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Proposed Rulemaking

Rules for Breath Alcohol Ignition Interlock Devices~~Title~~

Promulgated by:
Department of Health

Title 5. Criminal Offenses

Chapter III. Generally, Department of Health

Subchapter A. Generally

Part 21. Arkansas Rules for Breath Alcohol Ignition Interlock Devices

Subpart 1. Generally

5 CAR § 21-101. Purpose and interpretation.

(a) The purpose of this part is to provide safeguards necessary to protect the health and safety of the citizens of Arkansas by establishing criteria for the use of breath alcohol ignition interlock devices.

(b)(1) The impact of this part is directed toward the:

(A) Manufacturer;

(B) Service provider;

(C) User of breath alcohol ignition interlock devices; and

(D) Department of Health.

(2) Contents will, of necessity, describe interactions with the:

(A) Courts; and

(B) Office of Driver Services of the Department of Finance and Administration.

(c)(1) This part shall be interpreted so as to favor the safety of the public.

(2) In the absence of a rule specifically addressing a particular matter, there shall be applied reasonable, just, and equitable procedures and substantive decisions which are predictable from the spirit and intent of:

(A) The legislative enactment; and

(B) This part.

5 CAR § 21-102. Definitions.

As used in this part:

(1)(A) "Alcohol set point" or "fail point" means the line of demarcation between "pass" and "fail" of a breath test.

(B) See "calibration setting";

(2)(A) "Approval" means the official endorsement of the Department of Health or its authorized representative documenting that the requirements of Arkansas Code § 5-65-118 as amended and this part have been met.

(B) See "certification";

(3) "Breath alcohol ignition interlock device (BAIID)" means an electronic device with microcomputer logic and internal memory, having a breath alcohol analyzer as a major component, that interconnects with the ignition and/or other control systems of a motor vehicle for the purpose of preventing that motor vehicle from being started if the driver has a breath alcohol content which exceeds the preset limit (set point);

(4) "Breath alcohol concentration (BrAC)" means the amount of alcohol in a given amount of breath expressed in grams of alcohol per two hundred ten liters (210L) of breath;

(5) "Breath sample" means normal expired human breath primarily containing air from the deep lung;

(6) "Calibration" means the act of checking, verifying, or rectifying the accuracy of a device;

(7)(A) "Calibration setting" as described in Arkansas Code § 5-65-118, means in this part the "alcohol set point".

(B) The alcohol set point shall be twenty-five thousandths grams (0.025g) of alcohol per two hundred ten liters (210L) of breath unless specified otherwise in writing by the Office of Driver Services.

(C) Acts 1993, No. 298 authorizes the court to establish "a specific calibration setting" in the range of two one hundredths (.02) through five one hundredths (.05);

(8)(A) "Certification" means the official endorsement (certificate of approval) of the Department of Health or its authorized representative documenting that the requirements of Arkansas Code § 5-65-118 as amended and this part have been met.

(B) See "approval";

(9) "Circumvention" means an overt, conscious attempt to bypass the ignition interlock device, whether by:

(A) Providing samples other than the natural unfiltered breath of the driver;

(B) Starting the vehicle without using the ignition switch; or

(C) Any other act:

(i) Intended to start the vehicle without first passing a breath test; and/or

(ii) Permitting a driver with a BrAC in excess of the alcohol set point to start the vehicle;

(10) "Department" means the Office of Alcohol Testing of the Department of Health;

(11) "Device" means the BAIID;

(12) "Director" means the Director of the Department of Health or designee thereof;

(13) "Driver" means a motorist who is required, either by the Office of Driver Services or by court order, to operate only motor vehicles equipped with a functioning and approved BAIID;

(14) "Dry-gas cylinder" means a cylinder containing a known concentration of ethyl alcohol mixed with nitrogen gas used to calibrate and check the calibration of a testing device;

(15)(A) "Fail-safe" means a condition in which the interlock device cannot operate properly due to some problem (e.g., improper voltage, temperature exceeding operating range, dead sensor, etc.).

(B) In a fail-safe condition the BAIID will not allow the vehicle to be started;

(16)(A) "Lockout" means a condition in which the vehicle will be completely disabled, after being given a visible and/or audible warning for a period of twenty-four (24) hours of impending lockout.

(B) The device will automatically disable the vehicle at a point in time when it is not in operation;

(17) "Office" means the Office of Driver Services;

(18) "Rules" means all sections of Arkansas Rules for Breath Alcohol Ignition Interlock Devices unless otherwise specified;

(19)(A) "Restart" means the allowance of the device for the driver to start the vehicle without having to give a breath sample.

(B) This allows for a driver to restart the vehicle within two (2) minutes and not be penalized for or endangered by a malfunctioning vehicle;

(20) "Rolling retest" means a subsequent breath test that must be conducted after initial start while the motor vehicle is in operation;

(21) "Service provider" means an approved vendor, service center, distributor, installer, or supplier of a device;

~~(22)(A) "Simulator device" means:~~

~~(B) A device that enables the operator to reproduce, under test conditions, phenomena likely to occur in actual performance;~~

~~(C) A device used to simulate or imitate a breath sample at a specific alcohol concentration; or~~

~~(D) An accessory to a testing device;~~

(23) "Standard reference" means a material, such as ~~water~~gas, containing alcohol that is established by authority as the rule for measuring quantity or value; and

(24) "Tampering" means an overt, conscious attempt to:

(A) Physically disable or otherwise disconnect the BAIID from its power source; and

(B) Thereby allow a person with a breath alcohol above the alcohol set point to start the engine.

5 CAR § 21-103. The Office of Alcohol Testing role and functions.

(a) **Approval/certification by the Office of Alcohol Testing.**

(1) **Approval.**

(A) Upon the demonstration by the manufacturer of a BAIID that said device meets the criteria outlined in 5 CAR § 21-105, and that manufacturer is prepared to meet the requirements outlined in 5 CAR §§ 21-104 and 21-106, the Office of Alcohol Testing may issue a certificate of approval.

(B) This does not preclude the office from making any additional requirements deemed necessary to carry out the intent of the law and this part.

(2) **List of approved/certified devices.** The office shall maintain and periodically, when updated, or upon request, provide a list of devices and their manufacturers and approved service providers that have been issued a certificate of approval.

(3) **Revocation of approval/certification**.

(A) Subsequent to approval, the failure of the manufacturer to meet the requirements set forth in 5 CAR §§ 21-104 and 21-106 shall result in a letter of reprimand and instructions for correction from the office.

(B) Failure to positively respond and correct the deficiencies to the satisfaction of the office within thirty (30) days shall result in a revocation of the certificate of approval of the device for use in this state.

(b) **Monitoring by office.**

(1) **Inspections by office.** The office shall inspect each ~~service provider~~manufacturer of such devices ~~while a device is being installed and while a monitoring visit is being conducted on an installed unit at least once a year~~at least annually.

(2) **Testing of device by office.**

(A) The office may conduct, or have conducted independently, tests on any of the approved BAIIDs to determine if the devices are operating within this part.

(B) The office shall remove from the list of approved devices any device, manufacturer, or service provider not found to be in compliance with this part.

(c) **Complaints.** The office shall make available to users and the public a reasonable means of filing complaints or giving feedback about the:

(1) Service provider;

(2) Device; or

(3) Misuse of such devices.

5 CAR § 21-104. Manufacturer/service provider.

(a) **Approval of breath alcohol ignition interlock device, manufacturer, and service provider.**

(1) **Requirements for approval of device**. The manufacturer requesting approval/certification of a BAIID shall submit:

(A) A written application, certifying that the device:

(i) Does not impede the safe operation of a vehicle;

(ii) Minimizes inconvenience to ~~non-drinking vehicle operators~~a sober user;

(iii) ~~Offers minimal opportunities for bypass~~Minimize the opportunities to be bypassed;

(iv) Works accurately and reliably in unsupervised environments; ~~and~~

(v) Properly and ~~Accurately~~ accurately measures the person's alcohol level;

(vi) Be manufactured by an entity that is responsible for installation, user training, and servicing and maintenance of the ignition interlock device, and that is capable of providing monitoring reports to the Office;

(vii) Be capable of randomly retesting the person's blood alcohol level while the motor vehicle's engine or motor is on, after providing adequate notice of the test to ensure the safe operation of the motor vehicle;

(viii) Be capable of capturing and storing the results of each test of the person's blood alcohol level while the ignition interlock device is installed; and

(ix) Be capable of capturing and storing a digital image of the person at the time of each test of the person's blood alcohol level.

(B) A written commitment to:

(i) User training, servicing, and maintenance of the system; and

(ii) Reporting to specified authorities;

(C) A written commitment to provide a twenty-four-hour toll-free telephone number for:

(i) Emergencies; and

(ii) Mechanical problems;

(D)(i) Evidence of liability insurance, in the amount of at least one million dollars ($1,000,000) per occurrence, with three million dollars ($3,000,000) aggregate total.

(ii) The liability insurance shall include coverage for defects in product design and materials as well as in the manufacturing, calibration, installation, and removal of devices.

(iii) The proof of insurance shall include a statement from the insurance company that thirty (30) days' notice will be given to the Office of Alcohol Testing before cancellation of the insurance;

(E) Evidence that the manufacturer and service provider indemnify and hold harmless the State of Arkansas, the State Board of Health, the Office of Alcohol Testing, and its officers, employees, and agents from all claims, demands, actions, and

costs that 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;

(F) One (1) BAIID unit, not installed in a vehicle;

(G) A verifiable report of an independent testing laboratory indicating that the device meets or exceeds the current standards of the National Highway Traffic Safety Administration for such devices as described in this part; and

(H) A complete copy of the testing protocol used by the laboratory for the testing of the device and the results thereof.

(2) **Requirements for BAIID system approval.** In order to obtain approval/certification by the Office of Alcohol Testing, the manufacturer shall:

(A) Comply with the requirements in subsections (a) – (c) of this section; and

(B) Provide, in writing to the Office of Alcohol Testing, satisfactory assurance that the service provider or providers will fulfill the requirements in subsections (c) – (d) of this section.

(b) **Manufacturer responsibilities.**

(1) **Modifications.** The manufacturer of such device shall:

(A) Notify the Office of Alcohol Testing, 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

(B) Provide the Office of Alcohol Testing satisfactory proof that these modifications or alterations do not adversely affect the ability of the device to satisfy the requirements of 5 CAR § 21-105(a) and/or (b).

(2) **Mouthpieces and parts.**

(A) The manufacturer shall provide, free of charge, an adequate supply of mouthpieces if required.

(B) Service providers shall be provided an adequate inventory of parts and supplies by the manufacturer.

(c) **Calibration.**

(1) **Requirements for calibration.** A BAIID utilized under this part shall be calibrated at least once every sixty-seven (67) days using ~~either a wet alcohol standard or~~ a compressed gas standard at a manufacturer-approved service provider site.

(2) **Records of calibration.**

(A) The calibration records shall be maintained by the service provider or the manufacturer for a period of three (3) years.

(B) Copies of these records shall be provided as requested.

(C) These records must reflect all pertinent information and provide a credible account of the condition of each device over the period of use.

(3) **Required details.** Each record shall include the:

(A) Name of the person performing the calibration;

(B) Date;

(C) Alcohol value;

(D) Lot number;

(E) Expiration date;

~~(F) Type of standard used;~~

(~~G~~F) Unit type and identification number of the BAIID checked; and

(~~H~~G) Description of the vehicle in which the BAIID is installed, including the:

(i) License plate number and state; and

(ii) Vehicle:

(a) Identification number;

(b) Make;

(c) Model;

(d) Year; ~~and~~

(e) Color; and~~.~~

(f) Odometer reading.

(d) **Service provider responsibilities.**

(1) **Service.** A service provider shall provide the following minimum service:

(A) Repair, ~~and/or~~ calibration, or both ~~within three (3) business days after service is requested~~of the ignition interlock;

(B) A reasonable number of installation and service facilities within the state, with reasonable business hours; and

(C) Access to a twenty-four-hour toll-free telephone number to answer questions and to deal with mechanical problems and emergencies related to the device.

(2) **Security.**

(A)(i) Installation of the device must be done in an area that is secured from unauthorized persons.

(ii) Necessary precautions must be taken to prevent:

(a) Accessibility of items such as tamper seals and installation instructions; and

(b) Any observation of installation.

(iii) Only trained, authorized personnel and the Office of Alcohol Testing inspectors shall have access to the:

(a) Area during installation; or

(b) Instructions and seals.

(B)(i) A service provider is prohibited from assisting or facilitating any tampering or circumvention of a device.

(ii) A service provider may not install a device on a vehicle owned or operated by any of its employees.

(C) Failure of a service provider to assure complete integrity of the interlock system may result in a loss of approval status for the provider.

(3) **Vehicle inspection.**

(A) The service provider shall inspect each vehicle before installing the device to insure the vehicle is in a mechanical and electrical condition that will allow the device to meet the specifications in 5 CAR § 21-105(b).

(B) At the time of installation or service, the vehicle must be operational.

(C) No service beyond removal shall be performed on a non-operational vehicle.

(4) **Directions for installation of devices.** A BAIID utilized under this part shall be installed by the manufacturer or by private sector service providers in conformance with the directions of the manufacturer.

(5) **Tamper protection.** The installation of the device shall include tamper-proof hardware and/or void seals or heat-seal plastic that will provide evidence of any tampering.

(6) **Warning label.**

(A) Manufacturers shall provide the service providers with a warning label to affix to every unit installed in a vehicle.

(B) The warning label shall state essentially:

WARNING! ANY ACTUAL OR ATTEMPTED TAMPERING OR CIRCUMVENTION OF THIS DEVICE CAN SUBJECT YOU TO CRIMINAL AND CIVIL LIABILITY.

(7) **Instructions to users.**

(A) At the time of installation, detailed operational instructions shall be given to individuals who will be operating the vehicle.

(B) In addition to the manufacturer's instructions, this information shall include a copy of 5 CAR § 21-106.

(C) The driver is to be instructed to keep a copy of the order of installation in the vehicle for inspection.

(D) A detailed list of all fees that may be assessed shall be provided to the user, including but not limited to fees paid to the manufacturer or service provider.

(e) **Monitoring of devices.**

(1) **Frequency of monitoring.** At the time of the calibration, the device and vehicle shall be monitored and a report promptly provided to the Office of Driver Services.

(2) **Monitoring report.** The report shall provide a minimum of the following:

(A) Name of assigned driver;

(B) Vehicle identification number;

(C) Vehicle license plate number;

(D) ~~Mileage~~Odometer reading;

(E) Period of review covered in the report; and

(F) A clear communication of all inappropriate events~~; and .~~

~~(G) A report of the pattern of vehicle use.~~

(3) **Report of tampering.**

(A) At the time of calibration, the device and vehicle shall be inspected for:

(i) Evidence of tampering;

(ii) Abuse; and

(iii) Proper function.

(B) The monitoring report shall include any fact concerning the improper operation of the device or vehicle.

(C) The removal of the warning label or any other label, seal, or tag shall be noted in the report on this device.

(f) **Denial, suspension, or revocation of certification/approval of a device.**

(1) **Cause for loss of approval/certification.** The Office of Alcohol Testing may deny, suspend or revoke approval/certification of any device for any of the following reasons:

(A) Defects in design, materials, or workmanship causing repeated failures of a device;

(B) Termination or cancellation of a manufacturer's liability insurance;

(C) Discontinuance of the manufacturer's business;

(D) Voluntary request by a manufacturer to cancel approval of a device;

(E) Violation by a manufacturer or service provider of any of the provisions of this part;

(F) Provision of materially false or inaccurate information relating to a device's performance standards by a manufacturer or service provider; or

(G) Modification or alteration of the components, design, or installation and operation instructions in such a way that the requirements of 5 CAR § 21-105(b)(1)(A) are no longer satisfied.

(2) **Effective date.** A revocation or suspension of an approval becomes effective fifteen (15) days after notification is sent to the manufacturer by certified mail.

(3) **Appeal.**

(A) A manufacturer may appeal a denial, suspension, or revocation of approval.

(B) This request shall be submitted to the Office of Alcohol Testing, in writing, within fifteen (15) days of the receipt of a notice of denial or revocation of approval.

(4) **Suspension.** Upon suspension a provider must cease accepting new customers but must continue to calibrate, service, and monitor existing customers for the duration of the suspension.

~~(5) **Cost of removal and replacement of device.** After denial or revocation of approval, or voluntary surrender of an approval, a manufacturer shall be responsible for any costs connected with the removal of its devices from customers' vehicles and the installation of another device from the Office of Alcohol Testing's list of approved devices.~~

5 CAR § 21-105. Breath alcohol ignition interlock devices.

(a) **Criteria for approved devices — Features.** The programmable features of the device shall comply to a reasonable degree with the state's current list of acceptable features and required driver sanctions.

(b) **Criteria for approved devices — Capabilities.** The properly installed BAIID shall:

(1) Meet or exceed the current standards of the National Highway Traffic Safety Administration (NHTSA) as published in Volume 78, No. 89 of the Federal Register on May 8, 2013, in the model specifications for breath alcohol ignition interlock devices (BAIIDs);

(2) Use fuel cell technology or other alcohol-specific sensing technology approved by the Office of Alcohol Testing;

(3) Not impede safe operation of the vehicle in which the device is installed;

(4) Work reliably and accurately in an unsupervised environment and in a fail-safe condition, shall cause the vehicle not to start; and

(5) ~~Visibly and/or audibly~~ Audibly indicate to the user or any person near the device that:

(A) The unit is on;

(B) The unit has enabled the ignition system of the vehicle in which it is installed;

(C) The unit is in need of service or calibration;

(D) The failure of the breath sample obtained by the device (alcohol value exceeds set point); and

(E)(i) Any other indicator or signal that may be required by the office.

(ii) The device may augment ~~visible signals or~~ indicators with audible ones approved by the office; and

(6) ~~Visibly and/or audibly~~ Audibly indicate to others in the area when a device is indicating the driver has not met the requirements for:

(A) A rolling retest;

(B) A calibration and maintenance; or

(C) Any other required function.

5 CAR § 21-106. Records and reports to be provided by the manufacturer or service provider.

(a) **Service provider sites.**

(1) Subsequent to approval of a device, the manufacturer or designated representative shall furnish the Office of Alcohol Testing with the following information about each service provider site immediately upon establishing those sites:

(A) Business name;

(B) Owner's name;

(C) Description of business;

(D) Names ~~and qualifications~~ of personnel trained and authorized to perform installations, calibrations, and monitoring;

(E) Specific location of the business;

(F) Hours of business;

(G) Telephone number; and

(H) Emergency number.

(2) A copy of the training certificate~~/documentation~~ for each person shall be provided to the office.

(b) **Reports to courts.**

(1) The manufacturer, designated representative, or the service provider shall furnish, upon request, to the sentencing court a report of all activities required to be recorded by the device, including:

(A) Physical evidence of tampering or attempted tampering; and

(B) Any attempts at circumvention of the ignition interlock device.

(2) The report to the court shall include notice of any automatic lockout.

(3) These reports shall be made as soon as possible, but not longer than two (2) weeks after discovery.

(c) **Report to Office of Driver Services.** The manufacturer or designated representative, or the service provider shall report to the Office of Driver Services, providing a complete record of installation, calibration, maintenance checks, and usage records of any or all of their devices placed in service in Arkansas.

(d) **Notice to Office of Alcohol Testing.** The Office of Driver Services will notify the Office of Alcohol Testing upon discovery of any abnormality or possible infraction of this part observed concerning the use, installation, or function of these devices.

(e) **Availability of records.** The Office of Driver Services will make available to the Office of Alcohol Testing any records on BAIIDs not otherwise prohibited by law.

5 CAR § 21-107. Rules for the use of breath alcohol ignition interlock devices.

(a) **Personal responsibility.** The owner of the vehicle in which a BAIID is to be installed will be responsible for the cost of any repairs necessary to get the vehicle in a condition to allow the installed device to meet the requirements specified in 5 CAR § 21-105(b).

(b) **Post-installation inspection.** After installation of the device, an inspection should be made by the owner and installer to ensure the installation:

(1) Was performed properly; and

(2) Does not interfere with the normal operation of the vehicle.

(c) **Order for installation.** A copy or the original order shall be kept in the vehicle for inspection by law enforcement or other appropriate officials.

(d) **Proper use of device.**

(1) A BAIID shall be used in accordance with the prescribed procedures of the manufacturer.

(2) These procedures shall include a minimum fifteen-minute waiting period between the:

(A) Last drink of an alcoholic beverage; and

(B) Time of blowing into the device.

(3) Failure of the test shall mean the driver is above the prescribed allowable breath alcohol concentration (alcohol set point).

State of Arkansas *As Engrossed: H4/2/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1875

By: Representatives Tosh, Barnes, Beaty Jr., Beck, Bentley, Breaux, R. Burkes, Joey Carr, Crawford, Duffield, Eaves, Gazaway, Henley, Holcomb, Hollowell, Jean, Ladyman, Lundstrum, Maddox, McAlindon, M. McElroy, McGruder, Milligan, J. Moore, Pearce, Perry, Puryear, Rye, Schulz, Walker, Wooten
By: Senator Crowell

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE USE OF AN IGNITION INTERLOCK DEVICE; TO PROVIDE FOR THE EXTENSION OF THE MANDATORY PERIOD FOR THE USE OF AN IGNITION INTERLOCK DEVICE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE USE OF AN IGNITION INTERLOCK DEVICE; AND TO PROVIDE FOR THE EXTENSION OF THE MANDATORY PERIOD FOR THE USE OF AN IGNITION INTERLOCK DEVICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-65-118(a)(3), concerning the Office of Driver Services requiring the use of an ignition interlock device, is amended to read as follows:

(3) The office shall establish:

(A) A ~~specific~~ calibration setting ~~no lower than two hundredths of one percent (0.02%) nor more than five hundredths of one percent (0.05%)~~ of twenty-five thousandths of one percent (0.025%) of alcohol in the person's blood at which the ignition interlock device will prevent the motor vehicle's being started; and

(B) The period of time that the person is subject to the

restriction.

SECTION 2. Arkansas Code § 5-65-118(b)(1), concerning the responsibilities of the Office of Driver Services after requiring the use of an ignition interlock device, is amended to read as follows:

(1)(A) State on the record the requirement for and the period of use of the ignition interlock device.

(B) However, if the office restricts the person to using an ignition interlock device in conjunction with the issuance of an ignition interlock restricted license under § 5-65-104, the time the person is required to use the ignition interlock device shall be until the original suspension imposed under § 5-65-104 has been completed <u>except as otherwise provided under subsection (h) of this section</u>;

SECTION 3. Arkansas Code § 5-65-118(f)(2), concerning the rules of the Department of Health for the certification of ignition interlock devices, is amended to read as follows:

(2) The rules shall require an ignition interlock device, at a minimum, to:

(A) Not impede the safe operation of the motor vehicle;

(B) Minimize the opportunities to be bypassed;

(C) Work accurately and reliably in an unsupervised environment;

(D) Properly and accurately measure the person's blood alcohol levels;

(E) Minimize the inconvenience to a sober user; ~~and~~

(F) Be manufactured by an entity that is responsible for installation, user training, and servicing and maintenance of the ignition interlock device, and that is capable of providing monitoring reports to the office<u>;</u>

<u>(G) Be capable of randomly retesting the person's blood alcohol level while the motor vehicle's engine or motor is on, after providing adequate notice of the test to ensure the safe operation of the motor vehicle;</u>

<u>(H) Be capable of capturing and storing the results of each test of the person's blood alcohol level while the ignition interlock</u>

device is installed; and

(I) Be capable of capturing and storing a digital image of the person at the time of each test of the person's blood alcohol level.

SECTION 4. Arkansas Code § 5-65-118, concerning ignition interlock devices, is amended to add an additional subsection to read as follows:

(h)(1) The mandatory period for using an ignition interlock device may be extended if, during the final sixty (60) days of the original period or during an extension of the original period, the person:

(A)(i) Attempts to start his or her motor vehicle with a blood alcohol level of more than twenty-five thousandths of one percent (0.025%) as determined by the ignition interlock device.

(ii) The original period for using an ignition interlock device shall not be extended for an attempt to start the motor vehicle with a blood alcohol level of more than twenty-five thousandths of one percent (0.025%) if a subsequent test performed by the person within ten (10) minutes registers a blood alcohol level of less than twenty-five thousandths of one percent (0.025%) and a digital image captured by the ignition interlock device shows that the same person took the subsequent test;

(B)(i) Fails to take a random retest of his or her blood alcohol level while the motor vehicle's engine or motor is on.

(ii) The original period for using an ignition interlock device shall not be extended for a failure to take a random retest if a digital image captured by the ignition interlock device at the time of the random retest shows that the person was not in the motor vehicle at the time of the random retest;

(C)(i) Takes a random retest of his or her blood alcohol level while the motor vehicle's engine or motor is on and has a blood alcohol level of more than twenty-five thousandths of one percent (0.025%) as determined by the ignition interlock device.

(ii) The original period for using an ignition interlock device shall not be extended for having an alcohol concentration of more than twenty-five thousandths of one percent (0.025%) during a random retest of his or her blood alcohol level if a subsequent test performed by the person within ten (10) minutes registers a blood alcohol level of less

than twenty-five thousandths of one percent (0.025%) and a digital image captured by the ignition interlock device shows that the same person took the subsequent test; or

(D) Fails to have the ignition interlock device serviced and monitored as required by subdivision (b)(6) of this section.

(2)(A) Upon completion of the period for which a person is required to use an ignition interlock device, the person shall request that the ignition interlock device provider certify that the person has not had a violation under subdivision (h)(1) of this section.

(B) If the ignition interlock device provider issues a certificate of compliance, the person may present the certificate to the office to remove the ignition interlock restriction from the person's driver's license.

(C)(i) If the ignition interlock device provider notifies the person that the provider's records indicate that the person has had a violation under subdivision (h)(1) of this section, the person may either:

(a) Accept the extension of the ignition interlock requirement; or

(b) Request that the ignition interlock device provider reconsider the finding of a violation, which may be based on evidence of compliance provided by the person.

(ii) If the ignition interlock device provider confirms the finding of a violation, the ignition interlock period will be extended for sixty (60) days and the requirements of this section will be in place for the additional period.

(D) If the ignition interlock device provider confirms a finding of a violation under subdivision (h)(2)(C)(ii) of this section, the person may demand removal of the ignition interlock device, and the provider *shall notify the office of the removal.*

SECTION 5. EFFECTIVE DATE. This act is effective on July 1, 2026.

/s/Tosh

APPROVED: 4/17/25