Agencies, the following terms shall have the following meanings:

(1) "Chemical analysis," "chemical test," or "test" an analysis of blood or urine or a direct alcohol test performed in accordance with the provisions of sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies.

(2) "Commissioner" means the commissioner of motor vehicles or [his] the commissioner's designee as defined in [subdivision (16) of subsection (a) of] section 14-1 of the Connecticut General Statutes.

(3) "Department" means the department of motor vehicles.

[(4)] ["Failed" or "failure" of a chemical test means that the ratio of alcohol in a person's blood, as determined by chemical analysis, is eight-hundredths of one percent or more of alcohol, by weight.]

(4) "Ignition interlock device" shall have the meaning set forth in subsection (a) of section 14-227j of the Connecticut General Statutes.

(5) "Ignition interlock device maintenance period" means the period of time that an ignition interlock device shall be maintained in a motor vehicle after it has been installed as a condition of reinstatement of an operator's license or privilege.

[(5)](6) "Notice of arrest" means the initial receipt of notice by a person that he has been arrested, whether by being taken into custody by a police officer and informed of his arrest by the officer, or by receipt of a summons, or by receipt of a warrant served by a marshal or other court officer.

[(6)](7) "Offense" means operating a motor vehicle while under the influence of intoxicating liquor or any drug or both as provided in subsection (a) of section 14-227a of the Connecticut General Statutes.

[(7)](8) "Operator's license" means a [valid] license [or permit to operate a motor vehicle issued by the Connecticut Department of Motor Vehicles], valid and in full force, issued in accordance with section 14-36 or 14-36m of the Connecticut General Statutes authorizing the operation of a motor vehicle.

[(8)](9) "Privilege" means the nonresident motor vehicle operating privilege granted to a licensed resident of another state, province or country under section 14-39 of the Connecticut General Statutes, or the opportunity to obtain a license in Connecticut or any other state.

[(9)] ["Statutory period" means one of the following periods of time:]

[(A)] [for individuals 21 years of age or older:]

[(i)] [ninety days if a person submitted to a test or analysis and the results of such test or analysis indicate that the ratio of alcohol in the blood of such person was eight-hundredths of one percent or

greater of alcohol, by weight and less than sixteen-hundredths of one percent of alcohol, by weight;]

[(ii)] [one hundred twenty days, if a person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one percent or more of alcohol, by weight;]

[(iii)] [six months if a person refused to submit to such test or analysis;]

[(iv)] [nine months if a person submitted to a test or analysis, and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was eight-hundredths of one percent or greater of alcohol, by weight and less than sixteen-hundredths of one percent of alcohol, by weight, and such person has previously had such person's operator's license or non-resident privilege suspended under section 14-227b of the Connecticut General Statutes.]

[(v)] [ten months if a person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one percent or more of alcohol, by weight, and such person has previously had such person's operator's license or non-resident privilege suspended under section 14-227b of the Connecticut General Statutes.]

[(vi)] [one year if a person refused to submit to such test or analysis, and such person has previously had such person's operator's license or non-resident operating privilege suspended under section 14-227b of the Connecticut General Statutes;]

[(vii)] [two years if a person submitted to a test or analysis, and the results of such test or analysis indicate that the ratio of alcohol in the blood of such person was eight-hundredths of one percent or greater of alcohol, by weight and less than sixteen-hundredths of one percent of alcohol, by weight, and such person has previously had such person's operator's license or non-resident operating privilege suspended two or more times under section 14-227b;]

[(viii)] [two and one-half years if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one percent or more of alcohol, by weight, and such person had previously had such person's operator's license or non-resident operating privilege suspended two or more times under section 14-227b of the Connecticut General Statutes; or]

[(ix)] [three years if a person refused to submit to such test or analysis, and such person has previously had such person's operator's license or non-resident operating privilege suspended two or more times under section 14-227b of the Connecticut General Statutes.]

[(B)] [for individuals under the age of 21:]

[(i)] [one hundred eighty days if a person submitted to a test or analysis and the results of such test or analysis indicate that the ratio of alcohol in the blood of such person was two-hundredths of one percent or greater of alcohol, by weight and less than sixteen-hundredths of one percent of alcohol, by weight;]

[(ii)] [two hundred forty days, if a person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one percent or more of alcohol, by weight;]

[(iii)] [twelve months if a person refused to submit to such test or analysis;]

[(iv)] [eighteen months if a person submitted to a test or analysis, and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was two-hundredths of one percent or greater of alcohol, by weight and less than sixteen-hundredths of one percent of alcohol, by weight, and such person has previously had such person's operator's license or non-resident privilege suspended under section 14-227b of the Connecticut General Statutes;]

[(v)] [twenty months if a person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one percent or more of alcohol, by weight, and such person has previously had such person's operator's license or non-resident privilege suspended under section 14-227b of the Connecticut General

Statutes;]

[(vi)] [two years if a person refused to submit to such test or analysis, and such person has previously had such person's operator's license or non-resident operating privilege suspended under section 14-227b of the Connecticut General Statutes;]

[(vii)] [four years if a person submitted to a test or analysis, and the results of such test or analysis indicate that the ratio of alcohol in the blood of such person was two-hundredths of one percent or greater of alcohol, by weight and less than sixteen-hundredths of one percent of alcohol, by weight, and such person has previously had such person's operator's license or non-resident operating privilege suspended two or more times under section 14-227b of the Connecticut General Statutes;]

[(viii)] [five years if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one percent or more of alcohol, by weight, and such person had previously had such person's operator's license or non-resident operating privilege suspended two or more times under section 14-227b of the Connecticut General Stautes; or]

[(ix)] [six years if a person refused to submit to such test or analysis, and such person has previously had such person's operator's license or non-resident operating privilege suspended two or more times under section 14-227b of the Connecticut General Statutes.]

(10) "Report" means a written document or electronic record, including one with electronic signatures, that sets forth the facts surrounding a person's arrest for an offense, in or on a form approved by the commissioner.

[(10)](11) "Suspension" means the temporary withdrawal of a person's motor vehicle operator's license or privilege to drive in this state for a specific period of time.

(12) "Suspension notice" means a written notice informing a person that his or her Connecticut operator's license or privilege is suspended and that an ignition interlock device shall be installed in each motor vehicle owned or operated by such person as a condition of license or privilege reinstatement. Such notice shall include: (a) the length of the suspension, as specified in subsection (i) of section 14-227b of the Connecticut General Statutes; (b) the effective date of the suspension; and (c) the length of time that such person is required to maintain an ignition interlock device, as specified in subsection (i) of section 14-227b of the Connecticut General Statutes.

Sec. 14-227b-2. Consent to chemical analysis

(a) Any person who operates a motor vehicle in this state is deemed to have given his or her consent to a chemical analysis for determination of the alcohol or drug content, or both, of [his] such person's blood.

(b) If the operator of a motor vehicle in this state is a minor, it shall be deemed that [his] such operator's parent(s) or guardian(s) has given consent to a chemical analysis for determination of the alcohol or drug content, or both, of the blood of such minor.

(c) Chemical analysis for the purpose of determining the amount of alcohol in the blood of any person shall be performed in accordance with the applicable provisions of sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies.

(d) Chemical analysis for the purpose of determining the amount of a drug or drugs other than alcohol in the blood of any person shall be performed in accordance with procedures approved by the Department of Emergency Services and Public [Safety] Protection.

Sec. 14-227b-3. Request that person submit to a chemical analysis

A police officer may request that a person operating a motor vehicle and having been arrested for an offense submit to a chemical analysis to determine the alcohol or drug content, or both, of [his] such person's blood.

Sec. 2. Sections 14-227b-5 to 14-227b-6, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 14-227b-5. Communication of assent to request to take test

(a) A person shall be deemed to have refused to submit to a chemical analysis if [he] such person remains silent or does not otherwise communicate his or her assent after being requested to take a blood, breath or urine test under circumstances where a response may reasonably be expected.

(b) A person shall be deemed to have refused to submit to a chemical analysis if [he] such person communicates his or her assent but thereafter does not undertake or complete the test procedure in accordance with the instructions of the officer administering the test.

Sec. 14-227b-6. Chemical analysis not required if medically inadvisable

Any person who claims that his or her physical condition is such that submission to a chemical analysis is medically inadvisable shall submit competent medical evidence at the hearing requested by such person sufficient to substantiate such claim. If the evidence presented at the hearing is insufficient, or if no hearing is requested by the person, the person shall be deemed to have refused to submit to such chemical analysis.

Sec. 3 Sections 14-227b-10 to 14-227b-16, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 14-227b-10. Report to Department of Motor Vehicles

(a) The arresting police officer shall prepare a [written] report of the facts surrounding the person's arrest on a form approved by the commissioner. The report shall be subscribed and sworn to under penalty of false statement by the arresting officer. The [written] report shall adequately identify the person arrested.

(b) Additional statements or materials necessary to explain any item of information [on] in the [written] report [form] may be attached to the report [form]. Such attachment(s) shall be considered a part of the report [form] having the approval of the commissioner, as provided in subsection (c) of section 14-227b of the Connecticut General Statutes, if sworn to under penalty of false statement.

(c) If the person arrested refused to submit to a chemical test, the [written] report shall also be signed by a person other than the arresting officer who witnessed the refusal. The person signing the report as a witness is not prohibited from administering an oath or acting as the acknowledging officer in connection with the [written] report.

(d) The signed original of the [written] report shall be delivered by prepaid first class mail or shall be [forwarded] transmitted electronically to the Administrative Per Se Unit, Department of Motor Vehicles, Wethersfield, CT 06161-4010 [by prepaid first class mail], and shall include a copy of the results of [any] all chemical [test or] tests administered to the person in accordance with subsection (c) of section 14-227b of the Connecticut General Statutes.

Sec. 14-227b-11. Mailing address of person

If a person arrested for an enumerated offense provides to the arresting officer a mailing address different from the address of record of such person as recorded in the files of the department, all correspondence and notices required by sections 14-227b-1 through 14-227b-29a, inclusive, of the Regulations of Connecticut State Agencies, shall be mailed to both the address of record and to the mailing address provided to the arresting officer, as recorded on the front of the report.

Sec. 14-227b-12. Suspension of operator's license or nonresident operating privilege. Notice of right to hearing

(a) Upon receipt of the [written] report required by section 14-227b-10 of the Connecticut General Statutes, the commissioner shall send to the person who was arrested, by bulk certified mail, a written suspension notice [informing such person that his Connecticut operator's license or privilege is suspended, the length of the suspension and the effective date of the suspension].

(b) The suspension notice shall also notify such person that he or she is entitled to a hearing as a matter of right before a hearing officer prior to the effective date of the suspension, and that the person or [his] such person's attorney may schedule such hearing [by mail, in person or] by telephoning the Administrative Per Se Unit[, Department of Motor Vehicles, Wethersfield, CT 06161-4010,] at (860) 263-5204 [or as included in such suspension notice]. The suspension notice shall also inform the person clearly and in a conspicuous manner that[the hearing shall be requested by] the person or [his] such person's attorney shall request such hearing and the department shall receive [the] such hearing request [received by the department] within seven (7) days of the date of mailing of the suspension notice, and if not so requested, the person's Connecticut operator's license or privilege shall be suspended automatically on the effective date for the period of time prescribed in subsection (i) of section 14-227b of the Connecticut General Statutes and shall remain suspended thereafter until such person has installed an ignition interlock device in accordance with subsection (i) of section 14-227b of the Connecticut General Statutes and sections 14-227a-11a through 14-227a-28a of the Regulations of Connecticut State Agencies. [The suspension notice shall clearly specify the reasons and statutory grounds for the suspension.] The final date for requesting the hearing shall appear on the suspension notice in a conspicuous place and shall be so labeled.

(c) In computing the seven (7) days in subsection (b) of this section, calendar days shall be used unless the seventh day falls on a day when the department is not open to the public, in which case the seventh day shall be the next following full business day of the department.

(d) It shall be presumed that the person received the suspension notice if it was mailed by bulk certified mail as provided in subsection (a) of section 14-227b-12 of the Regulations of Connecticut State Agencies.

Sec. 14-227b-13. Failure to request hearing. Affirming suspension

If the person to whom a suspension notice has been mailed in accordance with the provisions of [Section] section 14-227b-12 of the Regulations of Connecticut State Agencies does not request a hearing within seven (7) days after the date of mailing of the suspension notice, the commissioner shall send to the person a notice by bulk certified mail affirming [that] the suspension and ignition interlock device maintenance period of which [he] such person was notified in the suspension notice[is affirmed], and stating that [his] such person's Connecticut operator's license or privilege is suspended as of the effective date contained in the suspension notice. Such affirmation notice also shall state that: (1) as a condition of reinstatement of such person's Connecticut operator's license or privilege, such person shall install an ignition interlock device in each motor vehicle owned or operated by such person and maintain such device for the period of time required in subsection (i) of section 14-227b of the Connecticut General Statutes and specified in the suspension notice; (2) such person's operator's license or operating privilege shall remain suspended until such person has installed an ignition interlock device.

Sec. 14-227b-14. Scheduling of hearing

(a) If the person or [his] such person's attorney contacts the department after the person's arrest and prior to the expiration of seven (7) days after the mailing of the suspension notice and requests a

hearing, the department shall immediately assign a date, time and place for the hearing and shall communicate such information to the person or [his] such person's attorney. Such request for a hearing shall be made by[mail, in person or by] telephone. The hearing shall be scheduled prior to the effective date of the suspension.

(b) The department upon receipt of a request for hearing shall forward a letter to the person or [his] such person's attorney confirming the date, time and place for the hearing.

Sec. 14-227b-15. Granting a continuance of hearing

(a) [Only for good cause shown will] Upon request of a person or such person's attorney for good cause shown, the department shall grant a continuance [be granted to a person who has requested a hearing or to his attorney] of such person's hearing.

[(b)] [Upon a showing of good cause the hearing officer may continue a hearing.]

[(c)] [A hearing may be continued only once, and any such continuance shall be for a period not to exceed fifteen (15) days.]

(d) A [request for a continuance may be made by the] person or [his] such person's attorney may request one continuance either in person[,] or by telephone[,] at the Administrative Per Se Unit, Department of Motor Vehicles, Wethersfield, CT 06161-4010, during the department's normal hours of operation [of the department]. Such continuance shall be for a period not to exceed fifteen (15) days.

(c) Upon a showing of good cause, the hearing officer may continue a hearing.

[(e)](d) When a hearing is continued beyond thirty (30) days from the time the person received notice of his arrest, the department shall extend the effective date of the operator's license or privilege suspension [and the expiration date of the temporary operator's license or privilege] of the person who requested the hearing for a time not to exceed forty-five (45) days from the time the person received notice of [his] such person's arrest.

Sec. 14-227b-16. Failure to appear at hearing

If a person for whom a hearing has been scheduled fails to appear at the hearing, the commissioner shall send to the person a notice affirming: [that a] (a) the suspension and ignition interlock device maintenance period of which [he] such person was notified in the suspension notice[is affirmed]; and (b) that [his] such person's Connecticut operator's license or privilege is suspended as of the effective date contained in the suspension notice for the period of time prescribed in subsection (i) of section 14-227b of the Connecticut General Statutes, and shall remain suspended thereafter until such person has installed an ignition interlock device in each motor vehicle such person owns or operates for the period prescribed in subsection (i) of section 14-227b of the Connecticut General Statutes and stated in the suspension notice.

Sec. 4. Sections 14-227b-18 to 14-227b-19, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 14-227b-18. Attendance of arresting officer at hearing

(a) At the hearing the commissioner shall not require the presence and testimony of the arresting officer, or any other person, but the hearing officer may make an appropriate order, as authorized by [Section] section 14-110 of the Connecticut General Statutes, to obtain the testimony of such arresting officer or other witness, if the same appears necessary to make a proper finding on one or more of the issues stated in subsection [(f)] (g) or (j) of [Section] section 14-227b of the Connecticut

General Statutes.

(b) A person arrested for an enumerated offense may at [his] such person's own expense and by [his] such person's own solicitation summon to the hearing the arresting officer and any other witness to give oral testimony. The failure to appear at the hearing of any witness summoned by the person arrested shall not be grounds for such person to request a continuance or dismissal of the hearing. A subpoena summoning a police officer shall be served on such officer not less than seventy-two (72) hours prior to the designated hearing time.

(c) If the person arrested for an enumerated offense wishes to summon to the hearing the arresting officer or any other witness, but such person is indigent, such person [must] shall file with the commissioner a sworn affidavit stating facts proving such indigency, at least seven (7) days prior to the hearing. In such case the commissioner shall summon such arresting officer or witness to the hearing.

(d) The fees of any witness summoned to appear at the hearing shall be the same as provided by the Connecticut General Statutes for witnesses in criminal cases.

Sec. 14-227b-19. Admissibility of police report at hearing

(a) The [written] report filed or transmitted by the arresting officer shall be admissible into evidence at the hearing if it conforms to the requirements of subsection (c) of [Section] section 14-227b of the Connecticut General Statutes.

(b) The chemical test results in the form of the tapes from a breath analyzer or other chemical testing device submitted contemporaneously with the [written] report shall be admissible into evidence at the hearing if they conform to the requirements of subsection (c) of [Section] section 14-227b of the Connecticut General Statutes.

(c) An electronic record that contains electronic signatures of persons required to sign in accordance with subsections (a), (b) and (c) of section 14-227b-10 of the Regulations of Connecticut State Agencies shall be admissible at a hearing to the same extent as a report containing written signatures, as provided in subsection (c) of section 14-227b of the Connecticut General Statutes.

Sec. 5. Section 14-227b-21 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 14-227b-21. [Time of notice]Notice **of decision**

The hearing officer's decision [of the hearing officer] shall be in writing, and a copy of the decision shall be sent by bulk certified mail to the person who requested the hearing [by bulk certified mail not later than thirty (30) days, or if a continuance is granted not later than forty-five (45) days, after the person received notice of his arrest].

Sec. 6. Section 14-227b-24 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 14-227b-24. Recording of hearing. Transcripts

The hearing shall be recorded in a form [susceptible to] capable of transcription. A request for a transcript of the hearing shall be made in writing to the Administrative Hearing Section, Department of Motor Vehicles, Wethersfield, CT 06161-4010. [A charge is made by the hearing reporter] The department or any designated third party transcription service shall charge a minimum fee for the transcript or a set fee for each page of the transcript, whichever is more.

Sec.7. Section 14-227b-27 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 14-227b-27. Restoration fee. Removal of name from suspension files

(a) No restoration fee shall be required for the reinstatement of an operator's license or privilege in accordance with [sections] section 14-227b-25 [or 14-227b-26] of [Connecticut General Statutes] the Regulations of Connecticut State Agencies.

(b) The department shall remove from its suspension files the name of [Any] any person whose operator's license is to be reinstated in accordance with [sections] section 14-227b-25 [or 14-227b-26] of the [Connecticut General Statutes] Regulations of Connecticut State Agencies [shall have his name removed from the suspension files of the department].

Sec. 8. Section 14-227b-29a of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 14-227b-29a. Retention of records

The department shall maintain [A] a record of an operator's license or privilege suspension in accordance with the provisions of sections 14-227b-1 to [14-227b-29] 14-227b-29a, inclusive, of the [Connecticut General Statues] Regulations of Connecticut State Agencies [shall be maintained on the operator's driving history at the Department of Motor Vehicles] for a period of ten (10) years from the date of the license or privilege suspension. Such record shall be used by the commissioner to determine the period of operator's license or privilege suspension for an operator whose operator's license or privilege has been suspended previously in accordance with the provisions of [said] sections 14-227b-1 through [14-227b-29] 14-227b-29a, inclusive, of the[Connecticut General Statutes] Regulations of Connecticut State Agencies.

Sec. 9. Section 14-227b-26 of the Regulations of Connecticut State Agencies is repealed.

Statement of Purpose

The proposed regulation reflects statutory changes to the Administrative "Per Se" procedures that have occurred in recent years, particularly as a result of Public Act 2009-187 and Public Act 2014-228. The regulations have been updated to reflect the General Assembly's actions in the following ways:

1. Establishes the requirement that an operator install an ignition interlock device (IID) as a condition of restoration of his or her operator's license or privilege to operate a motor vehicle after serving a suspension. The length of the suspension and the IID requirement are detailed in the statute and in the suspension notice from the department;
2. Allows law enforcement personnel to electronically submit to the Department of Motor Vehicles the information contained in the A-44 "Operating Under the Influence" Form as an alternative to mailing a hard copy;
3. Clarifies the provisions relating to administrative "per se" hearing continuances;
4. Requires the service of a subpoena to provide at least seventy-two (72) hours' notice when summoning a police officer to appear at an administrative "per se" hearing; and
5. Eliminates a requirement that an operator automatically prevail in a hearing under this section in the event that the commissioner has not rendered a decision within thirty (30) days from the date of arrest.

The proposed regulation has also been amended throughout for grammar, gender neutrality and clarity.