

OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO, CA 94232-3280



TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Section 125.02 in Article 2.55, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to the certification of ignition interlock devices.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or their duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than **March 6, 2023**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Vehicle Code sections 1651 and 13386, in order to implement, interpret, or make specific Vehicle Code section 1652, 13386, 23575, and 23575.3.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 13386 grants the department the authority to oversee the ignition interlock device program. Vehicle Code section 23573 requires the department, upon receipt of a court's abstract of conviction of Vehicle Code section 14601.2, 14601.4 or 14601.5, subsequent to prior convictions of various Vehicle Code sections related to driving a vehicle under the influence of alcohol, to notify the convicted person of their requirement to have an ignition interlock device installed in their vehicle.

Prior to authorizing the use of an ignition interlock device in California, the department is required to certify that each ignition interlock device operates in a manner for which it was certified and requires the manufacturer to ensure that the functionality of the device cannot be changed or altered from the certified criteria. Article 2.55 in Title 13 establishes the process by which an ignition interlock device manufacturer can apply to the department to have its device certified for use.

This action amends the Application for Certification of Ignition Interlock Device, form DL 9, to remove the requirement that the ignition interlock device manufacturer include the corporate seal

on the form. Removing this requirement will allow manufacturers to submit their certification application online. As more of its services are offered virtually, the department anticipates this amendment will benefit manufacturers and the department by creating a more efficient application process.

CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS

The department has conducted a review of other state regulations and has concluded that these are the only regulations related to the certification of ignition interlock devices in California.

Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL STATUTES OR STATE REGULATIONS

The federal guidelines for the performance and uniform testing of ignition interlock devices are identified in the Federal Register (Vol. 78, No. 89, Wednesday, May 8, 2013, on pages 26849-26867). The department's rules establish the process by which ignition interlock device manufacturers can prove to the department the device meets the federal specifications. There are no existing federal statutes or regulations that govern the administration of confidential record programs.

DOCUMENTS INCORPORATED BY REFERENCE

The following document is incorporated by reference in the proposed regulations:

- Application for Certification of Ignition Interlock Device, form DL 9 (Rev. 6/2022)

The form DL 9 will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so as the form has tables; however, the document is readily available to interested parties by contacting the department representative identified below.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- *Cost or Savings to Any State Agency:* None.
- *Other Non-Discretionary Cost or Savings to Local Agencies:* None.
- *Costs or Savings in Federal Funding to the State:* None.
- *Effects on Housing Costs:* None.
- *Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.:* None.
- *Cost Impact on Representative Private Persons or Businesses:* The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- *Small Business Impact:* This proposed action may impact small businesses. The rules adopt a form amendment that will allow for certification documents to be submitted electronically. This action could benefit businesses by allowing for another means by which to submit documentation to certify an ignition interlock device for use in California.
- *Local Agency/School District Mandate:* The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- *Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:* The department has made the initial determination that this action will not have a significant statewide adverse economic impact directly affecting businesses nor will it impact the ability of California businesses to compete with businesses in other states.

RESULTS OF THE ECONOMIC IMPACT STATEMENT

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

This proposed action is unlikely to 1) create or eliminate jobs within the State of California; 2) create or eliminate businesses within the State of California; or 3) expand businesses currently doing business in the State of California.

This action may benefit the health, welfare, and safety of California residents by creating an efficient process by which a manufacturer can have an ignition interlock device certified for use in California. This proposed action is unlikely to benefit worker safety or the state's environment.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Specialist

Department of Motor Vehicles
Legal Affairs Division
PO Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 282-7294
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Shelly Johnson Marker, Chief of Staff
Department of Motor Vehicles
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.