

TEXAS IGNITION INTERLOCK DEVICE REGULATIONS



**TEXAS DEPARTMENT OF PUBLIC SAFETY
AUSTIN, TEXAS**

TEXAS ADMINISTRATIVE CODE

Ch. 19 BREATH ALCOHOL TESTING REGULATIONS

TEXAS IGNITION INTERLOCK DEVICE REGULATIONS

§19.21 EXPLANATION OF TERMS AND ACTIONS. The following words and terms, when used in this subchapter, shall have the following meanings, unless indicated otherwise.

- (1) Alcohol--Ethyl alcohol, also called ethanol.
- (2) Alcohol concentration--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.
- (3) Alveolar breath sample--The last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.
- (4) Anticircumvention feature(s)--Any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity which would cause the device not to operate as intended.
- (5) Approval--Meeting and maintaining the requirements of these regulations for approval.
- (6) Appropriate judicial authority--Court orders or personnel of the Texas judicial system including but not limited to: the court or judge ordering the installation, adult probation or parole authorities, pretrial services authorities and occupational licensing authorities.
- (7) Bogus sample--Any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the individual.
- (8) Breath alcohol analysis--The analysis of a sample of the person's expired alveolar breath to determine the alcohol concentration thereof.
- (9) Certification--Meeting and maintaining the requirements of these regulations for certification.
- (10) Certified IID inspector--An individual who meets the requirements in §19.29 of this title (relating to Ignition Interlock Device Inspector).
- (11) Certified service center--Any fixed site or mobile IID service center meeting and maintaining the requirements in §19.27 of this title (relating to Certification and Inspection of Service Centers).
- (12) Certified service representative--Any individual who has successfully completed the requirements in §19.28 of this title (relating to Service Representative) and has received certification from the department to install, inspect, download, calibrate, repair, monitor, maintain, service and/or remove a specific ignition interlock device(s).
- (13) Costs--The nonrefundable original administrative fees plus any and all costs incurred by the department for testimony and/or approval, or reevaluation, of any device.
- (14) Data storage system--A computerized recording of all events monitored by the installed IID, which may be reproduced in the form of specific reports.

(15) Department--The unmodified word department in these regulations refers to the Texas Department of Public Safety.

(16) Device--An ignition interlock device.

(17) Director--The chief executive officer of the department.

(18) Emergency bypass--An event that permits the IID-equipped vehicle to be started without the requirement of passing the breath test.

(19) Filtered samples--Any mechanism by which there is an attempt to remove alcohol from the human breath sample.

(20) Fixed-site service center--A certified service center that is at a permanent location.

(21) Free restart--The ability to start the engine again, within a reasonable time as approved by the department, without completion of another breath alcohol analysis.

(22) IID--The common abbreviation for ignition interlock device.

(23) Ignition interlock device--A device which measures an individual's breath alcohol concentration and prevents the motor vehicle from starting if the alcohol concentration meets or exceeds the startup set point.

(24) Illegal start--The starting of an IID-equipped vehicle without the requisite breath test having been taken and passed.

(25) Inactivation--The voluntary or temporary discontinuance of certification.

(26) Interlock--The mechanism which prevents a motor vehicle from starting when the breath alcohol concentration of a person meets or exceeds a preset value.

(27) Manufacturer--The actual producer of the device.

(28) Manufacturer's representative--An individual or entity designated by the manufacturer to act on behalf of or represent the manufacturer of a device.

(29) Mobile service center--Any IID facility that has the personnel and equipment capability to be in use separately and simultaneously with its parent fixed site service center, whether set up in a vehicle or temporarily set up at a site with a permanent foundation.

(30) Negative result--A test result indicating that the alcohol concentration is less than the startup set point value.

(31) Permanent lockout--A condition wherein the IID will not allow the vehicle to be started until a certified service representative completes a violation reset and restores the IID to a state that will allow the vehicle to be started.

(32) Positive result--A test result indicating that the alcohol concentration meets or exceeds the startup set point value.

(33) Proficiency test--A test administered by, and in the presence of, an IID inspector or designated representative of the department to establish and/or ascertain the competency of a service representative to install, inspect, download, calibrate, repair, monitor, maintain, service and/or remove a specific ignition interlock device(s).

(34) Purge--Any mechanism which cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

(35) Reference sample device--A device containing a sample of known alcohol concentration.

(36) Renewal of certification--Meeting the requirements of these regulations for renewing certification; for example, a representative renewing current certification, or a representative or inspector renewing certification after a period of inactivation or suspension, or a service center renewing certification after a period of inactivation, suspension or revocation.

(37) Retest set point--An alcohol concentration determined by the department, which is the same as the startup set point, at which or above, during a rolling retest, the device will record in the data storage system the high alcohol result as a violation.

(38) Revocation--The immediate cancellation of certification.

(39) Rolling retest--A randomly required test subsequent to the initial test allowing the engine to start.

(40) Rolling retest violation--The violation recorded in the data storage system when the rolling retest requirement is not met.

(41) Startup set point--An alcohol concentration determined by the department at which, or above, the device will prevent the ignition of a motor vehicle from operating. That set point shall be an alcohol concentration of 0.030 g /210 liters of breath.

(42) Suspension--The immediate cancellation or curtailment of certification.

(43) Tampering--An overt or conscious attempt to physically disable, defeat, or otherwise disconnect the IID from its power source and thereby allow the operator to start the engine without taking and passing the requisite breath test.

(44) Temporary lockout--A period of time during which the IID will not allow a breath sample to be delivered or the engine to be started.

(45) Vendor--The manufacturer, the manufacturer's representative or the person or entity responsible for the day-to-day operations of an IID service center.

(46) Violation--Any of several events including but not limited to high alcohol concentrations, illegal starts, and failures to present rolling retests.

(47) Violation reset--An unscheduled service of the IID and download of the data storage system by the service center required because an accumulation of violations has reached a number predetermined by the department.

(48) Violation set point--An alcohol concentration determined by the department at which, or above, the device will record the high alcohol result in the data storage system as a violation.

(49) Withdrawal of approval--Cancellation of approval of an ignition interlock device or reference sample device; to wit, the device(s) not meeting or maintaining these regulations.

§19.22 PROCEDURE FOR DEVICE APPROVAL. (a) All ignition interlock devices to be used in the state pursuant to Texas Transportation Code, Chapter 521, must be approved by the department. These regulations and

requirements apply only to IID usage in the Texas judicial system in applications such as pretrial services (bail bond requirements), adult supervision (probation or parole requirements) and occupational licensing requirements. They are not intended to apply to or limit IID use in a voluntary or non-adjudicated scenario such as a parent having an IID placed on a child's motor vehicle.

(b) The department will establish and maintain a list of approved devices for use in the state.

(c) If application is made for approval of a device not on the approved list, the following procedures shall apply.

(1) A manufacturer or manufacturer's representative requesting approval of a device must submit a production model of the device, along with a written request for approval. It shall be the responsibility of the manufacturer or the manufacturer's representative to incur costs of mailing or shipping of the device to and from the department. It shall also be the responsibility of the manufacturer or the manufacturer's representative to submit a certified check or money order in the amount of \$500 payable to the Texas Department of Public Safety (this is an administrative approval processing fee and is non-refundable). In the event of non-approval, additional requests for approval may be limited by the department. The department shall not get involved in research and development procedures of these devices.

(2) Accompanying each device shall be a notarized letter and/or affidavit from a testing laboratory certifying that the submitted device meets or exceeds applicable minimum standards for breath alcohol ignition interlock devices established by the National Highway Traffic Safety Administration (NHTSA) at the time approval is requested. This letter or affidavit shall also include:

- (A) the name and location of the testing laboratory;
- (B) the address and phone number of the testing laboratory;
- (C) a description of the tests performed;
- (D) copies of the data and results of the testing procedures; and
- (E) the names and qualifications of the individuals performing the tests.

(d) Prior to approval of the device, the manufacturer or the manufacturer's representative shall complete and submit an application approval affidavit available from the department. The notarized application approval affidavit shall be signed by the manufacturer or the manufacturer's representative. This approval affidavit shall state that the device meets or exceeds all standards set forth in these regulations and will be calibrated and maintained pursuant to these regulations and as designated by the department.

(1) If a device is submitted for approval by a party other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the device certifying that the submitting party is an authorized manufacturer's representative and that it is agreed and understood that any action taken by the department or any cost incurred in accordance with the provisions of these regulations shall ultimately be the responsibility of the manufacturer.

(2) After the device is approved, in order to do business in the Texas

IID program, a manufacturer must vend through a certified IID service center as described in §19.27 of this title (relating to Certification and Inspection of Service Centers).

(3) Wherein a manufacturer or manufacturer's representative requests approval of a subsequent model device that introduces improvements to the design or technology of a currently approved model, the department may stipulate the time frame by which the currently approved model must be removed from service and replaced by the subsequent model device.

(e) An annual reevaluation of the approved IID, pursuant to Texas Transportation Code, Chapter 521, shall be required in order for continued approval. This reevaluation shall consider those requirements in §§19.23 - 19.25 of this title (relating to Technical Requirements, Miscellaneous Requirements, and Maintenance and Calibration Requirements). The cost of this reevaluation shall be the same as for the initial approval process noted in subsection (c)(1) of this section.

(f) Vendors shall annually provide to the department a written report of each available service and feature of all approved IIDs. The department shall make available the form for this report.

(g) The vendor shall notify the department in writing if the approval or certification of a device that is approved for use in Texas is or ever has been denied, withdrawn, suspended or revoked in another state, whether such action occurred before or after approval in Texas. This notification shall be made in a timely manner, not to exceed 30 days, after the vendor has received notice of the denial, withdrawal, suspension or revocation of approval or certification of the device, whether or not the action is or has been appealed.

(h) Nothing in these regulations shall imply that an IID which was approved under an earlier version of these regulations is no longer approved because of revisions to these regulations, except for legislated requirements such as in subsection (e) of this section or changes in technology as referred to in §19.24(b)(2) of this title (relating to Miscellaneous Requirements) and §19.26(b)(2) of this title (relating to Approval, Denial, and Withdrawal of Approval).

§19.23 TECHNICAL REQUIREMENTS. (a) Accuracy. The startup set point value for the interlock device shall be an alcohol concentration of 0.030 g/210 liters of breath. The accuracy of the device shall be 0.030 g/210 liters plus or minus 0.010 g/210 liters. The accuracy will be determined by analysis of an external standard generated by a reference sample device, or other methodologies that may be approved by the department.

(b) Alveolar breath sample. The device shall have a demonstrable feature designed to assure that the breath sample that is measured is essentially alveolar.

(c) Precision. The device shall correlate with a known alcohol concentration of 0.030 g/210 liters with accuracy set forth in subsection (a) of this section. A correlation of 95% will be considered reliable precision; 95 of 100

times the device must respond to, detect, and prevent the motor vehicle engine from operating when the operator has an alcohol concentration of 0.030 g/210 liters or greater, or any other limits as set by the department.

(1) The proportion of false positive results shall not exceed 5.0%.

(2) The proportion of false negative results shall not exceed 5.0%.

(d) Specificity. 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 positive results.

(e) Temperature. The device shall meet the requirements of subsections (a) and (c) of this section when used at ambient temperatures of -20 degrees Celsius to 83 degrees Celsius or other limits as set by the department.

(f) Rolling retest. To thwart curbside assistance, after passing the test allowing the engine to start, the IID shall require a rolling retest within a randomly variable interval ranging from 5 to 15 minutes. In order to alert the driver that a retest is to be required, a warning light and/or tone shall come on. If the engine is intentionally or accidentally shutdown during or after the warning but before retesting, the free restart shall not be operative. The driver will then be afforded sufficient time as determined by the department to retest. During the rolling retest, the retest set point shall be the same as the startup set point. The result of this test will be recorded in the data storage system and any result recorded that is equal to or greater than 0.030 g/210 liters shall be recorded as a violation in the data storage system. Second and subsequent rolling retests shall be required at random intervals not to exceed 45 minutes from the previously requested test for the duration of the travel. Refusal of any rolling retest shall result in a violation being recorded in the data storage system. After recording the violation, the IID shall immediately request another rolling retest. Continued refusals shall result in additional violations being recorded in the data storage system until a test is recorded or the engine is turned off.

(g) Vibrational stability. The device shall meet the requirements of subsections (a) and (c) of this section when subjected to simple harmonic motion having an amplitude of 0.38mm (0.015 inches) applied initially at a frequency of 10 Hz and increased at a uniform rate to 30 Hz in 2 1/2 minutes, then decreased at a uniform rate to 10 Hz in 2 1/2 minutes. The device shall also meet the requirements to simple harmonic motion having an amplitude of 0.19mm (0.0075 inches) applied initially at a frequency of 30 Hz and increased at a uniform rate to 60 Hz in 2 1/2 minutes, then decreased at a uniform rate to 30 Hz in 2 1/2 minutes.

§19.24 MISCELLANEOUS REQUIREMENTS. (a) Anticircumvention. The device shall be designed so that anticircumvention features will be difficult to bypass.

(1) Anticircumvention provisions shall include, but not be limited to, prevention or preservation of evidence of cheating by attempting to use bogus or filtered breath samples or bypassing the breath sampling requirements of the device electronically.

(2) The device may use special seals or other methods that record

attempts to bypass anticircumvention provisions.

(3) The device shall be checked for evidence of tampering at least once every sixty (60) days or more frequently if the need arises.

(4) When evidence of tampering is discovered, the appropriate judicial authority shall be notified in writing and these records shall be made available upon request to the department.

(b) Operational features.

(1) The device shall be designed to permit a free restart of a motor vehicle's ignition within a reasonable time as approved by the department after the ignition has been shut off, without requiring a further alcohol analysis.

(2) The device shall also automatically purge alcohol before allowing subsequent analyses. In addition to the operational features of these regulations, the department may impose additional requirements, as needed, depending upon design and functional changes in device technology.

(3) The device shall have a data storage system of sufficient capacity to facilitate the recording and maintaining of all daily driving activities for the period of time elapsed from one maintenance and calibration check as referred to in §19.25(a) of this title (relating to Maintenance and Calibration Requirements) to the next. All daily driving activity records in this data storage system shall be maintained by the service center and the vendor and shall be made available to the appropriate judicial authority or the department upon request.

(4) The device and the service center shall utilize the most current version of the manufacturer's software and firmware to ensure compliance with these regulations. The manufacturer's software and/or firmware shall require certain settings and operational features of the device including, but not limited to, sample delivery requirements, startup and retest set points, free restart, rolling retest requirements, violation settings and lockout conditions. The manufacturer's software and/or firmware shall not allow modification of certain settings and operational features of the device by the service center or the service representative unless the modification is approved by the appropriate judicial authority or the department. A reasonable time as determined by the department will be granted if changes to these regulations require manufacturers to upgrade and/or revise their software and/or firmware.

(5) The device shall record emergency bypasses in the data storage system.

(6) When violations trigger a lockout condition requiring a violation reset, the device will enable a unique auditory and/or visual cue that will warn the driver that the vehicle ignition will enter the lockout condition after 72 hours. This event will be uniquely recorded in the data storage system and will simultaneously start a clock that culminates in the actual lockout condition.

(c) Product liability. The manufacturer of the device shall carry liability insurance covering product liability, including coverage in Texas with a minimum policy limit of \$1 million.

(d) Service support. The vendor shall ensure responsibility for service support within a maximum of 48 hours after notification of a reported malfunction. This support shall be in effect during the period the device is required to be installed in a motor vehicle.

(e) Modifications. Once a device has been approved, no modification in design or operational concept may be made without prior written consent of the department. This does not include replacement or substitution of repair parts to maintain the device nor software changes that do not modify the operational concept of the device. However, the department is to be notified by the manufacturer of any subsequent software or firmware updates to the existing approved IID.

(f) Warning label. A label warning against tampering, circumventing, or misuse shall be affixed to each device.

(g) Safety. The device shall be designed to comply with generally recognized safety requirements.

(h) Specifications and operating instructions. Manufacturers shall provide a precise set of specifications and detailed operating instructions to the department with each device submitted for approval.

(i) Product indemnity. The manufacturer shall provide a signed statement that the manufacturer shall indemnify and hold harmless the state of Texas, the department and its officers, employees, and agents from all claims, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any act or omission by the manufacturer or their representative relating to the installation, service, repair, use and/or removal of an IID.

(j) General. Any other requirements as may be determined necessary by the department to ensure that the device functions properly and reliably.

§19.25 MAINTENANCE AND CALIBRATION REQUIREMENTS. (a) The device shall be inspected, maintained, and checked for calibration accuracy and operational performance at least once every sixty (60) days and more frequently, if necessary, as specified by the department. This maintenance and calibration check will be performed by a certified IID service center as described in §19.27 of this title (relating to Certification and Inspection of Service Centers).

(b) The maintenance and calibration check will consist of, but not be limited to, a check of the device to determine that the device is properly functioning in accordance with the following sections:

(1) accuracy--§19.23(a) of this title (relating to Technical Requirements);

(A) The device shall be calibrated before placing into service. The calibration described herein shall verify the IID accuracy to be within plus or minus 0.010 g/210 liters of the reference sample predicted value.

(B) Upon return to the service center as in subsection (a) of this section, the device shall be subjected to a calibration confirmation test. This 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 vendor's software shall be capable of performing, documenting and reporting the result of this calibration confirmation test. The test result described herein shall verify the accuracy of the IID to be within plus or minus 0.010 g/210 liters of the reference sample predicted value.

(i) Should the device fail the calibration confirmation test referred to in subsection (b)(1)(B) of this section that information shall be made available to the appropriate judicial authority.

(ii) Should the calibration confirmation test referred to in subsection (b)(1)(B) of this section not agree within plus or minus 0.010 g/210 liters of the reference sample predicted value, the device shall be recalibrated so as to restore the accuracy described in subsection (b)(1)(A) of this section before the device may be returned to service.

(2) anticircumvention--§19.24(a) of this title (relating to Miscellaneous Requirements); and

(3) operational features--§19.24(b) of this title (relating to Miscellaneous Requirements).

(c) Maintenance and calibration records shall be maintained by the manufacturer, the manufacturer's representative, and/or the vendor and shall be provided upon request to the department and/or any appropriate judicial authority.

(d) If at any time the device fails to meet the provisions of this section, the device shall be removed from service or calibrated and/or repaired, and these records shall be made available upon request to the department and/or any appropriate judicial authority.

§19.26 APPROVAL, DENIAL, AND WITHDRAWAL OF APPROVAL. (a) Upon proof of compliance with these regulations, an ignition interlock device will be approved and will be placed on a list of approved devices. Notification of approval shall be made in writing to the manufacturer. It will be the responsibility of the manufacturer to provide proof that each individual device installed in any motor vehicle meets or exceeds the minimum standards of these regulations and is the same device approved by the department. It will further be the responsibility of the manufacturer to provide expert or other required testimony in any civil or criminal proceedings as to the method of manufacture of the device, how said device functions, and the testing protocol by which the device was approved. In the event it should become necessary for the department to provide testimony in any civil or criminal procedures involving the approval or use of the device, the manufacturer shall reimburse the department for any costs incurred in providing such testimony. Failure to provide this reimbursement shall result in withdrawal of approval for the device.

(b) The approval of a device may be denied or withdrawn by the department if:

(1) the device fails to meet the requirements for approval or is no longer in compliance with all provisions of the Texas ignition interlock device regulations; or

(2) changes in IID technology are such that continued approval of the device would, as determined by the department, not be in the best interest of the state of Texas.

(c) Appeal of denial or withdrawal of approval. A manufacturer whose application for device approval has been denied or whose device approval has been withdrawn may appeal such action as follows:

(1) The appeal shall be in writing and shall be received by the department no later than twenty (20) days after receipt of the letter notifying the manufacturer of the action being taken by the department. No enforcement action will be taken by the department during this twenty (20) day period. Written request for appeal should be mailed to: Texas Department of Public Safety, Scientific Director, Breath Alcohol Test Bureau, P.O. Box 4087, Austin, Texas 78773-0570.

(2) A request for appeal shall be governed by the provisions of Chapter 2001 of the Texas Government Code, and the procedures found in 37 Texas Administrative Code, Chapter 29 of this title (relating to Practice and Procedure).

(3) If the department does not receive a timely request for appeal, the department may deny the application for device approval, or sustain the withdrawal of approval without a hearing.

§19.27 CERTIFICATION AND INSPECTION OF SERVICE CENTERS. (a) All IID service centers conducting business in this state, whether fixed site or mobile, must have the approval of and be certified by the department.

(b) To initiate certification for an IID service center, a vendor or the IID manufacturer's representative shall submit an application to the department for approval. The application, available from the department, shall show the physical location of the service center, the ignition interlock device(s) to be merchandised and the reference sample device(s) to be used. The application shall also contain a statement acknowledging permission from the IID manufacturer to vend the IID described by the application. Only IIDs listed on the approved list referenced in §19.22(a) of this title (relating to Procedure for Device Approval) may be merchandised. A vendor applying for certification of an IID service center must agree to:

(1) allow access for inspection under subsection (d) of this section,

(2) comply with subsection (g) of this section,

(3) comply with §19.24(c) of this title (relating to Miscellaneous Requirements) concerning product liability and liability insurance requirements, and

(4) comply with §19.24(d) of this title (relating to Miscellaneous Requirements) concerning service support requirements.

(c) IID testing protocol, in order to be approved, shall meet, but not be limited to, the following:

(1) A certified IID service center shall be located in a facility which properly and successfully accommodates installing, inspecting, downloading, calibrating, repairing, monitoring, maintaining, servicing and/or removing a specific IID device(s). A designated waiting area that is separate from the

installation area is to be provided for the customer. The customer is not to witness the installation of the IID. The service center must incorporate the use of analysis of a reference sample such as headspace gas from a mixture of water and alcohol, the results of which must agree with the reference sample predicted value as in §19.25(b)(1)(A) and (B) of this title (relating to Maintenance and Calibration Requirements), or other methodologies that may be approved by the department. Preparatory documentation (such as certificate of analysis) on the reference sample solution(s) shall be available to the department. Only reference sample devices approved by the department may be used in certified IID operations.

(2) All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L). The startup set point shall be an alcohol concentration of 0.030 g/210 liters of breath.

(3) Services rendered by the IID service center must be performed by a properly trained and certified service representative. IID service centers shall maintain sufficient staff to ensure an acceptable level of service. Monitor checks shall be scheduled in a manner such as not to deprive the customer of an acceptable level of service. The IID vendor's software shall document the representative performing the monitor check and when it was performed. The IID service center must at all times be staffed with at least one certified service representative. Potential service representative candidates may train in the certified IID service center only under the direct supervision of a currently certified service representative. The potential service representative candidate will be given a reasonable time as determined by the department to train before being required to take and pass the IID service representative examination.

(4) The applicant must agree to submit, maintain or make available any specified records designated by the department, including but not limited to:

(A) submitting violation(s) if any, of any court order to the appropriate judicial authority, not later than 48 hours after the vendor discovers the violation,

(B) maintaining complete records of each device installation for five years from the date of the removal, and

(C) making all IID records available, either by inspection or via copy to any appropriate judicial authority and upon request to the department.

(5) All anticircumvention features must be activated on any installed IID.

(6) The device must be installed and inspected in accordance with any applicable court order. Furthermore, the service center, through the certified IID representative(s), shall perform a visual inspection of the vehicle, the device, and the device's wiring to ensure no tampering or circumvention has occurred during the monitoring period. In the case wherein the customer returns to the service center as in §19.25(a) of this title (relating to Maintenance and Calibration Requirements) absent their vehicle, or in the case wherein an individual other than the customer returns with the vehicle, such fact(s) shall be made available to the appropriate judicial authority.

(7) The applicant must agree to abide by certain conditions for the

removal of an IID, including but not limited to the following:

(A) No IID shall be removed without authorization from the appropriate judicial authority and such removal shall be documented and the records retained by the service center.

(B) All certified service representatives and service centers are prohibited from removing the device of another vendor except in an emergency or a special circumstance authorized by the appropriate judicial authority or the department. All such removals are to be documented and reported to the department. The removal records are to be retained by the service center.

(C) When a customer desires to change from one vendor to another, it shall be the responsibility of the original installing vendor to ensure removal authorization has been issued by the appropriate judicial authority. Upon authorized removal, a final report shall be made to the appropriate judicial authority, thus ensuring no data being omitted. The appropriate judicial authority should then further dictate the procedure by which the customer shall acquire another vendor's device.

(D) Certified service representatives in violation of the procedures outlined herein may have their certification inactivated or suspended. Certified service centers found in violation of these procedures may have their certification inactivated, suspended or revoked.

(d) An IID inspector or a designated representative of the department may at any time make an inspection of the certified IID service center to ensure compliance with these regulations.

(e) A designated custodian of records, when required, shall be provided by the vendor to testify in court and provide testimony concerning the interpretation of any data storage system records, as required by these courts and to answer questions concerning certification of the IID program.

(f) Upon proof of compliance with subsections (a) - (c) of this section, a certificate will be issued by the department that will be valid unless certification is inactivated, suspended or revoked. Issuance of a certificate to the service center shall be evidence that the service center meets all necessary criteria for approval and certification. Prior to issuance of the certification, an on-site evaluation may be required by the department to ensure compliance with the provisions of this section.

(g) Certification of the IID service center is contingent upon the applicant's agreement to conform and abide by any directives, orders, or policies issued or to be issued by the department regarding any aspect of the IID service center; this shall include, but not be limited to, the following:

- (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 service representatives; and
- (8) records custodian.

(h) A manufacturer shall be responsible for providing continuing service by

a certified service center during the installation period, without interruption, should a certified service center go out of business or be revoked.

(1) If the out of business or revoked service center is being replaced by the manufacturer, all reasonable efforts shall be made to obtain customer records and data from the service center being replaced and provide them to a new certified service center that is within 25 miles of the service center that is going out of business or being revoked. The department and the appropriate judicial authority shall be notified of this event as soon as possible.

(2) If the out of business or revoked service center is not replaced, the manufacturer shall retain the records and data as required in subsection (e)(1) of this section. The department and the appropriate judicial authority shall be notified of this event as soon as possible.

(A) The manufacturer whose out of business or revoked service center is not replaced shall be responsible for, and shall bear the cost of, removal of the original IID and replacement with another approved IID, regardless of the manufacturer of the device being substituted, if another manufacturer's device is available at a certified service center that is no more than 25 miles from the service center that is going out of business or being revoked.

(B) The manufacturer shall make every reasonable effort to notify all customers of the change of the certified service center or replacement of the device 30 days before the change or replacement will occur, or as soon as is possible.

(3) If neither subsection (e)(1) nor subsection (e)(2) of this section can be accomplished, the manufacturer shall be responsible for notifying the customers, the department, and the appropriate judicial authority that service will be terminated within 60 days, and then removing the devices at no cost to the customers in question.

(i) Certification of an IID service center may be denied, inactivated, suspended or revoked by the department if a vendor, service center, service representative, or IID equipment fails to meet all criteria stated in this section, or if the vendor violates or is not in compliance with any of these regulations or if the vendor violates any law of this state that applies to the vendor.

(1) Service center certification denial. Certification of an IID service center may be denied if a vendor, service center, service representative or IID equipment fails to meet all criteria stated in this section, or if the vendor has violated or is not in compliance with any IID regulation. Furthermore, a vendor's request to open additional service centers may be denied if there is pending action against the vendor for any violation of these regulations.

(2) Service center inactivation. Inactivation refers to the voluntary or temporary discontinuance of certification. Unless specifically stated otherwise, this loss of certification will be an administrative program control as opposed to suspension or revocation for violation of these regulations or for unreliability or incompetence. Inactivation may be initiated by anyone having authority to suspend or revoke, or by the certified service center in case of voluntary surrender of certification. In questionable cases, the decision to accept inactivation or invoke suspension or revocation will be determined by

the department. A service center that no longer meets all the requirements for certification shall be inactivated. Inactivation shall be used for administrative program control to safeguard the scientific integrity of the IID program.

(3) Service center suspension. Suspension refers to the immediate curtailment of certification and may be applied to the service center when, because of unreliability, incompetence, or violation of these regulations the service center is not in compliance with the provisions stated in these regulations or when continuance of such certification in the opinion of the department would not uphold the scientific integrity of the IID program. A suspension can be initiated by an IID inspector or designated representative of the department. The minimum period of suspension will be for a period of time not less than 30 days. The IID inspector or a designated representative of the department may recommend a specific period of suspension to the department. A suspension curtails any certification issued to the service center for a period of suspension until renewal of certification. During a suspension, the suspended service center may continue to provide service to those IID customers in existence prior to the suspension, but shall not acquire new or transferred IID customers during the period of suspension. The manufacturer and appropriate judicial authorities shall be notified when a service center is suspended. Suspension shall be for the purpose of maintaining the scientific integrity of the IID program and enforcing these regulations.

(4) Service center revocation. Revocation refers to the immediate cancellation of certification. Revocation cancels any certification issued to the revoked service center for the period of revocation and until renewal of certification. Unless provided for by specific provision in these regulations, revocation will apply when the service center no longer meets the criteria for certification or no longer meets the requirements of these regulations because of unreliability, incompetence, or violation of these regulations, or in any case where, in the opinion of the department, continuance of certification would not uphold the scientific integrity of the IID program. If after the allowed appeals process, the revocation of a service center is sustained, the revoked service center shall be required to replace the IID service and/or the IID as in §19.25(e) of this title (relating to Maintenance and Calibration Requirements). In the event that no appeal from the revoked service center is forthcoming, the revoked service center shall have 30 days to achieve the requirements of §19.25(e) of this title (relating to Maintenance and Calibration Requirements). The appropriate manufacturer and judicial authorities shall be notified when a service center is revoked. Revocation shall be for the purpose of maintaining the scientific integrity of the IID program and enforcing these regulations.

(j) Appeal of denial, suspension or revocation. An IID service center whose pending application for certification has been denied, or an IID service center whose certification has been suspended or revoked may appeal such action as follows:

(1) The appeal shall be in writing and shall be received by the department no later than twenty (20) days after receipt of the letter notifying the service center of the action being taken by the department. No enforcement

action will be taken by the department during this twenty (20) day period. Written request for appeal should be mailed to: Texas Department of Public Safety, Scientific Director, Breath Alcohol Test Bureau, P.O. Box 4087, Austin, Texas 78773-0570.

(2) A request for appeal shall be governed by the provisions of Chapter 2001 of the Texas Government Code, and the procedures in 37 Texas Administrative Code, Chapter 29.

(3) If the department does not receive a timely request for appeal, the department may deny the application for certification or sustain the suspension or revocation of certification without a hearing.

(k) The renewal of certification of a service center whose certification has been inactivated, suspended or revoked will require a written request from the applicant to the department and successful completion of the original requirements for certification as outlined in subsection (b) of this section and/or other requirements as determined by the department.

§19.28 SERVICE REPRESENTATIVE. (a) Initial certification.

(1) In order to apply for certification as a service representative of an ignition interlock device service center, an applicant must successfully attain the following:

(A) proof of employment by an ignition interlock device service center that meets the requirements set forth in §19.27 of this title (relating to Certification and Inspection of Service Centers); and

(B) documentation from the aforementioned employer that the applicant is currently trained in all necessary aspects of the specific IIDs involved in the vendor's service center.

(C) If a service representative is certified to work with a specific device and is required to be certified on an additional device, the department may waive portions of subsection (a)(1)(B) of this section and require only that instruction needed to acquaint the applicant with proper operation of the new device.

(2) Prior to initial certification as a service representative of an ignition interlock device service center, an applicant must satisfactorily complete a written examination which shall cover regulatory and other aspects of the Texas IID Program.

(A) Failure of the initial written examination will cause the applicant to be ineligible for reexamination for a period of 30 days.

(B) A subsequent failure will be handled the same as an initial failure.

(3) An applicant who has been convicted of driving while intoxicated, theft, a crime involving moral turpitude, or any offense classified as a felony, within five years prior to the date of filing of the applicant's application for certification as an IID service representative is not eligible for certification. For purposes of this section, a conviction means the applicant was adjudicated guilty by a court of competent jurisdiction.

(4) The department, with advance notice to IID vendors, may impose additional requirements for service representative certification should the

need be warranted.

(5) Upon successful completion of the requirements for initial certification, the department will issue the individual a service representative's certificate valid for a period of time designated by the department unless certification is inactivated or suspended.

(b) Proficiency requirements.

(1) The IID inspector or designated representative of the department may at any time require a service representative to demonstrate the competency to install, inspect, download, calibrate, repair, monitor, maintain, service and/or remove a specific ignition interlock device(s).

(2) It is the responsibility of the individual service representative to maintain proficiency.

(3) Failure to pass a proficiency test as defined in §19.21 of this title (relating to Explanation of Terms and Actions) will result in the service representative's certification being suspended for thirty (30) days.

(c) Renewal of current certification. The service representative is required to renew certification prior to its expiration date. The minimum requirement for renewal of service representative certification will be:

(1) a biennial written acknowledgement from the service representative's employing IID vendor that this service representative is both;

(A) employed by the vendor in the capacity of a service representative, and

(B) currently trained in all necessary aspects of the IIDs involved in the vendor's service center.

(2) a biennial written acknowledgement from the service representative that he or she still meets the requirement of subsection (a)(3) of this section.

(3) Renewal of certification will be denied and current certification will be inactivated when the service representative fails to furnish the proper documentation required in this subsection.

(4) Upon successful completion of the requirements for renewal of certification, the department will issue the individual a service representative's certificate valid for a period of time designated by the department or until next renewal unless certification is inactivated or suspended.

(d) Certification of the service representative may be denied, inactivated or suspended by the department if the service representative fails to meet all criteria stated in this section, or if the service representative violates or is not in compliance with any of these regulations.

(1) Service representative certification denial. Certification of an IID service representative may be denied if a service representative fails to meet all criteria stated in this section or if the service representative has violated or is not in compliance with any IID regulation. Furthermore, a service representative's request for certification may be denied if there is pending action against the service representative for any violation of these regulations.

(2) Service representative inactivation. Inactivation refers to the voluntary or temporary discontinuance of certification. Unless specifically stated otherwise, this loss of certification will be an administrative program control as opposed to suspension for violation of these regulations or for unreliabili-

ty or incompetence. Inactivation may be initiated by anyone having authority to suspend or revoke, or by the certified representative in case of voluntary surrender of certification. In questionable cases, the decision to accept inactivation or invoke suspension will be determined by the department. Inactivation shall be used for administrative program control to safeguard the scientific integrity of the IID program. It may be used in, but not limited to, the following situations:

(A) a service representative terminates employment under which certification was acquired and new employment does not require certification, or the new location of the service representative cannot be ascertained; or

(B) a service representative fails to renew current certification and reverts to an inactive status.

(3) Service representative suspension. Suspension refers to the immediate cancellation of certification and may be applied to the service representative when, because of unreliability, incompetence, or violation of these regulations the service representative is not in compliance with the provisions stated in these regulations or when continuance of such certification in the opinion of the department would not uphold the scientific integrity of the IID program. A suspension may also be applied when a representative, subsequent to certification, is convicted of driving while intoxicated, theft, a crime involving moral turpitude, or any offense classified as a felony. A suspension can be initiated by an IID inspector or designated representative of the department. The minimum period of suspension as determined by the department will be for a period of time not less than 30 days. The IID inspector or a designated representative of the department may recommend a specific period of suspension to the department. A suspension cancels any certification issued to the service representative for the period of suspension until renewal of certification. During a suspension, the suspended representative is barred from providing any service in the IID program. Suspension shall be for the purpose of maintaining the scientific integrity of the IID program and enforcing these regulations.

(e) Appeal of denial or suspension. A service representative whose pending application for certification has been denied or a service representative whose certification has been suspended may appeal such action as follows:

(1) The appeal shall be in writing and shall be received by the department no later than twenty (20) days after receipt of the letter notifying the service representative of the action being taken by the department. No enforcement action will be taken by the department during this twenty (20) day period. Written request for appeal should be mailed to: Texas Department of Public Safety, Scientific Director, Breath Alcohol Test Bureau, P.O. Box 4087, Austin, Texas 78773-0570.

(2) A request for appeal shall be governed by the provisions of Chapter 2001 of the Texas Government Code, and the procedures found in 37 Texas Administrative Code, Chapter 29 of this title (relating to Practice and Procedure).

(3) If the department does not receive a timely request for appeal, the department may deny the application for certification or sustain the suspen-

sion of certification without a hearing.

(f) Renewal of certification of a service representative whose certification has been inactivated or suspended will require a written request from the applicant to the department and successful completion of the original requirements for certification as outlined in subsection (a) of this section and/or other requirements as determined by the department.

§19.29 IGNITION INTERLOCK DEVICE INSPECTOR. (a) The minimum qualifications for certification as an IID inspector are:

(1) graduation from a standard senior high school or the equivalent plus two (2) or more years responsible work experience. College may be substituted for experience on a year-per-year basis.

(2) the satisfactory completion of IID inspector training that is approved by the department, the content of which shall include, but not be limited to familiarity with:

(A) record keeping appropriate to approved IIDs in use in the state of Texas;

(B) operational principles and theories applicable to the program; and
(C) legal aspects of the IID program.

(3) Knowledge and understanding of the scientific theory and principles as to the operation of the IID and reference sample device.

(4) Persons who are currently engaged in business with or employed by an IID manufacturer or an IID vendor shall not be eligible to become a certified IID inspector.

(5) An applicant who has been convicted of driving while intoxicated, theft, a crime involving moral turpitude, or any offense classified as a felony, within five years prior to the date of filing of the applicant's application for certification as an IID inspector is not eligible for certification. For purposes of this section, a conviction means the applicant was adjudicated guilty by a court of competent jurisdiction.

(6) The department, with advance notice, may impose additional and/or different requirements for IID inspector certification should the need be warranted.

(7) Upon satisfactory proof to the department by the applicant that the minimum qualifications of this subsection have been met, the department will issue a certificate that will be valid unless certification is inactivated or suspended.

(b) Duties. A certified IID inspector will make an onsite inspection of each service center as needed or as directed by the department. Such an inspection will include but not be limited to verification of:

(1) Any and all IID technical requirements as per §19.23 of this title (relating to Technical Requirements).

(2) Any and all IID miscellaneous requirements as per §19.24 of this title (relating to Miscellaneous Requirements).

(3) Any and all IID maintenance and calibration requirements as per §19.25 of this title (relating to Maintenance and Calibration Requirements).

(4) Any and all service center requirements as per §19.27 of this title (relating to Certification and Inspection of Service Centers).

(5) Any and all service representative requirements as per §19.28 of this title (relating to Service Representative).

(c) Costs. Vendors shall reimburse the department for the reasonable cost of conducting each inspection of the vendor's facilities under this section.

(1) The department may conduct more inspections for cause, such as complaints from judicial authorities, adult supervision authorities, or customers at an additional cost to the service center being inspected.

(2) The calculated cost per inspection will be standardized throughout the IID program unless there are individual vendor circumstances that require additional costs to the department and will consequently be passed through to the affected vendor(s).

(d) Certification of an IID inspector may be denied, inactivated or suspended by the department if the inspector fails to meet all criteria stated in this section, or if the inspector violates or is not in compliance with any of these regulations.

(1) IID inspector certification denial. Certification of an IID inspector may be denied if an IID inspector fails to meet all criteria of this section, or if the IID inspector has violated, or is not in compliance with any of these regulations. Furthermore, an IID inspector's request for certification may be denied if there is pending action against the inspector for any violation of these regulations.

(2) IID inspector inactivation. Inactivation refers to the voluntary or temporary discontinuance of certification. Unless specifically stated otherwise, this loss of certification will be an administrative program control as opposed to suspension for violation of these regulations or for unreliability or incompetence. Inactivation may be initiated by anyone having authority to suspend or revoke, or by the certified IID inspector in case of voluntary surrender of certification. In questionable cases, the decision to accept inactivation or invoke suspension will be determined by the department. An IID inspector who terminates employment under which certification was acquired and new employment does not require certification, or whose new location cannot be ascertained shall be inactivated. Inactivation shall be used for administrative program control to safeguard the scientific integrity of the IID program.

(3) IID inspector suspension. Suspension refers to the immediate cancellation of certification and may be applied to the IID inspector when, because of unreliability, incompetence, or violation of these regulations the IID inspector is not in compliance with the provisions stated in these regulations or when continuance of such certification in the opinion of the department would not uphold the scientific integrity of the IID program. A suspension may also be applied when an inspector, subsequent to certification, is convicted of driving while intoxicated, theft, a crime involving moral turpitude, or any offense classified as a felony. A suspension can be initiated by a designated representative of the department. The minimum period of suspension as determined by the department will be for a period of time not less than thirty (30) days. The designated representative of the department may recom-

mend a specific period of suspension to the department. A suspension cancels any certification issued to the inspector for a period of suspension until renewal of certification. During a suspension, the suspended inspector is barred from providing any service in the IID program. Suspension shall be for the purpose of maintaining the scientific integrity of the IID program and enforcing these regulations.

(e) Appeal of denial or suspension. An IID inspector whose pending application for certification has been denied, or an IID inspector whose certification has been suspended may appeal such action as follows:

(1) The appeal shall be in writing and shall be received by the department no later than twenty (20) days after receipt of the letter notifying the IID inspector of the action being taken by the department. No enforcement action will be taken by the department during this twenty (20) day period. Written request for appeal should be mailed to: Texas Department of Public Safety, Scientific Director, Breath Alcohol Test Bureau, P.O. Box 4087, Austin, Texas 78773-0570.

(2) A request for appeal shall be governed by the provisions of Chapter 2001 of the Texas Government Code, and the procedures found in 37 Texas Administrative Code, Chapter 29 of this title (relating to Practice and Procedure).

(3) If the department does not receive a timely request for appeal, the department may deny the application for certification or sustain the suspension of certification without a hearing.

(f) Renewal of certification of an IID inspector whose certification has been inactivated or suspended will require a written request from the applicant to the department and successful completion of the original requirements for certification as outlined in subsection (a) of this section and/or other requirements as determined by the department.