

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for 1 or 2 180-day periods if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE DIVISION

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R17-4-709 | New Section |
| Appendix A | New Appendix |
| Appendix B | New Appendix |
| Appendix C | New Appendix |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366.
Implementing statutes: A.R.S. §§ 1462 and Laws 1998, Chapter 302, § 42
- 3. The effective date of the rules:**
July 7, 1999
- 4. Is this rulemaking a renewal of a previous emergency rulemaking? If yes, the Register citation to previous notices of emergency rulemaking:**
Yes.
Notice of Emergency Rulemaking: 4 A.A.R. 4343, December 28, 1998.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Lynn S. Golder, Rules Attorney
Address: Arizona Department of Transportation
Motor Vehicle Division
4747 North 7th Avenue
Phoenix, Arizona 85013
Telephone: (602) 255-7941
Fax: (602) 241-1624
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
An ignition interlock device ("IID") is a device designed to be installed in a vehicle to measure a driver's breath alcohol concentration and to prevent starting the vehicle when the driver's breath alcohol concentration is at or above a preset level. The driver must breathe into the device and provide an acceptable breath sample. The device allows the vehicle ignition switch to start the engine only when the breath sample is below the alcohol setpoint.
Current A.R.S. §§ 28-1382, 28-1383, 28-1461, and 28-1462 require a person to have installed in each vehicle operated by the person a functioning IID certified by the Arizona Department of Transportation, Motor Vehicle Division ("Division") when both the following conditions occur:
a. The person is convicted in an Arizona court after November 30, 1998, of driving or actual physical control while under the extreme influence of intoxicating liquor (extreme DUI) or of aggravated driving or actual physi-

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cal control while under the influence of intoxicating liquor or drugs (aggravated DUI); and

b. The Arizona court issues an order limiting the person's driving privilege to operation of a motor vehicle equipped with a functioning certified IID.

Laws 1998, Chapter 302, § 42 established an IID pilot program of not more than 300 people ordered, by Arizona courts from December 1, 1998, through November 30, 1999, to have certified ignition interlock devices installed. The Arizona IID pilot program was enacted to test the efficacy of installed and functioning IIDs as a means of DUI abatement.

A.R.S. § 28-1462(B) mandated that the Division certify ignition interlock devices and adopt rules "prescribing the requirements for certification," including: "[T]he procedure for certification of ignition interlock devices," "provisions to ensure the reliability of the ignition interlock device over the range of motor vehicle environments," and "provisions to ensure that the ignition interlock device works accurately in an unsupervised environment." Emergency rule R17-4-709, effective for a 180-day period from December 1, 1998, through May 30, 1999, sets forth the requirements an IID must meet to be certified by the Division, establishing the certification process to be followed by the IID manufacturer. Additionally, the rule sets forth the manufacturer's continuing duty to ensure the reliability and accuracy of a certified IID, including appointment and oversight of authorized installers who install and service the device in motor vehicles.

After December 1, 1998, the Division certified 5 IID models provided by 4 manufacturers. Under the pilot program to date, Arizona courts ordered 3 people to equip each vehicle they operate with a certified IID. One person has actually had the device installed.

The Division requested approval of emergency rule R17-4-709 for an additional 180 days. Extending the effective period of the emergency rule enables the Division to conform the text of the regular rulemaking to statutory changes resulting from the 1999 legislative session.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

The following studies were reviewed by the Arizona Department of Transportation, Motor Vehicle Division for this rulemaking: Beirness, Marques, Voss, and Tippetts, "Evaluation of the Alberta Ignition Interlock Program: Preliminary Results," 1997; "Michigan Drunk Driving Recidivism Assessment May 1998 Literature Review Report," Michigan Public Health Institute; and "Preliminary Study of the Breath Alcohol Ignition Interlock Pilot Program," The BAID Division, Department of Administrative Hearings, State of Illinois, June 30, 1997. The studies are on file with the Division.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact:

In 1998, the Arizona Legislature enacted an IID pilot program. The Division determined that the program's implementation produces economic consequences. However, the reduction of future DUIs and the increase in business opportunities resulting from the IID program outweigh the costs to the Division, other government agencies, IID manufacturers, authorized installers, independent laboratories, insurance and surety companies, and people ordered to install IIDs. The Division identified the following economic effects:

- a. Substantial costs to the Division;
- b. Minimal* to moderate** costs to the Attorney General, the Secretary of State, the Governor's Regulatory Review Council, the Department of Health Services, and Arizona courts;
- c. Substantial*** up-front costs to IID manufacturers and authorized installers, with the possibility of substantial income from providing certified IIDs in Arizona;
- d. The possibility of substantial income to insurance companies and surety companies from the sale of IID product liability insurance to IID manufacturers and surety bonds to installers, with the possibility of substantial costs in providing indemnification under an IID product liability insurance policy or an installer bond;
- e. Moderate costs to participants in the Arizona IID program, those ordered by an Arizona court to install a certified IID, offset by avoidance of future DUIs and associated costs and penalties;
- f. Substantial costs to the DUI Abatement Council for reviewing and reporting on the IID program;
- g. Substantial funds from court assessments against people convicted of extreme DUI and aggravated DUI deposited in the DUI Abatement Fund, administered by the DUI Abatement Council, and expended in accordance

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with A.R.S. §§ 28-1303 and 28-1304; and

h. Pecuniary and non-pecuniary benefits to the general public from the reduction in DUI recidivism and increased safety resulting from the IID program.

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

11. Incorporations by reference and their location in the rules:

National Highway Traffic Safety Administration Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772 to 11787, April 7, 1992, incorporated at R17-4-709(A)(9).

12. An explanation of the situation justifying the rule's adoption as an emergency rule:

Keeping drunk drivers off the road is obviously of major concern to the citizens of Arizona. Emergency rule R17-4-709 aids in this effort by specifying the requirements and procedures necessary for IID certification, as well as the methods by which the reliability and accuracy of these devices can be assured. If the rule is allowed to lapse until the regular rulemaking process is completed later this year, the Division could no longer satisfy its statutory mandate to certify IIDs. Court orders for installation would not be enforced, and convicted drunk drivers would have 1 less obstacle to "getting back behind the wheel;" all to the foreseeable detriment of the state.

The 1999 legislative session saw the introduction of 3 bills dealing with expansion of the IID program and a manufacturer or installer surety bond requirement. During the session, 2 of the bills failed, and the 3rd (House Bill 2408) was enacted just 1 day before adjournment. The legislation was signed into law by the Governor on May 18th. Therefore, issues affecting the regular rulemaking were only resolved in the last few days. The Division did not want to confuse the public by introducing a IID certification rule into the regular rulemaking process that could have conflicted with pending legislation. As a result, the Division decided that it would be premature to move forward in its regular rulemaking until these issues were resolved through the legislative process. Due to the time constraint imposed by the new legislation, there was insufficient time to comply with the requirements under the regular rulemaking procedures.

The potential for saving even 1 life, coupled with the recent statutory expansion of the Arizona IID program, constitutes strong justification for the renewal of R17-4-709 as an emergency measure. As addressed above, Laws 1999, Chapter 303, (HB 2408) was enacted by the Legislature on May 6, and was signed by the Governor and filed with the Secretary of State on May 18, 1999. The new law becomes effective on August 6, 1999. It significantly expands and changes the Arizona IID program by: 1) removing the pilot status, 2) eliminating both the 300-person limit and the November 30, 1999 end to the program, 3) making many IID orders mandatory, and 4) providing for a \$25,000 installer bond in a form to be approved by the Division Director.

The emergency rule needs to remain in place for an additional 180 days to provide continuing guidance to the IID program participants, manufacturers, authorized installers and the general public throughout the transition from a pilot program to an expanded IID program.

13. The date of the Attorney General's approval of the emergency rule:

July 7, 1999

14. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

ARTICLE 7. MISCELLANEOUS RULES

Sections

R17-4-709. Ignition Interlock Device Certification: Reliability and Accuracy Assurance

Appendix A. Arizona Ignition Interlock Installation Verification

Appendix B. Arizona Ignition Interlock Accuracy Check

Appendix C. Arizona Ignition Interlock Noncompliance Report

ARTICLE 7. MISCELLANEOUS RULES

R17-4-709. Ignition Interlock Device Certification, Reliability and Accuracy Assurance

A. Definitions.

In this Section, unless the context otherwise requires:

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1. “Audit” means an examination by Arizona Department of Transportation, Motor Vehicle Division personnel of participant records and supplies of warning labels and written instructions.
 2. “Authorized installer” means a person or entity appointed by a manufacturer to install and service certified ignition interlock devices provided by the manufacturer.
 3. “Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify the device’s accuracy.
 4. “Certified ignition interlock device” has the meaning set forth at A.R.S. § 28-1301(1).
 5. “Data logger sheet” means the printed report generated from an ignition interlock device that contains all activities, data recordings, and actions pertaining to the device.
 6. “Day” means calendar day.
 7. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.
 8. “Ignition interlock device” has the meaning set forth at A.R.S. § 28-1301(4).
 9. “Independent laboratory” means a laboratory, operated by a person or entity other than a manufacturer, that can test an ignition interlock device in accordance with Sections 1 and 2 of the National Highway Traffic Safety Administration (NHTSA) specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772-11787, April 7, 1992. The NHTSA specifications for BAIIDs are incorporated by reference and are on file with the Division and the Office of the Secretary of State. The NHTSA specifications for BAIIDs are also available from the Office of Research & Traffic Records, Room 6240 (NTS-30), NHTSA, 400 7th Street SW., Washington, DC 20590, Telephone: (202) 366-5593. This incorporation by reference contains no future editions or amendments.
 10. “Manufacturer” means a person or entity that provides ignition interlock devices, requests the Division to certify a model of ignition interlock device, and appoints and oversees the authorized installers of the certified ignition interlock device.
 11. “Material modification” means a change to a certified ignition interlock device that affects the functioning of the device.
 12. “NHTSA specifications” means the specifications for BAIIDs incorporated by reference at R17-4-709(A)(9).
 13. “Participant” means a person ordered by an Arizona court to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes an authorized installer’s customer for installation and servicing of a certified ignition interlock device.
 14. “Use” means the installation, operation, service, repair, and removal of an ignition interlock device.
- B.** Certification procedure for ignition interlock devices. An ignition interlock device installed in a motor vehicle pursuant to the order of an Arizona court shall be a model certified by the Division in accordance with this Section. For each model of ignition interlock device to be certified, the manufacturer shall make application to the Division by submitting a properly filled out application form and all additional items required by R17-4-709(B).
1. The application form shall set forth the following:
 - a. The manufacturer’s name;
 - b. The manufacturer’s business address and telephone number;
 - c. The manufacturer’s status as a sole proprietorship, partnership, limited liability company or corporation;
 - d. The name of the sole proprietor or of each partner, officer, director, agent, 20% or more stockholder, or manager of a limited liability company or member of a limited liability company whose management is reserved to the members;
 - e. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
 - f. The following statements, signed by an authorized representative for the manufacturer and acknowledged before a notary public:
 - i. A statement certifying that all information on the application form and attachments to the application is complete, true, and correct;
 - ii. A statement certifying that the manufacturer agrees to indemnify and hold the state of Arizona, the Division, and any department, division, agency, officer, employee or agent of the state of Arizona harmless from all liability for damage to property and injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or authorized installer appointed by the manufacturer relating to the use of the ignition interlock device. The statement shall certify that, in the event of litigation, the manufacturer agrees to indemnify and hold the state of Arizona, the Division, and any department, division, agency, officer, employee or agent of the state of Arizona harmless from all court costs, expenses of litigation, and reasonable attorneys’ fees;
 - iii. A statement certifying that the manufacturer agrees to comply with the breath alcohol level established by the Division for certified ignition interlock devices and printed on the application form; and
 - iv. A statement certifying that the manufacturer agrees to comply with the requirements of R17-4-709.
 2. With the application form, the manufacturer shall submit the following additional items:
 - a. A document setting forth a detailed description of the ignition interlock device, with a photograph, drawing, or other graphic depiction of the device;

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- b. A document containing complete technical specifications that describe the accuracy, reliability, security, data collection and recording, and tamper detection of the ignition interlock device;
- c. A report prepared by an independent laboratory chosen by the manufacturer, presenting data demonstrating that the ignition interlock device meets or exceeds the test results required by Sections 1 and 2 of the NHTSA specifications and providing the laboratory's name, address, and telephone number, and the name and model number of the ignition interlock device tested;
- d. The laboratory certification form, signed by an authorized representative of the laboratory that prepared the report required in R17-4-709(B)(2)(c) and acknowledged before a notary public, certifying the following:
 - i. The laboratory is operated by a person or entity other than a manufacturer;
 - ii. The laboratory tested the ignition interlock device in accordance with Sections 1 and 2 of the NHTSA specifications;
 - iii. The ignition interlock device met or exceeded the test results required by Sections 1 and 2 of the NHTSA specifications;
 - iv. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; and
 - v. The laboratory presented accurate test results;
- e. A document containing the complete list of the authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;
- f. A document containing the complete written instructions provided to authorized installers for installation, operation, service, repair, and removal of the ignition interlock device, including the instruction to affix to each installed certified ignition interlock device a warning label conforming to the design adopted by the Division pursuant to A.R.S. § 28-1462(E) and printed on the application form;
- g. A document containing the complete written instructions provided to participants and other operators of a vehicle equipped with the ignition interlock device; and
- h. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, that evidences the following:
 - i. A product liability policy with a current effective date;
 - ii. The name and model number of the ignition interlock device covered by the policy;
 - iii. A policy limit of at least \$1,000,000;
 - iv. The manufacturer as the insured and the Division as an additional insured;
 - v. Product liability coverage for defects in manufacture, materials, design, calibration, installation, operation, service, repair, and removal of the ignition interlock device; and
 - vi. A statement that the insurance company will notify the Division 30 days before cancellation of the product liability policy.

C. Application completeness; refusal; hearing.

- 1. After application completeness occurs, the Division shall certify or refuse to certify an ignition interlock device.
 - a. The Division shall notify the manufacturer within 10 days after receiving an application for ignition interlock device certification that the application form or additional items are incomplete.
 - i. The Division shall specify what information or documents are needed to complete the application form or additional items.
 - ii. If the manufacturer fails to submit the necessary information or documents within 20 days after notification of incompleteness, the Division shall terminate the ignition interlock device certification process.
 - b. To confirm that the device meets the NHTSA specifications, the Division shall choose an agency or individual outside the Division to review an independent laboratory's report. The outside reviewer shall submit to the Division written confirmation or disapproval of the independent laboratory's report.
 - c. Application completeness occurs when the Division receives a properly filled out application form, all additional items required by R17-4-709(B), and an outside reviewer's written confirmation or disapproval of the independent laboratory's report.
- 2. The Division shall refuse to certify an ignition interlock device upon finding any of the following:
 - a. A defect in design, materials or workmanship that causes failure of an ignition interlock device to function as intended;
 - b. Termination or cancellation of a manufacturer's liability insurance;
 - c. The manufacturer's discontinuance of providing the ignition interlock device;
 - d. False or inaccurate information relating to the performance of an ignition interlock device, provided by the manufacturer or independent laboratory; or
 - e. Modification or alteration of the components, design or installation and operating instructions so that an ignition interlock device no longer satisfies the NHTSA specifications.
- 3. The Division shall notify the manufacturer by certified mail of the certification of an ignition interlock device or of the refusal to certify the device, specifying the basis for refusal.
 - a. If certification is refused, the notice shall state that the manufacturer may request a hearing by submitting, within

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15 days after the date of mailing of the notice of refusal, a written hearing request addressed to the Motor Vehicle Division, Administrative Hearings Office, 1801 West Jefferson, Phoenix, Arizona 85007.

- b. If timely requested, the hearing shall be noticed and conducted in accordance with A.R.S. §§ 41-1061 to 41-1067 and Title 17, Chapter 4, Article 9.

D. Cancellation of certification; hearing.

1. The Division shall cancel the certification of a device and remove it from the list of certified ignition interlock devices upon finding any of the following:
 - a. A defect in design, materials or workmanship that causes failure of an ignition interlock device to function as intended;
 - b. Termination or cancellation of a manufacturer's liability insurance;
 - c. The manufacturer's discontinuance of providing the ignition interlock device;
 - d. False or inaccurate information relating to the performance of an ignition interlock device, provided by the manufacturer or independent laboratory;
 - e. Modification or alteration of the components, design or installation and operating instructions so that an ignition interlock device no longer satisfies the NHTSA specifications;
 - f. A voluntary request by a manufacturer to cancel the certification of an ignition interlock device; or
 - g. Noncompliance by a manufacturer or authorized installer with any reliability and accuracy provision set forth at R17-4-709(E) through R17-4-709(H) or with any records retention, copy submission, and audit provision set forth at R17-4-709(I).
2. The Division shall send a notice and order of cancellation of an ignition interlock device certification to the manufacturer by certified mail.
 - a. The notice and order of cancellation shall specify the basis for the action.
 - b. The order of cancellation shall become effective 15 days after the date of mailing of the notice and order, unless the manufacturer files a timely response.
3. If the Division cancels the certification of an ignition interlock device, the notice and order of cancellation shall require the manufacturer to appear at a specified time and place to show cause why the certification of the ignition interlock device should not be canceled.
 - a. The manufacturer shall submit, within 15 days after the date of mailing of the notice and order of cancellation, a written response to the order of cancellation addressed to the Motor Vehicle Division, Administrative Hearings Office, 1801 West Jefferson, Phoenix, Arizona 85007.
 - b. If no response is received by the Motor Vehicle Division by 15 days after the date of mailing of the notice and order, the order of cancellation is effective.
 - c. If a timely response is submitted, the hearing shall be noticed and conducted in accordance with A.R.S. §§ 41-1061 to 41-1067 and Title 17, Chapter 4, Article 9.
4. If the order of cancellation becomes effective, the manufacturer shall have full responsibility, including payment of all costs, for removal of decertified ignition interlock devices and replacement with certified devices.
 - a. Within 60 days of the effective date of the order of cancellation, the manufacturer shall complete the removal of all decertified ignition interlock devices and replacement with certified devices.
 - b. A manufacturer of decertified ignition interlock devices who is not the manufacturer of a model that remains certified, shall pay the costs of replacing the decertified devices with certified ignition interlock devices provided by another manufacturer.
5. The Division shall not accept an application for certification of an ignition interlock device submitted by a manufacturer who, within 60 days of the effective date of an order of cancellation, fails to complete the removal of all decertified ignition interlock devices and replacement with certified devices.
6. A manufacturer shall not provide for installation of a previously certified ignition interlock device that has been decertified, unless the manufacturer submits to the Division the completed application form and all additional items required by R17-4-709(B), and the Division certifies the device.

E. Reliability and accuracy assurance; modification of a certified ignition interlock device.

1. A manufacturer shall notify the Division in writing of any material modification or alteration in the components, design or installation and operating instructions of a certified ignition interlock device.
2. A manufacturer shall not provide for installation of a certified ignition interlock device that has been materially modified or altered in components, design or installation and operating instructions, unless the manufacturer submits to the Division the completed application form and all additional items required by R17-4-709(B), and the Division certifies the modified or altered device.

F. Reliability and accuracy assurance; referral to authorized installers; manufacturer oversight of authorized installers.

1. A manufacturer shall refer a participant only to an authorized installer.
2. A manufacturer shall provide the Division with a toll free telephone number for a participant to call to obtain names, locations, telephone numbers, contact people, and hours of operation of authorized installers.
3. A manufacturer shall ensure that an authorized installer follows the installation, operation, service, repair, and removal procedures established by the manufacturer.

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4. A manufacturer shall ensure that an authorized installer has the training and skills specified by the manufacturer to install, troubleshoot, and examine and verify proper operation of the certified ignition interlock device.
 5. A manufacturer shall ensure that an authorized installer complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle. The manufacturer shall ensure that within 10 days after removal of a certified ignition interlock device, the authorized installer notifies the Division by certified mail of the device's removal.
 6. A manufacturer shall ensure that an authorized installer provides every participant and every person operating a motor vehicle equipped with the certified ignition interlock device with the manufacturer's written instructions for the following:
 - a. Cleaning and caring for the certified ignition interlock device;
 - b. Types of vehicle malfunctions or repairs that affect the device, and what to do when vehicle malfunctions occur or repairs are necessary; and
 - c. Operating a motor vehicle equipped with the certified ignition interlock device.
 7. A manufacturer shall ensure that an authorized installer provides every participant and every person operating a motor vehicle equipped with the certified ignition interlock device with manufacturer specified hands-on training in operating a motor vehicle equipped with the certified ignition interlock device.
 8. A manufacturer shall ensure that an authorized installer affixes to each installed certified ignition interlock device a warning label conforming to the design adopted by the Division pursuant to A.R.S. § 28-1462(E).
- G.** Reliability and accuracy assurance; installation verification; accuracy check; noncompliance report.
1. After ensuring that the certified ignition interlock device installation complies with the manufacturer's procedures, a manufacturer shall ensure that an authorized installer provides a completed and signed Arizona ignition interlock installation verification form (Appendix A) to the participant.
 2. A manufacturer shall ensure that an authorized installer schedules a participant for accuracy checks 30 days, 60 days, and 90 days after installation of a certified ignition interlock device. After the 90-day accuracy check, the manufacturer shall ensure that an authorized installer schedules a participant for accuracy checks at least every 60 days.
 3. A manufacturer shall ensure that an authorized installer submits a completed and signed Arizona ignition interlock accuracy check form (Appendix B) to the Division within 10 days after an installed certified ignition interlock device has an accuracy check.
 - a. If the certified ignition interlock device has signs of tampering, circumvention or misuse, a manufacturer shall ensure that an authorized installer submits, in addition to the completed and signed Arizona ignition interlock accuracy check form, a completed and signed Arizona ignition interlock noncompliance report form (Appendix C) to the Division within 10 days after the accuracy check.
 - b. If a participant fails to appear for a scheduled accuracy check and 5 more days elapse with no appearance by the participant, the manufacturer shall ensure that an authorized installer submits a completed and signed Arizona ignition interlock noncompliance report form to the Division within 10 days after the scheduled date of the missed accuracy check.
 4. A manufacturer shall ensure that the Arizona ignition interlock accuracy check form completed by the authorized installer states the calibration of the certified ignition interlock device prior to recalibration has a data logger sheet attached, and is signed by the authorized installer.
- H.** Reliability and accuracy assurance; emergency assistance by authorized installers; continuity of service to participants.
1. A manufacturer shall ensure that an authorized installer provides participants with a 24-hour emergency phone number for assistance in the event of failure of the certified ignition interlock device or vehicle problems related to the device's operation. Emergency assistance provided by an authorized installer shall include technical information, towing service, and road service.
 - a. If the participant's motor vehicle is located not more than 50 miles from an authorized installer, emergency assistance for failure of a certified ignition interlock device or related to the device's failure shall be provided within 2 hours after the call for assistance.
 - b. If the participant's motor vehicle is located not more than 100 miles from an authorized installer, emergency assistance for failure of a certified ignition interlock device or related to the device's failure shall be provided within 4 hours after the call for assistance.
 - c. The authorized installer shall make the certified ignition interlock device functional within 48 hours after a participant's emergency assistance call or shall replace the device.
 2. A manufacturer shall ensure uninterrupted service to participants for the duration of their Arizona court orders.
 - a. If a manufacturer appoints a new authorized installer in place of a former authorized installer, the manufacturer shall obtain participant records from the former authorized installer and provide the participant records to the new authorized installer for retention in accordance with R17-4-709(I). If a former authorized installer is not replaced, the manufacturer shall retain the participant records in accordance with R17-4-709(I).
 - b. A manufacturer shall ensure that an authorized installer is located within 100 miles of the residence of each participant with a functioning certified ignition interlock device provided by the manufacturer.
 - i. If a participant's residence becomes more than 100 miles from an authorized installer, the manufacturer shall

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- have full responsibility, including payment of all costs, for the removal of the existing certified ignition interlock device and replacement with a certified ignition interlock device for which there is an authorized installer within 100 miles of the participant's residence.
- ii. The manufacturer of the originally installed certified ignition interlock device who is not the manufacturer of a model for which there is an authorized installer within 100 miles of the participant's residence, shall pay the costs of replacing the originally installed device with a certified ignition interlock device provided by another manufacturer for which there is an authorized installer within 100 miles of the participant's residence.
 - c. A manufacturer shall notify all participants of appointment of a new authorized installer or replacement of a certified ignition interlock device 30 days before the new authorized installer's appointment becomes effective or the replacement of the device occurs.
 - d. Within 10 days after a change in the list of authorized installers submitted to the Division with a manufacturer's completed application form, the manufacturer shall submit an updated list of authorized installers to the Division.
- I. Records retention; submission of copies and monthly reports; periodic audits.**
- 1. Records retention. A manufacturer shall ensure that an authorized installer or the manufacturer retains a participant's records for 1 year after removal of a certified ignition interlock device. The retained records shall consist of every document relating to the installation, service, repair, operation, and removal of the ignition interlock device.
 - 2. Submission of copies and monthly reports.
 - a. Copies of records of installation, service, repair, operation, and removal of the certified ignition interlock device shall be submitted to the Division for examination on request by Division personnel. A manufacturer shall ensure that an authorized installer or the manufacturer provides copies of participants' records to the Division within 10 days after the request for copies of records.
 - b. A manufacturer shall ensure that an authorized installer timely submits a monthly report to the Division so that the Division receives the report by the 10th day of each month. A manufacturer shall ensure that the monthly report contains the following information:
 - i. The number of ignition interlock devices the authorized installer currently has in service.
 - ii. The number of devices installed since the previous monthly report.
 - iii. The number of pending installations, and
 - iv. The number of devices removed by the authorized installer since the previous monthly report.
 - 3. Periodic audits. The Division shall periodically conduct an audit at the premises of an authorized installer or manufacturer, in accordance with A.R.S. § 41-1009. The audit shall determine the following:
 - a. Whether the authorized installer or manufacturer retains records in accordance with R17-4-709(I)(1).
 - b. Whether the authorized installer maintains adequate supplies of a warning label conforming to the warning label design adopted by the Division pursuant to A.R.S. § 28-1462(E), and
 - c. Whether the authorized installer maintains adequate supplies of the written instructions provided to participants and other operators of a vehicle equipped with a certified ignition interlock device.

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Appendix A. Ignition Interlock Installation Verification

ARIZONA

IGNITION INTERLOCK INSTALLATION VERIFICATION

As Ordered by the Court

COURT DOCKET No.: _____ TODAY'S DATE _____

CUSTOMER NAME: _____

ADDRESS: _____

CITY _____ **ST** _____ **ZIP** _____

PHONE NUMBER: _____

DRIVER LICENSE No OR SS No.: _____

INSTALLER NAME: _____

ADDRESS: _____

CITY _____ **ST** _____ **ZIP** _____

PHONE NUMBER: _____

MANUFACTURER and MODEL TYPE: _____

SERIAL NUMBER(s): _____

VEHICLE IDENTIFICATION INFORMATION:

TITLE OWNER: _____ **TITLE No.:** _____

Make: _____ **Model** _____ **VIN** _____

Color _____ **Year** _____ **License Plate No.** _____

Odometer reading: _____

CUSTOMER EDUCATION CHECKLIST

- _____ **I have been instructed on the use of the system**
- _____ **I understand how to power the system on and off**
- _____ **I have delivered and passed a proper breath sample.**
- _____ **I have delivered and understand an abort test.**
- _____ **I understand how the alcohol retest feature works**
- _____ **I understand that if I smoke cigarettes or drink alcohol prior to testing that I may receive a sensitive or fail reading.**
- _____ **I have been informed of how to obtain service for my system or to have questions answered.**
- _____ **I have received my operator's manual.**
- _____ **I have been informed of the penalties for tampering or circumvention of the system.**
- _____ **I have been informed of what happens after failing three breath attempts.**
- _____ **I have been informed of what happens after failing "rolling retest"**

MONITORING:

Your next monitoring check is _____ . Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. In addition, if you fail to appear you may be found in Noncompliance and your Driver License can be suspended for one (1) year pursuant to A.R.S. § 28-1463.

Signature of Participant: _____ **Date** _____

Signature of Installer: _____ **Date** _____

Attach copy of Court Order for Installation of Ignition Interlock Device.

Arizona Administrative Register
Notices of Emergency Rulemaking

Appendix B. Ignition Interlock Accuracy Check

ARIZONA
IGNITION INTERLOCK
ACCURACY CHECK

DATE: _____
INSTALLER _____ -
MANUFACTURER and MODEL TYPE: _____
SERIAL NUMBER(s): _____
MONITORING CHECK No. _____

CUSTOMER NAME _____
DATE OF BIRTH: _____
DRIVER LICENSE No.: _____

VEHICLE LICENSE PLATE No.: _____
ODOMETER READING: _____
CALIBRATION WAS _____ PRIOR TO RECALIBRATION.
THE SYSTEM IS NOW IN CALIBRATION: _____
THE SYSTEM HAS BEEN INSPECTED AND IS FUNCTIONING PROPERLY. _____
THERE IS NO EVIDENCE OF ATTEMPTED TAMPERING. _____
(IF THERE ARE SIGNS OF TAMPERING, COMPLETE "NONCOMPLIANCE REPORT")

COMMENTS: _____

Your next monitoring check is _____ . Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. In addition, if you fail to appear you may be found in Noncompliance and your Driver License can be suspended for one (1) year pursuant to A.R.S. § 28-1463.

Signature of Participant _____ Date: _____

Signature of Installer: _____ Date: _____

ATTACH COPY OF DATA LOGGER SHEET AND SEND TO:
MOTOR VEHICLE DIVISION, DRIVER IMPROVEMENT UNIT
PO BOX 2100, MAIL DROP 530M
PHOENIX, AZ 85001-2100

Arizona Administrative Register
Notices of Emergency Rulemaking

Appendix C. Ignition Interlock Noncompliance Report

ARIZONA
IGNITION INTERLOCK
NONCOMPLIANCE REPORT

DATE: _____
INSTALLER: _____
MANUFACTURER and MODEL TYPE: _____
SERIAL NUMBER(s): _____
MONITORING CHECK No.: _____

CUSTOMER NAME: _____
DATE OF BIRTH: _____
DRIVER LICENSE No.: _____

VEHICLE LICENSE PLATE No.: _____

THE CUSTOMER FAILED TO KEEP APPOINTMENT: _____
Attempts have been made to contact customer on:

_____ Date _____ Time _____

_____ Date _____ Time _____

_____ Date _____ Time _____

THE DEVICE SHOWS EVIDENCE OF TAMPERING OR CIRCUMVENTION: _____

Explanation:

Signature of Installer: _____ Date: _____

SEND TO:
MOTOR VEHICLE DIVISION, DRIVER IMPROVEMENT UNIT
PO BOX 2100, MAIL DROP 530M
PHOENIX, AZ 85001-2100