# TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
## CHAPTER 50. IGNITION INTERLOCK ~~DEVICES~~

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. Ignition Interlock Devices, Service Centers, Technicians [NEW]

40:50-1-1.1. Definitions [AMENDED]

40:50-1-1.2. Purpose [NEW]

40:50-1-2. Device certification process [AMENDED]

40:50-1-3. Standards and specifications [AMENDED]

40:50-1-3.1. Violation reset [AMENDED]

40:50-1-3.2. Reporting requirements [AMENDED]

40:50-1-3.3. Lockout override [NEW]

Subchapter 3. Impaired Driving Accountability Program (IDAP) [NEW]

40:50-3-1.1. Definitions [NEW]

40:50-3-1.2. Purpose [NEW]

40:50-3-2. Application - Eligibility - Enrollment [NEW]

40:50-3-3. Program length – Program participation criteria – Calculation of active days [NEW]

40:50-3-4. Medical exemptions – Employer exceptions – Affordability accommodations [NEW]

40:50-3-5. Program completion, violations, and failure criteria for participants enrolled on or after November 1, 2022 [NEW]

40:50-3-5-1. Program completion criteria for participants enrolled prior to November 1, 2022 [NEW]

40:50-3-6. Appeal process [NEW]

**AUTHORITY:**

Board of Tests for Alcohol and Drug Influence; 47 O.S. §759; 47 O.S. §6-212.5

**ADOPTION:**

September 27, 2022

**EFFECTIVE:**

Immediately upon Governor's approval or November 1, 2022, whichever is later.

**EXPIRATION:**

Effective through September 14, 2023, unless superseded by another rule or disapproved by Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

**Incorporated standards:**

International Organization for Standardization, standard "ISO 9001:2015(en) Quality management systems – Requirements"

**Incorporating rules:**

40:50-1-2

**Availability:**

8:00 a.m. to 4:30p.m., Monday through Friday at Board of Tests for Alcohol and Drug Influence, 3600 N. Martin Luther King Avenue, Oklahoma City, OK 73136, 405-425-2460.

**FINDING OF EMERGENCY:**

A finding of emergency is hereby found to protect the public health, safety or welfare of the motoring public of Oklahoma roadways; to comply with deadlines in amendments to this agency's governing law pursuant to Senate Bill 366; and to avoid violation of state law.

**GIST/ANALYSIS:**

The adopted emergency rule amendments create the necessary program rules for the Impaired Driving Accountability Program statutorily transferred to the Board pursuant to Senate Bill 366. The emergency proposed rules add definitions, amend device certification requirements, add program enrollment requirements, add program length requirements, add program participation requirements, add program completion requirements, add or amend program violations, add affordability accommodations requirements, add medical exemption requirements, add employer exception requirements, and add an appeal process to IDAP.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2022, WHICHEVER IS LATER:**

## SUBCHAPTER 1. IGNITION INTERLOCK DEVICES, SERVICE CENTERS, TECHNICIANS

### 40:50-1-1.1. Definitions

The following words or terms, when used in this ~~chapter~~, shall have the following meaning, unless the context clearly indicates otherwise.

**"Alcohol"** means Ethyl Alcohol, also called ethanol.

**"Anti circumvention feature"** means any feature or circuitry incorporated into the device that is designed to prevent activity that would cause the device not to operate as intended.

**"Board"** means the Administrative Offices of the Oklahoma Board of Tests for Alcohol and Drug Influence created by O.S. 47:759.

***"Board en banc"*** means the sitting members of the Board as defined by O.S. 47:759 (A).

**"Breath alcohol test"** means the analysis of a person's expired alveolar breath to determine the alcohol concentration.

**"Calibration"** means the process of testing and adjusting a device to ensure accuracy.

**"Camera"** means a separate device to capture photos as required in this Chapter.

**"Circumvention"** means to bypass the correct operation of an interlock device by starting the vehicle, by any means, without first providing a breath alcohol test or ~~passing a~~providing a negative result confirmatory test.

**"Confirmatory test"** means a breath alcohol test required in response to a circumvention.

**"Certification"** means a status granted by the Board that permits a manufacturer to distribute a device in the state of Oklahoma.

**"Data storage system"** means a recording of all events monitored by the device.

**"Director"** means the position of the State Director of the Board as defined in O.A.C. 40:1-1-3.

**"Fee"** means a non-refundable administrative fee.

**"Free restart"** means a function of a device that will allow a vehicle to be restarted under the requirements in this title, without having to complete another breath alcohol test.

**"Ignition interlock device"** means a mechanism, which may include a camera, that prevents a vehicle from starting when the breath alcohol concentration of a breath alcohol test meets or exceeds the startup set point. Also referred to as "device".

**"Installation Authority"** means the Oklahoma agency or entity by statute or order requiring or authorizing installation of a device.

**"Ignition Interlock Maintenance and Calibration Fee"** means the fee collected from the participant, at the time of the performing calibration and maintenance as required by this title. This fee is to be remitted to the Board of Tests.

**"License"** means the permission granted by the Board to engage in specific activities of the ignition interlock program.

**"Manufacturer"** means the actual producer of the device.

**"Manufacturer representative"** means the individual designated by the manufacturer to act on behalf of or represent the manufacturer in all matters under the jurisdiction or consideration of the Board with respect to device certification.

**"Monitor"** means the agency, organization and/or person(s) designated by the Installation Authority to receive reports regarding ignition interlock program participants.

**"Negative result"** means a breath alcohol test result indicating the alcohol concentration is less than the specific point value for the purpose specified.

**"Operable vehicle"** means a motor vehicle with ability to drive forward under its own power and steer and can be legally driven on public roadways.

~~**"Penalty Fail"** means a breath alcohol test resulting in a positive result that meets or exceeds the specific point value for the purpose specified.~~

**"Permanent lockout"** means a condition wherein the device will not allow a breath alcohol test and therefore will not allow the vehicle to be started.

**"Positive result"** means a breath alcohol test result indicating the alcohol concentration meets or exceeds the specific point value for the purpose specified.

**"Power violation"** means failure to provide power to an Ignition Interlock device installed in a vehicle for a period of twenty-four (24) hours or more.

**"Proper Record Maintenance"** means the manufacturer's complete records on every participant for a period of five (5) years from the date of removal including, but not limited to, all data retrieved from the data storage system of a device. The Board, or its designee, shall have access to any and all records.

**"Reciprocity"** means the process by which the Board may defer to a foreign state's device standards and specifications when an interlock participant is required to meet an interlock requirement for more than one state simultaneously.

**"Reference sample device"** means any alcohol breath testing external control or device approved for use by the Board.

**"Retest"** means a breath alcohol test or tests required in accordance with O.A.C. 40:50-1-3(e).

**"Retest violation"** means failure to deliver a negative breath alcohol test result within the time frame prescribed by these rules.

**"Startup set point"** means an alcohol concentration at which, or above, the device would prevent the vehicle from starting.

**"Startup test"** means a breath alcohol test provided before the vehicle is started.

**"Tampering"** means any act or attempt to adjust, obscure, alter, interfere, disable, defeat or circumvent the installation or operation of the device and/or camera.

**"Technical non-compliance"** means the failure of the device to comply with one or more provisions of this title with regard to device performance that does not affect the device's ability to respond appropriately to a negative breath test or a breath alcohol test required by 40:50-1-3-(c), (e), or (g), or the ability of the device to satisfy the requirements of 40:50-1-3(b)(1) or 40:50-1-3(f).

**"Vendor"** means a licensed ignition interlock technician designated by the Manufacturer representative of a certified device to act on behalf of or represent the manufacturer in all matters under the jurisdiction or consideration of the Board, excluding matters related to device certification.

**40:50-1-1.2. Purpose**

The rules in this chapter relate to the administration and regulation of ignition interlock devices, service centers, and technicians pursuant to the provisions of Title 47 O.S., Sections 751-761 and 47 O.S. §6-212.5.

**40:50-1-2. Device certification process**

(a) No device may be used in the state of Oklahoma unless it has been approved by the Board in accordance with the requirements stated herein.

(b) A list of approved device models shall be maintained by the Board and available for public review at the administrative office of the Board during regular business hours or by accessing the Board website at www.ok.gov/bot.

(c) A manufacturer representative seeking certification of a device shall:

(1) Complete an application for certification of an ignition interlock device and remit the appropriate fee in accordance with procedures established by the Board.

(2) Provide proof, as deemed appropriate by the Board, the device for which certification is being sought in Oklahoma meets or exceeds the current National Highway Traffic Safety Administration (NHTSA) specifications (78 FR 26849).

(3) Provide a current manufacturer's ISO 9001:2015 certification issued by an accredited registrar within the scope requirements provided by the Board.

~~(3)~~(4) Provide a certificate of insurance, issued by an insurance company authorized to transact business in Oklahoma, specifying:

(A) A product liability policy with a current effective date;

(B) The name and model number of the device model covered by the policy;

(C) Policy coverage of at least one million dollars ($1,000,000) per occurrence and three million ($3,000,000) in the aggregate;

(D) The manufacturer as the insured and the state of Oklahoma as an additional insured;

(E) Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the device; and

(F) The manufacturer will notify the Board immediately upon notice of cancellation of the product liability policy.

~~(4)~~(5) Provide a schedule of all fees that may be charged to a participant. A participant shall not be imposed or required to pay any unscheduled fee(s). Such submission of schedule of fees shall be on an approved form provided by the Board. Any modification to the schedule of fees shall be submitted to the Board at least thirty (30) days prior to implementation.

~~(5)~~(6) Devices shall use fuel cell technology for breath alcohol testing and a camera in accordance with the requirements in this Chapter.

~~(6)~~(7) Agree to ensure any service performed on a device installed pursuant to an Oklahoma Installation Authority shall be in compliance with all requirements in this title.

~~(7)~~(8) Agree to ensure proper record keeping and provide testimony relating to any aspect of the installation, service, repair, use, removal, interpretation of any report or information recorded in the data storage system of a device or performance of any other duties required by this title at no cost on behalf of the State of Oklahoma or any political subdivision.

~~(8)~~(9) Shall authorize the Board of Tests to release records viewable by the agency to law enforcement representatives for investigative purposes on Board letterhead.

~~(9)~~(10) Advise the Board whether the device for which certification is being sought in Oklahoma is the subject of any action to disallow, or has ever been, in any way, disallowed for use in another state whether such action occurred before or after approval in Oklahoma and if or when such action is or has been appealed in the other state and the outcome of the appeal.

~~(10)~~(11) Upon request of the Board, for each device submitted for certification or certified under this section, agree to install the device with all proposed anti

circumvention features activated in a vehicle provided by the Board. Any service performed pursuant to this section, including but not limited to, installation, maintenance, calibration or removal shall be completed at no cost to the Board.

~~(11)~~(12) Agree to only distribute Board approved solicitations related to the rules in this Chapter. Such requests for approval shall be submitted with a form provided and approved by the Board prior to distribution.

(13) Agree to strictly comply with the affordability provisions of these rules.

(d) The Board may conduct compliance testing on the device submitted for certification, at any time.

(e) Certification shall be for only one device model.

(f) Approved devices shall be recognizable, as such, upon visual inspection.

**40:50-1-3. Standards and specifications**

(a) The provisions in this subsection only apply to the use of a device pursuant to an Installation Authority.

(b) The device shall:

(1) Permit a free restart of the motor vehicle within two (2) minutes after the engine has shut off without requiring a further breath alcohol test.

(2) Have a data storage system of sufficient capacity to facilitate the recording and maintaining of all daily driving activities and pictures for the period of time elapsed from one maintenance and calibration to the next. All daily driving activity records in this data storage system shall be maintained by the manufacturer or the licensed service center and shall be available to the Installation Authority, Monitor and/or the Board upon request.

(3) Display tamper seals and a warning label that states: "Any person attempting to physically disable, disconnect or wire around this device or who intentionally fails to return the device upon request by the owner may be guilty of a misdemeanor under Oklahoma law (47 O.S. §11-902a)." If the device consists of separate pieces (e.g. a handset and separate base unit) a separate warning label shall be placed on each piece.

(4) Effective November 1, 2022, incorporate a camera on all initial new installations that is not located in the handset and meets the following requirements:

(A) Each camera shall be mounted to the vehicle so that it does not obstruct the driver's view and provides a clear unobstructed view of the driver.

(B) Has a sufficiently wide angle that it will be possible to determine whether the individual blowing into the device is seated in the driver's seat.

(C) The technician shall take a reference image of the participant in the driver's seat during the installation appointment.

(D) The camera shall operate in all lighting conditions and take an image of the driver with sufficient clarity and resolution to allow driver identification.

(E) The camera shall capture an image on each of the following events:

(i) An attempted or successful breath alcohol test.

(ii) Each time the vehicle is started.

(iii) A circumvention.

(iv) A retest violation.

(c) The startup set point value for the device shall be an alcohol concentration of 0.025 g/210L.
(d) The ~~penalty fail point~~ positive result value for the device shall be an alcohol concentration of 0.025g/210L.
(e) A retest feature is required while a vehicle's engine is in operation.

(1) The first retest shall be required at a randomly variable interval ranging from five (5) to fifteen (15) minutes after passing the ~~initial breath~~startup test and starting the vehicle's engine. Subsequent retests shall be required at a randomly variable interval ranging from fifteen (15) to forty-five (45) minutes from the previously requested test for the duration of the travel.

(2) The device shall allow five (5) minutes for the retest to be completed.

(3) The retest set point value shall be an alcohol concentration of 0.025 g/210L.

(4) ~~A distinct~~An audible and/or visual indicator shall come on to alert the driver that a retest is in progress. Once a retest is in progress, failure to deliver a negative result within the time frame allowed shall:

(A) Activate an audible and/or visual indicator inside the passenger compartment of the vehicle, until the engine is shutdown.

(B) Record a retest violation in the data storage system, and

(C) Disable the free restart.

(f) The device shall have an approved anti circumvention feature(s) activated at all times.
(g) The device shall require a confirmatory test in response to a circumvention.

(1) The device shall allow two (2) minutes for the confirmatory test to be completed.

(2) The confirmatory test set point value shall be an alcohol concentration of 0.025 g/210L.

(3) An audible and/or visual indicator shall come on to alert the driver that a confirmatory test is in progress. Once a confirmatory test is in progress, failure to deliver a negative result within the time frame allowed shall:

(A) Activate an audible and/or visual indicator inside the passenger compartment of the vehicle, until the engine is shutdown.

(B) Record a circumvention violation in the data storage system, and

(C) Disable the free restart.

(4) Once the confirmatory test is passed, the device shall enter the normal retest sequence as provided by these rules.

(h) The device shall have ~~A~~a breath sample collection volume limit at or above 1.2 Liters unless an alternative configuration has been approved by the Board.
(i) In addition to the standards and specifications listed herein, the Board or its designee may impose additional requirements, as needed, depending upon design and functional changes in device technology and to ensure that the device functions properly and reliably.

**40:50-1-3.1. Violation reset**

(a) A violation reset shall be activated by any of the following:

(1) Three (3) ~~penalty fails~~positive result startup tests~~, at startup,~~ within a fifteen (15) minute time frame.

(2) A circumvention.

(3) A retest violation.

(4) A power violation, once power is restored to the device.

(b) When a violation reset is activated, the device will initiate a unique audible and/or visual cue that will warn the driver that the device will enter a permanent lockout in five (5) days. This event will be uniquely recorded in the data storage system and will simultaneously start a countdown that culminates in the permanent lockout. A licensed ignition interlock technician shall remedy a permanent lockout in person unless the manufacturer has been approved for temporary lockout override issuance pursuant to O.A.C 40:50-1-3.3. ~~However, the Director may approve standards and procedures for an override lockout. For the purposes of this section, override lockout means a method of overriding a lockout condition by providing a breath sample indicating a negative result.~~

(c) Anytime a device is submitted pursuant to a violation reset the licensed ignition interlock technician shall perform a violation reset service consisting of, but not limited to:

(1) Performing maintenance and calibration in accordance with this title, and

(2) Retrieving all data contained in the data storage system. Proper record maintenance shall be ensured as required in this title.

**40:50-1-3.2. Reporting requirements**

(a) Reportable violations are as follows:

(1) Three (3) ~~penalty fails~~positive result startup tests~~, at startup,~~ within a fifteen (15) minute time frame.

(2) A circumvention.

(3) ~~Three (3)~~A retest ~~violations~~violation. ~~constitute a reportable violation. Each retest violation thereafter constitutes a reportable violation.~~

~~(4) Removal of the device.~~

(~~5~~4) Tampering.

(~~6~~5) Permanent lockout.

(b) If required by the Installation Authority and/or Monitor, ~~Reportable~~reportable violations shall be reported ~~to the Installation Authority and/or Monitor,~~ in the form and/or format designated by the ~~Board~~Installation Authority and/or Monitor, within five business days, banking holidays excepted, after a maintenance and calibration service, violation reset service or removal of the device.

(c) The manufacturer shall ensure proper record maintenance.

(d) The manufacturer shall report to the Board, in the form and format designated by the Board:

(1) Device installations.

(2) Device removals.

(3) ~~Any reportable violations.~~Any violation reset.

(4) Maintenance and calibration performed on an ignition interlock device as required by these rules.

**40:50-1-3.3. Lockout override**

The Director may approve standards and procedures for a lockout override. For the purposes of this chapter, lockout override means a method of overriding a lockout condition by providing a breath sample indicating a negative result.

## SUBCHAPTER 3. IMPAIRED DRIVING ACCOUNTABILITY PROGRAM (IDAP)

### 40:50-3-1.1. Definitions

Ignition Interlock Device definitions found in O.A.C. 40:50-1-1.1. shall also apply to IDAP inclusive of the additional definitions specific to the program listed below. The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

**"Active ignition interlock day"** means any twenty-four (24) hour period in which the device is installed in a Participant's Program Vehicle, is not in permanent lockout, and is provided the required operational power.

**"IDAP"** means the Impaired Driver Accountability Program established in 47 O.S. §6-212.5.

**"IDAP Certificate of Completion"** means the Director approved certificate issued by the Board to an IDAP participant confirming the person has met the criteria required for program completion.

**"Program Fee"** means the non-refundable statutory fee pursuant to 47 O.S. §6-212.5 plus any merchant or convenience fee for online or electronic transactions.

**"Program participation"** means a minimum of fifteen (15) breath alcohol tests each thirty (30) calendar day period from the date of installation completed by the participant.

**"Program vehicle"** means the vehicle in which an ignition interlock device is installed on behalf of a participant as reflected by the Installation Verification Form.

**"Compliance download service"** means a unique data retrieval service conducted by a licensed or approved technician at a licensed or approved service center that requires no maintenance and calibration services.

### 40:50-3-1.2. Purpose

The rules in this chapter relate to the administration of IDAP pursuant to the provisions of Title 47 O.S., Sections 751-761, 47 O.S. §6-205.1, and 47 O.S. §6-212.5.

### 40:50-3-2. Application - Eligibility - Enrollment

(a) The participant seeking enrollment into IDAP shall apply on a form approved by the Director. Applicants whose driving privileges are otherwise ineligible shall not be enrolled in IDAP and shall be directed to consult his/her driver licensing authority for assistance. Any person subject to driver license revocation who are otherwise eligible for participation in IDAP may enroll pursuant to this section.

(b) Fully enrolling in IDAP consists of:

(1) Payment of the Program Fee to the Board; and

(2) Presentation of an Ignition Interlock Installation Verification Form reflecting an Oklahoma approved device is currently installed on the vehicle the Participant will operate; and

(3) Presentation of the signed "IDAP Participant's Agreement"; and

(4) The Participant shall be responsible for reporting the required program length to the Board.

(c) The start date of the participant's program is the day the Board receives all documents and fees meeting IDAP enrollment criteria.
(d) Multiple program periods shall run consecutively.
(e) Participants may enroll in more than one (1) IDAP. A Participant must complete the program in which they are currently enrolled before commencing any subsequent program period. In no instance will a Participant's credit for time in one (1) IDAP be credited toward any other IDAP.
(f) The IDAP Participant agreement shall be signed by the Participant and shall include the following information:

(1) Participant's full name as it appears on his/her driver license; and
(2) Participant's driver license number; and
(3) Participant's program length requirement as reflected in Service Oklahoma records; and
(4) A list of Ignition Interlock Violations and criteria for program completion or failure as defined by the Board; and
(5) An explanation of the consequences of violations of the Ignition Interlock Program; and
(6) The date upon which the IDAP Participant Agreement was signed; and
(7) Participant's signature.

(g) A confirmation of enrollment form approved by the Director shall be delivered to the participant via his/her preferred contact method upon fully enrolling. It is the participant's responsibility to provide his/her preferred contact method.

**40:50-3-3. Program length – Program participation criteria – Calculation of active days**

(a) IDAP lengths.

(1) no less than one hundred eighty (180) active ignition interlock days and program participation criteria as determined by the Board for a first license revocation pursuant to 47 O.S. § 6-205.1(A)(1);
(2) no less than three hundred sixty-five (365) active ignition interlock days and program participation criteria as determined by the Board for a second license revocation pursuant to 47 O.S. § 6-205.1(A)(2);
(3) no less than seven hundred thirty (730) active ignition interlock days and program participation criteria as determined by the Board for a third and subsequent license revocation pursuant to 47 O.S. § 6-205.1(A)(3).

(b) Program participation criteria. IDAP participants shall not receive credit toward his/her program length for any thirty (30) calendar day cycle the participant fails to meet the program participation criteria as defined in this subchapter. A compliance download service as defined in 40:50-3-1.1 may be needed to fulfill these criteria.
(c) Calculation of active ignition interlock days**.** All IDAP participants shall meet a cumulative number of active ignition interlock days exceeding or equal to the program length required. A compliance download service as defined in 40:50-3-1.1 may be needed to establish satisfaction of these criteria.
(d) The Director shall prescribe internal program review policies and procedures for all authorized Board personnel reviewing completion criteria.

**40:50-3-4. Medical exemptions – Employer exceptions – Affordability accommodations**

**(a) Medical exemptions.**

(1) only persons subject to a first license revocation pursuant to 47 O.S. § 6-205 are qualified to seek exemption and does not grant the individual driving privileges. Such individuals seeking medical exemption shall:

(A) submit a pulmonologist's certification indicating the person has a documented medical condition preventing the person from providing a breath sample of at least one and two-tenths (1.2) liters; and

(B) enroll in IDAP with the exception of an Installation Verification Form; and

(C) not operate, drive, or be in actual physical control of a motor vehicle; and

(D) complete the required program length.

(2) Participants denied medical exemption may appeal the denial in accordance with 40:50-3-6.

**(b) Employer exceptions.**

(1) only persons subject to a first license revocation pursuant to 47 O.S. § 6-205 are eligible for employer exceptions.

(A) IDAP participants must have a device installed upon any vehicle they may operate owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed.

(B) Such request shall be in writing and notarized on the official letterhead of the employer and submitted by the employer to the Board; provided, a request shall not be accepted by the Board under the following circumstances:

(i) When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle; or

(ii) When the person is employed by a relative who is within the first degree of consanguinity or who resides in the same household.

(2) Participants granted an employer exception are not relieved of the requirement to install an ignition interlock device on a vehicle as reflected on an Installation Verification Form. Such authorization for exception shall only apply to IDAP participants operating employer vehicles under the course and scope of employment. IDAP participants shall keep the approved exception on his or her person while operating the employer vehicle.

(3) Participants denied an employer exception may appeal the denial in accordance with 40:50-3-6.

**(c) Affordability accommodations.**

(1) Participants applying for affordability status for the purpose of the ignition interlock program shall be deemed to qualify for such status by showing valid proof that the person applying for accommodations is actively receiving benefits from one of the following state or federal public assistance programs listed below:

(A) Temporary Assistance for Needy Families (TANF)

(B) Supplemental Nutritional Assistance Program (SNAP)

(2) Participants meeting affordability requirements shall receive the following credit that shall be distributed into the participants account by the manufacturer not to exceed a frequency of $25.00 per thirty (30) days.

(A) $150.00 maximum credit for a first license revocation pursuant to 47 O.S. § 6-205; or

(B) $300.00 maximum credit for a second license revocation pursuant to 47 O.S. § 6-205; or

(C) $450.00 maximum credit for a third or subsequent license revocation pursuant to 47 O.S. § 6-205.

(3) A participant that does not remain compliant with respect to the IDAP program or device lease fees forgoes his/her affordability eligibility. The manufacturer may inquire with the Board whether the person still meets the affordability accommodations and qualifies for the credit.

(4) The participant shall provide the required documentation to the Board. Upon approval, the Board shall notify the manufacturer by providing notice to the designated manufacturer representative. No manufacturer is required to provide affordability accommodations to more than 10% of its active participants in the State of Oklahoma.

(5) The Board shall provide information on the agency website informing interlock customers about the affordability program and how a participant can qualify.

(6) Manufacturers shall not count coupons, rebates, refunds, discounts, or other financial inducements otherwise available to any customer as the credit required by these rules.

(7) Participants denied affordability accommodations may appeal the denial in accordance with 40:50-3-6.

**40:50-3-5. Program completion, violations, and failure criteria for participants enrolled on or after November 1, 2022**

(a) An IDAP Certificate of Completion shall be issued to participants meeting the following criteria:

(1) The participant has met the active ignition interlock day requirements pursuant to O.A.C. 40:50-3-3; and

(2) The participant has met the participation requirements pursuant to O.A.C. 40:50-3.3; and

(3) The last ninety (90) active ignition interlock days must be free of program and reportable violations found in 40:50-1-3.2 pursuant to 47 O.S. §6-212.5 A(4) for license revocations pursuant to 47 O.S. § 6-205.1.

(b) Upon reaching the tentative completion date provided to the participant in the confirmation of enrollment form, a participant is eligible to submit a request for an IDAP Certificate of Completion. A denial of IDAP Certificate of Completion notice shall be issued to participants whose requests do not meet criteria as defined in 40:50-3-5. Such notice shall contain the finding that caused the denial and a notice of right to appeal and shall be delivered to the

participant via his/her preferred contact method. It is the participant's responsibility to provide his/her preferred contact method.
(c) Miscellaneous Program violations: An additional arrest for DUI/APC prior to completion of the Participant's IDAP, at the date of discovery by the Board, shall be treated as a violation and shall have the same weight as reportable violations found in 40:50-1-3.2 when evaluating the requirements for an IDAP Certificate of Completion.
(d) Program failure: Participants that are deemed to have failed the program or voluntarily discontinue participation in the program shall receive no credit for time served beginning from enrollment. Participants that fail the program or choose to discontinue participating in the program are authorized to re-enroll in IDAP. The following actions will result in program failure:

(1) removal of the device from the Program Vehicle and failure to reinstall a device in a substitute Program Vehicle within sixty (60) days; or

(2) medical exemption participants reported or found to be operating a motor vehicle during his/her required program length.

**40:50-3-5-1. Program completion criteria for participants enrolled prior to November 1, 2022**

A Certificate of Completion shall be issued to participants enrolled in IDAP prior to November 1, 2022 who have submitted an application for ignition interlock history and have met or exceeded his/her tentative program completion date as reflected in the records of Service Oklahoma. The IDAP participant shall be responsible for presenting required documentation to the Board.

**40:50-3-6. Appeal process**

(a) An appeal may be submitted to the Ignition Interlock Program Administrator for the following actions:

(1) denial for an IDAP completion certificate issued under the requirements in this subchapter; or

(2) a program failure; or

(3) a denial of eligibility for affordability accommodations; or

(4) a denial for medical exemption; or

(5) a denial for employer exceptions.

(b) Such request shall be:

(1) accompanied with all supporting documentation; and

(2) must be received at the administrative offices of the Board within thirty (30) calendar days after the date of denial is issued.

(c) Upon proper submission, the Ignition Interlock Program Administrator shall issue an administrative order sustaining or overruling the denial within thirty (30) calendar days.
(d) An appeal of the Ignition Interlock Program Administrator's order may be submitted to the Director.

(1) A request for appeal regarding the Ignition Interlock Program Administrator's order must be received at the administrative offices of the Board within thirty (30) calendar days after the date of order sustaining the denial.

(2) The Director shall issue a final administrative order sustaining or overruling the denial within thirty (30) calendar days.

(e) An appeal of a final administrative order of the Director may be made in accordance with the requirements in the Oklahoma Administrative Procedures Act, 75 O.S. 250, et seq.

## ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to Chapter 50, Ignition Interlock Devices, which were adopted by the Board of Tests for Alcohol and Drug Influence on September 27, 2022 under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

I, the undersigned, do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.

_____

Joshua Smith
State Director of Tests
Board of Tests for Alcohol and Drug Influence
September 28, 2022