

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 Sections 120.00, 124.92, and 124.95, and adopt Section 120.03 in Article 2.5, related to the Driving Under the Influence Program; and amend Sections 125.00, 125.02, 125.12, 125.16, 125.18, 125.20, 125.22, 127.00, 127.02, 127.04, 127.08, and 127.10, and adopt Sections 125.21, 128.00, 128.01, and 128.02, in Article 2.55 of Chapter 1, Division 1 of Title 13, California Code of Regulations, relating to 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 his or her 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 5:00 p.m., 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 5:00 p.m., **November 19, 2018**, 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, 13386, and 23575, in order to implement, interpret, or make specific Vehicle Code sections 13352, 13352.1, 13353.3, 13353.6, 13353.75, 13386, 23575, and 23575.3.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The department is responsible for administering the California Ignition Interlock Device Program. An ignition interlock device is a device that is connected to a vehicle's ignition that requires the driver to provide a breath sample before the engine will start. If the ignition interlock device detects alcohol in the driver's breath, the engine will not start.

Current law requires a person convicted of driving under the influence to serve a mandatory period of suspension prior to applying to the department for a restricted driver's license. The department is required to impose an ignition interlock device restriction on the driver's driving privilege when the driver is convicted of driving under the influence. Once the ignition interlock device is installed in the vehicle, it must be calibrated and inspected by a certified installer on a 60 day interval. During the calibration and servicing appointment, the installer examines the device to ensure it is working properly and that no violations, such as tampering, attempting to bypass or failing to take random retests, have been logged. If it is determined that the driver has failed to comply with the ignition

interlock device requirements, notice is provided to the department and the suspension or revocation will be re-imposed.

In 2010, Assembly Bill 91 (Ch. 217; St. 2009), the department began a pilot program in the counties of Alameda, Los Angeles, Sacramento, and Tulare that is effective until December 31, 2018. Under the pilot program, all persons convicted of driving under the influence of drugs/alcohol, except for those who qualify for an exemption, are required to install a certified ignition interlock device on each vehicle he or she owns or operates. AB 91 also adopted Vehicle Code section 13386(g) requiring ignition interlock device manufacturers to provide an annual report to the department documenting the number of false positives and the time it takes to reset the device. The information contained in these reports was used by the department to evaluate the continued certification of a device. In 2010, the department adopted regulations specific to the pilot program, including the implementation of an exemption process and fees.

Senate Bill No. 1046 (Ch. 783; St. 2016) implements a pilot program beginning January 1, 2019 until January 1, 2026, that would make an individual, whose license has been suspended for driving under the influence, eligible for a restricted driver's license without serving any period of suspension when the driver has an ignition interlock device installed in each vehicle they own, and would require the department to reinstate the suspension if it is determined that the driver attempted to remove, bypass, or otherwise tamper with the device. The bill would authorize that individual to install an ignition interlock device prior to the effective date of the suspension and would require the individual to receive credit towards the mandatory term to install an ignition interlock device, as specified. SB 1046 requires an ignition interlock device manufacturer to create a fee schedule as part of the application process and requires the fee schedule be provided to the driver when applying for installation.

With passage of SB 1046 and the upcoming end to AB 91 requirements, the department has determined it necessary to adopt rules that clarify and make specific the requirements of the new pilot program and identify the end date of the older pilot program. This action amends ignition interlock device program rules by doing the following:

- Making clear that the independent laboratory has the specified accreditation;
- Requires a manufacturer to submit an acknowledgment related to the fee schedule established in statute;
- Requires an installer to verify a driver's eligibility with the department prior to installing or removing an ignition interlock device;
- Amends section titles and adopt sunset dates for the first pilot program so the end date is clearly established;
- Adopts administrative fees;
- Establishes restriction requirements, an exemption process, and a process by which a driver can apply to have their restriction re-imposed; and
- Makes changes to several departmental forms to ensure compliance with the adopted regulations and statutes.

This action also makes an amendment to Article 2.5, related the Driving Under the Influence (DUI) Program, to require a DUI Program provider to notify the department when a program participant fails to comply with the program requirements.

#### **PROBLEMS THIS DEPARTMENT INTENDS TO ADDRESS AND BENEFITS ANTICIPATED FROM THE REGULATORY ACTION**

With passage of Senate Bill 1046 (Ch. 783; St. 2016) and the upcoming end to Assembly Bill 91 (Ch. 217; St. 2009), the department has determined it necessary to adopt rules that clarify rules related to ignition interlock device requirements under AB 91 and SB 1046. The benefits include driver's knowing the restriction requirements, exemption qualifications, and applicable fees related to their conviction.

#### **CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS**

The department conducted an analysis of other state regulations and determined that the regulations adopted in Article 2.55 of Title 13 are the only regulations related to the ignition interlock device Program, therefore, these regulations are neither inconsistent nor incompatible with other state regulations.

#### **COMPARABLE FEDERAL STATUTES OR REGULATIONS**

The department conducted a review of comparable federal regulations and statutes and has determined that no other regulations address ignition interlock device program requirements.

#### **DOCUMENTS INCORPORATED BY REFERENCE**

The following documents are incorporated by reference:

- Notice of Non-Compliance, form DL 101A (Rev. 10/1999)
- Application for Termination of Action, form DL 4006 (New 1/2019)
- Fee Schedule Agreement, form OL 160 (New 1/2019)
- Verification of Installation, form DL 920 (Rev. 1/2019)
- Notice of Non-Compliance, form DL 921 (Rev. 1/2019)
- Ignition Interlock Device Installation and Removal Request, form DL 925 (Rev. 1/2019)
- Notice to Employers, Ignition Interlock Restriction, form DL 923 (Rev. 1/2019)
- Ignition Interlock Device (IID) Exemption Request, form DL 4062 (New 1/2019)
- Ignition Interlock Device (IID) Medical Exemption Request, form DL 4063 (New 1/2019)

These forms will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the documents are 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. In compliance with this proposed action, drivers will pay a one-time administrative fee of either \$95 or \$103, depending on the ignition interlock device requirements. Drivers who have devices installed in their vehicles do pay fees for the maintenance of the devices, however, those costs vary as they are set by the installers. This action does implement administrative service fees for the ignition interlock device program. The department prepared costing documentation that provides justification for those fees. A copy of the costing documentation is available by contacting the departmental contact person in this notice.
- *Small Business Impact:* This regulation may affect small businesses.
- *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:* This action is unlikely to have any significant statewide adverse economic impact on businesses.

**BUSINESS REPORT(Gov. Code, §§ 11346.5(a)(11) and 11346.3(d)):**

In accordance with Government Code sections 11346.5, subdivision (a)(11) and 11346.3, subdivision (d), the department finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

**RESULTS OF THE ECONOMIC IMPACT STATEMENT**

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

The department has determined that this action will not impact 1) the creation or elimination of jobs within the State of California, 2) the creation or elimination of existing businesses within the State of California, or 3) the expansion of businesses currently doing business within the State of California.

This action will benefit the health and welfare of California residents and the motoring public, in general, by ensuring the continued sobriety of drivers with ignition interlock devices in their vehicles. Also, drivers will benefit by being able to reference ignition interlock device program requirements, exemption qualifications, and fee schedules. This action also benefits drivers who will have departmental verification prior to a device being installed or removed. This verification will ensure a device is not installed or removed too early.

### **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 effective as 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 Analyst  
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) 657-8898  
Facsimile: (916) 657-6243  
E-Mail: [LADRegulations@dmv.ca.gov](mailto:LADRegulations@dmv.ca.gov)

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

Brian G. Souble, Chief Counsel/Deputy Director  
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 <http://www.dmv.ca.gov/portal/dmv/detail/about/lad/regactions>.

### **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.