

# ARTICLE 3. IGNITION INTERLOCK DEVICES

## Rule 1. Definitions

### 260 IAC 3-1-1 Applicability

Authority: IC 9-30-8-3

Affected: IC 9-30-8-3

Sec. 1. The definitions in this rule apply throughout this article. (*State Department of Toxicology; 260 IAC 3-1-1; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

### 260 IAC 3-1-2 "Department" defined

Authority: IC 9-30-8-3

Affected: IC 10-20-2-1

Sec. 2. "Department" means the state department of toxicology established by IC 10-20-2-1. (*State Department of Toxicology; 260 IAC 3-1-2; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

### 260 IAC 3-1-3 "Director" defined

Authority: IC 9-30-8-3

Affected: IC 10-20-2-2

Sec. 3. "Director" means the director of the department. (*State Department of Toxicology; 260 IAC 3-1-3; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

### 260 IAC 3-1-4 "Fail point" defined

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 4. "Fail point" means an alcohol concentration of at least two-hundredths (0.02) gram per one hundred (100) milliliters of blood or two hundred ten (210) liters of breath or a higher alcohol concentration prescribed by the originating court. (*State Department of Toxicology; 260 IAC 3-1-4; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

### 260 IAC 3-1-5 "Lockout" defined

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 5. "Lockout" means a period of time when the ignition interlock device does not allow a breath sample to be analyzed or a vehicle's engine to be started. (*State Department of Toxicology; 260 IAC 3-1-5; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

### 260 IAC 3-1-6 "Material modification" defined

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 6. "Material modification" means an addition or reduction in features, software version change, configuration profile change, or alteration in the components, design, or installation or operating instructions of a certified ignition interlock device model. (*State Department of Toxicology; 260 IAC 3-1-6; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-7 "Originating court" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 7. "Originating court" means the court that has required the use of an ignition interlock device by a particular person or that has responsibility for the pretrial or post-conviction supervision of a restricted operator. (*State Department of Toxicology; 260 IAC 3-1-7; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-8 "Provider" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 8. "Provider" means a producer, vendor, distributor, or supplier of an ignition interlock device. (*State Department of Toxicology; 260 IAC 3-1-8; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-9 "Random retest" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 9. "Random retest" means a breath test required at randomly variable intervals from the operator of a vehicle equipped with an ignition interlock device to ensure that the operator's alcohol concentration remains below the fail point after vehicle start-up. (*State Department of Toxicology; 260 IAC 3-1-9; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-10 "Restricted operator" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 10. "Restricted operator" means a person whose driving privileges are restricted to operating only motor vehicles equipped with a functioning certified ignition interlock device. (*State Department of Toxicology; 260 IAC 3-1-10; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-11 "Service" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 11. "Service" means to calibrate, maintain, download data from, inspect for evidence of tampering or circumvention, and report information to the appropriate authorities. (*State Department of Toxicology; 260 IAC 3-1-11; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-12 "Vendor" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 12. "Vendor" means a producer, provider, distributor, or supplier of an ignition interlock device. (*State Department of Toxicology; 260 IAC 3-1-12; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-1-13 "Violation reset" defined**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 13. "Violation reset" means activation of a requirement for service of an ignition interlock device. (*State Department of Toxicology; 260 IAC 3-1-13; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

## **Rule 2. Standards and Specifications for Certified Ignition Interlock Device Models**

### **260 IAC 3-2-1 Standards and specifications**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 1. In order to be certified, an ignition interlock device model must meet or exceed the following standards:

(1) The Model Specifications for Breath Alcohol Ignition Interlock Devices in section III, beginning on page 26862, published by the National Highway Traffic Safety Administration in the Federal Register, Volume 78, Number 089, on May 8, 2013, on pages 26849-26867\*, including:

(A) the General Provisions and Features of Breath Alcohol Ignition Interlock Devices; and

(B) the Performance Requirements in the Conformance Tests 1 through 16 when performed under the General Test Conditions.

(2) Require the operator of a vehicle equipped with the ignition interlock device to submit to a random retest within a variable interval ranging from three (3) to fifteen (15) minutes of starting the vehicle, with random retests continuing at variable intervals ranging from fifteen (15) to forty-five (45) minutes after the previous retest for the duration of the travel.

(3) Have the capability to activate a violation reset with notification to the vehicle operator when any one of the following occurs:

(A) There is a circumvention of the correct operation of the ignition interlock device by the vehicle being started without a breath test below the fail point having first been provided.

(B) A breath test result at or above the fail point is recorded during a vehicle start-up attempt.

(C) A breath test result at or above the fail point is recorded during a vehicle start-up attempt, and a breath test result below the fail point is not recorded within ten (10) minutes after the initial breath test result at or above the fail point was recorded.

(D) A random retest result at or above the fail point is recorded.

(E) The vehicle operator fails to provide a breath sample below the fail point within six (6) minutes of notification of a required random retest.

(F) The ignition interlock device control head is disconnected after the vehicle is started.

(G) The ignition interlock device is not serviced by the vendor or provider within thirty-seven (37) days of installation or the previous service date.

(4) Have the capability to repeatedly sound the horn of a vehicle equipped with the ignition interlock device until the vehicle is turned off when any one of the following occurs:

(A) A violation reset occurs from a missed random retest.

(B) The result of a random retest is at or above the fail point.

(C) There is a disconnection of the ignition interlock device control head for longer than one (1) minute after vehicle start-up.

(5) Activate a lockout after a violation reset if the ignition interlock device is not serviced by the vendor or provider within five (5) days of initiation of the violation reset.

(6) Contain an image identification device that:

(A) does not distract or impede the vehicle operator from safe and legal operation of the vehicle;

(B) produces a digital or photographic image of the vehicle operator:

(i) upon delivery of a sample required for vehicle start-up; and

(ii) upon delivery of a sample during a required random retest;

in various lighting conditions, including, but not limited to, brightness, darkness, and low light conditions;

(C) documents the date and time of a digital or photographic image produced; and

(D) stores the digital or photographic images and data produced in the device memory for download by the vendor or

provider.

(7) Have a label affixed warning a person that tampering with or misusing the device is a crime and may subject that person to criminal and civil penalties.

\*This document is incorporated by reference. A copy may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or is available for review and copying at the Indiana State Department of Toxicology, 550 West 16th Street, Indianapolis, Indiana 46202. (*State Department of Toxicology; 260 IAC 3-2-1; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

### **Rule 3. Certification of Ignition Interlock Device Models**

#### **260 IAC 3-3-1 Application for certification**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 1. (a) To apply for certification of an ignition interlock device model, a vendor or provider must submit the following to the department:

(1) A completed application on the form provided by the department, which must include:

(A) the vendor or provider's name, address, telephone number, and e-mail address;

(B) the name, telephone number, and e-mail address of a contact person authorized to represent the vendor or provider;

(C) the name and number of the ignition interlock device model for which certification is sought; and

(D) a list of other states in which the same ignition interlock device model has been approved for use.

(2) A precise set of specifications describing the features of the ignition interlock device model.

(3) The operator's manual, user's guide, or instructions provided to restricted operators using the ignition interlock device model.

(b) After receipt of the information required in subsection (a), the department shall send the applicant written instructions for submission of two (2) samples of the ignition interlock device model for which certification is sought to a testing laboratory selected by the department for performance of tests required to determine if the ignition interlock device model meets the standards and specifications in this article. The applicant must pay the testing laboratory selected by the department for the testing required by this article. (*State Department of Toxicology; 260 IAC 3-3-1; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

#### **260 IAC 3-3-2 Certification term and renewal**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 2. (a) A certification of an ignition interlock device model shall be effective on the date of issuance or renewal and shall be valid for three (3) years unless it is surrendered, suspended, or revoked prior to expiration.

(b) To apply for renewal of a certification of an ignition interlock device model, the vendor or provider must submit to the department the documents listed in section 1(a) of this rule. The application for renewal may not be submitted to the department earlier than ninety (90) days prior to the expiration of the certification for which renewal is sought or later than thirty (30) days prior to the expiration of the certification for which renewal is sought.

(c) After receipt of the information required in subsection (b), the department shall determine whether testing is required to determine that the ignition interlock device model meets the standards and specifications in this article. If the department determines that testing is required, the department shall send the vendor or provider written instructions for submission of two (2) samples of the ignition interlock device model to a testing laboratory selected by the department for performance of the required tests. The vendor or provider must pay the testing laboratory selected by the department for the required testing of the two (2) samples of the ignition interlock device model. (*State Department of Toxicology; 260 IAC 3-3-2; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-3-3 Modification of a certified ignition interlock device model**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 3. (a) During the certification period of a certified ignition interlock device model, the vendor or provider of the device must provide written notice to the department of a material modification of the certified ignition interlock device model prior to implementation of the material modification in the state of Indiana.

(b) After receipt of the information required in subsection (a), the department shall determine whether testing is required to determine that the modified ignition interlock device model meets the standards and specifications in this article. If the department determines that testing is required, the department shall send the vendor or provider written instructions for submission of two (2) samples of the modified ignition interlock device model to a testing laboratory selected by the department for performance of the required tests. The vendor or provider must pay the testing laboratory selected by the department for the required testing of the two (2) samples of the modified ignition interlock device model. (*State Department of Toxicology; 260 IAC 3-3-3; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-3-4 Denial, revocation, or suspension of certification**

Authority: IC 9-30-8-3

Affected: IC 9-13-2-76; IC 9-30

Sec. 4. (a) The certification of an ignition interlock device model shall be subject to review by the department during the course of the certification period.

(b) The director may deny a certification or renewal of a certification of an ignition interlock device model and may suspend or revoke a certification of an ignition interlock device model upon receiving evidence that the ignition interlock device model does not comply with a requirement of this article. (*State Department of Toxicology; 260 IAC 3-3-4; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

**260 IAC 3-3-5 Administrative adjudication**

Authority: IC 9-30-8-3

Affected: IC 4-21.5-3-5; IC 4-21.5-3-7

Sec. 5. (a) An order:

- (1) granting or denying a certification of an ignition interlock device model;
- (2) granting or denying renewal of a certification of an ignition interlock device model; or
- (3) requiring testing prior to implementation of a material modification of a certified ignition interlock device model;

shall be issued by the director following the requirements of IC 4-21.5-3-5.

(b) If a petition for review of an order issued under subsection (a) is subsequently granted under IC 4-21.5-3-7, the resulting administrative proceeding shall be conducted by the department.

(c) An order suspending or revoking a certification of an ignition interlock device model shall be issued by the director following the requirements of IC 4-21.5-3-8. (*State Department of Toxicology; 260 IAC 3-3-5; filed Dec 3, 2015, 10:58 a.m.: 20151230-IR-260150054FRA*)

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