Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Highway Safety and Traffic Division
Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

PROPOSED RULEMAKING

7 CSR 60-2.030 Standards and Specifications.

PURPOSE: This rule clarifies the standards and specifications required for an ignition interlock device to be certified for use in Missouri.

(1) Device standards and specifications. To be certified, a breath alcohol ignition interlock device must:

(A) General.

1. Meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective March 8, 2014, and 80 FR 16720-16723 as published in the *Federal Register* on March 30, 2015 and effective March 30, 2015, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

2. Effective on and after January 1, 2019, be manufactured or assembled by an entity which possesses an ISO 9001 certification;

3. Have electro-chemical fuel cell sensor technology or other advanced technology approved by the Department;

4. Not be affected by humidity, dust, electromagnetic interference, smoke, exhaust fumes, food substance, or normal automobile vibration when used in accordance with device instructions;

5. Audibly or visually indicate when a 1.5 liter breath sample has been collected. The Division, at its discretion, may permit the adjustment of the breath volume requirement to as low as 1.2 liter, when provided documentation from a licensed physician verifying an applicable medical condition. The physician's documentation will be submitted in a format approved by the Division. Upon review, the Division will notify the operator in writing of approval or denial of a lowered breath volume;

6. Permit a vehicle to be restarted without requiring an additional breath test for three (3) minutes after the ignition has been turned off or the vehicle has stalled, except when the operator has failed to take a random test or has provided a breath sample which meets or exceeds the alcohol set point;

7. Have an anti-circumvention feature activated to deter bogus breath samples; and

8. Display on a label the message: "WARNING! ANY PERSON TAMPERING, CIRCUMVENTING OR OTHERWISE MISUSING THIS DEVICE IS GUILTY OF A CLASS A MISDEMEANOR".

(B) Information to operator.

1. Alert the operator of its readiness for a breath sample;

2. A visual pass/fail indicator of the BrAC, or a combination audio response and

visual pass/fail indicator;

3. Alert the operator of scheduled service at least seven (7) days prior to a scheduled service date;

4. Provide a warning to obtain service within seven (7) days following a missed scheduled service date, violations reset, and any act or attempt to tamper or circumvent a device;

5. The device will permanently lockout if service is not obtained within the seven (7) day warning period.

(C) Alcohol set point to start vehicle.

1. Have an alcohol set point below twenty-five thousandths (.025) for initial breath test to start the vehicle;

2. Permit a maximum of three (3) attempts to blow a breath sample below the alcohol set point within a ten- (10-) minute period;

3. Cause a fifteen- (15-) minute temporary lockout when three (3) failed startup attempts occur within a ten- (10-) minute period; and

4. Present a violations reset message when two (2) fifteen- (15-) minute temporary lockouts occur within a thirty (30) day period.

(D) Alcohol retest set point and running retest.

1. Provide a running retest feature;

2. Have an alcohol retest set point of twenty-five thousandths (.025);

3. Request a running retest within five (5) minutes after the start of the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter as long as the vehicle is running;

4. Activate the vehicle's horn, or other installed alarm, until the operator shuts off the engine when a device calculates a breath sample at or above the alcohol retest set point of twenty-five thousandths (.025) or when a device records a failure to provide a running retest sample within five (5) minutes;

(a) Any aftermarket alarm or siren installed in a vehicle by the ASP will be installed inside the passenger compartment of the vehicle; and

5. Present a violations reset message when three (3) running retest breath samples at or above the alcohol retest set point occur within a thirty- (30-) day period or when three (3) running retest refusals are recorded within a thirty- (30-) day period.

(E) Violations reset message.

1. Instruct the operator to obtain device service within seven (7) days following receipt of the message; and

2. Cause the vehicle to enter a permanent lockout condition when a device is not serviced within seven (7) days.

(F) Device calibration.

1. Utilize calibration devices that are listed on the "Highway Safety Programs; Conforming Products List of Calibrating Units for Breath Alcohol Testers" established by the United States Department of Transportation, National Highway Traffic Safety Administration, 77 FR 64588-64590 as published in the *Federal Register* on October 22, 2012 by the National Highway Traffic Safety Administration, 1200 New Jersey SE., Washington, DC 20590 and effective October 22, 2012, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

2. Calibrate devices at least every thirty (30) days, ± seven (7) days, or during each

monitoring service;

3. Be calibrated for accuracy by using a wet bath or dry gas alcohol standard with a reference value between 0.02 and 0.050 g/dL BrAC. The solution or gas should have a certificate of analysis that is traceable to the National Institute of Standards and Technology (NIST);

4. The device calibration must be within ± 0.005 BrAC of the calibration standard reference value;

5. House and use wet bath simulators in environmentally stable, temperature controlled settings. Utilize wet bath simulators containing mercury-in-glass thermometers or digital thermometers and read thirty-four (34) degrees Celsius, ± .2 degrees Celsius. Tubing length connecting the simulator to the interlock device will not exceed six inches in length; and

6. Store dry gas alcohol standard tanks in an environment where the temperature range remains between 50-104 degrees Fahrenheit and secured in a manner as to prevent harm to the public. The reference value will be adjusted for changes in elevation.

(G) Data storage and retention.

1. Have a sufficient internal memory to allow continuous recording and storage of all data for a minimum of thirty-seven (37) days;

2. Store data in a manner so the data will not be lost or affected by unintended data corruption, low vehicle battery voltage, loss of power supply, or disengagement or disconnection of the device;

3. Store data in a manner so that it can be printed in a report format that can be reasonably understood without reference to other information or documents;

4. Capture the date and time of: any use or attempted use of a vehicle, any act or attempt to tamper or circumvent the device, device malfunctions, running retest refusals, when a violation reset message was presented and any device servicing;

5. Capture the date, time, and breath alcohol concentration, in grams per two hundred ten (210) liters of air, of each breath sample provided to the device; and

6. Provide photo identification or digital images and global positioning data when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute.

(H) Photo identification or digital images when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute.

1. Not impede the field of vision of the driver for safe and legal operation of the vehicle;

2. Include a reference photo or digital image of the operator at installation that is included as part of their electronic record;

3. Provide a wide angle view of sufficient quality so the person providing a breath sample and his/her position in the vehicle can be clearly identified;

4. Provide a photo or digital image of sufficient quality and resolution so that the operator can be clearly identified in all lighting conditions including, but not limited to, extreme brightness, darkness and low light conditions;

5. Provide a photo or digital image for each successful completion of the initial breath test, successful completion of any running retest breath test, unsuccessful delivery of the initial breath test, unsuccessful delivery of any running retest breath test; and any refusal to take the breath test;

6. Indicate the date, time and BrAC reading when the photo or digital image was

taken;

(I) Real-Time Reporting.

1. Effective on and after January 1, 2019, incorporate real-time reporting capabilities on all new installations of devices that require a camera by statute or court order;

2. Effective on and after August 1, 2019, incorporate real-time reporting capabilities on all currently installed devices that require a camera by statute or court order except when the operator is within three (3) months of removal of the device unless they have received a violations reset during that time period;

3. Provide near real-time data transmission between the operator's device and the manufacturer's server while the device is in use;

4. Make available for viewing, when a violation occurs, all data, including photos or digital imaging and global positioning system coordinates, if required, on the manufacturer's website within ten (10) minutes from when the data was recorded on the device or as soon as cellular transmission will permit. This includes any last event data recorded after power off or as power is restored (e.g., skipped running retest data);

5. Make available for viewing, during normal operation without violations, all data, including photos or digital imaging and global positioning system coordinates, if required, on the manufacturer's website within twelve (12) hours from when the data was recorded on the device or as soon as cellular transmission will permit. This includes any last event data recorded after power off or as power is restored (e.g., skipped running retest data);

6. Provide the date of the last upload on the operator's web account; and,

7. Utilize a cell phone company as well as a cellular contract that includes roaming services or a data transmission service. In cases where there is no cellular reception or data transmission, the device will store the data and send it as soon as reception is available or restored.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.440-302.462, RSMo, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.030. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.030, effective Aug. 28, 2003. Emergency amendment filed May 7, 2009, effective July 1, 2009, expired Dec. 30, 2009. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Emergency amendment filed April 8, 2010, effective April 18, 2010, expired Nov. 30, 2010. Amended: Filed April 8, 2010, effective Nov. 30, 2010. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expired March 29, 2014. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Rescinded and Readopted: Filed March 9, 2018.*

Original authority: 577.600–577.614, see **Missouri Revised Statutes and 226.130, RSMo 1939, amended 1993, 1995.*

PUBLIC COST: This proposed rulemaking will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rulemaking will affect the costs to private entities, including small businesses. The annual fiscal impact to ignition interlock manufacturers is estimated to be

$18,810.60 to $28,340.00 to comply with the proposed rulemaking. In the event a device cannot meet the proposed rulemaking, the device will be decertified. The annual cost to the manufacturer if a device is decertified is estimated to be $164,874.00 and $45,900.00 for their authorized service providers.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rulemaking with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*