

Effective 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).
 - (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.
 - (ii) " Interlock restricted driver" does not include a person:
 - (A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-517; and
 - (B) whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-517.
- (2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.
- (3) 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.
- (4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.
- (5) It is an affirmative defense to a charge of a violation of Subsection (4) if:
 - (a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

- (b) the interlock restricted driver 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 (5)(a);
 - (c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and
 - (d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.
- (6) The affirmative defense described in Subsection (5) does not apply to:
- (a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or
 - (b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

Amended by Chapter 149, 2016 General Session