

# Ignition Interlocks:

## *Every State, For Every Apprehended Drunk Driver*

In 2016, 10,497 people were killed in crashes caused by a drunk driver with a blood alcohol concentration (BAC) of .08 or greater. General deterrence law enforcement efforts, like sobriety checkpoints and other special police activities, are designed to let the public know that if they drive drunk they will be arrested and face consequences. These enforcement efforts, coupled with paid advertising in order to publicize police activity, are proven and highly effective tools in the fight to deter would-be drunk drivers. While police efforts are critical and have greatly reduced the number of drunk driving trips and resulting fatalities and injuries, unfortunately these efforts have not overcome the problem and too many people continue to drive while impaired.

Would-be drunk drivers and convicted offenders need to know that the consequences to their actions will be swift and sure, and policymakers must ensure that these consequences are effective. One of the most effective ways to prevent a convicted drunk driver from re-offending is to make sure that he or she will not be able to start his or her vehicle while impaired. The ignition interlock device does just that.

In 2006, Mothers Against Drunk Driving (MADD) launched its Campaign to Eliminate Drunk Driving. The Campaign focuses on encouraging more widespread use of high-visibility law enforcement efforts, as well as technology designed to stop offenders from driving drunk.

***As part of the Campaign, MADD recommends the mandatory installation of ignition interlocks in every state for every convicted drunk driving offender. Interlocks must be installed for a minimum of six months. States should provide strong incentives for interlock use and compliance by drunk drivers.***

The first state ignition interlock pilot program began in California in 1986. When MADD launched the Campaign in 2006, there were only 100,000 interlocks installed in the United States. As of August 2016, there were nearly 337,000 interlocks in use.

Today, thirty-two states plus Washington, DC require or highly incentivize the use of an ignition interlock for every convicted offender and California has an all offender law in four counties covering more than 13 million people.



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## **MADD's Model Ignition Interlock Law Provisions**

Section 1: No hard license suspension period prior to interlock order of any convicted drunk driver.

Section 2: Require interlocks for all convicted drunk drivers with a blood alcohol concentration of .08 or above.

Section 3: Provide strong incentives for ignition interlock use and compliance

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Section 12: Require lengthier interlock sentences for those who commit a DWI with a child in their vehicle.

## **MADD's Model Ignition Interlock Law Provisions**

### **SECTION 1: No hard license suspension period prior to interlock order.**

“If such person has not had a prior DWI conviction or revocation, the person shall be only allowed to operate a motor vehicle if it is equipped with an approved ignition interlock device, and such person drives with the device for a **minimum period of six months with a first revocation or conviction, a minimum of one year with a second revocation or conviction, and a minimum of five years with a third revocation or conviction.** Such order to operate a motor vehicle only if it is equipped with an ignition interlock device shall be administered upon an administrative hearing or upon final judgment of any appeal or review.”

*Drafters Note: There is no need for a hard license suspension period following a drunk driving conviction. The sooner a convicted drunk driver is on an interlock device the better as up to 75 percent of convicted drunk drivers drive illegally on a suspended license.*

### **SECTION 2: Require interlocks for all convicted drunk drivers with a blood alcohol concentration of .08 or above.**

The following time periods of interlock usage can be substituted for the first revocation or conviction where the offender has had multiple offenses, but they have not necessarily resulted in actual recorded convictions.

- 1<sup>st</sup> revocation: six months using an interlock-restricted license
- 2<sup>nd</sup> revocation: at least one year using an interlock-restricted license
- 3<sup>rd</sup> revocation: five years using an interlock-restricted license
- 4<sup>th</sup> or subsequent revocation: ten years using an interlock-restricted license

### **SECTION 3: Provide strong incentives for ignition interlock use and compliance.**

“A first-time apprehended drunk driver who did not cause an injury or property damage crash, and successfully completes six continuous months on an ignition interlock and completes other court or department conditions can be granted a plea deal, non-disclosure clearing or sealing the person’s drunk driving offense. If the person reoffends, the second offense should count as a second offense.”

*Drafters Note: “Non-Disclosure” means the drunk driving offense would be removed from their criminal record. However, the legislation should be drafted to ensure that a second drunk driving offense following a first-time offense would be prosecuted as a second offense. Only offenders who do not cause injury or property damage can apply for the one-time non-disclosure. “Six continuous months” means that an offender must not have a recordable violation as noted in Section 4 on compliance based removal.*

### **SECTION 4: Compliance based removal of interlock order.**

“As a condition of a license revocation for drunk driving or if the Court orders an ignition interlock device, the Court shall order the DMV to issue to the Defendant a restricted interlock license which indicates the defendant is allowed to operate a motor vehicle only if it is

equipped with an ignition interlock device. Such order shall remain in effect for the prescribed period of interlock usage; such order will end and not be extended if the Defendant blows alcohol-free for the duration of the period he is prescribed to operate a motor vehicle with an ignition interlock device.”

“A interlock restriction imposed this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

- (a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;
- (b) Failure to take or pass any required retest; or
- (c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.”

#### **SECTION 5: Require interlock for refusing a chemical test.**

“Any person for whom there is probable cause to believe was driving under the influence and refuses to submit to a blood or breath test, must use an ignition interlock device for a minimum of one year as a condition to maintaining a valid driver’s license.”

#### **SECTION 6: Allow arrested offender the option to go on interlock sooner if they waive their Administrative License Revocation (ALR) Hearing, day for day credit for interlock installation.**

“On behalf of the director, the arresting peace officer submitting a sworn report under this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective fifteen days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The peace officer shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing or apply for an ignition interlock permit from the department. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the person's arrest or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the information form, the application for an ignition interlock permit, and the notice of revocation and shall provide them to law enforcement agencies.

Any arrested person who submits an application for an ignition interlock permit in lieu of a petition for an administrative license revocation hearing regarding the revocation of his or her operator's license pursuant to this section shall complete the application for an ignition interlock permit in which such person acknowledges that he or she understands that he or she will have his or her license administratively revoked pursuant to this section, that he or she waives his or her right to a hearing to contest the revocation, and that he or she understands that he or she is required to have an ignition interlock permit in order to operate a motor vehicle for the period of the revocation and shall include sufficient evidence that an ignition interlock device is installed on one or more vehicles that will be operated by the arrested person. Upon the arrested person's completion of the ignition interlock permit application

process, the department shall issue the person an ignition interlock permit, subject to any applicable requirements and any applicable no-drive period if the person is otherwise eligible.

**Day for day credit.** An arrested person who is issued an ignition interlock permit pursuant to this section shall receive day-for-day credit for the period he or she has a valid ignition interlock permit against the license revocation period imposed by the court arising from the same incident.

If a person files a completed application for an ignition interlock permit, the person waives his or her right to contest the revocation of his or her operator's license.

Any person who has not petitioned for an administrative license revocation hearing and is subject to an administrative license revocation may immediately apply for an ignition interlock permit to use during the applicable period of revocation, subject to the following additional restrictions:

- a) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol and has no prior administrative license revocations at the time the order of revocation is issued, the ignition interlock permit will be immediately available fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;
- b) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol and has one or more prior administrative license revocations on which final orders have been issued, the ignition interlock permit will be available beginning fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;
- c) If such person refused to submit to a chemical test of blood, breath, or urine as required by, the ignition interlock permit will be available beginning fifteen days after the date of arrest, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; and
- d) Any person who petitions for an administrative license revocation hearing shall not be eligible for an ignition interlock permit unless ordered by the court at the time of sentencing for the related criminal proceeding.”

#### **SECTION 7: Drunk drivers should pay for the ignition interlock.**

“The costs incurred in order to comply with the ignition interlock requirements shall be paid by the person ordered to install an ignition interlock device unless the Court or department has determined the person to be indigent.

**SECTION 8: Charge an administrative fee that allows the Department of Motor Vehicles to hire additional employees to administer the interlock program.**

“A person ordered to install an ignition interlock device or who installs the device as a condition of a revoked or suspended license shall pay an ignition interlock administrative fee unless the court or department has determined the defendant to be indigent. The DMV shall establish the fee, of at least thirty dollars and not exceeding One-Hundred dollars. The fee shall be collected at time of installation by the vendor installing the ignition interlock device. The vendor shall remit the fees to the DMV on a quarterly basis. A percentage of the fees shall go towards paying the DMV’s costs to administer the interlock program; a percentage of the fees shall go towards other government agencies implementing the interlock program.”

**SECTION 9: Have an indigent program allowing for poorer offenders to have access to interlocks.**

“If the person claims inability to pay, the court or the department shall provide the following discounts on the monthly leasing fee:

1. If a person’s family income is at or below 100 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider shall be discounted by 50 percent.
2. If a person’s family income is at or below 149 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider shall be discounted by 25 percent.

Persons who qualify for a reduced leasing fee as provided in this paragraph are not required to pay the costs of installation or removal of the device. Non indigent offenders shall pay to the clerk of court or DMV an ignition interlock surcharge of \$50.

**SECTION 10: Penalties for tampering, circumventing, or failure to install the interlock.**

“Any person restricted to operating a motor vehicle equipped with an ignition interlock device who operates a vehicle without using such device or who tampers with or alters the interlock device in any way shall be punished with a felony and additional time using an ignition interlock device as a condition to getting his or her unrestricted driver’s license reinstated.”

“Ignition interlock device tampering; failure to install. No person may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device installed in response to the court or administrative order. No person may fail to have the ignition interlock device installed as ordered by the court or Department of Motor Vehicles before being granted unrestricted driving privileges. Any person restricted to operating a motor vehicle equipped with an ignition interlock device who violates this section shall be charged with a misdemeanor. This section does not apply to the removal of an ignition interlock device upon the expiration of the order requiring the motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition interlock device by a person authorized by the department.

**SECTION 11: Hybrid Judicial and DMV interlock program.**

“Authority to administer the Ignition Interlock Program should be vested with a state’s Department of Motor Vehicles in conjunction with a state’s judiciary. The Department of Motor Vehicles should set regulations for the Ignition Interlock Program. These regulations include ensuring the presence of licensed interlock providers within the state, requiring use of the most modern anti-circumvention fuel cell technology interlock systems, device equipped with cameras to verify the identity of the interlock user, and maintaining reporting systems for those sentenced to use interlocks.

In order to be granted interlock driving privileges, an offender must provide proof of interlock installation in a form approved by the state from an interlock vendor. If a judge fails to order an ignition interlock for a convicted drunk driver, the Department of Motor Vehicles should not grant unrestricted driving privileges to a convicted drunk driver until the offender provides proof of completion of the state’s ignition interlock program requirements.”

**SECTION 12: Require lengthier interlock sentences for those who commit a DWI with a child in their vehicle.**

“Any person who drives under the influence while transporting a person under 16 years of age in his or her vehicle will be required to drive with an ignition interlock device for a minimum of six additional months above the period ordinarily prescribed for his or her drunk driving conviction or revocation.”

## State Ignition Interlock Laws

State	Ignition Interlock Law
Alabama	Required for all convicted drunk drivers
Alaska	Required for all convicted drunk drivers
Arizona	Required for all convicted drunk drivers
Arkansas	Required for all convicted drunk drivers
California	Required for all convicted drunk drivers in four counties: Los Angeles, Alameda, Sacramento, and Tulare. Discretionary for any convicted drunk drivers in other counties.
Colorado	Required for all convicted drunk drivers
Connecticut	Required for all convicted drunk drivers
Delaware	Required for all convicted drunk drivers
D.C.	Required for all convicted drunk drivers
Florida	Required for first time convicted drunk drivers with a BAC of .15 or greater and for repeat offenders
Georgia	Required as a condition of probation for repeat offenders and first-time offenders can choose to go an ignition interlock
Hawaii	Required for all first time convicted drunk drivers
Idaho	Required for all convicted drunk drivers
Illinois	Required for all convicted drunk drivers
Indiana	Required for repeat offenders, discretionary for first-time offenders.
Iowa	Required for all convicted drunk drivers
Kansas	Required for all convicted drunk drivers
Kentucky	Required for all repeat and first-time offenders with a BAC of .15 or greater
Louisiana	Required for all convicted drunk drivers
Maine	Required for all convicted drunk drivers
Maryland	Required for all convicted drunk drivers
Massachusetts	Required for repeat offenders
Michigan	Required for all repeat and first time offenders with a BAC of .17 or greater
Minnesota	Required for all repeat and first time offenders with a BAC of .16 or greater
Mississippi	Required for all convicted drunk drivers
Missouri	Required for all convicted drunk drivers
Montana	Required for repeat offenders
Nebraska	Required for all convicted drunk drivers



## State Ignition Interlock Laws

State	Ignition Interlock Law
Nevada	Required for all convicted drunk drivers
New Hampshire	Required for all convicted drunk drivers
New Jersey	Required for first time convicted drunk drivers with a BAC of .15 or greater and for repeat offenders
New Mexico	Required for all convicted drunk drivers
New York	Required for all convicted drunk drivers
North Carolina	Required for first time convicted drunk drivers with a BAC of .15 or greater and for repeat offenders
North Dakota	Discretionary
Ohio	Required for repeat offenders
Oklahoma	Required for all convicted drunk drivers
Oregon	Required for all convicted drunk drivers
Pennsylvania	Required for first-time offenders with a BAC of .10 or greater and for all repeat offenders
Rhode Island	Required for all convicted drunk drivers
South Carolina	Required for first-time offenders with a BAC of .15 or greater and for repeat offenders
South Dakota	Discretionary as part of the 24/7 sobriety program
Tennessee	Required for all convicted drunk drivers
Texas	Required for all convicted drunk drivers
Utah	Required for all convicted drunk drivers
Vermont	Required for all convicted drunk drivers
Virginia	Required for all convicted drunk drivers
Washington	Required for all convicted drunk drivers
West Virginia	Required for all convicted drunk drivers
Wisconsin	Required for first time convicted drunk drivers with a BAC of .15 or greater and for repeat offenders
Wyoming	Required for first time convicted drunk drivers with a BAC of .15 or greater and for repeat offenders

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