

CHAPTER 10 IGNITION INTERLOCK DEVICE

Subchapter A General Provisions

Rule 10.01 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless indicated otherwise.

- (1) "Act" refers to Sections 521.241, 521.247, 521.2475, and 521.2476 of the Texas Transportation Code.
- (2) "Appropriate judicial authority" refers to court orders or personnel of the Texas judicial system including but not limited to the court or judge ordering an installation, or the related probation, parole, or pretrial service authorities.
- (3) "Authorization" refers to the authority granted by the department to a vendor to engage in the business of installing or servicing ignition interlock devices.
- (4) "Department" refers to the Texas Department of Public Safety.
- (5) "IID" or "device" refers to an ignition interlock device as defined in Section 521.241(2) of the Texas Transportation Code.
- (6) "Mobile Unit" refers to a motor vehicle equipped to perform interlock device service or installation at a temporary location.
- (7) "Service center" refers to a fixed physical location at which interlock device installation, service, or removal is performed.
- (8) "Vendor" refers to one who engages in the business of installation, service, or removal of ignition interlock devices at a Service Center or with a Mobile Unit.
- (9) "Manufacturer" refers to the actual producer of the device.

Rule 10.02 Address and Business Information

- (a) Vendors and manufacturers of approved devices shall at all times maintain on file with the department the current mailing and principal place of business addresses. Vendors shall maintain on file with the department the physical addresses of all service centers, and a current and valid electronic mail address. The principal place of business address of a vendor must be a physical address and may not be a post office box.
- (b) Vendors and manufacturers of approved devices shall notify the department within 30 calendar days of any change to the mailing or business address by submitting the appropriate department approved form.

(c) Vendors and manufacturers of approved devices shall notify the department within 30 calendar days of any change of ownership or company name change by submitting the appropriate department approved form.

Rule 10.03 Notice

(a) The department is entitled to rely on the mailing and electronic mail address currently on file for all purposes relating to notification. The failure to maintain a current mailing address and an electronic mail address with the department is not a defense to any action based on the vendor's, manufacturer's, or applicant's failure to respond.

(b) Service of notice upon a vendor, manufacturer, or applicant is complete and receipt is presumed upon the date the notice is sent, if sent before 5:00 p.m. by facsimile or electronic mail, and 3 business days following the date sent if by regular United States mail.

(c) The department may send notice of denials or revocations by electronic mail; regular United States mail; certified mail, return receipt requested; or hand-delivery. Refused or unclaimed certified mail will be presumed to have been received as provided by subsection (b) of this section.

Rule 10.04 Hearings

(a) A request for a hearing must be submitted in writing (by mail, facsimile, or e-mail) within 30 calendar days of the receipt of the Notice of Denial or Revocation.

(b) Hearings will be conducted before the State Office of Administrative Hearings, pursuant to Texas Government Code, Chapter 2001.

Subchapter B Vendor Authorization

Rule 10.11 Application

(a) Application for vendor authorization must be made in the manner required by the department. The application must contain all materials or information required by this chapter, and the initial inspection fee must be paid as provided in Section 10.15 of this chapter (relating to Inspections and Fees).

(b) In order to maintain authorization, the vendor must have the following:

(1) All necessary equipment and tools for the proper installation, removal, inspection, calibration, repair, and maintenance, of the type of IID(s) to be installed or serviced by the vendor, as determined by the device manufacturer and standard industry protocols;

(2) A designated waiting area separate from the installation area, to ensure customers do not observe the installation of the IID;

(3) Proof of liability insurance providing coverage for damages arising out of the operation or use of IIDs with a minimum policy limit of \$1,000,000 per occurrence and \$3,000,000 aggregate total.

(c) If an incomplete application is received, notice will be sent to the applicant stating that the application is incomplete and specifying the information required for acceptance. The applicant has 60 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the documentation, the application will be considered withdrawn.

(d) An application is complete when:

- (1) It contains all of the items required pursuant to this section;
- (2) All required fees have been paid; and
- (3) All requests for additional information have been satisfied.

Rule 10.12 Vendor Standards

Vendors shall comply with the following:

- (1) Perform a visual inspection of the device and the vehicle in which it is installed to ensure that no tampering or circumvention has occurred. Evidence of tampering with an IID shall be reported to the judicial authority responsible for ordering the specific installation involved, to the supervising officer if any, and to the department, not later than 48 hours after the vendor discovers the evidence of tampering;
- (2) Document and retain the records on the removal of any device by the Vendor;
- (3) Maintain a record of each complaint by a customer relating to the operation of the device, including:
 - (A) name of the customer;
 - (B) judicial authority ordering the installation;
 - (C) date of the complaint;
 - (D) nature of the complaint;
 - (E) identifying information related to the device; and
 - (F) name of individual who received the complaint;
- (4) Maintain a record of the responses to customer complaints including:
 - (A) the action taken to address the complaint;
 - (B) any action taken to resolve the complaint; and
 - (C) the date and name of the person who resolved the complaint;
- (5) Conduct a calibration confirmation test on each device at the time of installation and on each occasion of service, and maintain all records of such tests;
- (6) Properly store the alcohol reference solution, the breath alcohol simulator, or reference gas standard in a manner that maintains the integrity of the calibration solution;

- (7) Install the device with anti-tampering evident tape or seals on all connections;
- (8) Display conspicuously in the service center the authorization issued by the department under the Act and this chapter;
- (9) Display conspicuously in the service center, a sign containing the name, mailing address, and telephone number of the department, and a statement informing consumers or recipients of services that complaints against the vendor can be directed to the department;
- (10) Only install devices that are approved under Section 521.247 of the Act;
- (11) Maintain liability insurance coverage for damages arising out of the operation or use of devices in amounts and under the terms specified by the department in Section 10.11 of this chapter (relating to Application for Vendor Authorization);
- (12) Comply with any applicable court order regarding the installation or inspection of a device and the activation of any anti-circumvention feature of the device;
- (13) Repair or replace a device within 48 hours after receiving notice of a complaint regarding the operation of the device, if device is confirmed to have malfunctioned;
- (14) Maintain a record of each action taken by the vendor with respect to each device installed by the vendor, including each action taken as a result of an attempt to circumvent the device, until at least the fifth anniversary after the date of installation;
- (15) Upon request of any court, supervising officer, or the department, make available for inspection or provide a copy of any report or record required under this chapter;
- (16) Satisfy the standards for equipment and facilities, as required by this chapter;
- (17) Pay the required inspection fee within 60 calendar days of receipt of notice that payment is due;
- (18) Pay any past due fees within 30 days of notification of a past due amount, insufficiency of funds, or denied payment;
- (19) Cooperate with any inspection or audit performed by department personnel;
- (20) Submit annually, in a manner prescribed by the department, a written report of each ignition interlock device service and feature made available by the vendor; and
- (21) Submit a written report of any violation of a court order to the appropriate judicial authority, including the issuing court and the person's supervising officer, if any, not later than 48 hours after the vendor discovers the violation.

Rule 10.13 Denial of Application for Vendor Authorization

(a) The department may deny an application for vendor authorization if:

- (1) The applicant attempts to obtain an authorization by means of fraud, misrepresentation, or concealment of a material fact;
- (2) The applicant's prior authorization has been revoked and the basis for the revocation remains;
- (3) The applicant fails to satisfy the standards for equipment and facilities, or insurance, as required by this chapter, or
- (4) Otherwise violates the Act or this chapter.

(b) The denial will become final on the thirtieth calendar day following the vendor's receipt of the notice of denial, unless the vendor requests a hearing as outlined in Section 10.04 of this chapter (relating to Hearings).

Rule 10.14 Revocation of Vendor Authorization

(a) The department may revoke an authorization if the vendor:

- (1) Fails to submit the required reports to the department pursuant to Section 10.12 of this chapter (relating to Vendor Standards);
- (2) Willfully or knowingly submits false, inaccurate, or incomplete information to the department;
- (3) Violates any provision of Section 10.12 of this chapter (relating to Vendor Standards);
- (4) Fails to pay the annual inspection fee as provided in Section 10.15 (relating to Inspections and Fees);
- (5) Violates any law of this state relating to the conduct of business in this state; or
- (6) Otherwise violates the Act or this chapter.

(b) Prior to taking action against an authorization for a violation of subsection (a) of this section, the department will provide notice pursuant to section 10.03 of this chapter (relating to Notice).

(c) The department's determination to revoke an authorization may be based on the following considerations:

- (1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

- (2) The economic harm to property or the public caused by the violation;
- (3) The effect of the violation on the efficient administration of the program;
- (3) The history of previous violations, including any warnings or other attempts to gain compliance;
- (4) Efforts to correct the violation; and
- (5) Any other matter that justice may require.

(d) The revocation will become final on the thirtieth calendar day following the vendor's receipt of the notice of revocation, unless the vendor requests a hearing as outlined in Section 10.04 of this chapter (relating to Hearings).

(e) The revocation proceeding may be dismissed, or the revocation may be probated, upon a showing of compliance.

Rule 10.15 Inspections and Fees

(a) To ensure compliance with the standards and procedures provided in these rules and in the Act, the department will conduct an initial inspection at the department's discretion, prior to or following the issuance of the authorization and on an annual basis.

(b) The inspection fee shall be \$450. The fee for the initial inspection shall be paid at the time of original application for authorization. The fee for each subsequent annual inspection shall be paid within 60 calendar days of notification. Revocation action may be initiated per Section 10.14 of this chapter (relating to Revocations) if payment of the annual inspection fee is not made within 60 calendar days of notification. Inspection fees are neither refundable nor transferable.

(c) Should a fee payment be returned or dishonored, the applicant or vendor must promptly make payment by cashier's check or money order. If payment is not made within 30 calendar days of notification, the application will be abandoned as "incomplete". If the authorization was issued prior to notification of the insufficiency of funds, and proper payment is not made within 30 calendar days of notification, revocation proceedings will be initiated under Section 10.14 of this chapter (relating to Revocations).

(d) Failure to cooperate with the department representative during an inspection may result in denial of an application or revocation of an authorization.

(e) This rule does not preclude the department from investigating complaints or conducting audits at the department's discretion for which no fee will be charged.

Rule 10.16 Low Breath Volume Medical Exemption

The minimum breath sampling size of an IID may be reduced to 1.2 liters for a device user with diminished lung capacity. Diminished capacity may be established through documentation from the appropriate judicial authority, advising of the necessity for the lower breath volume requirement. This

documentation should be maintained in the manner required of calibration and maintenance records under Section 10.12 of this chapter (relating to Vendor Standards).

Subchapter C Military Service Members, Veterans, and Spouses – Special Conditions for Vendor Authorizations

Section 10.21 Definitions

For purposes of this subchapter, the terms ‘military service member’, ‘military veteran’, and ‘military spouse’ have the meanings provided in Texas Occupations Code Section 55.001.

Section 10.22 Exemption from Penalty for Failure to Renew in Timely Manner

An individual who holds a vendor authorization issued under the Act is exempt from any increased fee or other penalty for failing to renew the authorization in a timely manner if the individual establishes to the satisfaction of the department the individual failed to renew the authorization in a timely manner because the individual was serving as a military service member.

Section 10.23 Extension of Authorization Renewal Deadlines for Military Members

A military service member who holds a vendor authorization issued under the Act, is entitled to 2 years of additional time to complete:

- (1) Any continuing education requirements; and
- (2) Any other requirement related to the renewal of the person's authorization.

Section 10.24 Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses

(a) An individual who is a military service member, military veteran, or military spouse may apply for a vendor authorization under this section if the individual:

- (1) Holds a current authorization issued by another jurisdiction with licensing requirements substantially equivalent to the Act's requirements for the authorization; or
- (2) Within the five (5) years preceding the application date, held a vendor authorization in this state.

(b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

Subchapter D Ignition Interlock Device Approval

Rule 10.31 Application for Device Approval

(a) Prior to submission of the request for approval, the device model must be tested for compliance with model specifications for breath alcohol ignition interlock devices established by the National Highway Traffic Safety Administration (NHTSA) at one or more independent laboratories not affiliated

with the device manufacturer or the applicant seeking device approval. The testing specifications must be the most current ignition interlock model specifications published by NHTSA at the time that approval is requested. The testing laboratory must be accredited to the ISO 17025:2005 standard, or to a similar standard with an accreditation scope appropriate to the testing of breath alcohol ignition interlock devices.

(b) An application for approval of a device must include:

- (1) A written request for approval with contact information for the applicant;
- (2) A production model of the device that is to be approved;
- (3) Manuals and other documentation necessary for the installation and operation of the device;
- (4) Documentation of all test data and results pursuant to the requirements of this section, with the name(s) of and contact information for each testing laboratory;
- (5) A certified check or money order in the amount of \$500.00, payable to the Texas Department of Public Safety as a nonrefundable administrative processing fee;
- (6) A notarized document describing the results of the testing from each independent laboratory involved in establishing NHTSA compliance. The document shall certify that the device model complies with the most current specifications for breath alcohol ignition interlock devices established by NHTSA.

Rule 10.32 Denial of Request for Approval; Revocation of Device Approval

(a) A request for device approval may be denied if the device fails to meet the requirements for approval.

(b) Prior approval of a device may be revoked if changes in NHTSA model specifications are such that the device no longer meets the requirements for approval.

(c) Denial of a request for device model approval, or revocation of a prior approval, may be appealed as provided in Section 10.04 of this chapter (relating to Hearings).