

TITLE XXI

MOTOR VEHICLES

CHAPTER 265-A

ALCOHOL OR DRUG IMPAIRMENT

Alcohol Ignition Interlock Program

Section 265-A:36

265-A:36 Alcohol Ignition Interlock Program Established. –

I. Any person whose license or permission to drive has been revoked or suspended for an aggravated DWI offense under RSA 265-A:18, I(b) or I(c), or a subsequent DWI offense under RSA 265-A:18, IV shall be required by the court after the period of revocation or suspension to install an ignition interlock device as defined in RSA 259:43-a in any vehicle registered to that person or used by that person on a regular basis, for not less than 12 months nor more than 2 years. Installation and monitoring costs shall be paid by the offender. A certificate proving installation of the device shall be provided to the division of motor vehicles as a condition precedent to reinstatement of the individual's license to drive, and the division may mark the person's license and the person's number plate by use of a striping sticker accordingly.

I-a. Any person who is convicted of driving while under suspension or revocation resulting from a DWI offense shall be required by the court to install an ignition interlock device in any vehicle registered to that person or used by that person on a regular basis, for the remaining period of suspension or revocation plus an additional period not less than 12 months nor more than 2 years. The court may order such installation on a temporary basis prior to conviction as a condition of bail.

I-b. To the extent that technology does not exist to permit the installation or safe operation of any particular vehicle type when equipped with an interlock, the court may order that a restraining device which disables the vehicle be placed on any such vehicle registered to or used on a regular basis by a person required to install an ignition interlock device.

II. Nothing in this section shall prohibit a court of competent jurisdiction from requiring the installation of an ignition interlock device for any person convicted of a violation of RSA 265-A:2 involving a vehicle, where the conviction is not based upon a complaint which alleges prior convictions as provided in RSA 265-A:18, IV, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction.

III. Any person under the age of 21 whose license or permission to drive has been revoked or suspended under RSA 265-A:18 may be required by the court after the period of revocation or suspension to install an ignition interlock device as defined in RSA 259:43-a in any vehicle registered to that person or used by that person on a regular basis, until the age of 21 or for not less than 12 months, whichever is longer.

IV. It shall be a violation for an ignition interlock device to be sold or distributed in this state without the device being approved by the commissioner or the department of safety.

IV-a. Wherever the term "alcohol ignition interlock device" or "ignition interlock device" is

referred to in this chapter or in department administrative rules, it shall mean an enhanced technology ignition interlock device, as defined in RSA 259:28-b. A device installed on or before January 1, 2019 that is not an enhanced technology ignition interlock device may, if it is recalibrated within 30 days of installation and every 60 days thereafter, continue to be operated in the vehicle in which it was installed until January 1, 2022 or such time as the vehicle is replaced with a different vehicle, whichever occurs first, at which time it shall be replaced with an enhanced technology ignition interlock device.

V. The department of safety shall establish rules, pursuant to RSA 541-A, for the approval of ignition interlock devices and for the licensing of approved interlock service providers.

VI. The commissioner shall adopt rules and regulations to create an ignition interlock program that will control the delivery of interlock service in this state under this subdivision. The rules adopted for the licensing of approved interlock service providers shall require that each provider, at a minimum:

- (a) Provide recalibration of each enhanced technology ignition interlock device no less frequently than every 180 days unless otherwise ordered by the court;
- (b) Maintain at least that number of locations across the state for the installation, service, calibration, monitoring, and removal of an ignition interlock device as might be required from time to time by the program operating protocol developed by the commissioner;
- (c) Provide periodic reports as determined by the court or in department rules, to the director of the division of motor vehicles, the department's interlock coordinator, and the court of jurisdiction;
- (d) Retain all data-logger records for 36 months after the end of the period to which the offender is sentenced;
- (e) Maintain a reserve account with a balance at least equal to 2 percent of the provider's revenue from interlock device service and installation in this state, excluding the purchase or rental costs of devices, during the previous calendar year. Funds in the account shall be used to assist with the cost of the installation and service to those offenders determined by the court or the department to be unable to pay the full cost of an interlock program. Offenders determined by the court or the department to be unable to pay the full cost of an interlock program shall, at a minimum, pay 25 percent of the cost for the installation and service. Reserve account balances and costs to the provider for assisting with the cost of installation and service shall be reported annually to the department;
- (f) Provide a certificate of installation to the vehicle's owner and to the department's interlock coordinator upon installation of the device in a form to be determined by the department's interlock rules; and
- (g) Provide reports to the department when data specified in department rules becomes available. The reports shall be provided no less frequently than every 60 days. The department shall make data from the reports available to the director of the division of motor vehicles, appropriate prosecutor, prosecuting agency, treatment provider, probation officer, and defense attorney by means of authorizing the interlock provider to provide these entities with secure electronic access to the data via the interlock provider's web-based portal.

Source. 2006, 260:1. 2007, 276:2. 2012, 204:1, 2. 2013, 219:2, 3, eff. July 11, 2013. 2018, 122:2, 5, eff. Jan. 1, 2019; 122:4, eff. Jan. 1, 2022.