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## Measurement of Alcohol in Blood, Breath or Urine

### Secs. 14-227a-1—14-227a-10.

Repealed, April 7, 2000.

### Secs. 14-227a-1a—14-227a-10a.

Repealed, August 30, 2005.

## Ignition Interlock Devices

### Sec. 14-227a-11a. Scope

(a) The purpose of sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies is to implement the provisions of the Connecticut General Statutes governing the installation and use of ignition interlock devices in motor vehicles. These sections include, inter alia, the procedures for the approval of ignition interlock devices, for the proper calibration and maintenance of such devices, for the installation of such devices by a person approved and authorized by the Department of Motor Vehicles, and for permitting a person to operate a motor vehicle after his or her Connecticut operator's license or non resident operating privilege has been suspended due to a conviction for a first, second or subsequent violation of subsection (a) of section 14-227a of the Connecticut General Statutes.

(b) Sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies shall apply only to those devices installed under authority of subsection (g) and (i) of section 14-227a, section 14-227j and subsection (i) of section 14-111 of the Connecticut General Statutes or any successor statutes.

(Adopted effective September 7, 2005, amended December 31, 2012)

### Sec. 14-227a-12a. Definitions

As used in sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Alcohol set point" or "start-up set point" means the blood alcohol content, established pursuant to subsection (a) of section 14-227j of the Connecticut General Statutes, at or above which the device shall prevent the motor vehicle in which it is installed from starting;

(2) "Applicant" means a manufacturer or its authorized representative seeking the Department's approval of an ignition interlock device;

(3) "Approval" means meeting and maintaining the requirements for placement on a list of approved ignition interlock devices;

(4) "Blood alcohol content" or "BAC" means the grams of ethyl alcohol per one hundred (100) milliliters of blood expressed as percentage, or grams of alcohol per 210 liters of breath;

(5) "Circumvent" means an overt attempt to bypass the ignition interlock device by providing samples other than the natural unfiltered breath of the operator, or by starting the vehicle without using the ignition switch, or any other act intended to allow the vehicle to start or continue to operate without the operator first taking and passing a breath test;

(6) "Commissioner" means the Commissioner of Motor Vehicles;

(7) "CSSD" means the Court Support Services Division of the Judicial Branch of the State of Connecticut;

(8) "Department" means the department of motor vehicles;

(9) “Device” means an ignition interlock device or breath alcohol ignition interlock device;

(10) “Failed rolling re-test” means a breath test taken by the operator of a vehicle equipped with an ignition interlock device while the vehicle is running that shows the operator has a BAC at or above the alcohol set point.

(11) “Failed start-up test” means a breath test taken by the operator of a vehicle equipped with an ignition interlock device prior to starting the vehicle’s ignition which registers a BAC at or above the alcohol set point, and which prevents the vehicle from starting;

(12) “Ignition interlock device,” or “IID,” also known as “breath alcohol ignition interlock device,” shall have the meaning set forth in subsection (a) of section 14-227j of the Connecticut General Statutes;

(13) “Independent testing laboratory” means a testing laboratory or analytical chemist not affiliated with a manufacturer of ignition interlock devices that is qualified to test ignition interlock devices or reference samples;

(14) “Installer” means a manufacturer’s representative who is authorized to install, maintain and remove an ignition interlock device;

(15) “Manufacturer” means any person engaged in the manufacturing or assembling of ignition interlock devices;

(16) “Model specifications” means the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIID) of the National Highway Traffic Safety Administration, published in Federal Register Volume 57, Number 67, pages 11772-11787, or any amendment thereto;

(17) “Owner” has the meaning set forth in subdivision (61) of subsection (a) of section 14-1 of the Connecticut General Statutes, and includes a lessee of a motor vehicle;

(18) “Purge” means the process whereby a device cleanses or removes a previous breath test sample from the device and specifically removes residual alcohol;

(19) “Rolling re-test” means a breath test required within randomly variable intervals while an operator is driving a vehicle equipped with an IID to ensure that the operator’s BAC remains below the alcohol set point;

(20) “Security” means the protection and safeguards incorporated into ignition interlock devices to ensure proper performance and to ensure against failure caused either by inherent defects or human tampering that causes the device not to operate as designated;

(21) “Service center” means a physical location in Connecticut where IIDs are installed, serviced and removed and includes mobile service units;

(22) “Service period” means the interval between service visits;

(23) “Service visit” means a required visit by the operator to a service center to have an IID inspected, monitored or maintained. An initial service visit shall be conducted within thirty (30) days of IID installation, and regularly thereafter in service periods of twenty-five (25) to thirty (30) days;

(24) “Tampering” means an overt attempt to physically alter or disable an IID, or disconnect it from its power source, or remove, alter or deface physical anti-tampering measures, so an operator is able to start or continue to operate the vehicle without taking and passing a required breath test and;

(25) “Violation” means one of the following acts or omissions by a person who is required to operate with an IID:

(a) Failing to appear for an IID service visit within five days of the scheduled service date;

- (b) A second or subsequent occasion of failing a rolling re-test;
- (c) Failing to submit to a rolling retest;
- (d) Tampering with or attempting to tamper with or circumventing or attempting to circumvent the IID, based upon a report to the commissioner and CSSD from the manufacturer or installer;
- (e) Operating a vehicle without a required IID;
- (f) Removing an IID without authorization;
- (g) Requesting or soliciting another person to blow into or otherwise activate the device for the purpose of providing the restricted driver with an operable motor vehicle.

(Adopted effective September 7, 2005; amended December 31, 2012)

### **Sec. 14-227a-13a. Adoption by reference**

The Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIID) of the National Highway Traffic Safety Administration, published in Federal Register Volume 57, Number 67, pages 11772-11787, as the same may be amended from time to time, are adopted by reference as regulations of the Department of Motor Vehicles.

(Adopted effective September 7, 2005)

### **Sec. 14-227a-14a. Application for approval of device**

(a) An applicant seeking approval of an IID shall apply to the commissioner on such forms as the commissioner may prescribe.

(b) The applicant shall certify the following with respect to each make or model device for which approval is sought:

- (1) The device does not impede the safe operation of the vehicle;
- (2) Circumvention and tampering opportunities are minimized;
- (3) The device correlates accurately with established measures of blood alcohol levels;
- (4) The device performs accurately and reliably in an unsupervised environment;
- (5) The device requires a proper and accurate measure of blood alcohol levels;
- (6) The device operates reliably over a range of motor vehicle environments or motor vehicle manufacturing standards;
- (7) The device provides an electronic record of the driver's experience with the device;
- (8) Regardless of make or model, or the fact that the device is leased or sold, it meets the requirements of sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies;
- (9) The device uses a fuel cell sensor;
- (10) The device shall be recalibrated and inspected and data from the device shall be downloaded every thirty (30) days; and
- (11) Breath test results shall not be subject to interference or alteration by radio signals.

(c) An applicant shall provide the commissioner with the following information:

- (1) The name and address of the manufacturer;
- (2) The name and model number of the device;
- (3) A detailed description of the device and its principal of operation, including instructions for its installation and operation;
- (4) Technical specifications descriptive of the device's accuracy, security, data collection and recording, tamper detection and environmental features;
- (5) A certificate from an insurance company authorized to do business in Connecticut providing evidence that the manufacturer holds product liability insurance with

minimum liability limits of one hundred thousand dollars (\$100,000) per occurrence, with three hundred thousand (\$300,000) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days notice shall be given to the commissioner prior to cancellation;

(6) A copy of drawings, schematics, installation manual and wiring protocols for the device and its components if requested, and to the extent such information is not claimed to be proprietary or would be subject to public disclosure;

(7) A list with the name, address, and license number of any person or firm that has been certified as qualified to install, maintain, calibrate or remove the applicant's device;

(8) Such other information as the commissioner may require.

(d) The applicant shall submit an affidavit to the commissioner, certifying that the individual submitting the application is authorized by the manufacturer to act on its behalf.

(e) The applicant shall agree that it shall bear the costs associated with processing the application, including the costs of providing the commissioner with an affidavit from an independent testing laboratory regarding the make and model of device for which approval is sought.

(f) The applicant shall provide an affidavit from an independent testing laboratory certifying that the make and model of device submitted for approval meets or exceeds all requirements set in sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies. Such affidavit shall further provide:

- (1) The name and location of the independent testing laboratory;
- (2) The address and telephone number of the independent testing laboratory;
- (3) A description of the tests performed;
- (4) Copies of the data and results of the testing procedures; and
- (5) The names and qualifications of the individuals performing the tests.

(g) The applicant shall agree to provide the commissioner with written notification of any denial, suspension or revocation by any government authority of an approval of its device within thirty (30) days of the date that the manufacturer receives notice of such action.

(Adopted effective September 7, 2005; amended December 31, 2012)

### **Sec. 14-227a-15a. Additional specifications**

Each device shall meet the following requirements:

- (1) Automatically purge residual alcohol before allowing subsequent tests; and
- (2) Provide encryption so that data stored in the device is kept secure and protected from public access.

(Adopted effective September 7, 2005)

### **Sec. 14-227a-16a. Reports required of the manufacturer**

The manufacturer shall provide the following to the commissioner:

- (1) An affidavit which shall be resubmitted on an annual basis, stating that the model of device originally approved by the commissioner has not been modified or altered in any way, so as to require retesting by an independent testing laboratory;
- (2) An annual summary of all complaints received in connection with its operations in this state and corrective actions taken by the manufacturer for each model of approved device;

(3) Written notification of the denial, suspension or revocation of a device by any unit of government at any time. Such notice shall be provided to the commissioner within thirty (30) days of the date that the manufacturer receives notice of the action; and

(4) Such other information as the commissioner may require.

(Adopted effective September 7, 2005)

#### **Sec. 14-227a-17a. Costs**

Costs charged by independent testing laboratories and all other costs of obtaining the commissioner's approval of a device shall be paid by the applicant.

(Adopted effective September 7, 2005)

#### **Sec. 14-227a-18a. Suspension or revocation of device approval**

(a) Approval of a device may be suspended or revoked, and the device removed from the list of approved devices, upon the occurrence of any of the following:

(1) Evidence of repeated failures due to gross defects in design, materials or workmanship during manufacture;

(2) Voluntary request of the manufacturer;

(3) Misrepresentations regarding the ability of the device to meet performance standards;

(4) Failure to submit required reports to the commissioner;

(5) Denial, suspension or revocation of an approval by any unit of government at any time; or

(6) Other reasonable cause.

(b) The effective date of a suspension or revocation shall be fifteen (15) days after notification is mailed to the manufacturer, except in cases where the commissioner determines immediate suspension or revocation is required to protect the public health, safety or welfare.

(c) Within fifteen (15) days of receipt of notice of suspension or revocation, the manufacturer may request reconsideration of the decision.

(Adopted effective September 7, 2005)

#### **Sec. 14-227a-19a. Approval of IID installers**

(a) In order to install, inspect, maintain, calibrate or remove an IID, a person or firm shall be identified on a current official list of installers submitted to the commissioner by each manufacturer of an approved IID. Each installer shall be trained and certified by the manufacturer. Each manufacturer shall provide to the commissioner such information concerning each of its installers as the commissioner may request, including an estimate of the charges of each such installer to install, inspect, maintain, calibrate and remove an IID. Each installer shall have at least one fixed location with a street address in Connecticut that serves as its base of operations and at which records are maintained.

(b) If the commissioner has reason to believe that any installer is performing its responsibilities in any manner that is detrimental to, and not in the best interests of, the administration of any provision of sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies, including any matter set forth in section 14-227a-24a of the Regulations of Connecticut State Agencies, the commissioner shall notify the manufacturer to take appropriate action to rectify the situation, up to and including the revocation of the certification of such installer.

(c) An installer shall be authorized to install, maintain, calibrate or remove only that device, or devices, listed in the manufacturer's certification letter.

(d) No installer shall permit customers or other unauthorized persons to observe the installation, servicing, calibration or removal of a device.

(Adopted effective September 7, 2005; amended December 31, 2012)

#### **Sec. 14-227a-20a. Installation of IID**

(a) Prior to installing an IID, the Installer shall obtain a written authorization to perform the work from the owner of the motor vehicle, on an invoice signed by the owner, which shall include an estimate of the cost of installation, together with a written copy of the list of costs for periodic inspection of the device, maintenance, calibration and removal.

(b) The Installer shall provide the department with written notification whenever an IID is installed in or removed from a motor vehicle in accordance with sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies. The notification shall include the name and operator's license number of the person who requested to have the device installed or removed from a motor vehicle, the odometer reading of the vehicle in which the device is to be installed or removed and a description of the motor vehicle, including the vehicle identification number.

(Adopted effective September 7, 2005; amended December 31, 2012)

#### **Sec. 14-227a-21a. Maintenance and calibration of IID device**

(a) At the time of installation, the Installer shall provide the owner of the motor vehicle with a written schedule of required inspections. The Installer shall inspect the IID every thirty (30) days to insure that the device is working properly and, in this regard, shall perform any necessary maintenance or calibration and shall record the mileage from the vehicle's odometer. If the manufacturer or installer removes and replaces an existing device, or any part thereof, in connection with the maintenance or calibration of the device, such removal and replacement shall be completed at a service center.

(Adopted effective September 7, 2005; amended December 31, 2012)

#### **Sec. 14-227a-22a. Reports of operator default or violation**

(a) The Installer, manufacturer or manufacturer's representative shall immediately file a report with the commissioner, CSSD and such other entities as the commissioner designates in such manner as the commissioner requires, upon discovering: (1) Evidence of circumventing, disabling or tampering with a device; (2) Failing a rolling re-test; (3) Failing to submit to a rolling re-test; (4) A failed start-up test; (5) A missed service visit or; (6) Removal of the device.

(b) The report shall include the following information: (1) Name and position of the person submitting the report; (2) Date and time of the incident or violation giving rise to the report; (3) Reason for the report and if applicable, documentation to support the report; (4) Driver's name and driver license number and; (5) Registration number and vehicle identification number of the vehicle in which the device is installed.

(Adopted effective September 7, 2005; amended December 31, 2012)

#### **Sec. 14-227a-23a. Maintenance of records**

The Installer, manufacturer or manufacturer's representative shall keep a record of the installation, inspection, maintenance, calibration and removal of each IID. The record shall be maintained for a period of five (5) years, and shall be made available for inspection by the department at any time upon twenty-four (24) hours notice.

(Adopted effective September 7, 2005; amended December 31, 2012)

**Sec. 14-227a-24a. Suspension or revocation of installer**

(a) A manufacturer shall suspend or revoke a person's or firm's authorization as an Installer for any of the following reasons:

(1) The Installer failed to properly install, inspect, maintain, calibrate or remove an IID;

(2) The Installer failed to make a required report to the commissioner in accordance with sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies;

(3) The Installer failed to make or maintain the records in accordance with sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies;

(4) The Installer tampered with the IID; or

(5) Any other reasonable cause related to the installation, inspection, maintenance, calibration or removal of an IID.

(b) The manufacturer shall notify the commissioner promptly in writing of any action taken pursuant to subsection (a) of this section.

(Adopted effective September 7, 2005; amended December 31, 2012)

**Sec. 14-227a-25a. List of approved IIDs and installers**

The department shall maintain an official list of approved IIDs, of manufacturers, and of certified Installers. The department also shall maintain contact information, including toll free telephone numbers, for manufacturers whose IIDs have been approved. Such list and information shall be made available to any person who seeks to have an IID installed in accordance with sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of State Agencies.

(Adopted effective September 7, 2005; amended December 31, 2012)

**Sec. 14-227a-26a. Permission to operate motor vehicle with an IID**

(a) Any person who is ordered by the Superior Court not to operate any motor vehicle unless such motor vehicle is equipped with an IID shall apply to the commissioner for permission to install and use such a device in all motor vehicles owned by such person or operated by such person. The commissioner shall grant such permission if: (1) the commissioner has received reliable information that such order has been made, including any special conditions imposed by the court and (2) such person's license or operating privilege is not under suspension by the commissioner or is currently scheduled, as of a date certain, to be suspended for any reason or cause other than an existing suspension pursuant to section 14-227b of the Connecticut General Statutes.

(b) Any person who is convicted of a first or second violation as indicated on such person's driving history as maintained by the commissioner, of subdivision (1) or (2) of subsection (a) of section 14-227a of the Connecticut General Statutes and, as a consequence, has had his or her motor vehicle operator's license or nonresident operating privileges suspended, shall apply to the commissioner for permission to operate a motor vehicle that is equipped with an approved IID. The commissioner shall grant such permission if: (1) such person has been convicted on or after January 1, 2012 and has served not less than forty-five days of such suspension; (2) such person has installed an approved IID in each motor vehicle owned or to be used by such person, and (3) such person's license or operating privilege is not under suspension by the commissioner or currently scheduled, as of a date certain, to be suspended for any other reason or cause other than an existing suspension pursuant to section 14-227b of the Connecticut General Statutes.

(c) The commissioner shall not restore the motor vehicle operator's license or operating privilege of any person who is convicted of a first or second violation of subdivision (1) or (2) of subsection (a) of section 14-227a of the Connecticut General Statutes, until such person has installed an approved IID in each of the driver's motor vehicles, as defined in 23 Code of Federal Regulations, section 1275.3 (b), and shall not authorize the removal of the device until such person has maintained it for the period of time required by law, including any extension of such period that is imposed by the commissioner pursuant to subsection (b) of section 14-227a-27a of the Regulations of Connecticut State Agencies.

(d) The commissioner shall establish a procedure for any person identified in subsections (a), (b) or (c) of this section to obtain permission to operate a motor vehicle that is equipped with an approved IID. The procedure shall require each such person to complete and execute a written application, which shall contain such information and affirmations by such person as the commissioner may prescribe. Prior to having an approved IID installed, any person seeking to operate a motor vehicle equipped with an approved IID may request a preliminary determination from the department as to whether such person otherwise meets the requirements, as stated in subsections (a) and (b) of this section, for such person's application to be granted. The commissioner shall make available for review by CSSD application materials and driver records of all persons who apply for IIDs.

(e) If permission is granted to a person by the commissioner under subsection (d) of this section, the department shall place a notation on the official record of such person's license or Connecticut operating privilege, to indicate that such license or privilege is restricted, and that the holder is authorized to operate motor vehicles that are equipped with an approved, properly functioning IID, and no other motor vehicles. Such restriction shall be known as an IID restriction. The commissioner may place the designation "IID" or similar designation, on the operator's license record of any person who is granted permission to operate a motor vehicle in accordance with the provisions of this section. The department shall take steps necessary to furnish information concerning each IID restriction to the Connecticut On-Line Law Enforcement Communications Teleprocessing System (COLLECT system).

(f) If permission as described herein is granted by the commissioner, it shall be the responsibility of such person to have each motor vehicle, owned or operated by such person, that is equipped with the IID inspected by the Installer every thirty (30) days to insure that the device is operating properly, and that the device is properly maintained and calibrated.

(g) The person shall be provided with a document by the department evidencing the fact that the commissioner has granted such person permission to operate a specific vehicle or vehicles equipped with an IID. This document shall be kept in the vehicle whenever the person is operating the vehicle.

(h) A person who has been ordered by a court to operate only a vehicle equipped with an IID as described in subsection (a) of this section shall not be permitted to remove the IID until the commissioner receives documentation from such court that the order is no longer in effect. A person who is authorized to operate with an IID as a result of a conviction under subdivision (1) or (2) of subsection (a) of section 14-227a of the Connecticut General Statutes, as described in subsection (b) of this section, shall not remove an IID until the commissioner notifies such person that he or she has fulfilled the IID restriction.

(Adopted effective September 7, 2005; amended December 31, 2012)

**Sec. 14-227a-27a. Suspension or revocation of permission to operate with an IID**

(a) The commissioner shall suspend or revoke a person's permission to operate a motor vehicle equipped with an IID, in accordance with sections 14-227a-11a to 14-227a-28a, inclusive, of the Regulations of Connecticut State Agencies in the event that such person is convicted of an offense or violation of law that requires a suspension of the license or operating privilege. After such person serves the license or privilege suspension, the IID restriction shall resume for the duration of the original IID period, and shall be extended for the length of time that such suspension was in effect and if applicable, for any additional time specified in subsection (b) of this section.

(b) For each violation of the IID restriction, as defined in section 14-227a-12a of the Regulations of Connecticut State Agencies, the duration of the operator's IID restriction shall be extended by thirty (30) days. The unauthorized removal of a device shall also result in an additional extension of the IID restriction for a period equal to the time that the operator did not have a device on a motor vehicle.

(c) The operator shall be provided with written notice and an opportunity for a hearing, held in accordance with the provisions of Chapter 54 of the Connecticut General Statutes, to contest the proposed suspension or revocation of permission to operate with an IID or for the extension of the IID period under one or more provisions of sections 14-227a-11a through 14-227a-28a of the Regulations of Connecticut State Agencies.

(d) In addition to taking any action authorized by subsection (b) of this section, if the commissioner becomes aware of any reliable information that a person who has been permitted to operate a motor vehicle equipped with an IID has requested or solicited another person to blow into an IID or to start a motor vehicle equipped with an IID for the purpose of providing such person with an operable motor vehicle, in violation of subsection (a) of section 14-227k of the Connecticut General Statutes, or that such person or any other person has tampered with, altered or bypassed the operation of an IID in order to use such vehicle for transportation purposes in violation of subsection (b) of section 14-227k of the Connecticut General Statutes, the commissioner shall report such information to the appropriate law enforcement or prosecuting authority. If the commissioner receives reliable information that an operator has requested or solicited another person to provide a breath sample for the IID, the commissioner may require that such operator install a device with biometric capabilities or that is equipped with a camera.

(Adopted effective September 7, 2005; amended December 31, 2012)

**Sec. 14-227a-28a. Third or subsequent convictions**

Sections 14-227a-11a through 14-227a-27a of the Regulations of Connecticut State Agencies shall apply to the installation and use of an IID authorized after a hearing held in accordance with section 14-111(i)(2) as the result of a third or subsequent conviction for a violation of subdivision (1) or (2) of subsection (a) of section 14-227a of the Connecticut General Statutes.

(Effective December 31, 2012)

**Forensic Chemical Testing  
of Blood, Breath or Urine (Motor Vehicle)**

**Sec. 14-227a-1b. Definitions**

As used in sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies:

- (1) “Alveolar” means air expired from the deepest part of the lungs;
- (2) “Analyst” means an individual trained and certified in toxicological laboratory procedures;
- (3) “Blood alcohol content” means the grams of ethyl alcohol per one hundred (100) milliliters of blood expressed as percentage, or grams of alcohol per 210 liters of breath;
- (4) “Commissioner” means the Commissioner of Public Safety or such commissioner’s designee;
- (5) “Department” means the Department of Public Safety, Division of Scientific Services;
- (6) “Device or instrument” means any apparatus and associated accessories of which alcohol or drug content in a sample is qualitatively and quantitatively determined and reported. Such apparatus may indicate an equivalent blood alcohol content;
- (7) “Direct breath alcohol test” or “direct breath alcohol testing” means the test of a sample of an individual’s expired breath using an instrument designed for this purpose in order to determine the concentration of ethyl alcohol in the individual’s blood;
- (8) “Instructor” means an individual trained and certified to make an analysis with a direct breath alcohol testing device or instrument and to train operators in the conduct of such test;
- (9) “Laboratory” means any place or area in which any sample of blood, breath or urine is subjected to a chemical or instrumental analysis. Such definition shall not include a place or area under the jurisdiction of, or controlled by, a law enforcement agency or the Department of Public Safety in which direct breath alcohol tests are performed;
- (10) “Operator” means an individual trained and certified to make an analysis with a direct breath alcohol testing device or instrument certified or approved by the commissioner;
- (11) “Person” shall have the meaning ascribed to it in subsection (k) of section 1-1 of the Connecticut General Statutes, except that it is not intended to include any hospital or clinical laboratory; and
- (12) “Phlebotomist” means a person whose normal duties include withdrawing blood samples.

(Adopted effective August 30, 2005)

### **Sec. 14-227a-2b. General requirements and exemptions**

Sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies, shall apply to the forensic chemical testing of blood, breath and urine when the results thereof may be offered as evidence in a court of law or in an administrative proceeding affecting persons suspected of operating a motor vehicle while under the influence of intoxicating liquor or drug or both. Sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies, shall not apply to samples collected and analyzed for other purposes, such as medical diagnostic testing.

(Adopted effective August 30, 2005)

### **Sec. 14-227a-3b. Approval and certification required**

(a) No person shall operate a laboratory for the performance of forensic chemical testing within the scope of sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies, until the commissioner approves the

methods of conducting the analyses and certifies each analyst who will be performing such chemical tests.

(b) To be eligible for approval, a method shall be based upon one or more of the following quantitative techniques:

- (1) titration with potassium dichromate;
- (2) use of alcohol dehydrogenase;
- (3) gas chromatography;
- (4) infrared analysis;
- (5) fuel cell analysis;
- (6) gas chromatography/mass spectrometry;
- (7) enzyme immunoassay; or
- (8) high performance liquid chromatography.

(c) The commissioner may approve a method not based on the techniques listed in subsection (b) of this section, provided that such alternative method produces a comparable degree of precision and accuracy.

(d) Test results shall not be reported until the requirements of subsection (a) of this section are met. Failure to obtain such approvals or certifications may result in the suspension or revocation of any approvals or certifications subsequently obtained.

(Adopted effective August 30, 2005)

#### **Sec. 14-227a-4b. Application for approval of methods and equipment**

Application for approval of the methods to be used in conducting analyses shall be made to the commissioner by the person seeking to operate the laboratory where such analyses are to be performed. The application shall be in writing, shall be accompanied by a complete description of the proposed method or methods, including specifications for laboratory sampling equipment and associated accessories, and shall include any additional information that the commissioner may require in evaluating the application. Citation to any publication wherein such proposed method or methods have been described may be substituted in whole or in part for a written description. The commissioner may consider design, susceptibility to environmental influences or other limitations, and any other factors relevant to a determination of whether the device or instrument should be approved for use, even in instances where the initial test results are accurate.

(Adopted effective August 30, 2005)

#### **Sec. 14-227a-5b. Application for certification of analysts to perform tests**

An individual or his or her employer may apply for certification to allow the individual to perform alcohol or drug analyses. Such application for certification as an analyst shall be in writing, shall be accompanied by a statement of the training and experience of the applicant, and shall include any additional information that the commissioner may require in evaluating the application.

(Adopted effective August 30, 2005)

#### **Sec. 14-227a-6b. Granting of approvals and certifications**

(a) An approval or certification shall be made subject to such conditions as the commissioner determines are necessary to protect the health and safety of persons who submit to chemical analyses and to insure reasonable accuracy of results.

(b) An applicant for certification as an analyst shall be required to demonstrate the ability to perform and control such alcohol or drug analyses or to operate and control analytical devices or instruments before certification is granted.

(c) An approval or certification shall be subject to periodic review by the commissioner. Such review shall include performance evaluations.

(d) Approval of an analytic method shall include the equipment and associated accessories specified in the application for approval, provided that such equipment is, in the opinion of the commissioner, properly maintained.

(Adopted effective August 30, 2005)

### **Sec. 14-227a-7b. Suspension or revocation of approval or certification**

The commissioner may suspend or revoke an approval or certification in instances where such commissioner determines that fraudulent or inaccurate test results are being reported or where it is proven that the performance or practices of a laboratory or certified analyst or operator are otherwise unethical or unsatisfactory. For the purposes of this section, the term “unsatisfactory” may include, but its definition shall not be limited to, any violation of the provisions of sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective August 30, 2005)

### **Sec. 14-227a-8b. Operation and use of devices or instruments**

(a) No device or instrument may be used to conduct analyses in accordance with the provisions of sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies, until the commissioner inspects such device or instrument and determines that it is capable of providing accurate results.

(b) Only an analyst or operator may operate a device or instrument.

(c) Each time a sample is analyzed by a device or instrument other than a direct breath alcohol testing device or instrument, the analyst shall analyze duplicate samples.

(d) An analyst shall check each device or instrument for accuracy immediately before and after each test. An operator shall verify the accuracy of a direct breath alcohol testing device or instrument immediately before and after each test.

(Adopted effective August 30, 2005)

### **Sec. 14-227a-9b. Requirements for the conduct of the testing and analysis of blood and urine**

#### **(a) Requirements for blood collection**

(1) Blood shall be withdrawn by a person licensed to practice medicine and surgery in this state, a phlebotomist as defined in subdivision (12) of section 14-227a-1b of the Regulations of Connecticut State Agencies, a qualified laboratory technician, an emergency medical technician II, a registered nurse or such other occupational classification as the commissioner determines may competently and safely withdraw blood for the purposes of sections 14-227a-1b to 14-227a-10b, inclusive, of the Regulations of Connecticut State Agencies.

(2) Blood samples shall be collected using a sterile syringe and hypodermic needle or other equipment of equivalent sterility. The skin at the area of puncture shall be thoroughly cleansed and disinfected, provided that any solution containing ethyl alcohol shall not be used as a skin antiseptic.

(3) Containers and other equipment for sample collection shall be of a type that will preserve the integrity and suitability of the sample from the time of collection until analysis. Following collection, the container for each sample shall be sealed and labeled. Only those samples that have been properly sealed shall be analyzed.

**(b) Requirements for urine testing**

(1) The police officer collecting the sample shall monitor the collection of the sample to ensure that adulteration or misidentification does not occur. Collections shall be monitored by a police officer of the same gender as the individual from whom the sample is obtained.

(2) Containers and other equipment for sample collection shall be of a type that will preserve the integrity and suitability of the sample from the time of collection until it is analyzed. Following collection, the container for each sample shall be sealed and labeled. Only those samples that have been properly sealed shall be analyzed.

**(c) Requirements for blood and urine tests**

(1) No analysis result may be reported or used for the purposes specified in section 14-227a-2b of the Regulations of Connecticut State Agencies, unless the method or methods used to conduct the analysis have been approved by the commissioner and such analysis is performed by an analyst.

(2) In conducting the analysis, the analyst shall use standards and controls approved by the commissioner.

(3) All tests shall be performed in duplicate. Alcohol test results shall be reported to the requesting agency only when the duplicate results correspond to each other within 5 percent of the mean value. Drug test results shall be reported to the requesting agency only when the duplicate results correspond to each other within 20 percent of the mean value.

(4) All reports, written and oral, shall indicate the determined or equivalent blood alcohol content in terms of hundredths of a percent. When determinations are made to the nearest thousandth of a percent, results shall be truncated to the first two digits after the decimal point. For example, a determination of 0.149 percent shall be reported as 0.14 percent.

(Adopted effective August 30, 2005)

**Sec. 14-227a-10b. Direct breath alcohol test**

(a) No person shall operate a direct breath alcohol test device or instrument unless such person has been certified by the commissioner and is employed by a law enforcement agency or the department. Such operator shall conduct tests according to methods and with such devices and instruments approved by the commissioner and shall verify the accuracy of the device or instrument immediately before and after each test.

**(b) Approval of device or instrument****(1) Standard of performance**

Approval of a particular type and model of device or instrument shall be based on a laboratory evaluation of each device or instrument and its accessories to meet the following standard of performance:

(A) The device or instrument shall be capable of collecting and analyzing breath samples that are alveolar in composition;

(B) The device or instrument shall be capable of accurately analyzing a blank sample and suitable reference samples, such as air equilibrated with reference solutions of known alcohol concentration at known temperature; and

(C) The device or instrument shall be capable of alcohol analyses that result in a concentration less than one hundredth (0.01) gram per 210 liters of air, i.e. one hundredth (0.01) percent, when alcohol-free subjects are tested.

**(2) Evaluation and approval**

(A) The applicant shall provide the commissioner with each device or instrument and all related accessories for which approval is sought, complete operating instruc-

tions, and such other materials or technical assistance as the commissioner may require to conduct an evaluation of the application.

(B) The commissioner may also approve modified versions of such devices or instruments and accessories when the modifications do not alter the capabilities of the devices or instruments and their associated accessories to meet the standards of performance as provided in subdivision (1) of this subsection.

(3) Certification of specific devices or instruments

(A) Each device or instrument shall be examined and certified prior to being placed in operation and after repairs that affect or alter its calibration. Repairs to printers shall not be subject to the requirements of this subdivision.

(B) Annual certification shall not be required.

(c) **Methods for conducting direct breath alcohol tests**

All direct breath alcohol tests shall be conducted in accordance with the following procedures:

(1) Sample collection

(A) The expired breath sample shall be air that is alveolar in composition. The breath sample shall be collected only after the subject has been monitored for at least 15 minutes prior to the collection of each sample. During this period, the test subject shall not have ingested alcoholic beverages or food, regurgitated or smoked.

(B) Samples of the test subject's breath shall be collected with a device or instrument approved in accordance with subsection (b) of this section.

(2) Operation of device or instrument

(A) Operators shall follow the manufacturer's operating instructions for the device or instrument, unless the commissioner has accepted a modification of such instructions. If the instructions have been so modified, then the instructions as modified shall be followed. The operating instructions applicable to the device or instrument shall be available at each location where a device or instrument is used.

(B) All agencies using a device or instrument shall make available for inspection by the commissioner all devices or instruments used by them, together with the current logbook associated with each such device or instrument. Such logbook shall include the identity of each operator using the device or instrument, the frequency with which the device or instrument has been checked for accuracy and the results of each subject's analysis and calibration.

(d) **Certification of operators and instructors**

(1) Certification of operators

(A) General requirements

An operator of a direct breath alcohol testing device or instrument shall meet the following requirements:

(i) Employment by a law enforcement agency or the department;

(ii) Successful completion of at least four hours of training in the operation of the device or instrument to be used. Such training may be acquired by attending training courses offered by the department or by certified instructors; and

(iii) Demonstration to the commissioner of the proper use and application of such device or instrument.

(B) Proficiency instruction and review

(i) At any time after certification, the commissioner may require an operator to satisfactorily demonstrate proficiency in the use of such device or instrument.

(ii) Each operator shall demonstrate to a certified instructor competence in the operation of a device or instrument at least once during the 12-month period following

the last such demonstration. The results of each such review shall be reported to the commissioner.

(2) Certification of instructors

In order to be certified as an instructor in the use of a direct breath alcohol test device or instrument, the following requirements shall be met:

(A) Employment by a law enforcement agency or the department;

(B) Successful completion of at least seven hours of instruction approved by the commissioner on a designated device or instrument. Such instruction shall include the following:

(i) The theory of the devices or instruments used in the analytical process that measures the alcohol content of the blood;

(ii) Practical application and experience in the use of such devices or instruments; and

(iii) Presentations and discussions of the pharmacological and physiological effects of alcohol on the human body.

(C) Proficiency instruction and review

Each instructor shall attend an annual course of instruction conducted by the commissioner.

(e) **Revocation of certification of operators and instructors**

(1) The commissioner may revoke a certification issued to an operator for the following reasons:

(A) Failure to remain employed by a law enforcement agency or the department;

(B) Misuse of the device or instrument or incompetence in the performance of tests; or

(C) Failure to participate in proficiency review and testing or failure to properly perform tests during proficiency review and testing.

(2) The commissioner may revoke a certification issued to an instructor for the following reasons:

(A) Failure to remain employed by a law enforcement agency or the department;

(B) Failure to demonstrate knowledge of the device or instrument or testing procedures to the extent necessary to instruct operators; or

(C) Failure to attend an annual course of instruction conducted by the commissioner.

(Adopted effective August 30, 2005)