

OREGON STATE POLICE

IGNITION INTERLOCK DEVICE OVERSIGHT PROGRAM



**Oregon Administrative Rule (OAR)
Chapter 257-100-0005 – 257-100-0080**

**Oregon Revised Statute (ORS)
813.599 – 813.680**

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

Oregon Administrative Rules (OAR)

257-100-0005	Definitions	3
257-100-0010	IID Standards and Requirements	5
257-100-0015	Product Liability for IIDs	7
257-100-0020	Removal from List of Qualified IIDs	7
257-100-0025	Manufacturer's Representative Certification, Service Center Certification, and Inspection Requirements	8
257-100-0030	Certification for Mobile Service Center Certification and Inspection Requirements	12
257-100-0035	State-wide Service Center Area Requirement	13
257-100-0040	Service Center Complaint Process	14
257-100-0045	IID Technician Qualification Standards	14
257-100-0050	Performance Standards for IID	15
257-100-0055	Device Routine Maintenance and Calibration	16
257-100-0060	Reporting Requirements of Manufacturers, Manufacturer's Representatives, and Service Centers	20
257-100-0065	Removal of IIDs	21
257-100-0070	Service Center Application, Renewal Fee, and Fee Schedule	22
257-100-0075	Indigence Fee Waiver	23
257-100-0080	Hearing Procedure	24

Oregon Revised Statutes (ORS)

813.599	Definitions	25
813.600	Ignition Interlock Program	26
813.602	Circumstances Under Which IID Required	27
813.603	Waiver of Costs of IIDs	29
813.604	Notice of Court Order	29
813.606	Exception for Employee Otherwise Required to Have Device	30
813.608	Knowingly Furnishing Motor Vehicle Without IID	31
813.610	Soliciting Another to Blow into IID	31
813.612	Unlawfully Blowing into IID	31

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

813.614	Tampering with IID	32
813.616	Use of Certain Moneys to Pay for Ignition Interlock Program	32
813.620	Suspension of Driving Privileges for Failing to Provide Proof of Device Installation or for Tampering with Device	32
813.630	Notice of IID Installation and Negative Reports	33
813.635	Consequences for Negative Reports Generated from IIDs	34
813.640	Additional Treatment Following Negative Reports	35
813.645	Motion to Vacate Requirement to Install and Use IID	35
813.660	Service Center Certification	36
813.665	Criminal Background Check for Service Centers	37
813.670	Service Centers	38
813.680	IID Management Fund	39

Oregon Administrative Rules

257-100-0005

Definitions

As used in OAR 257-100-0005 to 257-100-0080, in addition to the terms defined in ORS 813.599, the following terms apply:

- (1) "Alcohol" means ethanol or ethyl alcohol.
- (2) "Alcohol set point" means a breath alcohol concentration greater than 0.020 BrAC, at which the device is set to prevent a vehicle from starting or operating.
- (3) "Breath Alcohol Concentration (BrAC)" means the amount of alcohol in the blood of the individual as shown by chemical analysis of the breath.
- (4) "Breath sample" means normal expired human breath primarily containing alveolar air.
- (5) "Calibration" means the process of testing and adjusting a device to ensure accuracy by using dry gas standard that is approved to be listed on the 2012 NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Testers.
- (6) "Circumvention" means to bypass the correct operation of a device by starting or operating the vehicle, by any means, without first providing a breath test.
- (7) "COA" means Certificate of Analysis.
- (8) "Early Recall" means response of the device due to an action of the individual which requires service of the device or downloading of the data memory.
- (9) "Ignition Interlock Device" or "device" means a device that is designed to allow a driver to start or operate a vehicle if the driver's BrAC is below the alcohol set point and to prevent the driver from starting or operating the vehicle if the driver's BrAC is at or above the alcohol set point.
- (10) "Indigence Standards" means a determination of indigence based on household income adopted by the United States Department of Agriculture for the SNAP (Supplemental Nutrition Assistance Program).
- (11) "Individual" means a person required to have a device installed due to a conviction or

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

diversion agreement.

(12) “Lockout” means a condition when the device will not accept a breath test until the device is serviced or unlocked as permitted in OAR 257-100-0055.

(13) “Manufacturer” means an organization responsible for the design, construction, production and repair of a device.

(14) “Manufacturer Representative” means the only company or corporation registered as a business with the Oregon Secretary of State that is designated by a manufacturer to sell, rent, or lease a specific device model in the State of Oregon and provide statewide device service through the operation of a network of service centers.

(15) “Mobile Service” means a vehicle operated by a certified service center allowing their ignition interlock technician to service approved ignition interlock devices at a location other than the service center.

(16) “NHTSA” means the National Highway Traffic Safety Administration.

(17) “ODOT” means the Oregon Department of Transportation

(18) “Operational” means an interlock device that is installed in a vehicle, ready for use, and has not entered lockout.

(19) “OSP” means the Oregon Department of State Police.

(20) “Proper Record Maintenance” means the manufacturer’s representative complete records on each individual for a period of 5 years after the date of the device removal including, but not limited to, all data retrieved from the data storage system of a device.

(21) “Purge” means any action by which a device cleanses or removes a previous breath sample from the device and specifically removes residual alcohol.

(22) “Restart” means the ability to start the vehicle’s engine again within two minutes after the vehicle engine is turned off (including stalling) without the delivery of another breath sample.

(23) “Retest” means a breath sample required by the device after the initial vehicle engine start-up breath sample and while the vehicle is being operated.

(24) “Second initial test” means the setting on a device that allows for multiple attempts before the vehicle is started or operated and after the test violation, within a ten minute period, for the

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

individual to provide a breath sample that does not register as a test violation.

(25) “Service” means installing, inspecting, downloading, data transferring, calibrating, or removing the device.

(26) “Supplemental Nutrition Assistance Program” or “SNAP” means the program operated by United States Department of Agriculture to provide low-income individuals and families with nutrition assistance.

(27) “Tampering” means an attempt to disable, adjust, or otherwise alter the proper operation of a device or camera. “Tampering” does not include disconnecting the handset once the vehicle is turned off.

(28) “Vehicle” means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. Under ORS 801.365 (Motorcycles) and ORS 801.133 (Autocycles), motorcycles and autocycles are considered vehicles.

257-100-0010
Ignition Interlock Device Standards and Requirements

(1) Any device model for use in Oregon must meet the established standards set by OSP. OSP qualifies a device model for use in the state of Oregon based on its ability to meet the established device standards set forth by ORS 813.599, 813.600 and OAR 257-100-0010.

(2) To meet the device standards required for OSP to place a device on the list of qualified devices for use in the state of Oregon, the manufacturer’s representative must submit all of the following to OSP:

(a) A completed OSP Form 257-0001 - Application for Ignition Interlock Device Qualification.

(b) A written statement from the manufacturer on the manufacturer’s letterhead addressed to OSP that authorizes a manufacturer’s representative to act as the sole source manufacturer’s representative for the manufacturer’s device model.

(c) A certificate of insurance as proof of product liability insurance as described in OAR 257-100-0015.

(d) Written documentation, issued within the preceding five years prior to submission of the application, from an International Organization for Standardization (ISO) 17025 certified testing

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

laboratory that states that the device meets or exceeds the model specifications established by NHTSA, identified as “Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDS).” The documentation must be for the manufacturer’s specific model of ignition interlock device listed on the application. The NHTSA model specification for BAIIDS is incorporated by reference and made part of this rule as published in the 78 FR 26849-26867 effective May 8, 2014 and 80 FR 16720-16723, effective March 30, 2015. The documentation from the ISO 17025 certified testing laboratory must include:

(A) The name, physical location, mailing address, and phone number of the testing laboratory;

(B) A description of the tests performed;

(C) Copies of the data and results of the testing procedures; and

(D) The names of the lab employees performing the tests.

(e) Written documentation of the manufacturer’s certification to the current International Organization for Standardization (ISO) 9001 Quality Management System (QMS) for aspects related to construction, production and repair of a device. Along with this certification, a copy of the manufacturer’s Quality Assurance Plan (QAP) for checking the accuracy of the calibration;

(A) All existing state certified manufacturer’s representatives shall apply for an accredited ISO 9001 certification no later than July 1, 2020, and successfully obtained by January 1, 2021. All new manufacturer’s representatives applying for certification shall obtain an accredited ISO 9001 certification prior to application submission to OSP.

(f) The ISO 9001 certified device being submitted for qualification;

(g) Any electronic device which reports login procedures, and allows online accessibility for OSP to review and download reports of any individual and device;

(h) A written notice to OSP, illustrating an implementation plan and description of any modification to the device. Any modification in either firmware or hardware may require the applicant to resubmit their device and all documents required in OAR 257-100-0010; and

(i) A signed OSP Ignition Interlock Device Violation Policy form (257-0012), detailing how the validity of violations committed by the individual will be determined in accordance with ORS 813.635.

(3) Any time the manufacturer modifies the firmware or hardware of their approved device

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

model, the device manufacturer or manufacturer's representative must, as determined by OSP, either modify the device in OSP's possession or send the modified device to OSP. OSP may test the device to determine if the device model, as modified, meets the standards described in OAR 257-100-0010.

(4) Applications for device qualification shall be resubmitted every five years.

257-100-0015
Product Liability for Ignition Interlock Devices

Each device manufacturer or manufacturer's representative must have product liability insurance with minimum liability limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate throughout the certification period. A manufacturer or manufacturer representative may not cancel, materially change, or fail to renew the coverage of the insurance company.

257-100-0020
Removal from List of Qualified Ignition Interlock Devices

(1) OSP may remove a device from the list of qualified devices, upon making any of the following determinations:

- (a) The device has failed repeatedly. Device failure means the device has been found to fail repeatedly by an International Organization for Standardization (ISO) 17025 certified testing laboratory, or OSP;
- (b) The manufacturer or manufacturer's representative is found to be repeatedly noncompliant with the International Organization for Standardization (ISO) 9001 Quality Management System (QMS) or the Quality Assurance Plan (QAP);
- (c) The manufacturer or manufacturer's representative liability insurance has been terminated, canceled, or expired;
- (d) The manufacturer or manufacturer's representative is no longer operating in the state;
- (e) The manufacturer or the manufacturer's representative is repeatedly non-compliant with the requirements of OAR 257-100-0010, 257-100-0035, and 257-100-0050;
- (f) The manufacturer or the manufacturer's representative inaccurately represents that the

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

device meets the performance standards described in these rules;

(g) The manufacturer or manufacturer representative repeatedly fails to report data as required in 257-100-0060.

(h) The device's components or design is modified in a way that results in the device no longer meeting NHTSA specifications;

(i) The manufacturer's representative fails to have or maintain certified service centers to provide device services, pursuant to OAR 257-100-0035; or

(j) The manufacturer fails to notify OSP within 30 days of a final action to suspend, revoke, deny approval of or disqualify a device model from the list of qualified devices by any other state.

(2) A manufacturer may voluntarily request OSP to remove a device from the qualified list for which the manufacturer has previously received approval. Within 60 days after the receipt of the request, OSP shall remove the device from the qualified list.

(3) When OSP removes a device from the list of qualified devices, that device is no longer qualified for new installations and must be removed from existing vehicles. OSP shall post on its website when a device is removed from the list of qualified devices. The manufacturer's representative must provide OSP with a list of all current individuals, including their contact information. An individual whose installed device is removed from the list of qualified devices must have the delisted device removed by a qualified ignition interlock device technician and a device of the individual's choice, which is listed on the qualified device list, installed by a qualified ignition interlock device technician within 60 days of the delisted device being removed from the qualified device list. If an individual fails to remove and replace the device as required in this section, the individual will be considered to have no device installed. The manufacturer's representative whose device was removed from the list of qualified devices must pay for the removal and install of a new device with the manufacturer representative's surety bond pursuant to Rule 257-100-0025(2)(e).

257-100-0025

Manufacturer's Representative Certification, Service Center Certification and Inspection Requirements

(1) A manufacturer's representative shall be certified when the manufacturer's representative meets the device requirements in OAR 257-100-0010 and the Statewide Service Center Area Requirement in OAR 257-100-0035.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(2) A manufacturer's representative must submit an application, and associated materials as set out in (a) to (d) below, to OSP for each fixed site service center the manufacturer's representative seeks to have certified. Incomplete applications will not be accepted. The manufacturer's representative must submit the following for service center certification or recertification:

(a) A completed Ignition Interlock Device Service Center Certification Application, OSP form 257-0002;

(b) A written statement from a manufacturer's representative, written on the manufacturer's representative letterhead, addressed to OSP, that authorizes a service center to service the qualified device;

(c) A written statement explaining how the manufacturer representative and service center will comply with recordkeeping requirements described in OAR 257, division 100;

(d) An itemized list of all expenses and rates that may be charged to an individual by both the service center and manufacturer's representative; and

(e) A manufacturer's representative must obtain and maintain throughout the certification period a bond in the amount of \$100,000. The bond inures to the benefit of the State of Oregon and shall be used to reimburse expenses related to the device services incurred by any individual who is required to equip a motor vehicle with a device by the State of Oregon or any political subdivision thereof and who documents a loss because of the device being removed from the list of qualified ignition interlock devices, insolvency or discontinuance of business of the manufacturer, manufacturer's representative, or service center. A manufacturer's representative must complete OSP Form 257-0008 – Ignition Interlock Device Program Surety Bond Form. A valid Ignition Interlock Device Program Surety Bond must comply with all of the following:

(A) The bond must be issued by a surety company licensed to do business within the State of Oregon;

(B) The surety company issuing the bond must agree to notify OSP if the bond is canceled for any reason and must agree to continue bond coverage until OSP receives actual notice of cancellation;

(C) The bond must be executed to the State of Oregon; and

(D) A copy of the bond must be filed and held in the office of OSP.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(3) A service center is eligible for certification or recertification when:

(a) The service center is part of a manufacturer's representative network;

(b) The service center only services devices qualified by OSP;

(c) The service center is located in a fixed site facility that can provide all device services;

(d) The service center has posted a current copy of the maximum fees and rates an individual may be charged for all device services including, but not limited to the monthly lease amounts, any shipping fees, any additional charges anticipated for routine calibration, and service checks. These posted fees and rates must be plainly visible and capable of being read at all times by the public;

(e) The service center provides each individual customer with a statement of charges for all services, including: clear and specific warranty details; contractual agreements; monthly lease amounts; shipping fees; additional charges anticipated for routine calibration and service checks; and which services, if any, are provided without charge prior to device installation;

(f) The service center provides OSP with written notice of any changes to the maximum fees and rates an individual customer may be charged for the device and device services 30 days prior to the increased fee or rate implementation;

(g) The service center is compliant with all municipal and county zoning regulations for commercial businesses;

(h) The service center has and maintains a designated waiting area separate from the service area. The designated waiting area must be partitioned from the service area so an individual may not view the installation or removal of the device;

(i) The service center has a viewing area and appropriate equipment available for customers to view training videos provided by the manufacturer, manufacturer's representative, or OSP;

(j) The service center has a device available at each service center location for individual customers to use prior to installation. The device must power on, accept an acceptable breath sample, and be programmed with anti-circumvention features.

(k) The service center maintains technician qualification records with the manufacturer's representative for all employed service center ignition interlock device technicians during the term of employment and for five years following termination of employment;

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(l) The service center posts the OSP service center complaint form information where it is visible to the public;

(m) The service center posts the service center's certification in the service center in a place visible to the public;

(n) The service center only charges for device services as defined in OAR 257-100-0025(2)(d); and

(o) The service center provides device installation and removal services within five days from a customer's request and all other services within three days; banking holidays excepted.

(4) OSP shall conduct a service center inspection using the Ignition Interlock Device Service Center Inspection Report Form 257-0005 before the service center may be initially certified, and annually thereafter for the service center to maintain its certification. OSP may perform unscheduled inspections. An OSP inspection of a service center shall determine if the service center meets all service center requirements listed within the applicable statutes and these implementing rules, OAR 257, division 100. During an inspection, OSP may: bench test devices; test ignition interlock device technician knowledge; inspect records; and evaluate for reasonable quality of workmanship.

(5) Service center certifications are valid for one year. OSP shall notify the manufacturer's representative in writing if OSP has approved or denied the application for certification or recertification.

(6) An application and payment for renewal of a service center certification must be submitted to OSP by a certified manufacturer's representative 90 days prior to the expiration date of the current certification. A manufacturer's representative must use the Ignition Interlock Device Service Center Certification Application, OSP form 257-0002, for renewal. Following receipt of the renewal application, OSP shall conduct an inspection (as described in section (4) above) of the service center and any mobile service vehicles. OSP shall renew certification of a service center upon receipt of a completed application, successful completion of the inspection, proof of bond as described in section (1) (e), and payment of all applicable fees for one year from the date of the last certification.

(7) If OSP denies a service center certification or refuses to renew a service center certification, the manufacturer's representative or the service center may request a hearing as provided in OAR 257-100-0080.

257-100-0030

Certification for Mobile Service Center Certification and Inspection Requirements

A manufacturer's representative may operate a mobile service center if:

(1) The manufacturer representative maintains an established network of certified fixed service centers that meet the requirements provided in OAR 257-100-0025 and 257-100-0035.

(2) The manufacturer's representative submits the following information to OSP:

(a) A statement on the Ignition Interlock Device Service Center Certification Application form 257-0002 indicating the certified fixed service center responsible for overseeing the mobile service center;

(b) A copy of liability insurance for all vehicles to be used as a mobile service center; and

(c) An itemized list of all expenses and rates that may be charged to an individual by both the mobile service center and/or manufacturer's representative.

(3) The mobile service center provides individual customers a sheltered and seated waiting area inside or around the mobile service center vehicle and make available electronic equipment capable of view training videos provided by the manufacturer, manufacturer's representative, or OSP.

(4) Installation and removal services of a device provided by a mobile service center must be conducted in a manner in which an individual customer or any other person may not view the installation or removal process.

(5) A mobile service center must provide an individual with copies of all fees, contracts, and complaint information prior to performing any service.

(6) OSP must conduct an inspection of the mobile service center vehicle using the Ignition Interlock Device Service Center Inspection Report Form 257-0005 before the mobile service center is certified. OSP may perform unscheduled inspections. An OSP inspection of the mobile service center vehicle shall ensure that the mobile service center meets all requirements listed within the applicable statutes and these implementing rules, OAR 257, division 100. In addition, during an inspection, OSP may: test devices; test ignition interlock device technician knowledge; inspect records; and evaluate for reasonable quality of workmanship.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(7) Mobile service center certifications are valid for one year. OSP shall notify the manufacturer's representative in writing if OSP has approved or denied the application for certification or recertification.

(8) An application and payment for renewal of a mobile service center certification must be submitted to OSP by a certified manufacturer's representative 90 days prior to the expiration date of the current certification. A manufacturer's representative must use the Ignition Interlock Device Service Center Certification Application, OSP form 257-0002, for renewal. Following receipt of the renewal application, OSP shall conduct an inspection of the mobile service center vehicle. OSP shall renew certification of a mobile service center upon receipt of a completed application, successful completion of the inspection, and payment of all applicable fees for one year from the date of the last certification.

(9) If OSP denies a mobile service center certification or refuses to renew a mobile service center certification, the manufacturer's representative or the service center may request a hearing as provided in OAR 257-100-0080.

257-100-0035

Statewide Service Center Area Requirement

(1) A manufacturer's representative must maintain a network of certified service centers to be certified as a service center. A network of certified service centers must include all of the following;

(2) A minimum of one service center must be located in each lettered region, illustrated on the "Oregon IID Regional Map";

(3) Regardless of how many service centers are located within a single lettered region, only one service center may represent the lettered region as required by this rule.

(4) The manufacturer's representative must notify OSP within ten business days if a service center ceases operations. If a service center closure results in failure to meet the regional requirements of the service network, the manufacturer's representative has 120 days to establish a new service center to meet the Service Center Area Requirement. If the manufacturer's representative has not established a new service center in the closed service center region within 120 days of the service center's closure, the manufacturer's representative must have all device models uninstalled in accordance with OAR 257-100-0020 and OAR 257-100-0065.

(5) OSP may revoke certifications for all certified service centers within the manufacturer's

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

representative's network if a manufacturer's representative fails to meet the service center area requirements.

(6) All service centers must be located in the state of Oregon.

(7) Any manufacturer's representatives that continue to meet the certified service center requirement in accordance with ODOT's statewide service center map as of July 1, 2019, will have until January 1st, 2021 to meet this statewide requirement set out in (2) above.

257-100-0040
Service Center Complaint Process

OSP shall provide a complaint form and process which allows a person to submit complaints regarding rule or statutory violations electronically. The form shall be available on OSP's website. Investigation of the complaint may include, but is not limited to the manufacturer, manufacturer's representative, or service center. An individual may also print and mail the complaint form to Oregon State Police, 3565 Trelstad Avenue SE, Salem OR 97317.

257-100-0045
Ignition Interlock Device Technician Qualification Standards

(1) A device may be serviced only by a person who is qualified as an ignition interlock device technician. To become a qualified ignition interlock device technician, the person must:

(a) Be 18 years of age or older.

(b) Complete a device training program provided by the manufacturer's representative. Proof of device technician training must include the locations, dates, and hours of training completed.

(c) Complete the Knowledge and Skills Examination provided by OSP. A person must score eighty percent or higher on the Knowledge and Skills Examination to pass.

(d) Sign the Ignition Interlock Device Technician Declaration on OSP Form 257-0006.

(e) Pass a criminal background check as described in ORS 813.665, section (2) of this rule, and as defined by OSP policy. Each device technician must pass this criminal background check every 2 years.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(2) A criminal background check, described in (1)(e) above, must be requested and paid for by the manufacturer's representative within the 60 days preceding the person being hired or contracted with as an ignition interlock device technician.

(3) Documentation of the training, test score, criminal background check, and the declaration form for each ignition interlock device technician must be accessible by OSP through a manufacturer's representative's online database or service center.

257-100-0050

Performance Standards for Ignition Interlock Devices

(1) Every device currently installed in a vehicle must be equipped with a camera. The camera must not be located inside the handset and must be mounted to the vehicle in such a way to capture a photo in each of the following circumstances: when the device is installed and the driver is sitting in the driver's compartment; when a breath sample is requested; when a breath sample is submitted; when a breath sample is refused; when the device is circumvented; or when the device is disconnected. The device must be capable of storing all required data, including: the image; the time; the date, and BrAC of the accepted breath sample each time the individual attempts to use the device.

(2) The device camera must function in all lighting conditions.

(3) All images and data collected between calibration periods must be stored in the device's data storage system and be downloadable at the time of calibration by the device manufacturer's representative in order to ensure proper record maintenance.

(4) Every device currently installed in a vehicle must be equipped with the ability to record a test violation or circumvention as described in ORS 813.599. Every device currently installed must also have the ability to determine and record locational coordinate information of the vehicle, including latitude and longitude, as established by a global positioning system; and

(a) After a successful initial test or second initial test, or random retest, the device must allow for a restart within two minutes without requiring an additional test; and

(b) The device must perform a purge automatically before allowing any subsequent test.

(5) The device must not accept a breath test if the device is in lockout.

(6) A device must require 1200 milliliters (mL) or 1.2 liters (L) of breath for an acceptable breath sample. For individuals who are unable to provide the minimum breath sample, the

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

individual may apply for the IID medical exemption with the court or DMV in accordance with OAR 735-070-0082.

(7) After a successful initial or second initial test, the device must require a random retest of the individual while a vehicle's engine is in operation as follows:

(a) A retest is required at random intervals ranging from five to ten minutes after starting the vehicle. Subsequent retests are required at random intervals ranging from 15 to 45 minutes from the previously required retest for the duration of travel; and

(b) The device retest must allow multiple test attempts for up to 10 minutes for the retest to be completed. Multiple attempts must allow enough time for the device fuel cell to recover based on the manufacturer's requirements; and

(c) A device must provide distinct audible and visual indicators to alert the driver that a retest is in progress. Upon a device registering a violation, the device must:

(A) Activate unique audible and visual indicators inside the compartment of the vehicle and on the display of the handset, until the engine is shut down or a successful test is submitted; and

(B) Record the retest violation in the data storage system and disable the ability of the restart as defined in OAR 257-100-0005; and

(8) The device must be programmed to enter the early recall setting when the device records a test violation as defined in ORS 813.599. Service of the device must be performed within 7 days of the violation. The device may enter a lockout if the device has not been serviced within the 7 days following a violation as defined in ORS 813.599.

257-100-0055

Device Routine Maintenance and Calibration

(1) Prior to calibration the device and camera must be inspected at the vehicle for evidence of tampering or camera obstruction. Calibration ensures the device remains capable of accurately analyzing a breath sample. During calibration all the data collected on the device either from installation or last calibration of the device is uploaded to the manufacturer or manufacturer's representative's server or network. The calibration process and vehicle inspection must be performed at intervals not to exceed 67 days, calculated from the installation date or last calibration date. The device must give the individual at least a 7 day notification before calibration is required. The device must enter a lockout if the device has not been checked for calibration accuracy within 67 days after the last calibration.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(2) The device will enter into lockout if service is not performed within 7 days of a scheduled service date or violation as defined in ORS 813.599.

(3) If a device enters a lockout, a remote lockout override may be provided only by the manufacturer or manufacturer's representative.

(4) A remote lockout override may not be performed unless OSP has approved the manufacturer or manufacturer's representative's lockout override procedure for the device model, in accordance with this rule.

(5) OSP shall approve the remote lockout override procedure for a device model if the device meets the following requirements:

(a) A remote lockout override may be performed on a device by entering a unique lockout override code into the device or by a manufacturer controlled remote connection procedure used to override a lockout condition.

(b) A remote lockout override may remain valid only for a period of 12 hours, after which the device must revert to a lockout.

(c) After a manufacturer, manufacturer's representative, or individual performs a remote lockout override, the device must continue to operate as required in these rules OAR 257-100-0010, 257-100-0055, and ORS 813.599.

(d) Each remote lockout override must be uniquely identified and recorded in the device's data storage system.

(6) A device must be calibrated for accuracy by using a wet bath simulator or dry gas alcohol standard with an alcohol reference value between 0.020 grams per two hundred-ten liters (g/210L) and 0.050 g/210L. The calibration process must consist of the following procedures:

(a) An "as found" check to introduce the sample into the device without adjustment for accuracy. The test must be conducted prior to any adjustment for accuracy and the results must be recorded on the data logger. If the results of the "as found" check are within plus or minus (+/-) 0.005 g/210L of the adjusted reference value, then no adjustment is necessary.

(b) If the results of the "as found" check are not within +/- 0.005 g/210L of the adjusted reference value, the device shall be adjusted to restore accuracy before the device may be placed into service.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(7) A service center must remove from service any device that does not pass calibration after two adjustments. The manufacturer's representative must maintain a record of the serial number of the device for proper record maintenance. A device removed from service for failing calibration may be returned to service only if the device is repaired by the manufacturer to meet the standards described in OAR 257-100-0010 and 257-100-0055. All repairs to a device must be documented and kept in the manufacturer's representative's records.

(8) Wet bath simulators must be:

(a) Listed, or approved to be listed, on the 2012 NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Testers. This list is available from OSP;

(b) Clean, with no noticeable stains, heavy soil build up, or algae.

(c) Properly calibrated within the last 12 months.

(d) Stored at room temperature and not subjected to temperatures greater than 30°Celsius (86°Fahrenheit) or less than 0°Celsius (32°Fahrenheit).

(e) Used to calibrate devices only when the device has reached the proper operating temperature of 34°Celsius +/- .2 degrees (93.2° Fahrenheit).

(f) Properly sealed:

(A) Rubber seals are not cracked or out of tolerance; and

(B) Glass is not chipped.

(g) Used with tubing that is:

(A) Compatible with alcohol testing (Tygon or equivalent);

(B) No more than 6 inches long (outlet tube) to prevent condensation; and

(C) Sealed when not in use.

(4) Wet Bath calibration solutions must be:

(a) Accompanied by a COA;

(b) Five hundred (500) mL in volume; and

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

- (c) Labeled with the lot or batch number, date of preparation, an expiration date that may not exceed one year from the date of preparation, and the value of the reference sample in g/210L.
- (d) Changed a minimum of once per day or every twenty-five (25) tests as evidenced by a calibration log that must be maintained at the location of the simulator;
- (e) Stored in a climate controlled environment (room temperature); and
- (f) Prepared and tested in a laboratory such that their reference value is shown to be traceable to the National Institute of Standards and Technology.
- (g) All repairs to the wet bath simulator must be performed the by simulator device manufacturer and only repaired with simulator device manufacturer certified parts.
- (9) Dry gas alcohol standards are listed, or approved to be listed on the 2012 NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Testers and certified to a known reference value and traceable to National Institute of Standards and Technology - NIST Traceable Reference Material (NIST-NTRM) ethanol standards. The reference value must be adjusted for the elevation at which the dry gas is being used. Dry gas alcohol standard tanks must be:
 - (a) Stored in an environment where the temperature range remains between 10° to 40°Celsius (50° to 104° Fahrenheit);
 - (b) Either labeled or have a COA, which contains the components and concentration of the reference value of the gas, an expiration date that may not exceed three (3) years from the date of preparation, and the lot or batch number;
 - (c) Taken out of service when the cylinder pressure drops below fifty (50) pounds per square inch (PSI);
 - (d) Protected from exposure to weather during transport; and
 - (e) Stored at room temperature for twenty-four (24) hours prior to use to ensure stability.
- (10) Each service center using a dry gas alcohol standard must have tubing that is compatible with alcohol (Tygon or equivalent), and purged prior to each calibration unless the system is pressurized.

(11) Any existing manufacturer or manufacturer's representative operating a device that is calibrated for accuracy using a wet bath simulator on or before December 31, 2019, may continue wet bath calibration through July 31, 2020. Calibrations using a wet bath simulator shall not be utilized by any new manufacturer or manufacturer's representatives beginning January 1, 2020. Beginning August 1, 2020, no device shall be calibrated for accuracy using a wet bath simulator.

257-100-0060

Reporting Requirements of Manufacturers, Manufacturer's Representatives, and Service Centers

(1) The manufacturer's representative or service center must determine if the individual customer is currently subject to a qualifying court approved Driving Under the Influence of Intoxicants Diversion Agreement or if the individual customer was convicted of Driving Under the Influence of Intoxicants prior to device installation. The individual customer must update the service center or manufacturer's representative if the individual's diversion or conviction status has changed. Based on the individual's diversion or conviction status, the manufacturer's representative must report any negative report, tampering, device lockout, install, removal, or test violations downloaded by the manufacturer's representative in accordance with the requirements of ORS Chapter 813.630 and 813.635.

(2) OSP recognizes and considers the manufacturer's representatives to be subject matter experts in the operation of the device. The manufacturer's representative may use discretion, based on written policy, to determine the validity of the violations.

(3) The manufacturer's representative or service center shall verify the full name and date of birth of the required driver listed on any ignition interlock related paperwork by way of photograph identification issued by any state or government agency confirming the required driver's identity.

(4) For an individual customer subject to a diversion agreement, the manufacturer, manufacturer's representative or service center must notify:

(a) The District Attorney or City Prosecutor, court or the court's designee, when there is any negative report, lockout, tampering, or any installation and removal of a device;

(b) OSP when there is any negative report, lockout, tampering, or any installation and removal of a device;

(c) The individual customer when there is a 6-month "no negative report" certificate, or a 90-

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

day “no negative report” certificate.

(5) For an individual convicted of the offense Driving Under the Influence of Intoxicants, the manufacturer, manufacturer’s representative, or service center shall notify:

(a) OSP when there is any negative report, lockout, tampering, or any installation and removal of a device;

(b) The individual customer when there is a 90 day “no negative report” certificate.

(c) DMV when there is tampering, or any installation and removal of a device.

(6) All data contained in a device must be downloaded to the manufacturer or manufacturer’s representative’s server or network within 48 hours of the device download and the manufacturer or manufacturer’s representative must keep accurate record data of the client and the results of each event. The manufacturer or manufacturer’s representative must provide OSP with access to all device data logs.

(7) Upon request by OSP, the manufacturer’s representative must provide, at no cost, additional reports in a format acceptable to OSP.

257-100-0065

Removal of Ignition Interlock Devices

(1) A qualified ignition interlock device technician must remove the device when requested by the individual.

(2) When removing a device, an ignition interlock device technician must:

(a) Attempt to start the vehicle ignition without first providing a breath sample to determine if the device had been circumvented by the individual customer;

(b) Visually inspect the vehicle, device, and camera to determine if the device appears to have tampered with; and

(c) Download and upload the final data report from the device at the time of removal;

(d) Ensure removal of the device does not damage the vehicle and that the vehicle’s ignition functions properly without the device being installed;

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(3) When removing a device, a manufacturer's representative must:

(a) If applicable, provide the individual with an Ignition Interlock Device No Negative Report Certification Form 257-0007; and

(b) Report the removal as described in OAR 257-100-0060.

257-100-0070

Service Center Application, Renewal Fee, and Fee Schedule

(1) All Fees must be paid to the Oregon State Police. Fees may be mailed to the Oregon State Police – Ignition Interlock Device Management Fund.

(a) Payment may be made by personal check, business check, cashier's check, credit card or money order made payable to the Oregon State Police - Ignition Interlock Device Management Fund. If the fee is paid by either personal check or business check, the OSP will not take any action on applications until the check has cleared the bank.

(b) An electronic deposit process may be used with prior OSP approval.

(2) OSP shall require a service center application and renewal fee in accordance with ORS 813.660.

(a) OSP shall collect and keep records of all fees related to ORS 813.660;

(b) The fixed site service center initial application fee and the one year renewal application fee is \$600. The fee is nonrefundable. The fee shall be deemed paid for the month in which the application or renewal is due and paid to OSP;

(c) The mobile service center initial application fee and the one year renewal application fee is \$600. The fee is nonrefundable. The fee shall be deemed paid for the month in which the application or renewal is due and paid to OSP.

(3) OSP shall require a monthly fee for each device installed in any vehicle operated by a required person pursuant to ORS 813.602, in accordance with ORS 813.660.

(a) OSP shall collect and keep records of all fees related to ORS 813.660;

(b) The monthly fee for each device installed will be no less than \$10.00, but not exceed \$20.00.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(c) The fees charged under this section shall be in an amount adequate to pay all administrative costs incurred by the department in administering ORS 813.660 to ORS 813.680. OSP shall annually assess the adopted monthly fee amount and adjust the fee accordingly;

(d) The fee described in (b) of this section will be outlined on OSP Fee Chart (257-0013) and is nonrefundable. The fee shall be deemed paid by the manufacturer's representative for the month in which the device is installed is due and paid to OSP.

(e) The total fees amount owed by the manufacturer's representative shall be calculated using the fee described on form 257-0013 multiplied by the number active accounts by individuals required pursuant to ORS 813.602. Active accounts will be calculated at the close of business on the last working day of each month.

(f) For purposes of this section, an active account is considered as any required individual that possesses an operational interlock device installed in their vehicle for any amount of time during the calendar month.

(4) OSP may not issue or renew a manufacturer's certification, or service center certification if the applicant fails to pay any fee or submits a partial payment of fees.

257-100-0075
Indigence Fee Waiver

(1) Only a manufacturer's representative under contract with the Oregon Health Authority may provide statewide device service for individuals who apply and meet indigence standards.

(2) An individual required by ORS 813.602 to have a device installed in the individual's vehicle and who meets indigence standards may have the fees charged by a service center waived for any device service.

(3) An individual requesting a fee waiver must provide proof of eligibility for the fee waiver to the service center. Proof of eligibility is documentation of SNAP enrollment provided by the Oregon Department of Human Services dated for the month service was performed. Proof of eligibility must be submitted to the service center each time the service center provides service and the individual requests a fee waiver.

(4) A person unable to provide proof of enrollment in SNAP does not meet the indigence standards and is responsible for all fees charged for any services related to the device for the period proof is not provided to the service center.

257-100-0080
Hearing Procedure

(1) OSP may, without prior hearing, suspend a certification for a service center if OSP determines that there is a serious danger to the public health or safety that requires immediate action.

(2) OSP may deny, refuse to reissue, suspend, or revoke a certification for a service center upon OSP's determination that any applicant or certification holder has failed to meet standards, comply, or no longer complies with any requirement or provision of the service center requirements listed in OAR 257-100-0025. A service center whose certification is revoked may not reapply for certification until 2 years have passed from the date of revocation.

(3) Before any denial, refusal to reissue, suspension, or revocation of a service center's certification is taken, an investigation of the complaint or violation will be performed by OSP. The manufacturer's representative is entitled to notice of the proposed action and an opportunity for hearing, as prescribed in Oregon Administrative Procedures Act, ORS 183.413 to 183.500

(4) OSP may remove a device model from the list of qualified devices upon OSP's determination that any device model failed to meet standards or no longer complies with requirements in ORS 813.600 or OAR 257-100-0010 or OAR 257-100-0055. If a device model is removed, the device model may not be installed for 2 years from the date of removal.

(5) Before OSP removes a device from the list of qualified devices, an investigation of the complaint or violation will be performed by OSP. The device manufacturer or manufacturer's representative is entitled to notice of the proposed action and an opportunity for hearing, as prescribed in Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(6) Upon receiving notice of the proposed action, the device manufacturer, manufacturer's representative, or service center may request an administrative hearing to contest the proposed action.

(7) A request for an administrative hearing must be filed in writing and mailed to the Oregon State Police, 3565 Trelstad Avenue SE, Salem OR 97317 and be received by OSP within sixty (60) days after the date of the notice of action.

(8) Unless OSP finds that immediate suspension is necessary or unless the applicant timely requests a hearing as provided under this rule, a decision to remove a device or revoke a service center certification is effective 14 days from the date of the notice of proposed action.

Oregon Revised Statutes

813.599

Definitions

As used in ORS chapter 813:

- (1) "Ignition interlock device technician" means an individual employed by a service center to install, service, repair, monitor, maintain, calibrate or remove ignition interlock devices.
- (2) "Manufacturer's representative" means a business entity:
 - (a) That is registered with or authorized by the Secretary of State to transact business in this state;
 - (b) That is designated by an ignition interlock device manufacturer to sell, rent or lease a specific ignition interlock device model in Oregon; and
 - (c) That provides statewide ignition interlock device service through the operation of a network of service centers.
- (3) "Negative report" includes a report of tampering with an ignition interlock device, unauthorized removal of an ignition interlock device, lockout or a test violation recorded by an ignition interlock device.
- (4) "Service center" means a private entity that installs, services, repairs, monitors, maintains, calibrates and removes ignition interlock devices in this state.
- (5) "Test violation" means:
 - (a) For a person who is required to use an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement:
 - (A) An attempt to start a vehicle while the person has a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or
 - (B) Failure to pass a random retest due to a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples;
 - (b) For a person who is required to use an ignition interlock device and is not subject to a driving while under the influence of intoxicants diversion agreement:

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

- (A) An attempt to start a vehicle while the person has a blood alcohol level higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or
 - (B) Failure to pass a random retest due to a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or
 - (C) For any person required to use an ignition interlock device, a failure to take a random retest.
-

813.600
Ignition Interlock Program

(1) The Department of State Police, in consultation with the Transportation Safety Committee, shall establish a program for the use of ignition interlock devices by persons convicted of driving while under the influence of intoxicants and granted hardship permits under ORS 807.240 (Hardship permit) and by persons who have entered into a driving while under the influence of intoxicants diversion agreement.

(2) The department shall adopt rules that specify requirements for ignition interlock devices that may be used and shall publish a list of devices that meet the requirements. The list may include devices that:

- (a) Do not impede the safe operation of the vehicle;
- (b) Have the fewest opportunities to be bypassed;
- (c) Correlate well with established measures of alcohol impairment;
- (d) Work accurately and reliably in an unsupervised environment;
- (e) Require a deep lung breath sample or other accurate measure of blood alcohol content equivalence;
- (f) Resist tampering and give evidence if tampering is attempted;
- (g) Are difficult to circumvent, and require premeditation to do so;
- (h) Minimize inconvenience to a sober user;
- (i) Operate reliably over the range of automobile environments or automobile manufacturing standards;

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

- (j) Are manufactured by a party who is adequately insured for product liability;
- (k) Have a label affixed in a prominent location warning that any person tampering with, circumventing or otherwise misusing the device is subject to civil penalty; and
- (l) If there is a test violation, record the locational coordinate information of the vehicle, including latitude and longitude as established by a global positioning system.

(3) The department shall adopt rules for the annual testing of ignition interlock devices. The rules shall establish standards for the devices and for the performance of the devices.

813.602

Circumstances Under Which Ignition Interlock Device Required

- (1) Subject to subsection (2) of this section, when a person is convicted of driving while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance, the Department of Transportation, in addition to any other requirement, shall require that the person have installed and be using an approved ignition interlock device in any vehicle operated by the person:
 - (a) Before the person is eligible for a hardship permit. The requirement is a condition of the hardship permit for the duration of the hardship permit.
 - (b) For a first conviction, for one year after the ending date of the suspension or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic violation.
 - (c) For a second or subsequent conviction, for two years after the ending date of the suspension or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic violation.
- (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the department, in addition to any other requirement, shall require that the person have installed and be using an approved ignition interlock device in any vehicle operated by the person for five years after the ending date of the longest running suspension or revocation caused by any of the convictions. Violation of the condition imposed under this subsection is a Class A traffic violation. A person is subject to this subsection when the person is convicted of:
 - (a) Driving while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance and any of the following crimes as part of the same criminal episode:
 - (A) Any degree of murder.
 - (B) Manslaughter in the first or second degree.
 - (C) Criminally negligent homicide.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(D) Assault in the first degree.

(b) Aggravated vehicular homicide.

(c) Driving while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance and the person's driving privileges are revoked under ORS 809.235 (Permanent revocation of driving privileges upon conviction of certain crimes) (1)(b) and later ordered restored under ORS 809.235 (Permanent revocation of driving privileges upon conviction of certain crimes) (4).

(3)(a) Except as provided in paragraph (c) of this subsection, as a condition of a driving while under the influence of intoxicants diversion agreement:

(A) The court shall require that an approved ignition interlock device be installed and used in any vehicle operated by the person during the period of the agreement when the person has driving privileges if:

(i) The person submitted to a chemical test of the person's breath or blood as required under ORS 813.100 (Implied consent to breath or blood test) and the test disclosed a blood alcohol content of 0.08 percent or more by weight;

(ii) The person refused to submit to a chemical test of the person's breath or blood; or

(iii) The person submitted to a chemical test of the person's breath, blood or urine as required under ORS 813.100 (Implied consent to breath or blood test) or 813.131 (Implied consent to urine test) and the test disclosed a blood alcohol content of more than 0.00 percent by weight but less than 0.08 percent by weight and disclosed the presence of cannabis, a controlled substance or an inhalant.

(B) The court may require that an approved ignition interlock device be installed and used in any vehicle operated by the person during the period of the agreement when the person has driving privileges if the person submitted to a chemical test of the person's breath, blood or urine as required under ORS 813.100 (Implied consent to breath or blood test) or 813.131 (Implied consent to urine test) and the test disclosed a blood alcohol content below 0.08 percent by weight.

(3)(b) In addition to any action taken under ORS 813.255 (Termination of diversion), violation of the condition imposed under this subsection is a Class A traffic violation.

(3)(c) A court may exempt a person from the condition in a diversion agreement to have installed and be using an ignition interlock device if the court determines that the person meets the requirements for a medical exemption in accordance with rules adopted by the department under this section. A person granted a medical exemption under this paragraph shall carry proof of the medical exemption with the person while operating any vehicle.

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(4) The department shall adopt rules permitting medical exemptions from the requirements of installation and use of an ignition interlock device under this section.

(5) When a person is required to install an ignition interlock device under subsection (2) of this section, the manufacturer's representative providing the device shall provide notice of any installation or removal of the device or any tampering with the device to:

- (a) The supervising court or to the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025 (Designation of agency to perform screening interview and treatment program); and
- (b) The district attorney or the city prosecutor; and
- (c) The Oregon State Police

813.603

Waiver of Costs of Ignition Interlock Device Requirement

(1) Except as provided in subsection (2) of this section, if an ignition interlock device is ordered or required under ORS 813.602 (Circumstances under which ignition interlock device required), the person so ordered or required shall pay to the manufacturer's representative the reasonable costs of leasing, installing and maintaining the device. A payment schedule may be established for the person by the Department of State Police, in consultation with the Transportation Safety Committee.

(2) The department may waive, in whole or in part, or defer the person's responsibility to pay all or part of the costs under subsection (1) of this section if the person meets the criteria for indigence established for waiving or deferring such costs under subsection (3) of this section. If the person's responsibility for costs is waived, then notwithstanding ORS 813.270 (Intoxicated Driver Program Fund), the costs described in subsection (1) of this section must be paid from the Intoxicated Driver Program Fund.

(3) The department, by rule, shall establish criteria and procedures for qualification to waive or defer costs described under subsection (1) of this section for indigence. The criteria must be consistent with the standards for indigence adopted by the federal government for purposes of the Supplemental Nutrition Assistance Program.

813.604

Notice of Court Order

(1) When a court orders installation of an ignition interlock device pursuant to ORS 813.602 (Circumstances under which ignition interlock device required), the court shall send a copy of the order to the Department of Transportation. The department shall note the requirement on the driving record of the person required to install the device.

(2) The department may not issue a hardship permit under ORS 807.240 (Hardship permit) to any person who is ordered to install an ignition interlock device on the person's vehicle until the person furnishes the department satisfactory proof that the device has been installed on any vehicle owned or operated by the person. The department shall determine by rule what constitutes satisfactory proof under this subsection.

(3) When the department issues a hardship permit to a person who is required to have an ignition interlock device, the department shall note on the permit that the device is required. The notation constitutes a limitation on the permit and a person who violates the limitation is punishable as provided in ORS 811.182 (Criminal driving while suspended or revoked) for criminal driving while suspended or revoked.

813.606

Exception for Employee Otherwise Required to Have Device

Notwithstanding ORS 813.604 (Notice of court order), if a person is required, in the course and scope of the person's employment, to operate a motor vehicle owned by the person's employer, the person may operate that vehicle without installation of an ignition interlock device if:

(1) The employer has been notified:

- (a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604 (Notice of court order);
- (b) That the employee is operating on a fully reinstated license within the first year following suspension or revocation for the employee's first conviction of driving while under the influence of intoxicants;
- (c) That the employee is operating on a fully reinstated license within the second year following suspension or revocation for the employee's second or subsequent conviction of driving while under the influence of intoxicants; or
- (d) That the employee has driving privileges and is otherwise required to install an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement; and

(2) The employee has proof of the notification and, if applicable, a fully reinstated license in the possession of the employee while operating the employer's vehicle in the course of employment.

813.608

Knowingly Furnishing Motor Vehicle without Ignition Interlock Device

A person commits the offense of knowingly furnishing a motor vehicle without an ignition interlock device to someone who is not authorized to drive such a vehicle if the person rents, leases, lends or otherwise furnishes a motor vehicle to someone the person knows to have been ordered or required under ORS 813.602 (Circumstances under which ignition interlock device required), to install an ignition interlock device, and the motor vehicle is not equipped with such a device that is in working order.

(2) The offense described in this section, knowingly furnishing a motor vehicle without an ignition interlock device to someone who is not authorized to drive such a vehicle, is a Class A traffic violation.

813.610

Soliciting Another to Blow into Ignition Interlock Device

A person commits the offense of unlawfully soliciting another to blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device if the person has such a device as a result of an order or requirement under ORS 813.602 (Circumstances under which ignition interlock device required) and the person requests or solicits another to blow into the device or start the motor vehicle so as to circumvent the device.

(2) The offense described in this section, unlawfully soliciting another to blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device, is a Class A traffic violation.

813.612

Unlawfully Blowing into Ignition Interlock Device

A person commits the offense of unlawfully blowing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device if, for the purpose of providing an operable motor vehicle for someone required under ORS 813.602 (Circumstances under which ignition interlock device required) to have such a device, the person blows into an ignition interlock device or starts an automobile equipped with the device.

(2) This section does not apply to a person who is required to have an ignition interlock device and who blows into or starts the person's own vehicle that is so equipped.

(3) The offense described in this section, unlawfully blowing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device, is a Class A traffic violation.

813.614

Tampering with Ignition Interlock Device

(1) A person commits the offense of tampering with an ignition interlock device if the person does anything to a device that was ordered installed pursuant to ORS 813.602 (Circumstances under which ignition interlock device required) that circumvents the operation of the device.

(2) The offense described in this section, tampering with an ignition interlock device, is a Class A traffic violation.

813.616

Use of Certain Moneys to Pay for Ignition Interlock Program

Notwithstanding ORS 813.270 (Intoxicated Driver Program Fund), moneys in the Intoxicated Driver Program Fund may be used to pay for administration and evaluation of the ignition interlock program established by ORS 813.600 (Ignition interlock program) to 813.616 (Use of certain moneys to pay for ignition interlock program) and for the costs of participation in the program for indigents.

813.620

Suspension of Driving Privileges for Failing to Provide Proof of Device Installation or for Tampering with Device

At the end of the suspension or revocation resulting from a conviction for driving while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance, the Department of Transportation shall suspend the driving privileges or right to apply for driving privileges of a person who has not submitted proof to the department that an ignition interlock device has been installed in any vehicle operated by the person or who tampers with an ignition interlock device after it has been installed.

(2) Subject to ORS 813.635 (Consequence for negative reports generated from ignition interlock device), if the department imposes a suspension under subsection (1) of this section for failing to submit proof of installation, the suspension continues until the department receives proof that the ignition interlock device has been installed. If the department does not receive proof that the ignition interlock device has been installed, the suspension shall continue for:

- (a) One year after the ending date of the suspension resulting from the first conviction;
- (b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the suspension resulting from a second or subsequent conviction; or

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (Circumstances under which ignition interlock device required) (2).

(3) Subject to ORS 813.635 (Consequence for negative reports generated from ignition interlock device), if the department imposes a suspension under subsection (1) of this section for tampering with an ignition interlock device, the suspension continues until:

(a) One year after the ending date of the suspension resulting from the first conviction;

(b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the suspension resulting from a second or subsequent conviction; or

(c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (Circumstances under which ignition interlock device required) (2).

(4) A person whose driving privileges or right to apply for privileges is suspended under subsection (1) of this section is entitled to administrative review, as described in ORS 809.440 (Hearing and administrative review procedures). [2015 c.577 §8; 2015 c.577 §12]

813.630

Notice of IID Installation and Negative Reports

(1) This section applies only to a person who has had an ignition interlock device installed as a condition of a driving while under the influence of intoxicants diversion agreement under ORS 813.602 (Circumstances under which ignition interlock device required) (3).

(2) After an ignition interlock device is installed, the manufacturer's representative that installed the device shall notify:

(a) The court that required the device to be installed or the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025 (Designation of agency to perform screening interview and treatment program); and

(b) The district attorney or city prosecutor.

(3) Notice of the installation must be given within seven business days of installing the ignition interlock device.

(4) Each time a manufacturer's representative has access to an ignition interlock device that the manufacturer's representative installed, the manufacturer's representative shall download all reports recorded on the device. If the manufacturer's representative downloads a negative report, the manufacturer's representative shall submit the negative report, in a form prescribed by rule by the department, to:

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(a) The court that required the device to be installed or the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025 (Designation of agency to perform screening interview and treatment program);

(b) The district attorney or city prosecutor; and

(c) The Department of State Police.

(5) The manufacturer's representative shall submit a negative report as provided in subsection (4) of this section within seven business days of downloading the report.

813.635

Consequences for Negative Reports Generated from Ignition Interlock Devices

Notwithstanding ORS 813.602 (Circumstances under which ignition interlock device required) (1)(b) or (c), (2) or (3), the requirement to have an ignition interlock device installed in a vehicle continues until the person submits to the Department of Transportation a certificate from the ignition interlock device manufacturer's representative stating that the device did not record a negative report for the last 90 consecutive days of the required installation period. The department shall remove the ignition interlock device requirement from the person's driving record as soon as practicable after the department receives the certificate.

(2) Except as provided in subsection (3) of this section, if there is a negative report during the last 90 consecutive days, the person shall continue to use an ignition interlock device beyond the period required under ORS 813.602 (Circumstances under which ignition interlock device required) (1)(b) or (c), (2) or (3) until the person submits a certificate, in a form prescribed by rule by the department, to the department from the ignition interlock device manufacturer's representative stating that the device has not recorded a negative report for 90 consecutive days, beginning on the date of the most recent negative report.

(3) If there is a negative report during the last 90 consecutive days that the person believes is in error, the person may request that the Department of State Police review the negative report. The department shall adopt rules prescribing the form and manner for submitting a request under this subsection. If after review the department determines that the negative report was the result of an error, the department shall correct the report and submit a corrected report to the person or shall direct the manufacturer's representative to correct the report and the manufacturer's representative shall submit the corrected report to the person.

(4) This section does not apply to a defendant who is granted an order to vacate the requirement to install an ignition interlock device under ORS 813.645 (Motion to vacate requirement to install and use ignition interlock device).

813.640

Additional Treatment Following Negative Reports

In addition to any other requirement to participate in an alcohol or drug treatment program required by law, if a court receives at least two negative reports, a court may order that the defendant complete, at the defendant's own expense based on the defendant's ability to pay, an alcohol or drug treatment program.

813.645

Motion to Vacate Requirement to Install and Use Ignition Interlock Device

(1) A defendant may apply by motion to the court in which a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 (Diversion agreement) was entered for an order vacating the requirement to install and use an ignition interlock device if the defendant:

- (a) Has complied with the condition of the diversion agreement described in ORS 813.602 (Circumstances under which ignition interlock device required) (3) for at least six consecutive months and provides a certificate to the court from the ignition interlock device manufacturer's representative stating that the device has not recorded a negative report; and
- (b) The defendant has entered into and is in compliance with any treatment program that the person is required to participate in as a condition of diversion.

(2) The defendant shall cause to be served on the district attorney or city prosecutor a copy of the motion for an order vacating the requirement to install and use an ignition interlock device under ORS 813.602 (Circumstances under which ignition interlock device required) (3). The copy of the motion shall be served on the district attorney or city prosecutor at the time the motion is filed with the court. The district attorney or city prosecutor may contest the motion.

(3) The court shall hold a hearing on a petition filed in accordance with subsection (1) of this section. In determining whether to grant the petition, the court shall consider:

- (a) The nature of the underlying crime for which driving privileges were suspended.
- (b) The blood alcohol content of the defendant at the time of the arrest.
- (c) Any other relevant factors.

(4) The court may vacate a defendant's requirement to install and use an ignition interlock device under ORS 813.602 (Circumstances under which ignition interlock device required) (3) if, after a hearing described in subsection (3) of this section, the court finds by a preponderance of the evidence that the petitioner:

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

- (a) Has complied with the condition of the diversion agreement described in ORS 813.602 (Circumstances under which ignition interlock device required) (3) for at least six consecutive months with no negative reports; and
- (b) Has entered into and is in compliance with any treatment program required as a condition of diversion.

(5) When a court vacates a defendant's requirement to install and use an ignition interlock device under ORS 813.602 (Circumstances under which ignition interlock device required) (3), the court shall notify the Department of Transportation.

813.660
Service Center Certification

(1) A service center or manufacturer's representative may not operate a service center in Oregon unless both the service center and the manufacturer's representative obtain a certificate from the Department of State Police.

(2) A service center and a manufacturer's representative may apply to the department for a certificate under this section. The application shall be in such form as may be specified by the department.

(3) The department may issue a certificate to a manufacturer's representative if the applicant:

- (a) Meets all of the requirements established by this section and the rules adopted by the department;
- (b) Agrees to provide testimony relating to any aspect of the installation, service, repair, monitoring, maintenance, calibration, use, removal or performance of the ignition interlock device at any criminal proceeding or administrative hearing;
- (c) Provides service centers statewide, as defined by the department by rule;
- (d) Provides 24-hour telephone assistance to customers; and
- (e) Pays all required fees.

(4) The department may issue a certificate to a service center if the applicant:

- (a) Meets all of the requirements established by this section and the rules adopted by the department;
- (b) Utilizes ignition interlock device technicians who meet the minimum standards for qualification as a technician established by the department by rule and who undergo a criminal background check under ORS 813.665; and

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

(c) Pays all required fees.

(5) The department may adopt rules establishing additional requirements for issuance and renewal of certificates under this section.

(6) The department may refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the department finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section.

(7) A service center or manufacturer's representative shall pay fees to the department in accordance with a fee schedule established by the department by rule.

(8) The fees charged under this section shall be in an amount adequate to pay all administrative costs incurred by the department in administering ORS [813.599 and] 813.660 to 813.680.

(9) Certificates issued under this section are subject to the following:

(a) A certificate shall expire one year from the date of issuance unless renewed according to the rules of the department.

(b) The department may not issue or renew a certificate to a service center or manufacturer's representative unless the service center or manufacturer's representative has paid all required fees under this section.

(c) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked.

(10) The department may adopt rules for the implementation and administration of ORS 813.599 (Definitions) and 813.660 (Service center certification) to 813.680 (Ignition Interlock Device Management Fund).

813.665

Criminal Background Check for Service Centers

(1) A criminal background check is required to determine the eligibility of a person seeking employment as an ignition interlock device technician in this state. A service center shall conduct a fingerprint-based criminal background check before hiring or contracting with an individual as an ignition interlock device technician. The service center shall request that the Department of State Police conduct the fingerprint-based criminal background check by reviewing state and federal databases including, but not limited to, the:

(a) Oregon computerized criminal history system;

(b) Law Enforcement Data System;

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

- (c) Databases maintained by the Federal Bureau of Investigation; and
- (d) National Crime Information Center.

(2) The purpose of a criminal background check is to preserve safety and prevent criminal acts by determining whether an individual is eligible to be employed as an ignition interlock device technician. A person is ineligible if the person has been convicted of:

- (a) Except as provided in paragraph (b) of this subsection, a misdemeanor in any jurisdiction within two years of the date of the criminal background check;
- (b) Misdemeanor driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart in another jurisdiction within five years of the date of the criminal background check; or
- (c) A felony in any jurisdiction within 10 years of the date of the criminal background check.

(3) The department shall communicate whether the individual passed or failed the criminal background check conducted under this section to the service center requesting the check.

(4) The department shall prescribe by rule the process for obtaining a criminal background check by the department or, if the department is unable to conduct the check, by the service center requesting the criminal background check.

(5) If the criminal background check conducted by the department or a service center reveals that the individual who is the subject of the criminal background check has been convicted of any of the crimes described in subsection (2) of this section, the service center may not employ the individual as an ignition interlock device technician.

813.670

Service Centers

The Department of State Police shall adopt a procedure for a person to file a complaint with the department concerning the failure of a service center or manufacturer's representative to comply with a requirement of ORS 813.599 (Definitions) and 813.660 (Service center certification) to 813.680 (Ignition Interlock Device Management Fund). The department shall:

- (1) Provide a response to the complainant no later than 14 days after the date the complaint is filed;
- (2) Complete an investigation of the complaint no later than 90 days after the date the complaint is filed; and
- (3) Provide a written report of the results of the investigation to the service center or manufacturer's representative and to the complainant.

813.680

Ignition Interlock Device Management Fund

(1) The Ignition Interlock Device Management Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Ignition Interlock Device Management Fund shall be credited to the fund.

(2) Moneys in the Ignition Interlock Device Management Fund consist of:

- (a) Fees collected under ORS 813.660 (Service center certification) for issuance or renewal of certificates under ORS 813.660 (Service center certification);
- (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;
- (c) Interest and other earnings on moneys in the fund; and
- (d) Other amounts deposited in the fund from any source.

(3) Moneys in the fund are continuously appropriated to:

- (a) The Department of Transportation for the purpose of fulfilling the department's duties, functions and powers related to specifying requirements for ignition interlock devices as required under ORS 813.600 (Ignition interlock program); and
- (b) The Department of State Police for the purpose of carrying out the regulatory functions of the department relating to service centers and manufacturer's representatives, as described in ORS 813.599 (Definitions) and 813.660 (Service center certification) to 813.680 (Ignition Interlock Device Management Fund).

Oregon Administrative Rule / Oregon Revised Statute
Oregon State Police Ignition Interlock Device Oversight Program

Oregon State Police
Ignition Interlock Device Oversight Program
3565 Trelstad Ave SE
Salem, OR 97317

(503) 934-0180
ospiid@osp.oregon.gov

“Providing premier ignition interlock services and public safety through increased compliance and oversight of device, technician and service center operations throughout Oregon.”

