

1 **IGNITION INTERLOCK SYSTEM AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Patrick Painter

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Motor Vehicles Code and the Public Safety Code by amending
10 provisions relating to ignition interlock systems.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides definitions;
- 14 ▶ requires an ignition interlock system provider or an ignition interlock system
15 installer to be licensed by the Driver License Division;
- 16 ▶ requires the Driver License Division to issue licenses for ignition interlock system
17 providers and installers and specifies procedures and requirements for issuing the
18 licenses;
- 19 ▶ grants the Driver License Division rulemaking authority to establish procedures for
20 the implementation of the ignition interlock system provider and installer licensure
21 program;
- 22 ▶ requires an ignition interlock system provider who installs an ignition interlock
23 system on a person's vehicle to:
 - 24 • provide proof of installation to the person;
 - 25 • electronically notify the division of installation of an ignition interlock system
26 on the person's vehicle; and
 - 27 • electronically notify the division if a person has removed an ignition interlock



28 system from the person's vehicle;

29 ▶ requires the Driver License Division to suspend the license of any person who is an
30 ignition interlock driver upon notice to the person for the duration of the person's
31 ignition interlock restriction period until the division:

32 • receives electronic notification from an ignition interlock system provider
33 showing new proof of the installation of an ignition interlock system; or

34 • electronically verifies that the person does not have a vehicle registered in the
35 person's name;

36 ▶ requires the Driver License Division to suspend the license of any person without
37 hearing and without receiving a record of the person's conviction of crime seven
38 days after receiving electronic notification from a provider that a person has
39 removed an ignition interlock system from the person's vehicle if the person is an
40 interlock restricted driver until the division:

41 • receives electronic notification from an ignition interlock system provider
42 showing new proof of the installation of an ignition interlock system; or

43 • electronically verifies that the person does not have a vehicle registered in the
44 person's name;

45 ▶ grants the Driver License Division authority to make administrative rules regarding
46 the administration of the ignition interlock system program and certification and
47 regulation of ignition interlock system providers; and

48 ▶ makes technical changes.

49 **Money Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 This bill takes effect on July 1, 2012.

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **41-6a-518**, as last amended by Laws of Utah 2009, Chapter 183

56 ENACTS:

57 **53-3-1001**, Utah Code Annotated 1953

58 **53-3-1002**, Utah Code Annotated 1953

- 59 **53-3-1003**, Utah Code Annotated 1953
- 60 **53-3-1004**, Utah Code Annotated 1953
- 61 **53-3-1005**, Utah Code Annotated 1953
- 62 **53-3-1006**, Utah Code Annotated 1953
- 63 **53-3-1007**, Utah Code Annotated 1953
- 64 **53-3-1008**, Utah Code Annotated 1953



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

67 Section 1. Section **41-6a-518** is amended to read:

68 **41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost --**
 69 **Impecuniosity -- Fee.**

70 (1) As used in this section:

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

72 (b) "Ignition interlock system" or "system" means a constant monitoring device or any
 73 similar device certified by the commissioner that prevents a motor vehicle from being started
 74 or continuously operated without first determining the driver's breath alcohol concentration.

75 (c) "Probation provider" means the supervisor and monitor of the ignition interlock
 76 system required as a condition of probation who contracts with the court in accordance with
 77 Subsections 41-6a-507(2) and (3).

78 (2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and
 79 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court
 80 may require that any person who is convicted of violating Section 41-6a-502 and who is
 81 granted probation may not operate a motor vehicle during the period of probation unless that
 82 motor vehicle is equipped with a functioning, certified ignition interlock system installed and
 83 calibrated so that the motor vehicle will not start or continuously operate if the operator's blood
 84 alcohol concentration exceeds a level ordered by the court.

85 (b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when
 86 the violation occurred, the court shall order the installation of the ignition interlock system as a
 87 condition of probation.

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

90 (d) This section does not apply to a person convicted of a violation of Section
91 41-6a-502 whose violation involves drugs other than alcohol.

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

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

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

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

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

102 (4) (a) The probationer shall provide timely proof of installation within 30 days of an
103 order imposing the use of a system or show cause why the order was not complied with to the
104 court or to the probationer's probation provider.

105 (b) The probation provider shall notify the court of failure to comply under Subsection
106 (4)(a).

107 (c) For failure to comply under Subsection (4)(a) or upon receiving the notification
108 under Subsection (4)(b), the court shall order the Driver License Division to suspend the
109 probationer's driving privileges for the remaining period during which the compliance was
110 imposed.

111 (d) Cause for failure to comply means any reason the court finds sufficiently justifiable
112 to excuse the probationer's failure to comply with the court's order.

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

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

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

119 (6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the
120 reasonable costs of leasing or buying and installing and maintaining the system.

121 (b) A probationer may not be excluded from this section for inability to pay the costs,
122 unless:

123 (i) the probationer files an affidavit of impecuniosity; and

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

125 (c) In lieu of waiver of the entire amount of the cost, the court may direct the
126 probationer to make partial or installment payments of costs when appropriate.

127 (d) The ignition interlock provider shall cover the costs of waivers by the court under
128 this Subsection (6).

129 (7) (a) If a probationer is required in the course and scope of employment to operate a
130 motor vehicle owned by the probationer's employer, the probationer may operate that motor
131 vehicle without installation of an ignition interlock system only if:

132 (i) the motor vehicle is used in the course and scope of employment;

133 (ii) the employer has been notified that the employee is restricted; and

134 (iii) the employee has proof of the notification in the employee's possession while
135 operating the employer's motor vehicle.

136 (b) (i) To the extent that an employer-owned motor vehicle is made available to a
137 probationer subject to this section for personal use, no exemption under this section shall apply.

138 (ii) A probationer intending to operate an employer-owned motor vehicle for personal
139 use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock
140 system shall notify the employer and obtain consent in writing from the employer to install a
141 system in the employer-owned motor vehicle.

142 (c) A motor vehicle owned by a business entity that is all or partly owned or controlled
143 by a probationer subject to this section is not a motor vehicle owned by the employer and does
144 not qualify for an exemption under this Subsection (7).

145 (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
146 the commissioner shall make rules setting standards for the certification of ignition interlock
147 systems.

148 (b) The standards under Subsection (8)(a) shall require that the system:

149 (i) not impede the safe operation of the motor vehicle;

150 (ii) have features that make circumventing difficult and that do not interfere with the
151 normal use of the motor vehicle;

152 (iii) require a deep lung breath sample as a measure of breath alcohol concentration;

153 (iv) prevent the motor vehicle from being started if the driver's breath alcohol

154 concentration exceeds a specified level;

155 (v) work accurately and reliably in an unsupervised environment;

156 (vi) resist tampering and give evidence if tampering is attempted;

157 (vii) operate reliably over the range of motor vehicle environments; and

158 (viii) be manufactured by a party who will provide liability insurance.

159 (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or
160 independent laboratory tests relied upon in certification of ignition interlock systems by other
161 states.

162 (d) A list of certified systems shall be published by the commissioner and the cost of
163 certification shall be borne by the manufacturers or dealers of ignition interlock systems
164 seeking to sell, offer for sale, or lease the systems.

165 (e) (i) In accordance with Section 63J-1-504, the commissioner may establish an
166 annual dollar assessment against the manufacturers of ignition interlock systems distributed in
167 the state for the costs incurred in certifying.

168 (ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the
169 manufacturers on a fair and reasonable basis.

170 (f) The commissioner shall require a provider of an ignition interlock system certified
171 in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10,
172 Ignition Interlock System Program Act.

173 (9) There shall be no liability on the part of, and no cause of action of any nature shall
174 arise against, the state or its employees in connection with the installation, use, operation,
175 maintenance, or supervision of an interlock ignition system as required under this section.

176 Section 2. Section **53-3-1001** is enacted to read:

177 **Part 10. Ignition Interlock System Program Act**

178 **53-3-1001. Title.**

179 This part is known as the "Ignition Interlock System Program Act."

180 Section 3. Section **53-3-1002** is enacted to read:

181 **53-3-1002. Definitions.**

182 As used in this part:

183 (1) "Ignition interlock system" has the same meaning as defined in Section
184 41-6a-518.2.

185 (2) "Ignition interlock system provider" means an individual who:

186 (a) is acting on behalf of a business enterprise conducted by a person, association,
187 partnership, or corporation for the purpose of installation and maintenance of an ignition
188 interlock system;

189 (b) is certified as an installer;

190 (c) has met the requirements for ignition interlock system provider status as established
191 by the division;

192 (d) is authorized or certified to operate or manage an ignition interlock system
193 business;

194 (e) may supervise the work of another installer; and

195 (f) charges a fee for the services described under this Subsection (2).

196 (3) "Installer" means a person, whether acting as an ignition interlock system provider
197 or for an ignition interlock system provider for compensation, who is certified by the division
198 to install ignition interlock systems.

199 (4) "Interlock restricted driver" has the same meaning as defined in Section
200 41-6a-518.2.

201 (5) "Provider" means an ignition interlock system provider.

202 Section 4. Section **53-3-1003** is enacted to read:

203 **53-3-1003. Licenses required -- Inspections.**

204 (1) An ignition interlock system provider may be certified to facilitate installation of
205 ignition interlock systems only if the provider applies for and obtains a license from the
206 division.

207 (2) A person may act as an ignition interlock system installer only if the person applies
208 for and obtains a license from the division.

209 (3) The division shall inspect the provider facilities and equipment of applicants and
210 licensees and examine applicants for provider licenses and installer licenses.

211 (4) The division shall administer and enforce this part.

212 Section 5. Section **53-3-1004** is enacted to read:

213 **53-3-1004. Ignition interlock system provider license -- Contents of rules.**

214 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
215 commissioner shall make rules regarding the requirements for:

216 (1) an ignition interlock system provider license, including requirements concerning:

217 (a) locations;

218 (b) equipment;

219 (c) installers;

220 (d) previous records of the provider and installers;

221 (e) financial statements;

222 (f) schedule of fees and charges;

223 (g) character and reputation of the providers and installers;

224 (h) insurance as the commissioner determines necessary to protect the interests of the
225 public; and

226 (i) other provisions the commissioner may prescribe for the protection of the public;

227 (2) an installer's license, including requirements concerning:

228 (a) moral character;

229 (b) knowledge of the procedures for installation of an ignition interlock system; and

230 (c) other provisions the commissioner may prescribe for the protection of the public;

231 and

232 (3) applications for licenses.

233 Section 6. Section **53-3-1005** is enacted to read:

234 **53-3-1005. License expiration and renewal -- Fee required -- Disposition of**
235 **revenue.**

236 (1) (a) All ignition interlock system provider licenses and installer licenses:

237 (i) expire one year from the date of issuance; and

238 (ii) may be renewed upon application to the commissioner as prescribed by rule.

239 (b) Each application for an original or renewal provider license or installer license shall
240 be accompanied by a fee determined by the department under Section 63J-1-504.

241 (c) A license fee may not be refunded if the license is rejected, suspended, or revoked.

242 (2) The license fees collected under this part shall be placed in the Department of
243 Public Safety Restricted Account.

244 Section 7. Section **53-3-1006** is enacted to read:

245 **53-3-1006. Licenses -- Cancellation, revocation, or refusal to issue or renew --**
246 **Ineligibility for license.**

247 (1) The department may cancel, revoke, or refuse to issue or renew an ignition
248 interlock system provider or installer license if it finds that the licensee or applicant has not
249 complied with or has violated this part or any rule made by the division.

250 (2) A licensee:

251 (a) shall return a canceled or revoked license to the division; and

252 (b) is not eligible to apply for a license under this part until six months have elapsed
253 since the date of a cancellation or revocation under this section.

254 Section 8. Section **53-3-1007** is enacted to read:

255 **53-3-1007. Ignition interlock system provider -- Notification to the division upon**
256 **installation or removal of an ignition interlock system -- License suspension or revocation**
257 **for failure to install or remove.**

258 (1) An ignition interlock system provider who installs an ignition interlock system on a
259 person's vehicle shall:

260 (a) provide proof of installation to the person; and

261 (b) electronically notify the division of installation of an ignition interlock system on
262 the person's vehicle.

263 (2) A provider shall electronically notify the division if a person has removed an
264 ignition interlock system from the person's vehicle.

265 (3) If an individual is an interlock restricted driver, the division shall:

266 (a) suspend the person's driving privilege for the duration of the restriction period as
267 defined in Section 41-6a-518.2;

268 (b) notify the person of the suspension period in place and the requirements for
269 reinstatement of the ignition interlock restriction suspension; and

270 (c) reinstate the suspension upon:

271 (i) receipt of payment of the fee or fees specified in Section 53-3-105; and

272 (ii) (A) receipt of electronic notification from an ignition interlock system provider
273 showing proof of the installation of an ignition interlock system on the person's vehicle; or

274 (B) electronically verifying that the person does not have a vehicle registered in the
275 person's name.

276 (4) By following the emergency procedures in Title 63G, Chapter 4, Administrative
277 Procedures Act, the division shall suspend the license of any person without hearing and
278 without receiving a record of the person's conviction of crime seven days after receiving
279 electronic notification from a provider that a person has removed an ignition interlock system
280 from the person's vehicle if the person is an interlock restricted driver until:

281 (a) the division:

282 (i) receives payment of the fee or fees specified in Section 53-3-105; and

283 (ii) (A) receives electronic notification from an ignition interlock system provider
284 showing new proof of the installation of an ignition interlock system; or

285 (B) electronically verifies that the person does not have a vehicle registered in the
286 person's name; or

287 (b) the person's interlock restricted period has expired.

288 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
289 division shall make rules establishing:

290 (a) procedures for certification and regulation of ignition interlock system providers;

291 (b) acceptable documentation for proof of the installation of an ignition interlock
292 device;

293 (c) procedures for an ignition interlock system provider to electronically notify the
294 division; and

295 (d) policies and procedures for the administration of the ignition interlock system
296 program created under this section.

297 Section 9. Section **53-3-1008** is enacted to read:

298 **53-3-1008. Violations -- Penalties.**

299 A violation of this part is a class C misdemeanor.

300 Section 10. **Effective date.**

301 This bill takes effect on July 1, 2012.

Legislative Review Note
as of 2-15-11 2:21 PM

Office of Legislative Research and General Counsel