

30 **interlock system.**

31 (1) As used in this section:

32 (a) "Ignition interlock system" means a constant monitoring device or any similar
33 device that:

34 (i) is in working order at the time of operation or actual physical control; and

35 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection
36 41-6a-518(8).

37 (b) (i) "Interlock restricted driver" means a person who:

38 (A) has been ordered by a court or the Board of Pardons and Parole as a condition of
39 probation or parole not to operate a motor vehicle without an ignition interlock system;

40 (B) within the last 18 months has been convicted of a driving under the influence
41 violation under Section 41-6a-502 that was committed on or after July 1, 2009;

42 (C) (I) within the last three years has been convicted of an offense that occurred after
43 May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

44 (II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years
45 from the date that one or more prior offenses was committed if the prior offense resulted in a
46 conviction as defined in Subsection 41-6a-501(2);

47 (D) within the last three years has been convicted of a violation of this section;

48 (E) within the last three years has had the person's driving privilege revoked for refusal
49 to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1,
50 2006;

51 (F) within the last three years has been convicted of a violation of Section 41-6a-502
52 and was under the age of 21 at the time the offense was committed;

53 (G) within the last six years has been convicted of a felony violation of Section
54 41-6a-502 for an offense that occurred after May 1, 2006; or

55 (H) within the last 10 years has been convicted of automobile homicide under Section
56 76-5-207 for an offense that occurred after May 1, 2006.

57 (ii) "Interlock restricted driver" does not include a person:

58 (A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under
59 Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and
60 whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under
61 Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517; [or]

62 (B) whose conviction described in Subsection (1)(b)(i)(B) or (F) does not involve
63 alcohol and the convicting court notifies the Driver License Division at the time of sentencing
64 that the conviction does not involve alcohol[-]; or

65 (C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) does not involve
66 alcohol and the ignition interlock restriction is removed as described in Subsection (7).

67 (2) The division shall post the ignition interlock restriction on a person's electronic
68 record that is available to law enforcement.

69 (3) For purposes of this section, a plea of guilty or no contest to a violation of Section
70 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
71 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently
72 reduced or dismissed in accordance with the plea in abeyance agreement.

73 (4) An interlock restricted driver who operates or is in actual physical control of a
74 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

75 (5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

76 (a) the interlock restricted driver operated or was in actual physical control of a vehicle
77 owned by the interlock restricted driver's employer;

78 (b) the interlock restricted driver had given written notice to the employer of the
79 interlock restricted driver's interlock restricted status prior to the operation or actual physical
80 control under Subsection (5)(a);

81 (c) the interlock restricted driver had on the interlock restricted driver's person, or in
82 the vehicle, at the time of operation or physical control employer verification, as defined in
83 Subsection 41-6a-518(1); and

84 (d) the operation or actual physical control described in Subsection (5)(a) was in the
85 scope of the interlock restricted driver's employment.

86 (6) The affirmative defense described in Subsection (5) does not apply to:

87 (a) an employer-owned motor vehicle that is made available to an interlock restricted
88 driver for personal use; or

89 (b) a motor vehicle owned by a business entity that is entirely or partly owned or
90 controlled by the interlock restricted driver.

91 (7) (a) An individual with an ignition interlock restriction may petition the division for
92 removal of the restriction if the individual's offense did not involve alcohol.

93 (b) If the division is able to establish that an individual's offense did not involve
94 alcohol, the division may remove the ignition interlock restriction.