

IGNITION INTERLOCK AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act modifies the Motor Vehicles Code to exclude DUI offenders whose offense involves drugs other than alcohol from ignition interlock restrictions. This act requires providers to cover the ignition interlock costs of impecunious offenders and clarifies ignition interlock restriction criminal violations.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-6-44.7, as last amended by Chapter 334, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6-44.7** is amended to read:

41-6-44.7. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "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 without first determining the driver's breath alcohol concentration.

(c) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation or as otherwise ordered by the court who contracts with the court in accordance with Subsections 41-6-44(14)(b) and (c).

(2) (a) In addition to any other penalties imposed under Section 41-6-44, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6-44 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 if the operator's blood

alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6-44 was under the age of 21 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 41-6-44 within six years of a prior conviction of that section, the court shall order the installation of the ignition interlock system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person for three years from the date of conviction.

(ii) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(d) This section does not apply to a person convicted of a violation of Section 41-6-44 whose violation involves drugs other than alcohol.

(3) Except as provided in Subsection (2)(c), if the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) order the probationer to submit his driver license to the Driver License Division in accordance with Subsection (5);

(d) immediately notify the Driver License Division and the person's probation provider of the order;
and

(e) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(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) If use of an ignition interlock system is required under this section, the division may not issue, reinstate, or renew the driver license of that person unless that requirement is coded on the person's driver license.

(b) (i) If the division receives a notice that a person with a valid driver license that does not require a driver license withdrawal is required to use an ignition interlock system, the division shall notify the person that he has ten calendar days to apply to the division for an ignition interlock system requirement coded on the license.

(ii) The division shall suspend the driver license of the person after the ten-day period until the person applies to the division for an ignition interlock system requirement coded on the license.

(6) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(7) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining 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 impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(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) ~~[Subject to appropriation, the department shall lease or purchase the ignition interlock system and reimburse each installer maintaining the system provided to probationers for whom payment of costs has been waived or deferred on the grounds of indigency.]~~ The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (7).

~~[(8) (a) An additional fee of \$100 shall be paid to the court by each probationer ordered to purchase, install, use, and maintain an ignition interlock system under this section.]~~

~~[(b) The fee shall be deposited with the department as a dedicated credit for the support costs incurred for indigent individuals under Subsection (7)(d).]~~

~~[(c) Failure to pay the fees required under this section shall, unless excused, constitute sufficient basis for a finding by the court at a hearing that the probationer has failed to comply with the terms of probation.]~~

~~[(9)]~~ (8) (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 in the course and scope of employment without installation of an ignition interlock system only if the employer has been notified that the employee is restricted and the employee has proof of the notification in his 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 [~~(9)~~] (8).

~~[(10)]~~ (9) Upon conviction for violation of this section, the court shall notify the Driver License Division to immediately suspend the probationer's license to operate a motor vehicle for the remainder of the period of probation.

~~[(11)]~~ (10) (a) It is a class B misdemeanor for a person to:

(i) circumvent or tamper with the operation of an ignition interlock system;

(ii) knowingly furnish a motor vehicle without an ignition interlock system to someone who is not authorized to drive a motor vehicle unless the motor vehicle is equipped with an ignition interlock system that is in working order;

(iii) rent, lease, or borrow a motor vehicle without an ignition interlock system if a driving restriction is imposed under this section;

(iv) request another person to blow into an ignition interlock system, if the person is required to have a system and the person requests or solicits another to blow into the system to start the motor vehicle in order to circumvent the system;

(v) blow into an ignition interlock system or start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to another person required to have a system;

~~[and]~~

(vi) advertise for sale, offer for sale, sell, or lease an ignition interlock system unless the system has been certified by the commissioner and the manufacturer of the system has affixed a warning label, as approved by the commissioner on the system, stating that the tampering, circumventing, or other misuse of the system is a class B misdemeanor~~[-]; or~~

(vii) operate a motor vehicle in violation of any ignition interlock restriction.

(b) This Subsection [~~(11)~~] (10) does not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock system is done for the purpose of safety or mechanical repair of the system or the motor vehicle and the person subject to the court order does not

drive the motor vehicle.

~~[(12)]~~ (11) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards 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 an ordered level;

(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; and

(viii) 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) In accordance with Section 63-38-3.2, 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. The assessment shall be apportioned among the manufacturers on a fair and reasonable basis.

~~[(13)]~~ (12) 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.