

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**RHODE ISLAND Division of Motor Vehicles**

**NOTICE OF PUBLIC HEARING**

The Administrator of the Division of Motor Vehicles has under consideration proposed amendments to the **Rules and Regulations Governing the Certification of Ignition Interlock Systems** in accordance with the authority conferred under R.I.G.L. §§ 31-49-2, 31-49-3 and Chapter 42-35 of the General Laws of Rhode Island, as amended. The purpose of these amendments is to update existing device certification standards to meet current federal requirements and to establish compliance criteria for interlock users.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that a public hearing on the above proposed rules and regulations shall be held on Tuesday, December 22, 2015 at 10:00 a.m. in New London Avenue Conference Room, Third Floor, Rhode Island Division of Motor Vehicles, 600 New London Avenue, Cranston, Rhode Island, at which time and place all persons interested will be heard.

In the development of the proposed rules and regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the Rhode Island General Laws, as amended, which may result from these regulations. No alternative approach or duplication or overlap was identified based upon available information.

Copies of the proposed regulations are available for public inspection at the offices of DMV, 600 New London Avenue, Cranston, Rhode Island 02920, or by calling 401-462-1208, or by sending an email to: Bradford.Booth@dmv.ri.gov. Copies may also be viewed on the Division of Motor Vehicles' website at <http://www.dmv.ri.gov/>.

For the sake of accuracy, it is requested that statements made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Bradford Booth, Legal Counsel, Division of Motor Vehicles, 600 New London Avenue, Cranston, Rhode Island 02920. Oral statements made at the public hearing will be considered, but should be limited to five minutes each.

New London Avenue Conference Room is accessible to individuals with disabilities. Individuals requesting interpreter services for the hearing impaired must call Bradford Booth at 401-462-1208 at least forty-eight (48) hours in advance of the hearing date.

Signed this    day of November, 2015

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Walter R. Craddock, Administrator  
Division of Motor Vehicles

**RHODE ISLAND Department of Revenue**  
**Division of Motor Vehicles**  
**Rules and Regulations Governing the Certification and Use of Ignition Interlock Systems**

**Summary of Non-Technical Amendments Pursuant  
to RIGL § 42-35-3(a)(1), and (5)**

The Department of Revenue's Division of Motor Vehicles proposes to amend the existing regulations to update the certification standards to reflect the newly adopted federal standards set forth in new Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), National Highway Traffic Safety Administration, Federal Register Vol. 78, No. 89 published on May 8, 2013. The amended regulations also include reporting requirements that are already in place but had not been included in the prior regulations. Finally, the amended regulations contain new sections defining administrative and criminal interlock penalties, conditional hardship license and the procedures to be utilized when eligible motorists wish to remove the interlock restriction.

**RULES AND REGULATIONS  
GOVERNING THE CERTIFICATION AND USE OF  
IGNITION INTERLOCK SYSTEMS**

**Adopted June 1993**

**Amended November 2015**

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**DEPARTMENT OF REVENUE**

**DIVISION OF MOTOR VEHICLES**

## INTRODUCTION

These Rules and Regulations are promulgated under the authority of Sections 31-49-2 and 31-49-3 and Chapter 42-35 of the Rhode Island General Laws, as amended, and are established for the purpose of setting standards for the certification of ignition interlock devices and motorists' proper compliance with ignition interlock devices.

Pursuant to the provisions of §§ 42-35-3(a)(3) and 42-35.1-3 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. No alternative approach, overlap or duplication nor any significant economic impact was identified; consequently these Regulations are adopted in the best interest of the health, safety and welfare of the public.

The within Rules and Regulations were adopted by me as Administrator of the Division of Motor Vehicles on the \_\_\_\_\_ day of November, 2015.

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Walter R. Craddock, Administrator  
Division of Motor Vehicles

## **RULES AND REGULATIONS GOVERNING THE CERTIFICATION OF IGNITION INTERLOCK SYSTEMS**

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**1.0 AUTHORITY**

These rules and regulations are adopted pursuant to the provisions of Section 31-49-2 of the general Laws of Rhode Island, 1956 (as amended).

**2.0 SCOPE**

These rules and regulations govern the implementation of the provisions of Chapter 49, Title 31 of the general laws of Rhode Island, 1956 (as amended).

**RULE 1. PURPOSE, SCOPE AND AUTHORITY**

**1.1** Pursuant to Sections 31-49-2 and 31-49-3 of the Rhode Island General Laws, the Administrator of the Division of Motor Vehicles is authorized to adopt and enforce rules and regulations necessary to certify ignition interlock systems and ensure motorists' proper compliance with such systems.

**1.2** These Rules and Regulations establish standards to be used in determining eligibility for certification as a state authorized ignition interlock system and establishing motorists' proper compliance with such systems.

**1.3** The Rules and Regulations herein contained are promulgated pursuant to Sections 42-35-3, 31-49-2 and 31-49-3 of the Rhode Island General Laws, as amended.

**3.0 DEFINITIONS**

“Department” shall be construed to mean the Rhode Island Department of Transportation.

“Provider” shall be construed to mean any business entity capable of manufacturing, installing, replacing, maintaining and monitoring an ignition interlock system certified by the division of motor vehicles in accordance with these rules and regulations.

## **RULE 2. DEFINITIONS**

The following words used in these Rules and Regulations shall have the following meaning, except when the context otherwise requires:

Blood Alcohol Concentration/Breath Alcohol Concentration (“BAC” or “BrAC”) - The percentage, by weight, of alcohol in a person’s blood, as measured by a test of the person’s breath or blood.

Circumvention – An overt, conscious attempt to bypass the Ignition Interlock Device by providing samples other than the natural unfiltered breath of the operator, or by starting the car without using the ignition switch, or any other act intended to allow the vehicle to start or continue to operate without the operator first taking and passing a breath test.

Conditional Hardship License – Any driver’s license or right to operate authorized by the court or traffic tribunal during a period of license suspension that allows a person to drive for limited hours during the suspension period as set forth in R.I.G.L. § 31-27-2.8 (b)(7).

Department - The State of Rhode Island Department of Revenue, a department in the executive branch of state government that is located at One Capitol Hill, Providence, Rhode Island 02908, or any successor Department.

Director - The Director of the Department of Revenue, or any successor Department.

Division (“DMV”) – The Division of Motor Vehicles

Failed Rolling Re-test – A breath test taken by the operator of an IID-equipped vehicle while the vehicle is running that shows the operator has a BAC/BrAC greater than .025.

Failed Start-up Test – A breath test taken by the operator of an IID-equipped vehicle prior to starting the vehicle’s ignition, registering a BAC/BrAC greater than .025.

High BrAC Test – A breath test taken by the operator of an IID equipped vehicle that results in a BAC/BrAC greater than .05.

Ignition Interlock Device (“IID”) – An alcohol sensing instrument mounted in an automobile and connected to the ignition system to prevent the vehicle from starting unless the driver first provides a satisfactory deep lung air sample. The device analyzes the deep lung air sample to determine the BAC of the operator. If the measured BAC/BrAC is above .025, the device prevents the vehicle from starting.

Ignition Interlock Restriction – The limitation imposed by the court, traffic tribunal or Division of Motor Vehicles on an individual’s license or right to operate prohibiting operation of any motor vehicle without an Ignition Interlock Device. This appears as a “U” restriction on the motorist’s record.

Lockout – A multiple-step process resulting from a violation set forth in Rule 6.1, including a period during which the operator cannot start the vehicle.

Missed Rolling Re-test – Failure to take the Rolling Re-test within the time period allotted by the IID. If the breath test is taken after the time period allotted and demonstrates a BAC/BrAC greater than .025, it shall be deemed a Failed Rolling Re-test.

Operator – Any person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Passed Test – A breath test taken by the operator of an IID-equipped vehicle prior to starting the ignition or while the vehicle is running that shows the operator’s BAC/BrAC is equal to or less than .025.

R.I.G.L. – The Rhode Island General Laws.

Rolling Re-test – A breath test, administered at random intervals, taken by the operator of an IID-equipped vehicle while the vehicle is running.

Service Period – The time between Service Visits, which shall be at least 25 (twenty-five) days but not more than 30 (thirty) days.

Service Provider (“Provider”) – An entity approved by the DMV that installs, monitors, and services the operator’s Ignition Interlock Device.

Service Visit – A required visit to the Service Provider by the operator to have the Ignition Interlock Device inspected, monitored or maintained. An initial Service Visit shall be conducted within 30 (thirty) days of IID installation, and regularly thereafter in Service Periods of 25 (twenty-five) to 30 (thirty) days.

Start-up Test – A breath test taken by the operator of an IID-equipped vehicle to measure the operator’s BAC/BrAC prior to starting the vehicle’s ignition.

Tamper – An overt, conscious attempt to physically disable or otherwise disconnect the Ignition Interlock Device from its power source and thereby allow a person to start the engine or continue to operate a motor vehicle without a Passed Test.

#### 4.0 CERTIFICATION STANDARDS

The assistant director for motor vehicles may certify any ignition interlock system which meets or exceeds the Model Specifications for Breath Alcohol Ignition Interlock Devices, as published and as amended by the National Highway Traffic Safety Administration, (NHTSA), United States Department of Transportation, (USDOT) Docket No. 91-07, Notice 2, 57 Federal Register 11772, (April 7, 1992), provided that the provider also complies with the following requirements:

(1) The provider shall submit a completed application for certification.

The application shall be in a form provided by the Department.

(2) The provider shall submit, together with the application, a sworn certificate from a professional scientific testing laboratory independent of the provider’s business, attesting that the provider’s ignition interlock system meets or exceeds the correct certification standards set forth by NHTSA, USDOT.

(3) The provider shall submit a statement, in writing, of the procedures it will undertake to monitor any system installed by the provider.

(4) The provider shall submit a “warning label” as required by the provisions of Section 31-49-4; R.I.G.L. 1956, as amended in a form designed and adopted by the Department. The provider shall install said warning label on the Ignition Lock System in a position visible to the driver.

(5) The provider shall submit a written statement certifying that its business and the ignition interlock system will comply with each of the requirements set forth within Section 31-49-3, R.I.G.L., 1956, (as amended). The statement shall be given by, and signed by, the provider’s chief executive officer under oath. Together with the

statement, the provider shall submit documentary evidence demonstrating the substantive veracity of each of the requirements set forth within Section 31-49-3, (a) through (1) inclusive, in a form acceptable to the assistant director for motor vehicles.

### **RULE 3. CERTIFICATION OF THE SYSTEM AND PROVIDER REQUIREMENTS**

#### **3.1. Responsibilities of The Division of Motor Vehicles:**

3.1 (a) The Division of Motor Vehicles shall maintain and publish a list of all approved Service Providers within the State of Rhode Island, which shall be included on its website. Any Service Provider found not to be in compliance with any of the provisions of this regulation may be subject to suspension or revocation of approval for any or all its sites, after a hearing before the division. The division may take into account the nature and extent of the violation(s) and the past performance of the Service Provider.

3.1 (b) The Division of Motor Vehicles shall approve a warning label to be affixed to the IID. The warning label shall state that a person tampering with, or circumventing or otherwise misusing the IID is guilty of a misdemeanor.

3.1 (c) When the court orders the use of an ignition interlock system, the DMV shall place an appropriate notation, a "U" restriction, upon the operator's record and license that clearly sets forth the requirement for an IID. Upon completion of the time period set forth by the court or DMV for use of the IID, the operator shall return to the DMV to request removal of the restriction from the license.

#### **3.2 Responsibilities of IID Service Provider**

3.2 (a) A manufacturer or other entity seeking approval of any type of Ignition Interlock Device in order that it might be used to monitor compliance with Rhode Island Ignition Interlock Restrictions must demonstrate to the satisfaction of the Division of Motor Vehicles that the device meets the conditions established in the new Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), National Highway Traffic Safety Administration, Federal Register Vol 78, No. 89 published on May 8, 2013. The Division of Motor Vehicles shall certify such qualifying types of devices and shall publish a list of certified types of devices.

3.2 (b) A service provider shall submit a completed application for certification, on a form provided by the division.

3.2 (c) A service provider shall submit, together with the application, a sworn certificate from a professional scientific testing laboratory, independent of the providers business, attesting that the provider's ignition interlock system meets or exceeds the current applicable certification standards set forth by NHTSA and the USDOT.

- 3.2 (d) The service provider will submit in writing the procedures it will undertake to monitor the IID systems installed by the provider.
- 3.2 (e) The provider shall submit a warning label to the division in compliance with R.I.G.L. § 31-49-4 for approval by the division. Once approved by the division, the warning label shall be attached to the IID in a position visible to the driver.
- 3.2 (f) The service provider will submit a written statement to the division certifying that they will comply with the requirements set forth in R.I.G.L. § 31-49-3. Standards for certification shall include provisions for setting a minimum and maximum calibration range and shall also include, but not be limited to, requirements that the devices:
1. Do not impede the safe operation of the vehicle;
  2. Minimize opportunities to be bypassed;
  3. Correlate accurately with established measures of blood alcohol levels;
  4. Work accurately and reliably in an unsupervised environment;
  5. Require a proper and accurate measure of blood alcohol levels;
  6. Resist tampering and provide evidence of attempted tampering;
  7. Are difficult to circumvent and require premeditation to circumvent;
  8. Minimize inconvenience to a sober user;
  9. Are manufactured by a party responsible for installation, user training, service and maintenance;
  10. Operate reliable over the range of motor vehicle environments or motor vehicle manufacturing standards;
  11. Are manufactured by an entity that is adequately insured for products liability;
  12. Provide the option for an electronic log of the drivers experience with the system;
  13. Prevent an IID-restricted operator from starting an IID-equipped vehicle without a passed test;
  14. Require at least one Rolling Re-test during any operation of an IID-equipped vehicle lasting ten minutes or longer;
  15. Require Rolling Re-tests to be conducted at random intervals during operation of the vehicle;
  16. Notify the operator when a Rolling Re-test is required and permit an operator five minutes to blow into the Ignition Interlock Device after the notification; and
  17. Effectuate a lockout when an operator commits an IID violation requiring a lockout as set forth in these regulations.

#### 5.0 CERTIFICATION

Whenever any provider shall have met all of the requirements of the foregoing rules and regulations, the assistant director for motor vehicles shall issue, upon stationary bearing his letterhead, a letter certifying the provider and its ignition interlock system. The certification shall remain valid for the period of one (1) year subsequent to its stated date of issue. A copy of the certification letter shall be kept and maintained by the registry of motor vehicles and a copy shall be forwarded to the chief court administrator of Rhode Island. The assistant director for motor vehicles shall make and publish annually a list of certified providers and certified ignition interlock systems. Publication shall consist of the transmission of the list to the state court administrator

of Rhode Island and by posting a copy of the list in a prominent public place within the headquarters of the registry of motor vehicles.

#### **6.0 AMENDMENT OF MODEL SPECIFICATIONS**

Whenever NHTSA, USDOT shall cause the model specifications, as aforesaid, to be amended the requirements of Section 4.0 of these rules and regulations shall be deemed to have been likewise amended.

### **RULE 4. REPORTING REQUIREMENTS OF SERVICE PROVIDERS**

4.1 Service providers must provide a report to the DMV and other designees when an IID has been installed in an operator's vehicle.

4.2 SERVICE PROVIDERS MUST PROVIDE MONTHLY REPORTS TO THE DMV AND OTHER DESIGNEES ON THE STATUS OF OPERATORS WITH AN IID PURSUANT TO AN ORDER OF A COURT OR THE DMV.

4.3 Service providers must provide weekly reports to the DMV and other designees of any operator Lockout, Early Recalls, high BrAC or IID Violations. The DMV will provide an email address for the notifications to be sent.

4.4. Service providers must abide by any policies established by the division governing the removal of the device(s).

### **RULE 5. COST AND MAINTENANCE**

5.1 The operator shall pay the cost of installing, monitoring, and maintaining the Ignition Interlock Device(s) as set forth in R.I.G.L. § 31-27-2.8 (f)(3).

5.2 The operator will be required to appear at the Service Provider's location for a Service Visit within thirty (30) days of the installation of the device, and regularly thereafter in Service Periods of twenty-five (25) to (thirty) 30 days, for as long as the device is required. Twenty-five (25) days after each Service Visit, the unit shall alert the operator of the requirement for another Service Visit.

### **RULE 6. LOCKOUTS**

6.1 A Lockout shall commence for any of the following violations:

6.1 (a) Two Failed Start-up Tests within one Service Period;

6.1 (b) One Failed Rolling Re-test;

6.1 (c) One missed Service Visit; or

6.1 (d) Two Missed Rolling Re-tests within one Service Period.

6.2 When an infraction or violation triggers a Lockout, the operator is immediately notified that a Lockout is in progress and that he has 48 (forty-eight) hours to bring the vehicle to the Service Provider for inspection. As at all other times, the operator is prohibited from starting the vehicle until his BAC/BrAC registers .025 or below on the IID; the IID effects this restriction by disabling the vehicle's ignition. If the operator fails to bring the vehicle to the Service Provider for inspection during the time allotted, the vehicle's ignition is permanently locked and only the Service Provider is permitted to release it. The operator is responsible for any and all charges associated with getting the vehicle to the Service Provider in a lawful manner, in addition to any re-set charges incurred for the Lockout.

6.3 The Service Provider shall provide notice of any Lockout to the Division on a weekly basis.

6.4 If an IID-restricted operator believes a Lockout is unjustified, he may request a hearing with the Division of Motor Vehicles within 30 days of the Lockout. If the division finds the Lockout was not justified, the Lockout shall be excused.

## **RULE 7. CONDITIONAL HARDSHIP LICENSE**

7.1 Any person eligible under the provisions of R.I.G.L. § 31-27-2.8 b (7), may petition the court or traffic tribunal for a conditional hardship license. The court or traffic tribunal may grant this petition subject to the following mandatory conditions:

7.1 (a) A conditional hardship license shall only be valid for 12 (twelve) hours per day and only to travel to and from employment.

7.1 (b) An IID shall be installed in the petitioners vehicle.

7.1 (c) The sentencing justice or magistrate shall set forth the conditions of the conditional hardship license after a hearing where the petitioner provides proof of employment and scheduled hours.

7.1 (d) The petitioner shall carry a certified copy of the court order with him while operating under the conditional hardship license.

7.1 (e) The DMV shall make an appropriate notation of the conditional hardship license, restriction “Y”, on the motorist’s driving record.

## **RULE 8. IGNITION INTERLOCK VIOLATIONS**

8.1 Criminal Interlock Violations include violations of R.I.G.L. §§ 31-27-2.8 (h) or (i).

R.I.G.L. § 31-27-2.8 (h) “Any person subject to an ignition interlock order who violates such order shall be guilty of a misdemeanor punishable by up to one year imprisonment, or a fine of up to one thousand dollars (\$1,000), or both. For the purposes of this subsection, a violation of the interlock order, includes, but is not limited to:

(1) Altering, tampering, or in any way attempting to circumvent the operation of an ignition interlock system that has been installed in the motor vehicle of a person under this section;

(2) Operating a motor vehicle that is not equipped with an ignition interlock system; or

(3) Soliciting or attempting to have another person start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system.”

R.I.G.L. § 31-27.2.8 (i) “Any person who attempts to start, or starts, a motor vehicle equipped with an ignition interlock system, tampers with, or in any way attempts to circumvent, the operation of an ignition interlock system, that has been installed in the motor vehicle for the purpose of providing an operable motor vehicle to a person who is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system, shall be guilty of a misdemeanor punishable by up to one year imprisonment or a fine of up to one thousand dollars (\$1,000), or both.”

8.2 Administrative Interlock Violations include any of the following:

- 8.2 (a) Any evidence of operating a motor vehicle without an Ignition Interlock Device;
- 8.2 (b) Any conviction for a criminal interlock violation;
- 8.2 (c) Soliciting or allowing any other person to blow into an Ignition Interlock Device, or to start an IID-equipped vehicle for the purpose of providing the person so restricted with an operable motor vehicle;
- 8.2 (d) Using any means other than blowing a breath directly from the operator's mouth into the device, in order to supply an air sample to the device;
- 8.2 (e) An attempt to Tamper with or Circumvent the IID;
- 8.2 (f) A Failed Rolling Re-test;
- 8.2 (g) One high BAC/BrAC start test;
- 8.2 (h) Two start-up tests over .025 in the service period;
- 8.2 (i) Two Lockouts due to Missed Rolling Re-tests; or
- 8.2 (j) Two missed Service Visits.

## **RULE 9. VIOLATION SANCTIONS**

9.1 An operator who is identified as having committed an Administrative Ignition Interlock Violation is entitled to a hearing to determine, by a preponderance of the evidence, whether such violation occurred. The DMV shall notify the operator of this right, and may take into account any and all information it deems relevant.

9.2 The operator may not have the interlock restriction removed from the license until the interlock period has been satisfied and a review of the operator's compliance with interlock shows no interlock violations for the past three months immediately preceding the operator requesting the removal of the interlock restriction.

9.3 If the operator is determined to have committed an Administrative Ignition Interlock Violation while operating under the limited privileges of a Conditional Hardship License, the DMV may, after a hearing, revoke the Conditional Hardship License for the balance of the original suspension period.

## **RULE 10. REMOVAL OF IGNITION INTERLOCK RESTRICTION**

10.1 Upon completion of the interlock period set by the court, traffic tribunal or DMV, the operator may apply to the DMV for removal of the restriction. Pursuant to R.I.G.L. § 31-49-3 (b), the DMV will review the operator's record of compliance with the IID through reports submitted by the Service Provider. To have the Ignition Interlock Restriction removed, the record must demonstrate the absence of Ignition Interlock Violations (Administrative or Criminal) for the three months immediately preceding the application for removal of the restriction. In the event the reports show violations during the preceding three month period, the operator may request a hearing to determine, by a preponderance of the evidence, whether such violation occurred. In the event the violations are proven, the Ignition Interlock Restriction will be extended until the operator is able to meet the three month violation free threshold.

10.2 IID shall not be removed from the vehicle until DMV contacts the Service Provider to authorize removal.

10.3 Upon removing IID, Service Provider must restore the affected mechanical and electrical systems to their original configurations or, if this is not possible, minimally to working order when an IID is removed. All severed wires must be permanently and safely reconnected and insulated.

**RULE 11. 7.0 SEVERABILITY**

If any provision of these Rules and Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.

**RULE 12. 8.0 EFFECTIVE DATE**

These Rules and Regulations shall become effective twenty (20) days after filing with the Office of Secretary of State.

I hereby certify the above is a true copy.

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Walter R. Craddock, Administrator  
Division of Motor Vehicles

~~Dante E. Boffi, Jr., Director~~  
~~Rhode Island Department of Transportation~~  
Filed with the Office of the Secretary of State: June 9, 1993  
Amended November 2015