

Appendix B Model Ignition Interlock Program Legislation

Introduction

The following model legislation, originally drafted by the 2014-15 Ignition Interlock Working Group, was updated by the 2018 Working Group and vetted by members of the AAMVA legal services discipline. It can be used in jurisdictions seeking model enabling legislation for an ignition interlock requirement. It can also be used by jurisdictions looking to amend current law to improve their ignition interlock programs.

Particular attention should be paid to Section 3, where the terms “shall” and “may” are inserted. The term “shall” is used if it is the intention of the jurisdiction to require ignition interlocks for “all offenders.” If the jurisdiction intends to have a different trigger (e.g., a second offense, high BrAC), then the more specific intended language should be inserted.

Another area of particular interest is Section 7, “Interstate Continuity” (Reciprocity). This is an area of particular challenge for jurisdictions and provides a statutory solution to this challenge.

Jurisdictions may also want to include a provision allowing the authority to exclude or exempt certain applicants from the ignition interlock requirement. Examples include, but are not limited, to employer vehicles, medical condition, and so on.

Legislation Summary

This bill provides for an ignition interlock requirement for a person who is [arrested, charged, convicted, or pleads guilty or *nolo contendere*] to any offense involving the operation of a motor vehicle while impaired by alcohol, drugs, or both. Jurisdictions that also have mandatory or optional ignition interlock

requirements for implied consent suspensions or other statutory reasons will need to adjust the legislation appropriately. Jurisdictions, at the discretion of policy makers, may choose to adopt portions and not all of the model legislation provided or may adopt in its entirety.

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{Title, enacting clause, etc.}

Section 1. {Short Title} This act may be cited as the Ignition Interlock Device Act

Section 2. {Definitions}

1. “Ignition Interlock Device” means a device that:
 - a. Connects a motor vehicle ignition system to a breath analyzer that measures a driver’s breath alcohol level;
 - b. Prevents a motor vehicle from starting if a driver’s breath alcohol level exceeds the calibrated setting on the device; and
 - c. Requires periodic testing during operation.
2. “Certified Ignition Interlock Device” and “Certified Provider” mean such devices and providers or manufacturers as are certified by the [Administration / Department of Motor Vehicles] pursuant to [specific jurisdiction statute or regulation].

Section 3. {Main Provisions}

1. Upon arrest, charging, conviction, guilty plea, or plea of *nolo contendere* to any offense involving the operation of a motor vehicle while impaired, or other administrative action, the [Administration / Department of Motor Vehicles] shall [or may] require a person to equip any motor vehicle that the person operates with an ignition interlock device, only operate a vehicle equipped with an ignition interlock device, and fully comply with the [Administration's / Department of Motor Vehicle's] ignition interlock program for:
 - a. Not less than six continuous months for a first [offense];
 - b. Not less than twelve continuous months for a second [offense];
 - c. Not less than twenty-four continuous months for a third or subsequent [offense].
2. The Authority may authorize removal of the ignition interlock device after the minimum time provided that the person whose vehicle was equipped with the device fully complies with all laws, regulations, and program requirements enacted under this Act (compliance-based removal). A person who fails to comply with any law, regulation, or program requirement shall not be credited with any time toward the requirement under subsection (1) prior to the failure to comply and must fully comply for the period of time required in subsection (1) before removal is authorized, unless the Authority determines that the person should be [terminated/ suspended/violated/time requirement extended] from the program, and any original sanction(s) shall be applied.
3. The Authority shall:
 - a. Determine the minimum time that the person must use an Approved Ignition Interlock Device as indicated under paragraph (1) of this Section;
 - b. Direct that the records of the [Administration / Department of Motor Vehicles] reflect that the person may only operate a motor vehicle that is equipped with an Approved Ignition Interlock Device.
 - c. Direct the [Administration / Department of Motor Vehicles] to note in an appropriate manner a restriction on the person's license imposed under this Section;
 - d. Require proof of the installation of an approved Ignition Interlock Device and regular reporting by the person as required under the contracted services for verification of the proper operation of the device;
 - e. Require the certified provider to notify the Department if a person fails to comply with any requirement for maintenance or calibration of the ignition interlock device.
 - f. Require the certified provider to provide each year an annual report to the department with information as required by the department.
 - g. Require the person to have the approved Ignition Interlock Device monitored for proper use and accuracy by an entity approved by the [Administration / Department of Motor Vehicles] within 30 days of installation and every 60 days thereafter, or more frequently as the circumstances may require; and

- h. Require the person to pay the cost of leasing or buying, monitoring, and maintaining an Ignition Interlock Device.

Section 4. {Violation Clause}

1. It is a violation of this act for any person, unless authorized by the court or the [Administration/Department of Motor Vehicles], to:
 - a. Remove, disable, deactivate, bypass, circumvent or tamper with the ignition interlock device and its accessories;
 - b. Attempt to remove, disable, deactivate, bypass, circumvent or tamper with the ignition interlock device and its accessories.
2. It is a violation of this act for any person ordered into the ignition interlock program to:
 - a. Fail to report for periodic calibration and servicing of the ignition interlock device;
 - b. Provide fraudulent breath samples or breath samples belonging to any other individual;
 - c. Operate any vehicle not equipped with an ignition interlock device.
3. In addition to any other civil or criminal penalty, any person who violates subsection (1) or (2) shall be subject to, as deemed appropriate by the Authority:
 - a. An administrative fee not to exceed \$1,000; or
 - b. Suspension, revocation, restriction or time requirement extension of the person's license.

Section 5. {Severability Clause}

If a provision of this Act is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

1. The validity or enforceability in that jurisdiction of any other provision of this Act; or
2. The validity or enforceability in other jurisdictions of that or any other provision of this Act.

Section 6. {Establishment/Implementation Clause}

The [Administration / Department of Motor Vehicles] shall establish an Ignition Interlock Program and promulgate regulations to implement the provisions of this Act, including alcohol education and treatment components.

Section 7. {Interstate Continuity}

1. A resident of another jurisdiction who is required by any jurisdiction to hold an ignition interlock device restricted license to operate a motor vehicle shall be prohibited from operating a motor vehicle in this jurisdiction unless that vehicle is equipped with a functioning, certified ignition interlock device.
2. If a resident of this Jurisdiction is convicted of violating a law of another jurisdiction that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other jurisdiction, the person is subject to the requirements of this Act for the length of time that would have been required for an offense committed in this Jurisdiction, or for the length of time that is required by the other jurisdiction, whichever is longer.

3. If a person from another jurisdiction becomes a resident of this Jurisdiction while subject to an ignition interlock device requirement in another jurisdiction, the person may only obtain a driver's license in this Jurisdiction if the person enrolls in this Jurisdiction's Ignition Interlock Device Program pursuant to this Act. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in this Jurisdiction, or for the length of time that is required by the other jurisdiction, whichever is longer.
4. If a resident of this Jurisdiction is subject to an ignition interlock requirement pursuant to this Act and becomes a resident of another jurisdiction, the person must enroll in that jurisdiction's Ignition Interlock Program for

at least the time remaining under this Act. Failure to do so will result in suspension of the person's driving privileges in this Jurisdiction until completion of the time required by this Act.

Section 8. {Repealer Clause}

The Act repeals previously enacted statutes and regulations to the extent that they are in conflict with any section of this Act and any regulations promulgated hereunder. The previously enacted inconsistent statutes and regulations shall be repealed only to the extent of the conflict with this Act and the regulations promulgated hereunder.

Section 9. {Effective Date}

The sections of this Act shall be in full force and effect on and after [DATE].