

NEBRASKA ADMINISTRATIVE CODE

TITLE 250, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

**RULES AND REGULATIONS OF THE DEPARTMENT OF MOTOR VEHICLES REGARDING
THE APPROVAL AND INSTALLATION OF IGNITION INTERLOCK DEVICES AND
ADMINISTRATION OF THE IGNITION INTERLOCK PERMIT PROGRAM.**

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RULES AND REGULATIONS OF THE DEPARTMENT OF MOTOR VEHICLES REGARDING THE APPROVAL AND INSTALLATION OF IGNITION INTERLOCK DEVICES AND ADMINISTRATION OF THE IGNITION INTERLOCK PERMIT PROGRAM.

001 PURPOSE. The purpose of these rules and regulations is to promulgate performance standards for the approval and the installation of ignition interlock devices (also known as Breath Alcohol Ignition Interlock Device or BAIID) and administration of the ignition interlock device program. Upon approval of these regulations as provided by the Administrative Procedure Act, this new version of 250 NAC 1 rule shall be effective and shall replace the version of 250 NAC 1 approved by Gov. Ben Nelson on February 18, 1994, which shall be repealed in its entirety.

002 INTERPRETATION. These rules shall be interpreted so as to favor the safety of the public and the findings of the legislature that ignition interlock devices are designed to supplement other conditions of probation, reprieve, or punishment of those convicted of driving while intoxicated or driving under the influence. References to statutory standards, regulations, or governmental agencies shall be read as referring to and including any amendments. In the absence of a rule specifically addressing a particular matter, there shall be applied reasonable, just and equitable procedures and substantive decisions which are predictable from the spirit and intent of the legislative enactment and these rules.

003 DEFINITIONS.

003.01 Alcohol shall mean ethanol or ethyl alcohol (C₂H₅OH).

003.02 Alcohol set point shall mean the breath alcohol concentration at which the ignition interlock device is set to lock the ignition that is set at the time of calibration.

003.03 Authorization means that the Department of Motor Vehicles has approved issuance of an Ignition Interlock Permit (IIP) to a driver who, after he or she has submitted an order for an IIP from a court or the Board of Pardons or submitted an application for an IIP while subject to an administrative license revocation, has met all requirements, and is not ineligible for an IIP for any reason. After authorization, the IIP applicant shall go to a licensing station to be issued the IIP.

003.04 BAC Fail shall mean the condition in which the ignition interlock device registers a BAC value in excess of the alcohol set point limit when the driver conducts an initial test(s) or retest(s) in a motor vehicle equipped with an ignition interlock device.

003.05 BrAC shall mean the breath alcohol concentration in a given amount of breath, expressed a weight by volume (w/v) based upon grams of alcohol per 210 liters of breath (2100: 1 ratio).

003.06 Board shall mean the Nebraska Board of Pardons that may order a driver to obtain a permit to operate a motor vehicle equipped with an ignition interlock device pursuant to Neb. Rev. Stat. § 60-6,209.

003.07 Breath sample shall mean a normal expired human breath primarily containing alveolar or end-expiratory breath that is analyzed for alcohol content (BrAC) after the expiration.

003.08 Calibration interval shall mean the maximum time period that an ignition interlock device may be used without a calibration check, after which the motor vehicle ignition must lock. The calibration interval is 31 days.

003.09 Circumvention shall mean an attempt to bypass the correct operation of an ignition interlock device whether by the use of an altered breath sample, by starting the motor vehicle without using the ignition switch, or by any other means without first providing a breath sample.

003.10 Court shall mean the judge who sentences a driver convicted of operating or being in the actual physical control of any motor vehicle while intoxicated or driving under the influence, and as a condition of probation or sentence, imposes the use of an ignition interlock device. This definition shall also mean any district probation offices or court administrative officers assigned to the case of a driver limited to operation of a motor vehicle equipped with an ignition interlock device.

003.11 Department shall mean the Nebraska Department of Motor Vehicles.

003.12 Director shall mean the Director of the Nebraska Department of Motor Vehicles or his or her designee.

003.13 Driver shall mean a person who has been convicted under Neb. Rev. Stat. § 60-6,196 or 60-6,197 and has been ordered by the court or by the Board of Pardons that he or she not operate a motor vehicle during the time period stated in the order unless his or her motor vehicle is equipped with a functioning and approved ignition interlock device and the person has obtained the required license or permit. Driver shall also mean any person who applies to the Department for issuance of an Ignition Interlock Permit for use during a period of administrative license revocation.

003.14 Driver's license, driver license, or operator's license shall mean any license or permit to operate a motor vehicle issued under the laws of this state, including:

003.14A Any replacement or duplicate license or instruction permit;

003.14B The privilege of any person to drive a motor vehicle whether such person holds a valid license;

003.14C Any nonresident's operating privilege which shall mean the privilege conferred upon a nonresident by the laws of this state pertaining to the operation of a motor vehicle in this state by such person or the use in this state of a vehicle owned by such person;

003.14D An employment driving permit issued as provided by Neb. Rev. Stat. §§ 60-4,129 and 60-4,130; and

003.14E A medical hardship driving permit issued as provided by Neb. Rev. Stat. §§ 60-4,130.01 and 60-4,130.02.

003.15 Eligible shall mean that a person's driver license is not subject to any other suspension, cancellation, impoundment, no-driving period, or period of revocation, and the person has successfully completed the ignition interlock permit application process, served any applicable no-drive period and:

003.15A Is subject to an administrative license revocation pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04 and has waived his or her right to an administrative license revocation hearing;

003.15B Is subject to a court order for an Ignition Interlock Permit as part of a sentence pursuant to Neb. Rev. Stat. §§ 60-6,196, 60-6,197.01, 60-6,197.03, 60-6,197.06, 28-306(3)(b) or (c), 28-394(3)(b) or (c), or subject to an administrative license revocation pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04; or

003.15C Has an order from the Board for an Ignition Interlock Permit.

003.16 Fail-safe shall mean a condition in which the ignition interlock device cannot operate properly due to some problem (e.g., improper voltage, temperature exceeding operating range, dead sensor, etc.). In a fail-safe condition, the ignition interlock device will not permit the motor vehicle to be started.

003.17 Ignition interlock device, or breath alcohol ignition interlock device, or BAIID shall mean a device that is designed to allow a driver to start a motor vehicle if the driver's BrAC is below the set point and to prevent the driver from starting the motor vehicle if the driver's BrAC is at or above the set point. An approved device shall have an alcohol specific fuel cell breath alcohol analyzer as a major component that interconnects with the ignition and other control systems of a motor vehicle. The

purpose of the ignition interlock device is to measure the BrAC of the driver, to prevent the motor vehicle from being started if the BrAC exceeds a pre-set limit, to deter and to record attempts to circumvent or tamper with the device. To be approved, the ignition interlock device, as defined in Neb. Rev. Stat. § 60-6,211.05, must meet or exceed the performance standards of the National Highway Traffic Safety Administration (NHTSA) as published in Model Specifications for Breath Alcohol Ignition Interlock Devices, (BAIID), Federal Register, Volume 75, No. 193, Page 61820 et seq on October 6, 2010, as amended. These standards are incorporated with these rules and regulations by reference.

003.18 Ignition Interlock Permit (IIP) means a permit issued to a driver which allows the driver to operate a motor vehicle which is equipped with an ignition interlock device. The permitted uses of the driver's IIP shall be printed on the back of the IIP. An IIP shall not be used to operate a commercial motor vehicle.

003.19 Interlock Data Logger shall mean a device within an ignition interlock device that records all pertinent events, and times during the period of installation and use of an ignition interlock device.

003.20 NHTSA shall mean the federal agency known as the National Highway Traffic Safety Administration.

003.21 Restart shall mean the allowance of the motor vehicle ignition key switching system for the driver to start the motor vehicle without having to give a breath alcohol analysis. This allows for a driver to start his or her motor vehicle and not be penalized for a malfunctioning motor vehicle that has faulty mechanical or electrical system problems.

003.22 Rolling retest shall mean a required test by an ignition interlock device of a breath sample that must be conducted according to the pre-set conditions of the ignition interlock device on a fixed time period and shall be completed while the motor vehicle is running but stopped in a safe location as provided in 004.02K of these rules and regulations. Failure to execute a valid retest will cause the motor vehicle ignition system to enter a lockout condition after a fixed time period.

003.23 Service interval shall mean the maximum time period that an ignition interlock device may be used without maintenance or data download, after which the motor vehicle ignition must lock and prevent the motor vehicle from starting until maintenance service has been completed.

003.24 Tampering shall mean an attempt to physically disable, disconnect, adjust, or otherwise alter the proper operation of an ignition interlock device in any way that allows the motor vehicle to be started without the driver providing his or her own breath sample into the ignition interlock device or allows a driver with a BrAC above the set point to start the engine.

004 IGNITION INTERLOCK DEVICE PERFORMANCE STANDARDS.

004.01 Submission of Breath Alcohol Ignition Interlock Device Specifications for Approval.

004.01A Any breath alcohol ignition interlock device specifications submitted to the Department for approval as an approved ignition interlock device for use in this state shall be accompanied by a certificate of an independent testing laboratory indicating that the device meets or exceeds the performance standards of the National Highway Traffic Safety Administration for such devices as published in Model Specifications for Breath Alcohol Ignition Interlock Devices, (BAIID), Federal Register, Volume 75, No. 193, Page 61820 et seq on October 6, 2010, as amended, and which are incorporated with these rules and regulations by reference. A complete and certified copy of the testing protocol and the results thereof of the independent testing laboratory shall also accompany the breath alcohol ignition interlock device specifications submitted for approval. In lieu of such documentation, to be approved the submission shall show that the submitted model is a fuel cell specific technology equipped model that appears on NHTSA's Conforming Products List. If the device has been given any exemptions from specific provisions of the above regulations by NHTSA, documentation of the exemption shall accompany the submitted material. And,

004.01B To be approved, the device must use fuel cell specific technology.

004.01C A model submitted for approval for use in this state may have a detachable sensor to allow mail-in service to user customers.

004.02 Standards for Approval by the Department. In order to obtain approval of the Department as an approved ignition interlock device, the manufacturer shall comply with subrule 004.01 of these rules and regulations and show that the device fulfills the following requirements:

004.02A The ignition interlock device shall offer safe operation of the motor vehicle in which the device is installed;

004.02B The ignition interlock device shall offer protection against tampering and preservation of evidence of such tampering;

004.02C The ignition interlock device shall be able to detect and be resistant to circumvention;

004.02D The ignition interlock device shall work reliably and accurately in an unsupervised environment and in a fail-safe condition cause the motor vehicle not to start;

004.02E The ignition interlock device shall be able to initiate a "restart" of the motor vehicle's ignition within two minutes after the ignition has been turned off

without requiring another breath alcohol analysis so long as the driver has not registered a BAC Fail;

004.02F The ignition interlock device shall use an alcohol specific fuel cell technology and shall be designed and constructed to measure a driver's breath alcohol concentration from a deep lung breath sample blown directly into the device;

004.02G The ignition interlock device shall be designed and constructed so that the ignition system of the motor vehicle in which it is installed is disabled if the alcohol concentration of the driver using the device exceeds the alcohol set point permitted by subrule 004.02H of these rules and regulations;

004.02H The ignition interlock device test shall cause a driver's motor vehicle to fail to start (BAC Fail) when the driver's breath alcohol concentration (BrAC) is at or greater than .03 grams of alcohol per 210 liters of breath;

004.02I The ignition interlock device shall cause the ignition system of the motor vehicle to be disabled if the ignition interlock device has not been calibrated and serviced within a period of 31 days subsequent to its installation, or last calibration interval, or inspection, whichever is sooner;

004.02J The ignition interlock device shall be able to record each time the motor vehicle is started, the time of each start, how long the motor vehicle was operated and any instances of tampering or attempted tampering with the unit;

004.02K **Rolling Retest.** The ignition interlock devices shall be capable of random rolling retests as provided below:

004.02K1 The ignition interlock device shall allow for a random rolling retest of a subsequent breath test within the first five minutes of starting operation of the motor vehicle. After the initial rolling retest within five minutes of starting operation of the motor vehicle, the ignition interlock device shall require the driver to perform another randomly timed rolling retest during each following 30-minute interval of operation until the motor vehicle is turned off.

004.02K2 During the rolling retest, the retest set point shall be .036 grams alcohol per 210 liters of breath to preclude a false positive test result. In order to alert the driver that a rolling retest is required, a three-minute warning light and/or tone shall come on. The driver shall have two minutes to provide a breath sample for the retest. If the engine is intentional or accidentally shutdown after the three-minute warning but before retesting, the retest clock shall not be reset. The free restart shall not be operative when the ignition interlock device is awaiting a rolling retest sample.

004.02K3 The consequences of a failure to take a retest shall be flagged and recorded on the interlock data logger, the driver will be warned by a unique auditory or visual cue that the motor vehicle ignition will enter a lockout

condition within a period of five days, and the lockout will automatically proceed after the five-day period. The ignition interlock device shall be installed in such a way that the ignition system of the motor vehicle will be deactivated if the driver fails to meet the requirements with regard to an alcohol concentration as prescribed in subrule 004.02H or subrule 004.02K of these rules and regulations. Failure of the test shall mean the driver is above the prescribed allowable breath alcohol concentration (BrAC). If the driver starting a motor vehicle fails an ignition interlock device test, the device shall allow retest subsequent to the initial test at intervals no shorter than 15 minutes.

004.02K4 A rolling retest that is taken as required and subsequently failed shall result in an alert condition that is recorded in the data logger.

004.02K5 If a driver does not pass the rolling retest, does not provide a breath sample for a rolling retest, or does not shut off the motor vehicle within time allotted, the ignition interlock device shall cause the motor vehicle's horn to sound and emergency lights to flash until the motor vehicle is turned off.

004.02L The ignition interlock device shall visibly indicate the following to the driver and any qualified person:

004.02L1 The unit is on;

004.02L2 The unit has enabled the ignition system of the motor vehicle in which it is installed;

004.02L3 The unit is in need of service or calibration;

004.02L4 The failure (BAC Fail) of the BrAC threshold and the reading obtained by the device on the breath sample introduced; and

004.02L5 Any other indicator or signal that may be required by the Department. The ignition interlock device may augment visible signals or indicators provided to the driver with audible ones.

004.02M In addition to the performance standards in 004 of these regulations, the Department may require ignition interlock devices submitted for approval to meet other requirements if deemed necessary to insure the safety of the public. Any such requirements will be reduced to writing and provided to the manufacturer submitting the device.

004.02N Any ignition interlock device installed in Nebraska on or after January 1, 2012, shall be capable of electronic reporting to the events listed in 004.02O below when downloading. The provider has a duty to report to the Department, district probation offices, courts, or the Board as required by section 006 of these rules.

004.02O The ignition interlock device shall cause a recall message to be displayed to the driver whenever the following events are recorded:

004.02O1 A BAC test fail;

004.02O2 A failure to take a BAC test when required;

004.02O3 A rolling retest failure;

004.02O4 A failure to complete a rolling retest;

004.02O5 A circumvention attempt;

004.02O6 A tampering attempt; or

004.02O7 At least five days before the end of the calibration interval when service of the ignition interlock device must be performed.

004.02P **Driver's Reporting Requirements.** The ignition interlock device must be set so that any driver required to have an IIP and ignition interlock device must contact the device's manufacturer or report to a manufacturer's designated representative to have the interlock data logger downloaded within five days of an occurrence listed in 004.02N above. Failure of the driver to arrange and complete such download or service within five days shall cause the motor vehicle to enter a lockout condition.

004.03 **Warning Label.** The manufacturer and/or representative shall also supply for each ignition interlock device installed as a result of a court or Board order, a warning label which shall not be less than one-half inch in height by three inches in length and carry the following language: "WARNING! ANY ACTUAL OR ATTEMPTED TAMPERING OR CIRCUMVENTION OF THIS DEVICE IS A CRIME. NEB. REV. STAT. 60-6,211.11.

004.04 **Issuance of Approval by the Department and Removal of Approval.**

004.04A Upon the demonstration by the manufacturer of a breath alcohol ignition interlock device that said device meets the criteria outlined in subrules 004.01 and 004.02 of these rules and regulations, the Department may issue a certificate of approval for use of the ignition interlock device in Nebraska.

004.04B The Department shall maintain a list of approved ignition interlock devices and their manufacturers. The Department has the sole discretion to approve ignition interlock devices for use in this state or remove such devices from the approved list for failure to comply with these regulations or other good cause shown. If an ignition interlock device is removed from NHTSA's Conforming Product's List, that shall also be grounds for the Department to remove ignition interlock devices from the list of approved interlock devices in this state.

004.04C A list of manufacturers with approved ignition interlock devices for use in Nebraska will be posted on the Department's webpage. It shall be the responsibility of the manufacturers to notify the Department with updated contact information for the webpage.

004.05 Independent Checks on Ignition Interlock Devices. The Department may conduct, or have conducted, independent checks on any of the approved ignition interlock devices to determine if the devices are operating within these rules and regulations. If the independent check indicates that the rules and regulations are not being followed, the Department shall require the manufacturer or his or her designated representative installer to correct any abnormality found in the installation, calibration, maintenance checks, or usage records of the device. The manufacturer or his or her designated representative installer shall report in writing to the Department within 30 days after receiving notification of the abnormality. The Department has the authority to remove from the list of approved ignition interlock devices, any device not found to be in compliance with these rules and regulations.

004.06 Cooperation with State and Subdivisions of Government. Every manufacturer of approved ignition interlock devices and such manufacturers' designated representative installers shall cooperate with and report to the Department, the courts, district probation offices, and the Board in this state in the manner as may be required by such agencies. Whenever it comes to the attention of the Director that a manufacturer or the manufacturer's designated representative installer has failed to cooperate with authorities or to comply with any rule or requirement of the Department, the courts, district probation offices, or Board, such failure will be grounds for removing the manufacturer's equipment from the list of approved ignition interlock devices. Receipt of timely information by the Department that the issue has been resolved may avoid removal of the manufacturer's equipment from the approved list.

004.07 Required Location of Ignition Interlock Device Installation Facilities. Manufacturers must have at least one designated representative installer located in each of the 12 probation districts in Nebraska to achieve statewide service to the public, EXCEPT that if no location in a probation district is more than 30 miles to the location of a designated representative installer in an adjacent district, that probation district may be served by a location or locations in an adjacent probation district(s). Manufacturers with approved ignition interlock devices on September 1, 2011, shall have until July 1, 2012, to provide a designated representative installer throughout the state as provided in this section and shall provide that list of locations to the Department by July 15, 2012, to retain approval for service in Nebraska. Any manufacturer applying for original approval on January 1, 2012, or after shall show they have statewide distribution as provided in this section. Information about locations of district probation offices and a map of probation districts is available on the Nebraska Supreme Court webpage at:

<http://www.supremecourt.ne.gov/probation/>

004.08 Fee Schedule and Addresses of Installation Facilities. Upon receipt of approval from the Department of an ignition interlock device for use in Nebraska, a manufacturer shall provide a list of addresses of the manufacturer's designated representative installers and contact information and a fee schedule for use on the ignition interlock device to the Department, the courts, the district probation offices, and the Board. A list of addresses of the manufacturer's designated representative installers, contact information and fee schedule shall be sent to such agencies by January 15 of each year. The fee schedule or addresses or contact information may be changed as necessary but notice of any change or changes shall be sent to the Department, the courts, district probation offices, and the Board prior to the effective date of the change or changes.

004.09 Insurance. A manufacturer shall have and maintain general business insurance and product liability insurance for the ignition interlock device(s) for which approval is sought. The manufacturer shall require each of his or her designated representatives to have and maintain general liability insurance. A manufacturer may require his or her designated representative to have other insurance.

004.10 Indemnification. A manufacturer seeking approval of an ignition interlock device shall agree to indemnify the State of Nebraska, its employees, agents, assignees, and legal representative with respect to any liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments and expenses related thereto which may in any manner accrue or be asserted against the State, the Department, its employees, agents, assignees and legal representatives that arise in connection with installation and/or use of an ignition interlock device and shall hold the State harmless.

004.11 Inspection. Representatives of the Department shall have the right to inspect the premises of any location within the State of Nebraska where manufacturer or manufacturer's designated representative provide and install ignition interlock devices approved for use in this state, to test devices, and to audit driver's records.

005 INSTALLATION STANDARDS FOR IGNITION INTERLOCK DEVICES.

005.01 An ignition interlock device, required by an administrative license revocation, probation order, sentence, or Board order, shall be installed as provided below:

005.01A Installation and Documentation of Installation. An ignition interlock device installed for use in Nebraska under these rules shall be a device approved pursuant to this regulation and installed by the manufacturer or by the manufacturer's designated representative installer in conformance with the directions of the manufacturer. A device must be installed at the manufacturer's or his or her designated representative installer's location or a manufacturer or manufacturer's designated representative may provide onsite mobile installation service.

005.01B Required installation Records and Ignition Interlock Disclaimer Form. Prior to installing an ignition interlock device for any driver, the manufacturer

or manufacturer's designated representative shall have the driver complete and sign an **Ignition Interlock Information and Disclaimer** form in addition to any documentation required for the provider's business purposes. The driver shall be provided with a copy of the completed and signed Ignition Interlock Information and Disclaimer form. The manufacturer or manufacturer's representative shall keep the driver's signed original copy on file until one year after the driver's license ignition interlock device has been removed. A copy of the driver's signed Ignition Interlock Information and Disclaimer form shall be made available to representatives of the Department, the courts, probation offices, the Board, or law enforcement officers upon request. A provider of approved ignition interlock devices in this State shall download the form from the Department's webpage at: www.dmv.ne.gov to provide to drivers who have ignition interlock devices installed.

005.01C Instruction. The manufacturer or manufacturer's representative shall provide instruction to a person who is having an ignition interlock device installed on his or her motor vehicle. The person shall be instructed in the operation ignition interlock device, safe operation of a motor vehicle while the ignition interlock device is installed, and compliance with required procedures, including but not limited to responding to a signal from the device to report to the manufacturer for service. These procedures shall include a minimum 15-minute waiting period between the last drink of an alcoholic beverage and time of blowing into the ignition interlock device. The driver shall be instructed that he or she must contact the device's manufacturer or report to a manufacturer's designated representative to have the interlock data logger downloaded within five days of receipt of the message for service. If there is a failure to report for calibration service, the manufacturer or designated representative must then send the resulting report to the appropriate district probation office, court, or Board, or the Department before the close of business the next business day as provided in 006. The driver shall be instructed that failure to arrange and complete such download or service within five days will result in a lockout condition of the motor vehicle.

005.02 Required Calibration. An ignition interlock device installed and used under these rules shall be calibrated at least once every 31 days using either a wet alcohol standard or a compressed gas standard (minimum five cubic foot volume) at the site of installation by the dealer or agent who installed the ignition interlock device or may be calibrated by the manufacturer using a mailing service. The calibration requirements of the ignition interlock device shall be designed so that the motor vehicle will be placed in a lockout condition if the driver fails to have the calibration completed at least once every 31 days. The calibration record shall be maintained by the designated representative installer or manufacturer and the record shall include:

005.02A The name of the person performing the calibration;

005.02B The date;

005.02C The value and type of standard used;

005.02D The unit type and identification number of the ignition interlock device checked; and

005.02E The description of the motor vehicle in which the ignition interlock device is installed, including plate number and state, make, model, year, and color.

005.03 Documentation of Calibration. The driver shall be provided a copy of current documentation of calibration to keep in his or her motor vehicle as proof of compliance. Calibration shall be consistent with the requirements of 004.02 and 005.02 of this rule. Completed Ignition Interlock Device Calibration forms shall be retained in the installer's records for at least one year after the ignition interlock device has been removed from the driver's motor vehicle or motor vehicles. Calibration records shall be provided upon request for inspection by a law enforcement officer, officer of the court, district probation office representative, Department representative, or representative of the Board. Providers may use a Nebraska Ignition Interlock Device Calibration form which shall be available for downloading on the Department's webpage at www.dmv.ne.gov. Results of ignition interlock device calibrations shall be reported as provided in 006 of these rules and regulations on the Ignition Interlock Incident Report form as may be necessary.

005.04 Removal of Ignition Interlock Device.

005.04A Removal. An ignition interlock device may be removed upon the expiration date of a driver's IIP or Class O interlock license.

005.04B An ignition interlock device may be removed by the manufacturer or his or her designated representative installer upon a driver's request. A driver who has an ignition interlock device removed prior to the expiration date of the IIP or Class O interlock shall be cautioned that he or she cannot legally operate a motor vehicle which is not equipped with an approved ignition interlock device and the driver may need to renew the IIP or license and keep the ignition interlock device if his or her period of driver license revocation exceeds five years. An ignition interlock device may also be removed for any reason specified in the contract with the driver for installation and service of the ignition interlock device by the manufacturer and his or her designated representative.

005.04C Transfer of Title. If a motor vehicle equipped with an ignition interlock device is sold or otherwise transferred as provided in Neb. Rev. Stat. § 60-395, the ignition interlock device must be removed from the motor vehicle before transfer of title or payment of any refund of registration fees, motor vehicle fees, or motor vehicle taxes. An owner may be required to present evidence of removal of the ignition interlock device prior to payment of any refund.

005.04D Location. An ignition interlock device may be removed at the manufacturer's or his or her designated representative installer's location or a manufacturer or his or her designated representative may provide mobile onsite service for removal of the ignition interlock device from a motor vehicle.

006 MANUFACTURER'S OR INSTALLER'S REPORTING REQUIREMENTS. The manufacturer, or his or her designated representative installer, shall report to the Department, the court, district probation office, or the Board according to the information provided on the driver's signed Ignition Interlock Disclaimer form completed and signed prior to installation of the device on a driver's motor vehicle(s) and kept on record. Any suspected violation shall be reported to the appropriate office using the **Ignition Interlock Incident Report** form which may be downloaded from the Department's webpage at www.dmv.ne.gov. The following occurrences shall be reported:

006.01 Test Failures (BAC Results of 0.03 or Above).

006.01A Failures recorded; Fail pattern, in our opinion, does not indicate consumption of beer, wine, or spirits.

006.01B Failures recorded; Fail pattern, in our opinion, indicates consumption of beer, wine, or spirits.

006.02 Tampering or Circumvention.

006.02A Suspected attempts to tamper with or circumvent the ignition interlock device were observed or recorded.

006.02B Suspected disconnection(s) of the ignition interlock device from the motor vehicle's electrical system were recorded (Power Disconnects) and if the driver credibly indicated that mechanical service was performed on the motor vehicle or did not provide a credible reason why the power supply to the ignition interlock device was interrupted.

006.03 Violation Reset (Failed or "Not Taken") Random (While Driving) Retest as Shown by Data Logger.

006.03A Failures recorded; Fail pattern, indicates consumption of beer, wine, or spirits.

006.03B Test Not Taken or if driver ignored or perhaps disabled honking horn without attempting to take a test or shut off the motor vehicle, or other failure to respond to or comply with visual or audible signals from the ignition interlock device.

006.04 The manner of reporting shall be as required by the Department, court, a probation office, or the Board and may be done by electronic means.

006.04A District probation office's telephone numbers and e-mail addresses will be available at <http://www.supremecourt.ne.gov/probation/>.

006.04B Telephone numbers and e-mail addresses for the Department shall be found on the Department's webpage at www.dmv.ne.gov. A downloadable copy of the Nebraska Ignition Interlock Incident Report form shall be available on the

Department webpage at www.dmv.ne.gov for reporting to the Department and may be mailed, e-mailed or faxed to the Department.

006.05 Requirements to Provide Reports upon Request. The manufacturer, or his or her designated representative installer, shall provide copies of all records for any driver/client to law enforcement officers or representatives of the Department, a court, district probation office, or the Board, upon a request. This shall include, but is not limited to, records of installation, calibration, maintenance checks, usage records, disclaimer forms, and incident reports of any driver or drivers or any or all of their ignition interlock devices placed in service in Nebraska. A manufacturer or his or her designated representative shall retain all of a driver's ignition interlock records for at least one year after the ignition interlock device has been removed from the driver's motor vehicle or motor vehicles.

007 ISSUANCE OF THE IGNITION INTERLOCK PERMIT (IIP).

007.01 Ignition Interlock Permit (IIP) Issuance and Renewal. Any driver subject to an order of administrative license revocation from the Department or who has an order for an IIP and ignition interlock device from a court or the Board may apply for an IIP.

007.01A Application. The Department will provide an application form for issuance of an IIP which shall be available online on the Department webpage at www.dmv.ne.gov and also available upon request. The application shall contain a statement from the applicant for an IIP that he or she acknowledges that he or she understands that he or she will have his or her license administratively revoked pursuant to Neb. Rev. Stat. §§ 60-498.01 and 60-493.02, that he or she waives his or her right to a hearing to contest the revocation, and that he or she understands that he or she is required to have an ignition interlock permit to legally operate a motor vehicle for the period of the revocation and may be subject to no-driving periods as specified in statute before the IIP may be issued.

007.01B Authorization for IIP.

007.01B1 IIP Order from Court or Board of Pardons. On or after January 1, 2012, any driver arrested on or after that date who wishes to have an IIP must obtain authorization from the Department to be issued an IIP. Prior to authorization, the Department must have received a properly completed application for an IIP, a receipt installation of the ignition interlock device, a certified abstract of a court order for an IIP, or an order from the Board allowing the driver to operate a motor vehicle with an ignition interlock device before authorizing the issuance of the IIP. The driver must serve any required no-drive period and be determined to be eligible prior to authorization for an IIP. The Department must have evidence that the driver has surrendered his or her driver license to the Department. Drivers arrested before or on December 31, 2011, shall be subject to the law in place on the date of arrest.

007.01B2 Administrative License Revocation. To obtain an IIP for use during a period of administrative license revocation, an arrested driver shall complete the IIP application process, and the Department shall allow the person to be issued an IIP for use during a period of administrative license revocation if the driver is determined to be eligible and the driver has served any required no-drive period. The Department must have evidence that the driver has surrendered his or her driver license to the Department. Drivers arrested before or on December 31, 2011, shall be subject to the law in place on the date of arrest.

007.01B3 All IIPs shall be issued at the Department's licensing stations in Nebraska.

007.01C Determination of IIP Eligibility. Prior to issuance of an IIP, the Department shall review its records of any person who applies for an IIP allowing operation of a motor vehicle equipped with an ignition interlock device to determine (a) the applicant's eligibility for an IIP; (b) the applicant's previous convictions under Neb. Rev. Stat. § 60-6,196, 60-6,197, or 60-6,197.06 or any previous administrative license revocation within any preceding 15 years, if any; (c) if the applicant is subject to any required no-drive periods before the IIP may be issued; and (d) the permitted driving uses to be allowed to that person on his or her IIP. The Department will determine the eligibility of the driver, and apply any credit the driver may have for revocation dates served or no-driving days served before issuing the IIP to the driver.

007.02 Applicable No-Driving Periods and Limitations on Driving Privileges.

007.02A Required No-Drive Periods Prior to IIP Issuance.

007.02A1 No Priors. Any driver who is subject to an administrative license revocation and who has no such prior revocations within the preceding 15-year period who has not petitioned for an administrative hearing may immediately apply for an IIP to use for operation of a motor vehicle during the 180-day period of revocation so long as he or she is otherwise eligible for such permit.

007.02A2 Prior Revocations. Any driver who is subject to an administrative license revocation and has one or more prior such revocations within the preceding 15 years, who submitted to a chemical test pursuant to Neb. Rev. Stat. § 60-6,197, and who has not petitioned for an administrative hearing may apply for an IIP to use during the one-year period of revocation after serving a 45-day period with no driving so long as he or she is otherwise eligible for such permit.

007.02A3 Refusal. Any driver subject to an administrative license revocation for refusal of a chemical test, and who has not petitioned for an administrative hearing may apply for an IIP to use during the one year after serving a 90-day period with no driving so long as he or she is otherwise eligible.

007.02A4 Reprieve from Board of Pardons. Any driver subject to an order from the Board requiring use of an ignition interlock device for operation of a motor vehicle must use the device and comply with the requirement of the IIP for the time period designated by the Board in its order, subject to any conditions which may be ordered by the Board as soon as the driver completes the application process.

007.02A5 Alcohol-Related Offenses. A court may only issue an order for an IIP to a person subject to a driver license revocation and sentenced pursuant to Neb. Rev. Stat. § 28-306(3)(b) or (c), 28-394(3)(b) or (c), 60-6,196, 60-6,197, 60-6,197.06, or 28-1254. The Department will determine the eligibility of the driver, and apply any credit the driver may have for revocation days served or no-driving days served pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.02 before issuing the IIP to the driver. If the driver does not have sufficient credit, he or she will have to serve any remaining no-driving days and period of revocation as may be required by the court and applicable statutes.

007.03 Driving Privileges. Ignition interlock driving privileges with an IIP for a repeat DUI offender pursuant to this section shall be interpreted to require compliance with the provisions of 23 CFR 1275 and 23 CFR 1313 with respect to any driver who has a prior conviction or administrative revocation within 15 years of any subsequent offense or as Neb. Rev. Stat. § 60-197.02 may be amended.

007.03A A person operating a motor vehicle pursuant to this subsection under an IIP issued pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04 who has no previous convictions under Neb. Rev. Stat. § 60-6,196, 60-6,197, or 60-6,197.06 and no previous administrative license revocation shall only operate the motor vehicle to and from his or her residence, for purposes of his or her place of employment, his or her school, an alcohol or a substance abuse treatment program, his or her parole or probation officer, his or her continuing health care or the continuing health care of another person who is dependent upon the person, his or her court-ordered community service responsibilities, or an ignition interlock service facility.

007.03B A person operating a motor vehicle under an IIP issued pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04 who has a previous conviction under Neb. Rev. Stat. § 60-6,196, 60-6,197, or 60-6,197.06 and no previous administrative license revocation shall only operate the motor vehicle to and from his or her residence for purposes of his or her employment, his or her school, or a substance abuse treatment program, and an interlock service facility.

007.03C A person subject to an order from the Board for an IIP shall not have any limitations on the driving privileges except that he or she may not operate a commercial motor vehicle with an IIP.

007.03D All permits issued pursuant to this regulation shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

007.04 Effect of Subsequent License Revocations, Suspensions, or Cancellation. Any driver whose driver license is suspended, revoked, impounded, disqualified or cancelled pursuant to Neb. Rev. Stat. § 60-487 subsequent to the issuance of an IIP will have his or her IIP revoked whenever the Director becomes aware of such action. No driver shall be issued an IIP until he or she presents a new order from a court or the Board for an IIP, has met all requirements, and is not ineligible for any reason.

007.05 Legal Operation of a Motor Vehicle Equipped with an Ignition Interlock Device. A person who is subject to a revocation of his or her driver license may not legally operate a motor vehicle equipped with an ignition interlock device until he or she has been issued an IIP. The IIP may be renewed if the permit expires prior to the end of any revocation period the driver has been ordered to serve. The fees for such license or permit shall be as provided in Neb. Rev. Stat. § 60-4,115 and shall be paid at the time the IIP is issued.

007.06 Extension of Requirement for IIP. Whenever it comes to the attention of the Director that a person has tampered with or circumvented an ignition interlock device installed pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04 or operated a motor vehicle not equipped with a functioning ignition interlock device required pursuant to such sections or otherwise violated allowed purposes for operation indicated on the IIP under such sections shall, in addition to any possible criminal charges, have his or her revocation period and IIP extended for six months beyond the end of the original revocation period.

007.07 Commercial Motor Vehicles. A driver required to hold an ignition interlock (Z) restricted Class O license or an IIP limiting operation of a motor vehicle to those equipped with an ignition interlock device may not operate a commercial motor vehicle as defined in Neb. Rev. Stat. § 60-465. A driver who operates a motor vehicle with an IIP shall be subject to the provisions of Neb. Rev. Stat. § 60-4,168.

007.08 Applicability of Law. IIPs shall be available to drivers according to Nebraska statutes in place on the date of the driver's arrest.

008 IGNITION INTERLOCK PERMITS AND JURISDICTIONS OTHER THAN NEBRASKA.

008.01 Nebraska Licensed Drivers Convicted of Driving Under Influence (DUI) in Another Jurisdiction. A driver holding a Nebraska license on the date of a DUI offense for which he or she was convicted or placed on probation for DUI by a jurisdiction other than Nebraska may obtain a Nebraska IIP authorization if he or she presents to the Department proof as required by 007.01B1 of these regulations, or equivalent, including but not limited to, an ignition interlock order from the other jurisdiction. The driver may not have any other holds or blocks on his or her license eligibility and must have served the required no-driving time for the offense before an IIP will be authorized.

008.02 Driver Moving to Nebraska Subject to a DUI from Another Jurisdiction with an Ignition Interlock Order. A driver who has a DUI with an ignition interlock order from another jurisdiction for a violation in that jurisdiction who can prove he or she has become a Nebraska resident may apply for a Nebraska IIP. Such driver may obtain authorization for an IIP if he or she presents to the Department proof as required by 005.01 of these regulations, or equivalent, including but not limited to an ignition interlock order from the other jurisdiction. The driver may not have any other holds or blocks on his or her license eligibility and must have served the required no-driving time for the offense. The driver will be required to surrender any driver license he or she holds from another jurisdiction prior to obtaining a Nebraska IIP and pass all required tests.

008.03 Driver with an Operator's Permit from Another Jurisdiction with a DUI Offense That Occurred in Nebraska. A driver who is subject to a DUI prosecution in a Nebraska court who held a driver license from another jurisdiction on the date of the offense may apply for authorization for an IIP if the driver proves that he or she has become a Nebraska resident. Such driver may obtain authorization for an IIP if he or she presents to the Department proof as required by 007.01B1 of these regulations, including an ignition interlock order. The driver may not have any other holds or blocks on his or her license eligibility and must have served the required no-driving time for the offense. The driver will be required to surrender any driver license he or she holds from another jurisdiction prior to obtaining a Nebraska IIP and pass all required tests.

008.04 Drivers from Other Jurisdictions with a Nebraska DUI. A driver who is a resident of another jurisdiction and holds an driver license from another jurisdiction may not be issued a Nebraska IIP if he or she is subject to a DUI offense occurring in Nebraska. Such drivers may present a Nebraska IIP order to the appropriate agency in his or her jurisdiction of residence. Issuance of an ignition interlock license or permit of any kind is based upon the laws of the driver's jurisdiction of residence and may or may not be honored by that jurisdiction.

009 IGNITION INTERLOCK COSTS.

009.01 Driver Responsibilities. The cost of compliance with ignition interlock device requirements while a driver is subject to a period of revocation by the Department or pursuant to a court order, or pursuant to an order of the Board shall be paid by the driver directly to the provider of the ignition interlock device. Such costs shall include, but are not limited to, installation, maintenance, and removal of an ignition interlock device.

009.02 Indigent Drivers. The Department shall post an application for determination of indigency online on the Department's webpage at www.dmv.ne.gov or make such application available to individuals upon request. Persons who claim indigence may fill out the application form at manufacturer's or designated manufacturer's place of business. Upon receipt of a properly completed application from the driver claiming to be indigent that meets requirements and upon completion of all other required forms of the driver, the manufacturer or manufacturer's designated representative may install an ignition interlock on the driver's motor vehicle.

009.03 Provider Reimbursement. When an ignition interlock device is removed from the motor vehicle of an individual claiming to be indigent, within 30 days the provider shall send an itemized statement to the Department for reimbursement of the cost of installation, removal, or maintenance of the ignition interlock device for such a driver. Upon review of the statement for accuracy, such costs shall be paid by the Department out of the Department of Motor Vehicles Ignition Interlock Fund, to the extent such funds are available. There shall be no provider reimbursement if there are no monies in the Fund.

010 EFFECTIVE OF SUBSEQUENT LOSS OF DRIVER LICENSE AFTER ISSUANCE OF AN IGNITION INTERLOCK PERMIT; REINSTATEMENT OF DRIVER LICENSE.

010.01 A driver's IIP shall be revoked if subsequent to the issuance of an IIP the driver:

010.01A is convicted of any violation of law which requires impoundment, revocation, or disqualification of a driver license.

010.01B has his or her license administratively disqualified, revoked, or cancelled by the Department.

010.02 Whenever a driver license is suspended subsequent to issuance of an IIP, the driver shall have his or her IIP suspended but may have his or her IIP reinstated upon compliance and payment of the reinstatement fee as provided in Neb. Rev. Stat. § 60-4,100.01.

010.03 After an IIP has been revoked, a driver who wishes to apply for another IIP or any other type of driver license or permit, shall pay a reinstatement fee as provided in Neb. Rev. Stat. § 60-499.01 and must successfully complete the required application process, pass all required tests, and meet any requirements necessary to be eligible for the type of license or permit applied for.

010.04 If a driver has been issued an IIP and subsequently has his or her license or permit cancelled, he or she shall not have to pay a reinstatement fee but in order to be issued any new license or permit, the driver shall complete the required application process, pass all required tests, and meet all requirements necessary for the type of license or permit applied for to be issued any new license or permit.

010.05 Whenever a driver demonstrates he or she is in compliance with any matter for which he or she has been suspended and/or has served any applicable disqualification or revocation period, the reinstatement fee paid on the date of reinstatement shall be construed to cover any and all disqualifications, suspensions, or revocations on the driver's abstract of record on that date. Subsequent to such reinstatement date, if a driver is subject to a suspension, revocation, or disqualification of his or her license, he or she shall be required to pay a new reinstatement fee, regardless of whether or not the

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subsequent disqualification, suspension, or revocation stems from the same event for which he or she previously paid a reinstatement fee.