

Chapter Trans 313

BREATH ALCOHOL IGNITION INTERLOCK DEVICES

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Trans 313.01 General. (1) **PURPOSE.** The purpose of this chapter is to implement the Wisconsin ignition interlock program consistent with the mandate of s. 110.10, Stats., and consistent with the provisions of ss. 343.10, 343.13 (3), 343.301, 343.38 (5), 347.413, 940.09 (1d), and 940.25 (1d), Stats.

(2) **RESPONSIBILITY.** The chief of the chemical testing section is the person assigned the responsibility for the administration and supervision of the breath alcohol testing, approval and permit program of the department.

(3) **RULES OF CONSTRUCTION.** The rules of construction set forth in s. 990.001, Stats., are incorporated herein and apply in this chapter.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; **CR 20–020; renum. Trans 313.01 to Trans 313.01 (1) and am., cr. Trans 313.01 (title), renum. (2) from Trans 313.03 (8) and am., cr. (2) (title), (3) Register September 2021 No. 789, eff. 10–1–21; correction in (3) made under s. 35.17, Stats., Register September 2021 No. 789.**

Trans 313.02 Applicability. This chapter applies to all law enforcement agencies, manufacturers, vendors, service providers, manufacturer–approved authorized service centers and other persons engaged in ignition interlock device program administration in this state.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; **CR 20–020; am. Register September 2021 No. 789, eff. 10–1–21.**

Trans 313.03 Definitions. The words and phrases defined in ss. 990.01 and 110.01, Stats., and chs. 340 to 349, Stats., have the same meaning in this chapter unless a different meaning is expressly provided, or the context clearly indicates a different meaning. As used in this chapter:

(1) “Alcohol” has the meaning in s. 340.01 (1q), Stats.

(2) “Alcohol concentration” has the meaning in s. 340.01 (1v), Stats.

(3) “Alcohol setpoint” means a breath alcohol concentration of 0.020 grams of alcohol per 210 liters of breath.

(3m) “Alert mode” means that the device causes the horn or other pronounced emergency signal audible to other drivers and law enforcement to sound, and the vehicle’s emergency lights or visible secondary visual signals apparent to other drivers and law enforcement to flash.

(4) “Alveolar air” means deep lung air or alveolar breath; an air sample which is the last portion of a prolonged, uninterrupted exhalation.

(4m) “Applicant” means any person seeking the approval of a device by going through the device approval procedure described in s. Trans 313.04.

(5) “Bogus sample” means any air sample which is altered, diluted or filtered human breath and which is provided by a person who is starting or driving a vehicle equipped with a device. Bogus samples also include air provided by air compressors, hot air dryers, balloons, and manual air pumps.

(6) “Breath sample” means expired human breath containing primarily alveolar air.

(6m) “Business day” means a weekday that is not a legal holiday.

(7) “Calibration” means the process of testing and adjusting a device to ensure the device is accurately measuring the alcohol concentration of a breath sample provided to the device.

(9) “Circumvention” means any action taken by a person to prevent a device from performing all of its intended functions, except disconnection of the device from its power source during vehicle or device service, or disconnecting a handset as authorized under s. Trans 313.04 (5) (k). Circumvention includes any of the following:

(a) Providing bogus samples.

(b) Tampering.

(c) Providing air samples that enable a driver with a prohibited alcohol concentration to start, drive, or operate a vehicle equipped with a device.

(d) Failing to complete any required service.

(e) Tampering with, destructing, or taking any action that results in a camera not providing pictures of the driver providing a sample to the device or driving a vehicle.

(f) Tampering or interfering with data transfer from or to the device.

(10) “Customer” means a person who has a device installed in a vehicle.

(11) “Department” means the department of transportation.

(12) “Device” means an ignition interlock device.

(13) “DMV” means the division of motor vehicles of the department of transportation.

(14g) “Fixed, permanent service center” means a facility in a permanent building at which device services can be provided.

(14r) “Handset” means the portion of the device where the sample is introduced and analyzed.

(15) “Ignition interlock device” has the meaning in s. 340.01 (23v), Stats.

(16) “Manufacturer” means a person, company or corporation who produces a device.

(16g) “Minimum sample acceptance criteria” means the criteria established by the manufacturer for detection of whether a given breath sample is deep lung air provided by a human being, such as sample flow, volume, temperature, humidity, composition, and whether the sample passed any anti–circumvention measures adopted by the manufacturer.

(16m) “Mobile service center” means a service center that operates out of a motor vehicle or trailer.

Note: Mobile service centers typically drive to locations at which they are able to provide convenient service to customers.

(16r) “Passing breath sample” means a breath sample below a device’s alcohol setpoint and that meets all minimum sample acceptance criteria for that device.

(17) “Permanent lockout” means a condition in which a device will not initiate a start sequence until the device is reset by a service provider except as provided in s. Trans 313.04 (5) (i).

(18) “Prohibited alcohol concentration” has the meaning in s. 340.01 (46m), Stats.

(20) “Restart” means a feature of a device in which a vehicle is successfully started or operated and, when the engine or electric propulsion system stops for any reason, including stalling, the vehicle may be restarted within a 2–minute period, without requiring any additional breath samples.

(20m) “Result” means a piece of data that categorizes whether a breath sample is provided to the device and, if provided, whether it meets the device’s minimum sample acceptance criteria for breath quality and alcohol concentration.

(21) “Retest” means a feature of a device which will require sample sequences to be provided while the vehicle is operable.

(21m) “Sample sequence” means a list of device–related events beginning with the time a device requests a sample until and including the time a result is recorded and displayed. Device–related events include requests for tests, failure to provide a breath sample or adequate breath sample, measurements made by the device, images taken, and the final result of the sequence.

(22) “Security” means the protection and safeguards incorporated into a device to ensure proper performance and to prevent failure caused either by inherent defects in the device or tampering.

(22m) “Service center” means a location at which service is provided to install, inspect, repair, replace, remove or calibrate devices. The term includes fixed, permanent service centers and mobile service centers.

(23) “Service provider” means an approved dealer, distributor, supplier, or service center of a device.

(23m) “Start sequence” means the sample sequence initiated when the vehicle is not in operation.

(24) “Tampering” means an unauthorized, intentional overt act or attempt to remove, bypass, adjust, alter the settings of, or disable a device or to disconnect a device from its power source. Tampering does not include disconnecting the device from its power source during vehicle or device service, nor disconnection of a handset as authorized under s. Trans 313.04 (5) (k).

(25) “Vehicle module” means the part of a device that houses the components that interface with a vehicle.

(26) “Vendor” means a retail or wholesale supplier of an approved device, and may include a service provider.

(26m) “Violation” means one or more of the following:

(a) A breath sample that is above the alcohol setpoint.

(b) Failure to provide a passing breath sample within the 5–minute retest window.

Note: Violation does not include disconnecting the device from its power source during vehicle or device service, nor disconnection of a handset as authorized under s. Trans 313.04 (5) (k).

(27) “Violation reset” means that a device enters a status in which a reminder is provided to the device user that the device will enter permanent lockout mode unless taken to a service center by the 7th day following the device entering violation reset status.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; CR 20–020: am. (intro.), (3), cr. (3m), (4m), (6m), am. (7), renum. (8) to Trans 313.01 (2) and am., r. and recr. (9), am. (10), r. (14), cr. (14g), (14r), (16g) to (16r), am. (17), r. (19), am. (20), cr. (20m), am. (21), cr. (21m), (22m), (23m), am. (24), r. and recr. (25), am. (26), cr. (26m), renum. (27) (intro.) to (27) and am., r. (27) (a) to (c) Register September 2021 No. 789, eff. 10–1–21; correction in (intro.) made under s. 35.17, Stats., Register September 2021 No. 789.

Trans 313.04 Device approval procedure.

(1) APPROVAL REQUIREMENT. (a) No device may be leased, sold, serviced, repaired, installed or used unless the model and any sys-

tem firmware or software used on the device have been approved by the department in accordance with the requirements of this chapter. Approval may be granted by testing the functionality of the device with the proposed changes.

(b) Device approval is personal to an applicant and cannot be assigned or transferred. Upon sale of production rights to a device, change in ownership of a manufacturer or vendor, or other change resulting in a new person seeking to distribute devices in this state, the new person must apply for device approval. The department may waive some or all of the testing of the device portion of the approval process if the new applicant is able to demonstrate that no substantive changes to the device have been made since the prior approval.

(2) APPLICATION. (a) An applicant may apply for approval of a device by submitting a written application to the department in the manner prescribed in this chapter on the department’s form, and shall certify that the device:

1. Does not impede the safe operation of a vehicle;
2. Minimizes opportunities to bypass the device;
3. Performs accurately and reliably under all circumstances;
4. Minimizes inconvenience to customers and other vehicle operators;
5. Satisfies the requirements for certification set forth in this section, and;
6. Prevents a customer from starting a vehicle when the customer has a prohibited alcohol concentration.

Note: The application form SP4010 may be obtained by sending an email request to BAIID@dot.wi.gov or via U.S. Mail at Chemical Testing Section, 3502 Kinsman Blvd., Madison, WI, 53704.

(b) The applicant shall include all of the following information in an application for device approval:

1. The name and address of the manufacturer of the device.
2. The name and model number of the device. A separate application is required for each model or type of device.
3. A detailed description of the device including complete instructions for installation, operation, service, repair and removal, including all documents used as training materials or manuals for installation, maintenance or removal of the device at service centers.
4. Complete description of device functionality including technical specifications describing the device’s accuracy, reliability, security, data collection and recording, tamper detection, alert mode and environmental features.

5. A complete and accurate copy of an independent laboratory report issued to the applicant substantiating that the device meets or exceeds the minimum federal standards adopted in sub. (5). The report shall be submitted with a notarized certification from the independent laboratory and shall include copies of the laboratory’s certificates of accreditation.

Note: Wisconsin requires devices to maintain calibration stability over a period of at least 67 days so that the devices may be relied upon as accurate from service date to service date.

6. A description of the applicant’s present or planned provisions for distribution and service of the device in Wisconsin. The applicant shall, within 6 months of receipt by the department of an application for approval of a device, provide the chemical testing section with a list of all locations in Wisconsin where the device may be purchased, installed, removed, serviced, repaired, calibrated, inspected and monitored.

7. A certificate from an insurance company licensed in Wisconsin evidencing that the manufacturer holds product liability insurance as required in s. Trans 313.05.

8. Indication of whether the manufacturer or manufacturer–approved authorized device repair facility, or both, will repair handsets and vehicle modules. If any device repair facilities are not directly operated by the manufacturer, the qualification and background requirements for repair technicians at those facilities must also be submitted to the department.

9. Copies of all contracts, lease agreements, and other form documents used by the service providers to enter into a contractual relationship with a customer.

10. A list of other jurisdictions in which the applicant applied for approval of the device in that jurisdiction and a statement as to whether the application was approved, denied, withdrawn, remains pending, or was subject to some other disposition. If the application was denied, withdrawn, or subject to some other disposition, the applicant shall provide an explanation for that action on the application and copies of all documents from that jurisdiction documenting the decision in that jurisdiction and the reasons for that decision.

11. A release authorizing any other jurisdiction to share with the department any and all tests or evaluations of the device, data derived therefrom, and all materials provided to the other jurisdiction in support of that other application.

12. A certificate of authority or registration, obtained from the Wisconsin Department of Financial Institutions, in accordance with s. 180.1501 or 183.1004, Stats., or a copy of the articles of incorporation for any cooperative filed in accordance with s. 185.82, Stats., for all manufacturers, vendors and service providers anticipating to lease, sell, service, repair, install or uninstall the device in Wisconsin.

13. All relevant manufacturer, vendor and service provider documents relating to the quality assurance of the calibration procedure and device verification checks.

14. An affirmation, on the department's form, of all the following:

a. That the applicant will provide, at the written request of the state, or any prosecutor in this state, testimony that is sought in any civil or criminal proceeding or administrative hearing regarding the device, its manufacture, use, or function, its installation, repair or removal, interpretation of any recorded report or information from or about the device, or the performance of any duties required under this chapter, without cost to the state, county, municipality, town, police agency, or prosecutor.

Note: If allowed under judicial rules, local rule or order, this testimony may be provided through teleconferencing or an online remote process.

b. That the manufacturer will provide statewide service for the device in accordance with s. Trans 313.09 (1).

15. Contact information for its registered agent for service of process in this state. The applicant shall notify the department if its registered agent changes.

16. The minimum qualifications for a manufacturer-approved authorized service center and training materials provided to or used by manufacturer-approved authorized service centers.

17. If the device has previously been evaluated by the department, an explanation of all modifications made to the hardware and software of the device since that evaluation, a data supported explanation as to why the applicant believes that the modifications made to the device should result in the successful evaluation of the device, and any test results for the device the applicant has performed.

Note: This provision is intended to reduce waste by eliminating a requirement to re-evaluate a device that failed testing previously, unless the applicant can explain and demonstrate with evidence the basis for believing the device will pass if retested.

18. A document that clearly describes the manufacturer's or vendor's quality control process for resolving noncompliance with the requirements of this chapter by its service providers.

19. An explanation of responsibility for responding to consumer questions and complaints, as required by s. Trans 313.10 (2) (c).

20. Any other information required on the department's form.

(c) An applicant shall respond to all the department's inquiries into any deficiency of the applicant's application in a timely manner. If an applicant fails to respond to and remedy any application deficiency brought to its attention by the department within 90

days, the application is considered incomplete and the applicant shall restart the application process.

(3) TIME FOR DECISION. The department shall approve or disapprove a device not later than 30 days after receipt of all required application materials and completion of all equipment testing.

(3m) EVALUATION QUEUE. (a) Once the department receives an application with all the information required in sub. (2), the department shall place that application in an evaluation queue maintained by the department.

(b) The department shall evaluate devices in the order its corresponding application is placed in the evaluation queue, except as provided in par. (d).

(c) The department shall notify an applicant at the time its device reaches the point in the evaluation queue that the department is prepared to begin testing the device.

(d) The department may require installation of devices under sub. (4) (b) by a prescribed deadline. Failure to install devices by that deadline may result in the device evaluation being delayed. If an applicant fails to install devices by any required deadline, the department may provide notice to the next applicant in the evaluation queue and evaluate that other device.

(4) EVALUATION. (a) The applicant shall submit at least two devices, as specified in the application, to the department for evaluation. The department may require different functions or features to be activated for the two devices.

(b) The applicant, or its agent on its behalf, shall install the device in a vehicle provided by the department. When applicable, the applicant shall provide the department with an adequate supply of disposable mouthpieces.

(c) The department shall independently evaluate each device to ensure compliance with the requirements in sub. (5). The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering.

(d) During the evaluation period, the applicant shall provide the department with a computer that has all software for the department to access test data from the device in near real-time or no later than 24 hours after a test is performed, or some other mechanism that provides that functionality.

(e) If the department disapproves a device based on a failed evaluation, an application for the device may not be evaluated, nor placed in the evaluation queue under sub. (3m) (a), nor may the device be evaluated for 6 months. The department may waive this required 6-month period if the application is accompanied by all application materials specified in s. Trans 313.04 (2) (b) 17.

(5) STANDARDS AND SPECIFICATIONS. An applicant shall ensure that any device that it distributes for use in the state of Wisconsin meets all the following requirements:

(a) *Minimum federal standards for devices.* All devices shall meet or exceed the standards established by the U.S. department of transportation, national highway traffic safety administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIID)" 78 Fed. Reg. 89, pp. 26849–26867 (May 8, 2013).

Note: This federal standard is available from the Department of Transportation, Division of State Patrol, Chemical Testing Section, 3502 Kinsman Blvd, Madison, WI, 53704–2549, or online at <https://www.govinfo.gov/content/pkg/FR-2013-05-08/pdf/2013-10940.pdf>.

(b) *Retest feature.* The device shall be programmed to have a retest feature. The retest feature shall require the driver to submit to a sample sequence no more than 5 minutes after the vehicle is made operable following a successful start sequence. The retest feature shall require additional subsequent tests at random intervals of 5 to 30 minutes until the vehicle ceases operation.

(bm) *Failed retests.* The device's retest feature shall be programmed to include all of the following features:

1. 'Activation of Alert.' A driver's failure to provide a breath sample that is less than the device's alcohol setpoint shall trigger

a confirmation retest sequence, as described in subd. 2. If the driver does not provide a passing breath sample in response to the confirmation retest, the device shall activate the device's alert mode until the earlier of the time the vehicle is shut off, or the time the driver provides a passing breath sample to the device.

2. 'Confirmation retest.' Upon activation of a confirmation retest sequence under subd. 1., a device shall wait two minutes and then commence a sample sequence. If no passing sample is provided as part of the sample sequence, the device shall activate its alert mode. Upon expiration of the sample sequence, the device shall resume normal retest intervals.

Note: If the vehicle is shut off before a passing breath sample is provided, a passing breath sample shall be required to restart the vehicle. See par. (j) 2. and 3.

(c) *Testing protocol feature.* Whenever the device demands a breath sample, the device shall be programmed to allow multiple attempts, but no fewer than 3 attempts, to provide a breath sample within a 5–minute period.

(ce) *Start sequence.* The device shall be programmed to allow the customer to operate the vehicle if the device records a passing breath sample during the start sequence. If the device fails to record a passing breath sample in the start sequence, then the device shall prevent the customer from operating the vehicle.

Note: This paragraph does not require a time period to elapse between start sequences. "Temporary lockouts" that were required under prior law are eliminated.

(cm) *Permanent lockout feature.* The device shall be programmed to enter a permanent lockout condition when service is not completed within 7 days of a service reminder.

Note: Entering permanent lockout mode prevents initiation of a start sequence for the vehicle. See s. Trans 313.03 (17).

(cs) *Violation reset.* The device shall be programmed to have a violation reset feature that is triggered by any of the following:

1. Three violations.
2. Detection of one or more tampering or circumvention attempts.

(d) *Recorded data.* A device shall record data in a format that allows the data to be wirelessly transmitted or printed and that includes all of the following:

1. The date and time of any use or attempted use of a vehicle.
2. The date and time of any attempt to tamper, circumvent or bypass the device.
- 2m. The date and time of any sample reported by the device.
3. The result of any request for a sample made by the device including, if a breath sample was provided, the date, time and alcohol concentration, in grams per 210 liters, of each breath sample provided to the device.
- 3m. The date and time of any activation or deactivation of the device's alert mode.
4. The date and time of any malfunctions of the device.
5. The date and time of any failures to provide retest samples.
6. The date that a "service required" message is issued to the customer.
7. The date that any service is performed.
8. All images captured by the device, including the date and time those images were captured.

(dm) *Electronic transfer of data.* The device shall provide a means of electronically transferring the data collected under par. (d) to the database described in sub. (6). Data related to violations shall be transmitted using near real–time reporting of violations via electronic transmission as provided in par. (m). Usage and other data shall be reported by means of a downloaded report of all required data fields downloaded from the device at time of service for the service interval preceding the service. All data shall be provided in the format specified by the department.

Note: Under s. Trans 313.07 (1) (e), device approval for use in the state of Wisconsin may be revoked, suspended or denied if an entity fails to transmit data in the manner described in this paragraph.

(e) *Information provided to customer.* A device must provide all of the following information to a customer:

2. Reminder of the date for service, beginning 7 days prior to a scheduled service date as part of each start sequence.

3. Reminder as part of each start sequence to obtain service by the seventh day following the date a violation reset is initiated.

Note: For the definition of "violation reset" see s. Trans 313.03 (27).

4. A qualitative result for each breath sample.

Note: An adequate qualitative result might indicate whether sample was a passing breath sample (see definition in s. Trans 313.03 (16r)), a failed sample, a failure to provide a sample or an error. The result should indicate to the user why the device prevents operation of the vehicle, requires a confirmation test, enters alert mode or behaves in a manner inconsistent with behavior following a passing breath sample. Display of specific alcohol concentrations, quantitative results, is not permitted.

(f) *Camera feature.* A camera feature is required for all devices. It shall capture an image at the time the device user is providing a sample, or if no sample is provided, at test expiration. The image shall provide a clear and accurate image of persons seated in a front seat of the vehicle and the entire front seat including any pass–through area to rear positions of the vehicle, so that it is possible to determine whether circumvention is being attempted or utilized.

(g) *Alcohol specific quantification sensor.* The device shall use an alcohol–specific quantification sensor that provides an accurate and reliable measure of alcohol in the breath sample.

(h) *Bypass switch.* Except as provided in pars. (i) and (j), the device may not contain a bypass switch or mechanism that allows a person to bypass, circumvent or manually override the device in any manner, which would allow a person to operate the vehicle without providing a passing breath sample.

Note: Allowing a person to operate a vehicle using a lockout code in accordance with par. (i) or to restart a vehicle in accordance with par. (j) does not violate this requirement.

(i) *Lockout code feature.* The device may be programmed to allow a person to operate the vehicle by using a lockout code provided by the manufacturer, at its discretion, with the following requirements:

1. A lockout code may only be used to operate the vehicle once in any 60–day service interval.
2. The lockout code is functional only when the device is in permanent lockout.
3. The lockout code is functional for one use only and expires no later than 24 hours after the manufacturer provides the lockout code to a person.
4. The lockout code shall enable the device to accept a breath sample, and if the vehicle is started, the device must operate in accordance with this section.
5. The device shall revert to permanent lockout mode if the lockout code expires.
6. The device shall revert to permanent lockout mode if the lockout code is used, the vehicle is turned off and the restart period described in s. Trans 313.03 (20) expires.

(j) *Restart feature.* The device shall be programmed to have a restart feature with the following functions:

1. If the vehicle stalls or is turned off following a successful test and before a retest is required under par. (b), the device shall permit the vehicle to restart without requiring a breath sample during the 2–minute period following the vehicle stalling or being turned off. The restart feature under this subdivision may not alter the time interval required for the next retest.
2. If the most recently provided breath sample was above the alcohol setpoint, then the restart feature may not function until the customer provides a passing breath sample.
3. If the device has prompted the customer for a retest, then the restart feature may not function until the customer provides a passing breath sample.

(k) *Removable handset.* A device that has a removable handset may be programmed to permit a customer to disconnect the handset of the device, when the vehicle is turned off, without triggering the device's tamper detection feature or causing the device to record a violation.

(L) *Daylight savings feature.* The device shall be programmed to automatically adjust for daylight savings time.

(m) *Near real–time reporting feature.* The device shall be programmed to have a near real–time reporting feature. Each time the device records a violation, the device must electronically report the violation. The report shall include the sample sequences that created the violation, the 10 preceding sample sequences, and a maximum of 10 subsequent sample sequences to the database established under sub. (6). The report shall be transmitted once the device is within range of Wi–Fi, cellular or satellite service or other wireless electronic transmission system the device is configured to utilize. Once a violation or preceding sample sequence has been reported, that violation or preceding sample sequence need not be re–reported with subsequent violation reports.

(n) *Security features.* The device shall include all of the following security features:

1. A unique and easily identifiable tamperproof seal or connector on all wired connections used to install the device.
2. Connections to the vehicle that can be found under the dash or in an inconspicuous area of the vehicle.
3. A unique and easily identifiable tamperproof seal on the vehicle module and handset.

(6) IGNITION INTERLOCK DATA SYSTEM. (a) The manufacturer or vendor shall establish a computerized database to store all information collected under sub. (5) (d).

(b) Except as provided in par. (h), the manufacturer or vendor shall provide remote access to that database for all of the following:

1. The department.
2. Any law enforcement agency.
3. Assessment agencies.
4. Treatment providers.
5. Department of Corrections officials.
6. Probation and parole officials.
7. Courts.
8. Any university or research group engaged in a study approved by the department.

(c) Except as provided in par. (h), the manufacturer or vendor shall design the system to permit the authorized users to login to a secure website and review or download the data stored under par. (a).

(d) Except as provided in par. (h), the manufacturer or vendor shall:

1. Make data available by device ID or serial number, by customer name, or by Wisconsin driver license number.
2. Allow for sorting or filtering of data.
3. Make data available in its entirety for department–approved academic or department study purposes.

(e) Except as provided in par. (h), the manufacturer or vendor shall make the system allow an authorized user to request alerts if a particular customer commits a violation. Alerts may be provided by electronic mail, text message, or other delivery service. Log–in to the system may be required to review digital images, digital videos, or confidential information related to a violation.

(g) For research–related purposes, location data may be shared with an academic or research institution approved by the department under par. (b) 8., provided that the research entity creates a mechanism to prevent disclosure of the location information to third parties, including law enforcement, and stores the data in a manner and for a purpose approved by the department.

(h) If the department establishes a centralized database for ignition interlock data, the department may require manufacturers and vendors to upload data collected under sub. (5) (d) and reported under sub. (5) (dm). Reporting shall be accomplished using a department defined data dictionary and, in a format, and in the frequency established by the department. Issuance of an

order by the department under this paragraph and a manufacturer or vendor’s uploading to the centralized database shall relieve the manufacturer or vendor from having to comply with pars. (b) to (e).

Note: The reporting provisions of this subsection are intended to provide a mechanism by which ignition interlock providers can communicate effectively with law enforcement and the department as provided in s. 110.10 (4) and (5), Stats.

(7) AUTHORIZED REPAIR FACILITIES. (a) A manufacturer may repair handsets, vehicle modules, other device components and auxiliary components that it manufactured.

(b) The manufacturer shall identify all repair facilities that it authorizes to conduct repairs.

(c) The manufacturer shall provide evidence of the technical competence of repair facilities identified under par. (b).

(d) Technical competence of repair facilities is required for device approval.

(8) EXERCISE OF RELEASE OF INFORMATION. If the department requests information regarding a device from another jurisdiction using a release provided under sub. (2) (b) 11., the department shall notify the applicant of the fact that it is making the request and provide the manufacturer with an opportunity to identify any materials the manufacturer believes are confidential and to comment on the testing or evaluation conducted by the other jurisdiction.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; **CR 20–020: renum. (1) to (1) (a) and am. cr. (1) (b), am. (2) (a) (intro.), (b) (intro.), 3, to 6., cr. (2) (b) 8. to 20., (c), am. (3), cr. (3m), am. (4) (a), (b), cr. (4) (d), (e), (5) (intro.), am. (5) (a), r. and recr. (5) (b), cr. (5) (bm), am. (5) (c), cr. (5) (ce) to (cs), am. (5) (d) (intro.), cr. (5) (d) 2m., am. 3., cr. (5) (d) 3m., 8., (dm), (e) (title), r. (5) (e) 1., am. (5) (e) 2., renum. (5) (e) 3. (intro.) to (5) (e) 3. and am., r. (5) (e) 3. a. to d., cr. (5) (e) 4., (f) to (n), (6) to (8) Register September 2021 No. 789, eff. 10–1–21; correction in (2) (b) 12., (5) (j) 1., (6) (h) made under s. 35.17, Stats., Register September 2021 No. 789.**

Trans 313.05 Financial responsibility. (1) LIABILITY INSURANCE. A manufacturer shall carry product liability insurance with minimum liability limits of \$1 million per occurrence, with \$3 million aggregate total. The liability insurance shall include coverage for defects in product design and materials as well as in the manufacturing, calibration, installation, and removal of devices. The proof of insurance shall include a statement from the insurance company that 30 days notice will be given to the department before cancellation of the insurance.

(2) INDEMNIFICATION. A manufacturer shall indemnify and hold harmless the state of Wisconsin, the department and its officers, employees, and agents from all claims, demands, actions, and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the manufacturer relating to the installation, service, repair, use and removal of a device.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93.

Trans 313.06 List of approved devices. A complete list of devices approved by the department shall be maintained by the chemical testing section.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; **CR 20–020: am. Register September 2021 No. 789, eff. 10–1–21.**

Trans 313.07 Denial, suspension or revocation of device approval. (1) The department may deny, suspend or revoke approval of a device, and remove it from the list of approved devices, for any of the following reasons:

(a) Defects in design, materials or workmanship causing repeated failures of a device.

(b) Termination or cancellation of a manufacturer’s or vendor’s liability insurance.

(c) The manufacturer discontinues the business of manufacturing devices.

(d) Voluntary request by a manufacturer or vendor to cancel approval of a device.

(e) Failure of a manufacturer, vendor, or service provider to comply with any of the provisions of this chapter or any Wisconsin Statute, any federal law, or the law of another jurisdiction if

that failure in the other jurisdiction would have been a basis for denial, suspension or revocation of device approval in this state.

(f) Provision of materially false or inaccurate information relating to a device's performance standards, by a manufacturer, vendor, or service provider.

(g) Modification or alteration of the components, design or installation and operation instructions for an approved device without complying with the provisions of s. Trans 313.08 (1) or in a manner that causes the device to not satisfy the requirements of this chapter.

(h) Failure to provide service in an area assigned to a manufacturer, vendor or service provider under s. Trans 313.09 (2).

(i) Repeated failure to provide notice of a service center location change or mobile service center discontinuance in accordance with s. Trans 313.09 (3) or (4).

(j) Failure to maintain a system of manufacturer authorized repair or an inventory of parts needed to effect repairs or replacement of a model of device.

(k) Failure to provide ignition interlock installation and service for one half the cost of equipping and maintaining the device upon receipt of a court order issued under s. 343.301 (3) (b), Stats.

(L) Failure to provide addresses or locations at which mobile service is to be provided.

(2) A suspension or revocation is effective 15 days after notification is sent to the registered agent of the manufacturer, vendor or service provider that applied for approval of the device under s. Trans 313.04 at the address provided pursuant to s. Trans 313.04 (2) (b) 15. or the address of the registered agent on file with the Department of Financial Institutions by certified mail.

(3) A manufacturer or vendor may appeal a denial, suspension or revocation of approval for a device under sub. (1). The person appealing shall submit the request for appeal to the department, in writing, within 15 days of the receipt of a notice of denial, suspension or revocation.

(4) If approval of a device is denied, suspended, revoked or voluntarily surrendered, the applicant for device approval under s. Trans 313.04 shall be responsible for any costs connected with the removal of its devices from customers' vehicles and the installation of new devices in those customers' vehicles from the department's list of approved devices.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; CR 20–020: r. and recr. (1), am. (2) to (4) Register September 2021 No. 789, eff. 10–1–21.

Trans 313.08 Manufacturer responsibilities.

(1) MODIFICATIONS. A manufacturer shall meet all of the following requirements:

(a) Notify the department in writing of any material modification in the components, design or installation and operating instructions of any device approved for use in this state. For purposes of this paragraph, a modification shall be considered material if the modification affects device operation or functionality.

(b) Provide the department satisfactory proof that modifications or alterations for which notice is provided under par. (a) do not adversely affect the ability of the device to satisfy the requirements of s. Trans 313.04.

(c) Upon the department's request, provide any new or updated materials related to quality assurance of the calibration procedure and device calibration checks provided under s. Trans 313.04 (2) (b) 13.

(d) Upon the department's request, provide sample modified devices the department may inspect or test for continued acceptability under this chapter.

(2) MANUFACTURER APPROVED REPAIR FACILITIES. A manufacturer shall provide for the repair of the internal components of handsets and vehicle modules through its own technicians or a manufacturer-approved authorized device repair facility.

Note: Manufacturer-approved authorized device repair facilities shall demonstrate the technical competence to repair handsets and vehicle modules as a condition of device approval. See s. Trans 313.04 (2) (b) 8.

(3) MOUTHPIECES. A manufacturer or vendor shall make an adequate supply of mouthpieces or other replaceable breath receptor devices available to a service provider.

(4) ANTI-TAMPERING. A manufacturer shall ensure that a device has adequate electronic anti-tampering features which include all of the following:

(a) A device shall retain its tamper detection capabilities when disconnected from the vehicle's power supply, or record that it was disconnected.

(b) A device shall retain its data memory when disconnected from the vehicle's power supply.

(c) When a device detects a condition that would be considered tampering, the device shall activate a visual and audible indicator.

Note: Detected tampering must be reported, and evidence retained under s. Trans 313.105 (7).

(5) TRAINING. (a) For each device model a manufacturer or vendor seeks to have approved under s. Trans 313.04, upon the department's request, the device manufacturer or vendor shall provide a total of at least 10 hours of training to the department's employees at no cost to the State of Wisconsin. For each device that is approved by the department, upon the department's request, the device manufacturer or vendor shall provide ongoing training. The manufacturer or vendor shall hold training sessions at reasonable times and locations within the State designated by the department. The training shall familiarize the department's employees with the installation, operation, service, repair and removal of the devices and with the training and instructions that the manufacturer or vendor will give to service providers and customers. The manufacturer or vendor shall also provide the department, upon request, all materials intended for distribution to service providers or customers related to installation, operation, repair or removal of the device.

(b) The manufacturer or vendor shall loan the department, free of charge, a demo unit for each approved device that department personnel may use for training staff, court officials, law enforcement officers, or others. The manufacturer or vendor shall provide service for the loaned device free of charge at the chemical testing section Madison office or at the closest service center thereto.

(c) The manufacturer or vendor shall develop device installation instructions for service provider use and share them with the department upon request.

(6) DISABLING A LOCKOUT. A manufacturer or vendor may provide a lockout code for the purpose of disabling a lockout event in accordance with s. Trans 313.04 (5) (i).

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; CR 20–020: r. and recr. Register September 2021 No. 789, eff. 10–1–21.

Trans 313.09 Statewide service. (1) In order to ensure that devices are available to persons in all areas of the state, as a condition of approval and use in the state of Wisconsin, each device must include an affirmation from the device manufacturer, vendor of the device, or a service provider that it will agree to take assignments to unserved areas of the state of Wisconsin in accordance with this section.

(2) The department shall monitor the service center sites throughout Wisconsin. If the department determines that any place in Wisconsin is not within 75 miles of a fixed, permanent service center, the department shall randomly select one of the entities that made an affirmation under sub. (1) and require that entity to establish a service center or provide a mobile service center in the unserved area. If a second or subsequent area of Wisconsin is determined not to be within 75 miles of a fixed, permanent service center, the department shall randomly select an entity that made an affirmation under sub. (1) other than the ones selected previously and require that entity to establish a service center or

provide a mobile service in the unserved area. If all entities that make affirmations under sub. (1) have been required to provide service centers under this subsection, the process of randomly selecting entities shall be repeated.

(3) A manufacturer or vendor shall notify the department in writing at least 7 days before a fixed, permanent service center closes or a fixed, permanent service center moves to another address. In the event a fixed, permanent service center moves, the manufacturer or vendor shall provide the department with the address of the new fixed, permanent service center location or notice that service to the area of the fixed, permanent service center will be provided by a mobile service center at least 7 days before the scheduled service center move. In the event of an emergency, such as a flood, fire, riot, or weather-related event affects a service center, the manufacturer or vendor shall provide the department with notice of the effect of the emergency event on the service center and its plans for re-establishing service at that location or moving the service center to a new location as soon as reasonably possible.

(4) A manufacturer or vendor shall provide the department with at least 7 days advance notice of discontinuing mobile service to any part of the state. Service may not be discontinued to any location assigned to an affirmant under sub. (2) unless the affirmant can show that a different entity is providing service in that area.

Note: Under s. Trans 313.07 (1) (h), device approval for use in the state of Wisconsin may be revoked, suspended or denied if an entity that made a service provider affirmation under sub. (1) fails to provide reasonable service in an area assigned to the service provider under sub. (2).

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; CR 20–020; r. and rec. Register September 2021 No. 789, eff. 10–1–21.

Trans 313.10 Service provider responsibilities.

(1) PERIODIC INSPECTIONS. (a) A service center shall inspect and calibrate a device when it is installed to ensure that it is functioning properly, reliably and accurately.

(b) A service center shall conduct tamper inspections any time that a device is serviced. Tamper inspections include all of the following:

1. Inspection of all external wiring insulation, connections, and sheathing for the device and locations where the device connects to the vehicle.

Note: Detected tampering must be reported and evidence retained under s. Trans 313.105 (7).

2. Documentation of any electronic indications of tampering to the device's memory record.

3. Inspection of all tamper seals for breaks, tears or other evidence of tampering.

4. Inspection of the device's tamper detection capabilities.

(c) A service provider shall cause all of its service centers to have all the tools, test equipment and manuals needed to service devices and shall perform basic troubleshooting related to device installation and operation.

(2) SERVICE LOCATIONS AND HOURS. A manufacturer, vendor or service provider that makes an affirmation under s. Trans 313.09 (1) shall provide the following minimum service:

(a) Repair or replace the device within 3 days after service is requested.

(b) A reasonable number of service centers within the state. If a service provider has a fixed, permanent service center, it may install and service devices using mobile service centers in this state in accordance with s. Trans 313.10 (11). Service centers must establish and maintain reasonable business hours.

(c) A 24-hour toll-free telephone number to answer questions, and to deal with mechanical problems and emergencies related to the device.

Note: Nothing in this paragraph is intended to prohibit a manufacturer, vendor or service provider from providing additional alternative communication mechanisms. Explanation of responsibility for responding to telephone inquiries and other communications is required as part of an application filed under s. Trans 313.04 (2) (b) 20.

(3) SECURITY. A service provider shall comply with all of the following security requirements:

(a) Only authorized employees of a service provider, manufacturer or the department may observe the installation of a device. Reasonable security measures must be taken to prevent the customer from observing the installation of a device, or obtaining access to installation materials.

(b) A service provider is prohibited from assisting or facilitating any tampering, circumvention or bypass of a device.

(c) A service provider may not install a device on a vehicle owned or operated by any of its employees.

(d) A service provider shall install any security device provided by the manufacturer.

(e) A service provider may not access or alter the internal components of a handset or vehicle module.

Note: Internal repairs of handsets and vehicle modules are performed by the manufacturer or a approved manufacturer-approved authorized device repair facility.

(4) INSTALLATION. A service center shall comply with all of the following installation service requirements:

(a) Installation of a device must be completed within 10 days of a customer request, unless the customer requests scheduling installation at a later date or fails to provide the service center with access to the vehicle as scheduled within the 10-day period.

(b) A service center shall inspect each vehicle before installing the device. The inspection must include screening procedures to ensure the vehicle in which the device is to be installed is in a mechanical and electrical condition that will allow the device to meet the specifications in s. Trans 313.04 (5). Conditions that the manufacturer has determined would prevent the device from meeting the specifications of s. Trans 313.04 must be repaired before the device is installed. The customer shall be responsible for all the costs of any repairs to the vehicle.

(c) After a device is installed, the service center shall inspect the vehicle and device to ensure that the installation was performed properly and that it does not interfere with the normal operation of the vehicle.

(e) A service center is not required to install devices on the following types of motor vehicles:

1. Motorcycles or autocycles.

2. Commercial motor vehicles.

3. Vehicles for which installation instructions for ignition interlock devices do not exist.

Note: A vehicle's inclusion in this paragraph is not a determination as to whether a device is capable of being installed on a vehicle. See s. 343.301 (1m) (b), Stats.

(5) SERVICE REQUIREMENTS. A service provider shall be responsible for all of the following:

(a) A service provider shall follow the manufacturer's specifications for service and repair.

(b) All devices shall be scheduled for service and calibration at intervals not to exceed 60 days. Any failure of a customer to obtain required service or calibration shall be reported to the department in the manner prescribed by the department.

(c) Each time a device is serviced, the service center shall extract the data recorded in the device's memory, and transmit the data to the manufacturer for retention in the customer's file and reporting to the department.

(6) REMOVAL. (a) Whenever a device is removed, the vehicle must be restored to its original condition. All severed wires must be securely reconnected and insulated with heat shrink tubing or its equivalent.

(b) A service provider, vendor or manufacturer shall transmit proof of installation or removal to the department in the manner prescribed by the department within 3 business days after the installation or removal of a device.

(7) TRAINING. A service center shall provide an orientation to the ignition interlock device to the driver and any family members or others who may drive the vehicle. The service center shall

include information on all service locations, procedures for regular servicing and emergency situations, and a minimum of two successful start sequences performed by the customer in the vehicle as part of the orientation.

(8) MOUTHPIECES. A service provider shall supply an adequate number of mouthpieces, breath receptors or other sample components to the customer upon initial installation and each time the device is serviced.

(9) INSPECTION. (a) To ensure compliance with the requirements of this section, the service provider shall make any service location and any device at the service location available for inspection by the department during the service provider's normal business hours.

(b) The department may attend service calls made by a service center, may inspect service centers, and may audit work performed by service centers.

(10) CALIBRATION. (a) A person shall calibrate a device using the calibration procedure for that device established by the manufacturer and approved by the department.

(b) No person may use a wet bath simulator for the calibration of any device.

(c) Calibration shall ensure that the device accurately measures alcohol concentration. A device shall be considered properly calibrated if it measures a dry gas sample at or below 0.050 g/210L within a range of ± 0.005 g/210L.

(11) MOBILE SERVICE CENTERS. (a) All provisions of this chapter pertaining to service centers are applicable to mobile service centers.

(b) Service centers shall provide the department with a schedule for installation and calibration mobile services 24 hours before the services occur in a manner prescribed by the department. The service center shall cause the schedule to contain the name of the customer, the name of the manufacturer or vendor, the name of the service center, the location where the service will occur, and the anticipated date and time of the service. Emergency service may be provided to a customer for lockout, device or vehicle malfunction issues without advance notice under this paragraph.

(c) All mobile service centers shall be associated with a fixed, permanent service center.

(12) CONSUMER DISCLOSURE. Any agreement, contract, or other document presented to a person to authorize installation of a device on a vehicle shall include all of the following information in no less than 12–point type on the front page of the documents:

(a) Cost of installation of the device in the vehicle.

(b) Monthly maintenance costs for the device.

(c) A description of any additional charges that may be made to the person including charges for mouthpieces, breath receptors or other sample components, if any, violation reset, maintenance, device insurance, reporting, or device calibration.

(d) The cost, if any, to be charged to person if the service provider that installs the device subsequently removes the device.

History: Cr. Register, August, 1993, No. 452, eff. 9–1–93; **CR 20–020: am. (1) (a), (b) (intro.), 1., cr. (1) (c), r. and recr. (2), (3) (e), am. (4) (intro.), (a) to (c), r. (4) (d), cr. (4) (e), am. (5) (b), (c), (6) (b), (7), (8), renum. (9) to (9) (a), cr. (9) (b), (10) to (12) Register September 2021 No. 789, eff. 10–1–21; correction in numbering in (12) made under s. 13.92 (4) (b) 1., Stats., Register September 2021 No. 789.**

Trans 313.105 Shared responsibilities. **(1) CALIBRATION.** A manufacturer, vendor or service provider shall follow the procedures approved by the department to calibrate a device.

(2) ERASING DATA. A manufacturer, vendor or service provider shall follow the procedures approved by the department to erase any data from a device, including erasing all data from a device that is removed from a vehicle in preparation for reuse in a different vehicle.

(3) DEVICE CONFIGURATION. A manufacturer or vendor may load approved Wisconsin device configuration files onto an approved device.

(4) WARNING LABEL. (a) A manufacturer or vendor shall cause a warning label, approved by the department, to be affixed to all approved devices installed in vehicles in a manner that will be conspicuous to any person using the device. The warning label shall contain the following information: “WARNING”—Any person removing, tampering with, disconnecting or otherwise circumventing this device may be fined up to \$2500 or imprisoned for up to 12 months, or both. ss. 343.44 (2) (ar) 2., 347.50, Stats.” No other information may be included on the label.

Note: Maximum penalties for violation of an occupational license restriction under ss. 343.10 (5) (a) 3. and 343.44 (2) (ar) 2., Stats., are shown on the label. Lesser penalties apply to violations of s. 347.413 (1) under s. 347.50 (1s), Stats. See s. 347.413 (3), Stats.

(b) The label may be printed in any of the following formats:

1. 1” x 2” in size and printed in an 8–point sans serif font such as Helvetica, Calibri or Arial.

2. 1” x 2.5” in size and printed in a 9–point sans serif font such as Helvetica, Calibri or Arial.

3. A custom warning label format, other than the format described in subd. 1. or 2., only if the custom warning label format is approved by the department and will provide users with clear notice of the information described in par. (a).

(c) The custom warning label design must meet all of the following requirements:

1. Contain the language described in par. (a).

2. Attach to the handset in a manner that makes tampering readily observable using an adhesive and label material that makes damage to the label likely in the event of an attempt to remove it.

3. Be weatherproof.

4. Be water and solvent resistant.

5. Be conspicuous.

6. Contain a yellow background and black print.

(5) SERVICE PROVIDER QUALITY CONTROL PROCESS. (a) A manufacturer or vendor shall have a quality control process for resolving service provider noncompliance with the requirements this chapter.

(b) The manufacturer or vendor shall provide a means to receive complaints from customers regarding service provider noncompliance and a means for the department to refer complaints it receives from customers to the manufacturer or vendor.

(c) If a manufacturer or vendor receives a complaint directly from a customer, the manufacturer or vendor shall notify the department of the complaint.

(d) For each complaint the manufacturer or vendor receives relating to noncompliance by its service providers, the manufacturer or vendor shall resolve the complaint within 30 days and provide the department with an explanation as to how the complaint was resolved.

(6) EVIDENCE RETENTION AND TAMPER REPORTING. If tampering, circumvention or bypass attempts are detected, the service provider, vendor, manufacturer, or manufacturer–authorized device repair facility that detects the occurrence shall do all of the following:

(a) Retain relevant evidence, including the device, wires, seals, or other equipment, that demonstrates the tampering, circumvention or bypass attempt and location data related to the offense, if possible, for 30 days unless released to a law enforcement agency as evidence.

(b) Document and photograph any perforations, cuts or other indications of possible tampering, circumvention or bypass attempts and retain that information for two years.

(c) Retain any evidence of unauthorized changes made to the software or operating system of the device for two years.

(d) Immediately report the tampering, circumvention, or bypass attempt event to the department in the manner prescribed by the department, to the sheriff in the violator's county of resi-

dence, and to the sheriff in the county in which the violation occurred if that location can be determined from device location data or other information.

(7) VIOLATION RESET REPORTING. A manufacturer, vendor, or service provider shall immediately report any violation reset to the department in the manner prescribed by the department.

(8) TESTIMONY. A manufacturer, vendor, or service provider shall provide at no cost to the State any testimony requested by the State or any prosecutor in this State, described in the affirmation made pursuant to s. Trans 313.04 (2) (b) 14.

History: CR 20-020: cr. Register September 2021 No. 789, eff. 10-1-21; correction in (4) (c) 1. made under s. 35.17, Stats., Register September 2021 No. 789.

Trans 313.12 List of authorized service centers. A manufacturer or vendor shall provide the department with a list of all service centers in Wisconsin who are authorized by the manufacturer or vendor to install, service or remove the manufacturer's or vendor's devices. The manufacturer or vendor shall cause the list to clearly state the price charged by the service center for installation, maintenance, calibration, violation reset service, and removal of the device, and shall disclose any additional fees or charges that may be imposed on the customer, including all fees described in s. Trans 313.10 (12). If insurance for the device is made available to the customer, the list shall include the cost to replace the device and the monthly cost for the insurance. The department shall make this list available to all Wisconsin courts and to the public on its internet website.

History: Cr. Register, August, 1993, No. 452, eff. 9-1-93; CR 20-020: am. Register September 2021 No. 789, eff. 10-1-21.

Trans 313.13 Administrative procedures. (1) The clerk of court or a court shall report the issuance of any court order requiring the installation and use of a device to the department in one of the following ways:

(a) In the comments section of the uniform traffic citation.

Note: The Uniform Traffic Citation is DMV form number MV-4016.

(b) On the conviction status report.

Note: The conviction status report is DMV form MV-3435.

(c) In the miscellaneous section of the conviction report.

(d) On the petition for occupational license.

Note: The petition for occupational license is DMV form MV-3027.

(2) (a) All court orders requiring the installation and use of a device on one or more vehicles shall include the beginning and ending dates for the restriction, and shall identify each vehicle to which the order applies.

(b) All orders imposing an ignition interlock restriction on a person's operating privilege shall include the date on which the order was issued and the length of time that the ignition interlock restriction shall be effective, consistent with the requirements of ch. 343, Stats.

Note: The length of the ignition interlock device restriction periods for vehicles and operating privileges are set in s. 343.301 (2m) (a) and (b), Stats. Operating privilege restrictions extend from the date of the order for a period of time that extends from the date the person next obtains a license from the department to a date in the future. The length of the restriction period, from the date the driver obtains a license from DMV, is determined by the court, and is not less than one year nor longer than the maximum revocation period resulting from the offense. The maximum periods of revocation that can be ordered as a result of an alcohol-related driving offense are set forth in ss. 343.30 (1q) (b), 343.31 (2) and 343.31 (1m), Stats. Ignition interlock device operating privilege restriction periods may be extended. s. 347.50 (1t), Stats.

(3) When the department is notified that a device has been ordered as a condition of licensing, the department shall place a restriction on the customer's driver record, requiring that the customer operate only vehicles equipped with a device. This restriction will appear on any license issued to the customer during the restriction period.

(4) A customer who has been ordered to install a device in a vehicle, shall provide proof of installation to the department before the customer may be issued an operator or occupational license. A service provider may provide this proof on the customer's behalf in accordance with s. Trans 313.10 (4) (d).

Note: Section Trans 313.10 (4) (d) has been repealed.

(5) A customer may contact any of the manufacturers, vendors or service providers on the department's approved list. The customer is responsible for obtaining a device and for all costs associated with the installation, service, repair and removal of the device.

History: Cr. Register, August, 1993, No. 452, eff. 9-1-93; CR 20-020: am. (1) (intro.), renum. (2) to (2) (a) and am., cr. (2) (b), am. (3), (4) Register September 2021 No 789, eff. 10-1-21.

Trans 313.14 Restrictions on removing device.

(1) No person other than a service provider may remove a device from a vehicle before the restriction period has elapsed, unless the customer surrenders to the department all operator and occupational licenses in his or her possession.

(2) No service provider may remove a device from a vehicle before the restriction period has elapsed, unless the customer does one of the following:

(a) Requests that the device be removed from the vehicle.

(b) Intentionally damages the device.

(c) Fails to pay for installation, service or calibration of the device, or other charges assessed to the person and authorized under this chapter.

(d) Behaves with an offensive or abusive personality toward manufacturer, vendor or service provider personnel.

(e) Fails to comply with a contract with the manufacturer, vendor or service provider.

(f) Remove the device to preserve evidence or tampering or circumvention in accordance with s. Trans 313.105 (6).

Note: If a service provider removes a device, it is required to promptly notify DMV so that appropriate license actions may be taken. See s. Trans 313.10 (6) (b).

(3) A service provider may not charge more than its ordinary and reasonable time and materials charges for removing a device.

History: Cr. Register, August, 1993, No. 452, eff. 9-1-93; CR 20-020: am. (1), r. and recr. (2), cr. (3) Register September 2021 No. 789, eff. 10-1-21.

Trans 313.15 Audit authority. The department may audit and inspect the facilities and records of a manufacturer, vendor or service provider, including mobile service locations, to verify compliance with the requirements of this chapter. Manufacturers, vendors and service providers shall retain all records relating to an application for approval, installation, service, removal and use of a device, for at least 3 years, and shall make these records available to the department for inspection and copying upon request.

History: Cr. Register, August, 1993, No. 452, eff. 9-1-93; CR 20-020: am. Register September 2021 No. 789, eff. 10-1-21.

Trans 313.16 Other prohibited conduct. (1) NONDISCRIMINATION. No manufacturer, vendor or service provider may discriminate for or against a person by reason of sex, race, creed, color, sexual orientation, national origin or ancestry, gender, gender expression, age, disability, marital status, or military status in any of its activities or operations.

Note: See s. 227.10 (3) (a), Stats.

(2) DEEP LUNG AIR REQUIREMENT. No person, manufacturer, vendor or service provider may modify, alter, or adjust the settings or programming of any device so as to require less than 1.5 liters of air per breath sample.

Note: Reducing the volume of air required to use the device is not considered a reasonable accommodation of any disability because a sample of that size is required for the device to reliably and properly perform its intended function of measuring alcohol concentration.

(3) ALTERATION OF SETTINGS OR PROGRAMMING. No person may modify, alter, or adjust the settings or programming of any device, except as provided in s. Trans 313.105 (3).

(4) REPAIRS. No person may repair handsets or vehicle modules unless it is a manufacturer or is a manufacturer-approved authorized device repair facility.

(5) ADVICE LEADING TO LOCKOUT MODE. No manufacturer, vendor or service provider may advise or counsel a person to vio-

late any law or take any action that will result in a device entering a lockout mode or needing service.

(6) MOTORCYCLE AND MOPEL PROHIBITION. No person may install a device on a motorcycle or moped in this state.

Note: Section 343.301 (1m) (b), Stats. requires courts to exempt vehicles for which the department has not approved an ignition interlock device that is capable of being installed on the vehicle from any ignition interlock order is issued under 343.301 (1g), Stats. The department has not approved any devices for use on motorcycles because of the safety hazard use of the device would present to the operator. This provision prevents installation on motorcycles in this state, but does not prohibit the use of motorcycles in this state on which IIDs have been installed in other jurisdictions.

Note: CR 20-020: cr. Register September 2021 No. 789, eff. 10-1-21.

Trans 313.17 Ignition interlock emergencies. The Secretary of the Department of Transportation may declare an ignition interlock emergency if a natural disaster, epidemic, or other emergency arises that affects the ability of manufacturers, vendors and service providers to service and install ignition interlock devices in this state. The Secretary may, by such order, extend any of the deadlines or time limits established in this chapter or waive any of the requirements of this chapter for a period not to exceed six months.

Note: In the event longer periods of exemption or waiver are required, they can be accomplished through emergency rulemaking procedures set forth in s. 227.24, Stats.

Note: CR 20-020: cr. Register September 2021 No. 789, eff. 10-1-21.