

## **TITLE 280 – DEPARTMENT OF REVENUE**

### **CHAPTER 30 – DIVISION OF MOTOR VEHICLES**

#### **SUBCHAPTER 15 – SAFETY AND EMISSIONS**

##### **PART 9 – Rules and Regulations Governing the Certification and Use of Ignition Interlock Systems**

### **9.1 Authority and Purpose**

#### **9.1.1 Authority**

These Rules and Regulations are promulgated under the authority of R.I. Gen. Laws §§ 31-49-2 and 31-49-3, and R.I. Gen. Laws Chapter 42-35, as amended, and are established for the purpose of setting standards for the certification of ignition interlock devices and motorists' proper compliance with ignition interlock devices.

#### **9.1.2 Purpose**

These Rules and Regulations establish standards to be used in determining eligibility for certification as a state authorized ignition interlock system and establishing motorists' proper compliance with such systems.

### **9.2 Incorporated Materials**

These regulations hereby adopt and incorporate Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), National Highway Traffic Safety Administration, Federal Register Vol 78, No. 89 (2013) and Federal Register Vol 80, No. 60 (2015) by reference, not including any further editions or amendments thereof and only to the extent that the provisions herein are not inconsistent with these regulations.

### **9.3 Definitions**

A. The following words used in these Rules and Regulations shall have the following meaning:

1. "Blood alcohol concentration" or "Breath alcohol concentration" or "BAC" or "BrAC" means the percentage, by weight, of alcohol in a person's blood, as measured by a test of the person's breath or blood.
2. "Circumvention" means an overt, conscious attempt to bypass the Ignition Interlock Device by providing samples other than the natural unfiltered

breath of the operator, or by starting the car 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.

3. "Conditional hardship license" means any driver's license or right to operate authorized by the court or traffic tribunal during a period of license suspension that allows a person to drive for limited hours during the suspension period as set forth in R.I. Gen. Laws § 31-27-2.8(b)(7).
4. "Department" means the State of Rhode Island Department of Revenue, or any successor Department.
5. "Director" means the Director of the Department of Revenue, or any successor Department.
6. "Division" or "DMV" means the Division of Motor Vehicles
7. "Failed rolling re-test" means a breath test taken by the operator of an IID-equipped vehicle while the vehicle is running that shows the operator has a BAC/BrAC greater than .025.
8. "Failed start-up test" means a breath test taken by the operator of an IID-equipped vehicle prior to starting the vehicle's ignition, registering a BAC/BrAC greater than .025.
9. "High BrAC test" means a breath test taken by the operator of an IID equipped vehicle that results in a BAC/BrAC greater than .05.
10. "Ignition interlock device" or "IID" means an alcohol sensing instrument mounted in an automobile and connected to the ignition system to prevent the vehicle from starting unless the driver first provides a satisfactory deep lung air sample. The device analyzes the deep lung air sample to determine the BAC of the operator. If the measured BAC/BrAC is above .025, the device prevents the vehicle from starting.
11. "Ignition interlock restriction" means the limitation imposed by the court, traffic tribunal or Division of Motor Vehicles on an individual's license or right to operate prohibiting operation of any motor vehicle without an Ignition Interlock Device. This appears as a "U" restriction on the motorist's record.
12. "Lockout" means a multiple-step process resulting from a violation set forth in § 9.7(A) of this Part including a period during which the operator cannot start the vehicle.
13. "Missed rolling re-test" means a failure to take the Rolling Re-test within the time period allotted by the IID. If the breath test is taken after the time

period allotted and demonstrates a BAC/BrAC greater than .025, it shall be deemed a Failed Rolling Re-test.

14. "Operator" means any person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
15. "Passed test" means a breath test taken by the operator of an IID-equipped vehicle prior to starting the ignition or while the vehicle is running that shows the operator's BAC/BrAC is equal to or less than .025.
16. "Rolling re-test" means a breath test, administered at random intervals, taken by the operator of an IID equipped vehicle while the vehicle is running.
17. "Service period" means the time between Service Visits, which shall be at least twenty-five (25) days but not more than thirty (30) days.
18. "Service provider" or "Provider" means an entity approved by the DMV that installs, monitors, services and removes the operator's Ignition Interlock Device.
19. "Service visit" means a required visit to the Service Provider by the operator to have the Ignition Interlock Device 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.
20. "Start-up test" means a breath test taken by the operator of an IID-equipped vehicle to measure the operator's BAC/BrAC prior to starting the vehicle's ignition.
21. "Tamper" means an overt, conscious attempt to physically disable or otherwise disconnect the Ignition Interlock Device from its power source and thereby allow a person to start the engine or continue to operate a motor vehicle without a Passed Test.

## **9.4 Certification of the System and Provider Requirements**

### **9.4.1 Responsibilities of The Division of Motor Vehicles:**

- A. Any Service Provider found not to be in compliance with any of the provisions of this regulation may be subject to suspension or revocation of approval for any or all its sites, after a hearing before the division. The Division may take into account the nature and extent of the violation(s) and the past performance of the Service Provider.

- B. When the court orders the use of an ignition interlock system, the DMV shall place an appropriate notation, a “U” restriction, upon the operator’s record and license that clearly sets forth the requirement for an IID. Upon completion of the time period set forth by the court or DMV for use of the IID, the operator shall return to the DMV to request removal of the restriction from the license.

#### **9.4.2 Responsibilities of IID Service Provider**

- A. A manufacturer or other entity seeking approval of any type of Ignition Interlock Device used to monitor compliance with Rhode Island Ignition Interlock Restrictions must demonstrate to the satisfaction of the Division that the device meets or exceeds the conditions established in the new Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), National Highway Traffic Safety Administration, Federal Register Vol 78, No. 89 published on May 8, 2013 and Federal Register Vol 80, No. 60 published on March 30, 2015. The Division shall certify such qualifying types of devices and shall publish a list of certified types of devices.
- B. A service provider shall submit a completed application for certification, on a form provided by the Division.
- C. A service provider shall submit, together with the application, a sworn certificate from a professional scientific testing laboratory, independent of the provider's business, attesting that the provider’s ignition interlock system meets or exceeds the current applicable certification standards set forth by NHTSA and the U.S. Department of Transportation.
- D. The service provider will submit in writing the procedures it will undertake to monitor the IID systems installed by the provider.
- E. The provider shall submit a warning label to the division in compliance with R.I. Gen. Laws § 31-49-4 for approval by the Division. Once approved by the Division, the warning label shall be attached to the IID in a position visible to the driver.
- F. The service provider will submit a written statement to the division certifying that they will comply with the requirements set forth in R.I. Gen. Laws § 31-49-3(a)(1) through (12), provisions for setting a minimum and maximum calibration range, and the following additional requirements that devices:
  - 1. Prevent an IID-restricted operator from starting an IID-equipped vehicle without a passed test;
  - 2. Require at least one Rolling Re-test during any operation of an IID equipped vehicle lasting ten minutes or longer;
  - 3. Require Rolling Re-tests to be conducted at random intervals during operation of the vehicle;

4. Notify the operator when a Rolling Re-test is required and permit an operator five minutes to blow into the Ignition Interlock Device after the notification; and
5. Effectuate a lockout when an operator commits an IID violation requiring a lockout as set forth in these regulations.

## **9.5 Reporting Requirements of Service Providers**

- A. Service providers must provide a report to the DMV and other designees when an IID has been installed in an operator's vehicle.
- B. Service providers must provide monthly reports to the DMV and other designees on the status of operators with an IID pursuant to an order of a court or the DMV.
- C. Service providers must provide weekly reports to the DMV and other designees of any operator Lockout, Early Recalls, high BrAC or IID Violations. The DMV will provide an email address for the notifications to be sent.
- D. A service provider may not remove a device without receiving written approval from the Division.

## **9.6 Cost and Maintenance**

- A. The operator shall pay the cost of installing, monitoring, and maintaining the Ignition Interlock device(s) as set forth in R.I. Gen. Laws §§ 31-27-2.8 (f)(3) and 31-49-2.
- B. The operator will be required to appear at the Service Provider's location for a Service Visit within thirty (30) days of the installation of the device, and regularly thereafter in Service Periods of twenty-five (25) to thirty (30) days, for as long as the device is required. Twenty-five (25) days after each Service Visit, the unit shall alert the operator of the requirement for another Service Visit.

## **9.7 Lockouts**

- A. Lockout shall commence for any of the following violations:
  1. Two Failed Start-up Tests within one Service Period;
  2. One Failed Rolling Re-test;
  3. One missed Service Visit; or
  4. Two Missed Rolling Re-tests within one Service Period.
- B. When an infraction or violation triggers a Lockout, the operator is immediately notified that a Lockout is in progress and that he has forty-eight (48) hours to

bring the vehicle to the Service Provider for inspection. As at all other times, the operator is prohibited from starting the vehicle until his BAC/BrAC registers .025 or below on the IID; the IID effects this restriction by disabling the vehicle's ignition. If the operator fails to bring the vehicle to the Service Provider for inspection during the time allotted, the vehicle's ignition is permanently locked and only the Service Provider is permitted to release it. The operator is responsible for any and all charges associated with getting the vehicle to the Service Provider in a lawful manner, in addition to any re-set charges incurred for the Lockout.

- C. The Service Provider shall provide notice of any Lockout to the Division on a weekly basis.
- D. If an IID-restricted operator believes a Lockout is unjustified, he may request a hearing with the Division of Motor Vehicles within thirty (30) days of the Lockout. If the division finds the Lockout was not justified, the Lockout shall be excused.

## **9.8 Conditional Hardship License**

- A. Any person eligible under the provisions of R.I. Gen. Laws § 31-27-2.8(b)(7), may petition the court or traffic tribunal for a conditional hardship license. The court or traffic tribunal may grant this petition subject to the following mandatory conditions:
  - 1. A conditional hardship license shall only be valid for 12 (twelve) hours per day and only to travel to and from employment.
  - 2. An IID shall be installed in the petitioner's vehicle.
  - 3. The sentencing justice or magistrate shall set forth the conditions of the conditional hardship license after a hearing where the petitioner provides proof of employment and scheduled hours.
  - 4. The petitioner shall carry a certified copy of the court order with him while operating under the conditional hardship license.
  - 5. The DMV shall make an appropriate notation of the conditional hardship license, restriction "Y", on the motorist's driving record.

## **9.9 Ignition Interlock Violations**

Criminal Interlock Violations include violations of R.I. Gen. Laws §§ 31-27-2.8(h) or (i).

## **9.10 Removal of Ignition Interlock Restriction**

- A. Upon completion of the interlock period set by the court or traffic tribunal, the operator may apply to the DMV for removal of the restriction. Pursuant to R.I.

Gen. Laws § 31-49-3(b), the DMV will review the operator's record of compliance with the IID through reports submitted by the Service Provider. To have the Ignition Interlock Restriction removed, the record must demonstrate that the operator has fulfilled the specific requirements for the IID set forth by the sentencing judge or magistrate.

- B. IID shall not be removed from the vehicle until DMV contacts the Service Provider to authorize removal.
- C. Upon removing IID, Service Provider must restore the affected mechanical and electrical systems to their original configurations or, if this is not possible, minimally to working order when an IID is removed. All severed wires must be permanently and safely reconnected and insulated.

### **9.11 Severability**

If any provision of these Rules and Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.

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OF IGNITION INTERLOCK SYSTEMS**

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