

Effective 5/3/2023

41-6a-518 Ignition interlock devices -- Use and monitoring -- Probationer to pay cost -- Indigency -- Fee.

(1) As used in this section:

- (a) "Commissioner" means the commissioner of the Department of Public Safety.
- (b) "Employer verification" means written verification from the employer that:
 - (i) the employer is aware that the employee is an interlock restricted driver;
 - (ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;
 - (iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;
 - (iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and
 - (v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.
- (c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.
- (d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2)

- (a) In addition to any other penalties imposed under Sections 41-6a-502 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds .02 grams or greater.
- (b) If a person convicted of violating Section 41-6a-502 was younger than 21 years old when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.
- (c)
 - (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Section 41-6a-501, the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.
 - (ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.
- (d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.
- (e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.

(3)

- (a) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

- (i) stipulate on the record the requirement for and the period of the use of an ignition interlock system;
 - (ii) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;
 - (iii) immediately notify the Driver License Division and the person's probation provider of the order;
 - (iv) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order; and
 - (v) order the probationer to have the ignition interlock system installed and regularly monitored by an ignition interlock system provider licensed under Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.
- (b) A court may not order a probationer to use a specific ignition interlock system provider.
- (4)
- (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.
 - (b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).
 - (c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.
 - (d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.
- (5)
- (a) Any probationer required to install an ignition interlock system shall, every 60 days or more frequently as the court may order, have the system monitored by the manufacturer or dealer of the system or the manufacturer's or dealer's authorized agent:
 - (i) to determine the ignition interlock system's proper use and accuracy; and
 - (ii) to collect information on all attempts to start the motor vehicle with a measurable breath alcohol concentration that were prevented by the ignition interlock system, including the date and time of each attempt.
 - (b)
 - (i) A report of the monitoring described in Subsection (5)(a) shall be issued by the manufacturer or dealer or the manufacturer's or dealer's authorized agent to the court or the person's probation provider.
 - (ii) The report shall be issued within 14 days following each monitoring.
- (6)
- (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing, maintaining, and monitoring the system.
 - (b) A probationer may not be excluded from this section for inability to pay the costs, unless:
 - (i) the probationer files an affidavit of indigency in accordance with Section 78A-2-302; and
 - (ii) the court enters a finding that the probationer is indigent.
 - (c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.
 - (d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).
- (7)

- (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:
 - (i) the motor vehicle is used in the course and scope of employment;
 - (ii) the employer has been notified that the employee is restricted; and
 - (iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.
 - (b)
 - (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.
 - (ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.
 - (c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).
- (8)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.
 - (b) The standards under Subsection (8)(a) shall require that the system:
 - (i) not impede the safe operation of the motor vehicle;
 - (ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;
 - (iii) require a deep lung breath sample as a measure of breath alcohol concentration;
 - (iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds .02 grams or greater;
 - (v) work accurately and reliably in an unsupervised environment;
 - (vi) resist tampering and give evidence if tampering is attempted;
 - (vii) operate reliably over the range of motor vehicle environments;
 - (viii) collect information on all attempts to start a motor vehicle that were prevented by an ignition interlock system, including the date and time of each attempt; and
 - (ix) be manufactured by a party who will provide liability insurance.
 - (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.
 - (d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.
 - (e)
 - (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.
 - (ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

- (f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.
- (9) A violation of this section is a class C misdemeanor.
- (10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Amended by Chapter 384, 2023 General Session

Amended by Chapter 415, 2023 General Session