



CONNECTICUT DUI LAW

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DRIVING UNDER THE INFLUENCE

Connecticut law prohibits a person from driving (1) while under the influence of alcohol or drugs or (2) with an elevated blood alcohol content (BAC). A person is under the influence if his ability to drive is affected to an appreciable degree. The maximum allowable BAC depends on the driver's age and the type of vehicle he or she is operating.

ISSUE

What are Connecticut laws on driving under the influence (DUI) and related offenses? This report updates OLR Report [2012-R-0279](#).

SUMMARY

Connecticut's DUI law consists primarily of two statutes, CGS §§ [14-227a](#) and [-227b](#). The first prohibits a person from driving (1) while "under the influence" of alcohol or drugs or (2) with an "elevated" blood alcohol content (BAC). A person is under the influence if his ability to drive is affected to an appreciable degree. The maximum allowable BAC depends on the driver's age and the type of vehicle he

or she is operating.

Drivers over age 21 have an elevated BAC if it is found to be .08% or more. Drivers operating a commercial motor vehicle (e.g., a large truck) have an elevated BAC if it is .04% or more. Under CGS § [14-227g](#), people younger than 21 have an elevated BAC if it is found to be .02% or more. The law specifies evidence admissibility criteria for alcohol and drug tests.

Connecticut law provides for a Pretrial Alcohol Education Program under which certain eligible offenders charged with DUI may successfully complete an alcohol intervention or substance abuse treatment program, as appropriate, and have the DUI charges dismissed (CGS § [54-56g](#)).

All drivers convicted of DUI face fines and prison terms. In addition, penalties for first- and second-time offenders include a 45-day license suspension and ignition interlock restrictions. Third-time and subsequent offenders face license revocation and ignition interlock restrictions if a license is eventually reinstated (see Table 1, below). An ignition interlock device (IID) prevents a driver from operating a vehicle if his or her BAC is above a certain threshold.

Under the second statute, CGS § [14-227b](#), motorists implicitly consent to be tested for drugs or alcohol when they drive. The law establishes administrative license suspension procedures for drivers who refuse to submit to a test or whose test results indicate an elevated BAC. (These provisions are called “implied consent” and “administrative per se,” respectively.) Starting July 1, 2015, the law reduces the license suspension period to 45 days for all per se violations and requires people to drive only ignition interlock equipped vehicles for specified periods after this suspension ends (see Table 4, below).

The law also requires use of an IID for two years following the mandatory one-year license suspension following conviction for 2nd degree manslaughter with a motor vehicle (CGS § [53a-56b](#)) or 2nd degree assault with a motor vehicle (CGS § [53a-60d](#)). These crimes apply to drivers who cause the death or serious injury of another person, respectively, while under the influence of alcohol or drugs. The court may also order an individual arrested for DUI, 2nd degree manslaughter with a motor vehicle, or 2nd degree assault with a motor vehicle to operate only motor vehicles equipped with IIDs as a condition of (1) release on bail, (2) probation, or (3) granting his or her application to take part in the Pretrial Alcohol Education Program (CGS § [14-227j\(b\)](#)).

Someone who holds a commercial driver's license (CDL) faces disqualification from driving a commercial motor vehicle for one year if he or she is found to have: (1) a BAC of .04% or more while driving a commercial vehicle, (2) a BAC of .08% or more while driving any other type of vehicle, (3) refused a BAC test when driving any motor vehicle, or (4) been convicted of DUI. CDL holders who commit two or more of certain offenses, including DUI, face a lifetime ban on driving commercial motor vehicles, but may get their license back if they meet certain conditions.

Police must impound for 48 hours the motor vehicle of someone arrested for DUI who was driving while his or her license was suspended or revoked. The owner may reclaim the vehicle after paying towing and storage costs (CGS § [14-227h](#)).

In addition, people found to be “persistent operating under the influence felony offenders” are subject to an increased criminal penalty.

DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS (CGS § [14-227A](#))

Driving Under the Influence or with an Elevated BAC

The law prohibits driving (1) while under the influence of alcohol or drugs or (2) with an "elevated blood alcohol content." A person is "under the influence" if his or her ability to drive is affected by alcohol or drugs to an appreciable degree (*Infeld v. Sullivan*, 151 Conn. 506 (1964)). This may be prosecuted with or without any direct evidence of his or her BAC.

A person has an elevated blood alcohol content if his or her BAC is at least .08% alcohol by weight. The law also makes it illegal for someone driving a commercial motor vehicle to have a BAC of .04% or more and for anyone under age 21 to drive with a BAC of .02% or more.

The DUI law applies to drivers operating motor vehicles anywhere, including their own property, and to people operating snowmobiles and all-terrain vehicles (CGS § [14-227a\(a\)](#)).

Before dismissing, declining to prosecute, or reducing a DUI charge, a prosecutor must state the reasons for doing so in court (CGS § [14-227a\(f\)](#)).

BAC Tests

A police officer may measure a motorist's BAC by testing the driver's blood, breath, or urine. The law establishes a rebuttable presumption that a driver's BAC at the time it is tested is the same as the BAC at the time he or she was stopped. The law requires two tests at least 10 minutes apart. If the result of the second test is .10% or less, and higher than the first test, the prosecution must demonstrate that the test results and analysis accurately reflect the driver's BAC at the time of the alleged offense (CGS § [14-227a\(b\)](#)).

Admissibility of Evidence for Uninjured Drivers

The standard for determining whether evidence is admissible depends on whether the driver was injured.

In order for the test results of an uninjured driver to be admissible:

1. the driver must have (a) been given a reasonable chance to call a lawyer before taking the test and (b) consented to taking it;
2. a copy of the test results must be mailed or personally delivered to the driver within 24 hours or at the end of the next business day after the results are known;

3. the test must be administered by a police officer or at the officer's direction;
4. the test must be administered using methods and equipment approved by the Department of Emergency Services and Public Protection (DESPP) and according to DESPP regulations;
5. the test equipment must have been checked for accuracy according to DESPP regulations;
6. a second test of the same type must be administered at least 10 minutes after the first test is conducted (unless the second test is to detect the presence of drugs, in which case it can be of a different type and does not have to be administered within that time frame); and
7. the test must have begun within two hours of operation (presumably the time of the alleged offense) (CGS § [14-227a\(b\)](#)).

The DESPP commissioner must determine the reliability of each method and type of device used to test blood, breath, and urine, and certify those suitable for use in Connecticut. She must adopt regulations governing the conduct of tests; the operation and use of test devices; the training and certification of test operators; and the drawing or obtaining of blood, breath, and urine samples (CGS § [14-227a\(d\)](#)).

Evidence that a driver refused to submit to a test is admissible if the procedural requirements of CGS § [14-227b](#) (described below) are followed. At trial, the court must instruct the jury as to what inferences it can and cannot draw from a refusal (CGS § [14-227a\(e\)](#)).

Admissibility of Evidence for Samples Taken from Apparently Injured Drivers Requiring Medical Treatment

A different set of admissibility standards applies to blood or urine samples taken from an injured driver in the course of his or her medical treatment. Results of a chemical analysis of the sample are competent evidence to establish probable cause for the person's arrest by warrant and are admissible in a subsequent prosecution if:

1. the sample was taken for the diagnosis and treatment of the injury;
2. of a blood sample, it was taken in accordance with DESPP regulations;

3. a police officer satisfies a Superior Court judge that (a) he or she had reason to believe the motorist was driving under the influence of alcohol or drugs and (b) the blood or urine sample constitutes evidence of this offense; and
4. the judge issues a search warrant authorizing the seizure of the test results. The warrant may also authorize the seizure of hospital medical records prepared in connection with the diagnosis or treatment of the injury (CGS § [14-227a\(k\)](#)).

Penalties

A person convicted of DUI is subject to the criminal penalties listed in Table 1. In assessing these penalties, the law considers a subsequent conviction one that occurs within 10 years of a prior conviction for the same offense (CGS § [14-227a\(g\)](#)).

In practice, however, the first conviction of a driver for DUI is usually for the driver's second violation because a first offender charged with DUI may apply to the court for admission to the Pretrial Alcohol Education Program (see below). The applicant must state under oath that he or she (1) has not been in the program in the preceding 10 years or (2) if under age 21, has never been in the program. The court must dismiss the DUI charges if the driver satisfactorily completes the program.

Note that the criminal penalties for second offenders under age 21 change starting July 1, 2015.

Table 1: DUI Criminal Penalties (CGS § [14-227a\(g\)](#))

| Conviction | Prison Sentence | Fine | License Suspension |
|---|--|------------------|---|
| First | Either (1) up to six months with a mandatory minimum of two days or (2) up to six months suspended with probation requiring 100 hours of community service | \$500- \$1,000 | 45 days, followed by one year driving only a vehicle equipped with an ignition interlock. |
| Second (applicable to drivers age 21 or older, and, starting July 1, 2015, to all drivers, regardless of age) | Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service | \$1,000- \$4,000 | 45 days, followed by three years of driving only a vehicle equipped with an ignition interlock, with operation for the first year limited to travel to or from work, school, an alcohol or drug abuse treatment program, ignition interlock service center, or probation appointment. |
| Second (applicable to drivers under age 21 until July 1, 2015) | Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service | \$1,000- \$4,000 | 45 days or until age 18 (if younger than 18) or 21, whichever is longer, followed by three years of driving only a vehicle equipped with an ignition interlock, with operation for the first year limited to travel to or from work, school, an alcohol or drug abuse treatment program, ignition interlock service center, or probation appointment. |
| Third and Subsequent | Up to three years, with mandatory minimum of one year and probation with 100 hours community service | \$2,000- \$8,000 | License revoked, but the offender is eligible for reinstatement after two years. If reinstated, he or she must drive only interlock-equipped vehicles for as long as the offender drives, except that the commissioner may lift this requirement after 15 years. |

The license suspension is stayed while a conviction is appealed. For motorists driving under a special operator's permit (described below) suspension periods are doubled. In addition to these penalties, the court can order a driver to participate in an alcohol education and treatment program (CGS § [14-227a\(j\)](#)).

License suspension for conviction of a criminal DUI charge is in addition to any previously imposed administrative license suspension under the implied consent law (see below). The Connecticut Supreme Court has held that an administrative license suspension is not a bar to criminal prosecution (*State v. Hickam*, 235 Conn. 614 (1995)).

Also, any conviction that occurs in another state for an offense that the court determines has substantially the same essential elements as Connecticut's criminal drunk driving offenses, 2nd degree manslaughter with a motor vehicle, or 2nd degree assault with a motor vehicle, constitutes a prior conviction of the same offense for purposes of determining someone's prior criminal history (CGS § [14-227a\(g\)](#)). By law, the Department of Motor Vehicles (DMV) may impose IID requirements as well as license suspensions for second or subsequent convictions (PA [14-228](#), § 4).

Victim Panel. If the court sentences someone to probation, it may require as a condition that the offender take part in a victim impact panel program approved by the Judicial Branch's Court Support Services Division (CSSD). The panel must provide a non-confrontational forum for victims of alcohol- or drug-related offenses and offenders to share experiences on the impact of alcohol- or drug-related incidents on their lives. The nonprofit organization that conducts the panel may charge an offender ordered to participate a fee of up to \$75 (CGS § [14-227a\(l\)](#)).

Assessment and Treatment. For second or subsequent DUI convictions, the law requires an offender to (1) submit to an alcohol or drug abuse assessment through CSSD and (2) undergo a treatment program if ordered to do so by the court (CGS § [14-227a\(g\)](#)).

Home Confinement. The law allows the Department of Correction (DOC) commissioner to release an inmate sentenced for DUI, after admission and conducting a risk and needs assessment, to the inmate's home. The released offender cannot leave his or her home without authorization, remains in DOC custody, and is supervised by DOC employees. The DOC commissioner can revoke the release and return the person to prison for violating release conditions (CGS § [18-100h\(a\)](#)).

Sixteen and Seventeen Year-Old Drivers

The law imposes stricter rules on 16- and 17-year-old drivers cited for either driving under the influence of alcohol or drugs or with an elevated BAC (which for them is .02% or more). Under these conditions, the police officer, acting on behalf

of the DMV commissioner, must seize the driver's license for 48 hours and have the vehicle removed. The license is considered suspended for 48 hours, starting when the arrest is made or the summons issued.

To regain the license, the 16- or 17-year-old and, unless he or she is an emancipated minor, his or her parent or legal guardian, must, after the 48-hour period ends, appear in person at the police department, state police barracks, or other designated location and sign a written acknowledgement of its return. No restoration fee may be charged for return of the license. The police officer who seized the license must send a written report of the violation and the suspension to the DMV commissioner (CGS § [14-36i\(b\)](#)).

A driver under age 18 who is arrested for DUI is not eligible for youthful offender status (CGS § [54-76b](#)).

IGNITION INTERLOCKS

Ignition interlock devices are installed in motor vehicles to prevent people from driving under the influence of alcohol. They require the driver to breathe into them to operate the vehicle. If the device detects a BAC above a certain threshold it prevents the vehicle from being started. IIDs also require the driver to submit periodic breath samples while he or she is driving. Offenders must pay DMV a \$100 fee before the device is installed; DMV uses this money to administer the interlock program. Offenders also must pay the costs of installing and maintaining the devices (CGS § [14-227a\(i\)](#)).

Interlock Requirements – Criminal Convictions

The following interlock restrictions apply once the license suspension periods described above end. (However, the commissioner may extend, through regulations she adopts, periods of required interlock use beyond those the law requires (CGS § [14-227a\(i\)\(10\)](#)).

First- and Second-Time DUI Offenders. First-time offenders must drive only vehicles equipped with IIDs for one year. Second-time offenders must drive only interlock-equipped vehicles for three years.

During the first year of the three-year period, second-time offenders may only drive interlock-equipped vehicles to or from (1) work, (2) school, (3) an alcohol or drug abuse treatment program, (4) an ignition interlock service center, or (5) probation appointment. The commissioner must note this restriction on the driver's electronic records (license and driving history) as she does for other ignition interlock requirements.

First- and second-time offenders must verify to the commissioner, in a manner she determines, that they have had the interlock devices installed (CGS § [14-227a\(i\)](#)).

Third-Time and Subsequent DUI Offenders. The law requires DMV to revoke the license of third-time and subsequent offenders, although it allows the offender to request that DMV restore the license after two years. The commissioner may restore the license if (1) doing so does not endanger public safety, (2) the individual has met certain requirements (including completing an alcohol and drug education program, see below), and (3) the offender will drive only vehicles equipped with IIDs for as long as he or she continues to drive. But the law also allows an offender to ask the commissioner to lift the interlock requirement after 15 years, and allows the commissioner to do so after a hearing and for good cause.

Sentence Re-imposition

The law requires the commissioner to reinstate the original license suspension on someone who fails to use an IID as required until the person demonstrates to the commissioner's satisfaction that he or she intends to install and maintain the IID for the required period. The commissioner must adopt regulations specifying (1) which actions constitute a failure to comply with the requirements, (2) which of these actions will result in DMV increasing the length of time the individual must drive only interlock-equipped vehicles, and (3) the length of these extensions (CGS §§ [14-111\(j\)](#) and [14-227a\(i\)\(3\)](#)).

Ignition Interlock Requirements for Other Crimes

The law requires anyone convicted of 2nd degree manslaughter with a motor vehicle or 2nd degree assault with a motor vehicle to operate ignition interlock-equipped motor vehicles for two years following a mandatory one-year license suspension (CGS §§ [53a-56b](#) and [-60d](#)). A court also may order anyone convicted of these crimes to only operate motor vehicles equipped with ignition interlock devices as a condition of (1) release on bail, (2) probation, or (3) granting his or her application to participate in the Pretrial Alcohol Education Program (CGS § [14-227j\(b\)](#)).

Penalties for Evading Ignition Interlock Restrictions

People under a court or DMV order for ignition interlock use face criminal penalties for evading those restrictions.

Anyone who asks another person to breathe into an interlock to start a vehicle or tampers with, bypasses, or alters an interlock commits a class C misdemeanor, which is punishable by up to three months in prison, a fine of up to \$500, or both (CGS § [14-227k\(c\)](#)).

People who illegally drive a vehicle (1) not equipped with a functioning interlock or (2) that a court has prohibited them from driving, face stiffer penalties, as described in Table 2, below.

Table 2: Penalties for Illegally Driving a Vehicle without an Interlock (CGS § [14-227k\(c\)\(2\)](#))

| <i>Offense</i> | <i>Penalty</i> |
|---------------------|---|
| First | \$500 to \$1,000 fine Up to one year in prison, 30 days mandatory minimum* |
| Second | \$500 to \$1,000 fine Up to two years in prison, 120 day mandatory minimum* |
| Third or subsequent | \$500 to \$1,000 fine Up to three years in prison, 1 year mandatory minimum* |

*The court is not required to impose the mandatory minimum sentence if it states mitigating circumstances in writing.

By law, DMV must also suspend for one year the license or nonresident operating privilege of anyone convicted of any of the above offenses (CGS § [14-227k\(d\)](#)).

A driver is ineligible to operate a motor vehicle with an ignition interlock if his or her license was suspended for any reason other than conviction of (1) DUI, (2) 2nd degree manslaughter with a motor vehicle, or (3) 2nd degree assault with a motor vehicle (CGS § [14-227a\(i\)](#)).

PERSISTENT DUI OFFENDERS (CGS § [53a-40f](#))

A person is considered a “persistent operating under the influence felony offender” if he or she (1) is convicted of 2nd degree manslaughter with a motor vehicle or 2nd degree assault with a motor vehicle and (2) within the previous 10 years has been convicted of either of these offenses, DUI, or substantially similar offenses in other states.

The court may impose the prison sentence for the next higher degree of felony for a persistent DUI offender. Thus, it increases, from 10 years to 20 years, the maximum possible prison term for a persistent offender convicted of 2nd degree manslaughter with a motor vehicle and from five years to 10 years the maximum possible sentence for a persistent offender convicted of 2nd degree assault with a motor vehicle.

OUT-OF-STATE OFFENSES

By federal and state law, states must record convictions for certain offenses, including DUI, committed by nonresidents and report these convictions to the offender's home state for imposition of penalties. This means that DUI and other alcohol-related criminal offenses that occur out-of-state, the essential elements of which the court determines are substantially the same as Connecticut offenses, constitute a prior offense for determining the imposition of penalties for second or subsequent offenses in Connecticut. DMV also generally imposes the license suspension and IID requirements Connecticut law requires for a second or subsequent offense on someone convicted of DUI in another state who was convicted of DUI here or in another state within the previous 10 years (CGS § [14-111n](#)).

IMPLIED CONSENT TO TEST AND ADMINISTRATIVE PER SE LICENSE SUSPENSION (CGS § [14-227b](#))

Implied Consent

Anyone who drives implicitly consents to the testing of his or her blood, breath, or urine. If the driver is a minor, his or her parents or guardians are considered to have given their consent.

Before administering the test, the police officer must:

1. inform the driver of his or her constitutional rights;
2. give the driver a chance to call a lawyer;
3. inform the driver that his or her license will be suspended if he or she refuses to take the test, or if the test results indicate an elevated BAC; and
4. inform the driver that evidence of a refusal may be used against him or her in a criminal prosecution.

Administrative Per Se

This law requires an administrative license suspension process for drivers who refuse to submit to the test or whose test results indicate an elevated BAC (at least .08% for non-commercial vehicle drivers, .04% for commercial vehicle drivers, or .02% for drivers under age 21). In such cases, the police officer, acting on behalf of the DMV commissioner, must revoke the driver's license for 24 hours and submit a report to the DMV. The report must include any test results and the grounds the officer had for making the arrest. In the case of a test refusal, a third party who witnessed the refusal must sign the report (CGS § [14-227b\(c\)](#)).

A different procedure applies when someone gives a blood or urine sample at a police officer's request because these require a laboratory analysis. In this case, the officer cannot immediately take possession of the person's license or follow the other procedural requirements of the per se law. Instead, immediately upon receiving test results showing an elevated BAC, the officer must notify the DMV commissioner and submit the required written report (CGS § [14-227b\(d\)](#)).

The process followed once the commissioner receives the police report depends on the driver's circumstances. As long as the driver either has not (1) previously been suspended for a DUI conviction within the 10 years preceding the current arrest or (2) been involved in a fatal accident, the commissioner may suspend his or her license or nonresident operating privilege starting on a date not more than 30 days after the person receives notice of his or her arrest. In the case of someone with a prior DUI license suspension or who has been involved in a fatal accident, the commissioner may suspend his or her license or operating privilege on any date specified in the suspension notice. This can be immediate (CGS § [14-227b\(e\)](#)).

In either case, the driver is entitled to a DMV hearing. In the first case (no prior DUI suspension or fatal accident involvement), this must occur before the suspension goes into effect, provided the person contacts DMV no later than seven days after DMV mails the suspension notice. In the latter case (prior DUI suspension or fatal accident involvement), the hearing can occur after the suspension, but not more than 30 days after the person contacts DMV to schedule a hearing. He or she must request the hearing no later than seven days after DMV mails the suspension notice.

In either case, the issues at the hearing are limited to whether: (1) the police officer had probable cause to make the arrest, (2) the driver was arrested, (3) he or she was driving, and (4) he or she refused the test or had an elevated BAC. (In the case of test results obtained from a blood sample taken from an apparently injured driver, the hearing must additionally determine whether the sample was obtained according to the statutory conditions for admissibility and competence as evidence, as described above.) If the answer to any of the four questions is no, DMV must return the license to the driver. If the answer to all of the questions is yes, DMV must suspend the driver's license (1) for per se violations occurring until July 1, 2015, for the period specified in Table 3, or (2) for those violations starting July 1, 2015, for 45 days, followed by mandatory IID use for the periods specified in Table 4.

Table 3: Administrative Per Se License Suspension Periods through June 30, 2015

| <i>Per Se Violation</i> | <i>First Offense</i> | <i>Second Offense</i> | <i>Third or Subsequent Offense</i> |
|--|----------------------|-----------------------|------------------------------------|
| BAC of .08% or more, or .04% or more if operating a commercial motor vehicle | 90 days | 9 months | 2 years |
| BAC of .16% or more | 120 days | 10 months | 2 ½ years |
| Test Refusal | 6 months | One year | 3 years |

The test refusal penalties also apply to someone who takes the initial test but refuses to take a second chemical test. These provisions do not apply to someone whose condition makes such tests medically inadvisable.

These administrative license suspension penalties are in addition to any suspension penalties imposed as a result of conviction on any criminal DUI charge (see Table 1).

Starting July 1, 2015 the law reduces the license suspension period for all administrative per se violations to 45 days but imposes IID requirements after the suspension period (PA [14-228](#)).

As of that date, the law (1) requires the driver to install and maintain an IID on each motor vehicle he or she owns or operates as a condition of license restoration and (2) prohibits the driver from operating a vehicle without an IID during the period when the IID requirements apply. The required periods of IID use are shown in Table 4.

Table 4: Required Periods of IID Use after Administrative Per Se License Suspension, starting July 1, 2015

| <i>Per Se Violation</i> | <i>IID Requirement (After 45-Day License Suspension)</i> | | |
|--|--|--------------------------|---------------------------------------|
| | <i>First Suspension</i> | <i>Second Suspension</i> | <i>Third or Subsequent Suspension</i> |
| <u>Age 21 or older</u> : BAC of (1) 08% or more or (2) 04% or more if operating a commercial vehicle | 6 months | 1 year | 2 years |
| <u>Under Age 21</u> : BAC of 02% or more | 1 year | 2 years | 3 years |
| Test refusal, regardless of age | 1 year | 2 years | 3 years |

The law provides that any longer period of IID use for a DUI conviction applies in place of these periods (CGS § [14-227b\(i\)\(1\)](#)).

Until July 1, 2015 the DMV commissioner may allow someone whose license has been suspended for a first or second DUI conviction to operate a vehicle if he or she (1) has served the required suspension under the DUI conviction, even if he or she has not completed an administrative per se suspension and (2) complied with IID requirements. Starting July 1, 2015, the law specifies that the commissioner must let such a person operate a vehicle if he or she has served either of the required suspension periods. As under existing law, he or she must also have complied with IID requirements.

CDL HOLDERS SEEKING REINSTATEMENT

CDL holders who commit two or more of certain offenses, including DUI, are disqualified for life from driving a commercial motor vehicle. But a CDL holder may apply for reinstatement after 10 years. The law requires that to be considered for reinstatement, disqualified CDL holders must voluntarily enroll in, and successfully complete, (1) a substance abuse treatment program established and operated by the Department of Mental Health and Addiction Services (DMHAS), (2) a program operated through a licensed substance abuse treatment facility, or (3) an equivalent program offered in another state (CGS § [14-44k\(h\)](#)).

PRETRIAL ALCOHOL EDUCATION PROGRAM (CGS § [54-56g](#))

Someone charged with DUI or, if under 21, operating a vehicle with a BAC of .02% or more, may apply to the court for admission to the Pretrial Alcohol Education Program. A driver charged with DUI is ineligible for the program if, when the incident occurred, he or she (1) was driving a commercial motor vehicle or (2) held a CDL or CDL instruction permit (CGS § [54-56g](#)(h)). Unless good cause is shown, a driver also is ineligible if he or she was involved in a crash that caused serious physical injury (CGS § [54-56g](#)(a)).

An applicant must pay a \$100 application fee and a \$100 nonrefundable evaluation fee. The applicant also must make certain affirmations under oath before the court, including that he or she has not had the program previously invoked on his or her behalf within the preceding 10 years, or ever, if under age 21. The court must seal the file when the offender applies for the program.

The court can grant the application after considering the recommendations of the state's attorney. If the court grants the application, it must refer the motorist to (1) CSSD for assessment and confirmation of his or her eligibility and (2) DMHAS for evaluation. Upon confirmation of eligibility, the person is referred to DMHAS for placement in either an appropriate alcohol intervention program for one year, or a state-licensed substance abuse treatment program.

The court may require, as a condition of granting the application, that the offender take part in the CSSD-approved victim impact panel program. The program provider must offer to waive the program's \$75 fee if it determines it would pose an economic hardship.

The court must dismiss the charges if the defendant satisfactorily completes the assigned program and he or she requests dismissal.

The offender's license suspension remains in effect while he or she participates in the program, although he or she can wait to begin the program until the suspension ends.

Reinstatement to the Program

The law allows reinstatement to the program in certain cases.

If a program provider informs the court that a defendant did not successfully complete the assigned program or is no longer amenable to treatment, the provider must, to the extent practicable, recommend whether the individual would best be served by (1) a 10-session intervention program, (2) a 15-session intervention

program, or (3) placement in a state-licensed substance abuse treatment program. The court may order reinstatement in such a program if the defendant requests it and CSSD verifies he or she is eligible (CGS § [54-56g](#)(d) & (e)).

However, the court must order the court file unsealed, enter a plea of not guilty for the defendant, and immediately schedule the case for trial, if (1) CSSD informs the court that the defendant is ineligible for the program and the court makes such a finding or (2) the program provider certifies to the court that the defendant did not successfully complete the assigned program or is no longer amenable to treatment, and the defendant does not request, or the court denies, reinstatement (CGS § [54-56g](#)(b)) .

RELATED PROVISIONS

Operating While License Suspended For DUI (CGS § [14-215](#)(c))

Anyone who operates a motor vehicle while his or her license is suspended or revoked for (1) DUI, (2) 2nd-degree manslaughter with a motor vehicle, (3) 2nd-degree assault with a motor vehicle, or (4) refusing to submit to a BAC test or whose test shows an elevated BAC, is subject to a fine of between \$500 and \$1,000 and imprisonment for up to one year. The offense carries a 30-day mandatory prison sentence unless the court specifies mitigating circumstances.

A driver who operates a motor vehicle while his or her license is suspended or revoked for a second violation of the above is subject to a fine of between \$500 and \$1,000 and imprisonment for up to two years, 120 days of which cannot be suspended unless the court specifies mitigating circumstances. A motorist who drives a motor vehicle while his or her license is suspended or revoked for a third or subsequent violation of the above is subject to a fine of between \$500 and \$1,000 and imprisonment for up to three years, one year of which cannot be suspended unless the court specifies mitigating circumstances.

The judge must specify the mitigating circumstances, or lack of them, in writing.

Testing After Accidents (CGS § [14-227c](#))

The chief medical examiner and other specified officials must include in any investigation of a fatal motor vehicle accident a blood sample from any driver or pedestrian who dies in the accident. These samples must be examined for the presence and concentration of alcohol and drugs by the chief medical examiner or the DESPP Division of Scientific Services. A blood or breath sample must be obtained from any surviving driver whose vehicle is involved in an accident resulting in the death of or serious physical injury to another person if a police

officer has probable cause to believe that the driver operated the vehicle while under the influence of alcohol, drugs, or both. Since the law requires the sample to be tested for drugs as well as alcohol, and breath samples cannot provide reliable evidence of the presence of drugs, the law, in effect, appears to require blood samples from surviving operators.

The testing of any such samples must be performed at the direction of a police officer according to methods and using equipment approved by DESPP. The person performing the test must be certified or recertified for this purpose by DESPP or recertified by someone certified as an instructor by DESPP.

Test equipment must be checked immediately before and after the test by someone who is DESPP-certified. If a blood test is performed, the sample must be taken by someone licensed to practice medicine and surgery, a qualified laboratory technician, a registered nurse, a physician assistant, or a phlebotomist.

Special Operator Permits (CGS § [14-37a](#))

By law, anyone who has had a driver's license suspended, except in certain instances, may apply for a special operator permit that allows certain work- or education-related driving. The DMV commissioner may condition issuance of a special operator permit on the driver operating only a vehicle equipped with an ignition interlock (CGS § [14-227j](#)(e)).

CDL Holders (CGS § [14-44k](#))

If someone holding a CDL (required to drive buses, large trucks, and trucks carrying hazardous materials) is convicted of DUI while driving a commercial or other vehicle, or found to have either refused to submit to a BAC test or taken and failed the test, he or she is disqualified from driving a commercial motor vehicle for one year. If an offense involves driving a vehicle transporting hazardous materials requiring placards under federal law, the disqualification is for three years (CGS § [14-44k](#)(b), (c) & (d)).

The disqualification applies for (1) any BAC test refusal, regardless of the type of motor vehicle he or she was driving; (2) a BAC result of .04% or more while driving a commercial motor vehicle or .08% or more while driving any other motor vehicle; or (3) a conviction of operating any vehicle while under the influence of alcohol, drugs, or both.

The disqualification periods apply to convictions in another state if the commissioner believes the offenses in those states are similar to those under Connecticut's administrative per se and implied consent law.

CDL holders who commit two or more of certain offenses, including DUI, are disqualified for life from driving a commercial motor vehicle. But most CDL holders disqualified for life may apply for reinstatement after 10 years if they have voluntarily enrolled in and successfully completed an addiction treatment program, as described above.

Second Degree Manslaughter with a Motor Vehicle

A person commits the crime of 2nd degree manslaughter with a motor vehicle when, while operating a motor vehicle under the influence of alcohol or any drug, he or she causes the death of another person as a consequence of the effect of the alcohol or drugs. The penalty is a prison term of up to 10 years, a fine of up to \$10,000, or both. The operator's driver's license is suspended for one year and he or she can only operate vehicles equipped with an ignition interlock device for two years after completing the suspension period (CGS § [53a-56b](#)).

Second Degree Assault with a Motor Vehicle

A person commits the crime of 2nd degree assault with a motor vehicle, when, while operating a motor vehicle under the influence of alcohol or drugs, he or she causes serious physical injury to another person as a consequence of the effect of alcohol or drugs. The penalty is a prison term of up to five years, a fine of up to \$5,000, or both. The operator's driver's license is suspended for one year and he or she can only operate vehicles equipped with an ignition interlock device for two years after completing the suspension period (CGS § [53a-60d](#)).

By law, a "serious physical injury" is one that creates a substantial risk of death, or causes serious (1) disfigurement, (2) impairment of health, or (3) loss or impairment of the function of any bodily organ (CGS § [53a-3](#)(4)).

PF:ro