

Initial Statement of Reasons

Title 13, Division 1, Chapter 1

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, relating to Ignition Interlock Devices.

With passage of Senate Bill (SB) 1046 (Ch. 783; St. 2016) and SB 611 (Ch. 485; St. 2017), and the upcoming end to Assembly Bill (AB) 91 (Ch. 217; St. 2009) requirements, the department has determined it necessary to adopt rules that clarify and make specific the requirements of the new statewide ignition interlock device pilot program and identify the end date of the older four-county ignition interlock device pilot program. The early reinstatement program established under SB 598 (Ch. 193; St. 2009) and SB 895 (Ch. 30; St. 2010), allowing second or third alcohol offenders to reinstate early, provided their conviction involved alcohol only, is also repealed during the new statewide ignition interlock device pilot program. This new program will allow all alcohol-involved offenders to reinstate immediately, regardless of the amount of priors. This action amends Ignition Interlock Device Program rules by doing the following:

- Making clear that the independent laboratory has the specified accreditation,
- Requiring a manufacturer to submit an acknowledgment related to the fee schedule established in statute,
- Requiring an installer to verify a driver's eligibility with the department prior to installing or removing an ignition interlock device,
- Amending section titles and adopt sunset dates for the first pilot program so the end date is clearly established,
- Adopting administrative fees,
- Establishing restriction requirements, an exemption process, and a process by which a driver can apply to have their restriction re-imposed, and
- Making 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.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered, 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 this action is proposed, would be as effective and less burdensome to affected private persons that the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Article 2.5. Driving Under the Influence Program

§ 120.00. Purchase and Use of Notice of Completion Certificates.

The purpose of Section 120.00 is to identify the process by which a DUI provider is to report a participant's satisfactory completion of the DUI program to the department.

Subsection (k) is repealed to eliminate prohibitive language regarding the acceptance of DUI program completion certificates. Vehicle Code section 13352 requires the department to immediately suspend or revoke the driving privilege of a person upon receipt of a DUI conviction from the court. Vehicle Code section 13352 additionally states that the driving privilege shall not be reinstated until the department receives proof of successful completion of a DUI program licensed pursuant to Health and Safety Code section 11836, among other things. Because a person's driving privilege can be suspended or revoked for a period beyond the initial suspension or revocation timeframe due to non-receipt of a DUI program completion certificate, this amendment is necessary to ensure that a customer can submit a program completion certificate, regardless of the issuance date, when applying for reinstatement.

§ 120.03. Notice of Non-Compliance.

The purpose of Section 120.03 is to identify the process by which a DUI provider is to report a participant's non-compliance of the DUI program to the department.

Subsection (a) is adopted to require a DUI program provider to submit a Notice of Non-Compliance, form DL 101A (Rev. 10/1999), to the department when a participant has failed to comply with the DUI program requirements specified in Section 9886 of Title 9, California Code of Regulations. The adoption of the form DL 101A is necessary to provide a consistent means by which a DUI program provider can report non-compliance to the department. The form will ensure that all providers are reporting the same information, but also ensure that the information is thorough enough for the department to identify the correct driver's record.

Section 9886, Title 9, requires a DUI program to dismiss from the program any participant who:

- Fails to participate in required program activities within 21 days of transfer to another DUI program,
- Fails to maintain program sobriety,
- Fails to comply with DUI program rules,
- Fails to comply with additional county requirements,
- Fails to attend program services for 21 days or longer without obtaining a leave of absence,
- Exceeds the allowable number of absences,
- Fails to resume attending program activities within 21 days of the scheduled return from a leave of absence, or
- Is physically or verbally abusive or acts in a threatening manner to DUI program staff or DUI program participants.

Notice of Non-Compliance, form DL 101A

The non-compliance is reported to the department on a Notice of Non-Compliance, form DL 101A. When completing the form, the provider is required to identify the participant's driver's license number, birthdate, name, address, date of enrollment/re-enrollment, failure to comply date, violation date, court code, and docket number. These components are necessary to ensure the department has sufficient information to ensure the correct participant file is updated.

The form contains a statement that the person identified in the form has failed to comply with the rules and regulations of the DUI treatment program. There is also space for the program name, the Alcohol and Drug Program (ADP) license number, the signature of the authorized program representative, and the date.

Subsection (b) is adopted to allow program providers to submit the DL 101A form electronically, if authorized by the department. Any DUI program that is licensed by the Department of Health Care Services who has an ADP License Number can electronically update a participant's enrollment, non-compliance, and completion certificate to the department. Once licensed, the DUI programs may apply to the department for access to DUI Web, which is a web-based program through the department's business partner website. The adoption of subsection (b) is necessary to clearly provide for the electronic submission of DL 101A forms, which will benefit providers by allowing them to submit the forms to the department in a timely and cost-effective manner.

§ 124.92. Termination of Suspension or Revocation.

The purpose of Section 124.92 is to identify the requirements for a person who is applying to the department to have the suspension or revocation terminated pursuant to Vehicle Code section 13353.5.

Subsection (a) is amended to update the name and revision date of the form DL 4006 from Application for Termination of Action Section 13353.5 California Vehicle Code (Rev. 11/2003) to Application for Termination of Action (New 1/2019). Because the department is incorporating the DL 4006 by reference in subsection (a), subsections (a)(1) through (a)(6) are removed for lack of necessity. The DL 4006 continues to request the driver's name, birthdate, driver's license or file number, telephone number, residence and/or mailing address, cancellation authorization statement, and signature under penalty of perjury, as was requested in the 11/2003 version of the form. However, the 1/2019 version has been amended to allow the form to be available to customers on the internet and divided into three sections for clarity.

Application for Termination of Action, form DL 4006

The revisions contain instructions at the top of the page to make clear that the applicant must complete the form, provide at least one acceptable out-of-state residency document, and provide proof of financial responsibility, if applicable.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

Section 1 of the form notifies the applicant that they are eligible for termination of the action if all the following applies:

- Any actions imposed against the driver are no longer in effect,
- Any Administrative Per Se restrictions are no longer in effect,
- Any court-ordered restrictions or DMV ignition interlock device restrictions are no longer in effect, and
- All applicable Administrative Service Fees have been paid.

A note is also included to specify that any additional arrests or detainment under the provisions of the California Administrative Per Se law or any additional driving under the influence convictions, even those that occur in another state, may result in the California DMV imposing a suspension or revocation against the driving privilege.

Section 2 of the form captures the driver information and is consistent with the components on the previous version of the form.

Section 3 requires the driver to sign and date the form in acknowledgment of the driver record information, the proof of out-of-state residency requirement, and the financial responsibility requirements. This form is necessary to allow the applicant to self-certify that they meet the requirements that allow for a termination of action, allows the department to capture sufficient information to ensure the appropriate driver record is being updated, and to allow the applicant to verify to the department that they acknowledge the conditions for the termination.

The instruction page provides applicants general information and additional instructions for completing the DL 4006 form. The top of the page provides applicants with additional information on obtaining information regarding their driver record. Below this, the form provides the applicant with a list of acceptable out-of-state residency documents to supplement the DL 4006 form. This language is consistent with the acceptable residency documents in other licensing programs, such as with AB 60 driver's licenses in Section 16.10(c) of Article 2.0 and commercial driver's licenses in Section 26.01(a) of Article 2.1. Lastly, the bottom portion of the form provides proof filing information for the applicant, if needed.

Subsection (b) is amended to make clear what an acceptable out-of-state residency document is. This subsection is necessary to give applicants a central location to identify an approved residency document. These residency documents are consistent with the acceptable residency documents in other licensing programs, such as with AB 60 driver's licenses in Section 16.10(c) of Article 2.0 and commercial driver's licenses in Section 26.01(a) of Article 2.1, and have been found to be readily available to potential applicants. To streamline the application process, the list of approved out-of-state residency documents are also provided on the form DL 4006.

Subsection (c) is repealed because the statute does not specify that the department is limited to processing a single application for a person in their lifetime. Retaining this language would require a person to remain suspended or revoked until they return to California to complete a DUI program.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

Former subsection (d) is renumbered to subsection (c) and Vehicle Code section 13352.1 is added as reference, as it was included under the provisions of SB 611 as an eligible suspension to terminate under the authority of Vehicle Code section 13353.5. This subsection is further amended to replace the word ‘supporting’ with ‘out-of-state residency’ to ensure that any additional documents provided by the applicant are specific to out-of-state residency.

Subsection (d) is adopted to specify that the department may determine that additional out-of-state residency documents will assist in verifying out of state residency on a case by case basis. This provision is necessary for applicants who do not have documents identified in subsection (b) but, perhaps, have other documentation that can establish residency. This language is consistent with the process used in other licensing programs, such as with AB 60 driver’s licenses in Section 16.10(d) of Article 2.0 and commercial driver’s licenses in Section 26.01(e) of Article 2.1.

§ 124.95. Restriction Fee.

The purpose of Section 124.95 is to identify the restriction fee. Section 124.95 is amended to make clear that the \$15 restriction fee is required, notwithstanding any other law that requires fees. Section 124.95 is further amended to clarify that the \$15 restriction fee is only required upon initial application for a restricted driver’s license. Because the new provisions of SB 1046 and SB 611 allow a driver to return in and out of compliance with their restricted driver’s license, it would be counterintuitive to require a person to return to a field office every time they regain their restricted driving privilege after non-compliance. For example, Vehicle Code section 13352(e)(3) states that if a person was issued an ignition interlock device-restricted driver’s license pursuant to Vehicle Code section 13352, and subsequently fails to comply with the ignition interlock device restriction requirements by attempting to remove, bypass, etc., then their driving privilege will be suspended or revoked pursuant to Vehicle Code section 13352(e)(3). However, if that person provides proof that they are in compliance with the ignition interlock device restriction per Vehicle Code section 13352, by providing a new form DL 920, then the department will restore the ignition interlock device-restricted driving privilege for the remainder of the original ignition interlock device restriction term. When restoring, the department will terminate the non-compliance suspension or revocation, and then place the ignition interlock device restriction on the person’s driver record.

Article 2.55. California Ignition Interlock Device Program

§ 125.00. Definitions.

The purpose of Section 125.00 is to define the terms that are used in Article 2.55.

Subsection (j) contains a non-substantive amendment to remove the revision date of the Verification of Installation, form DL 920. The form is incorporated by reference in Section 125.12 and only used in the definition of ‘reset of restriction’ for clarity.

§ 125.02. Certification of Ignition Interlock Devices.

The purpose of Section 125.02 is to identify the process by which the department certifies ignition interlock devices.

Subsection (b)(4) is amended to add clarification to the existing term ‘independent laboratory’ by specifying that the laboratory must be an accredited ISO/IEC 17025 laboratory. This amendment is necessary to ensure consistency and compliance with Vehicle Code section 13386(d), requiring the department to utilize information from an independent, accredited (ISO/IEC 17025) laboratory to certify ignition interlock devices.

Subsection (b)(6) contains a non-substantive edit to insert a space between the words ‘thermal’ and ‘insulation.’

Subsection (b)(11) contains a non-substantive amendment to correct a Vehicle Code citation that was changed with passage of SB 1046 and SB 611.

Subsection (b)(15) is adopted require submission of a Fee Schedule Agreement, form OL 160 (New 1/2019), as part of the device certification process. The adoption of the OL 160 is necessary as it is the most effective means by which the department can determine the manufacturer has a fee schedule agreement in place, as required by statute.

Fee Schedule Agreement, form OL 160

The OL 160 is a departmental form consisting of an informational paragraph followed by three sections that are required to be completed by the manufacturer.

The informational paragraph indicates that from January 1, 2019 through December 31, 2025, all ignition interlock device manufacturers must complete and sign the form OL 160 and return the form to the department, as required by Vehicle Code section 13386(h).

Section 1 requires the manufacturer to provide its name and address. This information will ensure the department is updating the appropriate manufacturer record.

Section 2 contains the fee schedule acknowledgment and requires the manufacturer to, 1) agree to provide functioning, certified ignition interlock devices to applicants at the costs described in Vehicle Code section 23575.3(k), and 2) acknowledge that if the manufacturer, agents, or authorized installers fail to comply with providing functioning, certified ignition interlock devices to applicants at the costs described in Vehicle Code section 23575.3(k), the department shall suspend or revoke the approval of for the manufacturer to market ignition interlock devices in California. Vehicle Code section 13386(h) provides the department with the authority to suspend or revoke the manufacturer’s license if they do not comply with the fee schedule. This information will serve as the department’s acknowledgement from the manufacturer that the manufacturer and its installers are adhering to the fee schedules identified in the Vehicle Code.

Section 3 requires the manufacturer’s representative to sign under penalty of perjury that the information provided is true and correct, a certification that is consistent with other departmental forms as well as Code of Civil Procedure section 2015.5(b). The manufacturer’s representative also certifies that they are the authorized representative of the

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

program for the manufacturer and that they understand the information provided is subject to a thorough investigation by the department, and understands that false, fictitious, or fraudulent claims may subject the manufacturer to administrative actions. This information will allow the department to verify the manufacturer's representative and makes clear that the department is authorized to conduct investigations related to the information contained on the form, as well as take disciplinary actions against manufacturers who are not complying with the requirements of the Vehicle Code.

Former subsection (b)(15), establishing the application fee, is renumbered to subsection (b)(16). No change is being made to the application fee.

§ 125.12. Service and Maintenance of Ignition Interlock Devices.

The purpose of Section 125.12 is to establish guidelines for manufacturers to ensure that authorized installers adhere to the service and maintenance requirements of ignition interlock devices.

Subsection (a)(1)(A) is amended to require that an authorized installer provides all participants with a completed Verification of Installation, form DL 920. The form DL 920 was originally adopted in subsection (a)(1)(A)(i), with a revision date of 6/2014 under OAL file number 2015-0622-03S (Register 2015; No. 31). The form is updated with a 1/2019 revision date and contains the following revisions:

Verification of Installation, form DL 920

The form contains several revisions to ensure compliance with the rules being adopted in this action. Section 2 (Manufacturer/Installer Information), Section 5 (Installer Inspection After Notice of Non-Compliance), Section 7 (Installer Use Only), and the instruction page are amended to remove the word 'facility' and substitute with the word 'installer.' The use of the word installer ensures compliance with the rules, other ignition interlock device forms, and with statute.

Section 2 (Manufacturer/Installer Information) is amended to require the installer to provide the device name and model/serial number. This information is necessary to ensure the device is one that has been approved by the department. Section 2 is also amended to remove reference to BEARHFTI number and replace with BHGS number. This change is necessary to ensure clarity and consistence by making the form reflect the correct agency name. Senate Bill 1483 (Ch. 578; St. 2018) changed the name of the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, or *BEARHFTI*, to the Bureau of Household Goods and Services, or *BHGS*. The update to the form is necessary to reflect the accurate name of the entity that could be licensing an installer.

Section 8 (DMV Use Only) is added to allow the department to verify that it has received an original copy of the DL 920.

The instruction page is further amended to address applicants who are having their suspension re-imposed. This provision is necessary to ensure compliance with the rules

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

being adopted in Section 128.02. The instructions page also requires the installer to contact the Mandatory Actions Unit to verify eligibility. This provision ensures compliance with Section 125.21. Lastly, the instruction page is updated to remove reference to BEARHFTI and replace with BHGS.

Subsection (a)(1)(A)(i) is repealed to ensure non-duplication. This subsection identifies rules by which an authorized installer must complete a DL 920 for participants requesting a restricted driver's license pursuant to Vehicle Code sections 13352(a)(3) through (a)(7), and 13353.3(b)(2)(C). However, the requirement for an authorized installer to complete a DL 920 is realigned to subsection (a)(1)(A), and the requirements for an ignition interlock device restricted driver's license applicant are identified in Section 125.16. Subsection (a)(1)(A)(i) now contains the verbiage previously adopted in subsection (a)(1)(A)(ii).

Subsection (a)(1)(A)(iii) is repealed to ensure non-duplication. This subsection identifies rules related to department-ordered ignition interlock device installation. However, the requirement for an authorized installer to complete a DL 920 is realigned to subsection (a)(1)(A), and the requirements for an ignition interlock device restricted driver's license applicant are identified in Section 125.16.

The language previously adopted in subsection (a)(2)(G) is repealed due to lack of necessity. The instructions for installers regarding missed appointments appear on the second page of the DL 921 form. Subsection (a)(2)(G) is also amended to require an installer to complete and submit to the department a Notice of Non-Compliance Ignition Interlock, form DL 921. The form DL 921 was previously incorporated by reference in 125.18 and adopted with a revision date of 8/2013, approved with OAL File number 2015-0622-03S (Register 2015, No. 31). The form is updated with a 1/2019 revision date and contains the following revisions:

Notice of Non-Compliance, form DL 921

The 8/2013 version of the form contained the instructions on the first page and the fillable spaces on the second page. The 1/2019 version has the fillable spaces on the first page and the instructions on the second page.

Section 2 (Manufacturer/Installer Information) and Section 6 (Installer Use Only) are amended to remove the word 'facility' and substitute with the word 'installer.' The use of the word 'installer' ensures consistency with the rules, other ignition interlock device forms, and with statute.

Section 2 (Manufacturer/Installer Information) is further amended to provide the installer an option to check if they are licensed through the Bureau of Household Goods and Services (BHGS). This amendment is necessary to ensure that consistent and accurate documentation is captured on all departmental ignition interlock device forms for installers licensed through BHGS.

Section 3 (Ignition Interlock Device Information) is amended to require the installer to identify the device installed in the vehicle and its model/serial number. These fields are necessary to ensure the department can verify that the installed device is on the list of approved and certified devices.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

Section 5 (IID Non-Compliance Information) is amended to provide the installer an option to check when the driver has failed to service the device within 60 days. The other fields remain the same, however, the three fields that allow for the reporting of first, second and third failures to comply are removed. Because the department does not take action against a person's driving privilege until the third failure to comply with the maintenance or calibration requirements, installers are now only required to report the driver's non-compliance to the department after the third missed appointment.

The bottom of the first page is amended to remove the department's address and distribution instructions, which have been relocated to the instruction page of the form.

The instruction page has also been amended to make updated and ensure compliance with the rules being revised in this action. First, the instructions require the installer to identify whether it is licensed through the Bureau of Automotive Repair (BAR) or through BHGS. Both BAR and BHGS licensed facilities are allowed to install ignition interlock devices.

Instructions from 8/2013 that informed the installer how and when to reschedule missed appointments is removed because that is no longer the practice. The installer only reports on the final missed appointment. The 1/2019 instructions require the installer to fill in the applicable reason for non-compliance.

Subsection (b) is amended to remove language requiring the Ignition Interlock Notice of Removal, form DL 922, to be submitted to the department within three working days after removal of a device. This requirement is being removed to eliminate duplication, as Section 125.20 provides instructions related to submitting a form DL 922. Additionally, the form DL 922 was originally adopted with a revision date of 4/2012 under OAL file number 2015-0622-03S (Register 2015; No. 31). The form is updated with a 1/2019 revision date and contains the following revisions:

Ignition Interlock Notice of Removal, form DL 922

Additionally, the 4/2012 version of the form contained the removal/installation information in Section II and the manufacturer/facility information in Section III. The 1/2019 version has the removal/installation information in Section 3 and the manufacturer/installer information in Section 2.

The form contains several additional revisions to ensure compliance with the rules being adopted in this action. Section 2 (Manufacturer/Installer Information) and Section 6 (Installer Use Only) are amended to remove the word 'facility' and substitute with the word 'installer.' The use of the word installer ensures compliance with the rules, other ignition interlock device forms, and with statute.

Section 2 is further amended to include the device name and its model/serial number. These fields are necessary to ensure the department can verify that the installed device is on the list of approved and certified devices. Additionally, Section 2 provides the installer an option to check if they are licensed through BHGS. This is to ensure that consistent and accurate documentation is captured on all departmental ignition interlock device forms for installers licensed through BHGS.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

The instruction page is amended to require that an installer must contact the Mandatory Actions Unit to verify eligibility prior to removing the device. This provision ensures compliance with Section 125.21.

§ 125.16. Verification of Installation.

The purpose of Section 125.16 is to provide instructions related to the Verification of Installation, form DL 920, incorporated by reference in Section 125.12.

The language previously adopted in subsection (a) is repealed to ensure non-duplication. The \$15 fee that was referenced in this subsection already appears in Section 124.95 of Article 2.5.

The language proposed for adoption in subsection (a) requires an applicant for an ignition interlock device restricted driver's license to submit a form DL 920 that was provided to them by the installer pursuant to Section 125.12, to the department with the applicable administrative service fee. The administrative service fees are adopted in Section 127.02 of this Article. This provision is necessary to ensure the participant remits the appropriate documentation necessary to have the restriction added to their driver's license record.

Former subsections (b)(1) and (b)(2) are repealed to ensure non-duplication. These subsections identified the administrative service fees that are already identified in Section 127.02.

Subsection (c) is repealed for lack of necessity. This subsection identifies rules related to court-ordered ignition interlock device installation. The department no longer requires a participant to submit a form DL 920 when installation is required by the court. When a court orders device installation, the department will place the court-ordered IID restriction on that person's driver record for the term specified by the court. However, statute does not require the department to monitor installation and maintenance of the IID in this scenario. Therefore, proof of installation is not required for the department when a court has ordered IID installation. This is instead monitored by the court.

Subsection (d) is repealed for lack of necessity. There is a space on the form DL 920 for the installer to identify the next monitor check, however, that field is optional.

Subsection (e) is renumbered to subsection (b).

Subsections (f), (f)(1), and (f)(2) are repealed for lack of necessity. The department's address and distribution instructions appear at the bottom of the form DL 920.

§ 125.18. Notice of Non-Compliance.

The purpose of Section 125.18 is to identify the requirements related to an installer reporting to the department a participant's non-compliance.

Subsection (a) is amended to remove the form name, revision date, and incorporation by reference of the form DL 921 to ensure non-duplication. The department has already incorporated this form by

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

reference in Section 125.12. Subsection (a) is further amended to require that an installer submit a completed form DL 921 if the participant fails to comply with any maintenance or calibration requirements within 60 days. This provision is necessary to ensure compliance with statute and to make certain that the department is accurately capturing a participant's non-compliance on their driver record.

Subsections (b), (b)(1) and (b)(2) are repealed due to lack of necessity. The form DL 921 contains the department's address and distribution instructions on the bottom of the form.

§ 125.20. Notice of Removal.

The purpose of Section 125.20 is to provide the instructions related to the notification process when removing an ignition interlock device.

Subsection (a) is amended to remove reference to Section 125.12(b). This action has removed language in Section 125.12(b) related to the three working day requirement.

Subsection (b), (b)(1), and (b)(2) are repealed due to lack of necessity. The form DL 922 is incorporated by reference in Section 125.12(b), identifying the form components in the regulations is not necessary.

Subsection (c) is renumbered to subsection (b).

Subsection (d), (d)(1), and (d)(2) are repealed for lack of necessity. The form DL 922 contains the department's address and distribution requirements at the bottom of the form.

§ 125.21. Installation and Removal Request.

The purpose of Section 125.21 is to provide instructions to the installer related to verifying a participant's eligibility prior to removing an ignition interlock device.

Subsection (a) is adopted to instruct an installer to verify eligibility with the department prior to installing or removing an ignition interlock device by a method specified in subsection (a)(1) or (a)(2). Subsection (a)(1) is adopted to allow an installer to contact the department's Mandatory Actions Unit directly by telephone, and subsection (a)(2) is adopted to allow an installer to complete an Ignition Interlock Device Installation & Removal Request, form DL 925 (Rev. 1/2019), and provide the form to the department via facsimile. These sections are necessary to ensure that participants are not having a device installed prior to restriction eligibility or having a device removed with the unintended consequence of a suspension or revocation.

Ignition Interlock Device Installation & Removal Request, form DL 925

The form DL 925 is a new departmental form that an installer completes and submits to the department. Once received, the department verifies whether the driver is eligible to have the ignition interlock device installed or removed.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

Section 1 (Driver Information) requires the installer to indicate the driver's name, birthdate and driver's license number. This information is necessary to ensure the department has sufficient information to retrieve the correct driver's record.

Section 2 (Installer Information) requires the installer to provide its name, license number, address, contact name, telephone and fax numbers, the date of request, and whether the request is for an installation or a removal. This information is necessary so the department is able to make contact with the appropriate installer once the driver's eligibility has been determined.

Section 3 (DMV Use Only – Eligibility for Installation or Removal) is the section used by the department once it determines a driver's eligibility. The department will complete Section 3 of the form with information related to the driver's eligibility for installation of an ignition interlock device, for how many months the device will be affixed to the vehicle, and additional documents needed upon installation, if needed. For removal, the department will provide an indication of the date on which the ignition interlock device can be removed from the vehicle.

Section 4 (Driver Authorization) is used by the driver to provide their signature when allowing the department to provide driver record information and ignition interlock device information to the installer and is necessary in order to facilitate the installation of the device and allow for recordkeeping.

Section 5 (DMV Use Only – Additional Requirements) is the space where the department conveys additional information to the installer related to the driver's eligibility, based on authorization from the driver in Section 4, and is necessary in order to facilitate the installation or removal of the device and for the installers recordkeeping.

§ 125.22. Notice to Employers Regarding an Ignition Interlock Restriction.

The purpose of Section 125.22 is to identify the Notice to Employers process as well as the distribution of the original form and the requirement that the participant carry a copy of the Notice while operating the employer's vehicle.

Subsection (a) is amended to incorporate by reference and update the revision date of the Notice to Employers, Ignition Interlock Restriction, form DL 923 from NEW 11/99 to Rev. 1/2019.

Notice to Employers, Ignition Interlock Restriction, form DL 923

The form DL 923 is the method by which a driver notifies their employer of their ignition interlock device restriction. The form fields are the same as the previous version of form, however, Section 3 (Notice to Employer) is updated to identify new Vehicle Code sections.

Subsection (b) is amended to require the original form DL 923 to be provided to the employer. This provision is necessary to ensure the employer is aware of the department's acknowledgement that the participant can operate the employer's vehicle for business reasons without having an ignition

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

interlock device installed in the employer's vehicle. Non-substantive amendments are also made to subsection (b) to remove the form name and substitute with the form number.

§ 127.00. Ignition Interlock Device Restriction for Pilot Program (Veh. Code § 23700).

The purpose of Section 127.00 is to provide requirements related to the ignition interlock device restrictions under the pilot program authorized by Vehicle Code section 23700. The title of the section is amended to make clear that the provisions only relate to the pilot program established under Vehicle Code section 23700.

Subsection (f) is adopted to specify that the provisions of Section 127.00 only apply to violations occurring on or after July 1, 2010 through December 31, 2018, as required by the provisions of AB 91. This adoption is necessary to avoid potential confusion that may result from the provisions of SB 1046 and SB 611 that are effective January 1, 2019.

§ 127.02. Administrative Fees.

Subsections (a) and (b) are amended to clarify that they only apply to violations occurring on or after July 1, 2010 through December 31, 2018, as specified in the provisions of AB 91, SB 598, and SB 895, respectively. Subsection (c) is amended to clarify that the subsection only applies to violations occurring on or after January 1, 2012 through December 31, 2018. These amendments are necessary to minimize any confusion that may result from Vehicle Code changes that are effective January 1, 2019. The fees identified in subsections (a), (b), and (c) are unchanged.

Subsection (d) is adopted to identify the administrative service fees for the ignition interlock device program. The department estimated it would incur costs of approximately \$2.5 million to implement this program. Based on the average volume of DUI convictions and the participation rate in the AB 91 pilot program evaluation, the department determined that an administrative service fee of \$95 is required for participants obtaining a restricted driver's license under Vehicle Code sections 13352(a)(1) through (a)(7) and 13352.1(c). The department also determined that an administrative service fee of \$8, as adopted in subsection (e), is required for participants mandated to install an ignition interlock device as required by Vehicle Code section 23575.3(d)(1)(C). Departmental costing information is available to any interested party and can be requested from the departmental representative identified in the Notice of Proposed Action.

§ 127.04. Exemption from Ignition Interlock Device Requirements for Pilot Program (Veh. Code § 23700).

The title of Section 127.04 is amended to make clear that the provisions only relate to the pilot program implemented under AB 91.

Subsection (b) is adopted to clarify that this section only applies to violations occurring on or after July 1, 2010 through December 31, 2018, as specified in AB 91. This amendment is necessary to

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

avoid any confusion that may result from changes to the Vehicle Code that are effective on January 1, 2019.

§ 127.08. Reset of Ignition Interlock Restriction Term for Pilot Program (Veh. Code § 23700).

The title of Section 127.08 is amended to make clear that the provisions only relate to the pilot program implemented under AB 91. Section 127.08 is amended to adopt existing language as subsection (a).

Subsection (b) is adopted to clarify that this section only applies to violations occurring on or after July 1, 2010 through December 31, 2018, as specified in AB 91. This amendment is necessary to avoid any confusion that may result from changes to the Vehicle Code that are effective on January 1, 2019.

§ 127.10. Term of Restriction for Pilot Program (Veh. Code § 23700).

The title of Section 127.10 is amended to make clear that the provisions only relate to the pilot program implemented under AB 91. Section 127.10 is amended to adopt existing language and subsection (a).

Subsection (b) is adopted to clarify that this section only applies to violations occurring on or after July 1, 2010 through December 31, 2018, as specified in AB 91. This amendment is necessary to avoid any confusion that may result from changes to the Vehicle Code that are effective on January 1, 2019.

§ 128.00. Ignition Interlock Device Restriction.

The purpose of Section 128.00 is to identify the ignition interlock device restriction rules as they relate to drivers convicted of Vehicle Code section 23152(a), (b), (d), (e), or (g), or of Vehicle Code section 23153(a), (b), (d), (e), or (g) and whose violation occurred on or after January 1, 2019. The restriction rules are different from those currently in effect and different from the rules that apply to the pilot program. This section identifies the ignition interlock device installation requirements, the exemption process for specified drivers, and addresses when credits will not be applied toward the ignition interlock device restriction term.

Subsection (a) is adopted to require a person convicted of Vehicle Code section 23152(a), (b), (d), (e), or (g), or of Vehicle Code section 23153(a), (b), (d), (e), or (g) to install a certified ignition interlock device in their vehicle, provide the department with proof of installation by submitting a form DL 920, and pay any applicable administrative service fees. This provision is necessary to provide as much clarity as possible related to a person who is required to have a device installed in their vehicle by. By identifying the applicable Vehicle Code sections upon which a driver is convicted, by specifying that the violation must have occurred on or after January 1, 2019, by

identifying the form that must be completed and by specifying that applicable fees must be paid, affected drivers can be knowledgeable about the restriction requirements based on their conviction.

Subsection (b) is adopted to make clear that the person is not subject to the provisions in subsection (a) if they meet an exemption identified in Section 128.01. This provision is necessary for drivers to know that an exemption process exists and to provide information related to where to find the exemption information for the driver to determine whether or not they qualify for the exemptions.

Subsection (c) is adopted to make clear that credit will not apply to the mandatory term of installation and maintenance if the driver fails to comply with the ignition interlock device restriction provisions. Specifically, the period of time in which a participant's driving privilege is suspended or revoked due to the department receiving a form DL 921, as specified in subsection (c)(1), due to the department having received a form DL 922 prior to the termination date of the restriction, as specified in subsection (c)(2), or due to the department having received a form DL 101A, as specified in subsection (c)(3), will not count towards the mandatory period of time in which the person must maintain installation of an ignition interlock device with a valid driver's license, even if the ignition interlock device remained installed in their vehicle. In order to receive credit towards the mandatory installation period, the participant must have a valid driver's license. These provisions are necessary to inform the driver of circumstances under which ignition interlock device credit will not be counted. Credit will not be given as the department receiving a DL 921, DL 922, or DL 101A, shows the driver was not compliant with the restriction requirements.

§ 128.01. Exemption from Ignition Interlock Device Requirements.

The purpose of Section 128.01 is to identify the exemptions from the ignition interlock device requirements, identified in Section 128.00(b), and provide detail on how to obtain those exemptions. Currently, a uniform exemption process is not in place. Because the department anticipates an increase in exemption requests due to the statewide expansion of mandatory ignition interlock device requirements, the department has developed two new forms and developed these procedures to establish clear guidelines in an effort to increase efficiency for drivers and for the operational units within the department that will be responsible for processing the requests.

Subsection (a) is adopted to allow for an ignition interlock device exemption under specified circumstances. The exemption process includes completion and submission of an Ignition Interlock Device (IID) Exemption Request, form DL 4062 (New 1/2019). The department determined that a new form is necessary to provide a means by which the applicant can provide their exemption request to the department and also ensure that all applicants are submitting exemption requests in a consistent manner.

Ignition Interlock Device Exemption Request, form DL 4062

The form DL 4062 is a new departmental form containing four sections and is used when a driver is requesting an exemption from their ignition interlock device restriction.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

Section 1 (Driver Information) requires the driver to provide their name, date of birth, driver's license number, and address. This information is necessary for the department to retrieve the correct driver's record and ensure the correct record is being updated.

Section 2 (Conviction Information) requires the driver to provide information related to their conviction and includes the violation date, the conviction date, the section(s) violated, and the docket number.

Section 3 (Exemption) requires the driver to provide an indication of whether the exemption is an ignition interlock device program exemption or an out-of-state exemption. The ignition interlock device program exemption is provided to drivers who do not own a vehicle, do not have access to a vehicle, and no longer have access to the vehicles used when they were arrested for the current violation. By signing the form, the driver acknowledges that they are only allowed to drive a vehicle equipped with a functioning, certified ignition interlock device, they are required to have a valid driver's license prior to driving, and they will be immediately subject to the specified Vehicle Code sections in the event they gain access to a vehicle. To claim the out-of-state exemption, the driver must check the corresponding box and provide at least one acceptable out-of-state residency document. These two exemptions are authorized in the Vehicle Code and are necessary on the form to allow the department to receive written notice of the exemption being requested.

Section 4 (Certification) requires the driver to certify under penalty of perjury that the information contained in the form is true and correct. This certification is consistent with all departmental forms that require an applicant to provide a certification and is consistent with the provisions of Code of Civil Procedure section 2015.5(b).

The bottom of the first page provides the driver with information regarding the department's processing procedures. This information assures the driver that documentation will be provided regarding the approval or denial of their exemption request.

The instruction page provides the driver with general information and additional instructions for completing the DL 4062 form. The top of the page provides the driver with information regarding exemption eligibility. The department's address and mailing instructions are provided below the general information. Lastly, the bottom portion of the form provides the driver with a list of acceptable out-of-state residency documents to supplement the DL 4062 form. This language is consistent with the acceptable residency documents in other licensing programs, such as with AB 60 driver's licenses in Section 16.10(c) of Article 2.0 and commercial driver's licenses in Section 26.01(a) of Article 2.1.

Subsection (a)(1) is adopted to specify that a person who does not own or have access to a vehicle can qualify for an exemption.

Subsection (a)(2) is adopted to specify that a person who is an out-of-state resident and owns a vehicle that is not driven in California may request an exemption. Subsection (a)(2)(A) is adopted to make clear what an acceptable out-of-state residency document is, and requires the driver to include the out-of-state residency document when submitting the form DL 4062. Subsections (a)(2)(A)1. through 18. identify the documents that the department has determined are sufficient to establish an

applicant's out-of-state residency. These provisions are necessary to allow easy access to a list of residency documents that the department finds will be sufficient to establish the applicant's out-of-state residency. The documents identified are consistent with those documents that are currently used to establish California residency. Because these documents have been proven to be readily available to applicant's providing California residency, it will be equally likely that they would be as accessible to applicant's who are proving their out-of-state residency.

Subsection (a)(2)(B) is adopted to specify that the department may determine that additional out-of-state residency documents will assist in verifying out of state residency on a case by case basis. This provision is necessary for applicants who do not have documents identified in subsection (a)(2)(A) but, perhaps, have other documentation that can establish residency. This language is consistent with the process used in other licensing programs, such as with AB 60 driver's licenses in Section 16.10(d) of Article 2.0 and commercial driver's licenses in Section 26.01(e) of Article 2.1.

Subsection (a)(3) is adopted to allow an exemption to a person who is unable to breathe with sufficient strength to activate an ignition interlock device. Subsection (a)(3)(A) is adopted to identify the method by which the applicant is to make contact with the department. Specifically, the applicant is required to send the department an original Ignition Interlock Device Medical Exemption Request, form DL 4063, as specified in subsection (a)(3)(A)1. or an original document from the applicant's medical provider indicating that the person is unable to breathe with sufficient strength to activate the ignition interlock device. These sections are necessary to allow drivers who are unable to physically activate the device to be exempt from the ignition interlock device requirements. However, the department must be able to verify that the medical condition does, in fact, exist and the only means by which it can make that determination is by having a medical provider substantiate the condition.

Ignition Interlock Device (IID) Medical Exemption Request, DL 4063

The form DL 4063 is a new departmental form containing several informational paragraphs followed by four sections and is used when a driver is requesting a medical exemption from their ignition interlock device restriction. This form may only be provided to a driver upon request to the Mandatory Actions Unit.

The top of the form provides the driver and medical provider with the department's telephone number and address to which the form shall be submitted.

The first informational paragraph informs the driver to complete and sign Sections 1 and 2 of the form DL 4063 and to take the form to their medical provider. The second informational paragraph informs the medical provider to complete and sign Sections 3 and 4 of the form DL 4063 and to either submit the original copy of the form to the department, or return to the driver. Lastly, the third paragraph provides information regarding exemption eligibility.

Section 1 (Driver Information) requires the driver to provide their name, date of birth, driver's license number or file number, and address. This information is necessary for the department to retrieve the correct driver's record and ensure the correct record is being updated.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

Section 2 (Acknowledgement and Consent) requires the driver to acknowledge that they are exempt from the installation of an ignition interlock device because of a medical condition that does not permit them to breathe with sufficient strength to activate the device. Additionally, if approved, the exemption does not grant the driver a restricted driving privilege and they will only have a suspension or revocation option. Lastly, the driver authorizes their medical provider to release information regarding their medical condition, as it relates to ignition interlock devices, to the department. This information will serve as the department's acknowledgement and consent from the driver that the medical provider can substantiate their condition and release their medical information to the department.

Section 3 (Medical Provider Information) requires the medical provider to provide their name, specialty, license or certificate number, fax number, telephone number, and address. This information is necessary for the department to ensure that a valid medical provider is completing the form.

Section 4 (Certification) provides information regarding minimum breath samples required for operation of an ignition interlock device. The minimum breath sample of 1.5 liters of breath is recommended by the National Highway Traffic Safety Administration as noted in the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), Federal Register, Vol. 78, No. 89, published on Wednesday, May 8, 2013 (p. 26855, i. Breath Sample Volume and Flow Rate). This section also requires the medical provider to certify that the driver is unable to meet the minimum breath sample requirement to operate an ignition interlock device, and sign under penalty of perjury that the information provided is true and correct. This certification is consistent with other departmental forms as well as Code of Civil Procedure section 2015.5(b).

§ 128.02. Re-Impose Ignition Interlock Device Restriction Term.

The purpose of Section 128.02 is to clarify statute which allows the department to use its discretion when re-imposing a person's ignition interlock device restriction when that person has previously failed to comply with the ignition interlock device requirements. The department is allowing the applicant to provide a new form DL 920 to establish re-compliance with the ignition interlock device restriction.

DEPARTMENTAL DETERMINATIONS

- *Technical, Theoretical and/or Empirical Studies, Reports or Documents:* None.
- *Reasonable Alternatives That Would Lessen Any Adverse Impact on Small Business:* No alternatives were considered or presented that would lessen any adverse impact on small businesses.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

- *Evidence Supporting Determination of No Significant Adverse Economic Impact on Business, Including the Ability to Compete:* This action impacts businesses in three ways. First, DUI program providers are required to submit to the department a form documenting the participant's non-compliance with program requirements. This provision is being adopted in regulation, however, program providers have been providing notice for several years. Second, ignition interlock device installers, as of January 1, 2019 are required to contact the department to verify a driver's eligibility prior to installing or removing a device. The installer is provided with direct departmental contact information to ensure the installer receives an expedited answer to their eligibility check. Lastly, ignition interlock manufacturers are required to develop a fee schedule and provide acknowledgement of the fee schedule with the application package. The department does not anticipate any of these process changes will create a significant adverse economic impact on businesses including California's ability to compete.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

- *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.
- *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.
- *Effect on Housing Costs:* None.
- *Local Agency/School District Mandates:* 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.
- *Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:* None.

Initial Statement of Reasons
DUI Programs / Ignition Interlock Devices

- *Small Business Impact:* This proposed action may have an impact on small businesses.
- *Potential Significant Statewide Adverse Economic Impact on Business:* This action is unlikely to have any significant statewide adverse economic impact on businesses. This action requires specified notifications to be made by manufacturers, installers, and DUI program providers, however, the department does not anticipate the proposed rules will have a significant statewide adverse economic impact on any businesses.

ECONOMIC IMPACT ASSESSMENT

(Government Code section 11346.3)

The department has made the following determinations related to this proposed regulatory action:

- *Creation or Elimination of Jobs Within the State of California*

The purpose of this proposed action is to provide clarity related to differing ignition interlock device pilot programs. The department does not anticipate the provisions being adopted in this regulation will create or eliminate jobs.

- *Creation or Elimination of Existing Businesses Within the State of California*

This action impacts manufacturers by requiring they ensure installers provide participants with a fee schedule and ensuring the device is certified by a laboratory that meets accreditation standards; impacts installers by requiring that they provide participants with the fee schedule and requiring that the installer verify with the department a participants eligibility prior to installing or removing a device from a vehicle; and impacts DUI program providers by requiring them to report to the department when a participant fails to comply with the DUI program. While these businesses will have to implement processes to ensure the required notifications occur, the department does not anticipate that developing those processes will create or eliminate existing businesses in California.

- *Expansion of Business Currently Doing Business Within the State of California*

The department does not anticipate this action expanding businesses currently doing business within California. Any increase in work experienced by the manufacturers, installers, or DUI program providers should not be so great that it would expand any of these businesses.

- *Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety and the State's Environment*

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. This action is not likely to have a significant impact on worker safety or the state's environment.