

**NOTICE OF EXEMPT RULEMAKING**  
**TITLE 17. TRANSPORTATION**  
**CHAPTER 5. DEPARTMENT OF TRANSPORTATION**  
**COMMERCIAL PROGRAMS**

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
Article 6	Amend
R17-5-601.	Amend
R17-5-602.	Amend
R17-5-603.	Amend
R17-5-604.	Amend
R17-5-605.	Amend
R17-5-606.	Amend
R17-5-607.	Amend
R17-5-608.	Amend
R17-5-609.	Repeal
R17-5-609.	New Section
R17-5-610.	Amend
R17-5-611.	Amend
R17-5-612.	Amend
R17-5-613.	Amend
R17-5-614.	New Section
R17-5-615.	New Section
R17-5-616.	New Section
R17-5-617.	New Section
R17-5-618.	New Section
R17-5-619.	New Section
R17-5-620.	New Section
R17-5-621.	New Section
R17-5-622.	New Section
R17-5-623.	New Section
Article 7	Amend
R17-5-701.	Amend
R17-5-702.	Repeal
R17-5-702.	New Section
R17-5-703.	Repeal
R17-5-704.	Repeal

R17-5-705.	Repeal
R17-5-706.	Amend
R17-5-707.	Repeal
R17-5-708.	Repeal

**2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statutes: A.R.S. §§ 28-366, 28-1462, 28-1465, 28-1468

Implementing statutes: Title 28, Chapter 4, Article 5, Arizona Revised Statutes

Statute or session law authorizing the exemption: Ch. 331, § 12, Laws 2017

**3. The effective date of the rules and the agency’s reason it selected the effective date:**

The effective date of the rules is July 1, 2018. Chapter 331, Laws 2017, requires an ignition interlock service provider to collect a fee for ignition interlock device installation, and to contract with ignition interlock service providers in the state beginning July 1, 2018. Additional changes to the ignition interlock program were made in SB 1401, which was approved as Chapter 105, Laws 2018. This legislation is retroactive to July 1, 2018.

**4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

Not applicable

**5. The agency’s contact person who can answer questions about the rulemaking:**

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P.O. Box 2100, MD 530M  
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Web site: <http://www.azdot.gov/Ignition-Interlock-Stakeholders>

**6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Department received approval from Matt Clark in the Governor’s Office on February 15, 2017 to initiate this rulemaking to implement Chapter 331, Laws 2017. A.R.S. § 28-1468 gives authority for the Department to enter into an authorization agreement with ignition interlock service providers to offer ignition interlock services in the state beginning July 1, 2018, at a minimum of one service center in each county in the state for at least three years. A.R.S. § 28-1462 requires the Department of Transportation to establish a new ignition interlock device installation fee payable by an ignition interlock user, who has an ignition interlock device installed on the person’s motor vehicle, beginning on July 1, 2018. The rules establish an ignition interlock installation fee of \$20 payable by a person required by the Department or a

court to install an ignition interlock device after July 1, 2018. The statutes require ignition interlock devices installed by an ignition interlock service provider beginning July 1, 2018 to have a digital camera, global positioning capability, and to transmit ignition interlock data electronically and wirelessly to the Department.

An ignition interlock service provider must certify and train a technician to perform specific ignition interlock services, including installation of a manufacturer's ignition interlock device. Ignition interlock device reporting originates from the ignition interlock device manufacturer and is sent electronically to the Department daily in real-time. The rules prescribe reportable activity that a manufacturer must report, including failure of an ignition interlock user to properly perform any set of three consecutive rolling retests during an 18-minute timeframe during a drive cycle, circumvention, tampering of an ignition interlock device, alcohol violations, and failing to provide proof of compliance. The rules provide that the Department will extend the ignition interlock period of a user for six months for any set of three consecutive missed rolling retests within an 18-minute drive cycle.

The rules define circumvention, manufacturer, tampering, technician, and other terms relevant to the rules. In addition, the rules prescribe the requirements for a manufacturer to certify an ignition interlock device, and the duties of a manufacturer, an ignition interlock service provider, and a technician. The rules establish the application process for ignition interlock service provider authorization, a service center, and a technician. In addition, the rules allow the Director to impose a civil penalty against a manufacturer for improper reporting, and to issue a cease and desist order against an ignition interlock service provider contracted with the Department for violating state statutes, rules, or the authorization agreement.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review or rely on any study relevant to the rules.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact, if applicable:**

Laws 2017, Ch. 331, § 12 exempts the Department from the rulemaking requirements of A.R.S. Title 41, Chapter 6, including preparing the economic, small business, and consumer impact statement.

**10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking and the final rulemaking package (if applicable):**

The rulemaking exemption did not require the Department to publish proposed rules. The Department posted the exempt rules on the Motor Vehicle Division's website for more than 30 days, accepted public comments, and made rule changes in response to those comments to improve and clarify the rules. The Department made other grammatical and technical corrections to comply with the Secretary of State's rulemaking format.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

The Department had an exemption from the requirements of the Administrative Procedures Act, and was not required to receive any public comments regarding this rulemaking. The Department conducted several stakeholder meetings and requested, accepted, and incorporated stakeholder comments to the rules.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The Legislature granted authority in A.R.S. § 28-1468 for the Director of the Department of Transportation to issue an authorization for an ignition interlock service provider. The rules also contain a process for certifying a manufacturer's ignition interlock device. The rules do not require a general permit, but authorization and certification are general permits because the activities or practices in the class are substantially similar in nature for all ignition interlock service providers and manufacturers to perform authorized activities.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The rules incorporate by reference the 2013 NHTSA Model Specifications for Breath Ignition Interlock Devices (BAIIDs) and the 2015 NHTSA technical corrections to these specifications. A.R.S. § 28-1462(C)(4) provides that the Motor Vehicle Division shall not certify an ignition interlock device unless the device meets or exceeds the 2013 NHTSA Specifications.

**c. Whether a person submitted an analysis to the agency that compares a rule's impact of the competitiveness of business in this state to the impact on business in other states:**

The Department did not receive a business competitive analysis.

**13. A list of any incorporated by reference material and its location in the rule:**

R17-5-604(C)(3)(a) - 2013 NHTSA Model Specifications for Breath Ignition Interlock Devices (BAIIDs).  
R17-5-604(C)(3)(a) - Technical corrections to 2013 NHTSA Model Specifications For Breath Ignition Interlock Devices (BAIIDs).

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION

COMMERCIAL PROGRAMS

ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS AND IGNITION INTERLOCK SERVICE PROVIDERS

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ARTICLE 7. IGNITION INTERLOCK DEVICE ~~INSTALLERS~~ TECHNICIANS

Section	
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R17-5-702.	<del>Ignition Interlock Device Installer Certification; Application Requirements; Recertification</del> <u>Records Check; Technician Qualifications; IISP Self-Certification of Technician</u>
R17-5-703.	<del>Ignition Interlock Device Installer Bond Requirements; Recertification</del> <u>Repealed</u>
R17-5-704.	<del>Authorized Installer Responsibilities</del> <u>Repealed</u>
R17-5-705.	<del>Installer certified Service Representatives</del> <u>Repealed</u>
R17-5-706.	<del>Accuracy and Compliance</del> <u>Calibration</u> Check; Requirements
R17-5-707.	<del>Inspection of Service Centers; Application</del> <u>Repealed</u>
R17-5-708.	<del>Notice; Denial or Cancellation of Certification; Appeal; Hearing</del> <u>Repealed</u>

## **ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS AND IGNITION INTERLOCK SERVICE PROVIDERS**

### **R17-5-601. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-101 and ~~28-1301~~, 41-1072, in this Article, unless the context otherwise requires, the following terms apply:

~~“Alcohol” means ethyl alcohol, also called ethanol.~~

“Alcohol concentration” means the weight amount of alcohol contained in a unit volume of breath or air, measured in grams of ethanol/210 liters of breath or air and expressed as grams/210 liters.

“Alveolar breath sample” means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

“Anticircumvention feature” means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

“Authorization agreement” or “agreement” means an agreement authorized by the Director that an IISP enters into with the Department to provide ignition interlock services under A.R.S. § 28-1468.

~~“Authorized installer” means a person or entity appointed by a manufacturer, and certified by the Department, to install and service a certified ignition interlock device model provided by the manufacturer.~~

“Breath alcohol test” means analysis of a sample of the ~~participant’s~~ person’s expired alveolar breath to determine alcohol concentration.

“Bump starting” means a method of starting a motor vehicle with an internal combustion engine by engaging the manual transmission while the vehicle is in motion.

“Business day” means a day other than a Saturday, Sunday, or state holiday.

“Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

~~“Cancellation” means the withdrawal of a certification granted by the Department under this Article, which prohibits a previously certified ignition interlock device manufacturer, its authorized installer, or the authorized installer’s service center from offering, installing, termination of a manufacturer’s ignition interlock device certification for ignition interlock device installation or servicing an ignition interlock device under Arizona law.~~

“Certification” means a status granted by the Department under this Article, which permits a certified ignition interlock device manufacturer, ~~an authorized installer, or an authorized installer’s service center~~ to offer, install, ~~or service~~ an ignition interlock device for installation under Arizona law.

“Certified ignition interlock device,” “CIID,” or “device” means a device that is based on alcohol specific electrochemical fuel sensor technology that meets the NHTSA specifications; that connects a breath analyzer to a motor vehicle’s ignition system; that is constantly available to monitor the alcohol concentration in the breath of any person attempting to start the motor vehicle by using its ignition system; that deters starting the vehicle by use of its ignition system unless the person attempting to start the motor vehicle provides an appropriate breath sample for the device; and determines whether the alcohol concentration in the person’s breath is below a preset level.

“Circumvent” or “circumvention” means an attempted or successful bypass of the proper functioning of a certified ignition interlock device and includes all of the following:

The bump start of a motor vehicle with a certified ignition interlock device;

The introduction of a false sample other than a deep-lung breath sample from the person driving the motor vehicle;

The introduction of an intentionally contaminated or a filtered breath sample;

The intentional disruption or blocking of a digital image identification device;

The continued operation of the motor vehicle after the certified ignition interlock device detects breath alcohol exceeding the presumptive limit prescribed in A.R.S. § 28-1381(G)(3) or, if the person is under 21 years of age, any attempt to operate the motor vehicle with any spirituous liquor in the person’s body;

Operating a motor vehicle without a properly functioning certified ignition interlock device and;

When a person, who is required to maintain a functioning certified ignition interlock device is starting or operating the motor vehicle, permits another individual to breathe into the certified ignition interlock device for the purpose of providing a breath alcohol sample to start the motor vehicle or for the rolling retest.

“Corrective action” means an action specified in or reasonably implied from Title 28, Chapter 4, Arizona Revised Statutes, that the Department takes in relation to a ~~participant’s~~ person’s driving privilege and the usage or discontinuation of usage of a ~~certified ignition interlock device CIID,~~ or an action that the Department takes

~~in relation to the performance of the duties of a manufacturer or an installer in Articles 6 or 7 of this Chapter to deny or cancel manufacturer or installer certification.~~

“Customer number” means the system-generated, or other distinguishing number, assigned by the Department to each person conducting business with the Department. The customer number of a private individual is generally the person’s driver license or non-operating identification license number.

“Data logger” means the electronic record of all ignition interlock device activity during the period when the device is installed.

“Data storage system” means a computerized recording of all events monitored by an ~~installed~~ ignition interlock device, which may be reproduced in the form of specific reports.

“Defective ignition interlock device” means an ignition interlock device that:

1. Does not meet the NHTSA specifications;
2. Does not pass calibration tests; or
3. Does not meet the accuracy and device standards prescribed in these rules.

“Drive cycle” means either the period of time from when a motor vehicle is initially turned on to the next time the ignition is turned off, or the period of time from when an initial breath alcohol test is performed and failed, to the time a breath alcohol test is successfully taken and the ignition is turned off.

“Early recall” means that a person’s ignition interlock device recorded one tampering or circumvention event, or any ignition interlock malfunction, that requires a person to return to a service center within 72 hours.

“Emergency bypass” means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

“Emergency situation” means a circumstance in which the ~~participant declares to person informs the installer~~ IISP or IISP-certified technician that the person’s vehicle needs to be moved to comply with the law, or the ~~participant~~ person has a valid and urgent need to operate the vehicle.

“Established place of business” means a business location that is:

- Approved by the Department;
- Located in Arizona;
- Not used as a residence; and

Where ~~a manufacturer’s authorized installer~~ an IISP or its agent or subcontractor performs provides authorized ignition interlock activities services.

“False sample” means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the participant person.

“Filtered breath sample” means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

~~“Fixed site service center” means a permanent location operated by an installer for conducting business and providing services related to a certified ignition interlock device.~~

“Free restart” means a function of a ~~certified ignition interlock device CIID~~ CIID that will allow a participant person to restart the vehicle, under the conditions provided in ~~R17-5-603~~ R17-5-615, without completing another breath alcohol test.

“FTP” means file transfer protocol, the exchange of files over any network that supports electronic data interchange reporting that is transmitted through the Internet and prescribed by the Department.

“Global positioning system” means the ability of a wireless certified ignition interlock device to identify and transmit its geographic location through the operation of the device.

“Ignition interlock device installation fee” means the fee required in A.R.S. § 28-1462, and established by the Department in R17-5-614, that is paid by a person to an IISP when a CIID is installed on, or transferred to a person’s vehicle.

“Ignition interlock period” means the period in which a participant person is required to use a ~~certified ignition interlock device CIID~~ CIID that is installed ~~in on~~ a vehicle.

“Ignition interlock service provider” or “IISP” means a person who is an authorized representative of a manufacturer and who is under contract with the Department to install or oversee the installation of ignition interlock devices by the provider’s authorized agents or subcontractors and to provide services to the public related to ignition interlock devices.

“Improper reporting” means any of the following:

~~Failure of a manufacturer or its authorized reporting installer to report any violations to the Department within 24 hours as required in R17-5-610(D)(2)~~ R17-5-610(D)(1), or failure to send ~~participant~~ a person’s

ignition interlock reporting records, including records relating to a violation, to the Department as required in ~~R17-5-612(B)(1)~~ R17-5-612(C);

~~Failure of a manufacturer or its authorized reporting installer to provide copies of participant certified ignition interlock device records to the Department within 10 days after the Department's request;~~

~~Failure of a manufacturer or its authorized reporting installer to provide quarterly reports as required in accordance with the schedule prescribed in R17-5-612(B);~~

Failure of a manufacturer to submit to the Department valid and substantiated proof or evidence of a reportable activity related to a violation, including a summary report and relevant data loggers as required in R17-5-610(D)(2), within 10 days after the Department's request;

~~Failure of a manufacturer or its authorized reporting installer to screen and remove invalid or unsubstantiated reporting data from a participant's ignition interlock reporting records prior to submitting these reporting records to the Department;~~

~~Failure of a manufacturer or its authorized reporting installer to electronically send each Certified Ignition Interlock Summarized Reporting Record to the Department within 24 hours, after performing an accuracy and compliance a calibration check, that results in the Department mailing a driver license suspension to a driver person;~~

~~Electronic reporting by a manufacturer or its authorized reporting installer to the Department, of data that is an exact duplicate of a single violation that occurs on a particular day and time and is reported multiple times;~~

~~An incident Knowingly reporting a violation that occurs when a participant's vehicle has high or low voltage;~~

~~An Reporting an incident that occurs when a participant person has a free restart test to start the participant's person's vehicle;~~

~~An Reporting an incident that occurs in which an installer a manufacturer downloads data from the device during an accuracy a calibration check and tampers with the data or a certified ignition interlock device CIID; or~~

~~An incident that occurs after the participant's person's vehicle is turned off.~~

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIDs), ~~Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger~~, NHTSA, published at 78 FR 26862 to 26867 26866, May 8, 2013., with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

Installer certified service representative" means any individual who has successfully completed all requirements under R17-5-705, and has received certification from an installer to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a specific certified ignition interlock device.

"Lock-out condition" means the operational status of a certified ignition interlock device, which after recording any violation of A.R.S. Title 28, Chapter 4, Article 5, immobilizes a participant's vehicle by disallowing further operation of the device. The lock-out feature is built into a certified ignition interlock device through manufacturer software or firmware, and once activated, the device must be re-set by the manufacturer's authorized installer.

"Manufacturer" means a person or an organization that is located in the United States, that is responsible for the design, construction, and production of an ignition interlock device and that is certified by the Department to offer ignition interlock devices for installation in motor vehicles in this state.

"Manufacturer's authorized representative" means an individual or entity designated by a manufacturer to represent or act on behalf of the manufacturer of a certified ignition interlock device.



“Material modification” means a change to a ~~certified ignition interlock device~~ CIID that affects the functionality of the device.

“Missed rolling retest” means the ~~participant~~ person refused or failed to provide a valid and substantiated breath sample in response to a requested rolling retest within the time period ~~described~~ prescribed in ~~R17-5-610(H)~~ R17-5-615(E).

“Mobile service center” means the ~~portable operation of an installer, whether contained within a vehicle or temporarily erected at a publicly accessible commercial location, including a kiosk, which includes all personnel and equipment necessary for an installer to conduct certified ignition interlock device related business and services, separately and simultaneously, with its parent fixed site service center.~~

“Mobile services” means ignition interlock services provided by an IISP or its agents or subcontractors at a publicly accessible location other than the IISP’s service center, that meet the requirements of R17-5-618.

“NHTSA” means the United States Department of Transportation’s National Highway Traffic Safety Administration.

“NHTSA specifications” means the specifications for breath alcohol ignition interlock devices published at 78 FR 26862 to ~~26867~~ 26866, May 8, 2013-, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

“Participant” means a person who is ordered by an Arizona court or the Department to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes a customer of an installer for installation and servicing of the certified ignition interlock device.

“Permanent lock-out” means a feature of the CIID in which a motor vehicle will not start until the CIID is reset by an IISP or an IISP-certified technician.

“Person” means a person who is ordered by an Arizona court or the Department to equip each motor vehicle operated by the person with a functioning CIID, and who becomes a customer of an IISP for installation and servicing of the CIID.

“Positive result” means a test result indicating that the alcohol concentration meets or exceeds the ~~startup~~ set point value.

“Principal place of business” means the administrative headquarters of a manufacturer or ~~a manufacturer’s authorized installer~~ an IISP that is located in Arizona, is zoned for commercial, and is not used as a residence.

“Purge” means any mechanism that cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

“Real-time” or “real-time reporting” means the instant transmission of unfiltered ignition interlock violations as defined in R17-5-601, and data as prescribed in R17-5-610, including photographs, to the manufacturer’s website for viewing by the Department without delay, as electronic or digital service permits.

“Reference sample device” means a device containing a sample of known alcohol concentration.

“Retest set point” has the same meaning as ~~startup~~ set point.

“Rolling retest” means ~~an additional~~ a breath alcohol test that is required of the participant a person at random intervals after the ~~start of the vehicle~~ motor vehicle is started and that is in addition to the initial test required to start the motor vehicle.

“Service center” means ~~a certified ignition interlock device service center operated by an installer and considered an installer under this Section, who meets and maintains all Department certification and inspection requirements under R17-5-707, whether operated on a fixed site or mobile.~~ an established place of business approved by the Department from which an IISP or its agents or subcontractors provide ignition interlock services to persons from one or more counties.

“Set point” means an alcohol concentration of 0.020 g/210 liters of breath. The accuracy of a device shall be 0.020 g/210 liters plus or minus 0.010 g/210 liters.

“Startup set point” means ~~the alcohol concentration value, established by the Department under R17-5-603(A), which is determined by the Department to be the point at which, or above, a certified ignition interlock device shall disable the ignition of a motor vehicle.~~

“Tampering” means an overt or conscious attempt to physically disable or otherwise disconnect the CIID from its power source that allows the operator to start the engine without taking and passing the requisite breath test.

“Technician” means a person who is certified and properly trained by an ignition interlock service provider to install, inspect, calibrate, service or remove certified ignition interlock devices.

“Temporary lock-out” means a feature of the CIID which will not allow a motor vehicle to start for five minutes after a breath alcohol test result indicating an alcohol concentration above the set point.

“Vehicle identification number” or “VIN” means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

“Violation” (when referencing acts or omissions on the part of a person in the ignition interlock program) includes, but is not limited to any of the following reportable activities performed by a participant person against whom the Department shall take corrective action against the which participant’s driving privilege a manufacturer shall promptly report to the Department:

Circumventing the CIID as defined in R17-5-601;

Tampering with the certified ignition interlock device CIID as defined in A.R.S. § 28-1301;

Failing to provide proof of compliance or inspection of the certified ignition interlock device CIID under A.R.S. § 28-1461(E)(4);

Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E) A.R.S. § 28-1461(E)(5) if the participant person is at least 21 years of age;

Attempting to operate the vehicle with an alcohol concentration value in excess of the startup set point if the participant person is under 21 years of age;

Refusing or failing to provide any set of ~~four~~ three consecutive valid and substantiated breath samples in response to a requested rolling retest ~~during a participant’s ignition interlock period~~ within an 18-minute time frame during a person’s drive cycle; ~~or~~

Disconnecting or removing a certified ignition interlock device CIID, except:

On receipt of Department authorization to remove the device;

On repair of the vehicle, if the participant person provided to the ~~manufacturer, installer, IISP, technician,~~ or service center ~~advanced~~ advance notice of the repair and the anticipated completion date;  
or

On ~~replacement of~~ moving the device from one motor vehicle ~~with~~ to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.

“Violation reset” means the unplanned servicing and inspection of a ~~certified ignition interlock device CIID~~ and the downloading of information from its data storage system by ~~a service center when required as a result of an over accumulation of violations~~ an IISP as a result of an early recall that requires the manufacturer to unlock the device.

#### **R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration; Cancellation of Certification; Notice**

**A.** An ignition interlock device manufacturer shall obtain certification by the Department under this Article before offering ~~an~~ a new ignition interlock device model and before making material modifications to an existing ignition interlock device model for implementation and installation under Arizona law.

**B.** Ignition interlock device certification by an ignition interlock device manufacturer shall occur prior to the IISP signing an authorization agreement with the Department.

~~**B.C.**~~ After receiving Department certification for ~~an~~ a new ignition interlock device model and meeting all the requirements under R17-5-604, the ignition interlock device manufacturer is effectively certified by the Department to offer ~~its~~ the certified ignition interlock device model for installation under Arizona law.

~~**C.D.**~~ An ignition interlock device manufacturer shall submit a new application to the Department under R17-5-604 for the certification of each new ignition interlock device model the manufacturer intends to offer for installation.

~~**D.E.**~~ Manufacturer certification issued by the Department under this Article shall automatically expire if:

1. The manufacturer no longer provides at least one currently certified ignition interlock device model for installation under Arizona law; and
2. The manufacturer has no pending application on file with the Department for the certification of a device under R17-5-604.

**F.** Manufacturer certification of an ignition interlock device that was previously approved by the Department under this Article shall automatically expire within one year after the certification is granted if the manufacturer has not contracted with an IISP currently contracted with the Department to install the CIID.

~~**G.**~~ If the Director cancels a manufacturer’s device certification, the Director shall notify each participant with the manufacturer’s certified ignition interlock device that the participant has 30 days to obtain another installer.

~~**H.G.**~~ After the one-year cancellation period in subsection (F) ends, a manufacturer may reapply to the Department for certification by completing a new application for the certification of a device and meeting all certification requirements under this Article.

~~**E.H.**~~ If the Department determines that a ~~reporting~~ manufacturer fails to properly report ignition interlock information and data to the Department in the manner prescribed in these rules, the Department may immediately provide written notice to the ~~authorized reporting~~ manufacturer with the following information:

1. The name of the participant person and the date of the improper reporting; and

2. The ~~reporting~~ manufacturer shall send the required record or report to the Department within ten business days, if applicable.

~~F.I.~~ If the ~~reporting~~ manufacturer fails to remedy the issues identified in the notice within ten business days, the Department may cancel the manufacturer device certification.

~~F.J.~~ If a manufacturer's certification expires as a result of ~~subsections (D)(1) and (D)(2)~~ subsections (E)(1) and (E)(2), the manufacturer may reapply for certification by submitting a new application to the Department for the certification of a device under R17-5-604.

K. A manufacturer shall only appoint one IISP that is contracted with the Department and serves as an authorized representative of the manufacturer to provide ignition interlock services to the public.

L. A manufacturer shall notify the Department within 24 hours if an IISP is no longer authorized by a manufacturer to install its CIID.

#### **R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration**

~~A. The startup set point value for a certified ignition interlock device shall be an alcohol concentration of 0.020 g/210 liters of breath. The accuracy of a device shall be 0.020 g/210 liters plus or minus 0.010 g/210 liters. The accuracy of the CIID shall be determined by analysis of an external standard generated by a reference sample device.~~

B. A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.

C. A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.

~~D. All devices, including those with cameras, shall meet the setpoint requirements of subsection (A) R17-5-601 when used at ambient temperatures of -20° Celsius to 83° Celsius.~~

E. A device shall be designed so that anticircumvention features will be difficult to bypass.

1. Anticircumvention provisions on the device shall include, but are not limited to, prevention or preservation of any evidence of ~~heating~~ circumvention by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.

2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.

F. A CIID shall have global positioning system capability, and the manufacturer shall electronically and wirelessly download in real-time from the device and transmit daily to the Department, a person's ignition interlock activity in an FTP batch file.

G. A CIID shall be equipped with a camera, which shall not distract or impede the driver in any manner from safe and legal operation of the vehicle, shall record all ignition interlock activity of the person, and shall provide any visual evidence of actual or attempted tampering, alteration, bypass, or circumvention, and report this information directly to the manufacturer.

H. The camera shall be able to record and store visual evidence of each person providing a breath alcohol test, and shall meet the following requirements:

1. At device installation, the camera shall take a reference picture of the person, which shall be kept on file;
2. A clear photograph shall be taken for each event, including initial vehicle start, all rolling retests, and whenever a violation is recorded;
3. Each photograph shall be a wide-angle view of the front cabin of the vehicle, including the passenger side, to ensure the camera can clearly capture the entire face of the person and any passengers; and
4. The camera shall produce a digital image, identifiable verification, or a photograph of the person in all lighting conditions, including brightness, darkness, and low light conditions.

~~F.I.~~ A device shall:

1. ~~Allow a free restart of a motor vehicle's ignition, within three minutes after the ignition is switched off, without requiring another breath alcohol test.~~

~~2.1.~~ Automatically purge alcohol before allowing analysis.

~~3.2.~~ Have a data storage system with the capacity to sufficiently record and maintain a record of the ~~participant's~~ person's daily driving activities that occur between each regularly scheduled ~~accuracy and compliance~~ calibration check referenced under R17-5-610 and R17-5-706. ~~A manufacturer or its authorized installer~~ An IISP shall download and transmit any digital images taken during a participant's person's accuracy and compliance calibration check, during each rolling retest, and each time a person with the ignition interlock requirement or another individual starts the motor vehicle. A manufacturer ~~or its authorized installer~~ shall make these digital images available to the Department on request.

~~4.3.~~ Use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute, ~~and the~~ The manufacturer's software and firmware shall:

- a. ~~Shall require~~ Require device settings and operational features to include, but ~~are~~ not limited to, sample delivery requirements, ~~startup and retest set points~~ the set point, free restart, rolling retest requirements, violation settings, and ~~lock-out conditions~~ temporary and permanent lock-outs; and
- b. ~~Shall not allow~~ Prohibit modification of the device settings or operational features by a service center, or ~~service representative~~ an IISP-certified technician unless the Department approves the modification under ~~subsection (G)~~ subsection (J).

~~5.4.~~ Record all emergency bypasses in its data storage system.

5. Provide a visual reminder on the device that a calibration check must be performed on the person's CIID every 90 days, with prominent device notifications during each 77-day to 90-day interval within a person's ignition interlock period, of the following:

- a. The device needs service; and
- b. The time remaining until a permanent lock-out occurs.

~~6. Require a participant to perform a rolling retest within five to 15 minutes after the initial test required to start an engine, and the device shall continuously require additional rolling retests at random intervals of up to 30 minutes after each previously requested retest as follows:~~

- a. ~~A device shall emit a warning light, tone, or both, to alert a participant that a rolling retest is required.~~
- b. ~~A device shall allow a period of six minutes after the warning light, tone, or both, to allow a participant to take a rolling retest.~~
- c. ~~A device shall require a participant to perform a new test to restart an engine if it is inadvertently switched off during or after a rolling retest warning.~~
- d. ~~A device shall use the startup set point value as its retest set point value.~~
- e. ~~A device shall record, in its data storage system, the result of each rolling retest performed by a participant during the participant's ignition interlock period and any valid and substantiated missed rolling retests; and~~
- f. ~~A device shall immediately require another rolling retest each time a participant refuses to perform a requested rolling retest.~~

6. Notify a person that failure to get the calibration check, including calibration and data download, by the end of each 90-day period will cause the vehicle to be in a permanent lock-out mode, and shall record the event in the data storage system.

~~7. Until a participant successfully performs a rolling retest, or the engine is switched off, a device shall record in its data storage system, each subsequent refusal or failure of the participant to perform the requested rolling retest.~~

~~8.7.~~ On recording a violation of A.R.S. Title 28, Chapter 4, Article 5; for one instance of tampering or circumvention, or any ignition interlock device malfunction, emit a unique cue, either auditory, visual, or both, to warn a participant person that the device will enter into a lock-out condition in 72 hours unless reset by the installer an early recall is initiated, requiring the person to return to the IISP in 72 hours for a violation reset.

8. Enter into a permanent lock-out if a person does not return to the IISP for a violation reset within 72 hours after an early recall occurs.

9. When a violation results in a permanent lock-out condition mode, the device shall:

- a. Immobilize the ~~participant's~~ person's vehicle;
- b. Uniquely record the event in the data storage system; and
- c. Require a violation reset by the ~~installer~~ IISP.

10. Enter into a temporary lock-out mode for five minutes when the device detects during the initial breath alcohol test that a person's breath alcohol concentration is at or above the set point.

11. After the five-minute temporary lock-out, the device shall allow subsequent breath alcohol tests with no further lock-out as long as each subsequent test produces a valid and substantiated breath test.

12. Have security protections and the capability to provide visual evidence of any actual or attempted tampering, alteration or bypass of the device, or circumvention.

**G.J.** No modification shall be made to the design or operational concept of a device model after the Department has certified the device for installation under Arizona law, except that:

- 1. A software or firmware update required to maintain a device model is permissible if the update does not modify the design or operational concept of the device.
- 2. Replacement, substitution, or repair of a part required to maintain a device model is permissible if the part does not modify the design or operational concept of the device.

3. If a manufacturer determines that an existing Department-certified ignition interlock device model requires a any modification, ~~that may affect the operational concept of a device,~~ the manufacturer shall immediately notify the Department.

**R17-5-604. Ignition Interlock Device Certification; Application Requirements**

- A. A manufacturer shall offer for installation only an ignition interlock device that is certified by the Department under this Section.
- B. ~~For certification of an~~ To certify an ignition interlock device model, a manufacturer shall submit to the Department a properly completed application form that provides:
  1. The manufacturer's name;
  2. The address of the manufacturer's principal place of business in this state, ~~established places of business in this state,~~ and telephone ~~numbers~~ number;
  3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
  4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
  6. The manufacturer's electronic mail address.~~6.7. The following statements, signed by the manufacturer's authorized representative and acknowledged by a notary public or Department agent~~ manufacturer:
  - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
  - b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
    - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or ~~its authorized installer~~ the manufacturer's authorized IISP relating to the installation and operation of the ignition interlock device; and
    - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
  - c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
  - d. A statement that the manufacturer agrees to immediately notify the Department of any change to the information provided on the application form.
- C. A manufacturer shall submit the following additional items with the application form:
  1. A document that provides a detailed description of the ignition interlock device and a photograph, drawing, or other graphic depiction of the device;
  2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
  3. An independent laboratory's report for each device model that:
    - a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A Quality Assurance Plan Template, and Appendix B Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to ~~26867-26866~~, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015. The NHTSA specifications and technical corrections are incorporated by reference and are on file with the Department at 206 S. 17th Avenue, Phoenix, AZ 85007, and the NHTSA Office of Research and Technology (NTS-131), 400 7th St. S.W., 1200 New Jersey Avenue SE, Washington, D.C. 20590. This incorporation by reference contains no future editions or amendments;
    - b. Provides the independent laboratory's name, address, and telephone number; and
    - c. Provides the name and model number of the ignition interlock device tested.
  4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3) ~~and acknowledged by a notary public or Department agent,~~ that states all of the following:
    - a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists;
    - b. The laboratory tested the ignition interlock device in accordance with the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A Quality Assurance Plan Template, and Appendix B Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to ~~26867~~ 26866, May 8, 2013; with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

- c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), ~~Appendix A—Quality Assurance Plan Template, and Appendix B Sample Format for Downloaded Data From The Interlock Data Logger~~, NHTSA, published at 78 FR 26862 to ~~26867~~ 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
  - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; ~~and.~~
  - e. The laboratory presented accurate test results to the Department;.
  - 5. ~~A list of all authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;~~
  - 6. ~~A copy of the complete written instructions the manufacturer will provide to its authorized installers under R17-5-609 for installation and operation of the ignition interlock device for which the manufacturer seeks certification. The written instructions shall include a requirement for the installer to affix, to each certified ignition interlock device installed, a warning label that conforms to the criteria prescribed under R17-5-609, as illustrated on the application form provided by the Department;~~
  - 7. ~~A copy of the complete written instructions the manufacturer shall provide to its authorized installers under R17-5-609 for distribution under R17-5-704 to participants and other operators of a vehicle equipped with the ignition interlock device for which the manufacturer seeks certification; and~~
  - 8.5. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
    - a. A product liability policy with a current effective date;
    - b. The name and model number of the ignition interlock device model covered by the policy;
    - c. Policy coverage of ~~at least \$1,000,000 and \$3,000,000 in the aggregate;~~
    - d. The manufacturer as the insured and the state of Arizona as an additional insured;
    - e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
    - f. The insurance company shall notify the ~~Department~~ Department's Risk Management, Insurance and Indemnification Section in writing at least 30 days before canceling the product liability policy.
  - 6. A statement that the ignition interlock device has a camera, includes a global positioning system, and provides real-time reporting.
  - ~~D. On or before April 1, 2015, a manufacturer shall submit a new application form and all the information required in this Section to the Department to certify any new ignition interlock device, or recertify an existing ignition interlock device, to the NHTSA specifications in subsection (E). For each ignition interlock device, a manufacturer shall submit a new laboratory report from an independent laboratory to the Department that presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the NHTSA specifications.~~
  - ~~E.D.~~ Beginning on April 1, 2015 July 1, 2018, for any new installation of an ignition interlock device or any replacement of a device on a participant's person's motor vehicle with another device, ~~a manufacturer or its authorized installer~~ an IISP or an IISP-certified technician shall install only a certified ignition interlock device that meets the additional requirements in this Article, and meets or exceeds the test results required by the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), ~~Appendix A—Quality Assurance Plan Template, and Appendix B—Sample Format For Downloaded Data from the Interlock Data Logger~~, NHTSA, published at 78 FR 26862 to ~~26867~~ 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
  - E. A person whose CIID was installed prior to July 1, 2018, and the device meets or exceeds the 2013 NHTSA specifications, with the 2015 NHTSA technical corrections, and continues to operate properly, shall keep the CIID on the person's vehicle.
- R17-5-605. Application Processing; ~~Time frames~~ Time Frames; Exception**
- A. The Department shall process an application for ignition interlock device certification ~~under this Article or Article 7, or an application for recertification under R17-5-702~~, only if an applicant meets all applicable application requirements.
  - B. The Department shall, within 10 days of receiving an application for certification ~~or recertification~~, provide notice to the applicant that the application is either complete or incomplete.
    - 1. The date of receipt is the date the Department ~~stamps on the application when received~~ receives the application.
    - 2. If an application is incomplete, the notice shall specifically identify what required information is missing.

- C. An applicant with an incomplete application shall provide all missing information to the Department within 15 days of the date indicated on the notice provided by the Department under subsection (B).
  - 1. After receiving all of the required information, the Department shall notify the applicant that the application is complete.
  - 2. The Department may deny certification ~~or recertification of an ignition interlock device~~ if the applicant fails to provide the required information within 15 days of the date indicated on the notice ~~provided by the Department under subsection (B).~~
- D. Except as provided under subsection (F), the Department shall render a decision on an application for certification ~~of an ignition interlock device or recertification under this Article or Article 7,~~ within 30 days of the date indicated on the notice acknowledging receipt of a complete application ~~provided to the applicant under subsection (B) or provided to the applicant under subsection (C) subsections B or C(1).~~
- E. For the purpose of A.R.S. § 41-1073, the Department establishes the following ~~time frames~~ time frames for processing an application for certification ~~or recertification of an ignition interlock device under this Article or Article 7:~~
  - 1. Administrative completeness review ~~time frame~~ time frame: 10 days.
  - 2. Substantive review ~~time frame~~ time frame: 30 days.
  - 3. Overall ~~time frame~~ time frame: 40 days.
- F. Established ~~time frames~~ time frames may be suspended by the Department under A.R.S. § 41-1074 for certification of an ignition interlock device until the Department receives all external agency approvals required for certifying a new ignition interlock device model ~~are submitted by a manufacturer under R17-5-604 from the Department of Public Safety.~~

**R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing**

- A. An application for certification of an ignition interlock device model is complete when the Department receives:
  - 1. From the manufacturer, a properly prepared application form;
  - 2. From the manufacturer, all additional items required under R17-5-604(C); ~~and~~
  - 3. From the ~~Arizona~~ Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets or exceeds the NHTSA specifications in R17-5-604(C); ~~and~~
  - 4. From the manufacturer, a letter or notification that the device meets the following standards:
    - a. The anticircumvention features in R17-5-603(E).
    - b. The data storage capacity requirement in R17-5-603(I)(2), and
    - c. The constant communication requirement in R17-5-610(P).
- B. The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or on finding any of the following:
  - 1. The design, ~~materials~~ material, or workmanship ~~contains a defect that causes~~ is defective, causing the ignition interlock device model to fail to function as intended;
  - 2. The manufacturer's product liability insurance coverage is terminated or canceled;
  - 3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
  - 4. The manufacturer or the independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
  - 5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C); ~~the requirements in this Article;~~ or
  - 6. The Department receives a report of device disapproval from an independent laboratory or other external reviewer.
- C. The Department shall mail to the manufacturer, written notification of the certification or denial of certification of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
- D. If a manufacturer timely requests a hearing on the Director's decision to deny certification of an ignition interlock device model, the Department's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.

**R17-5-607. Cancellation of Device Certification; Hearing**

- A. The Director shall cancel an ignition interlock device model certification and remove the device from its list of ~~certified ignition interlock devices~~ CIID's on finding any of the following:

1. The design, ~~materials~~ material, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
  2. The manufacturer's product liability insurance coverage is terminated or canceled;
  3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
  4. The manufacturer or independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
  5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C);
  6. The manufacturer instructs the Department to cancel its certification of the ignition interlock device model;
  7. ~~The manufacturer, its authorized installer~~ the IISP, or the device does not comply with this Article or any other applicable rule or statute; or
  8. If the manufacturer has not contracted with an IISP authorized by the Department within one year after the device model certification.
- B.** The Department, on finding any of the conditions described under subsection (A), or on finding that the ~~reporting~~ manufacturer failed to timely remedy the issues identified in the notice provided under ~~R17-5-602(E)~~ R17-5-602(H), shall mail to the manufacturer a notice and order of cancellation of certification for the specific ignition interlock device model. The notice and order of cancellation shall:
1. Specify the basis for the action;
  2. Specify the date when the one-year decertification begins and ends; and
  3. State that the manufacturer may, within 15 days after receipt of a notice and order of manufacturer device model cancellation, file a written request for a hearing with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5, to show cause as to why the ignition interlock device certification should not be cancelled.
- C.** If a hearing to show cause is timely requested, the Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of manufacturer device model certification.
- D.** Within 10 days after a hearing, the hearing officer shall issue to the manufacturer a written decision, which shall:
1. Provide findings of fact and conclusions of law; and
  2. Grant or cancel the certification.
- E.** If the hearing officer affirms the manufacturer device model cancellation, the manufacturer may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 35 days of the date when a copy of the decision sought to be reviewed is served upon the party affected unless the court grants a stay while the appeal is pending.
- F.** Within 60 days after the effective date of an order of cancellation, the manufacturer shall, at the manufacturer's own expense, ensure the removal of all ignition interlock devices that are not certified and facilitate the replacement of each device with a ~~certified ignition interlock device~~ CIID.
- G.** The manufacturer of a previously decertified ignition interlock device model may reapply to the Department for certification of ~~the~~ another ignition interlock device model under R17-5-604 after the one-year device decertification period ends.
- H.** ~~During the period of~~ After cancellation, the Department shall notify ~~each authorized installer of the manufacturer and each service representative~~ the IISP and the IISP-certified technicians that each of them is prohibited from installing the ignition interlock device for which the device certification was cancelled.
- I.** Cancellation of a manufacturer's device model certification prohibits the manufacturer from performing its duties with respect to the device model that has been cancelled and making the device model available for installation in the state for a period of one year from the latest of the following dates when:
1. The Department cancels a manufacturer's device model certification, or
  2. The Department's Executive Hearing Office cancels the manufacturer's device model certification.
- R17-5-608. Modification of a Certified Ignition Interlock Device Model**
- A.** A manufacturer shall notify the Department in writing at least 10 days before a material modification is made to a certified ignition interlock device model.
- B.** Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the Department, a manufacturer shall:



1. Submit to the Department a completed application form with the information required under R17-5-604(B) and all additional items required under R17-5-604(C), and
  2. Obtain certification of the materially modified ignition interlock device from the Department.
- C. The Department's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

**R17-5-609. Manufacturer Referral to Authorized Installers; Manufacturer Oversight of its Authorized Installers IISP and Manufacturer Responsibilities**

- ~~A. A manufacturer shall perform a background records check on a manufacturer's authorized installer to determine:~~
- ~~1. Each authorized installer's past employment history;~~
  - ~~2. That each authorized installer provides good customer service and adequately serves the public interest;~~
  - ~~3. That each authorized installer has certified that the authorized installer has not had a felony conviction in the five years preceding the individual's request for certification; and~~
  - ~~4. The authorized installer's motor vehicle record, driver license status, and the existence of any driving under the influence convictions.~~
- ~~B. In this Section, conviction means that a court of competent jurisdiction, after adjudication, found the individual guilty.~~
- ~~C. A manufacturer shall refer a participant only to an authorized installer.~~
- ~~D. A manufacturer shall provide the Department with a toll free telephone number for a participant to call to obtain names, locations, telephone numbers, contact persons, and hours of operation for its authorized installers.~~
- ~~E. A manufacturer shall notify the Department within 10 days of a change of address of its principal or established place of business in this state.~~
- ~~F. A manufacturer shall ensure that its authorized installer follows the installation and operation procedures established by the manufacturer.~~
- ~~G. A manufacturer shall ensure that its authorized installer receives and maintains all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the certified ignition interlock device.~~
- ~~H. A manufacturer shall ensure that its authorized installer:~~
- ~~1. Complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle; and~~
  - ~~2. Electronically notifies the Department within 24 hours after removing a certified ignition interlock device.~~
- ~~I. A manufacturer shall ensure that its authorized installer distributes and makes available for every participant operating a motor vehicle equipped with a certified ignition interlock device, the manufacturer's written instructions for the following:~~
- ~~1. Operating a motor vehicle equipped with the certified ignition interlock device;~~
  - ~~2. Cleaning and caring for the certified ignition interlock device; and~~
  - ~~3. Identifying and addressing any vehicle malfunctions or repairs that may affect the certified ignition interlock device.~~
- ~~J. A manufacturer shall ensure that its authorized installer provides to every participant, and makes available for any participant operating a motor vehicle equipped with a certified ignition interlock device, the manufacturer's specified training on how to operate a motor vehicle equipped with the device.~~
- ~~K. A manufacturer or installer shall provide a warning label, for each certified ignition interlock device installed, which shall:~~
- ~~1. Be of a size appropriate to each device model;~~
  - ~~2. Have an orange background; and~~
  - ~~3. Contain the following language in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."~~
- ~~L. A manufacturer shall ensure that its authorized installer affixes conspicuously to each installed certified ignition interlock device the warning label described under subsection (K).~~
- A. An IISP shall refer a person only to the IISP's certified technician.
- B. An IISP shall provide the Department and each person with a toll-free telephone number to call to obtain the names and phone numbers of the IISP's certified technicians, the IISP service center locations, and hours of operation for the IISP service centers.
- C. An IISP shall certify each technician by providing adequate training and oversight for the technician to perform one of the activities at a service center, which are installation, inspection, calibration, service, or removal of a CIID.

- D.** An IISP shall provide to every person operating a motor vehicle equipped with a CIID, and any other persons who will operate the motor vehicle, training on how to operate the motor vehicle. An IISP shall instruct the person on all of the following:
1. How to use the system;
  2. How to obtain service for the CIID;
  3. How to find answers to any additional questions;
  4. How the alcohol retest feature works;
  5. How drinking alcohol before a test may result in a reading of sensitive or fail;
  6. How the CIID shall not be removed, except by an IISP or IISP-certified technician;
  7. How noncompliance with a regularly scheduled calibration check for a person with a limited or restricted driving privilege shall result in suspension of the person's driving privilege under A.R.S. § 28-1463 until proof of compliance is submitted to the Department under A.R.S. § 28-1461, and the duration of the person's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461;
  8. What the penalties are for circumvention of the CIID;
  9. What the penalties are for tampering with, or misusing the CIID;
  10. What will happen after failing a start-up breath alcohol test;
  11. What will happen after a person has a set of three consecutive valid and substantiated missed rolling retests within an 18-minute time frame during a drive cycle; and that a person shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition;
  12. What events or actions will result in a temporary or permanent lock-out of the CIID; and
  13. How to provide a properly delivered alveolar breath sample.
- E.** An IISP shall have each person sign a document stating that the IISP has instructed the person regarding each topic contained in subsections (D) and (L), and has received the manufacturer's written instructions for operation of the CIID.
- F.** An IISP shall inform a person that a compliance check on a CIID is required 30 days and 60 days after installation of the device, which shall be done electronically.
- G.** An IISP shall inform each person to bring the vehicle to a service center for a calibration check within every 77 to 90-day period until the person is eligible for device removal.
- H.** An IISP shall check each CIID for evidence of tampering at least once every 90 days or more frequently if needed. This anticircumvention check shall be conducted at each person's calibration check at a service center as required under R17-5-706.
- I.** An IISP shall ensure that the manufacturer reports to the Department electronically under R17-5-610 if any evidence of tampering is discovered, and the manufacturer shall submit valid and substantiated proof or evidence of a reportable activity. An IISP shall keep visual evidence of a person's tampering or circumvention for a minimum of three years after the termination of the person's required ignition interlock period.
- J.** An IISP shall submit to the Department a list of the IISP-certified technicians, subcontractors, or agents, and service centers at the beginning of the contract with the Department, within 5 business days of making a change to the list previously provided, and on a monthly basis as requested by the Department.
- K.** An IISP shall comply with the provisions of this Article and A.R.S. Title 28, Chapter 4, Article 5.
- L.** A manufacturer shall develop and an IISP shall provide each person a reference and problem solving guide at the time of installation that shall include information on the following:
1. Operating a motor vehicle equipped with the CIID;
  2. Cleaning and caring for the CIID; and
  3. Identifying and addressing any vehicle malfunctions or repairs that may affect the CIID.
- M.** A manufacturer shall notify the Department within 10 days of a change of address of its principal place of business in this state.
- N.** A manufacturer or an IISP shall provide a warning label, for each CIID installed, which shall have an orange background and shall include the following:
1. Be a minimum size of two inches by one inch;
  2. Be printed in a minimum of nine-point font;
  3. Be printed in Arial font, or a font of substantially similar size and legibility; and
  4. Contain the words in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."
- O.** A manufacturer shall ensure that the IISP or the IISP-certified technician affixes conspicuously and maintains on each installed CIID the warning label described under subsection (N), which may be affixed to the device or to the device's cord.

- P. A manufacturer shall develop written instructions for the installation and removal of an ignition interlock device from a motor vehicle.
- Q. While a person maintains a functioning CIID in a vehicle under A.R.S. Title 28, Chapter 4, Article 5, the ignition interlock manufacturer shall electronically provide to the Department and transmit daily to the Department the information and reports prescribed in R17-5-610 and R17-5-615.
- R. The manufacturer is responsible for overseeing any agents or subcontractors, including vendors and distributors, as well as overseeing the manufacturer's IISP to ensure adherence to all performance standards.

**R17-5-610. Installation Verification; Accuracy Check; Non-compliance and Removal Reporting; Report Review Reporting; Reportable Activity**

- A. A ~~participant person~~ shall have installed in a motor vehicle, only an ignition interlock device certified by the Department under R17-5-604.
- B. A manufacturer shall ~~comply, and~~ develop and the IISP shall ensure that ~~its authorized installer~~ each IISP-certified technician complies; with ~~its~~ the IISP's written procedures for the installation of a ~~certified ignition interlock device CIID.~~
- C. Certified ignition interlock device installation verification.
  - 1. A manufacturer shall electronically transmit; ~~or ensure that its authorized installer electronically transmits,~~ a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours of ~~installing a certified ignition interlock device~~ the device installation.
  - 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
    - a. ~~Installer ID~~ Department-assigned service center number;
    - b. ~~Participant's Person's~~ full name (first, middle, last and suffix);
    - c. Date of birth;
    - d. Driver license or customer number;
    - e. Report date;
    - f. Install date;
    - ~~g. Removal date; and~~
    - ~~h.g.~~ Report type;
    - h. Technician identification number;
    - i. A unique identification number for the CIID;
    - j. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
    - k. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.
- D. Certified ignition interlock device ~~accuracy and compliance~~ calibration check.
  - 1. ~~A manufacturer shall ensure that its authorized installer schedules a participant for accuracy and compliance checks as follows:~~
    - a. ~~30 days, 60 days, and 90 days after installation of a certified ignition interlock device; and~~
    - b. ~~At least once every 90 days after the first 90 day accuracy and compliance check until the participant is eligible for device removal.~~
  - 2.1. ~~A manufacturer shall electronically transmit, or ensure that the manufacturer's authorized reporting installer electronically transmits,~~ a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after performing ~~an accuracy and compliance~~ a calibration check on an installed ~~certified ignition interlock device CIID.~~
  - 3.2. A manufacturer ~~or the manufacturer's authorized reporting installer~~ shall submit to the Department the following valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), within 10 days by electronic means ~~or by regular mail~~, which shall include:
    - a. A summary report ~~summarizing~~ stating why the data logger or any other evidence confirms the occurrence of a violation, including any photographs of the person; and
    - b. A data logger that shows at least 12 hours of data before and after the violation.
  - 4.3. A manufacturer ~~or the manufacturer's authorized reporting installer~~ may submit to the Department the following additional valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), if available, within 10 days by electronic means ~~or by regular mail~~, which may include:
    - a. Photographs;
    - b. Video recordings;
    - c. Written statements; and

- d. Any other evidence relevant to a violation.
- 5.4. The electronic Certified Ignition Interlock Device Summarized Reporting Record for the ~~accuracy and compliance~~ calibration check shall contain all of the following information:
- a. ~~Installer ID~~ Department-assigned service center number;
  - b. ~~Participant's~~ Person's full name (first, middle, last and suffix);
  - c. Date of birth;
  - d. Driver license or customer number;
  - e. Report date;
  - f. Install date;
  - ~~g. Removal date;~~
  - ~~h. g.~~ Report type;
  - ~~i. h.~~ Missed rolling retest count, ~~and dates;~~ and times;
  - ~~j. i.~~ ~~Noncompliance code~~ Technician identification number;
  - ~~k. j.~~ Alcohol concentration violation count, ~~and dates;~~ time, and alcohol concentration;
  - ~~l. k.~~ Tampering violation count, date; dates, and time;
  - l. Circumvention count, dates, and time;
  - m. Device download date; ~~and~~
  - n. Device download time;
  - o. Bypass code indication, date, and time;
  - p. A unique identification number for the CIID;
  - q. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
  - r. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.
- E. Certified ignition interlock device removal report.
1. ~~When a certified ignition interlock device is removed, A a~~ manufacturer shall electronically transmit, ~~or ensure that its authorized installer electronically transmits,~~ a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours ~~if a certified ignition interlock device is removed before the end of a participant's certified ignition interlock device period.~~
  2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:
    - a. ~~Installer ID~~ Department-assigned service center number;
    - b. ~~Participant's~~ Person's full name (first, middle, last and suffix);
    - c. Date of birth;
    - d. Driver license or customer number;
    - e. Report date;
    - f. Install date;
    - g. Removal date;
    - h. Report type; ~~and~~
    - i. ~~Noncompliance code.~~ Technician identification number;
    - j. A unique identification number for the CIID;
    - k. The last six digits of the vehicle identification number that matches the vehicle information on the data logger;
    - l. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID;
    - m. Missed rolling retest count, dates, and times;
    - n. Device download date; and
    - o. Device download time.
- F. Reportable activity for a ~~participant's~~ person's noncompliance with these rules and A.R.S. Title 28, Chapter 4, Article 5, shall be limited to valid and substantiated instances by a ~~participant~~ person of any of the following:
1. Tampering with a ~~certified ignition interlock device~~ CIID as defined in A.R.S. § 28-1301;
  2. ~~A missed rolling retest as defined in R17-5-601;~~ Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute timeframe during a person's drive cycle;
  3. Failing to provide proof of compliance or inspection of the ~~certified ignition interlock device~~ CIID as required under A.R.S. § 28-1461(E)(4);
  4. Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in ~~A.R.S. § 28-1381(A)~~ A.R.S. § 28-1461(E)(5) if the ~~participant~~ person is at least 21 years of age;

5. Attempting to operate the vehicle with an alcohol concentration in excess of the ~~startup~~ set point if the ~~participant person~~ is under 21 years of age; or
  6. Circumvention of a CIID as defined in R17-5-601; or
  - ~~6.7.~~ Disconnecting or removing a certified ignition interlock device CIID, except:
    - a. ~~On receipt of Department authorization to remove the device;~~
    - b.a. On repair of the vehicle, if the participant person provided to the manufacturer, installer, IISP, technician, or service center advance notice of the repair and the anticipated completion date; or
    - e.b. On replacement of moving the device from one motor vehicle with to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.
  - G. A ~~participant person~~ shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition. A missed rolling retest is reportable activity for a ~~participant's person's~~ noncompliance under subsection (F).
  - ~~H. The Department shall count one missed rolling retest for a participant who refuses or fails to provide a valid and substantiated breath sample in response to a requested rolling retest if not followed by the participant providing a valid and substantiated breath sample within six minutes.~~
  - ~~J.H.~~ A manufacturer or its authorized reporting installer shall screen a participant's each person's data loggers to ensure that there is no improper reporting. A manufacturer or its authorized reporting installer shall report to the Department any valid and substantiated missed rolling retests, as defined in R17-5-601, that occur during a participant's ignition interlock period.
  - ~~I.~~ Beginning on April 1, 2015, the Department shall extend the ignition interlock period for six months, as provided in A.R.S. § 28-1461(E) for any set of four missed rolling retests that occur during the participant's ignition interlock period.
  - ~~L.I.~~ A manufacturer or its authorized installer shall ensure that a certified ignition interlock device CIID has the necessary programming to identify each participant's person's ignition interlock period and each drive cycle to report and send data and violations to the Department as required by these rules.
  - ~~M.J.~~ A manufacturer or its authorized reporting installer shall review within 10 days all reports generated by the Department and returned to the manufacturer or installer for verification of accurate reporting. If a manufacturer or its authorized installer finds that the reported information does not indicate valid and substantiated evidence of a violation, the manufacturer or its authorized installer shall immediately contact the Department to correct the participant's person's record before corrective action is initiated against a participant person as a result of misreported ignition interlock data.
  - ~~K.~~ A manufacturer shall provide written notice, as requested, to the Department of each authorized reporting installer who is authorized to send data loggers, reports, and other participant records to the Department.
  - ~~N.K.~~ A manufacturer or its authorized reporting installer shall immediately contact the Department if the manufacturer or its authorized reporting installer finds that the reported information indicates:
    1. An obvious mechanical failure of a certified ignition interlock device CIID;
    2. Obvious errors in the recorded, certified ignition interlock device CIID data that cannot be attributed to a participant's person's actions; or
    3. Obvious errors in the transmission of certified ignition interlock device CIID data to the Department, including misreported instances of tampering.
  - L. A manufacturer shall ensure that a CIID electronically and wirelessly uploads data in real-time to the manufacturer's website, that is maintained by the manufacturer, and the manufacturer shall submit all required information and reports in a daily FTP file to the Department.
  - M. In cases where no electronic or digital service exists, the manufacturer shall store the data and send the data as soon as electronic or digital service is available.
  - N. A manufacturer shall include the date of the last upload on the person's account on the manufacturer's website.
  - O. A CIID shall have constant communication between the manufacturer's server and relay unit while the device is in use.
  - P. All data, including photographs, shall be available to the Department for viewing on the manufacturer's website within five minutes after the data is recorded on the device, or as soon as electronic or digital reception permits.
- R17-5-611. Emergency Assistance by Manufacturers and Authorized Installers; Continuity of Service to Participants Persons**
- A. A manufacturer shall ensure For events occurring outside of normal business hours, an IISP that its authorized installer provides shall provide to each participant person a 24-hour emergency toll-free phone number answered by a live person at all times, to provide for assistance in the event a certified ignition interlock device

CIID fails to operate properly or a vehicle experiences a problem relating to the installation, operation, or failure of a certified ignition interlock device CIID.

1. ~~Within two hours after receiving a participant's call for emergency assistance~~ During normal business hours, if the authorized installer IISP or technician receives a call for emergency assistance, and determines that a vehicle is experiencing a problem relating to the installation, operation, or failure of a certified ignition interlock device CIID, ~~the authorized installer shall~~ an IISP or a technician shall respond to the call within 24 hours of the initial contact and shall be available either to:
    - a. Provide telephonically, the technical information required for the participant person to resolve the issue; or
    - b. Provide or arrange for appropriate towing or roadside assistance services if unable to resolve the issue telephonically.
  2. ~~Within 48 hours after~~ After receiving a participant's person's call for emergency or other assistance, the authorized installer IISP, technician, or manufacturer, as appropriate, shall either:
    - a. Make the certified ignition interlock device CIID functional, if possible, within 24 hours, or
    - b. Replace or repair the certified ignition interlock device CIID within 48 hours of the initial contact.
- B. A manufacturer** An IISP shall ensure uninterrupted service to a participant person for the duration of the participant's person's certified ignition interlock period, which shall include facilitating the immediate replacement of an authorized installer if the installer a technician, subcontractor, or an employee or agent who goes out of business, its recertification is denied, is removed, or its a technician whose certification is cancelled by the Department under R17-5-708 IISP.
1. If a manufacturer terminates ~~its authorized installer's~~ the IISP's authorization appointment, or the Department cancels the installer's certification or denies recertification under R17-5-708, the manufacturer shall: obtain each person's records from the IISP and retain the records according to R17-5-612.
    - a. ~~Obtain participant records from its formerly authorized installer; and~~
    - b. ~~Provide the participant records to a new authorized installer for retention according to R17-5-612; or~~
    - c. ~~Retain the participant records according to R17-5-612, if a new authorized installer is not appointed.~~
  2. At the end or termination of an ignition interlock service authorization agreement, the manufacturer shall provide the Department with electronic access to each person's ignition interlock records for three years.
  - 2.3. If a manufacturer appoints authorizes a new authorized installer, IISP, the manufacturer shall: notify each person affected by the authorization of the new IISP at least 30 days before the authorization becomes effective.
    - a. Ensure that the new authorized installer operates either:
      - i. A mobile service center that is located within 75 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; or
      - ii. A service center that is a permanent facility located within 125 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; and
    - b. ~~Notify each participant affected by the appointment of the new authorized installer at least 30 days before the appointment becomes effective.~~
  - 3.4. If a manufacturer does not appoint authorize a new authorized installer IISP, or its new authorized installer cannot provide service as prescribed under subsection (B)(2), the manufacturer at no cost to the participant person, shall:
    - a. Provide written notification to all participants persons who are affected by the change of authorized installers loss of an IISP or lack of service in an area, at least 30 days before the authorized installer IISP is to discontinue discontinues service. The written notification shall inform the participant person of the manufacturer's responsibility to facilitate removal and replacement of the certified ignition interlock device CIID and shall provide ~~all~~ of the instructions necessary for the participant person to successfully exchange the device;
    - b. Remove the device from the vehicle of each affected participant person; and
    - c. Facilitate the replacement of each device through a manufacturer with an authorized installer IISP that can provide service as ~~prescribed under subsection (B)(2).~~
  - 4.5. A manufacturer shall notify the Department within 72 24 hours of replacing its authorized installer IISP.
  - 5.6. ~~A manufacturer~~ An IISP shall submit to the Department an updated list of its authorized the IISP's installers certified technicians within ~~40~~ 5 business days after making a change to the list provided to the Department under ~~R17-5-604. R17-5-609(J).~~

- C. Except in an emergency situation, a manufacturer, an IISP, or ~~its authorized installer~~ an IISP's-certified technician shall not remove another manufacturer's ~~certified ignition interlock device~~ CIID without the express permission of that manufacturer.
1. If in an emergency situation a manufacturer, an IISP, or ~~its authorized installer~~ the IISP's-certified technician removes another manufacturer's ~~certified ignition interlock device~~ CIID, that manufacturer, ~~or authorized installer~~ IISP, or the IISP's-certified technician shall return the device to the original ~~installer~~ manufacturer within 72 hours of the emergency removal; and
  2. The original ~~installer~~ manufacturer, on receipt of the device, shall provide to the Department an electronic report of the device removal under R17-5-610, which shall include the transmission of all data stored in its data storage system.
- D. ~~A manufacturer~~ In accordance with the IISP's implementation plan, an IISP shall facilitate the ~~immediate~~ replacement of ~~its authorized installer's~~ the IISP's service center if the service center goes out of business or the ~~installer's certification is cancelled or recertification is denied under R17-5-708.~~ service center is closed, and the IISP does not have a service center in the county. ~~The manufacturer~~ An IISP shall notify the Department within 72 hours of replacing a service center location in a county.
1. ~~If an out-of-business or cancelled~~ a service center closes and is replaced, the manufacturer shall make all reasonable efforts to obtain; from the service center being replaced, all ~~participant~~ the individual ignition interlock records and data required to be retained under R17-5-612. The records shall be provided to, and maintained by the ~~new service center~~ IISP.
  2. If an out-of-business or ~~cancelled~~ closed service center is not replaced, the manufacturer shall retain the records and data as required under R17-5-612-. ~~The Department shall be notified of this event within 72 hours, and shall provide the Department with electronic access to the records and data.~~
    - a. The manufacturer shall facilitate removal of all installed ~~certified ignition interlock devices~~ CIID's no longer serviced by the out-of-business or ~~cancelled~~ closed service center, and shall bear the cost of replacing each device with a serviceable ~~certified ignition interlock device~~ CIID chosen by the person, even if the replacement device must be provided through an alternate manufacturer.
    - b. The manufacturer shall, within 30 days, make a reasonable effort to notify its customers of the change of service center or replacement of a device.
  3. If the manufacturer cannot comply with subsection (D)(1) or subsection (D)(2) ~~within 60 days~~, the ~~manufacturer~~ IISP shall:
    - a. Notify its customers and the Department that service will be terminated; and
    - b. Remove each device at no cost to the customer.

**R17-5-612. Records Retention; Submission of Copies and Quarterly Reports**

- A. ~~Records retention.~~ ~~A manufacturer~~ During the duration of the ignition interlock service authorization agreement, an IISP shall retain, ~~or ensure that its authorized installer retains,~~ a participant's each person's ignition interlock activity records in an electronic format, including a secure database, or a paper format ~~for three years after the removal of a certified ignition interlock device.~~ The retained records shall consist of every document relating to installation, and operation, and removal of the ~~certified ignition interlock device~~ CIID. The ~~installer IISP and the service center~~ shall maintain all daily participant driving ignition interlock activity records of each person in the device's data storage system, and shall make participant records available to the Department on request at the principal place of business, or in a secure database at a commercial business location in this state, that the Department may access during posted business hours. An IISP shall inform the Department where all individual ignition interlock activity records are located.
- B. Prior to the end or termination of an ignition interlock service authorization agreement, the manufacturer shall obtain all person's ignition interlock records and provide the Department with electronic access to the records for three years.
- ~~B.C. Copies of records and quarterly reports.~~
1. A manufacturer shall ~~ensure that its authorized reporting installer or the manufacturer provides~~ provide copies of ~~participants' each person's~~ each person's ignition interlock records to the Department within 10 days after Department personnel ~~make a request for~~ copies of records, including records relating to installation and operation of the ~~certified ignition interlock device~~ CIID.
- D.2. ~~A manufacturer shall ensure that its authorized installer mails or e-mails~~ electronically send to the Department, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
- a.1. The number of ~~certified ignition interlock devices~~ CIID's the ~~authorized installer~~ IISP currently has in service;

- ~~b.2. The number of certified ignition interlock devices CIID's installed since the previous quarterly report; and~~
- ~~e.3. The number of certified ignition interlock devices CIID's removed by the authorized installer IISP since the previous quarterly report.~~

E. An IISP shall maintain and make available to the Department the ignition interlock records of all persons served by the IISP, records relating to the authorization agreement, and employee background check information at a commercial business location in this state of the manufacturer or the IISP during normal business hours.

**R17-5-613. Inspections and Complaints**

- ~~A. The Department shall investigate any complaint that is related to a CIID or an IISP, or report of misconduct brought against a certified ignition interlock device manufacturer, installer, or installer certified service representative, or against a service center for noncompliance with a provision of Articles 6 or 7 of this Chapter or A.R.S. Title 28, Chapter 4, Article 5.~~
- ~~B. To comply with certification and the enforcement provisions of A.R.S. § 28-1465, the Department may request the consent of a manufacturer or a manufacturer's authorized installer for periodic onsite inspections at the established place of business of a manufacturer, a manufacturer's authorized installer, or a service center to determine whether a manufacturer or a manufacturer's authorized installer is in compliance with the Department's ignition interlock program requirements established under Articles 6 and 7 of this Chapter and A.R.S. Title 28, Chapter 4, Article 5. An IISP and a manufacturer shall permit and fully cooperate with periodic on-site inspections of the IISP's service centers and principal places of business of the manufacturer at any time during normal business hours by an authorized representative of the Department, where records relating to the authorization agreement and individual ignition interlock device records are maintained.~~
- ~~C. The Department shall conduct an inspection on-site inspections of a manufacturer, an installer, or a service center under the provisions of A.R.S. § 41-1009. The inspection shall include an examination of participant ignition interlock activity, records and verification of an adequate supply of the warning labels that meet the requirements of A.R.S. § 28-1462, and R17-5-609, and R17-5-704.~~

**R17-5-614. Ignition Interlock Device Installation Fee; Financial Records**

- A. An IISP shall collect an ignition interlock device installation fee of twenty dollars from each participant for each CIID that is installed in, or transferred to a motor vehicle by an IISP.
- B. An IISP shall electronically remit the collected ignition interlock device installation fees paid by all persons to the Department on a monthly basis through a payment account created by the IISP on ServiceArizona.com, or as specified by the Department, by transferring the collected fees paid during the previous month to the Department by the tenth day of the following month.
- C. An IISP shall not charge a person an installation fee to replace a defective ignition interlock device.
- D. An IISP shall post the amount of the ignition interlock device installation fee and the statutory authority for the ignition interlock device installation fee required by A.R.S. § 28-1462 on the IISP's website, that is available to all persons with an ignition interlock device requirement, and in a visible location at each of the IISP's service centers.
- E. An IISP must clearly post the amount of all other fees charged to a person for ignition interlock device services.
- F. An IISP shall maintain the financial records of the ignition interlock device installation fee collection and transfer to the Department, at an IISP's established place of business, or in a secure database, for three years from the date of the fee transfer. The Department may review the financial records of an IISP during normal business hours, to ensure compliance with the collection and transfer of the ignition interlock device installation fee to the Department.

**R17-5-615. Rolling Retest; Missed Rolling Retest; Extension of Ignition Interlock Period**

- A. A manufacturer shall report to the Department any valid and substantiated missed rolling retests, as defined in R17-5-601, that occur during the time period prescribed in subsection (E).
- B. A CIID shall have the capability to require a rolling retest and meet the requirements of a rolling retest. A person shall be prompted for the first rolling retest within five to 15 minutes after the initial test required to start an engine, and the device shall prompt for additional rolling retests at random intervals of up to 30 minutes after each previously requested and passed rolling retest.
- C. A certified ignition interlock device shall:
  - 1. Emit a warning light, tone, or both, to alert a person that a rolling retest is required;
  - 2. Allow a period of six minutes after the warning light, tone, or both, to allow a person to take a rolling retest;
  - 3. Require a person to perform a new test to restart an engine if it is switched off during or after a rolling retest warning;



4. Allow a free restart of a motor vehicle's ignition, within three minutes after the ignition is switched off, without requiring another breath alcohol test, except when a rolling retest is in progress;
  5. Use the set point value for startups and retests;
  6. Record, in its data storage system, the result of each rolling retest performed by a person during the person's drive cycle, and any valid and substantiated missed rolling retests; and
  7. Immediately require another rolling retest each time a person refuses to perform a requested rolling retest.
- D.** Until a person successfully performs a rolling retest, or the engine is switched off, a device shall record in its data storage system, each subsequent refusal or failure of the person to perform the requested rolling retest.
- E.** The Department shall count one missed rolling retest for a person who refuses or fails to provide a valid and substantiated breath sample in response to a requested rolling retest if not followed by the person providing a valid and substantiated breath sample within six minutes.
- F.** Failure to take a rolling retest when a person's breath alcohol concentration is equal to or exceeds the set point shall not sound the vehicle horn, nor any type of siren, bell, whistle or any device emitting a similar sound, or any unreasonable loud or harsh sound that is audible outside of the vehicle, and shall not cause the engine of the vehicle to shut off.
- G.** The Department shall extend a person's ignition interlock period for six months, as provided in A.R.S. § 28-1461(E) for any set of three consecutive missed rolling retests that occur within an 18-minute time frame during a drive cycle.
- H.** If during one drive cycle, a person who is at least 21 years of age, has two or more breath alcohol concentrations of 0.08 or more, the Department shall count this as one violation, and shall extend a person's ignition interlock period for six months.
- I.** If during one drive cycle, a person who is under 21 years of age, has any breath alcohol concentration one or more times, the Department shall count this as one violation, and shall extend a person's ignition interlock period for six months.
- J.** Except as provided in subsections (H) and (I), if during one drive cycle, a person has more than one violation as defined in R17-5-601, the Department shall extend a person's ignition interlock period for six months for each violation.

**R17-5-616. Civil Penalties; Hearing**

- A.** After notice and an opportunity for a hearing, the Director may impose a civil penalty pursuant to A.R.S. § 28-1465, against a manufacturer of a certified ignition interlock device for improper reporting to the Department of ignition interlock data, as defined in R17-5-601, that may cause the Department to erroneously initiate corrective action against a person. The Director may impose and collect a civil penalty against a manufacturer of a certified ignition interlock device, who is responsible for an occurrence of improper reporting, as follows:
1. \$100 for the first occurrence, but not to exceed \$1,000 per series of occurrences of improper reporting on a specific date;
  2. \$250 for the second occurrence, but not to exceed \$2,500 per series of occurrences of improper reporting on a specific date; and
  3. \$500 for the third or subsequent occurrence, but not to exceed \$5,000 per series of occurrences of improper reporting on a specific date.
- B.** The Director, on finding that a manufacturer engaged in improper reporting, shall mail to the manufacturer a notice that civil penalties may be imposed for improper reporting. The notice shall:
1. Specify the basis for the action; and
  2. State that the manufacturer may, within 15 days after receipt of the notice, file a written request for a hearing with the Department's Executive Hearing Office as prescribed in 17 A.A.C. 1, Article 5.
- C.** A manufacturer who is aggrieved by an assessment, decision, or order of the Department under A.R.S. § 28-1465 and this Section may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6.
- D.** The manufacturer shall pay the civil penalty imposed under this Section to the Department no later than 30 days after the order is final.
- E.** Action to enforce the collection of a civil penalty assessed under subsection (A) shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in which the hearing is held.

**R17-5-617. Cease and Desist**

- A.** If the Director has reasonable cause to believe that a party to an IISP authorization agreement is violating any provision of state statute, administrative rule, or the authorization agreement, the Director will immediately issue and serve a cease and desist order by mail to the IISP's last known address.

- B. On receipt of the cease and desist order, the IISP shall immediately cease and desist from further engaging in any activity that is not authorized in state statute, administrative rule, or the agreement, and that is specified in the cease and desist order.
- C. On failure of the IISP to comply with the cease and desist order, the IISP may request a hearing with the Department's Executive Hearing Office under 17 A.A.C. 1, Article 5, within 15 days. On failure of the IISP to comply with the cease and desist order, the Director will immediately cancel the agreement with the IISP.

**R17-5-618. Service Centers; Mobile Services**

- A. An IISP shall have at least one readily accessible service center in each county in this state that performs all ignition interlock services, including service, calibration, installation, inspection, and removal of a CIID by a technician who is trained and certified by the IISP for the specific service area.
- B. An IISP, subcontractor, agent, or an employee who operates a service center, or provides mobile services as an extended service provided by a service center on a temporary or emergency basis, shall meet the requirements in these rules before conducting CIID-related business in this state.
- C. A service center shall maintain sufficient staffing to provide an acceptable level of ignition interlock device services during all posted business hours.
- D. A technician that provides mobile services shall be stationed and employed at the IISP's service center and be certified in the ignition interlock service area the technician will provide.
- E. When a service center technician provides mobile services, an IISP shall ensure that the service center has another technician or employee available at the service center to provide ignition interlock device services.
- F. An IISP's service center shall:
  - 1. Be located in a permanent, fixed-site facility that accommodates installing, inspecting, downloading, calibrating, monitoring, maintaining, servicing, and removing a CIID;
  - 2. Provide a designated waiting area for a person that is separate from the installation area;
  - 3. Ensure that a person does not witness installation of the CIID;
  - 4. Through the IISP, the IISP-certified technician or employee, provide the necessary training required by R17-5-609(D) for a person to operate a CIID;
  - 5. Ensure that a technician meets the necessary requirements in order to receive and maintain certification before a technician or an IISP conducts ignition interlock device business in this state; and
  - 6. Have the necessary equipment and tools to provide all ignition interlock services in a professional manner.
- G. A service center that provides mobile services shall:
  - 1. Have the capability to provide all the ignition interlock services in subsection (F)(1);
  - 2. Meet the requirements in subsection (F)(3) through (F)(6);
  - 3. Have permission from the motor vehicle owner to provide mobile services; and
  - 4. Ensure that a technician provides business identification to a person requesting service prior to performing services, along with the service center certificate and the technician's training certificate.
- H. A service center that provides mobile services shall not operate from a tow truck.
- I. An IISP that operates a service center, shall ensure that an IISP-certified technician utilizes all of the following:
  - 1. The analysis of a reference sample such as headspace gas from a mixture of water and alcohol, the results of which shall agree with the reference sample predicted value, or other methodologies approved by the Department. The preparatory documentation on the reference sample solution, such as a certificate of analysis, shall be made available to the Department on request.
  - 2. The set point value established under R17-5-601. All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L).
  - 3. The most current versions of manufacturer software and firmware to ensure continuous compliance under this Article and A.R.S. Title 28, Chapter 4, Article 5.
- J. An IISP shall ensure that a motor vehicle used to provide mobile services from a service center has current vehicle registration in this state and maintains the required mandatory insurance and financial responsibility coverage in A.R.S. § 28-4009.
- K. A technician shall ensure that a person who receives mobile services receives the same level of training and service as a person who receives services at a service center.
- L. The manufacturer shall ensure that a CIID electronically transmits the Summarized Reporting Record for a calibration check to the Department as provided in R17-5-610(D)(4).

**R17-5-619. Application; IISP Implementation Plan**

- A. An IISP that applies for authorization of an ignition interlock service provider contract under A.R.S. § 28-1468 shall submit all documents and meet all the requirements in the ignition interlock service provider authorization agreement; in Title 28, Chapter 5, Article 4, Arizona Revised Statutes; and these rules.

- B.** In addition to this information, an IISP shall submit to the Department, with the application, a detailed implementation plan that outlines the steps and time frames necessary for the IISP to be fully operational. The implementation plan must include:
  - 1. The IISP's plan for establishing a service center in every county in this state;
  - 2. The IISP's procedures for imposing progressive discipline on its employees, agents, or subcontractors who fail to comply with the requirements of Arizona statute; Department administrative rules; or the terms of the authorization agreement;
  - 3. A plan for transitioning ignition interlock services to another IISP that ensures continuous monitoring will occur if a participant decides to transition services to another IISP or if the IISP ceases conducting business or leaves this state;
  - 4. A means by which the IISP will provide all participant records and information or electronic access to the records and information to the ignition interlock device manufacturer in the event the IISP ceases conducting business or leaves this state. At the end or termination of an ignition interlock service authorization agreement, the manufacturer shall provide the Department with electronic access to all person's ignition interlock records for three years; and
  - 5. Documentation that the IISP is an authorized agent of the manufacturer and a point of contact for the manufacturer, including the IISP's telephone number and e-mail address.
- C.** An IISP shall be approved by the Director through the application for authorization agreement process before offering ignition interlock services in the state.
- D.** An IISP shall use this process to reapply to the Director for reauthorization of an ignition interlock service provider contract.

**R17-5-620. Authorization Time Frame; Ignition Interlock Service Provider**

- A.** The Director shall, within 10 days of the date of receipt of an application for authorization of an ignition interlock service provider contract, provide notice to the IISP that the application is either complete or incomplete.
  - 1. The date of receipt is the date the Director receives the application.
  - 2. If an application is incomplete, the dated notice shall specifically identify the required information that is missing.
- B.** An applicant with an incomplete application shall provide all missing information to the Director within 15 days of the Director's notice.
  - 1. After receiving all of the required information, the Director shall notify the IISP that the application is complete.
  - 2. The Director may deny an IISP's application if the IISP fails to provide the required information within 15 days of the Director's notice.
- C.** The Director shall render a decision on an application for authorization within 30 days of the date on the notice acknowledging receipt of a complete application, provided to the applicant under subsections (A) or (B).
- D.** If the Director denies an application for authorization, the Director shall notify the IISP in writing within 20 days after the denial, and of the grounds for the denial in accordance with A.R.S. § 28-1468 (E).
- E.** For the purposes of A.R.S. § 41-1073, the Department establishes the following time frames for the purpose of reviewing an application for authorization:
  - 1. Administrative completeness review time frame: 10 days.
  - 2. Substantive review time frame: 30 days.
  - 3. Overall time frame: 40 days.
- F.** The Director shall use this process for reapplication for authorization of an ignition interlock service provider contract.

**R17-5-621. Service Center Application**

- A.** On approval by the Director of an IISP's signed application for authorization to provide ignition interlock services, an IISP shall submit to the Department a properly completed service center application for approval of the IISP's service centers.
- B.** An IISP shall provide the following information to the Department:
  - 1. The service center name;
  - 2. The business address of the established place of business of each service center or business location;
  - 3. The telephone number of each established place of business of each service center or business location;
  - 4. The service center's legal status as a sole proprietorship, partnership, limited liability company, or a corporation;

5. The name of the sole proprietor, each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  6. The name and model number of each CIID the IISP plans to install;
  7. An indication of any service centers that will provide mobile services;
  8. Any applicable business licenses and the governmental entity; and
  9. The following statements signed by the IISP:
    - a. A statement that all information provided on the application, including all information provided on any attachment to the application is complete, true, and correct;
    - b. A statement that the IISP agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
    - c. A statement that the IISP agrees to comply with all requirements in these rules; and
    - d. A statement that the IISP agrees to immediately notify the Department of any change to the information provided on the application form.
- C.** The Department shall process an IISP's service center application only if the IISP meets all applicable application requirements.
- D.** The Department shall, within 10 days of receiving a service center application, provide notice to the IISP that the application is either complete or incomplete.
1. The date of receipt is the date the Department receives the application.
  2. If an application is incomplete, the notice shall specifically identify the required information that is missing.
- E.** An IISP with an incomplete application shall provide all missing information to the Department within 15 days of the date on the Department's notice.
1. After receiving all of the required information, the Department shall notify the IISP that the application is complete.
  2. The Department may deny approval of a service center if the IISP fails to provide the required information within 15 days of the date on the notice.
- F.** The Department shall render a decision on a service center application within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the IISP under subsections (D) or (E).
- G.** For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for approval of a service center:
1. Administrative completeness review time frame: 10 days.
  2. Substantive review time frame: 30 days.
  3. Overall time frame: 40 days.
- H.** If a service center is no longer authorized by a manufacturer to install its CIID, the IISP shall notify the Department within 24 hours.
- I.** An IISP shall be the authorized representative of a specific manufacturer while the authorization agreement is in effect, for a service center to install the manufacturer's CIID.
- J.** If an IISP, subcontractor, or agent opens or relocates a service center, or the service center is operated by another entity, an IISP, subcontractor, or agent shall submit a new service center application for approval.
- K.** An IISP shall use this process to reapply to the Department for a service center application.
- R17-5-622. Technician Application**
- A.** On approval by the Department of an IISP's service center application, an IISP shall submit to the Department for approval, a properly completed technician application with the following information:
1. Name of the technician;
  2. The technician's date of birth;
  3. The technician's residence address;
  4. The technician's driver license number;
  5. Name of the service center where the technician is employed;
  6. Location of the service center where the technician is employed; and
  7. The following statements signed by the technician and the IISP:
    - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form is complete, true, and correct;
    - b. A statement that the technician and the IISP agree to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
    - c. A statement that the technician agrees to comply with all requirements in these rules; and

- d. A statement that the IISP agrees to immediately notify the Department of any change to the information provided on the application form.
- B. The Department shall process a technician's application only if a technician meets all applicable application requirements.
- C. The Department shall, within 10 days of receiving a technician application, provide notice to the applicant that the application is either complete or incomplete.
  - 1. The date of receipt is the date the Department receives the application.
  - 2. If an application is incomplete, the notice shall specifically identify the required information that is missing.
- D. An applicant with an incomplete application shall provide all missing information to the Department within 15 days of the date on the Department's notice.
  - 1. After receiving all of the required information, the Department shall notify the applicant that the application is complete.
  - 2. The Department may deny approval of a technician application if the applicant fails to provide the required information within 15 days of the date on the notice.
- E. The Department shall render a decision on a technician application within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the IISP under subsections (C) or (D).
- F. For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for approval of a technician:
  - 1. Administrative completeness review time frame: 10 days.
  - 2. Substantive review time frame: 30 days.
  - 3. Overall time frame: 40 days.
- G. If an IISP and the IISP's technician are no longer authorized by a manufacturer to install its CIID, the IISP shall notify the Department within 24 hours.
- H. An IISP shall be the authorized representative of a specific manufacturer that has an authorization agreement in effect for a technician to service the manufacturer's CIID.
- I. An IISP shall submit a separate technician application when an IISP hires a new technician.
- J. After the Department approves a technician, the Department will assign to each technician, a unique technician identification number to identify each technician who installs, calibrates, inspects, or removes a CIID.
- K. An IISP shall use this process to reapply to the Department for a technician application.

**R17-5-623. Termination of Authorization; Notification**

- A. If the Director terminates an IISP's authorization agreement, the Director shall notify each person with the manufacturer's CIID that the person has 30 days to obtain another IISP.
- B. Any IISP owner or principal whose agreement has been terminated as a result of the IISP's authorization being cancelled is not eligible to re-apply for authorization from the Department until 36 months after the date of termination.

**ARTICLE 7. IGNITION INTERLOCK DEVICE INSTALLERS TECHNICIANS**

**R17-5-701. Definitions**

~~In addition to the~~ The definitions provided under A.R.S. §§ 28-101 and 28-1301, and the definitions provided under R17-5-601 apply to this Article unless the context otherwise requires.

**R17-5-702. Ignition Interlock Device Installer Certification; Application Requirements; Recertification Records Check; Technician Qualifications; IISP Self-Certification of Technician**

- A. ~~A manufacturer's authorized installer shall be certified by the Department before installing a certified ignition interlock device, and shall be recertified annually by the Department to continue to install a certified ignition interlock device under Arizona law.~~
- B. ~~The Department may establish a system of staggered recertification for authorized installers throughout the twelve months of the year. If the Department approves an installer's certification or recertification, the certification or recertification shall extend for one year from the date of Department approval. A manufacturer's authorized installer shall submit to the Department the information required in subsection (D) on an annual basis for recertification. The Department may accept documents submitted with the initial application for certification, subject to Department approval.~~
- C. ~~A manufacturer's authorized installer shall obtain from the manufacturer, as provided under R17-5-609, all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the manufacturer's certified ignition interlock device.~~

- ~~D. A manufacturer's authorized installer shall submit to the Department a properly completed application for installer certification or recertification. The application for installer certification or recertification shall provide:~~
- ~~1. The authorized installer's name;~~
  - ~~2. The authorized installer's business address and telephone number;~~
  - ~~3. The authorized installer's status as a sole proprietorship, partnership, limited liability company, or corporation;~~
  - ~~4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;~~
  - ~~5. The name and model number of each certified ignition interlock device the authorized installer intends to install; and~~
  - ~~6. The following statements, signed by the authorized installer and acknowledged by a notary public or Department agent:~~
    - ~~a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;~~
    - ~~b. A statement that the authorized installer agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;~~
    - ~~c. A statement that the authorized installer agrees to comply with all requirements under this Article; and~~
    - ~~d. A statement that the authorized installer agrees to immediately notify the Department of any change to the information provided on the application form.~~
- ~~E. The Department shall process an application for installer certification or recertification as provided under R17-5-605.~~
- ~~F. Department certification issued to an authorized installer under this Article shall not expire as long as the installer remains authorized by a manufacturer to install its certified ignition interlock device model under Arizona law and the installer completes all requirements for annual recertification in the time period prescribed in this Section.~~
- ~~1. If a Department certified installer is no longer authorized by a manufacturer to install its certified ignition interlock device, the manufacturer shall notify the Department within 24 hours that an installer is no longer authorized by the manufacturer.~~
  - ~~2. If the installer again becomes authorized by a manufacturer to install its certified ignition interlock device, the installer may reapply to the Department for certification under this Article by submitting a new application.~~
- ~~G. A Department certified ignition interlock device installer shall notify the Department within 24 hours of making a decision to relocate a fixed site service center.~~
- ~~H. A Department certified installer shall train and certify each of its service representatives on the proper installation of a certified ignition interlock device before allowing the service representative to install the certified ignition interlock device.~~
- ~~I. A Department certified ignition interlock device installer shall provide to the Department a current list of the names of each of its certified service representatives on a quarterly basis. The installer shall electronically notify the Department within 24 hours after making a change to its list.~~
- A. If the Director enters into an IISP's ignition interlock authorization agreement under A.R.S. § 28-1468, an IISP shall conduct an annual criminal records check and a certified driver's license record check on all employees, agents, or subcontractors listed on the IISP's application within 30 days prior to each individual's start date.
- B. An IISP shall self-certify and train a technician in the service area that the technician will provide.
- C. The qualifications for a technician are:
1. A technician shall be at least 18 years of age.
  2. A technician who is required to drive a motor vehicle on a highway in this state in the technician's capacity shall have a valid Arizona driver license as required by A.R.S. § 28-3151, unless exempted under A.R.S. § 28-3152.
  3. A technician shall have the necessary mechanical ability, training, and certification from the IISP required to perform installation, inspection, service, calibration, or removal of a CIID from a motor vehicle.
- D. A technician shall:
1. Maintain the confidentiality of any personal information, driver license information, or ignition interlock data or reports relating to a person;
  2. Ensure that a person does not observe the technician's actions relating to installation and removal of a CIID;

3. Comply with the ignition interlock rules in 17 A.A.C. 5, Articles 6 and 7, and Arizona Revised Statutes Title 28, Chapter 4, Article 5; and
4. Conduct installation, service, calibration, inspection, or removal of an ignition interlock device from a motor vehicle in accordance with industry standards.

**E.** A technician is prohibited from using the global positioning system capabilities of a CIID to track the location of a person and shall not release location information gathered by the CIID.

**R17-5-703. Ignition Interlock Device Installer Bond Requirements; Recertification**

- A.** Before installing, servicing, or removing a certified ignition interlock device, an installer shall:
1. Be appointed by a manufacturer as an authorized installer of its certified ignition interlock device;
  2. Obtain an ignition interlock installer bond from a surety company authorized by the Arizona Department of Insurance to conduct general surety business in Arizona. The ignition interlock installer bond shall be:
    - a. In the amount of \$25,000;
    - b. On the approved form provided by the Department; and
    - c. Maintained for as long as the installer intends to install, service, or remove Department-certified ignition interlock devices under Arizona law;
  3. Submit the original completed ignition interlock installer bond to the Arizona Department of Transportation, Motor Vehicle Division, Ignition Interlock Program, 1801 W. Jefferson St. MD530M, Phoenix, AZ 85007; and
  4. Receive Department certification or recertification under R17-5-702.
- B.** An installer authorized by a manufacturer and certified or recertified by the Department to install, service, or remove more than one certified ignition interlock device model needs only one bond, which shall extend as long as the installer is certified or recertified.

**R17-5-704. Authorized Installer Responsibilities**

- A.** An authorized installer certified by the Department to install a certified ignition interlock device shall:
1. Follow the installation and operating procedures established and provided by the manufacturer;
  2. Acquire and maintain all necessary training and skills specified by the manufacturer for installing, troubleshooting, examining, and verifying the proper operation of its certified ignition interlock device;
  3. Comply with all of the manufacturer's procedures for removing the certified ignition interlock device from a vehicle;
  4. Electronically notify the Department within 24 hours after removing a certified ignition interlock device under R17-5-610;
  5. Provide to the manufacturer, or to the Department if delegated by the manufacturer, an accurate electronic reporting of all applicable information required of the manufacturer under R17-5-610 and R17-5-612;
  6. Provide to every participant, and make available for every person operating a motor vehicle equipped with the certified ignition interlock device, a copy of the manufacturer's written instructions for the following:
    - a. Operating a motor vehicle equipped with the certified ignition interlock device;
    - b. Cleaning and caring for the certified ignition interlock device; and
    - c. Identifying and addressing vehicle malfunctions or repairs that may affect the certified ignition interlock device;
  7. Ensure that each participant receives an operator's manual and is further instructed regarding all of the following:
    - a. How to use the system;
    - b. How to obtain service for the system;
    - c. How to find answers to any additional questions;
    - d. How the alcohol retest feature works;
    - e. How drinking alcohol before a test may result in a reading of sensitive or fail;
    - f. How the device shall not be removed, except by an installer-certified service representative;
    - g. How missing an appointment for a regularly scheduled accuracy check will cause the certified ignition interlock device to enter into a lock-out condition that will emit a unique cue, either auditory, visual, or both, to warn the driver that after 72 hours the vehicle will not start. It shall be the responsibility of each participant to have the car towed to the service center if a lock-out condition occurs;
    - h. How noncompliance with a regularly scheduled accuracy check shall result in suspension under A.R.S. § 28-1463 of the participant's driver license until proof of compliance is submitted to the Department under A.R.S. § 28-1461; and the duration of the participant's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461;
    - i. What the penalties are for tampering with or misusing the system;

- j. ~~What will happen after failing a start up breath alcohol test;~~
- k. ~~What will happen after a participant has a set of four valid and substantiated missed rolling retests during the participant's ignition interlock period; and that a participant shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition; and~~
- l. ~~What events or actions will result in a lock-out of the certified ignition interlock device.~~
- 8. ~~Ensure that each participant demonstrates:~~
  - a. ~~A properly delivered alveolar breath sample; and~~
  - b. ~~An understanding of how the abort test feature works.~~
- 9. ~~Affix conspicuously, the warning label provided by the manufacturer under R17-5-609.~~
- 10. ~~Check each device for evidence of tampering at least once every 90 days or more frequently if needed. This anticircumvention check shall be conducted at each participant's regularly scheduled accuracy and compliance check required under R17-5-610.~~
- 11. ~~Notify the Department electronically under R17-5-610 if any evidence of tampering is discovered and submit valid and substantiated proof or evidence of a reportable activity.~~
- B.** ~~An installer shall not permit a service representative whose driving privilege is limited pursuant to A.R.S. §§ 28-1381, 28-1382, 28-1383, or 28-3319, or restricted under A.R.S. § 28-1402 to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a certified ignition interlock device until the restrictive period of the service representative's driving privilege ends. An installer whose driving privilege is limited pursuant to A.R.S. §§ 28-1381, 28-1382, 28-1383, or 28-3319, or restricted under A.R.S. § 28-1402 shall not install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a certified ignition interlock device until the restrictive period of the installer's driving privilege ends.~~

**R17-5-705. ~~Installer-certified Service Representatives~~**

- A.** ~~Certification requirements.~~
  - 1. ~~To achieve certification as a service representative, an individual shall obtain written documentation from a Department certified ignition interlock device installer documenting that the individual is currently trained in each aspect involved with the specific certified ignition interlock device for which the individual seeks certification to install or service.~~
  - 2. ~~An installer shall not certify as a service representative, any individual with a felony conviction in the five years preceding the individual's request for certification. In this Section, conviction means that a court of competent jurisdiction adjudicated the individual guilty.~~
- B.** ~~Proficiency requirements.~~
  - 1. ~~It is the responsibility of the installer to ensure that its certified service representatives maintain proficiency in each aspect involved with each specific certified ignition interlock device model the individual is certified to install or service.~~
  - 2. ~~The Department may at any time require an installer-certified service representative to demonstrate competency in the installation, inspection, downloading, calibrating, repairing, monitoring, maintaining, servicing or removal of a specific certified ignition interlock device. Failure of the installer-certified service representative to demonstrate proficiency to the Department may result in corrective action against the installer as provided under R17-5-601.~~

**R17-5-706. ~~Accuracy and Compliance Calibration Check; Requirements~~**

- A.** ~~An installer-certified service representative An IISP-certified technician shall inspect, maintain, and check each certified ignition interlock device CIID for calibration accuracy and operational performance before the device is placed into, or returned to service.~~
- B.** ~~A person with a CIID installed on a motor vehicle is responsible for obtaining a calibration check of the CIID by the IISP's technician at the IISP's service center within every 77 to 90-day period after device installation, and every 77 to 90 days thereafter, during the person's ignition interlock period.~~
- B.C.** ~~The installer-certified service representative An IISP-certified technician shall perform each a accuracy and compliance calibration check at the IISP's service center at least once every 90 days after device installation, and at least every 90 days thereafter in accordance with NHTSA specifications as referenced in R17-5-604(C) at a service center authorized by an installer certified by the Department under R17-5-702.~~
- C.D.** ~~The accuracy and compliance calibration check performed under R17-5-610 shall include an inspection of the device to verify that it is properly functioning in accordance with all of the following criteria:~~
  - 1. ~~Accuracy standards as prescribed under R17-5-603;~~
    - a. ~~The device shall be calibrated before placed into, or returned to service.~~
    - b. ~~The calibration test shall consist of introducing to the device a known alcohol concentration from a reference sample device, the analysis of which indicates the device's agreement with the known~~



concentration. The ~~installer's~~ manufacturer's software shall be capable of performing, documenting, and reporting the result of this calibration test. The calibration test result shall verify the accuracy of the ignition interlock device according to the standards prescribed under R17-5-603; and

2. Anticircumvention standards and operational features as prescribed under R17-5-603.

~~D.E.~~ The calibration test referenced under ~~subsection (C)~~ subsection (D) shall be performed when the information uploaded from a device indicates that the device has experienced an interruption in service or was completely disconnected. Additionally, the complete device, including the camera and its connection to the vehicle, shall be examined for evidence of tampering while it is still attached to the vehicle. An IISP shall document or photograph any evidence of tampering or circumvention and submit the documentation to the Department as required by these rules and A.R.S. Title 28, Chapter 4, Article 5.

~~E.F.~~ If calibration confirmation test results reveal that the device is not properly calibrated, the device shall be recalibrated to restore the accuracy standards prescribed under R17-5-603 before the device is returned to service.

~~F.G.~~ At least once every 90 days, ~~an installer-certified service representative~~ a technician shall perform a physical inspection of the ignition interlock device, including an anticircumvention check, while it is still attached to the vehicle.

~~G.H.~~ ~~An installer-certified service representative~~ A technician shall perform a physical inspection of the ignition interlock device ~~at other times when the data logger indicates that tampering has occurred and shall maintain a log showing the findings any time an early recall occurs.~~

~~H.I.~~ If at any time an individual device model fails to meet the provisions of this Section, the manufacturer, ~~installer, service center, or installer-certified service representative~~ IISP, or IISP-certified technician, as appropriate, shall either:

1. Repair, recalibrate, and retest the device model to ensure that it does meet all applicable standards; or
2. Remove the device model from service.

#### **R17-5-707. Inspection of Service Centers; Application**

~~A.~~ A ~~service center, whether located on a fixed site or mobile, shall meet the requirements necessary to maintain installer certification under this Article before it is used by an installer to conduct certified ignition interlock device related business in this state.~~

~~B.~~ An installer shall submit to the Department a separate application for each individual service center the installer intends to use for conducting certified ignition interlock device related business in this state.

~~C.~~ On an application for a service center, available from the Department, an installer shall identify:

1. The physical location of the service center;
2. The certified ignition interlock device, or devices, to be merchandised and serviced at the location; and
3. The reference sample device, or devices, that will be used at the location.

~~D.~~ An installer shall attach to the application submitted to the Department under subsection (B), a statement from the manufacturer acknowledging that the installer is authorized to install the certified ignition interlock device, or devices, described on the application.

~~E.~~ The Department may request an installer applying to meet the requirements for a service center to consent to allow the Department access to the service center for inspection under subsection (H).

~~F.~~ An installer applying for a service center shall agree to comply with all provisions under this Article and A.R.S. Title 28, Chapter 4, Article 5.

~~G.~~ To operate a service center, the installer's ignition interlock device testing facilities, equipment, and the procedures used in the service center shall meet the following conditions:

1. A ~~fixed site service center shall be located in a facility that accommodates installing, inspecting, downloading, calibrating, repairing, monitoring, maintaining, servicing, and removing a specific ignition interlock device consistent with the requirements of this Article. The installer shall:~~
  - a. ~~Provide a designated waiting area for the participant that is separate from the installation area; and~~
  - b. ~~Ensure that no participant witnesses installation of the certified ignition interlock device.~~
2. A ~~mobile service center shall be equipped with the same materials and capacities prescribed under subsection (G)(1). An installer or service representative operating a mobile service center shall:~~
  - a. ~~Provide a designated waiting area for the participant that is separate from the area used for the installation area; and~~
  - b. ~~Ensure that no participant witnesses installation of the certified ignition interlock device.~~
3. The installer, whether operating a fixed site service center, or mobile, shall ensure that its certified service representatives utilize all of the following:

- a. ~~The analysis of a reference sample such as headspace gas from a mixture of water and alcohol, the results of which shall agree with the reference sample predicted value, or other methodologies approved by the Department. The preparatory documentation on the reference sample solution, such as a certificate of analysis, shall be made available to the Department on request.~~
  - b. ~~The startup set point value established under R17-5-603(A). All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L).~~
  - c. ~~The most current versions of manufacturer software and firmware to ensure continuous compliance under this Article and A.R.S. Title 28, Chapter 4, Article 5.~~
  - 4. ~~Only a properly trained installer certified service representative shall perform certified ignition interlock device related services rendered through a service center.~~
    - a. ~~The installer shall maintain sufficient staff at each service center to ensure an acceptable level of service. The service center shall always be staffed with at least one installer certified service representative.~~
    - b. ~~The installer shall schedule accuracy and compliance checks at each service center in a manner that will not deprive a participant of an acceptable level of service.~~
    - c. ~~The installer's software shall document the certified service representative performing each accuracy and compliance check and shall record the date each service is performed.~~
  - d. ~~Department certified installers may train potential certified service representatives in the service center only under the direct supervision of a currently certified service representative.~~
  - 5. ~~The installer shall agree to:~~
    - a. ~~Submit a violation as defined in R17-5-601 regarding a participant's noncompliance to the Department by providing valid and substantiated proof or evidence of a reportable activity as required in R17-5-610(D) no later than 24 hours after the installer discovers the violation;~~
    - b. ~~Maintain complete records in an electronic or paper format of each device installation for three years from the date of its removal;~~
    - c. ~~Require each applicant seeking installer certification as a service representative to certify that the applicant has not been convicted of a felony within the five years preceding the date of application;~~
    - d. ~~Retain the five year felony certification required of each installer certified service representative under subsection (G)(5)(c) for five years after the date of the employee's separation from employment; and~~
    - e. ~~Make available to the Department on request, either by inspection or in hard copy form, all records relating to the installer's ignition interlock device operations.~~
  - 6. ~~The installer shall ensure that all anticircumvention features are activated on each installed certified ignition interlock device.~~
  - 7. ~~The installer shall install and inspect each certified ignition interlock device as provided under this Article.~~
    - a. ~~Each time an installer uploads the information from a participant's certified ignition interlock device, the installer certified service representative shall perform a visual inspection of the vehicle, the device, and the device's wiring to ensure that no tampering has occurred during the monitoring period.~~
    - b. ~~The calibration test referenced under R17-5-706 shall be performed if the downloaded device information indicates that the device has experienced an interruption in service or was completely disconnected.~~
  - 8. ~~The installer shall agree to abide by conditions for the removal of a certified ignition interlock device, including but not limited to the following:~~
    - a. ~~Provide electronic notification to the Department of device removal under R17-5-610(E) within 24 hours and electronically submit the required reporting record.~~
    - b. ~~A service representative or service center shall not remove the certified ignition interlock device of another manufacturer, except in an emergency, or other special circumstance authorized by the Department. All removals shall be documented and reported to the Department. All device removal records shall be retained as prescribed under R17-5-612.~~
    - c. ~~When a participant makes a request to exchange one manufacturer's device for the device of another manufacturer, the installer of the original device shall notify the Department of the device removal under R17-5-610(E).~~
- H.** ~~The Department may cancel the certification of an installer, prohibiting operation of its service center if the installer or service center is not complying with any provision under this Article, engaging in improper reporting as defined in R17-5-601, not complying with reporting provisions in R17-5-610, or not complying with A.R.S. Title 28, Chapter 4, Article 5. To ensure continuous compliance with the Department's certified ignition interlock program requirements, the Department may inspect an installer's service center and take~~

~~corrective action against the installer as provided under R17-5-601 if a deficiency is identified during an inspection conducted under R17-5-613.~~

- ~~I. An installer shall designate a custodian of records who shall, if required in an administrative hearing or court proceeding, provide testimony concerning the interpretation of data storage system records and answer questions concerning the installer's certification and compliance with the Department's ignition interlock program requirements.~~
- ~~J. Before issuing certification, the Department may perform an onsite inspection of a service center to verify compliance with this Article.~~
- ~~K. After verifying compliance with subsections (A) through (G), the Department shall provide evidence of approval to the installer that shall remain valid until cancelled by the Department or terminated by the installer or service center. Evidence of approval provided to an installer or service center under this Section demonstrates that the installer's service center has met all of the criteria necessary for approval by the Department.~~
- ~~L. Approval of the installer's service center is contingent on the installer's agreement to conform with and abide by all directives, orders, and policies issued by the Department regarding any service center activities regulated by the Department under this Article and A.R.S. Title 28, Chapter 4, Article 5, which may include:
  - 1. Program administration;
  - 2. Reports;
  - 3. Records and forms;
  - 4. Inspections;
  - 5. Methods of operations and testing protocol;
  - 6. Personnel training and qualifications;
  - 7. Criminal history considerations for installer-certified service representatives; and
  - 8. Records custodian.~~
- ~~M. Certification of an installer issued under this Article may be cancelled by the Department if the installer's service center, or installer-certified service representative is not in compliance with a provision of this Article, provisions regarding reporting in R17-5-610 and R17-5-601, or A.R.S. Title 28, Chapter 4, Article 5, or the certified ignition interlock device equipment it is authorized by the manufacturer to install no longer meets the requirements provided under Article 6 of this Chapter.~~

**R17-5-708. Notice; Denial or Cancellation of Certification; Appeal; Hearing**

- ~~A. If the Department determines that an authorized reporting installer fails to properly report ignition interlock information and data to the Department in the manner prescribed in these rules, the Department may immediately provide written notice to the authorized reporting installer with the following information:
  - 1. The name of the participant and the date of the improper reporting; and
  - 2. The authorized reporting installer shall send the required record or report to the Department within ten business days, if applicable.~~
- ~~B. If the authorized reporting installer fails to remedy the issues identified in the notice provided under R17-5-708(A) within ten business days, the Department may cancel the authorized reporting installer's certification.~~
- ~~C. If the Department denies a pending application for certification or recertification of an installer, or cancels a certification previously issued to an installer, the installer may appeal the action as follows:
  - 1. Within 15 days after receipt of a notice of denial of application or a notice of cancellation of certification or a notice of denial of recertification of an installer, the installer may file a written request for a hearing on the issue of the denial or cancellation with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
  - 2. If a hearing on the issue of the denial or cancellation is timely requested, the Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of an installer's certified activities.
  - 3. Within 10 days after a hearing, the hearing officer shall issue to the installer a written decision, which shall:
    - a. Provide findings of fact and conclusions of law; and
    - b. Grant the application, deny the application, deny recertification, or cancel the certification.
  - 4. If the hearing officer affirms the denial of application or recertification or cancellation of certification, the installer may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 35 days of the date when a copy of the decision sought to be reviewed is served upon the party affected unless the court grants a stay pending the outcome of judicial review.~~

- ~~D. If an installer's certification is cancelled or denied, or recertification is denied, the installer is prohibited from performing its duties and operating under these rules for a period of one year from the latest of the following dates when:~~
- ~~1. The Department denies an application or recertification, or cancels a certification of an installer, or~~
  - ~~2. The Department's Executive Hearing Office denies the application or recertification, or cancels a certification of an installer.~~
- ~~E. After the one year decertification period ends, an installer may reapply to the Department for certification by completing a new application and meeting all certification requirements under this Article.~~