

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY  
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT**

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 7. Impaired Driver Accountability Program [NEW]

595:40-7-1 Purpose [NEW]

595:40-7-2 Definitions [NEW]

595:40-7-3 Request for participation – Departmental review – IDAP agreement [NEW]

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extensions – informal hearings [NEW]

595:40-7-6 Graduation from IDAP – requirements – presentation of certificate [NEW]

**AUTHORITY:**

Commissioner of Public Safety; 47 O.S. § 6-212.5

**ADOPTION:**

October 28, 2019

**EFFECTIVE:**

Immediately upon the Governor's approval

**EXPIRATION:**

Effective September 14, 2020, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATION BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The Impaired Driver Accountability Program (SB 712) was signed into law by Governor Stitt on May 9, 2019 and will go into effect on November 1, 2019. SB 712, more specifically, 47 O.S. § 6-212.5 provides the Department the authority to promulgate administrative rules to administer this program.

**GIST ANALYSIS:**

The Impaired Driver Accountability Program (IDAP) is created for the purpose of enhancing public safety and to assist impaired driving offenders in mitigating the personal and financial costs of the offense of impaired driving through the administration of a monitored ignition interlock program implementing compliance based removal of the ignition interlock device.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE IS CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S. § 253(F):**

## SUBCHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

### SUBCHAPTER 7. IMPAIRED DRIVER ACCOUNTABILITY PROGRAM

#### 595:40-7-1. Impaired Driver Accountability Program – Purpose

The Impaired Driver Accountability Program (IDAP) is created for the purpose of enhancing public safety and to assist impaired driving offenders in mitigating the personal and financial costs of the offense of impaired driving through the administration of a monitored ignition interlock program implementing compliance based removal of the ignition interlock device.

#### 595:40-7-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"IDAP Phase 1" shall mean the period of time in IDAP in which the participant is subject to remedial measures other than program extension as a result of ignition interlock violations or program violations.

- (A) Six (6) month IDAP: the first 120 days after enrollment.
- (B) Twelve (12) month IDAP: the first 245 days after enrollment.
- (C) Thirty-six (36) month IDAP: the first 365 days after enrollment.

"IDAP Phase 2" shall mean the period of time in IDAP in which the participant is subject to program extension as a result of ignition interlock violations or program violations.

- (A) Six (6) month IDAP: the last 60 days of the original program length, and any extensions imposed by these rules.
- (B) Twelve (12) month IDAP: the last 120 days of the original program length, and any extensions imposed by these rules.
- (C) Thirty-six (36) month IDAP: the last 365 days of the original program length, and any extension imposed by these rules.

"One (1) year" shall mean 365 days.

"Six (6) months" shall mean 180 days.

"Three (3) years" shall mean 1,095 days.

"Verified Ignition Interlock Violation" shall mean a record received by the Department from the Board of Tests for Alcohol and Drug Influence indicating the review and verification of an ignition interlock violation in accordance with the rules of the Board. These include:

- (A) Three (3) penalty fails, at startup, within a fifteen (15) minute time frame;
- (B) Three (3) retest violations constitute a reportable violation. Each retest violation thereafter constitutes a reportable violation.

"Verified Program Violation" shall mean a record received by the Department from the Board of Tests for Alcohol and Drug Influence indicating the review and verification of an ignition interlock program violation. These include:

- (A) A circumvention
- (B) Removal of the device except:
  - (i) Upon receipt of documentation from the Installation Authority or Monitor authorizing said removal

(ii) The vehicle is being repaired. The program participant must inform the licensed service center at least every eight (8) days as to the anticipated date of completion of repairs, or

(iii) The vehicle is being replaced. In the event the vehicle is being replaced by another vehicle, the removal and reinstallation of the device in the subsequent vehicle must be accomplished within eight (8) days of the removal

(C) Tampering

(D) Missed service appointment

### **595:40-7-3. Request for participation – Departmental review – IDAP agreement**

(a) Requests for participation in IDAP must be received within thirty (30) days of the notice of revocation, given pursuant to 47 O.S. §2-116, as reflected by the records of the Department. Upon receipt of the request for participation, the Department shall enter a temporary stay until the expiration of 45 days from the date of the notice of revocation to the participant. Exceptions to the thirty (30) day requirement may be approved by the Director of the Driver Compliance Division or General Counsel.

(b) The customer cannot enroll in IDAP if a District Court appeal has been filed on behalf of the customer for the same incident referenced in the customer's request for IDAP participation.

(c) Requests for participation in IDAP will be reviewed immediately if presented in person to a Hearing Officer.

(d) Requests for participation in IDAP mailed to the Department will be reviewed within three (3) business days of receipt and approved, denied, or returned for more information.

(e) Review of the Request for Participation will include, at a minimum:

(1) Examination of the driving record for the purpose of determining program length;

(2) Confirmation of the License class. Only class D license holders may participate in IDAP.

(f) Upon approval of the Request to Participate in IDAP the participant will execute an IDAP Agreement with the Department outlining the respective roles and responsibilities of the participant and the Department.

(g) For IDAP request received by U.S. Mail, the post mark date shall be considered the date received.

### **595:40-7-4. Program enrollment – calculation of time – IDAP agreement**

(a) The participant must enroll in IDAP within forty-five (45) days of the day of notice of revocation as reflected by the records of the Department. Exceptions to the forty-five (45) day requirement may be approved by the Director of the Driver Compliance Division.

(b) Enrolling in IDAP consists of:

(1) Payment of the IDAP fee of \$200.00 to the Department;

(2) Presentation of an Ignition Interlock Installation Verification Form;

(3) Completion of an IDAP Agreement between the Participant and the Department;

(4) Acknowledgement of receipt and review of the "IDAP Participant's Guide";

(5) Obtaining a Restricted Driver License with an Ignition Interlock Restriction.

(c) Whatever the Participant's required program length, as calculated by the Department:

- (1) The day enrollment in IDAP is complete counts as the Participant's first day of the program.
- (2) All program restrictions, including the ignition interlock requirement, continue through the last day of the program as calculated by the Department. The participant is responsible for ensuring completion of IDAP before removing the ignition interlock device.
- (d) The IDAP Agreement will be signed by the Hearing Officer and the Participant and shall include the following information:
  - (1) Participant's full name;
  - (2) Participant's correct address. In the event Participant's address on record is not correct, it will be updated;
  - (3) Participant's preferred phone number;
  - (4) Participant's email address (if applicable);
  - (5) The date upon which the IDAP Agreement was signed;
  - (6) A list of Ignition Interlock Violations as defined by the Board of Tests for Alcohol and Drug Influence;
  - (7) An explanation of the consequences of violations of the Ignition Interlock Program.

**595:40-7-5. Ignition interlock device monitoring – interlock violations – program extensions – informal hearings**

- (a) The participant is responsible for ensuring the ignition interlock is monitored on a regular basis in accordance with the interlock manufacturer's recommendations.
- (b) Upon receipt of a report of a verified program violation during any phase of IDAP the participant must appear before the Department to provide proof the program violation has been remedied.
- (c) Upon receipt of a report of a verified ignition interlock violation, or verified program violation, during Phase 2 of IDAP, the Department will extend the participant's program length in accordance with 47 O.S. §212.3, and issue notice of the extension to the participant.
- (d) In Phase 1 or Phase 2 of IDAP, when the Department receives a report of a verified program violation, or a verified ignition interlock violation, the following remedial measures may be imposed:
  - (1) Retraining with the manufacturer, at the expense of the participant, if applicable;
  - (2) Installation of an ignition interlock device with a camera;
  - (3) Restrictions on the days and times of the participant's driving;
  - (4) Referral to re-assessment; and
  - (5) Removal from IDAP which will result in a driver license revocation.
- (e) The participant may appear before a hearing officer within fifteen (15) days of receipt of the notice of any violation to contest the violation. The hearing officer may sustain or set aside the violation. The participant's failure to contest a violation within the time allowed will waive any future right to contest the violation.

**595:40-7-6. Graduation from IDAP – requirements – presentation of certificate**

- (a) Graduation from IDAP occurs when the participant presents to the Department:
  - (1) Completion form from the Board of Tests for Alcohol and Drug Influence verifying no ignition interlock violations have occurred in Phase 2 of IDAP;

- (2) Certificate of completion of requirements of the drug and alcohol assessment required by Oklahoma statutes;
- (b) The Department will verify that it has not received any additional officer's affidavits and notices of revocation related to the participant.
- (c) The Department will update the Driver Index of the participant to reflect the completion of the IDAP program and issue a completion certificate to the participant.