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Public Services Division
Certified Original Rules

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Code Chapter: 5

Title: Transportation

Chapter: Department of Transportation - Commercial
Programs

Date/Year filed with the office:

2019	12	3
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Year

Month

Day

Rule Number: R19-265

Archive Notes:

Effective Date:

Register Date:

R19-265

SECRETARY OF STATE

2019 DEC -3 PM 3: 35

FILED

**AGENCY RECEIPT
NOTICE OF PROPOSED RULEMAKING**

1. **Agency Name:** Arizona Department of Transportation
2. **The Sections involved in the rulemaking, listed in alphabetical and numerical order:**

<u>Articles, Parts, and Sections</u>	<u>Action</u>
R17-5-601	Amend
R17-5-603	Amend
R17-5-604	Amend
R17-5-606	Amend
R17-5-609	Amend
R17-5-610	Amend
R17-5-612	Amend
R17-5-614	Repeal
R17-5-614	New Section
R17-5-616	Amend
R17-5-621	Amend

SECRETARY OF STATE
Jane Mcvay <jmccvay@azdot.gov>

2019 DEC -3 PM 3:35

Fwd: Rulemaking Moratorium Exemption

1 message

FILED

Katy Proctor <kproctor@azdot.gov>

Sat, Sep 21, 2019 at 3:38 AM

To: Jane McVay <jmccvay@azdot.gov>

----- Forwarded message -----

From: Ben Blink <bblink@az.gov>

Date: Fri, Sep 20, 2019 at 9:49 PM

Subject: Re: Rulemaking Moratorium Exemption

To: Katy Proctor <kproctor@azdot.gov>

CC: Matt Clark <mclark2@azdot.gov>

Katy,

Thank you for the detailed explanation. So long as the fee amount does not increase this proposal for rule making complies with E.O. 2019-01 and you may proceed.

Ben

On Thu, Sep 19, 2019 at 3:21 PM Katy Proctor <kproctor@azdot.gov> wrote:

Greetings Ben,

Please find attached an electronic copy of a rulemaking moratorium request you should be receiving shortly. In a nutshell, this is the result of implementing recent interlock legislation through exempt rulemaking, as required by law.

The Ignition Interlock Device Installation Fee was set at \$20 through exempt rulemaking, which requires a full regular rulemaking within two years or the fee will expire. At the same time, we completed the one-year rule review per exempt requirements and identified opportunities to clarify and improve the rules. While we could normally accomplish the clarifications through expedited rulemaking, since we have to do the fee through the regular process we thought it more transparent to proceed with both together. Please let me know if you have any questions or concerns, thanks for your assistance.

-Katy

Katy Proctor
Rules Administrator
MD 140A, Room 192
206 S. 17th Avenue
Phoenix, AZ 85007
602.712.7543
azdot.gov

Ben Blink
Policy Advisor, Transportation and Technology Innovation
Arizona Governor Doug Ducey
1700 W. Washington St.
Phoenix, AZ 85007
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R19-265

SECRETARY OF STATE

2019 DEC -3 PM 3:35

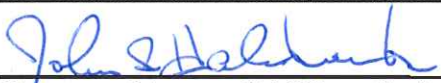
FILED

**AGENCY CERTIFICATE
NOTICE OF PROPOSED RULEMAKING**

1. **Agency name:** Arizona Department of Transportation
2. **Chapter heading:** 5, Department of Transportation - Commercial Programs
3. **Code citation for the Chapter:** 17 A.A.C. 5
4. **The Articles and Sections involved in the rulemaking, listed in alphabetical and numerical order:**

<u>Articles and Sections Affected</u>	<u>Rulemaking Action</u>
R17-5-601	Amend
R17-5-603	Amend
R17-5-604	Amend
R17-5-606	Amend
R 17-5-609	Amend
R17-5-610	Amend
R17-5-612	Amend
R17-5-614	Repeal
R17-5-614	New Section
R17-5-616	Amend
R17-5-621	Amend

5. **The rules contained in this package are true and correct as proposed.**

6. 
Signature of Agency Chief Executive in ink

12-3-2019
Date of signing

John S. Halikowski
Printed or typed name of signer

Director
Title of signer

R19-265

SECRETARY OF STATE

2019 DEC -3 PM 3:35

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NOTICE OF PROPOSED RULEMAKING
TITLE 17. TRANSPORTATION
CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

PREAMBLE

1. Sections Affected

Rulemaking Action

R17-5-601	Amend
R17-5-603	Amend
R17-5-604	Amend
R17-5-606	Amend
R17-5-609	Amend
R17-5-610	Amend
R17-5-612	Amend
R17-5-614	Repeal
R17-5-614	New Section
R17-5-616	Amend
R17-5-621	Amend

2. Citations to the agency's rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 28-366, 28-1462, and 28-1465

Implementing statute: A.R.S. §§ 28-1301, 28-1461 through 28-1469

3. Citations to all related notices published in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Docket Opening: 25 A.A.R. 3293, November 8, 2019

4. The agency's contact person who can answer questions about the rulemaking:

Name: Jane McVay, Senior Rules Analyst

Address: Department of Transportation

Rules and Policy Development

206 S. 17th Ave., MD 180A

Phoenix, AZ 85007

Telephone: (602) 712-4279

E-mail: jmcvay@azdot.gov

Website: Please visit the ADOT website to track progress of this rule and any other agency rulemaking matters at <http://azdot.gov/about/government-relations/contact-us-government-relations>.

5. A agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an an explanation about the rulemaking:

The Department received approval to initiate this rulemaking from Ben Blink in the Governor's Office on

September 20, 2019. The Department is proposing changes to the ignition interlock rules to implement rule changes recommended in a One-Year Rule Review Report approved by the Governor's Regulatory Review Council on August 6, 2019, that improve, clarify, and update the ignition interlock program. The Department filed exempt rules with the Office of the Secretary of State that became effective on July 1, 2018, to implement legislative changes relating to the operation of the ignition interlock program contained in Chapter 105, Laws 2018 and Chapter 331, Laws 2017. These rules included establishing an ignition interlock device installation fee that is payable by an ignition interlock user when an ignition interlock device is installed on a user's vehicle. In order to comply with A.R.S. § 41-1008(E), the Department is required to go through the regular rulemaking process to continue charging this fee. The 2018 rules provided that for ignition interlock users who had an ignition interlock device installed after July 1, 2018, the device must be capable of wireless transmission, have a camera, and meet additional requirements. These rules require those ignition interlock device users with ignition interlock devices previously installed, that do not meet these requirements, to promptly return to an ignition interlock service provider to obtain a device that meets these requirements. The rules also clarify the time period when a manufacturer must submit an ignition interlock installation report to the Department, distinguish device accuracy from calibration, correct a citation error, and make other program improvements.

6. A reference to any study that the agency reviewed and proposes to either rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study, and other supporting material:

The Department did not review or rely on any studies for this rulemaking.

7. 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

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

Clarification of the improper reporting definition and the requirement for an ignition interlock service provider to send the Department notification of a device installation within 24 hours, are expected to result in more accurate and timely reporting of individual ignition interlock activity, which benefits ignition interlock users.

In 2018 the rules established an ignition interlock device installation fee of \$20 payable by an ignition interlock user beginning July 1, 2018, when a device was installed on a user's vehicle. This fee will be paid to a user's ignition interlock service provider by approximately 20,000 Arizona drivers annually, who have an ignition interlock requirement. The fee is transmitted monthly to the Department and is estimated to generate approximately \$400,000 annually, which funds the administrative costs of the ignition interlock program. The ignition interlock device installation fee is the only fee that an ignition interlock user pays to the Department. The fee was established to impose the least cost possible to fully support the ignition interlock program. Beginning July 1, 2018, for any new installation of an ignition interlock device or

device replacement, an ignition interlock service provider must install a device that has global positioning system software, has wireless capability, and contains a camera. Users whose device was installed before July 1, 2018 were not required to have a new device installed as long as a user's device operated properly and met federal requirements. The proposed rules require that those users must obtain a new device from the user's ignition interlock service provider that meets all the rule requirements. Those ignition interlock users that obtain a new device are subject to the ignition interlock device installation fee of \$20 established in an exempt rulemaking in 2018. Due to extensive changes in the Department's information and payment processing system, ignition interlock service providers are directed to electronically remit installation fees in the manner determined by the Department.

The rules also make other clarifying changes to improve the rules and comply with the legislative changes. The Department anticipates that there will be an economic impact on ignition interlock businesses. Although the number of old ignition interlock devices will continue to drop as those users come to the end of their ignition interlock period, over 2,100 participants had an old device as of September 2019. The number of old devices ranged from 12 for one manufacturer to 588 for another manufacturer. Ignition interlock device manufacturers will need to make available an adequate number of ignition interlock devices to ignition interlock service providers that meet the device requirements in the rules to replace old devices. Ignition interlock service providers will incur costs to purchase and install the new devices on user vehicles. The manufacturer will bear the cost of the new devices, including production, purchasing, and distribution costs. A manufacturer will also be required to include information in the reference guide for new users about how to properly take a valid rolling retest. The rules clarify that a manufacturer must submit reportable activity and device installation records to the Department in real-time within 24 hours. The rules expand the early recall provisions for persons with four reportable violations between accuracy appointments, requiring those persons to return to an ignition interlock provider's service center to reset the ignition interlock device. It is expected that a service provider will charge a user for a violation reset as an indirect impact of the rule changes. Manufacturers will also incur increased costs to reprogram ignition interlock devices to expand the early recall. The rules expand improper reporting to include failure of a manufacturer to validate any ignition interlock period extension within 10 days.

The Department has 9 manufacturers that have certified an ignition interlock device and 8 ignition interlock service providers. Most of the ignition interlock service providers are large businesses that design, construct, and produce an ignition interlock device. Many of these service providers offer ignition interlock services to users in numerous states, however, several providers may fall under the definition of a small business.

The rules implement legislative changes and changes recommended in the One-Year Rule Review Report approved by GRRRC. Implementing the ignition interlock device installation fee for users with old devices requires payment of the installation fee that supports the program. With this change, both new and continuing users pay the same fee, which supports the ignition interlock program. The fee was set to impose the least cost and burden on ignition interlock users. In addition, requiring all users to have a

similar device is expected to allow more accurate oversight of ignition interlock use. Ignition interlock businesses that have contracted with the Department will incur costs to provide an adequate number of new ignition interlock devices to replace old devices and may have an increase in service calls due to early recalls. In summary, the Department believes that the rule changes benefit ignition interlock users and the general public, and that the program changes and public safety benefits greatly outweigh the cost to ignition interlock users.

9. The agency contact person who can answer questions about the economic, small business, and consumer impact statement:

Written comments about the economic, small business, and consumer impact statement may be submitted to the agency representative listed in item 4, and should be submitted by the close of record at 5 p.m. on February 4, 2020.

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Department has scheduled the following oral proceeding to obtain public comments:

Date: February 4, 2020
Time: 1:30 p.m.
Location: Department of Transportation
206 S. 17th Ave., MD 180A
Phoenix, AZ 85007
Nature: Oral Proceeding

Written comments to the rules may be mailed or e-mailed to the agency representative listed in item 4 and may be submitted for 30 days after the publication of the proposed rules until the close of record, which will be at 5:00 p.m. on February 4, 2020. Oral comments may be made to the Department at the oral proceeding.

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), ADOT does not discriminate on the basis of race, color, national origin, age, gender or disability or limited English proficiency. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en Inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rules require a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

A.R.S. § 28-1468 for the Director of the Department to issue an authorization for an ignition interlock service provider. The ignition interlock rules in 17 A.A.C. 5, Article 6 also contain a process for certifying a manufacturer's ignition interlock device. The rules do not require a general permit, but authorization and certification are general permits because the activities or practices in the class are substantially similar in nature for all ignition interlock service providers and manufacturers to perform authorized activities.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

A federal law is not specifically applicable to the rules. The rules in 17 A.A.C. 5, Article 6 incorporate by reference the 2013 NHTSA Model Specifications for Breath Alcohol Devices (BAIIDs) and the 2015 NHTSA technical corrections to these specifications. A.R.S. § 28-1462(C)(4) provides that the Motor Vehicle Division shall not certify an ignition interlock device unless the device meets or exceeds the 2013 NHTSA standards.

c. Whether a person submitted an analysis to the agency that compares a rule's impact of the competitiveness of business in this state to the impact of business in other states:

The Department did not receive a business competitive analysis.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

R17-5-604(C)(3)(a) incorporates by reference the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION
CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

**ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS AND IGNITION INTERLOCK
SERVICE PROVIDERS**

- R17-5-601. Definitions
- R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration
- R17-5-604. Ignition Interlock Device Certification; Application Requirements
- R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing
- R17-5-609. IISP and Manufacturer Responsibilities
- R17-5-610. Reporting; Reportable Activity
- R17-5-612. Records Retention; Submission of Copies and Quarterly Reports
- R17-5-614. ~~Ignition Interlock Device Installation Fee; Financial Records~~ Ignition Interlock Device Installation Fee; Financial Records
- R17-5-616. Civil Penalties; Hearing
- R17-5-621. Service Center Application

ARTICLE 6. DEFINITIONS

R17-5-601. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101 and 41-1072, in this Article, unless the context otherwise requires, the following terms apply:

“Alcohol concentration” means the weight amount of alcohol contained in a unit volume of breath or air, measured in grams of ethanol/210 liters of breath or air and expressed as grams/210 liters.

“Alveolar breath sample” means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

“Anticircumvention feature” means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

“Authorization agreement” or “agreement” means an agreement authorized by the Director that an IISP enters into with the Department to provide ignition interlock services under A.R.S. § 28-1468.

“Breath alcohol test” means analysis of a sample of the person’s expired alveolar breath to determine alcohol concentration.

“Bump starting” means a method of starting a motor vehicle with an internal combustion engine by engaging the manual transmission while the vehicle is in motion.

“Business day” means a day other than a Saturday, Sunday, or state holiday.

“Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

“Cancellation” means the termination of a manufacturer’s ignition interlock device certification for ignition interlock device installation.

“Certification” means a status granted by the Department under this Article, which permits a certified ignition interlock device manufacturer to offer an ignition interlock device for installation.

“Certified ignition interlock device,” “CIID,” or “device” means a device that is based on alcohol specific electrochemical fuel sensor technology that meets the NHTSA specifications; that connects a breath analyzer to a motor vehicle’s ignition system; that is constantly available to monitor the alcohol concentration in the breath of any person attempting to start the motor vehicle by using its ignition system; that deters starting the vehicle by use of its ignition system unless the person attempting to start the motor vehicle provides an appropriate breath sample for the device; and determines whether the alcohol concentration in the person’s breath is below a preset level.

“Circumvent” or “circumvention” means an attempted or successful bypass of the proper functioning of a certified ignition interlock device and includes all of the following:

- The bump start of a motor vehicle with a certified ignition interlock device;

- The introduction of a false sample other than a deep-lung breath sample from the person driving the motor vehicle;

- The introduction of an intentionally contaminated or a filtered breath sample;

- The intentional disruption or blocking of a digital image identification device;

The continued operation of the motor vehicle after the certified ignition interlock device detects breath alcohol exceeding the presumptive limit prescribed in A.R.S. § 28-1381(G)(3) or, if the person is under 21 years of age, any attempt to operate the motor vehicle with any spirituous liquor in the person's body;

Operating a motor vehicle without a properly functioning certified ignition interlock device and;

When a person, who is required to maintain a functioning certified ignition interlock device is starting or operating the motor vehicle, permits another individual to breathe into the certified ignition interlock device for the purpose of providing a breath alcohol sample to start the motor vehicle or for the rolling retest.

"Corrective action" means an action specified in or reasonably implied from Title 28, Chapter 4, Arizona Revised Statutes, that the Department takes in relation to a person's driving privilege and the usage or discontinuation of usage of a CIID.

"Customer number" means the system-generated, or other distinguishing number, assigned by the Department to each person conducting business with the Department. The customer number of a private individual is generally the person's driver license or non-operating identification license number.

"Data logger" means the electronic record of all ignition interlock device activity during the period when the device is installed.

"Data storage system" means a computerized recording of all events monitored by an ignition interlock device, which may be reproduced in the form of specific reports.

"Defective ignition interlock device" means an ignition interlock device that:

1. Does not meet the NHTSA specifications;
2. Does not pass calibration tests; or
3. Does not meet the accuracy and device standards prescribed in these rules.

"Drive cycle" means either the period of time from when a motor vehicle is initially turned on to the next time the ignition is turned off, or the period of time from when an initial breath alcohol test is performed and failed, to the time a breath alcohol test is successfully taken and the ignition is turned off.

"Early recall" means that a person's ignition interlock device recorded one tampering or circumvention event, ~~or~~ any ignition interlock malfunction, or any four valid reportable violations between accuracy check appointments, that requires a person to return to a service center within 72 hours.

"Emergency bypass" means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

"Emergency situation" means a circumstance in which the person informs the IISP or IISP-certified technician that the person's vehicle needs to be moved to comply with the law, or the person has a valid and urgent need to operate the vehicle.

"Established place of business" means a business location that is:

Approved by the Department;

Located in Arizona;

Not used as a residence; and

Where an IISP or its agent or subcontractor provides authorized ignition interlock services.

“False sample” means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the person.

“Filtered breath sample” means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

“Free restart” means a function of a CIID that will allow a person to restart the vehicle, under the conditions provided in R17-5-615, without completing another breath alcohol test.

“FTP” means file transfer protocol, the exchange of files over any network that supports electronic data interchange reporting that is transmitted through the Internet and prescribed by the Department.

“Global positioning system” means the ability of a wireless certified ignition interlock device to identify and transmit its geographic location through the operation of the device.

“Ignition interlock device installation fee” means the fee required in A.R.S. § 28-1462, and established by the Department in R17-5-614, that is paid by a person to an IISP when a CIID is installed on, or transferred to a person’s vehicle.

“Ignition interlock period” means the period in which a person is required to use a CIID that is installed on a vehicle.

“Ignition interlock service provider” or “IISP” means a person who is an authorized representative of a manufacturer and who is under contract with the Department to install or oversee the installation of ignition interlock devices by the provider’s authorized agents or subcontractors and to provide services to the public related to ignition interlock devices.

“Improper reporting” means any of the following:

Failure of a manufacturer to report any violations to the Department within 24 hours as required in R17-5-610(D)(1), or failure to send a person’s ignition interlock reporting records, including records relating to a violation, to the Department as required in R17-5-612(C);

Failure of a manufacturer to submit to the Department valid and substantiated proof or evidence of a reportable activity related to a violation, including a summary report and relevant data loggers as required in R17-5-610(D)(2), within 10 days after the Department’s request;

Failure of a manufacturer to electronically send each Certified Ignition Interlock Summarized Reporting Record to the Department within 24 hours, after performing a calibration check, that results in the Department mailing a driver license suspension to a person;

Failure of a manufacturer to electronically send a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after installing a CIID;

Electronic reporting by a manufacturer to the Department, of data that is an exact duplicate of a single violation that occurs on a particular day and time and is reported multiple times;

Knowingly reporting a violation that occurs when a participant's vehicle has high or low voltage;

Reporting an incident that occurs when a person has a free restart test to start the person's vehicle;

Reporting an incident that occurs in which a manufacturer downloads data from the device during a calibration check and tampers with the data or a CIID; or

Failure of a manufacturer to validate any person's ignition interlock period extension within 10 days; or

~~An~~ Reporting an incident that occurs after the person's vehicle is turned off.

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

"Manufacturer" means a person or an organization that is located in the United States, that is responsible for the design, construction, and production of an ignition interlock device and that is certified by the Department to offer ignition interlock devices for installation in motor vehicles in this state.

"Material modification" means a change to a CIID that affects the functionality of the device.

"Missed rolling retest" means the person refused or failed to provide a valid and substantiated breath sample in response to a requested rolling retest within the time period prescribed in R17-5-615(E).

"Mobile services" means ignition interlock services provided by an IISP or its agents or subcontractors at a publicly accessible location other than the IISP's service center, that meet the requirements of R17-5-618.

"NHTSA" means the United States Department of Transportation's National Highway Traffic Safety Administration.

"NHTSA specifications" means the specifications for breath alcohol ignition interlock devices published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

"Permanent lock-out" means a feature of the CIID in which a motor vehicle will not start until the CIID is reset by an IISP or an IISP-certified technician.

"Person" means a person who is ordered by an Arizona court or the Department to equip each motor vehicle operated by the person with a functioning CIID, and who becomes a customer of an IISP for installation and servicing of the CIID.

"Positive result" means a test result indicating that the alcohol concentration meets or exceeds the set point value.

"Principal place of business" means the administrative headquarters of a manufacturer or an IISP that is located in Arizona, is zoned for commercial, and is not used as a residence.

“Purge” means any mechanism that cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

“Real-time” or “real-time reporting” means the instant transmission of unfiltered ignition interlock violations as defined in R17-5-601, and data as prescribed in R17-5-610, including ~~photographs~~ digital images, to the manufacturer’s website for viewing by the Department without delay, as electronic or digital service permits.

“Reference sample device” means a device containing a sample of known alcohol concentration.

“Reference value” means an alcohol reference solution prepared and tested in a laboratory with a reference value and used to perform an accuracy check of the calibration of a CIID.

“Retest set point” has the same meaning as set point.

“Rolling retest” means a breath alcohol test that is required of a person at random intervals after the motor vehicle is started and that is in addition to the initial test required to start the motor vehicle.

“Service center” means an established place of business approved by the Department from which an IISP or its agents or subcontractors provide ignition interlock services to persons from one or more counties.

“Set point” means an alcohol concentration of 0.020 g/210 liters of breath. ~~The accuracy of a device shall be 0.020 g/210 liters plus or minus 0.010 g/210 liters.~~

“Tampering” means an overt or conscious attempt to physically disable or otherwise disconnect the CIID from its power source that allows the operator to start the engine without taking and passing the requisite breath test.

“Technician” means a person who is certified and properly trained by an ignition interlock service provider to install, inspect, calibrate, service or remove certified ignition interlock devices.

“Temporary lock-out” means a feature of the CIID which will not allow a motor vehicle to start for five minutes after a breath alcohol test result indicating an alcohol concentration above the set point.

“Vehicle identification number” or “VIN” means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

“Violation” (when referencing acts or omissions on the part of a person in the ignition interlock program) includes, but is not limited to any of the following reportable activities performed by a person which a manufacturer shall promptly report to the Department:

- Circumventing the CIID as defined in R17-5-601;

- Tampering with the CIID as defined in A.R.S. § 28-1301;

- Failing to provide proof of compliance or inspection of the CIID under A.R.S. § 28-1461(E)(4);

- Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E)(5) if the person is at least 21 years of age;

- Attempting to operate the vehicle with an alcohol concentration value in excess of the set point if the person is under 21 years of age;

- Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute time frame during a person’s drive cycle;

- Disconnecting or removing a CIID, except:

 - On repair of the vehicle, if the person provided to the IISP, technician, or service center advance notice

of the repair and the anticipated completion date; or

On moving the device from one motor vehicle to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.

“Violation reset” means the unplanned servicing and inspection of a CIID and the downloading of information from its data storage system by an IISP as a result of an early recall that requires the manufacturer to unlock the device.

R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration

- A. The accuracy of the CIID shall be determined by analysis of an external standard generated by a reference sample device.
- B. A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.
- C. A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.
- D. All devices shall meet the setpoint requirements of R17-5-601 ~~when used at ambient temperatures of -20° Celsius to 83° Celsius~~ and have an accuracy that is within plus or minus 0.005 of the reference value when used at ambient temperatures of -20 degrees Celsius to 83 degrees Celsius.
- E. A device shall be designed so that anticircumvention features will be difficult to bypass.
 - 1. Anticircumvention provisions shall include, but are not limited to, prevention or preservation of any evidence of circumvention by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.
 - 2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.
- F. A CIID shall have global positioning system capability, and the manufacturer shall electronically and wirelessly download in real-time from the device and transmit daily to the Department, a person’s ignition interlock activity in an FTP batch file.
- G. A CIID shall be equipped with a camera, which shall not distract or impede the driver in any manner from safe and legal operation of the vehicle, shall record all ignition interlock activity of the person, and shall provide any visual evidence of actual or attempted tampering, alteration, bypass, or circumvention, and report this information directly to the manufacturer.
- H. The camera shall be able to record and store visual evidence of each person providing a breath alcohol test, and shall meet the following requirements:
 - 1. At device installation, the camera shall take a reference picture of the person, which shall be kept on file;
 - 2. A clear ~~photograph~~ digital image shall be taken for each event, including initial vehicle start, all rolling retests, and whenever a violation is recorded;
 - 3. Each ~~photograph~~ digital image shall be a wide-angle view of the front cabin of the vehicle, including the passenger side, to ensure the camera can clearly capture the entire face of the person and any passengers; and
 - 4. The camera shall produce a digital image, ~~identifiable verification, or a photograph~~ of the person in all

lighting conditions, including brightness, darkness, and low light conditions.

I. A device shall:

1. Automatically purge alcohol before allowing analysis.
2. Have a data storage system with the capacity to sufficiently record and maintain a record of the person's daily driving activities that occur between each regularly scheduled calibration check referenced under R17-5-610 and R17-5-706. An IISP shall download and transmit any digital images taken during a person's calibration check, during each rolling retest, and each time a person with the ignition interlock requirement or another individual starts the motor vehicle. A manufacturer shall make these digital images available to the Department on request.
3. Use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute. The manufacturer's software and firmware shall:
 - a. Require device settings and operational features to include, but not limited to, sample delivery requirements, the set point, free restart, rolling retest requirements, violation settings, and temporary and permanent lock-outs; and
 - b. Prohibit modification of the device settings or operational features by a service center, or an IISP-certified technician unless the Department approves the modification under subsection (J).
4. Record all emergency bypasses in its data storage system.
5. Provide a visual reminder on the device that a calibration check must be performed on the person's CIID every 90 days, with prominent device notifications during each 77-day to 90-day interval within a person's ignition interlock period, of the following:
 - a. The device needs service; and
 - b. The time remaining until a permanent lock-out occurs.
6. Notify a person that failure to get the calibration check, including calibration and data download, by the end of each 90-day period will cause the vehicle to be in a permanent lock-out mode, and shall record the event in the data storage system.
7. On recording a violation of A.R.S. Title 28, Chapter 4, Article 5, for one instance of tampering or circumvention, ~~or any ignition interlock device malfunction,~~ or any four valid reportable violations occurring between a person's accuracy check appointments, emit a unique cue, either auditory, visual, or both, to warn a person that an early recall is initiated, requiring the person to return to the IISP in 72 hours for a violation reset.
8. Enter into a permanent lock-out if a person does not return to the IISP for a violation reset within 72 hours after an early recall occurs.
9. When a violation results in a permanent lock-out mode, the device shall:
 - a. Immobilize the person's vehicle;
 - b. Uniquely record the event in the data storage system; and
 - c. Require a violation reset by the IISP.
10. Enter into a temporary lock-out mode for five minutes when the device detects during the initial breath

alcohol test that a person's breath alcohol concentration is at or above the set point.

11. After the five-minute temporary lock-out, the device shall allow subsequent breath alcohol tests with no further lock-out as long as each subsequent test produces a valid and substantiated breath test.
12. Have security protections and the capability to provide visual evidence of any actual or attempted tampering, alteration or bypass of the device, or circumvention.

J. No modification shall be made to the design or operational concept of a device model after the Department has certified the device for installation under Arizona law, except that:

1. A software or firmware update required to maintain a device model is permissible if the update does not modify the design or operational concept of the device.
2. Replacement, substitution, or repair of a part required to maintain a device model is permissible if the part does not modify the design or operational concept of the device.
3. If a manufacturer determines that an existing Department-certified ignition interlock device model requires any modification, the manufacturer shall immediately notify the Department.

R17-5-604. Ignition Interlock Device Certification; Application Requirements

A. A manufacturer shall offer for installation only an ignition interlock device that is certified by the Department under this Section.

B. To certify an ignition interlock device model, a manufacturer shall submit to the Department a properly completed application form that provides:

1. The manufacturer's name;
2. The address of the manufacturer's principal place of business in this state and telephone number;
3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
6. The manufacturer's electronic mail address.
7. The following statements, signed by the manufacturer:
 - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
 - b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
 - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or the manufacturer's authorized IISP relating to the installation and operation of the ignition interlock device; and
 - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
 - c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
 - d. A statement that the manufacturer agrees to immediately notify the Department of any change to the

information provided on the application form.

C. A manufacturer shall submit the following additional items with the application form:

1. A document that provides a detailed description of the ignition interlock device and a ~~photograph~~ digital image, drawing, or other graphic depiction of the device;
2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
3. An independent laboratory's report for each device model that:
 - a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015. The NHTSA specifications and technical corrections are incorporated by reference and are on file with the Department at 206 S. 17th Avenue, Phoenix, AZ 85007, and the NHTSA Office of Research and Technology, 1200 New Jersey Avenue SE, Washington, D.C. 20590. This incorporation by reference contains no future editions or amendments;
 - b. Provides the independent laboratory's name, address, and telephone number; and
 - c. Provides the name and model number of the ignition interlock device tested.
4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3), that states all of the following:
 - a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists.
 - b. The laboratory tested the ignition interlock device in accordance with the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013 with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
 - c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
 - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device.
 - e. The laboratory presented accurate test results to the Department.
5. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
 - a. A product liability policy with a current effective date;
 - b. The name and model number of the ignition interlock device model covered by the policy;
 - c. Policy coverage of \$1,000,000 and \$3,000,000 in the aggregate;
 - d. The manufacturer as the insured and the state of Arizona as an additional insured;

- e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
 - f. The insurance company shall notify the Department's Risk Management, Insurance and Indemnification Section in writing at least 30 days before canceling the product liability policy.
6. A statement that the ignition interlock device has a camera, includes a global positioning system, and provides real-time reporting.
- D.** ~~Beginning on July 1, 2018, for~~ For any new installation of an a certified ignition interlock device or any replacement of a device on a person's motor vehicle with another device, an IISP or an IISP-certified technician shall install only a certified ignition interlock device that meets the additional requirements in this Article, and meets or exceeds the test results required by the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
- E.** A person whose CIID was installed prior to July 1, 2018, ~~and the device meets or exceeds the 2013 NHTSA specifications, with the 2015 NHTSA technical corrections, and continues to operate properly, shall keep the CIID on the person's vehicle;~~ that does not meet all the requirements of Subsection D shall promptly return to the person's IISP to exchange the CIID for a CIID that meets all the requirements of Subsection D.

R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing

- A.** An application for certification of an ignition interlock device model is complete when the Department receives:
- 1. From the manufacturer, a properly prepared application form;
 - 2. From the manufacturer, all additional items required under R17-5-604(C);
 - 3. From the Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets or exceeds the NHTSA specifications in R17-5-604(C); and
 - 4. From the manufacturer, a letter or notification that the device meets the following standards:
 - a. The anticircumvention features in R17-5-603(E).
 - b. The data storage capacity requirement in R17-5-603(I)(2), and
 - c. The constant communication requirement in ~~R17-5-610(P)~~ R17-5-610(O).
- B.** The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or on finding any of the following:
- 1. The design, material, or workmanship is defective, causing the ignition interlock device model to fail to function as intended;
 - 2. The manufacturer's product liability insurance coverage is terminated or canceled;
 - 3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
 - 4. The manufacturer or the independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
 - 5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-

5-604(C), the requirements in this Article; or

6. The Department receives a report of device disapproval from an independent laboratory or other external reviewer.
- C. The Department shall mail to the manufacturer, written notification of the certification or denial of certification of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
- D. If a manufacturer timely requests a hearing on the Director's decision to deny certification of an ignition interlock device model, the Department's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.

R17-5-609. IISP and Manufacturer Responsibilities

- A. An IISP shall refer a person only to the IISP's certified technician.
- B. An IISP shall provide the Department and each person with a toll-free telephone number to call to obtain the names and phone numbers of the IISP's certified technicians, the IISP service center locations, and hours of operation for the IISP service centers.
- C. An IISP shall certify each technician by providing adequate training and oversight for the technician to perform one of the activities at a service center, which are installation, inspection, calibration, service, or removal of a CIID.
- D. An IISP shall provide to every person operating a motor vehicle equipped with a CIID, and any other persons who will operate the motor vehicle, training on how to operate the motor vehicle. An IISP shall instruct the person on all of the following:
 1. How to use the system;
 2. How to obtain service for the CIID;
 3. How to find answers to any additional questions;
 4. How the alcohol retest feature works;
 5. How drinking alcohol before a test may result in a reading of sensitive or fail;
 6. How the CIID shall not be removed, except by an IISP or IISP-certified technician;
 7. How noncompliance with a regularly scheduled calibration check for a person with a limited or restricted driving privilege shall result in suspension of the person's driving privilege under A.R.S. § 28-1463 until proof of compliance is submitted to the Department under A.R.S. § 28-1461, and the duration of the person's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461;
 8. What the penalties are for circumvention of the CIID;
 9. What the penalties are for tampering with, or misusing the CIID;
 10. What will happen after failing a start-up breath alcohol test;
 11. What will happen after a person has a set of three consecutive valid and substantiated missed rolling retests within an 18-minute time frame during a drive cycle; and that a person shall not avoid compliance with the

rolling retest requirement by turning off a motor vehicle's ignition; or by keeping the motor vehicle in operation while the vehicle is parked, and leaving the vehicle when a rolling retest is requested;

12. What events or actions will result in a temporary or permanent lock-out of the CIID; and
 13. How to provide a properly delivered alveolar breath sample.
- E. An IISP shall have each person sign a document stating that the IISP has instructed the person regarding each topic contained in subsections (D) and (L), and has received the manufacturer's written instructions for operation of the CIID.
- F. An IISP shall inform a person that a compliance check on a CIID is required 30 days and 60 days after installation of the device, which shall be done electronically.
- G. An IISP shall inform each person to bring the vehicle to a service center for a calibration check within every 77 to 90-day period until the person is eligible for device removal.
- H. An IISP shall check each CIID for evidence of tampering at least once every 90 days or more frequently if needed. This anticircumvention check shall be conducted at each person's calibration check at a service center as required under R17-5-706.
- I. An IISP shall ensure that the manufacturer reports to the Department electronically under R17-5-610 if any evidence of tampering is discovered, and the manufacturer shall submit valid and substantiated proof or evidence of a reportable activity. An IISP shall keep visual evidence of a person's tampering or circumvention for a minimum of three years after the termination of the person's required ignition interlock period.
- J. An IISP shall submit to the Department a list of the IISP-certified technicians, subcontractors, or agents, and service centers at the beginning of the contract with the Department, within 5 business days of making a change to the list previously provided, and on a monthly basis as requested by the Department.
- K. An IISP shall comply with the provisions of this Article and A.R.S. Title 28, Chapter 4, Article 5.
- L. A manufacturer shall develop and an IISP shall provide each person a reference and problem solving guide at the time of installation that shall include information on the following:
1. Operating a motor vehicle equipped with the CIID;
 2. Cleaning and caring for the CIID; ~~and~~
 3. Identifying and addressing any vehicle malfunctions or repairs that may affect the CIID; ~~and~~
 4. How to properly take a valid and substantiated rolling retest.
- M. A manufacturer shall notify the Department within 10 days of a change of address of its principal place of business in this state.
- N. A manufacturer or an IISP shall provide a warning label, for each CIID installed, which shall have an orange background and shall include the following:
1. Be a minimum size of two inches by one inch;
 2. Be printed in a minimum of nine-point font;
 3. Be printed in Arial font, or a font of substantially similar size and legibility; and
 4. Contain the words in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."

- O.** A manufacturer shall ensure that the IISP or the IISP-certified technician affixes conspicuously and maintains on each installed CIID the warning label described under subsection (N), which can be affixed to the device or to the device's cord.
- P.** A manufacturer shall develop written instructions for the installation and removal of an ignition interlock device from a motor vehicle.
- Q.** While a person maintains a functioning CIID in a vehicle under A.R.S. Title 28, Chapter 4, Article 5, the ignition interlock manufacturer shall electronically provide to the Department and transmit daily to the Department information and reports prescribed in R17-5-610 and R17-5-615.
- R.** The manufacturer is responsible for overseeing any agents or subcontractors, including vendors and distributors, as well as overseeing the manufacturer's IISP to ensure adherence to all performance standards.

R17-5-610. Reporting; Reportable Activity

- A.** A person shall have installed in a motor vehicle, only an ignition interlock device certified by the Department under R17-5-604.
- B.** A manufacturer shall develop and the IISP shall ensure that each IISP-certified technician complies with the IISP's written procedures for the installation of a CIID.
- C.** Certified ignition interlock device installation verification.
 - 1. A manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours of the device installation.
 - 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
 - a. Department-assigned service center number;
 - b. Person's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Report type;
 - h. Technician identification number;
 - i. A unique identification number for the CIID;
 - j. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
 - k. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.
- D.** Certified ignition interlock device calibration check.
 - 1. A manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after performing a calibration check on an installed CIID.
 - 2. A manufacturer shall submit to the Department the following valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), within 10 days by electronic

means, which shall include:

- a. A summary report stating why the data logger or any other evidence confirms the occurrence of a violation, including any ~~photographs~~ digital images of the person; and
 - b. A data logger that shows at least 12 hours of data before and after the violation.
3. A manufacturer may submit to the Department the following additional valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), if available, within 10 days by electronic means, which may include:
 - ~~a.~~ Photographs;
 - ~~b.~~ a. Video recordings;
 - ~~c.~~ b. Written statements; and
 - ~~d.~~ c. Any other evidence relevant to a violation.
4. The electronic Certified Ignition Interlock Device Summarized Reporting Record for the calibration check shall contain all of the following information:
 - a. Department-assigned service center number;
 - b. Person's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Report type;
 - h. Missed rolling retest count, dates, and times;
 - i. Technician identification number;
 - j. Alcohol concentration violation count, dates, time, and alcohol concentration;
 - k. Tampering violation count, dates, and time;
 - l. Circumvention count, dates, and time;
 - m. Device download date;
 - n. Device download time;
 - o. Bypass code indication, date, and time;
 - p. A unique identification number for the CIID;
 - q. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
 - r. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.
- E. Certified ignition interlock device removal report.
 1. When a certified ignition interlock device is removed, a manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours.
 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:

- a. Department-assigned service center number;
 - b. Person's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Removal date;
 - h. Report type;
 - i. Technician identification number;
 - j. A unique identification number for the CIID;
 - k. The last six digits of the vehicle identification number that matches the vehicle information on the data logger;
 - l. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID;
 - m. Missed rolling retest count, dates, and times;
 - n. Device download date; and
 - o. Device download time.
- F.** Reportable activity for a person's noncompliance with these rules and A.R.S. Title 28, Chapter 4, Article 5, shall be limited to valid and substantiated instances by a person of any of the following transmitted electronically and wirelessly by the manufacturer to the Department in real-time within 24 hours:
1. Tampering with a CIID as defined in A.R.S. § 28-1301;
 2. Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute ~~timeframe~~ time frame during a person's drive cycle;
 3. Failing to provide proof of compliance or inspection of the CIID as required under A.R.S. § 28-1461(E)(4);
 4. Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E)(5) if the person is at least 21 years of age;
 5. Attempting to operate the vehicle with an alcohol concentration in excess of the set point if the person is under 21 years of age;
 6. Circumvention of a CIID as defined in R17-5-601; or
 7. Disconnecting or removing a CIID, except:
 - a. On repair of the vehicle, if the person provided to the IISP, technician, or service center advance notice of the repair and the anticipated completion date; or
 - b. On moving the device from one motor vehicle to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.
- G.** A person shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition- or by keeping the motor vehicle operating while the vehicle is parked, and leaving the vehicle when a rolling retest is requested. A missed rolling retest is reportable activity for a person's noncompliance under

subsection (F).

- H. A manufacturer shall screen each person's data loggers to ensure that there is no improper reporting.
- I. A manufacturer shall ensure that a CIID has the necessary programming to identify each person's ignition interlock period and each drive cycle to report and send data and violations to the Department as required by these rules.
- J. A manufacturer shall review within 10 days all reports generated sent by the Department and returned to the manufacturer for verification of accurate reporting. If a manufacturer finds that the reported information does not indicate valid and substantiated evidence of a violation, the manufacturer shall immediately contact the Department to correct the person's record before corrective action is initiated against a person as a result of misreported ignition interlock data.
- K. A manufacturer shall immediately contact the Department if the manufacturer finds that the reported information indicates:
 - 1. An obvious mechanical failure of a CIID;
 - 2. Obvious errors in the recorded CIID data that cannot be attributed to a person's actions; or
 - 3. Obvious errors in the transmission of CIID data to the Department, including misreported instances of tampering; or
 - 4. Submission of an extension of a person's ignition interlock period or a violation to the Department when a person was not in the vehicle to take the rolling retest.
- L. A manufacturer shall ensure that a CIID electronically and wirelessly uploads data in real-time to the manufacturer's website, that is maintained by the manufacturer, and the manufacturer shall submit all required information and reports in a daily FTP file to the Department.
- M. In cases where no electronic or digital service exists, the manufacturer shall store the data and send the data as soon as electronic or digital service is available.
- N. A manufacturer shall include the date of the last upload on the person's account on the manufacturer's website.
- O. A CIID shall have constant communication between the manufacturer's server and relay unit while the device is in use.
- P. All data, including ~~photographs~~ digital images, shall be available to the Department for viewing on the manufacturer's website within five minutes after the data is recorded on the device, or as soon as electronic or digital reception permits.

R17-5-612. Records Retention; Submission of Copies and Quarterly Reports

- A. During the duration of the ignition interlock service authorization agreement, an IISP shall retain each person's ignition interlock activity records in an electronic format, including a secure database, or a paper format. The retained records shall consist of every document relating to installation, operation, and removal of the CIID. The IISP shall maintain all daily ignition interlock activity records of each person in the device's data storage system, or in a secure database at a commercial business location in this state, that the Department may access during posted business hours. An IISP shall inform the Department where all individual ignition interlock activity records are located.

- B. Prior to the end or termination of an ignition interlock service authorization agreement, the manufacturer shall obtain all person's ignition interlock records and provide the Department with electronic access to the records for three years.
- C. A manufacturer shall provide copies of each person's ignition interlock records to the Department within 10 days after Department personnel request copies of records, including records relating to installation and operation of the CIID.
- D. A manufacturer shall electronically send to the Department, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
 1. The number of CIID's the IISP currently has in service;
 2. The number of CIID's installed since the previous quarterly report; and
 3. The number of CIID's removed by the IISP since the previous quarterly report; and
 4. Other information required by the Department.
- E. An IISP shall maintain and make available to the Department the ignition interlock records of all persons served by the IISP, records relating to the authorization agreement, and employee background check information at a commercial business location in this state of the manufacturer or the IISP during normal business hours.

R17-5-614. ~~Ignition Interlock Device Installation Fee; Financial Records~~ Ignition Interlock Device Installation Fee; Financial Records

- ~~A. An IISP shall collect an ignition interlock device installation fee of twenty dollars from each participant for each CIID that is installed in, or transferred to a motor vehicle by an IISP.~~
- ~~B. An IISP shall electronically remit the collected ignition interlock device installation fees paid by all persons to the Department on a monthly basis through a payment account created by the IISP on ServiceArizona.com, or as specified by the Department, by transferring the collected fees paid during the previous month to the Department by the tenth day of the following month.~~
- ~~C. An IISP shall not charge a person an installation fee to replace a defective ignition interlock device.~~
- ~~D. An IISP shall post the amount of the ignition interlock device installation fee and the statutory authority for the ignition interlock device installation fee required by A.R.S. § 28-1462 on the IISP's website, that is available to all persons with an ignition interlock device requirement, and in a visible location at each of the IISP's service centers.~~
- ~~E. An IISP must clearly post the amount of all other fees charged to a person for ignition interlock device services.~~
- ~~F. An IISP shall maintain the financial records of the ignition interlock device installation fee collection and transfer to the Department, at an IISP's established place of business, or in a secure database, for three years from the date of the fee transfer. The Department may review the financial records of an IISP during normal business hours, to ensure compliance with the collection and transfer of the ignition interlock device installation fee to the Department.~~
- A. An IISP shall collect an ignition interlock device installation fee of twenty dollars from each participant for each CIID that is installed in, or transferred to a motor vehicle by an IISP.
- B. An IISP shall electronically remit the collected ignition interlock device installation fees paid by all persons to

the Department on a monthly basis through a payment account created by the IISP, as determined by the Department, by transferring the collected fees paid during the previous month to the Department by the tenth day of the following month.

- C. An IISP shall not charge a person an installation fee to replace a defective ignition interlock device.
- D. An IISP shall post the amount of the ignition interlock device installation fee and the statutory authority for the ignition interlock device installation fee required by A.R.S. § 28-1462 on the IISP's website, that is available to all person's with an ignition interlock device requirement, and in a visible location at each of the IISP's service centers.
- E. An IISP must clearly post the amount of all other fees charged to a person for ignition interlock device services.
- F. An IISP shall maintain the financial records of the ignition interlock device installation fee collection and transfer to the Department, at an IISP's established place of business, or in a secure database, for three years from the date of the fee transfer. The Department may review the financial records of an IISP during normal business hours, to ensure compliance with the collection and transfer of the ignition interlock device installation fee to the Department.

R17-5-616. Civil Penalties; Hearing

- A. After notice and an opportunity for a hearing, the Director may impose a civil penalty pursuant to A.R.S. § 28-1465, against a manufacturer of a certified ignition interlock device for improper reporting to the Department of ignition interlock data, as defined in R17-5-601; ~~that may cause the Department to erroneously initiate corrective action against a person.~~ The Director may impose and collect a civil penalty against a manufacturer of a certified ignition interlock device, who is responsible for an occurrence of improper reporting, as follows:
 - 1. \$100 for the first occurrence, but not to exceed \$1,000 per series of occurrences of improper reporting on a specific date;
 - 2. \$250 for the second occurrence, but not to exceed \$2,500 per series of occurrences of improper reporting on a specific date; and
 - 3. \$500 for the third or subsequent occurrence, but not to exceed \$5,000 per series of occurrences of improper reporting on a specific date.
- B. The Director, on finding that a manufacturer engaged in improper reporting, shall mail a notice to the manufacturer ~~a notice~~ stating that civil penalties may be imposed for improper reporting. The notice shall:
 - 1. Specify the basis for the action; and
 - 2. State that the manufacturer may, within 15 days after receipt of the notice, file a written request for a hearing with the Department's Executive Hearing Office as prescribed in 17 A.A.C. 1, Article 5.
- C. A manufacturer who is aggrieved by an assessment, decision, or order of the Department under A.R.S. § 28-1465 and this Section may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6.
- D. The manufacturer shall pay the civil penalty imposed under this Section to the Department no later than 30 days after the order is final.
- E. ~~Action to enforce the collection of a civil penalty assessed under subsection (A) shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in which the~~

~~hearing is held. If the manufacturer fails to pay the civil penalty within 30 days after the order is final, the director may file an action in the superior court in the county in which the hearing is held to collect the civil penalty.~~

R17-5-621. Service Center Application

- A. On approval by the Director of an IISP's signed application for authorization to provide ignition interlock services, an IISP shall submit to the Department a properly completed service center application for approval of the IISP's service centers.
- B. An IISP shall provide the following information to the Department:
 - 1. The service center name, which shall match the name on the service center;
 - 2. The business address of the established place of business of each service center or business location;
 - 3. The telephone number of each established place of business of each service center or business location;
 - 4. The service center's legal status as a sole proprietorship, partnership, limited liability company, or a corporation;
 - 5. The name of the sole proprietor, each partner, officer, director, manager, member, agent, or 20% or more stockholder;
 - 6. The name and model number of each CIID the IISP plans to install;
 - 7. An indication of any service centers that will provide mobile services;
 - 8. Any applicable business licenses and the governmental entity; and
 - 9. The following statements signed by the IISP:
 - a. A statement that all information provided on the application, including all information provided on any attachment to the application is complete, true, and correct;
 - b. A statement that the IISP agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
 - c. A statement that the IISP agrees to comply with all requirements in these rules; and
 - d. A statement that the IISP agrees to immediately notify the Department of any change to the information provided on the application form.
- C. The Department shall process an IISP's service center application only if the IISP meets all applicable application requirements.
- D. The Department shall, within 10 days of receiving a service center application, provide notice to the IISP that the application is either complete or incomplete.
 - 1. The date of receipt is the date the Department receives the application.
 - 2. If an application is incomplete, the notice shall specifically identify the required information that is missing.
- E. An IISP with an incomplete application shall provide all missing information to the Department within 15 days of the date on the Department's notice.
 - 1. After receiving all of the required information, the Department shall notify the IISP that the application is complete.

2. The Department may deny approval of a service center if the IISP fails to provide the required information within 15 days of the date on the notice.
- F.** The Department shall render a decision on a service center application within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the IISP under subsections (D) or (E).
- G.** For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for approval of a service center:
1. Administrative completeness review time frame: 10 days.
 2. Substantive review time frame: 30 days.
 3. Overall time frame: 40 days.
- H.** If a service center is no longer authorized by a manufacturer to install its CIID, the IISP shall notify the Department within 24 hours.
- I.** An IISP shall be the authorized representative of a specific manufacturer while the authorization agreement is in effect, for a service center to install the manufacturer's CIID.
- J.** If an IISP, subcontractor, or agent opens or relocates a service center, or the service center is operated by another entity, an IISP, subcontractor, or agent shall submit a new service center application for approval.
- K.** An IISP shall use this process to reapply to the Department for a service center application.