



# CONNECTICUT FINES FOR PERSONAL HEALTH AND SAFETY VIOLATIONS

By ELIZABETH C. YEN

**S**ection 2 of Governor Lamont's Executive Order No. 9B authorizes the imposition of certain fines on individuals who do not observe pandemic face covering requirements or social gathering size restrictions in effect during the public health emergency, by amending (adding to) the list of violations

that appears in Conn. Gen. Stat. Section 51-164n(b). Fines range from \$100 for not wearing a mask or cloth face-covering under circumstances where appropriate social distancing cannot be maintained, to \$500 for organizing, hosting, or sponsoring a gathering that violates pandemic gathering size restrictions. Pursuant to Section 51-164n(e), failure to follow the face covering requirements and social gathering size restrictions described in Section 2 of Executive Order No. 9B is not treated as an offense for purposes of Connecticut's penal code. The governor thus chose not to rely on Section 19a-131a(d), which allows an individual who violates the governor's public health emergency

order to be fined up to \$1,000 and/or imprisoned for up to one year, although the Executive Order does not waive or suspend any penalties or remedies available under Section 19a-131a or other applicable law. Pursuant to Section 51-164n(c), a person may voluntarily choose to pay the fine without any admission of having engaged in conduct justifying the fine, in which case the person is deemed to have entered a plea of *nolo contendere* and such a plea and payment of such a fine is inadmissible in any civil or criminal proceeding to establish the conduct of such person. Section 51-164n(g) also allows a person to plead not guilty and then subsequently reach an agreement with the prosecutorial officer concerning the amount of the fine to be paid, without appearing before a judicial authority. Such an agreement is also treated as a plea of *nolo con-*

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tendere, and is inadmissible in any civil or criminal proceeding to establish the conduct of such person.

Municipalities and institutions of higher education have discretion to levy the fines described in Section 2 of Executive Order No. 9B. Conn. Gen. Stat. Section 7-148(c)(7)(H)(xi) gives municipalities authority to take “necessary or desirable” steps “to secure and promote the public health.” Some mayors have announced that they do not expect municipal officials to issue fines to their towns’ residents pursuant to Executive Order No. 9B.

The somewhat controversial issue of fines that may be levied on individuals during the present public health emergency could be put into better context when compared to other statutory fines that may be imposed on an individual for unnecessarily endangering the individual’s own health or the health and safety of others. For example, Conn. Gen. Stat. Section 14-100a generally requires operators and front seat passengers of motor vehicles to wear the seat safety belts that were originally installed in the vehicles (meeting federal safety requirements) while the vehicles are operated on public roads and highways. Violation of this seat safety belt statute is an infraction, and fines range between \$50 and \$75 depending on the age of the driver or front seat passenger. (See Section 14-100a(c)(4).) However, failure to wear a seat safety belt may not be considered contributory negligence and is not admissible in any civil action. (Section 14-100a(c)(3).) In addition, no points may be assessed against the operator’s license of any person convicted of failing to wear a seat safety belt. (Section 14-100a(c)(4).)

Similarly, operators and passengers of motorcycles must wear protective headgear if they are under the age of 18. (Conn. Gen. Stat. Section 14-289g.) Violation is a motor vehicle infraction and subject to a fine of at least \$90. Pursuant to Section 51-164n(c), a person charged with an infraction may choose to pay the fine without contesting whether the person did in fact commit the alleged infraction, in which case the payment of the fine is inadmissi-

ble in any civil or criminal proceeding to establish the conduct of such person, and no points may be assessed by the Department of Motor Vehicles (DMV) against the operator’s license of such person for such an uncontested infraction.

Section 14-286d(c) allows law enforcement officers to issue verbal warnings to parents and guardians of children 15 years of age or younger operating a bicycle, electric bicycle, nonmotorized scooter, skateboard, or electric foot scooter, or wearing roller skates or in-line skates on a public road, highway, or at a park without proper protective headgear, as required by Section 14-286d(b). However, Section 14-286d(b) provides that a failure to comply with the protective headgear requirement “shall not be a violation or an offense,” and “shall not be considered to be contributory negligence on the part of the parent or the child.” In addition, no such failure is admissible in any civil action. (In contrast, a business that rents bicycles, electric bicycles, or electric foot scooters, and that fails to provide required protective headgear to a person under 16 years of age who will be operating the bicycle or scooter and who does not already have such headgear in his or her possession, commits an infraction. See Section 14-286d(d).)

Section 21a-431 requires persons under 18 years of age to wear protective headgear in order to enter a commercial, nonprofit, or municipally operated baseball batting cage for the purpose of hitting from an automated pitching machine. However, failure to comply with the statute “shall not be a violation, offense or statutory cause of action.”

Seat belt and protective headgear requirements are primarily focused on the health and safety of the individual required to wear the seat belt or headgear. However, the general public benefits from seat belt and protective headgear requirements in several respects, including (for example) reductions in taxpayer- and insurance-subsidized health care costs associated with certain preventable accidents, and improved allocation of limited emergency

health care resources to less readily preventable medical traumas.<sup>1</sup> Seat belt and protective headgear requirements may also increase the likelihood that an operator or passenger of a motor vehicle or motorcycle could continue to operate the vehicle or take other appropriate action after certain accidents.

Higher penalties apply to motor vehicle operators who violate the hands-free telecommunications device provisions of Section 14-296aa. Driving a motor vehicle while using a hand-held telephone or similar communications device clearly jeopardizes the health and safety of not just the driver and any passengers in the vehicle, but also third parties in the path of the motor vehicle. Section 14-296aa(h) provides for fines ranging from \$150 for a first violation to \$500 for a third or subsequent violation. The violation appears in the operator’s official motor vehicle driver history record that is available to motor vehicle insurers. (Section 14-296aa(k).) One point is assessable against the operator’s license even if the operator chooses to pay the fine without contesting the allegations giving rise to the fine. (See Conn. Gen. Stat. Section 14-137a and Conn. Regs. Section 14-137a-5.) The fine for a second violation of the hands-free telecommunications device requirements in Section 14-296aa (\$300) is slightly more than the \$250 fine that may be imposed on an individual who attends a gathering that violates pandemic gathering size restrictions. The \$500 fine for a third or subsequent violation equals the fine that may be imposed on a person who organizes, hosts or sponsors such an oversized gathering.

Willful or negligent obstruction of an ambulance or emergency medical service vehicle (for example, by not moving to the right and stopping, or by obstructing an intersection) may result in a maximum \$250 fine. (See Section 14-283(h).) This is comparable to the \$250 fine in Executive Order 9B for attending a gathering that violates pandemic gathering size restrictions. The statutory duty to give emergency vehicles clear passage and right of way applies if the vehicles are responding to an emergency call or fire, or taking pa-

## CONNECTICUT FINES

tients to a hospital, or (in the case of vehicles used by police) in pursuit of fleeing law violators. Section 14-283(h) is included in the list of violations that appears in Conn. Gen. Stat. Section 51-164n(b). The motor vehicle operator therefore may choose to pay the fine without contesting the allegations giving rise to the fine, in which case the fact that the operator paid a fine relating to an alleged violation of Section 14-283(h) is inadmissible in any civil or criminal proceeding to establish the conduct of the operator, and no points may be assessed by the DMV against the operator's license for such an uncontested violation.

Driving a motor vehicle without a valid operator's license is subject to a range of fines and penalties, depending on such things as the number of previous violations, and whether the operator's license was previously refused, suspended, or revoked. (See, e.g., Conn. Gen. Stat. Sections 14-36 and 14-215.) If a person has not yet applied for (and therefore has not yet been refused) an operator's license and drives without any license, fines range from a low of \$75 for a first offense to potentially \$500 for a subsequent offense (with the possibility of a term of imprisonment).

Consistent with the state's heightened responsibilities for the welfare of young

children and infants, Connecticut imposes stiffer penalties for certain violations of motor vehicle child restraint system requirements. For example, violating provisions in Section 14-100a(d) concerning use of appropriate child restraint systems in motor vehicles may be subject to a fine of not more than \$199 for a second violation (the first violation is an infraction and potentially subject to a fine between \$50 and \$90 if there is a guilty plea or verdict at trial, pursuant to Section 51-164n(h)). For a third or subsequent violation of the child restraint requirements of Section 14-100a(d), the violation is a class A misdemeanor subject to imprisonment of up to one year and/or a fine of up to \$2,000. (See Conn. Gen. Stat. Sections 53a-26(d) and 53a-42.) Persons who have committed a first or second violation may also be required to attend a DMV-approved child car seat safety course (and failure to successfully complete such a course may result in suspension of the operator's license for not more than two months). (See Section 14-100a(d)(5).) Section 14-100a(d)(2) provides that the failure to use a child restraint system in a passenger motor vehicle may not be considered contributory negligence and is not admissible evidence in any civil action.

Failure to stop a motor vehicle at least 10 feet away from a school bus displaying

flashing red signal lights, or turning a motor vehicle onto a road at an intersection towards a school bus that is receiving or discharging passengers, is subject to a \$450 fine for the first offense. (See Section 14-279.) For a second or subsequent offense, the motor vehicle operator may be fined a minimum of \$500 and a maximum of \$1,000, and/or imprisoned for up to 30 days.<sup>2</sup> As is the case with obstruction of an ambulance or emergency medical service vehicle, a motor vehicle operator who is assessed a fine pursuant to Section 14-279 may choose to pay the fine without contesting the allegations giving rise to the fine, in which case the fact that the operator paid a fine in connection with an alleged failure to stop or maintain a requisite distance from a school bus is inadmissible in any civil or criminal proceeding to establish the conduct of the operator, and no points may be assessed by the DMV against the operator's license for such an uncontested violation.

*Continued on page 40 —*

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## President's Message

Continued from page 5

### NOTES

1. boardsource.org/nancy-lee
2. The Constitution of the Connecticut Bar Association, Inc. was last amended by the CBA House of Delegates on January 13, 2014 and may be viewed on the CBA website at [www.ctbar.org/docs/default-source/leadership-resources/2019-2020/04-2019-cba-constitution-bylaws-and-procedures\\_10-15-18.pdf](http://www.ctbar.org/docs/default-source/leadership-resources/2019-2020/04-2019-cba-constitution-bylaws-and-procedures_10-15-18.pdf)

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### STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION

1. Publication Title: CT Lawyer. 2. Publication Number: 1057-2384 3. Filing Date: 10/1/20 4. Issue Frequency: 6 Times/Year. 5. No. of Issues Published Annually: 6 6. Annual Subscription Price: N/A 7. Complete Mailing Address of Known Office of Publication: 30 Bank St, New Britain, CT 06051-2219 Contact Person: Alysha Adamo, Telephone: (860)612-2008 8. Complete Mailing Address of Headquarters or General Business Office of Publisher: 30 Bank St, New Britain, CT 06051-2219 9. Publisher: Connecticut Bar Association, 30 Bank St, New Britain, CT 06051-2219 Editor: Alysha Adamo, 30 Bank St, New Britain, CT 06051-2219 Managing Editor: Alysha Adamo, 30 Bank St, New Britain, CT 06051-2219 10. Owner: Connecticut Bar Association, 30 Bank St, New Britain, CT 06051-2219 11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages or Other Securities: None. 12. Tax Status: Has Not Changed During Preceding 12 Months 13. Publication Title: CT Lawyer 14. Issue Date for Circulation Data Below: November/December 2020 Issue 15. Extent and Nature of Circulation (Average No. Copies Each Issue During Preceding 12 Months/No. Copies of Single Issue Published Nearest to Filing Date): a. Total Number of Copies (Net press run) b. Paid Circulation (By Mail and Outside the Mail) (1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541: (6,299/5,920) (2) Mailed In-County Paid Subscriptions Stated on PS Form 3541: (2,318/ 2,217) (3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS: (0/0) (4) Paid Distribution by Other Classes of Mail Through the USPS: (0/0) c. Total Paid Distribution: (8,617/8,137) d. Free or Nominal Rate Distribution (1) Free or Nominal Rate Outside-County Copies included on PS Form 3541: (0/0) (2) Free or Nominal Rate In-County Copies Included on PS Form 3541: (0/0) (3) Free or Nominal Rate Copies Mailed at Other Classes Through the USPS: (40/40) (4) Free or Nominal Rate Distribution Outside the Mail: (25/25) e. Total Free or Nominal Rate Distribution: (65/65) f. Total Distribution: (8,682/8,202) g. Copies not Distributed: (300/300) h. Total: (8,982/8,502) i. Percent Paid: (99%/99%) 16. Electronic Copy Circulation (Average No. Copies Each Issue During Preceding 12 Months/ No. Copies of Single Issue Published Nearest to Filing Date) a. Paid Electronic Copies: (0/0) b. Total Paid Print Copies + Paid Electronic Copies: (8,617/8,137) c. Total Print Distribution + Paid Electronic Copies: (8,682/8,202) d. Percent Paid: (99%/99%) I certify that 50% of all my distributed copies (electronic and print) are paid above a nominal price. 17. Publication of Statement of Ownership: Nov/Dec 2020 18. I certify that all information furnished on this form is true and complete: Alysha Adamo, 10/1/20

## Connecticut Fines

Continued from page 30

The general level of inconvenience and potential for fines relating to pandemic face covering requirements and social gathering size restrictions during the current public health emergency appear to be on par with pre-existing statutory safety, health, and public welfare requirements affecting operators and passengers of motor vehicles, that are intended to protect not just the operators and passengers themselves but also the general public's health, safety, and welfare. ■

### NOTES

1. State enforcement of adherence to federal motor vehicle safety requirements is distinguishable from state regulation of motorcyclists' protective headgear. (Protective headgear requirements have been challenged in several jurisdictions on constitutional grounds (including discriminatory selective enforcement grounds, and arguments that a state's police power does not extend to helmet requirements that only protect the individual motorcyclist's life and health, not the general public's health, safety and welfare.) Protective headgear requirements that apply only to minors and that allow use of headgear meeting federal safety standards (without imposing additional, more restrictive state requirements) have been easier to defend against constitutional challenge.

2. Conn. Gen. Stat. Section 14-300f(b) includes the same penalties for failing to stop a motor vehicle at the direction of a school crossing guard.

## PDD

Continued from page 15

and Disciplinary Counsel offices were unable to find the respondent. *Ansonia Panel v. Jose L. Altamirano*, #19-0337 (7 pages).

**Presentment** ordered for violations of Rules 1.3, 1.4(a)(2),(3) and (4), 1.5(a) and (b), 1.15(d), 8.1(2), 8.4(3), 8.4(4) and Practice Book § 2-32(a)(1) in regards to a divorce case where respondent, while under suspension, took a fee to file a divorce and failed to do so. Respondent had a significant history of discipline which, combined with not answering the present case, led to the presentment order. SGC ordered an additional violation of Rule 5.5(b)(2) to be considered on presentment. *Monahan v. David V. Chomick*, #19-0450 (9 pages). ■

## Supreme Deliberations

Continued from page 35

any factors were different...." For Justice D'Auria, this "absence of any explanation for the ruling...makes entirely deferential review problematic."

Turning then to the merits, Justice D'Auria concluded that the appellate court should have granted the defendants' request to file a late appeal for three principal reasons. First, citing the plaintiff's "arguably unnecessary" motion for offer of compromise interest and the absence of any reviewing court ruling "definitely determin[ing]" whether, following a 1997 amendment to § 37-3b, the trial court retains some discretion over the amount of postjudgment interest it can award, Justice D'Auria concluded that "the events that transpired after the jury's verdict were...susceptible to reasonable confusion sufficient to constitute 'good cause' and to justify the defendants' late appeal." Second, the plaintiff was not prejudiced by the delay. Third, the appellate court's ruling caused a "complete forfeiture" of a statutory right that was "wildly out of proportion to any procedural violation in the case."

We certainly sympathize with the defendants. After all, the plaintiff was not substantially prejudiced by the late filing and it's not like the dismissal lightened the appellate court's docket much, given that it still had to resolve the defendants' appeal challenging the trial court's award of interest. On the other hand, the defendants should have known that the appellate clock began running when the trial court accepted the jury's verdict. And it's hard to conclude that the appellate court's decision was arbitrary, when there was really no sound basis for the defendants to believe that they had timely filed their appeal.

But in any event, the lesson of *Georges* has been around at least as long as we've been practicing appellate law: when in doubt, immediately file the appeal—or at least file a motion for an extension of time! ■