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By Administrative Rules SOS at 12:01 pm, Dec 06, 2024

TITLE 7—MISSOURI DEPARTMENT OF TRANSPORTATION
Division 60—Highway Safety and Traffic Division
Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

PROPOSED AMENDMENT

7 CSR 60-2.010 Definitions. The Missouri Highways and Transportation Commission is amending section (1)(A)41.

PURPOSE: This proposed amendment amends the definition of “temporary lockout” from three (3) failed attempts to two (2) failed attempts within a ten (10) minute period.

(1) Definitions.

(A) The following words and terms as used in 7 CSR 60-2.010 through 7 CSR 60-2.060 have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set for the running retest;
2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device prevents the vehicle from starting;
3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;
4. Authorized service provider (ASP)—The entity designated by the manufacturer to provide services to include but not be limited to installation, monitoring, maintenance, and removal of the breath alcohol ignition interlock device;
5. Bogus breath sample—Any sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;
6. Breath alcohol concentration (BrAC)—The amount of alcohol in a given amount of breath, expressed in weight per volume (% weight/volume) based on grams of alcohol per two hundred ten (210) liters of breath;
7. Breath alcohol ignition interlock device (BAIID)—A breath testing device, including all parts necessary for operation, e.g., handset and camera, installed in a vehicle that prevents it from operating if breath test results show a BrAC that meets or exceeds the alcohol setpoint. The device also requires the driver to continue to pass repeated breath tests while the vehicle is running to ensure that the driver remains below the alcohol setpoint. However, the interlock device will not interfere with the normal operation of the vehicle while it is in use;
8. Breath—Expired human breath containing primarily alveolar air;
9. Calibration—The process which ensures an accurate alcohol concentration reading on a device;
10. Camera—A feature of the device that incorporates photo identification or digital images of the person who is providing the breath test;
11. Circumvention—To bypass the correct operation of a BAIID by starting the vehicle by any means without first providing a breath test;
12. Commission—The Missouri Highways and Transportation Commission created by article IV, section 29, Constitution of Missouri;
13. Department—The Missouri Department of Transportation created by article IV, section

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29, Constitution of Missouri;

14. Designated monitoring period—The period of time indicated by the Department of Revenue for required monitoring of the driver's ignition interlock use by the manufacturer;

15. Device—Breath alcohol ignition interlock device;

16. Division—The Highway Safety and Traffic Division under the department that is delegated the authority to administer the provisions of 7 CSR 60-2.010 through 7 CSR 60- 2.060;

17. Download—The transfer of information from the interlock device's memory onto disk or other electronic or digital transfer protocol;

18. Emergency service—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

19. Filtered breath sample—A breath sample which has been filtered through a substance in an attempt to remove alcohol from the sample;

20. Global positioning system (GPS)—A feature of the device that will log the location (longitude and latitude), date, and time of each breath sample including any refusal, any circumvention attempt, and any attempt to tamper with the ignition interlock device;

21. Initial breath test—A breath test required to start a vehicle to ensure that the driver's BrAC is below the alcohol setpoint;

22. Installation—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by a technician;

23. ISO—International Organization for Standardization;

24. Lockout—A condition of the device which prevents a vehicle's engine from starting unless it is serviced or recalibrated;

25. Manufacturer—A person or company responsible for the design, construction, and/or production of a BAIID;

26. Mechanical override code—Method of overriding the breath sample requirement during the mechanical servicing of a vehicle by a mechanic utilizing a unique code provided by the manufacturer;

27. Mobile service—A portable operation of an authorized service provider, whether contained within a vehicle or temporarily erected on location, which includes all personnel and equipment necessary to conduct ignition interlock device related business and services, separately and simultaneously with its parent fixed location service centers. The mobile service center shall comply with all of the requirements provided for an authorized service provider herein;

28. Operator—Any person who operates a vehicle that has a court-ordered or Department of Revenue-required breath alcohol ignition interlock device installed;

29. Override lockout code—Method of overriding a lockout condition by providing a unique code;

30. Permanent lockout—A condition in which the device will not accept a breath test until serviced by an ASP;

31. Pure breath sample—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

32. Real-time reporting—The near real-time transmission of ignition interlock data between the manufacturer's server and the operator's ignition interlock while the device is in use;

33. Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the device;

34. Relative within second degree of consanguinity or affinity—A spouse or domestic partner,

parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild, step-grandchild, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, grandparent-in-law, grandchild-in-law, brother-in-law, or sister-in-law;

35. Retest—Two (2) additional chances to provide a breath sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the running retest;

36. Running retest—A subsequent breath test that must be conducted within five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter while the vehicle is in operation;

37. Service lockout—A condition of the breath alcohol ignition interlock device that occurs when the operator fails to have the device serviced during a certain period of time and results in a permanent lockout condition;

38. Start or starting—To manipulate a vehicle’s inputs or systems or to activate a motor, thereby initiating the transition of a stationary vehicle into motor-powered, driver-controlled motion;

39. Tampering—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering measures, so a driver can start the vehicle without taking and passing an initial breath test and/or blocking, moving, or disabling the camera, if required;

40. Technician—A person trained by the authorized service provider to possess the skills necessary to install, service, calibrate, and/or remove ignition interlock devices;

41. Temporary lockout—A condition in which the device will not allow the vehicle to start for fifteen (15) minutes after [~~three~~two (3/2)] failed attempts to blow a pure breath sample within a ten (10) minute period; and

42. Violations reset—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

A. Two (2) fifteen- (15-) minute temporary lockouts within a thirty- (30-) day period;

B. Any three (3) running retest refusals within a thirty- (30-) day period;

C. Any three (3) breath samples, after startup, at or above the alcohol setpoint within a thirty- (30-) day period;

D. Any attempts to circumvent or tamper with a device; or

E. When a device is not serviced on its service date.

AUTHORITY: sections 226.130, 302.304, 302.309, 302.525, and 577.041, RSMo 2016, section 302.060, RSMo Supp. 2023, and sections 302.440–302.462, RSMo 2016 and Supp. 2023. This rule originally filed as 11 CSR 60-2.010. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.010, effective Aug. 28, 2003. Emergency amendment filed May 7, 2009, effective July 1, 2009, expired Dec. 30, 2009. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Emergency amendment filed April 8, 2010, effective April 18, 2010, expired Nov. 30, 2010. Amended: Filed April 8, 2010, effective Nov. 30, 2010. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expired March 29, 2014. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Amended: Filed March 9, 2018, effective Oct. 30, 2018. Amended: Filed May 6, 2022, effective Dec. 30, 2022. Amended: Filed Jan. 5, 2024, effective Aug. 30, 2024. Amended: Filed Dec. 6, 2024.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions

more than five hundred dollars (\$500) per year in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*