

661—7.8(321J) Breath alcohol ignition interlock device.

7.8(1) An ignition interlock device, installed pursuant to court order or other provisions of law, shall meet the following criteria:

a. The ignition interlock device shall be designed and constructed to measure a person's breath alcohol concentration by utilizing a sample of the person's breath delivered directly into the device.

b. The ignition interlock device shall be designed and constructed so that the ignition system of the vehicle in which it is installed will not be activated if the alcohol concentration of the person using the device exceeds the level permitted by subrule 7.8(4).

c. The division of criminal investigation criminalistics laboratory shall apply scientific tests or methods to a particular device in determining whether it meets an acceptable standard for accuracy. The criminalistics laboratory may accept test results from other laboratories or authorities at the discretion of the laboratory administrator.

d. The ignition interlock device shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices, as published in the Federal Register, April 7, 1992, pages 11772 through 11787.

7.8(2) The division of criminal investigation criminalistics laboratory shall maintain a list of ignition interlock devices approved by the commissioner of public safety.

7.8(3) An ignition interlock device utilized under these rules shall be installed and removed by the manufacturer or by a private sector installer in conformance with the prescribed procedures of the manufacturer. The ignition interlock device shall be used in conformance with the manufacturer's instructions which shall include instructions recommending a minimum 15-minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the ignition interlock device. The ignition interlock device shall be installed in such a way that the ignition system of the vehicle will not be activated if the person fails the test by exceeding the alcohol concentration prescribed in subrule 7.8(4).

7.8(4) A person shall fail an ignition interlock device test when the person's alcohol concentration, as defined in Iowa Code section 321J.1, is greater than 0.025.

7.8(5) An ignition interlock device utilized under these rules shall be calibrated at least once every 60 days using either a wet bath simulator or a dry gas standard (minimum 5 cubic foot volume). Calibration shall be completed by the distributor of the ignition interlock device. In lieu of calibration of an installed ignition interlock device, an installed device may be exchanged for another calibrated device.

The calibration record for the ignition interlock device currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this rule and for any other ignition interlock device previously installed in the same vehicle pursuant to the same court order shall be maintained by the distributor and the record shall include:

- a.* Name of the person performing the calibration;
- b.* Date;
- c.* Value and type of standard used;
- d.* Unit type and identification number of the ignition interlock device checked;
- e.* Description of the vehicle in which the ignition interlock device is installed, including the registration plate number and state, make, model, vehicle identification number (VIN), year, and color.

Documentation of calibration shall be kept with the vehicle at all times for inspection by a peace officer, the court which ordered installation of the device, or the Iowa department of transportation.

7.8(6) An ignition interlock device shall prevent engine ignition if the ignition interlock device has not been calibrated within a period of 67 days subsequent to the last calibration under subrule 7.8(5).

7.8(7) An ignition interlock device shall record each time the vehicle is started, the results of the test, how long the vehicle was operated, and any indications of bypassing or tampering with the ignition interlock device.

7.8(8) An ignition interlock device shall require the operator of the vehicle to submit to a retest within 10 minutes of starting the vehicle. Retesting shall continue at intervals not to exceed 60 minutes after the first retest. Retests may be achieved during operation of the vehicle. The ignition interlock device shall enter a lockout condition in 5 days if a retest is not performed, or the result of a retest exceeds

the maximum allowable alcohol concentration as prescribed in subrule 7.8(4). An ignition interlock device which enters a lockout condition shall be returned to the site of installation for service.

7.8(9) An ignition interlock device shall permit a sample-free restart, for a period of 2 minutes or less, after a stall.

7.8(10) The ignition interlock device shall be equipped with a method of immediately notifying peace officers if the retest under subrule 7.8(8) is not performed, or if the result of the retest exceeds the alcohol concentration as prescribed in subrule 7.8(4).

7.8(11) The installer shall inform the division of criminal investigation state criminalistics laboratory, the Iowa department of transportation, the county attorney, and the court which ordered the installation of an ignition interlock device of any violation of these rules.

7.8(12) The installer of an ignition interlock device shall use known alcohol standards. Either a dry gas standard or a wet bath simulator shall be used to calibrate the ignition interlock device. The installer shall have a method of verifying the accuracy of the wet alcohol standard. The recommended method is the use of an evidential breath tester approved by the commissioner of public safety in accordance with rule 661—7.2(321J). Alcohol standard verification records shall be kept.

7.8(13) The department of public safety may, at the department's discretion, inspect any ignition interlock device manufacturer or service provider at any time. All records of devices installed, results of calibrations, results of known alcohol standards, and data downloaded from ignition interlock devices shall be made available for inspection upon request to representatives of the department of public safety or the department of transportation or to any peace officer. The results of the inspection shall be made available to the manufacturer or service provider and to the department of transportation.

7.8(14) Each installer or distributor of ignition interlock devices approved for use in Iowa pursuant to this rule shall maintain general liability insurance coverage effective in Iowa, and issued by an insurance carrier authorized to operate in Iowa by the Iowa division of insurance, in an amount of not less than \$1 million. Each installer or distributor shall furnish the division of criminal investigation with proof of this insurance coverage in the form of a certificate of insurance from the insurance company issuing the policy. All insurance policies required by this subrule shall carry an endorsement requiring that the division of criminal investigation criminalistics laboratory be provided with written notice of cancellation of insurance coverage required by this subrule at least ten days prior to the effective date of cancellation.

7.8(15) Any distributor or installer of ignition interlock devices in Iowa shall cease installing or distributing these devices immediately if any of the following occur:

a. The insurance coverage required under subrule 7.8(14) lapses.

b. Approval by the commissioner of public safety pursuant to Iowa Code sections 321J.4 and 321J.20 of an ignition interlock device which they distribute or install ceases to be valid. If approval by the commissioner of public safety for distribution or installation of an ignition interlock device in Iowa ceases to be valid, a distributor or installer of such a device may continue to distribute or install another ignition interlock device currently approved for use in Iowa, unless the distributor or installer has been ordered by the commissioner of public safety to cease operation as a distributor or installer of ignition interlock devices in Iowa, pursuant to 7.8(15) "c."

c. The commissioner of public safety orders the distributor or installer to cease operation as a distributor or installer of ignition interlock devices, and the order has become effective. An order to cease operation may be issued for cause including, but not limited to, any one or more of the following:

(1) Any act of theft or fraud including, but not limited to, violation of Iowa Code chapter 714, or any act of deception or material omission of fact related to the distribution, installation, or operation of any device subject to this chapter.

(2) Any violation of Iowa Code chapter 321J.

(3) Any violation of this chapter.

(4) Any act involving moral turpitude. For purposes of this rule, "moral turpitude" is an act of baseness, vileness, or depravity or conduct which is contrary to justice, honesty, or good morals.

An order to cease operation shall be delivered to the distributor or installer to whom the order is issued at the distributor or installer's place of business or, if this is not practical, at the residence or last-known mailing address of the owner of the business or an officer of the corporation which owns

the business, if applicable. Notice shall be given in writing either by personal service or by restricted certified mail.

An order to cease operation as an installer or distributor of ignition interlock devices shall be effective 30 days after its transmittal by the department, unless the order is appealed. An order shall not become effective if it has been appealed until agency action on the appeal process is completed.

EXCEPTION: Upon a finding by the commissioner of public safety that the continued operation of an installer or distributor of ignition interlock devices presents an imminent threat to public safety, an order to cease operation shall become effective immediately upon receipt by the installer or distributor. Notice in these cases shall be by personal service.

An order to cease operation in Iowa as a distributor or installer of ignition interlock devices may be appealed to the department of public safety by filing a protest in accordance with the procedures specified in rule 661—10.101(17A), within ten days of the issuance of the order to cease operation.

This rule is intended to implement Iowa Code chapter 321J.