

Effective 7/1/2024

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

(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 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.
 - (ii) "Interlock restricted driver" includes, for the time periods described in Subsection (2), a person who:
 - (A) has been convicted of a violation under Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;
 - (B) has been convicted of an offense which would be a conviction as defined under Section 41-6a-501, and that offense 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 Section 41-6a-501;
 - (C) has been convicted of a violation of this section;
 - (D) has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1 and was under 21 years old at the time the offense was committed;
 - (E) has been convicted of a felony violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;
 - (F) has been convicted of a violation of Section 76-5-207; or
 - (G) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520.
 - (iii) "Interlock restricted driver" does not include a person:
 - (A) whose current conviction described in Subsection (1)(b)(ii)(B) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(ii)(B) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;
 - (B) whose conviction described in Subsection (1)(b)(ii)(A) or (E) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or
 - (C) whose conviction described in Subsection (1)(b)(ii)(A), (B), or (D) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (8).

(2)

- (a) The ignition interlock restriction period for an ignition interlock restricted driver under Subsection (1)(b)(ii) begins on:
 - (i) for a violation described in Subsections (1)(b)(ii)(A) through (F), the date of conviction; or
 - (ii) for a person described in Subsection (1)(b)(ii)(G), the effective date of the revocation.
- (b) The ignition interlock restriction period for an ignition interlock restricted driver under Subsection (1)(b)(ii) ends:
 - (i) for a violation described in Subsection (1)(b)(ii)(A), 18 months from the day the ignition interlock restricted driver:

- (A) provides proof of installation of the ignition interlock system; and
- (B) reinstates their driving privilege;
- (ii) for a violation described in Subsections (1)(b)(ii)(B) through (D) and Subsection (1)(b)(ii)(G), two years from the date the ignition interlock restricted driver:
 - (A) provides proof of installation of the ignition interlock system; and
 - (B) reinstates their driving privilege;
- (iii) for a violation described in Subsection (1)(b)(ii)(E), three years from the date the ignition interlock restricted driver:
 - (A) provides proof of installation of the ignition interlock system; and
 - (B) reinstates their driving privilege; and
- (iv) for a violation described in Subsection (1)(b)(ii)(F), four years from the date the ignition interlock restricted driver:
 - (A) provides proof of installation of the ignition interlock system; and
 - (B) reinstates their driving privilege.
- (c) If an ignition interlock system is removed from the vehicle before the restriction period under Subsection (2)(b) has ended, the ignition interlock restriction period is extended by the number of days the ignition interlock system was removed from the person's vehicle.
- (d) An ignition interlock restricted driver may petition the Driver License Division for removal of the ignition interlock restriction related to a first offense under Section 41-6a-502, and the Driver License Division may grant the petition, if:
 - (i) the ignition interlock restricted driver was 21 years old or older at the time of the offense;
 - (ii) the individual does not have a prior conviction, as defined in Section 41-6a-501, that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based;
 - (iii) at least two years have elapsed since the date of the conviction under Section 41-6a-502; and
 - (iv) during the time frame from the date of conviction under Section 41-6a-502 to the date the person petitions the Driver License Division for removal of the ignition interlock restriction:
 - (A) the ignition interlock restricted driver certifies to the division that the ignition interlock restricted driver has not operated a motor vehicle;
 - (B) there is no evidence of a traffic or driving related violation on the ignition interlock restricted driver's driving record; and
 - (C) there is no evidence of a motor vehicle crash involving the interlock restricted driver where the interlock restricted driver was operating a motor vehicle.
- (3) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.
- (4) 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.
- (5) 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.
- (6) It is an affirmative defense to a charge of a violation of Subsection (5) 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 (6)(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 (6)(a) was in the scope of the interlock restricted driver's employment.
- (7) The affirmative defense described in Subsection (6) 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.
- (8)
- (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.
 - (b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.
- (9)
- (a)
 - (i) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual has a medical condition that prohibits the individual from providing a deep lung breath sample.
 - (ii) In support of a petition under Subsection (9)(a)(i), the individual shall provide documentation from a physician that describes the individual's medical condition and whether the individual's medical condition would prohibit the individual from being able to provide a deep breath lung sample.
 - (b) If the division is able to establish that an individual is unable to provide a deep breath lung sample as a result of a medical condition, the division may remove the ignition interlock restriction.

Amended by Chapter 197, 2024 General Session