

Kansas Administrative Regulations

Kansas Department of Revenue

Article 56.—Ignition Interlock Devices

92-56-2. Ignition interlock device; certification and standards.

(a) Each manufacturer of an ignition interlock device wanting to market the device in Kansas shall apply to the division of vehicles for certification of the device and submit the following information and equipment:

- (1) The name and address of the manufacturer;
- (2) the name and model number of the device;
- (3) certification that the device meets the following criteria:

(A) Offers safe operation of the vehicle in which installed, works reliably and accurately in an unsupervised environment, and, when in fail-safe, prevents the vehicle from starting;

(B) offers protection against tampering and is able to detect and be resistant to circumvention;

(C) allows for a free restart of the vehicle's ignition within two minutes after the ignition has been turned off without requiring another breath test if the driver has not registered a BrAC fail or is not in the process of completing a retest;

(D) allows for a rolling retest of a subsequent breath test after the vehicle has been in operation;

(E) disables the ignition system if the BrAC of the person using the device equals or exceeds the alcohol setpoint of .03;

(F) incorporates an emergency bypass procedure;

(G) records each time the vehicle is started, the duration of the vehicle's operation, and any instances of tampering;

(H) encodes the corresponding time and date the breath sample was provided, a digital image of the individual who provided the sample, and BrAC of the individual who provided the breath sample into the device;

(I) displays to the driver all of the following:

- (i) When the device is on;
- (ii) when the device has enabled the ignition system; and
- (iii) the date on which a lockout will occur; and

(J) alerts the driver with a five-minute warning light or tone that a rolling retest is required;

(4) a map and list of service providers and the address where the device can be obtained, repaired, replaced, or serviced 24 hours a day by calling a toll-free phone number;

(5) the name of any insurance carrier authorized to do business in this state that has committed to issue a liability insurance policy for the manufacturer;

(6) the name and address of the manufacturer's representative designated by the manufacturer to manage the manufacturer's statewide operations;

(7) not more than two ignition interlock devices for testing and review to the division upon the director's request; and

(8) a declaration on a form prescribed by the division that requires the following:

(A) The manufacturer, manufacturer's representative, and the manufacturer's service providers shall cooperate with the division, law enforcement, and court staff at all times, including the inspection of the manufacturer's installation, service, repair, calibration, use, removal, or performance of each ignition interlock device;

(B) all digital images and the associated data shall be retained in the device until the digital images and associated data are downloaded and stored by a manufacturer. The manufacturer shall store the downloaded digital images and associated data for three years after capture by the device;

(C) the manufacturer shall provide all downloaded ignition interlock device data, reports, and information related to the ignition interlock device to the division, upon the director's request, in a division-approved electronic format;

(D) the manufacturer shall provide the alcohol reference value and type of calibration device used to check the ignition interlock device;

(E) the manufacturer shall provide the division with inquiry access to the manufacturer's ignition interlock device system management software for the management of state drivers; and

(F) the manufacturer or the manufacturer's representative shall provide a map of Kansas showing the area covered by each service provider's fixed site.

(b) Each certification issued by the division shall continue in effect for three years unless either of the following occurs:

(1) The manufacturer requests in writing that the certification be discontinued.

(2) The division informs the manufacturer and the manufacturer's representative in writing that the certification is suspended or revoked.

(c) If a manufacturer modifies a certified device, the manufacturer shall notify the division of the exact nature of the modification. A device may be required by the division to be recertified at any time. A modification shall mean a material change affecting the functionality, installation, communication, precision, or accuracy of a certified device.

(d) Each manufacturer of a certified device shall notify the division of the failure of any device to function as designed. The manufacturer and the manufacturer's representative shall provide an explanation for the failure and shall identify the actions taken by the manufacturer or the manufacturer's representative to correct the malfunctions.

(e) The manufacturer's device shall meet or exceed the model specifications for ignition interlock devices, as specified by the national highway traffic safety administration. The provisions of 78 fed. reg. 26862-26867 (2013), beginning with the text titled "B. Terms" on page 26862, are hereby adopted by reference for purposes of this subsection. If state specifications vary from the federal specifications, the state specifications shall control.

(f) Each manufacturer of a certified device shall accumulate a credit of at least two percent of the gross revenues attributed to services provided in Kansas or to out-of-state services provided to Kansas residents. All existing credit shall be made available to drivers who are restricted to operating a vehicle with a device and who are indigent as evidenced by eligibility for the federal food stamp program. The amount of the credit available shall be limited to the amount of the existing credit balance. The manufacturer and its service providers shall notify the manufacturer's customers of the existence of this indigent program by utilizing division notices and forms.

(g) Each manufacturer of a certified device shall submit a report to the division on or before January 31 of each year with the following information for the previous calendar year's activities:

(1) The number of ignition interlock devices initially installed on vehicles for Kansas drivers who were restricted to driving only with an ignition interlock device;

(2) the number of vehicles that had devices removed due to a failure in the device, a malfunction of the device, or a defect in the device and, for each vehicle, the driver's name, the driver's license number, the specific failure or operational problem that occurred during the period installed, and the resolution of each situation;

(3) the total number of devices in operation in Kansas on December 31 of the previous calendar year;

(4) the total number of devices removed;

(5) the total number of instances of circumvention;

(6) the total number of instances of tampering; and

(7) a summary of the following information:

(A) The number of indigent drivers that qualified for reduced fees;

(B) the number of drivers that applied for indigent classification and reduced fees but were denied;

(C) amounts credited to indigent drivers; and

(D) the ending credit balance.

(h) Each manufacturer and manufacturer's representative of a certified device shall make sales brochures and other informational materials available at no cost to the state's community corrections and court services officers, the district courts, magistrate courts, municipal courts, and the division for distribution to potential drivers. These brochures and informational materials may be provided through electronic means if approved by the director.

(i) Each manufacturer shall provide to the division, on or before January 31 of each year for that calendar year, documentation indicating the normal prices and fees charged to a driver that are associated with the manufacturer's Kansas installation of devices. If the documentation regarding normal prices and fees charged changes during

the course of that calendar year, the manufacturer and manufacturer's representative shall provide amended documentation to the division within seven days of the change.

(j) Each manufacturer shall have a service provider with a fixed site within each state judicial district, unless the following conditions are met:

(1) At least two manufacturers have a service provider located in the same judicial district.

(2) The director determines that a competitive market exists for ignition interlock services in the state judicial district and the absence of a manufacturer's service provider in the state judicial district specified in paragraph (j)(1) does not create a competitive advantage for that manufacturer.

(3) The director approves the manufacturer to be absent from that state judicial district.

(k) Each device shall be capable of uniquely identifying and recording all of the following:

(1) Each time the vehicle is attempted to be started;

(2) each time the vehicle is started;

(3) a digital image in accordance with the following:

(A) The digital image can identify the individual providing the breath sample in all lighting conditions;

(B) the capture of the digital image does not distract or impede the driver in any manner from the safe and legal operation of the vehicle; and

(C) the digital image is associated with the date, the time, and the individual's BrAC for each attempted use;

(4) the results of all tests, retests, or failures as being a malfunction of the device or a result of the driver not meeting the requirements;

(5) the length of time the vehicle was operated; and

(6) any indication of tampering.

The features required of the manufacturer's installed device shall be enabled to capture the information required by this subsection.

(l) The requirements of this regulation shall take effect for all device installations beginning 90 days after publication of this regulation in the Kansas register. Each

manufacturer shall replace any currently installed device that does not meet the requirements of this regulation with a device that is compliant upon the first calibration following the date this regulation takes effect.

(Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended May 2, 2014; amended Nov. 6, 2015; amended Jan. 8, 2020.)

***** Authenticated Kansas Administrative Regulation *****