

Regulations of Connecticut State Agencies

TITLE 14. Motor Vehicles. Use of the Highway by Vehicles. Gasoline

Agency

Department of Motor Vehicles

Subject

Administrative Procedures for “Per Se” Suspension of Motor Vehicle Operator’s License

Inclusive Sections

§§ 14-227b-1—14-227b-29a

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Sec. 14-227b-1. Definitions

For the purpose of 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” means 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” has the same meaning as provided in section 14-1 of the Connecticut General Statutes.

(3) “Department” means the department of motor vehicles.

(4) “Ignition interlock device” has the same meaning as provided 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.

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

(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.

(8) “Operator’s license” means a license, 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.

(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.

(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.

(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.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Amended September 7, 2016)

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 such person's blood.

(b) If the operator of a motor vehicle in this state is a minor, it shall be deemed that 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 Protection.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Amended September 7, 2016)

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 such person's blood.

(Effective January 1, 1990; Amended July 11, 2006; Amended September 7, 2016)

Sec. 14-227b-4. Selection of blood, breath or urine test

(a) The police officer has the option of selecting for the chemical analysis the blood, breath or urine test, except that if the person refuses or is unable to submit to a blood test, the police officer shall designate the breath or urine test for the chemical analysis.

(b) If the person refuses to take either the blood test or the test designated by the police officer in lieu thereof, no chemical analysis or test shall be given, and the person shall be deemed to have refused to submit to a chemical analysis.

(Effective January 1, 1990)

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 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 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.

(Effective January 1, 1990; Amended July 11, 2006; Amended September 7, 2016)

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.

(Effective January 1, 1990; Amended September 7, 2016)

Sec. 14-227b-7. Refusal to take additional test

A person who refuses to submit to a second blood, breath or urine test of the same type after having taken a first test shall be deemed to have refused to submit to a chemical analysis.

(Effective January 1, 1990)

Sec. 14-227b-8. Availability of chemical analysis results

The person who has submitted to a chemical analysis, or the person's attorney, will be afforded access to the test results by the department prior to a scheduled hearing.

(Effective January 1, 1990)

Sec. 14-227b-9. Repealed

Repealed July 11, 2006.

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

(a) The arresting police officer shall prepare a 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 report shall adequately identify the person arrested.

(b) Additional statements or materials necessary to explain any item of information in the report may be attached to the report. Such attachment(s) shall be considered a part of the report 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 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 report.

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

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Amended Sep-

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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.

(Effective January 1, 1990; Amended September 3, 1997; Amended September 7, 2016)

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

(a) Upon receipt of the 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. Such notice shall include: (1) the length of the suspension, as specified in subsection (i) of section 14-227b of the Connecticut General Statutes; (2) the effective date of the suspension; and (3) 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.

(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 such person's attorney may schedule such hearing by telephoning the Administrative Per Se Unit at (860) 263-5204. The suspension notice shall also inform the person clearly and in a conspicuous manner that the person or such person's attorney shall request such hearing and the department shall receive such hearing request 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, inclusive, of the Regulations of Connecticut State Agencies. 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 this section.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Amended Sep-

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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 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 the suspension and ignition interlock device maintenance period of which such person was notified in the suspension notice, and stating that 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; and (2) such person's operator's license or privilege shall remain suspended until such person has installed an ignition interlock device.

(Effective January 1, 1990; Amended September 3, 1997; Amended September 7, 2016)

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

(a) If the person or 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 such person's attorney. Such request for a hearing shall be made 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 such person's attorney confirming the date, time and place for the hearing.

(Effective January 1, 1990; Amended September 7, 2016)

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

(a) Upon request of a person or such person's attorney for good cause shown, the commissioner shall grant a continuance of such person's hearing.

(b) A 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. 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.

(d) When a hearing is continued beyond thirty (30) days from the time the person received notice of such person's arrest, the department shall extend the effective date of the operator's license or privilege suspension 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 such

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person's arrest.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Amended September 7, 2016)

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: (1) the suspension and ignition interlock device maintenance period of which such person was notified in the suspension notice; and (2) 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.

(Effective January 1, 1990; Amended September 7, 2016)

Sec. 14-227b-17. Hearing

(a) The hearing shall be conducted by a hearing officer appointed by the commissioner pursuant to section 14-4a of the Connecticut General Statutes, and shall be limited to a determination of the issues stated in subsection (g) or (j) of section 14-227b of the Connecticut General Statutes.

(b) The findings required to be made at the hearing in accordance with subsection (g) or (j) of section 14-227b of the Connecticut General Statutes shall be based on substantial evidence when the record is considered as a whole.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006)

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 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 (g) or (j) of section 14-227b of the Connecticut General Statutes.

(b) A person arrested for an enumerated offense may at such person's own expense and by 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 shall file

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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.

(Effective January 1, 1990; Amended September 3, 1997; Amended September 7, 2016)

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

(a) The 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 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 report shall be admissible into evidence at the hearing if they conform to the requirements of subsection (c) of 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.

(Effective January 1, 1990; Amended September 3, 1997; Amended September 7, 2016)

Sec. 14-227b-20. Finding of facts

(a) The hearing officer shall make a determination of the facts at the hearing on the basis of all the relevant evidence presented at the hearing. A separate finding of fact shall be made by the hearing officer for each of the issues.

(b) The determination of the facts by the hearing officer shall be independent of the determination of the same or similar facts in the adjudication of criminal charges arising out of the person's arrest for the offense.

(Effective January 1, 1990; Amended July 11, 2006)

Sec. 14-227b-21. Notice of decision

The hearing officer's decision shall be in writing, and a copy of the decision shall be sent by bulk certified mail to the person who requested the hearing.

(Effective January 1, 1990; Amended September 3, 1997; Amended September 7, 2016)

Sec. 14-227b-22. Filing of appeal. Stay of suspension

The filing of an appeal of the decision of the hearing officer to a court having jurisdiction thereof, or the filing of a request for reconsideration by the commissioner shall not of itself stay enforcement of a suspension.

(Effective January 1, 1990)

Sec. 14-227b-23. Form of decision

The decision of the hearing officer, if adverse to the person, shall include the findings of fact and conclusions of law necessary to the decision and any appeal thereof.

(Effective January 1, 1990)

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

The hearing shall be recorded in a form 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. 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.

(Effective January 1, 1990; Amended September 3, 1997; Amended September 7, 2016)

Sec. 14-227b-25. Reinstatement of operator's license

If the decision rendered by the hearing officer is that the person's Connecticut operator's license or privilege is to be reinstated, the notice of decision shall be mailed in accordance with section 14-227b-21 of the Regulations of Connecticut State Agencies.

(Effective January 1, 1990; Amended July 11, 2006)

Sec. 14-227b-26. Failure to render timely decision (Repealed)

Repealed September 7, 2016.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Repealed September 7, 2016)

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 section 14-227b-25 of the Regulations of Connecticut State Agencies.

(b) The department shall remove from its suspension files the name of any person whose operator's license is to be reinstated in accordance with section 14-227b-25 of the Regulations of Connecticut State Agencies.

(Effective January 1, 1990; Amended September 3, 1997; Amended July 11, 2006; Amended September 7, 2016)

Sec. 14-227b-28. Payment for blood test

(a) If a physician, at the request of any municipal or state police department, performs a chemical test by taking a blood sample from any person, the state shall pay reasonable charges to such physician.

(b) Any person who pays a physician for a blood sample in accordance with subsection (a) may request reimbursement by mailing a receipted copy of any payment and a statement of the surrounding facts to the commissioner. The commissioner may request details or

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proofs from such person.

(Effective January 1, 1990; Amended September 3, 1997)

Sec. 14-227b-29. Information

Information, requests for assistance, and answers to questions relating to sections 14-227b-1 through 14-227b-29a, inclusive, may be obtained from the Administrative Per Se Unit, Department of Motor Vehicles, Wethersfield, CT 06161-4010.

(Effective January 1, 1990; Amended September 3, 1997)

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

The department shall maintain a record of an operator's license or privilege suspension in accordance with the provisions of sections 14-227b-1 to 14-227b-29a, inclusive, of the Regulations of Connecticut State Agencies 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 sections 14-227b-1 through 14-227b-29a, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective September 3, 1997; Amended July 11, 2006; Amended September 7, 2016)