

Ignition Interlock Program Rules

Section 1. Definitions.

For the purposes of these rules, the following definitions apply:

- (a) “Alcohol set point” means the minimum alcohol concentration at which an ignition interlock device is set to lock a motor vehicle’s ignition. That level shall be 0.02 Blood Alcohol Content (BAC).
- (b) “Calibration” means the process of testing and adjusting a device to ensure accuracy set forth in the current National Highway Traffic Safety Administration (NHTSA) Model Specifications for Calibration Units.
- (c) “Certified laboratory” means a laboratory which subscribes to the quality code of the International Standards Organization of the American National Standards Institute.
- (d) “Commissioner” means the Commissioner of Motor Vehicles.
- (e) “Ignition Interlock Device” or “IID” means a device capable of measuring a person’s blood alcohol concentration and immobilizes a motor vehicle whose driver’s blood alcohol concentration is 0.02 or greater. The device must be equipped with a camera capable of recording a digital image of the person using the device as well as the front compartment of the vehicle.
- (f) “Ignition interlock restricted driver’s license” or “RDL” or “certificate” means a driver’s license that has been restricted to limit operation of motor vehicles by a person whose license or privilege to operate has been suspended or revoked pursuant to 23 VSA §1205(a) (2), §1205(m), §1206(a), §1208 or §1216 to motor vehicles installed with an approved ignition interlock device. A person with a RDL may not operate a commercial motor vehicle as defined in 23 VSA §4103.
- (g) “Inclusion zone” means an area encompassing 25 miles from the Vermont border.
- (h) “Installer” means an individual, business or other entity identified by a manufacturer of an approved ignition interlock device as the manufacturer’s official representative in the state of Vermont for the installation, maintenance, monitoring and repair of the devices, and includes agents and employees of the manufacturer.

- (i) “Lockout State” means a condition where the ignition interlock device will not accept a breath test.
- (j) “Motor vehicle” means only pleasure cars and trucks the operation of which do not require a commercial driver license. The term shall not include school buses.
- (k) “State coordinator” means the individual designated by the manufacturer to act on behalf of or represent it in all matters regarding IID’s in Vermont.
- (l) “Ignition Interlock Certificate” means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer’s reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

Section 2. Certification of manufacturers of ignition interlock devices.

- (a) No ignition interlock device may be leased, sold, installed or used as part of the program outlined in 23 VSA §1213 unless the model or type of device has been approved by the Commissioner in accordance with the provisions of this rule.
- (b) Application for Certification:
 - (1) A manufacturer may apply for certification of a device by submitting an application to the Commissioner every two years. The application shall be prescribed by the Commissioner. A separate application is required for each model or type of device for which approval is sought. A manufacturer must certify the device:
 - i. Does not impede the safe operation of a vehicle.
 - ii. Minimizes opportunities to bypass.
 - iii. Performs accurately and reliably under all normally anticipated circumstances.
 - iv. Satisfies the requirements for certification set forth in this rule.
 - v. Prevents a person from starting a vehicle when the person has a prohibited blood alcohol concentration.

(2) An application for certification must include all of the following information:

- i. The name, address, telephone number and email address of the manufacturer of the device.
- ii. The name and model number of the device.
- iii. A certification from a Certified Laboratory who tested the device stating the device model meets or exceeds the minimum federal standards contained in the most recently published Model Specifications for Breath Alcohol Ignition Interlock Devices adopted by the National Highway Traffic Safety Administration by a Notice in the Federal Register.
- iv. A certification the device is made by a manufacturer who is covered by product liability insurance.
- v. A signed statement the manufacturer agrees to indemnify and hold harmless the state of Vermont and the Commissioner and his or her officers, employees and agents from all claims, demands and actions as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any act or omission by the manufacturer relating to the installation, service, repair, use and removal of a device.
- vi. The manufacturer may submit for consideration evidence of certification obtained in any other jurisdiction.
- vii. The manufacturer shall agree that any installation or service of an IID performed within the state of Vermont or the inclusion zone shall be in compliance with all requirements of this rule.
- viii. The manufacturer must agree to provide an expert witness if the performance of the device is an issue in any judicial or administrative proceeding.
- ix. The manufacturer shall agree to provide statewide coverage for installation and service of ignition interlock devices. The use of mobile installations is permitted provided the requirements set forth in section 5 of this rule are adhered to.

(c) The representations made by a manufacturer on the application for certification become conditions to the certification when the certification is approved by the

Commissioner. The failure of a manufacturer to comply with those conditions may result in the suspension or revocation of the certification as provided by subsection (e) of this section.

- (d) The Commissioner shall certify, or refuse to certify, a device after receipt of a complete application. The manufacturer will be notified within 15 days of receipt of the application if the application is incomplete. The manufacturer will be told what information or documents are needed to complete the application.
- (e) The Commissioner may deny, suspend or revoke certification of a manufacturer or device for any of the following:
 - (1) Defects in design, materials, or workmanship causing repeated failures of a device to function as intended.
 - (2) Termination or cancellation of a manufacturer's liability insurance.
 - (3) The manufacturer ceases to manufacture ignition interlock devices.
 - (4) Voluntary request by a manufacturer to cancel approval of a device.
 - (5) Violation by a manufacturer, vendor, installer, service provider or agent, employee or independent contractor of any provisions of this rule or conditions to the certification.
 - (6) Providing materially false or inaccurate information relating to a device's performance standards by the manufacturer or certifying laboratory.
 - (7) Modification or alteration of the components, design, or installation and operation instructions so that the requirements of the minimum federal standards are no longer satisfied, unless the modifications have already been certified.
- (f) A suspension or revocation is effective 15 days after notification is sent to the manufacturer by first class mail or such later date as may be specified in the notice. The notice must specify the basis for the action.
- (g) A manufacturer whose application for certification is denied or whose certification is suspended or revoked may request an administrative hearing. The hearing will be held pursuant to 23 VSA §§105 – 106. The issue at the hearing is whether, by a preponderance of the evidence, the manufacturer can show cause why the decision of the Commissioner should not be upheld.
- (h) Within 90 days of the event of suspension or revocation of certification, the

manufacturer is responsible for and must bear the cost for the removal of any and all decertified devices and the replacement with a certified device whether their own or another certified manufacturer's device.

- (i) A manufacturer must notify the Commissioner immediately, in writing, of any material modification or alteration in the components, design or installation and operating instructions of any device approved for use in this state, and must provide the Commissioner satisfactory proof (to include retesting by an independent laboratory, if required) prior to sale or distribution of the altered or modified device that these modifications or alterations do not adversely affect the ability of the device to satisfy the requirements of the minimum federal standards contained in the most recently published Model Specifications for Breath Alcohol Ignition Interlock Devices adopted by the National Highway Traffic Safety Administration. Any device with a material modification or alteration must be re- approved by the Commissioner.

Section 3. Standards and Specifications for Ignition Interlock Devices.

- (a) Except as otherwise provided herein, all ignition interlock devices must meet or exceed the most recently published standards established by the U.S. Department of Transportation, National Highway Traffic Safety Administration [identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices"]. The device must employ an electrochemical (fuel cell) sensing method of detecting the presence of alcohol.
- (b) A device must indicate by audible or visual means when a sufficient breath sample has been collected and indicate the result by a pass/fail signal.
- (c) A device must be able to be adjusted to permit operation with as little as 1.2 liters of breath per blow upon a medical recommendation approved by the Commissioner.
- (d) A device must prevent a driver from starting the vehicle when a breath test detects a BAC of 0.02 or greater and when a driver fails to appear for service within the five calendar day warning period.
- (e) A random retest feature is required for all devices. The device must require the driver to submit to a first rolling retest within a variable interval ranging from five to fifteen minutes after a driver has passed an initial breath test and started the vehicle. Subsequent to the first

rolling retest, the random rolling retest shall be required within a variable interval ranging from thirty to forty-five minutes after the most recent rolling retest. An audible or visual warning must alert the driver of the retest and the driver will have ten minutes to take the first rolling retest. If the driver fails to submit to the first rolling retest within ten minutes or the device detects a BAC of 0.02 or greater, the horn will sound repeatedly, and the headlights shall flash until an acceptable breath sample has been submitted and the BAC is less than 0.02 or the vehicle is turned off. Once the vehicle is turned off, the device must not allow the driver to restart the vehicle without taking an initial breath test. If the vehicle is turned off after or during the warning of an impending rolling retest, but before the driver takes the rolling retest, the device must prevent the driver from starting the vehicle without taking an initial breath test. If the vehicle accidentally stalls the device must not prohibit the operator from starting the vehicle. If this accidental stall occurs during a retest, the retest should proceed from the point of the accidental stall.

- (f) A device must be programmed to allow unlimited attempts to provide a breath sample on a rolling retest within the ten minute period.
- (g) A device must record data in its memory in such a manner that data cannot be erased and a hard copy can be printed. The data recorder must have a backup system to protect the security of all recorded data in the event the power supply to the device is interrupted or the sample head is disengaged or disconnected. The ability to transfer the unaltered data electronically must be included. The following information must be stored in the data recorder:
 - (1) The date and time of any use or attempted use of a vehicle.
 - (2) The date and time of any attempt to tamper, circumvent or bypass the device.
 - (3) The date, time and alcohol concentration, in grams per 210 liters, of each breath sample provided to the device.
 - (4) The date and time of any malfunctions of the device.
 - (5) The date and time of any failures to provide retest samples.
 - (6) The date and time a “service required” message is issued to the customer by the device.
- (h) A device must provide all of the following information to a driver.
 - (1) The device’s readiness for acceptance of a breath sample.

- (2) A reminder seven days prior to a scheduled service date followed by a warning to obtain service within five days after the scheduled service date.
- (3) An indication when the device has entered a lockout state.
- (i) A device must place the vehicle in a permanent lockout state, if any of the following conditions occur:
 - (1) The device detects tampering, circumvention or bypass attempts.
 - (2) The user fails to provide a breath sample during three consecutive retest periods.
 - (3) A scheduled service date is missed and the five calendar day grace period has expired.
- (j) A manufacturer shall ensure that a device has adequate electronic anti-tampering features which include the following:
 - (1) A device must retain its tamper detection capabilities when disconnected from the vehicle's power supply, or record that it was disconnected.
 - (2) A device must retain its data memory when disconnected from the vehicle's power supply.
 - (3) A device must include a camera with the capability of capturing and retaining an image of the person providing the breath sample at each vehicle start when taking an initial breath test, the first rolling retest and all random retests as well as circumvention attempts. Such images shall be included in the reports required in these rules.
- (k) Override. A device shall be programmed to allow test free restarts in the case of engine stalls.

Section 4. Manufacturer Responsibilities.

- (a) A manufacturer must provide the following information to the Commissioner:
 - (1) A copy of the agreement between the manufacturer and installer.
 - (2) A copy of the standard agreement between the installer/manufacturer and the driver of the vehicle in which the device is installed.
 - (3) The 24-hour toll free emergency service telephone number which the manufacturer provides the driver to contact authorized customer service representatives.
 - (4) The fee schedule listing the costs assessed to a driver for installation of the device,

monthly leasing of the device, scheduled service visit, violations service visit, and removal of the device.

- (5) The name, address, telephone number and e-mail address of the state coordinator.
 - (6) A detailed description, including a photograph, drawing or other graphic depiction of the device.
 - (7) Document containing complete written instructions provided to authorize installers for installation, operation, service, repair and removal of the device.
 - (8) Document containing the complete written instructions provided to participants and other operators of a vehicle equipped with the device.
 - (9) A complete list of authorized installers to include name, business address, phone number, contact person and hours of operation.
 - (10) A floorplan of the installation facilities detailing the work areas and the client waiting area.
- (b) A manufacturer must ensure installers:
- (1) Comply with all requirements of this rule.
 - (2) Possess and maintain all necessary training and skills required to install, examine, troubleshoot, and verify proper operation of devices.
 - (3) Possess the tools, test equipment and manuals needed to install, inspect, download, calibrate, repair, maintain, service and remove devices.
 - (4) Provide the restricted driver and all persons who will use the vehicle with written and hands on training in how to operate a vehicle equipped with the device, including
 - i. Care, cleaning and maintenance.
 - ii. Identification of vehicle malfunctions and repairs affecting the device and procedures for addressing them.
 - iii. A 24-hour emergency telephone number for assistance in the event a device fails to operate properly or a vehicle experiences a problem relating to the installation, operation or failure of a device. Assistance must include technical information and assistance in locating a tow company or road service provider. Emergency assistance related to the failure of a device

must be provided within two hours for vehicles located near an area with an installation facility. The device must be made functional within 48 hours of the call for assistance being received or the device must be replaced.

- iv. Informing the restricted driver that he or she is accountable for all breath samples logged by the device.
- (5) Maintain established business hours with an installer available during those hours.
- (6) Conduct business from an enclosed building with a separate waiting area for customers. Installations may be conducted by mobile units. If installation is done by a mobile unit, the customer cannot observe the installation of the device. The business premises and mobile units are subject to announced and unannounced inspection by the Commissioner or his or her agents.
- (7) A person employed as an installer must be at least eighteen years of age.

Section 5. Installation, Monitoring, Servicing and Removal of Ignition Interlock Devices.

(a) Installation:

- (1) An installer must provide proof of installation, including the information required in Section 6(a) (2), to the Commissioner electronically within 24 hours or the next business day of the installation.
- (2) Only installers, manufacturers and representatives of the Commissioner may observe the installation and removal of devices. Reasonable security measures must be taken to prevent access by unauthorized persons to devices, the written materials and hardware and software associated with the devices.
- (3) An installer shall examine each vehicle before installing the device. The examination must include screening procedures to ensure the vehicle in which the device is to be installed is in a mechanical and electrical condition that will allow the device to meet the specifications contained in these rules. Conditions that the manufacturer has determined would prevent the device from meeting the specifications must be repaired before the device is installed. The person seeking installation is responsible for the costs

of any repairs to the vehicle.

- (4) The device's camera must be mounted in such a manner as to capture the front compartment of the vehicle. The camera shall capture an image of both the driver and the front passenger area.
- (5) After a device is installed, the vehicle and device must be inspected to ensure that the installation was performed properly, the device is working as required and the device does not interfere with the normal operation of the vehicle.
- (6) An installer must certify that a device has been installed. The certification shall be made on a form prescribed by the Commissioner.
- (7) A warning label, approved by the Commissioner, must be affixed to installed devices. The warning label must contain the following information: "WARNING" - A person tampering with or otherwise circumventing this device may be subject to civil penalties. 23 VSA §1213(k).

(b) Monitoring and Servicing:

- (1) An installer must follow the requirements established by this rule and the manufacturer's specifications for service monitoring, service and repair.
- (2) A device must be scheduled for service 60 calendar days after installation and thereafter at intervals not to exceed 67 calendar days.
- (3) Calibration service must be provided within five calendar days after the request for service is made.
- (4) Each time a device is serviced, the installer must:
 - i. Review the data recorded in the device's memory and retain a copy in the person's file.
 - ii. Inspect the device for indications of tampering.
 - iii. Calibrate the device.
- (5) For those manufacturers who perform "swap outs" at every scheduled service visit, i.e. remove the currently installed device and replace it with a new device, the installer/manufacturer must:

- i. Review the data recorded in the removed device's memory and retain a copy in the person's file.
- ii. Inspect the removed device for indications of tampering.

(c) Removal:

[The following does not apply to "swap outs" as described in Section 5(b) (5)]

- (1) Only a manufacturer or installer may remove a device.
- (2) An installer or manufacturer must notify the Commissioner electronically within 24 hours or the next business day of the removal of a device stating the specific reasons for removal.
- (3) Whenever a device is removed, the vehicle must be restored to its original condition. All severed wires must be securely reconnected and insulated with heat shrink tubing or its equivalent.

Section 6. Reports and Records.

(a) Violations Reports:

- (1) A manufacturer or installer must electronically notify the Commissioner within 24 hours or the next business day of discovering reliable information showing:
 - i. Evidence of circumventing, removing, or tampering with a device.
 - ii. A registered 0.02 or greater BAC during a first rolling retest or random rolling retests.
 - iii. A failure to successfully complete a retest.
 - iv. A device entered a lockout state, to include the date, time and the cause of the lockout.
- (2) The report must include the following information:
 - i. Name and affiliation (manufacturer and installer) of the person submitting the report.

- ii. Reason and basis for the report.
- iii. Driver's full name, date of birth, driver license number and address.
- iv. Registration plate number and the vehicle identification number of the vehicle in which the device is installed.

(b) Driver Monitoring Reports:

- (1) A manufacturer or installer must electronically notify the Commissioner within 24 hours or the next business day of the servicing of a device.
- (2) The report must include the information required by subdivision (a) (2) of this section and the results of the service, including a summary of the information provided by the device's data recorder.

(c) Six Month Status Reports:

- (1) An installer must electronically provide data to the manufacturer for the periods of January 1 through June 30 and July 1, through December 31, for each device installed on vehicles to be operated within the state of Vermont. A manufacturer must electronically provide the Commissioner a status report once every 6 months.
- (2) The report must provide the following in a format provided by the Commissioner:
 - i. Information required by §6(a) (2).
 - ii. Number of requests for financial assistance accompanied by proof of receipt of benefits from 3SquaresVT, LIHEAP or Reach Up.
 - iii. List of persons, including the information required by §6(a) (2) (iii) and (iv) who had a device installed or removed from a vehicle.
 - iv. Number of devices installed and number of devices that malfunctioned or were defective requiring service, repair or replacement. The serial numbers and the specific problem identified for malfunctioning and defective devices must be included in the report.
 - v. Number and a summary of all complaints received and the corrective action, if any, taken by the manufacturer or installer for each model or type of device.

- vi. The date any service is performed.
 - vii. The mileage of the vehicle since the previous service was performed.
- (d) A manufacturer or installer must keep all records relating to the application for approval of a device and all records relating to the installation, service, removal, performance and use of individual devices for a period of three years following the removal of any device.

Section 7. Audit and Inspection of Records and Facilities.

The Commissioner or his or her agents may audit and inspect the facilities and records of a manufacturer and installer to verify compliance with the requirements of this rule. Manufacturers and installers must make facilities and records available to the Commissioner or his or her agents during reasonable business hours.

Section 8. Application for Ignition Interlock Restricted License/Certificate.

- (a) A person eligible under 23 VSA §1205(a) (2), §1205(m), §1206(a), §1208 or §1216 may apply for an ignition interlock restricted driver's license/certificate. The application, on a form prescribed by the Commissioner, signed and sworn to by the applicant shall be accompanied by the person's unexpired Vermont driver's license and satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated by the applicant. If the applicant is not the owner of the vehicle the applicant must be named on the installation notice as a driver of this vehicle. Proof of financial responsibility is required. Additionally, if the applicant is not the owner of the vehicle, written permission from the owner of the vehicle must be provided specifically granting the applicant permission to operate this vehicle with the IID. The written permission must identify the vehicle with the same information contained on the Installation Notice.
- (b) A person to whom a RDL has been issued, shall be responsible for all breath tests performed in his or her vehicle.
- (c) A person whose license is currently suspended pursuant to 23 VSA §1201(a) (3), "under the influence of drugs or a combination of other drugs and alcohol", may not be issued a RDL.

- (d) When a Vermont Driver's license is received by the Department of Motor Vehicles in connection with an application for an ignition interlock restricted driver's license, it will be immediately destroyed upon the issuance of the restricted license.
- (e) An ignition interlock restricted driver's license shall be considered to be a corrected license within the meaning of 23 VSA §613(a).
- (f) A person who has been issued a license restricted to operation of a vehicle equipped with an ignition interlock device by another jurisdiction, and who is otherwise eligible for the issuance of a Vermont license, may be issued a RDL, but not a junior driver's license, in accordance with this rule.
- (g) Once a person applying for a RDL pursuant to 23 VSA §1213(e) has met the requirements of that section, an examination as required by 23 VSA §632 shall be administered. A road test may be conducted without the individual having to obtain a learner permit.
- (h) In the case of an initial application only, the ignition interlock RDL shall expire at midnight on the eve of the second anniversary of the date of birth of the applicant after issuance. Thereafter, an ignition interlock RDL must be renewed yearly.
- (i) A person may request that the ignition interlock device installed in his or her vehicle be adjusted to allow a minimum breath sample of 1.2 liters of breath volume per blow. The request shall be made on a form furnished by the Commissioner and be accompanied by a certification from a licensed pulmonologist stating that the person has a lung condition that renders him or her incapable of providing a 1.5 liter sample of alveolar air. In the event that the request is granted, the manufacturer will be notified that the device may be adjusted. The manufacturer will in turn notify its installer.
- (j) When providing a breath sample, the driver must be seated in the driver's seat to ensure the device's camera captures the image of the driver actively providing the breath sample. A person may not cover the camera or otherwise attempt to prevent an image of his or her face from being captured while providing breath samples for vehicle starts, when taking an initial breath test, first rolling retest and all random rolling retests.
- (k) A person issued a restricted driver's license or certificate pursuant to 23 VSA §1213 and this rule violates the terms and conditions of the restricted driver's license when the person:

- (1) Operates a motor vehicle without an ignition interlock device.
- (2) Requests or solicits another person to blow into or otherwise activate the device for the purpose of providing the restricted driver with an operable motor vehicle.
- (3) Tamper with or disables the device or circumvents the operation of the device.
- (4) Registers a 0.02 or greater BAC during a first or subsequent rolling retest.
- (5) Fails to submit to three consecutive breath retests that results in a lock out state.
- (6) Misses a service visit.
- (7) Has the device removed from the vehicle by a manufacturer, installer or unauthorized person prior to DMV's release?

Violation of any of these conditions must result in the immediate extension of the person's RDL requirements for the time periods set out in 23 VSA §1213(h) and (i).

Section 9. Right to Hearing.

- (a) A person whose application for an ignition interlock RDL is denied may request a hearing. The hearing will be held pursuant to 23 VSA §105 - §107. The issue at hearing is whether, by a preponderance of the evidence, the person can show cause why the decision of the Commissioner should not be upheld.
- (b) A person who has been convicted or adjudicated of an offense described in 23 VSA §1213(h) or (i) resulting in the recall of his or her RDL, may request an administrative hearing for the sole purpose of verifying the record of adjudication or conviction.