

**Superseded 5/10/2016**

**41-6a-518.2 Interlock restricted driver -- Penalties for operation without ignition interlock system.**

- (1) As used in this section:
  - (a) "ignition interlock system" means a constant monitoring device or any similar device that:
    - (i) is in working order at the time of operation or actual physical control; and
    - (ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8); and
  - (b)
    - (i) "interlock restricted driver" means a person who:
      - (A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;
      - (B) within the last 18 months has been convicted of a driving under the influence violation under Section 41-6a-502 that was committed on or after July 1, 2009;
      - (C)
        - (I) within the last three years has been convicted of an offense that occurred after May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and
        - (II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);
      - (D) within the last three years has been convicted of a violation of this section;
      - (E) within the last three years has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;
      - (F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;
      - (G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; or
      - (H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006; and
    - (ii) "interlock restricted driver" does not include a person if:
      - (A) the person's conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-517; and
      - (B) all of the person's prior convictions described in Subsection (1)(b)(i)(C)(II) are convictions under Section 41-6a-517.
- (2) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (3) An interlock restricted driver that operates or is in actual physical control of a vehicle in this state without an ignition interlock system is guilty of a class B misdemeanor.
- (4)
  - (a) It is an affirmative defense to a charge of a violation of Subsection (3) if:
    - (i) an interlock restricted driver:
      - (A) operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

- (B) had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (4)(a)(i);  
and
  - (C) had on the interlock restricted driver's person or in the vehicle at the time of operation or physical control proof of having given notice to the interlock restricted driver's employer;  
and
  - (ii) the operation or actual physical control under Subsection (4)(a)(i)(A) was in the scope of the interlock restricted driver's employment.
- (b) The affirmative defense under Subsection (4)(a) does not apply to:
- (i) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or
  - (ii) a motor vehicle owned by a business entity that is all or partly owned or controlled by the interlock restricted driver.