

CHAPTER 50. IGNITION INTERLOCK

SUBCHAPTER 1. IGNITION INTERLOCK DEVICES, SERVICE CENTERS, TECHNICIANS

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. An exception is granted for a certified device manufacturer installing or servicing a device that does not conform to this section solely to fulfill another state's ignition-interlock requirements for a customer.
- (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.
 - (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.
 - (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.
 - (6) Devices shall use fuel cell technology for breath alcohol testing and a camera in accordance with the requirements in this Chapter.
 - (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.
 - (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.
 - (9) Shall authorize the Board of Tests to release records viewable by the agency to law enforcement representatives for investigative purposes, such record releases shall be reported on Board letterhead.
 - (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.
 - (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.
 - (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.
 - (14) Provide a current copy of the lease agreement or contract for Oklahoma required interlock participants. Amendments to the submitted lease agreement or contract after device certification or recertification shall be submitted to the Board for review prior to implementation.
- (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 all certified device devices used within the state of Oklahoma. An exception is granted for a certified device manufacturer installing or servicing a device that does not conform to this section solely to fulfill another state's ignition-interlock requirements for a customer 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) Incorporate a camera on all BOT IDAP participant 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 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 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~~ forty-five (45) minutes to sixty (60) 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) 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. The Board may waive or suspend specific anti circumvention feature requirements on a case-by-case basis when necessary to accommodate an individual participant and when such action does not pose a safety risk. A waiver or suspension of an anti circumvention feature shall not jeopardize the device's otherwise valid certification with the state.

(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 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.

SUBCHAPTER 3. IMPAIRED DRIVING ACCOUNTABILITY PROGRAM (BOT IDAP)

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

(a) A BOT 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. For purposes of retest violations:

(A) three (3) or more alcohol related retest violations occurring during the last ninety (90) active ignition interlock days shall constitute a reportable violation, or

(B) six (6) or more non-alcohol related retest violations occurring during the last ninety (90) active ignition interlock days shall constitute a reportable violation.

(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 BOT 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. Interlock days served prior to the program failure date are invalid for credit towards re-enrollment. Participants that fail the program or choose to discontinue participating in the program are authorized to re-enroll in BOT 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) a device left in permanent lockout for a consecutive period of ninety (90) days or more; or

~~(2)(3) participants reported to be operating a vehicle not equipped with an ignition interlock device by law enforcement, citation after the Board has issued documented warning to the participant that they are unauthorized to do so. Failure to have received the documented warning shall not be a valid argument of defense for administrative appeals pursuant to 40:50-3-6.~~