

## Order to Adopt

### Title 13, Division 1, Chapter 1

#### Article 2.55. California Ignition Interlock Device Program

##### § 125.02. Certification of Ignition Interlock Devices.

An ignition interlock device shall not be installed, or used as part of a program for driving under the influence offenders unless the model or type of device has been certified by the department in accordance with the requirements of this article.

(a) In addition to requirements that an ignition interlock device must meet specifications and guidelines adopted by the National Highway Traffic Safety Administration, as specified in Vehicle Code section 13386(e), all ignition interlock devices shall require the operator of a vehicle to submit a random retest as follows:

(1) The first retest shall occur at a randomly variable interval ranging from five to fifteen minutes after passing the initial breath test and starting the vehicle's engine. Subsequent retests shall occur at a randomly variable interval ranging from fifteen to forty-five minutes from the previously requested retest for the duration of the travel.

(2) The device shall allow the operator of the vehicle five minutes to complete each retest.

(b) An individual, partnership, or corporation may apply to the department for certification of an ignition interlock device by submitting a completed application to the department. A separate application is required for each model or type of device. The application shall be submitted to the department electronically through the department's online portal. A completed application shall contain the following:

(1) Form DL 9, Application for Certification of Ignition Interlock Device (~~REV-4/2000~~)(Rev. 6/2022), which is hereby incorporated by reference.

(2) A detailed description of the device, including a photograph, drawing, or other graphic depiction of the device.

(3) Complete technical specifications describing the device's accuracy, reliability, security, data collection and recording, tamper detection, and environmental features.

(4) A complete and true copy of data from an independent, accredited (ISO/IEC 17025) laboratory demonstrating that the device meets or exceeds the minimum federal standards pursuant to Vehicle Code section 13386(d). For purposes of this article, the term "independent, accredited (ISO/IEC 17025) laboratory" shall be interpreted to include any of the following, provided the laboratory is properly equipped and staffed to conduct laboratory tests on ignition interlock devices to ensure they meet the accuracy requirements and specifications provided in Sections 1 and 2 of the model specifications

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for breath alcohol ignition interlock devices as published as a Notice in the Federal Register, Vol. 78, No. 89, Wednesday, May 8, 2013, on pages 26849-26867:

- (A) A state-run laboratory;
  - (B) A private laboratory which can demonstrate its capability to carry out the required tests; or
  - (C) A laboratory certified by a state department of Public Health to conduct chemical tests.
- (5) A certification on Form DL 28, Laboratory Report (Rev. 3/2014), signed by an authorized official of the laboratory which tested the device, that the device was tested by the laboratory indicated in accordance with the federal regulations and that the device was found to satisfy the requirements of Sections 1 and 2 of the model specifications for breath alcohol ignition interlock devices as published as a Notice in the Federal Register, Vol. 78, No. 89, Wednesday, May 8, 2013, on pages 26849-26867. The certification shall specify that the laboratory used properly maintained equipment, and trained personnel to conduct the tests, and that the test results are accurate. The form DL 28 is hereby incorporated by reference.
- (6) A complete listing of all authorized installers' locations and their satellite locations that includes the name, Bureau of Automotive Repair or Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation number, telephone number, contact name, and hours of operation.
- (7) A copy of the instructions that will be provided to authorized installers, including complete instructions for installation, operation, service, repair, and removal of the device.
- (8) A copy of the written instructions that will be provided to participants who have the device installed.
- (9) A certificate from an insurance company that the manufacturer holds product liability insurance and that the department is named as an additional insured. The policy limit shall be a minimum of one million dollars (\$1,000,000). The liability insurance shall include coverage for manufacturing, defects in product design and materials, calibration, installation, and removal of devices. The certificate of insurance shall contain a statement that the insurance company will notify the department 30 days before cancellation of the insurance.
- (10) A signed statement that the manufacturer shall indemnify and hold harmless the state of California, the department and its officers, employees and agents from all claims, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any act or omission by the manufacturer relating to the installation, service, repair, use and removal of an ignition interlock device.

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(11) A copy of the fee schedule or schedules adopted by a manufacturer and manufacturer's authorized installer pursuant to subdivision (h) of Section 13386 of the Vehicle Code. The fee schedule shall include provisions for the payment of the costs of the device by an applicant in amounts commensurate with the applicant's ability to pay. The fee schedule shall include the cost of all services provided, including standard charges for installation, service and maintenance, and removal of the devices, and any non-standard charges for service and maintenance of the devices.

~~(12) An imprint of the manufacturer's stamp. A manufacturer shall ensure that each authorized installer has the stamp of the manufacturer of the device, meaning a stamping tool, not an imprint.~~

~~(13)~~(12) A manufacturer shall provide the department with a toll-free telephone number through which participants may be referred to the authorized installers.

~~(14)~~(13) A completed and signed certification on the Random Retest Compliance Self-Certification, form OL 624 (New 5/2017), which is hereby incorporated by reference, that the ignition interlock device ~~is~~ is in compliance with the random retest requirements as specified in subsection (a).

~~(15)~~(14) A completed and signed Fee Schedule Acknowledgment, form OL 160 (New 1/2019), which is hereby incorporated by reference.

~~(16)~~(15) An application fee of \$100.00.

(c) The department may have the laboratory test results reviewed, at the manufacturer's expense, by an agency or individual outside the department, and of the department's choice, when such review is deemed necessary to determine whether or not a device meets the requirements for certification.

(d) The department may require that manufacturers install devices on vehicles approved by the department to field test the devices.

(e) The department shall certify, or refuse to certify, a device within 90 days of receipt of a complete application. The department shall notify the manufacturer within 10 days of receipt of the application if the application is incomplete and shall specify what information or documents are needed to complete the application.

(f) An applicant who has not received notification within the time periods specified may file an appeal with the Secretary of the California State Transportation Agency in accordance with Chapter 6 of Division 3 of Title 21 of the California Code of Regulations. If the Secretary finds that the department failed to provide the notification required within the time period specified without good cause, the department shall reimburse the applicant fully for all application fees paid.

Note: Authority cited: Sections 1651 and 13386, Vehicle Code. Reference: Sections 1652, 13386, 23575 and 23575.3, Vehicle Code.