COPY
RECEIVED
OCT 17 2016
SECRETARY OF STATE
ADMINISTRATIVE RULES

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

PROPOSED AMENDMENT

7 CSR 60-2.010 Definitions. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This proposed amendment defines the terms used in the breath alcohol ignition interlock device certification and operational requirements.

(1) Definitions.

(A) The following words and terms as used in these requirements shall have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set for the rolling retests;

2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device is set to lock the ignition. The alcohol setpoint is the nominal lock point at which the ignition interlock device is set at the time of calibration;

3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;

4. Authorized service provider—A person, company, or authorized franchise who is certified by the state of Missouri to provide breath alcohol ignition interlock devices under sections 577.600**, 577.605, 577.612, and** *[–577.614]***302.440-302.462**, RSMo;

5. Bogus breath sample—Any gas sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;

6. Breath alcohol concentration (BrAC)—The number of grams of alcohol (% weight/volume) per two hundred ten (210) liters of breath;

7. Breath alcohol ignition interlock device (BAIID)—A mechanical unit that is installed in a vehicle which requires the taking of a BrAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BrAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine and will provide a warning message. If the unit detects a BrAC test result at or above the alcohol setpoint, the vehicle will be prohibited from starting;

8. Breath sample—Expired human breath containing primarily alveolar air;

9. Calibration—The process which ensures an accurate alcohol concentration reading on a device;

10. Circumvention—An unauthorized, intentional, or overt act or attempt to start, drive, or operate a vehicle equipped with a breath alcohol ignition interlock device without the driver of the vehicle providing a pure breath sample **and picture, if a camera unit is required**;

11. Committee—The persons delegated to conduct informal reviews of suspension or revocation of a device by the Missouri Highways and Transportation Commission;

12. Designated monitoring period—The period of time indicated by the Department of Revenue for required monitoring of the driver's ignition interlock use by the authorized service

JOINT COMMITTEE ON
OCT 17 2016
ADMINISTRATIVE RULES

provider;

13. Device—Breath alcohol ignition interlock device (BAIID);

14. Download—The transfer of information from the interlock device's memory onto disk or other electronic or digital transfer protocol;

15. Emergency service—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

16. Filtered breath sample—A breath sample which has been filtered through a substance in an attempt to remove alcohol from the sample;

17. Global positioning system **(GPS)**—A feature of the device that will log the location (longitude and latitude), date, and time of each breath sample including any refusal, any circumvention attempt, and any attempt to tamper with the ignition interlock device;

18. Independent laboratory—A laboratory which is properly equipped and staffed to conduct laboratory tests on ignition interlock devices;

19. Initial breath test—A breath test required to start a vehicle to ensure that the driver's BrAC is below the alcohol setpoint;

20. Installation—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by installers;

21. Installer—A dealer, distributor, supplier, individual, or service center who provides device calibration, installation, and other related activities as required by the authorized service provider;

22. Lockout—The ability of the device to prevent a vehicle's engine from starting unless it is serviced or recalibrated;

23. Mobile Service – A portable operation of a service center provider, whether contained within a vehicle or temporarily erected on location, which includes all personnel and equipment necessary for a service technician to conduct ignition interlock device related business and services, separately and simultaneously, with its parent fixed-site service center. A mobile service center shall be part of a service center which has a fixed location for a coverage radius of 100 air-miles within Missouri. Mobile service shall comply with all the certification requirements provided herein.

2*[3]***4**. NHTSA—Federal agency known as the National Highway Traffic Safety Administration;

2*[4]***5**. Operator—Any person who operates a vehicle that has a court-ordered or Department of Revenue required breath alcohol ignition interlock device installed;

2*[5]***6**. Permanent lockout—A feature of a device in which a vehicle will not start until the device is reset by a device installer;

2*[6]***7**. Photo ID technology—A feature of the device that incorporates technology that will photograph the person who is providing the breath test**, or tampering or circumventing the device**;

2*[7]***8**. Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the ignition interlock device;

2*[8]***9**. Pure breath sample—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

30. Real-Time Reporting – The near real-time transmission of ignition interlock data between the authorized service provider's server and the device's relay unit while the

device is in use and shall be available for viewing by state officials in Missouri without delay as cellular reception permits.

*[29]***31**. Reinstallation—Replacing a breath alcohol ignition interlock device in a vehicle by an installer after it has been removed for service;

3*[0]***2**. Retest—Two (2) additional chances to provide a breath sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the rolling retest;

3*[1]***3**. Revocation—A revocation is a removal of a device from the approved list and requires reapplication under 7 CSR 60-2.020. After revocation, an authorized service provider must wait at least one (1) year or longer, if determined by Traffic and Highway Safety Division or the committee, before reapplication;

3*[2]***4**. Rolling retest—A subsequent breath test that must be conducted within five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter while the vehicle is in operation;

3*[3]***5**. Service lockout—A feature of the breath alcohol ignition interlock device which will not allow a breath test and will not allow the vehicle to start until the device is serviced and recalibrated as required;

3*[4]***6**. Suspension—The period after a finding by the Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee designated by the Missouri Highways and Transportation Commission to conduct informal review of a device, that **a device** is to be or has been removed from the list of approved devices. A suspension **shall not exceed one (1) year** *[is temporary]* and may not require the manufacturer to go through the **device** approval procedure although the Traffic and Highway Safety Division or the committee may impose **additional** requirements **on the device** before the suspension is removed;

3*[5]***7**. Tampering—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering measures, so a driver can start the vehicle without taking and passing an initial breath test;

3*[6]***8**. Temporary lockout—A feature of the device which will not allow the vehicle to start for fifteen (15) minutes after three (3) failed attempts to blow a pure breath sample; and

3*[7]***9**. Violations reset—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

A. Two (2) fifteen- (15-) minute temporary lockouts within a thirty- (30-) day period;

B. Any three (3) refusals to provide a retest sample within a thirty- (30-) day period;

C. Any three (3) breath samples, after startup, **at or** above the alcohol setpoint within a thirty- (30-) day period; or

D. Any attempts to circumvent or tamper with a device.

AUTHORITY: sections ***302.440-302.462, RSMo,*** *302.060, 302.304, 302.309, 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 60-2.010. 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 60-2.010, 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. Amended: Filed October 17, 2016.

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

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

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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.*

COPY
RECEIVED
OCT 17 2016
SECRETARY OF STATE
ADMINISTRATIVE RULES

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

PROPOSED AMENDMENT

7 CSR 60-2.020 Approval Procedure. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This proposed amendment outlines the necessary steps for manufacturers to get their interlock devices approved and certified in the state of Missouri.

[PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.]

(1) Approval Procedure.

(A) Approval Requirement.

1. No ignition interlock device may be leased, sold, serviced, repaired, installed, or used in the state of Missouri under sections 577.600, **577.605, 577.612, and** *[–577.614]***302.440 - 302.462**, RSMo, unless it has been approved by the Missouri Department of Transportation in accordance with the requirements stated herein.

(B) Application.

1. Application to become an authorized service provider must be made by submitting a letter requesting approval of a breath alcohol ignition interlock device to the state of Missouri, Department of Transportation, Traffic and Highway Safety Division, PO Box 270, Jefferson City, MO 65102, in the manner described herein. All applicants must certify that their device—

A. Does not impede the safe operation of a vehicle;

B. Minimizes opportunities to circumvent the device; and

C. Prevents an operator from starting a vehicle when the operator has a breath alcohol concentration which exceeds the alcohol setpoint.

2. An application for certification must include all of the following:

A. A written request for certification of a device on the company's letterhead, signed by an authorized representative of the company;

B. The name and business address of the applicant;

C. The name and model number of the device;

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

E. A quality control plan that outlines the requirements for installation sites, service centers, and technicians who install and/or service ignition interlock devices. The plan must be submitted annually, or when changes occur, and must include, but not be limited to, the following:

(I) Certification that ignition interlock technicians do not have two (2) or more alcohol-

JOINT COMMITTEE ON
OCT 17 2016
ADMINISTRATIVE RULES

related enforcement contacts as defined in section 302.525, RSMo, or a manslaughter, involuntary manslaughter, or any other type of crime or conduct involving moral turpitude that would compromise the program;

(II) Installation sites and service centers are operating as a business meeting all federal, state, and local government regulations;

(III) The process the authorized service provider will use for ongoing supervision of the sites and technicians in the state; and

(IV) Outline suspension and revocation procedures for installation sites, service centers, and technicians for non-compliance of requirements set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 or any policies outlined by the authorized service provider;

F. *[Before May 8, 2014, a complete and certified copy of data from an independent laboratory demonstrating that the device meets or exceeds 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" 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. On and after May 8, 2014, a]*A complete and certified copy of data from an independent laboratory demonstrating that the device meets or exceeds 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 *[that shall become]*effective*[beginning on]* March 8, 2014, which is hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

G. A complete listing of all installers that includes the name, location, phone number, contact name, and hours of operation;

H. The applicant's toll-free customer service/question/complaint hot-line number; and

I. A separate application is required for devices that differ in any operational aspect.

3. The applicant seeking certification shall—

A. Agree to provide near real-time transmission of data of installed devices as set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 regardless of the circumstances which could cause such interruption. Should the authorized service provider become unable to comply with any of these requirements, the authorized service provider shall notify the Missouri Department of Transportation, Traffic and Highway Safety Division, in writing.

*[A]***B**. Agree to ensure any service performed outside the state of Missouri on a device installed pursuant to Missouri law shall be in compliance with all requirements included herein;

*[B]***C**. Agree to ensure proper record keeping and provide testimony relating to any aspect of the installation, service, repair, removal, interpretation of any report, or information recorded in the data storage system of a device;

*[C]***D**. Advise the Missouri Department of Transportation, Traffic and Highway Safety Division, whether the device for which certification is being sought in Missouri is the subject of any action to disallow, or has ever been, in any way, disallowed for use in another state whether such action occurred before or after approval in Missouri and if or when such action is or has been appealed in the other state and the outcome of the appeal;

*[D]***E**. Upon request of the Missouri Department of Transportation, Traffic and Highway Safety Division, and/or an agent of the state, for each device submitted for certification or certified under this section, agree to install the device with all proposed anti-circumvention features activated in a vehicle provided by the state, and/or an agent of the state; and

*[E]***F**. The state, and/or an agent of the state, may conduct compliance testing on the device submitted for certification and periodically throughout the certification period.

4. All compliance costs associated with the requirements set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 shall be borne by the applicant or authorized service provider.

(C) Approval.

1. The state of Missouri will issue a letter of certification or a letter of refusal to certify within sixty (60) days after *[receipt of a completed application]***completion of compliance testing and reporting requirements**. No device should be deemed approved, regardless of the time frame, unless the applicant has received written notification from the state of Missouri, Department of Transportation, Traffic and Highway Safety Division.

2. The state of Missouri will notify applicants for certification if their application is incomplete and, if the application is incomplete, will specify what information or documents are needed to complete the application.

3. The state of Missouri, Department of Transportation, Traffic and Highway Safety Division, will publish and maintain a list of approved devices. The list will be updated as changes occur.

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 60-2.020. 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 60-2.020, effective Aug. 28, 2003. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expired March 29, 2014. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Amended: Filed October 17, 2016.*

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

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

PRIVATE COST: This proposed amendment may cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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.*

COPY

RECEIVED
OCT 17 2016
SECRETARY OF STATE
ADMINISTRATIVE RULES

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

PROPOSED AMENDMENT

7 CSR 60-2.030 Standards and Specifications. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This proposed amendment outlines the minimum standards and specifications for ignition interlock device approval and certification in the state of Missouri.

[PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.]

(1) Standards and Specifications.

(A) *[Before May 8, 2014, all devices installed into a vehicle must be based on electro-chemical fuel cell sensor technology and shall 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" 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. On and after May 8, 2014, a]*All breath alcohol ignition interlock devices installed into a vehicle must be based on electro-chemical fuel cell sensor technology and shall 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* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and *[that shall become]*effective *[beginning on]*May 8, 2014, which is hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication.

1. Starting March 1, 2018, all devices approved by the Missouri Department of Transportation, Traffic and Highway Safety Division, shall provide the following real-time reporting capabilities -

A. Near real-time data transmission between the ignition interlock relay unit and the authorized service provider's server while the device is in use. All data, including photos and GPS coordinates if required, shall be available for viewing on the authorized service provider'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 (e.g., skipped rolling retest data);

B. The capability to periodically awaken the device for data retrieval when not in use;

JOINT COMMITTEE ON
OCT 17 2016
ADMINISTRATIVE RULES

C. The date of the last upload noted on the driver's web account;

D. Utilize a reliable cell phone company as well as a cellular contract that includes roaming services. In cases where there is no cellular reception, the device shall store the data and send it as soon as cellular reception is available; and

E. The ability to contact the driver (program participant) when the device has not transmitted data after five (5) days to determine why data is not being transmitted. If the data cannot be transmitted after ten (10) days, the authorized service provider shall contact the Department of Transportation, Traffic and Highway Safety Division to indicate why the data is not being transmitted.

2. All devices approved by the Missouri Department of Transportation, Traffic and Highway Safety Division, must have a data storage system with sufficient internal memory to allow continuous recording and maintaining of all data for a minimum of thirty-seven days; store data with a backup system or in such a manner as not to be lost or affected by unintended data corruption, low vehicle battery voltage, loss of power supply or disengagement or disconnection of the device.

3. Photo identification technology when required by the court supervising authority, Department of Revenue, or Missouri statute must–

A. Include a reference photo of the participant at installation that is included as part of their electronic record;

B. Provide a wide angle view of the front cabin, including the passenger side, to help ensure a person is in the photo and shall be able to recognize that it is taking a photo of the person driving. The photo shall capture the entire face of the driver that can clearly identify the person providing the breath sample;

C. Produce a photo that is identifiable verification of the driver in all lighting conditions including extreme brightness, darkness and low light conditions; and

D. Include a photo for each requested breath test during the initial attempt to start the vehicle, all initial start retests, all rolling retests and whenever a violation occurs.

*[1]***4.** All devices approved by the Missouri Department of Transportation, Traffic and Highway Safety Division, must contain an anti-circumvention feature to help deter bogus breath samples and that feature should not be disengaged by any other person, including, but not limited to, the installer.

*[2]***5.** All devices approved by the Missouri Department of Transportation, Traffic and Highway Safety Division, shall be programmed to allow the 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 driver has failed to take a random test or has provided a breath sample over the alcohol setpoint.

*[3]***6.** An ignition interlock installer shall—

A. Be prohibited from installing **or servicing** an ignition interlock device on a vehicle that is inoperable. Any vehicle towed in for installation **or servicing** must be driven away from the installation facility of its own power;

B. Ensure that a driver or other unauthorized person does not witness the installation or removal of an ignition interlock device; and

C. Inspect all vehicles prior to installation to determine that mechanical and electrical parts of the vehicle affected by an ignition interlock device are deemed in acceptable condition by the technician and not install a device unless and until the vehicle is in acceptable condition.

*[4]*7. The following anti-tampering measures shall be utilized when installing an ignition interlock device:

A. Place all connections between a device and the vehicle under the dash or in an inconspicuous area of the vehicle;

B. Cover all of the following connections with unique and easily identifiable seal, epoxy, resin, wire, sheathing, or tape:

(I) Any wiring between an ignition interlock device and the vehicle;

(II) All wires used to install the device that are not inside a secured enclosure; and

(III) All exposed electrical connections.

(B) All approved devices must have an alcohol setpoint of twenty-five thousandths (.025) for initial startup.

1. A device shall be programmed to allow a maximum of three (3) attempts to blow a breath sample below the alcohol setpoint within a ten- (10-) minute period.

2. Three (3) failed startup attempts within a ten- (10-) minute period shall result in a fifteen- (15-) minute temporary lockout.

3. Two (2) fifteen- (15-) minute temporary lockouts within a thirty- (30-) day period will result in a violations reset message.

4. The violations reset message shall instruct the operator to return the device to the installer for servicing within seven (7) days.

A. As the result of a reset message, the installer must download and calibrate the device.

B. The installer must report all violations to the court-ordered supervising authority within three (3) working days.

5. If the vehicle is not returned to the installer within seven (7) days, the device shall cause the vehicle to enter a permanent lockout condition.

(C) A rolling retest feature is required for all devices.

1. A device shall be programmed to require a rolling 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 in operation.

2. Any breath sample **at or** above the alcohol retest setpoint of twenty-five thousandths (.025) or any failure to provide a rolling retest sample within five (5) minutes shall activate the vehicle's horn or other installed alarm and/or cause the vehicle's emergency lights to flash until the engine is shut off by the operator. Any three (3) breath samples, after startup, **at or** above the alcohol setpoint within a thirty- (30-) day period or three (3) refusals by the driver to provide a retest sample within a thirty- (30-) day period shall result in a violations reset message.

3. The violations reset message shall instruct the operator to return the device to the installer for servicing within seven (7) days.

A. As the result of a reset message, the installer must download and calibrate the device.

B. The installer must report all violations to the court-ordered supervising authority within three (3) working days.

4. If the vehicle is not returned to the installer within seven (7) days, the device shall cause the vehicle to enter a permanent lockout condition.

(D) The device shall be calibrated at least once every thirty (30) days. If the vehicle is not returned to the installer within seven (7) days of a scheduled service date, the device shall cause the vehicle to enter a service lockout condition.

(E) A device shall record data in its memory in such a manner that a hard copy report can be printed which includes all of the following information:

1. The date and time of any use or attempted use of a vehicle;

2. The date and time of any act or attempt to tamper or circumvent the device;

3. 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;

4. The date and time of any malfunctions of the device;

5. The date and time of any failures to provide retest samples;

6. The date that a "service required" (that is, violations reset) message is issued to the operator;

7. The date that any service is performed; and

8. Photo identification and global positioning data when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute. The GPS and photo ID data should be captured during the events outlined in paragraphs 2. through 5. above.

(F) A device must provide all of the following information to an operator:

1. The device's readiness for acceptance of a breath sample;

2. A numeric display of the breath alcohol concentration in grams per two hundred ten (210) liters of air, or a visual pass/fail indicator, or a combination audio response and visual pass/fail indicator, or a combination audio response and a numeric display;

3. A reminder seven (7) *[working]*days prior to a scheduled service date; and

4. A warning to obtain service within seven (7) days if any of the following conditions occur:

A. Any act or attempt to tamper or circumvent the device; and

B. A scheduled service date is missed.

(G) The sale or use of any type of remote code or reset feature allowing a driver to bypass an installed ignition interlock without providing **all required** pure breath samples *[at startup or during operation of the vehicle]*is prohibited. **The remote code or reset feature shall change for each use and shall only be good for a six hour (6) period. Each use of a remote code or reset feature shall be specified on the driver's data log.**

(H) Shipping of ignition interlock devices or equipment to anyone other than the ignition interlock manufacturer, installation site, service center or state authority is prohibited.

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. Amended: Filed: October 17, 2016.*

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

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

PRIVATE COST: This proposed amendment will affect the costs to private entities, including

small businesses. The fiscal impact to ignition interlock manufacturers, distributors, and installers cannot be determined because it is impossible to predict if they will be able to meet the requirements and the number of new installations that this proposed amendment will impact. It also is difficult to determine the number of devices that will need to be switched to another device. Therefore, the dollar amount of the full impact of costs cannot be determined at this time, but is assumed that it will be more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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.*

FISCAL NOTE
PRIVATE COST

I. **Department Title:** 7 – Department of Transportation
Division Title: 60 – Traffic and Highway Safety Division
Chapter Title: 2 – Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

Rule Number and Title:	7 CSR 60-2.030 – Standards and Specifications
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2	Ignition Interlock Manufacturers	Unknown fiscal impact
2	Ignition Interlock Distributors	Unknown fiscal impact
75	Ignition Interlock Installers	Unknown fiscal impact

III. WORKSHEET

There are currently four breath alcohol ignition interlock manufacturers with six devices that are on the list of approved devices. All of the ignition interlock devices are similar in that they provide a physical barrier to prevent the operation of a motor vehicle by drivers who have a breath alcohol concentration above a specified percent. A breath sample must be provided each time the driver attempts to start their vehicle and at variable times during operation of the vehicle Each of the manufacturers differ a little in their business models in terms of providing service to their clients (DWI offenders) and how the information is transmitted from their local installation sites and service centers. In addition, features such as photo identification vary in terms of what is captured in the photo and the quality of the photo.

The proposed amendment will require "real-time" reporting. This will require near real-time transmission of ignition interlock data between the authorized service provider's server and the devices relay unit while the device is in use and shall be available for viewing by state officials in Missouri starting March 1, 2018. Many of the manufacturers already provide this service. However, a few of the devices currently utilized in the state only provide the ignition interlock data when the device is downloaded every 30 days.

This provides some challenges in terms of responding to client complaints and also for courts and probation and parole officers to monitor offenders. By requiring near real-time transmission of data, state and local officials can respond more quickly to any complaints and/or violations that are reported.

In addition, the proposed amendment defines requirements for photo identification technology when required by statute or court order. Photo identification technology is not only utilized to clearly identify who is providing the breath sample but also to place the person behind the wheel driving the vehicle. Photo identification allows state and local officials to take further action on a DWI offender who continues to drink and drive while on the ignition interlock device. The technology allows for proof of who provided the breath test and that they were driving the vehicle.

The amendment will also require that the ignition interlock device have a data storage system with sufficient internal memory to allow continuous recording and maintaining of all data for a minimum of thirty-seven days. This will prevent the clients from being called in early because the memory on their device is full and needs to be downloaded more frequently. The clients are charged a fee each time they come in for a download and some were being required to come in more frequently than required by rule.

The fiscal impact to ignition interlock manufacturers, distributors, and installers is unknown. It is impossible to predict if they will be able to meet the requirements and the number of new installations that this proposed amendment will impact. It is also difficult to determine the number of devices that will need to be switched to another device after the rule goes into effect. Many of the manufacturers, distributors and installation sites may be able to provide the services required under the rule.

Total Estimated Costs for FY'17 and Subsequent Years Unknown Fiscal Impact

IV. ASSUMPTIONS

1. Research used to support information about the ignition interlock detection methods and program requirements: *Best Practices for Alcohol Interlock Programs,* Traffic Injury Research Foundation, April 2001; and *Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006-2011,* National Highway Traffic Safety Administration, May 2015.
2. Any other costs not identified in this fiscal note are unforeseeable.

COPY

RECEIVED
OCT 17 2016
SECRETARY OF STATE
ADMINISTRATIVE RULES

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

PROPOSED AMENDMENT

7 CSR 60-2.040 Responsibilities of Authorized Service Providers. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This proposed amendment outlines the responsibilities of breath alcohol ignition interlock device authorized service providers.

[PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.]

(1) Responsibilities of Authorized Service Providers.

(A) The responsibilities of a breath alcohol ignition interlock device authorized service provider to the state of Missouri shall include:

1. The authorized service provider shall carry product liability insurance with minimum liability limits of one (1) million dollars per occurrence and three (3) million dollars aggregate total. The liability insurance shall include coverage for defects in product design and materials as well as manufacturing, calibration, installation, and removal of devices. The authorized service provider shall ensure that its installers are named additional insureds or that its installers carry like insurance in the amounts stated herein. The proof of insurance shall include a statement from the insurance company that thirty (30) days' notice will be given to the director, Traffic and Highway Safety Division, before cancellation of the insurance. Proof of insurance must be submitted to the Missouri Department of Transportation, Traffic and Highway Safety Division within thirty (30) days after a Letter of Certification has been issued. Failure to provide certificate of insurance may result in suspension or revocation of approval for the device;

2. The authorized service provider shall indemnify and hold harmless the state of Missouri and its officers, employees, and agents from all claims, demands, actions, and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the authorized service provider or its installers relating to the installation, service, repair, use, or removal of a device;

3. The authorized service provider shall provide expert or other required testimony in any civil or criminal proceedings or administrative hearings as to the method of manufacture of the device, how said device functions, the testing protocol by which the device was evaluated for approval, and interpretation of any report or information recorded in the data storage system of the device. Failure to provide testimony may result in suspension or revocation of approval for the device;

4. *[Before May 8, 2014, the authorized service provider shall notify the Missouri Department of Transportation, Traffic and Highway Safety Division in writing of any material modification or alteration in the components, design, or installation and operating instructions of any device*

JOINT COMMITTEE ON
OCT 17 2016
ADMINISTRATIVE RULES

*approved for use in the state of Missouri and shall provide the Traffic and Highway Safety Division satisfactory proof that any modifications or alterations do not adversely affect the ability of the device to satisfy 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" 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. Also, on and after May 8, 2014, t]***The authorized service provider shall notify the Missouri Department of Transportation, Traffic and Highway Safety Division in writing of any material modification or alteration in the components, design, or installation and operating instructions of any device approved for use in the state of Missouri and shall provide the Traffic and Highway Safety Division satisfactory proof that any modifications or alterations do not adversely affect the ability of the device to satisfy 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 *[that shall become]*effective *[beginning on]*May 8, 2014, which is hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

5. The authorized service provider must provide informational materials to the Division of Probation and Parole, the circuit courts (including circuit, associate, and municipal divisions), and the Department of Revenue for distribution to operators at no cost;

6. In cases of operator noncompliance, the authorized service provider or his/her installer must notify the appropriate court-ordered supervising authority before the end of the next working day. Noncompliance shall include tampering, circumvention, violations resets, high breath alcohol concentration (BrAC), missing a scheduled service date, or other noncompliance as determined by the referring court;

7. The authorized service provider shall notify the appropriate court-ordered supervising authority by the end of the next working day of removal of a device;

8. The authorized service provider, installation site, and service center shall conduct physical tamper inspections any time the device is serviced or given routine inspection, maintenance, or repair. Tamper inspections shall include the following:

A. Inspection of all external wiring, insulation, connections, tamper seals, and sheathing for the device and where the device connects to the vehicle; and

B. Checking the device for proper operation to ensure tamper detection capabilities;

9. The authorized service provider must immediately notify the chief law enforcement official of the county, or a city not within a county, where the installer is located, and the court-ordered supervising authority of any evidence of tampering with or circumvention of the device. The evidence must be preserved by the authorized service provider or his/her installer until otherwise notified by local law enforcement officials;

10. The authorized service provider must provide summary reports every thirty (30) days to the court-ordered supervising authority. The summary reports must contain a summary of violations, the number of starts, and all noncompliance on devices placed in service in the state of Missouri under sections 577.600, **577.605, 577.612, and** *[–577.614]***302.440-302.462**, RSMo;

11. The authorized service provider must provide to the court-ordered supervising authority additional reports, to include, but not be limited to, records of installation, calibrations, maintenance checks, and usage records on devices placed in service in the state of Missouri under sections 577.600, **577.605, 577.612, and** *[–577.614]***302.440-302.462,** RSMo. These records shall be agreed upon and transmitted using electronic transfer protocols or in hard copy;

12. The authorized service provider must provide a quarterly status report to the Missouri Department of Transportation, Traffic and Highway Safety Division. The first quarter of each year shall be January 1 through March 31. The quarterly reports should reach the Traffic and Highway Safety Division on or before the fifteenth of the month immediately following the end of the quarter. The reports shall be filed electronically and contain the following information: the name of the ignition interlock device, total number of devices in operation in Missouri each quarter at the time of reporting, total number of devices installed during the quarter, total number of voluntary installations during the quarter, total number of devices removed during the quarter, total number of breath tests, total number of breath alcohol tests resulting in a BrAC **at or** above the alcohol setpoint, total number of attempts to circumvent the device as defined in 7 CSR 60-2.010, total number of vehicle starts, total number of miles driven, and the total number of devices that malfunctioned or were defective;

13. The authorized service provider shall grant the state of Missouri, or an agent of the state, the right to inspect or request copies of any and all operator files and records on a random basis at no cost;

14. The authorized service provider shall supply for each ignition interlock device installed as a result of a Missouri ignition interlock requirement a warning label **as required in 302.460, RSMo**, *[which shall not be less than one-half inch (1/2") in height by three inches (3") in length and shall]*contain**ing** the following language: "WARNING! ANY PERSON TAMPERING, CIRCUMVENTING OR OTHERWISE MISUSING THIS DEVICE IS GUILTY OF A CLASS A MISDEMEANOR.";

15. The authorized service provider must notify the Traffic and Highway Safety Division electronically of changes in the status of any installer and additions or deletions or other changes to its complete listing of all installers that includes the name, location, phone number, and contact name. Such notification shall occur at least once per month and shall occur more frequently if additional changes are made;

16. Data downloaded from an ignition interlock device shall be—

A. Reviewed by the authorized service provider for any evidence of violations reset, tampering, and/or circumvention as defined in 7 CSR 60-2.010 for the designated monitoring period; and

B. All information obtained as a result of each calibration or inspection must be retained by the authorized service provider for three (3) years from the date the ignition interlock device is removed from the vehicle;

17. The authorized service provider shall electronically notify the Department of Revenue in a format as determined by the director of revenue within one (1) working day of the following:

A. The date the ignition interlock device was installed;

B. A service lockout condition;

C. The date the ignition interlock device was removed; and

D. The completion of the designated monitoring period of ignition interlock use by the driver with no violation resets, tampering, and/or circumventions as defined in 7 CSR 60-2.010;

18. Each installation site and service center must maintain records documenting all

calibrations, downloads, and any other services performed on an ignition interlock device, including service of a violation reset; and

19. Retention of the record of installation, calibrations, downloads, service, and associated invoices must be maintained for a minimum of three (3) years **from the date the device is removed from the vehicle.**

(B) The responsibilities of an authorized service provider to the operator shall include:

1. Written instructions on how to clean and care for the device;

2. Written instructions on what type of vehicle malfunctions or repairs may affect the device, and what to do when such repairs are necessary;

3. Written and hands-on training for the operator, and all persons who will use the vehicle, on how to use the device after it is installed in the operator's vehicle. Training shall include operation, maintenance, and safeguards against improper operations;

4. A twenty-four- (24-) hour toll-free telephone number that the operator may contact to receive assistance in the event of device failure or vehicle problems related to the interlock device. Calls must either be answered by an ignition interlock technician qualified to service the manufacturer's ignition interlock device, or the call must be returned by a qualified technician within thirty (30) minutes of the original call.

A. Assistance shall include technical information, tow service, and/or road service.

B. Assistance related to the failure of a device should be provided within two (2) hours.

C. The device must be made functional within twenty-four (24) hours from when the call for assistance is made or the device must be replaced;

5. Restoration of the operator's vehicle to its original condition after removal of the breath alcohol ignition interlock device; and

6. Access to an enclosed building with a separate waiting area for operators. If installation is by a mobile unit, the operator must have a separate, enclosed waiting area available. **A mobile service center shall be part of a service center which has a fixed location within Missouri and shall comply with all the certification requirements herein, including operating within a 100 air-mile radius of the fixed location.**

(C) The responsibilities of an authorized service provider to the installer shall include:

1. Authorized service providers shall ensure that installers follow certified standards and specifications for service;

2. Authorized service providers shall ensure that installers have the appropriate skills, equipment, and facilities necessary to comply with all of the certification and operational requirements outlined herein; and

3. Authorized service providers shall ensure that installers comply with all of the reporting requirements outlined herein.

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 60-2.040. 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 60-2.040, 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 Sept. 12, 2013, effective Oct. 1, 2013, expired March 29, 2014. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Amended: Filed October 17, 2016.*

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

amended 1993, 1995.

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

PRIVATE COST: This proposed amendment will affect the costs to private entities, including small businesses. The fiscal impact to ignition interlock manufacturers, distributors, and installers cannot be determined because it is impossible to predict if they will be able to meet the requirements and the number of new installations that this proposed amendment will impact. It also is difficult to determine the number of devices that will need to be switched to another device. Therefore, the dollar amount of the full impact of costs cannot be determined at this time, but is assumed that it will be more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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.*

FISCAL NOTE
PRIVATE COST

I. **Department Title:** 7 – Department of Transportation
Division Title: 60 – Traffic and Highway Safety Division
Chapter Title: 2 – Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

Rule Number and Title:	7 CSR 60-2.040 – Responsibilities of Authorized Service Providers
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2	Ignition Interlock Manufacturers	Unknown fiscal impact
2	Ignition Interlock Distributors	Unknown fiscal impact
75	Ignition Interlock Installers	Unknown fiscal impact

III. WORKSHEET

There are currently four breath alcohol ignition interlock manufacturers with six devices that are on the list of approved devices. All of the ignition interlock devices are similar in that they provide a physical barrier to prevent the operation of a motor vehicle by drivers who have a breath alcohol concentration above a specified percent. A breath sample must be provided each time the driver attempts to start their vehicle and at variable times during operation of the vehicle Each of the manufacturers differ a little in their business models in terms of providing service to their clients (DWI offenders) and how the information is transmitted from their local installation sites and service centers. In addition, features such as photo identification vary in terms of what is captured in the photo and the quality.

Mobile service is allowed in the state but needs to be defined in terms of what is allowable to ensure integrity in the program and public safety. The proposed amendment will define mobile service and what will be allowed in the state.

The fiscal impact to ignition interlock manufacturers and installers is unknown. It is impossible to predict if they will be able to meet the requirements and the number of new

installations that this rule will impact. It is also difficult to determine the number of devices that will need to be switched to another device after the rule goes into effect. The manufacturers that provide mobile service may have sufficient fixed locations within Missouri to comply with the 100 air-mile radius for the mobile installation sites.

It is also difficult to know what changes will need to be made to change the business model and account for the new requirements for mobile services. This may only impact one ignition interlock manufacturer and it is uncertain if the radius defined in the proposed amendment will impact their ignition interlock program.

Total Estimated Costs for FY'17 and Subsequent Years Unknown Fiscal Impact

IV. ASSUMPTIONS

1. Research used to support information about the ignition interlock detection methods and program requirements: *Best Practices for Alcohol Interlock Programs,* Traffic Injury Research Foundation, April 2001; and *Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006-2011,* National Highway Traffic Safety Administration, May 2015.
2. Any other costs not identified in this fiscal note are unforeseeable.

RECEIVED
OCT 17 2016
SECRETARY OF STATE
ADMINISTRATIVE RULES
COPY

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

PROPOSED AMENDMENT

7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This proposed amendment outlines the security requirements of the authorized service providers.

(1) Security.

(A) The authorized service providers shall be responsible for ensuring that the installers comply with all of the following security requirements:

1. Only authorized technicians of an installer may observe the installation of a device. Reasonable security measures must be taken to prevent the operator from observing the installation of a device, or obtaining access to installation materials;

2. An installer is prohibited from assisting or facilitating any tampering or circumvention of a device;

3. An installer shall not install or service a device on a vehicle owned or operated by*[any of its employees; and]*:

A. Any of its employees;

B. Any employee relatives including;

I. Spouse or domestic partner of an employee;

II. A parent or stepparent of an employee;

III. A parent or stepparent of an employee's spouse or domestic partner;

IV. A child or stepchild of an employee;

V. A spouse or domestic partner of an employee's child or stepchild;

VI. A grandparent of an employee;

VII. A grandparent of an employee's spouse or domestic partner;

VIII. A grandchild of an employee;

IX. A spouse or domestic partner of an employee's grandchild;

X. A brother or sister of an employee;

XI. A brother or sister of an employee's spouse or domestic partner;

XII. A spouse or domestic partner of an employee's brother or sister; and

4. Physical tamper inspections shall be conducted any time the device is serviced or given routine inspection, maintenance, or repair. Tamper inspections shall include the following:

A. Inspection of all external wiring, insulation, connections, tamper seals, and sheathing for the device and where the device connects to the vehicle; and

B. Checking the device for proper operation to ensure tamper detection capabilities.

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*

JOINT COMMITTEE ON
OCT 17 2016
ADMINISTRATIVE RULES

section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.050. 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 60-2.050, effective Aug. 28, 2003. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expired March 29, 2014. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Amended: Filed October 17, 2016.*

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

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

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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.*

COPY

RECEIVED
OCT 17 2016
SECRETARY OF STATE
ADMINISTRATIVE RULES

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

PROPOSED AMENDMENT

7 CSR 60-2.060 Suspension, or Revocation of Approval of a Device. The Missouri Highways and Transportation Commission is amending sections (1) through (3).

PURPOSE: This proposed amendment outlines the conditions for which ignition interlock device certification may be suspended or revoked.

[PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.]

(1) Suspension of Approval of a Device.

(A) The state of Missouri, Department of Transportation, Traffic and Highway Safety Division may suspend approval of a device, and temporarily remove it from the list of approved devices, for any of the following reasons:

1. Termination or cancellation of an authorized service provider's liability insurance;
2. Voluntary request by an authorized service provider to suspend approval of a device; or
3. Any issues with a device, installation site, service center, or technician*[that are determined to be minor in nature and do not compromise the safety of the public:]*; **or**
4. **Violation by an authorized service provider, or installer, of any of the provisions set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060.**

(B) A suspension shall last for at least ninety (90) days after the final decision of the Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee, whichever comes last. A device that has been suspended may have to follow the procedures of 7 C*[F]*SR 60-2.020 to become re-approved. The Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee may impose additional requirements to ensure the safety of the public for a suspended device to be **re**-approved. Actions that have the effect of jeopardizing public safety by the authorized service provider and/or their installers may result in a longer suspension, not to exceed one (1) year.

(2) Revocation of Approval of a Device.

(A) The state of Missouri, Department of Transportation, Traffic and Highway Safety Division may revoke approval of a device, and remove it from the list of approved devices, for any of the following reasons:

1. Defects in design, materials, or workmanship causing repeated failures of a device;
2. Discontinuance in the business of manufacturing devices;
3. Voluntary request by an authorized service provider to revoke approval of a device;

JOINT COMMITTEE ON
OCT 17 2016
ADMINISTRATIVE RULES

4. Violation by an authorized service provider, or installer, of any of the provisions set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060; or

5. *[Before May 8, 2014, modification or alteration of the components, design, installation, and operation instructions in such a way that the requirements of the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772-11787 (April 7, 1992), as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992, and which is hereby incorporated by reference and made a part of this rule, are no longer satisfied. This paragraph 5. does not incorporate any subsequent amendments or additions to this publication.*

*6. On and after May 8, 2014, m]***M**odification or alteration of the components, design, installation, and operation instructions in such a way that the requirements of 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 *[that shall become]*effective *[beginning on]*May 8, 2014, which is hereby incorporated by reference and made a part of this rule, are no longer satisfied. This paragraph 6. does not incorporate any subsequent amendments or additions to this publication.

(B) A revocation shall last for at least one (1) year after the final decision of the Missouri Department of Transportation, Traffic and Highway Safety Division or the committee, whichever comes last. A device that has been revoked will have to follow the procedures of 7 CSR 60-2.020 to become **re**-approved. The Missouri Department of Transportation, Traffic and Highway Safety Division or the committee may impose additional requirements to ensure the safety of the public for a revoked device to be **re**-approved. Actions that have the effect of jeopardizing public safety by the authorized service provider and/or their installers may result in a longer revocation, not to exceed five (5) years.

(3) Notice and Review.

(A) Notice of suspension or revocation shall be mailed to a representative of the authorized service provider at the last known address on file with the Missouri Department of Transportation, Traffic and Highway Safety Division. The notice is deemed received three (3) days after mailing unless returned by postal authorities.

(B) A suspension or revocation is effective fifteen (15) days after notification is deemed received by the authorized service provider when no written request for an informal review has been received by the Missouri Department of Transportation, Traffic and Highway Safety Division **during the ten (10) day appeal request deadline as provided in subsection (3)(D) of this rule.**

(C) If, in the sole discretion of the Missouri Department of Transportation, Traffic and Highway Safety Division, the device shall be suspended or revoked immediately due to a risk to public safety, such suspension or revocation is effective the day notification is deemed received by the authorized service provider.

(D) An authorized service provider may request an informal review of a suspension or revocation. This request must be submitted to the Missouri Department of Transportation, Traffic and Highway Safety Division, in writing, within ten (10) days of receipt of a notice of

suspension or revocation.

1. The informal review may be conducted in person, in writing, or by telephone **by an informal review committee composed of** *[with]* Missouri Department of Transportation*[, Traffic and Highway Safety Division]* personnel delegated to conduct such informal review by the Missouri Highways and Transportation Commission.

2. In the event that the informal review is unable to resolve the dispute between the Traffic and Highway Safety Division and the authorized service provider, the committee *[may]***shall** issue a decision which shall become the final decision of the commission.

(E) Within thirty (30) days of the event of suspension, revocation, or voluntary surrender of approval, an authorized service provider shall be responsible for notifying operators of decertified devices and shall bear the cost for the removal of any and all decertified devices from operators' vehicles and the installation of new devices which must be selected **by the operator** from the state of Missouri's list of approved devices. **The Missouri Department of Transportation, Traffic and Highway Safety Division reserves the right to notify operators if deemed necessary.**

(F) Within fifteen (15) days of the event of suspension, revocation, or voluntary surrender of approval, an authorized service provider shall transfer all of the operator's user records and other applicable documents to a location and in a format as directed by the Missouri Department of Transportation, Traffic and Highway Safety Division.

(G) If a device has been suspended in accordance with 7 CSR 60-2.060(1), above, and corrective action has not been satisfactorily completed during the period of the suspension, the Missouri Department of Transportation, Traffic and Highway Safety Division may immediately proceed to revoke approval of the device by mailing notice thereof to a representative of the authorized service provider at the last known address on file with the Missouri Department of Transportation, Traffic and Highway Safety Division. The notice is deemed received three (3) days after mailing unless returned by postal authorities. The revocation shall be immediately effective. An authorized service provider may request an informal review of the revocation. This request must be submitted to the Missouri Department of Transportation, Traffic and Highway Safety Division, in writing, within ten (10) days of receipt of a notice of suspension or revocation.

1. The informal review may be conducted in person, in writing, or by telephone with Missouri Department of Transportation, Traffic and Highway Safety Division personnel delegated to conduct such informal review by the Missouri Highways and Transportation Commission.

2. In the event that the informal review is unable to resolve the dispute between the Traffic and Highway Safety Division and the authorized service provider, the committee may issue a decision which shall become the final decision of the commission.

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 60-2.060. 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 60-2.060, effective Aug. 28, 2003. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Amended: Filed October 17, 2016.*

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

amended 1993, 1995.

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

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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.*