

Appendix D Model Ignition Interlock Program Legislation

Introduction

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

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

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

Jurisdictions may also want to include a provision allowing the authority to accommodate or exempt certain applicants from the ignition interlock requirement. When granting an exemption for operating employer owned vehicles, jurisdictions may want to consider limitations on the vehicle’s use.

Jurisdictions, at the discretion of policy makers, may choose to adopt portions and not all the model legislation provided or may adopt in its entirety.

Medical waiver considerations include:

- The driver’s license should be suspended for the duration of time the individual would have

been required to hold an ignition interlock restricted license.

- Authority for the jurisdiction to withdraw the waiver at any point that the authority becomes aware that the individual’s medical condition has improved to the extent that the person has become capable of properly operating an installed device.

Restricted License issuance requirement to be considered include:

- Proof of IID installation
- Required reinstatement and/or program fees
- SR-22 or equivalent high-risk insurance
- Behavior modification programs

Legislation Summary

This model bill provides for an ignition interlock requirement for a person who is [arrested, charged, convicted, or pleads guilty or *nolo contendere*] to any offense involving the operation of a motor vehicle while impaired by alcohol, drugs, or both. Jurisdictions that also have mandatory or optional ignition interlock requirements for implied consent suspensions or other statutory reasons will need to adjust the legislation appropriately. Jurisdictions, at the discretion of policy makers, may choose to adopt portions and not all the model legislation provided or may adopt in its entirety.

Terms a jurisdiction may want to include that may hold jurisdictional specificity include “Authority”, “Impaired” and “Intoxicated” as appropriate to jurisdictional code. AAMVA is aware that some jurisdictions may split the

oversight of IID programs between several agencies. This is acceptable if the roles and responsibilities of each oversight agency are clearly and fully defined in the statutes passed by the jurisdiction.

A jurisdiction may need to define “fully complies” and “violations” (as cited in Section 3(2)) with respect to how the jurisdiction intends to handle the program. Some jurisdictions have a zero-tolerance level for violations while others may utilize a point-based system to determine the threshold for compliance with the program. Doing so will clarify whether specific violations are relative to the terms of the ignition interlock program.

Jurisdictions should be very clear in section 4 to specify program violations. AAMVA notes that it has generally been regarded as a best practice, in the interest of highway safety, to keep program participants in the IID program where the jurisdictional authority can retain oversight of the individual.

{Title, enacting clause, etc.}

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

Section 2. {Definitions}

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

A jurisdiction wishing to solely implement a fixed-length IID program should not include a definition or reference to the definition of compliance-based removals. AAMVA notes that research shows better long-term results with compliance-based removal programs.

- (3) “Compliance Based Removal” means not allowing removal of the Ignition Interlock Device until the participant completes the designated time period without violations or following standards with regard to violations that require a minimum level of compliance with the Ignition Interlock Device program.

Section 3. {Main Provisions}

- (1) Upon arrest, charging, conviction, guilty plea, or plea of *nolo contendere* to any offense involving the operation of a motor vehicle while impaired, or other administrative action, the [Administration / Motor Vehicle Administration] shall [or may] require a participant to equip any motor vehicle that the participant operates with an ignition interlock device, only operate a vehicle equipped with an ignition interlock device, and fully comply with the [Administration’s / Motor Vehicle Administration’s] ignition interlock program for:
 - a. Not less than 180-days for a first [offense];
 - b. Not less than 365-days for a second [offense];
 - c. Not less than 730-days for a third or subsequent [offense].
- (2) The Authority shall only authorize compliance-based removal of the ignition interlock device after the minimum time provided that the participant whose vehicle was equipped with the device fully complies with all laws, regulations,

and program requirements enacted under this Act. A participant must complete a minimum consecutive period of not less than 40% of the required period of ignition interlock installation immediately preceding the date of removal without a confirmed violation.

(3) The Authority shall:

- a. Determine the minimum time that the participant must use an Approved Ignition Interlock Device as indicated under paragraph (1) of this Section;
- b. Direct that the records of the [Administration] reflect that the participant may only operate a motor vehicle that is equipped with an Approved Ignition Interlock Device.
- c. Direct the [Administration] to note in an appropriate manner a restriction on the participant's license imposed under this Section;
- d. Require proof of the installation of an approved Ignition Interlock Device and regular reporting by the participant as required under the contracted services for verification of the proper operation of the device;
- e. Require the certified provider to notify the Department if a participant fails to comply with any requirement for maintenance or calibration of the ignition interlock device.
- f. Require the certified provider to provide each year an annual report to the department with information as required by the department.
- g. Require the certified provider to seek authorization from the Department prior to removal of the Ignition Interlock Device.
- h. Require the participant to have the approved Ignition Interlock Device monitored for proper use and accuracy by

an entity approved by the [Administration] within 30 days of installation and every 60 days thereafter, or more frequently as the circumstances may require;

- i. Direct that the Administration implement an Affordability Program. Participant eligibility shall be determined by showing proof of enrollment in any jurisdictional or federal public assistance program and/or income that does not exceed 150% of the poverty level.
- j. Require the participant to pay the cost of leasing or buying, monitoring, and maintaining an Ignition Interlock Device unless they qualify for an affordability program.
- k. Make a distinction in the IID restriction period classification data to permit the communication of IID restriction status.

Section 4. {Violation Clause}

- (1) It is a violation of any program created under this act for any participant to:
 - a. Remove, disable, deactivate, bypass, circumvent or tamper with the ignition interlock device and its accessories;
 - b. Attempt to remove, disable, deactivate, bypass, circumvent or tamper with the ignition interlock device and its accessories.
- (2) It is a violation of any program created under this act for any participant ordered into the ignition interlock program to:
 - a. Fail to report for periodic calibration and servicing of the ignition interlock device;
 - b. Provide fraudulent breath samples or breath samples belonging to any other individual;
 - c. Operate any vehicle not equipped with an ignition interlock device.

- (3) In addition to any other civil or criminal penalty, any participant who violates subsection (1) or (2) shall be subject to, as deemed appropriate by the Authority:
- a. Suspension, revocation, restriction or time requirement extension of the participant's license.
 - b. Extension of the required ignition interlock device period until the provisions of Section (3) (2) are completed.

Section 5. {Severability Clause}

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

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

Section 6. {Establishment/Implementation Clause}

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

Section 7. {Jurisdictional Reciprocity}

- (1) A resident of another jurisdiction who is required by any jurisdiction to hold an ignition interlock device restricted license to operate a motor vehicle shall be prohibited from operating a motor vehicle in this jurisdiction unless that vehicle is equipped with a functioning, certified ignition interlock device.
- (2) If a resident of this Jurisdiction is convicted of violating a law of another jurisdiction that prohibits a participant from driving a motor vehicle while impaired or under the influence of alcohol and/or other drugs, and, as a result of

the conviction, the participant is subject to the requirements of this Act.

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

- (4) If a resident of this Jurisdiction is subject to an ignition interlock requirement pursuant to this Act and becomes a resident of another jurisdiction, the participant must enroll in that jurisdiction's Ignition Interlock Program for at least the time remaining under this Act. Failure to do so will result in suspension of the participant's driving privileges in this Jurisdiction until completion of the time required by this Act.

- (5) The Authority may recognize the requirements of another jurisdiction's Ignition Interlock Program for purposes of determining prior program participation. The burden of supplying evidence of program participation and compliance relies solely on the program participant.

Section 8. {Repealer Clause}

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

Section 9. {Effective Date}

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