

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 158
“Ignition Interlock Devices”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321J.4(8)“b” and 2024 Iowa Acts, Senate File 2261

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 321J

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 12, 2025
8 to 8:30 a.m.

First Floor Public Conference Room 125
Oran Pape State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

The purpose of this proposed chapter is to establish standards and requirements that apply to ignition interlock devices (IIDs) installed on motor vehicles pursuant to court orders or administrative orders issued by the Department of Transportation (DOT) pursuant to Iowa Code chapter 321J. Various sections of Iowa Code chapter 321J require drivers who have been convicted of violating or administratively adjudged to have violated certain provisions of Iowa Code chapter 321J to have ignition interlock devices “of a type approved by the commissioner of public safety” installed on their vehicles in order to maintain their driving privileges. The rules in this proposed chapter provide the standards for such approval.

This proposed chapter is also incorporating necessary changes as a result of 2024 Iowa Acts, Senate File 2261.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• Classes of persons that will bear the costs of the proposed rulemaking:

Any driver who has been convicted of violating or administratively determined to have violated certain provisions of Iowa Code chapter 321J and is ordered to have an IID installed on their motor vehicle will bear the costs.

• Classes of persons that will benefit from the proposed rulemaking:

The motoring public traveling on Iowa’s roadways will benefit from keeping impaired drivers from operating a vehicle.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- **Quantitative description of impact:**

Costs typically vary with each manufacturer and can range between \$60 and \$90 to have an IID installed on a vehicle. There is also a \$2 to \$4 rental fee per device that is the responsibility of the individual subject to the restriction. A calibration fee is applied should the individual subject to the restriction violate the IID and the IID goes into a lockout condition prior to the normal service time.

- **Qualitative description of impact:**

IID providers will benefit from increased clarity on performance standards in order to gain and retain approval in the State of Iowa.

3. Costs to the State:

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs to the Department or any other agency to implement this proposed chapter.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

IIDs are a proven effective tool in preventing drunk driving and reducing the recurrence of drunk driving. Iowa has a 6 percent recidivism rate when it comes to the percentage of offenders with a second offense following IID installation, which is lower than most states. Inaction could result in more impaired drivers traveling on Iowa's roadways, thus jeopardizing the safety of others.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has determined this to be the least costly and least restrictive method available.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

There were not any alternative methods seriously considered by the Department.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking is not anticipated to have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 661—Chapter 158 and adopt the following **new** chapter in lieu thereof:

CHAPTER 158
IGNITION INTERLOCK DEVICES

661—158.1(321J) Scope and authority.

158.1(1) The rules in this chapter establish standards and requirements that apply to ignition interlock devices installed in motor vehicles pursuant to court orders or administrative orders issued by the DOT pursuant to Iowa Code chapter 321J.

158.1(2) Various sections of Iowa Code chapter 321J require drivers who have been convicted of violating or administratively adjudged to have violated certain provisions of Iowa Code chapter 321J to have ignition interlock devices “of a type approved by the commissioner of public safety” installed on their vehicles in order to continue to drive legally. The rules in this chapter provide the standards for such approval.

661—158.2(321J) Definitions. The following definitions apply to rules in this chapter:

“*Alcohol*” means any member of the class of organic compounds known as alcohols and, specifically, ethyl alcohol.

“*ASP*” means an authorized service provider, which is a person or company meeting all qualifications outlined in this chapter and approved and trained by the manufacturer to service, install, monitor or calibrate IIDs approved pursuant to this chapter.

“*BrAC*” means breath alcohol concentration, which is the amount of alcohol determined by chemical analysis of the individual’s breath measured in grams of alcohol per 210 liters of breath.

“*Bypassing*” or “*tampering*” means the attempted or successful circumvention of the proper functioning of an IID, including but not limited to the push start of a vehicle equipped with an IID; disabling, disconnecting or altering an IID; or introduction of a breath sample into an IID other than a nonfiltered direct breath sample from the driver of the vehicle in order to defeat the intended purpose of the IID.

“*DCI*” means the Iowa division of criminal investigation.

“*DOT*” means Iowa department of transportation, office of driver services.

“*Fail level*” means a BrAC equal to or greater than 0.04 grams per 210 liters of breath, at which level the IID will prevent the vehicle from starting or will indicate a violation once the vehicle is running.

“*IID*” means ignition interlock device, which is an electronic device that is installed in a vehicle and that requires the completion of a breath sample test prior to starting the vehicle and at periodic intervals after the vehicle has been started. If the IID detects an alcohol concentration of 0.04 grams or greater per 210 liters of breath, the vehicle will be prevented from starting.

“*Laboratory*” means the division of criminal investigation criminalistics laboratory.

“*Lessee*” means a person who has entered into an agreement with a manufacturer or an ASP to lease an IID and whose driving privileges are contingent on the use of an IID.

“*Lockout condition*” means a situation in which the IID has detected ten or more violations within a 30-day period, five or more violations have occurred within a 24-hour period, or the calibration interval of the IID has been exceeded by 7 days or more.

“*Manufacturer*” means the person, company, or corporation that produced the IID.

“*Random retest*” means a breath sample that is collected in a nonscheduled, random manner after the vehicle has been started.

“*User*” means a person operating a vehicle equipped with an IID.

“*Violation*” means a condition caused by either (1) failing to provide a detectable breath sample to the IID when prompted by the device or (2) providing a breath sample to the IID with an alcohol concentration of .04 or more.

661—158.3(321J) Approval. To be approved, an IID will meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices as published in the Federal Register, May 8, 2013, Volume 78, No. 89 pages 26849-26867. Only a notarized statement from a laboratory capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

158.3(1) In addition to the federal standards, the laboratory will apply scientific tests or methods to a particular IID to determine whether it meets an acceptable standard for accuracy.

158.3(2) At the discretion of the laboratory administrator, the laboratory may accept test results from other public laboratories or authorities.

158.3(3) A list of IIDs approved by the commissioner of public safety will be maintained by the laboratory. The list is available without cost by writing to the Iowa Department of Public Safety, Division of Criminal Investigation, Criminalistics Laboratory, 2240 South Ankeny Blvd., Ankeny, Iowa 50023; by telephoning 515.725.1500; or by accessing the list on the laboratory's website.

Note: As of May 1, 2024, the website of the laboratory is breathalcohol.iowa.gov.

661—158.4(321J) Revocation of approval.

158.4(1) The approval of an IID will remain valid until either voluntarily surrendered by the manufacturer or until the approval of the IID has been revoked by the commissioner of public safety for cause. Reasons for revocation include but are not limited to the following.

a. Evidence of repeated IID failures due to defects in design, materials, or workmanship during manufacture, installation, monitoring, or calibration of the IID such that the accuracy of the IID or the reliability of the IID as approved is not being met as determined by the laboratory.

b. A pattern of evidence that the mandatory operational features of the IID as described in rule 661—158.6(321J) are not functioning properly.

c. A pattern of evidence indicating that the IID may be easily tampered with or bypassed.

d. Any violation on the part of the manufacturer of the IID of any laws or regulations related to the installation, servicing, monitoring, and calibration of IIDs, or failure of a manufacturer to address repeated violations by an ASP.

e. Cancellation of the manufacturer's required liability insurance coverage.

f. Cessation of business operations by the manufacturer.

g. Failure to notify the laboratory in writing of any material modifications or alterations to the components or the design of the approved IID.

h. Failure of the manufacturer or an ASP to notify the DOT and the county attorney of the county of residence of the lessee within 30 days of the discovery of evidence of tampering with or attempting to bypass an IID.

i. Evidence that the manufacturer or ASP(s), or its owners, employees, or agents, has committed any act of theft or fraud, deception or material omission of fact related to the distribution, installation, or operation of any IID subject to this chapter.

j. Revocation of approval in another state for any of the reasons for revocation listed in paragraphs 158.4(1) "a" through "i."

158.4(2) A revocation will be effective 30 days from the date of the letter sent to the manufacturer via certified mail, return receipt requested, unless otherwise specified by the commissioner. A copy of each notice of revocation will be provided to the director of the DOT.

158.4(3) Upon voluntary surrender or revocation, all IIDs subject to surrender or revocation will be removed and replaced by an approved IID within 60 days of the effective date of such surrender or revocation. The manufacturer or the ASP will notify all affected lessees of the surrender or revocation and the requirement that a new IID will be installed by an existing ASP within the time frame specified in this subrule.

158.4(4) A revocation of a previously approved IID may be appealed to the department of public safety by the filing of an appeal in accordance with the procedures specified in rule 661—10.101(17A) within ten days of the issuance of the notice of revocation.

661—158.5(321J) Modifications to an approved IID. The manufacturer will inform the laboratory in writing of any modifications that will affect the accuracy, reliability, ease of use, or general function of the approved IID. The notification will include but not be limited to a listing of those modifications that were made, those components that were redesigned or replaced, and any additional alterations. Each of these changes should also include a narrative explaining how the modifications or alterations will affect the accuracy, reliability, ease of use, or general function of the IID. The laboratory reserves the right to test the IID to determine if the IID meets or exceeds the requirements established in this chapter.

661—158.6(321J) Mandatory operational features. In addition to any requirements established elsewhere in this chapter, an approved IID will comply with the following.

158.6(1) The IID will be designed and constructed to measure a person's BrAC by utilizing a sample of the person's breath delivered directly into the IID. A minimum volume of 1.5 liters of continuously delivered breath is required for acceptance but may be lowered to 1.2 liters of continuously delivered breath with a medical waiver provided to the department.

158.6(2) The IID will be designed and constructed so that the ignition system of the vehicle in which it is installed will not be activated if the BrAC of the person using the IID exceeds 0.04 BrAC.

158.6(3) The IID will prevent engine ignition if the IID has not been calibrated within 67 days subsequent to the last calibration. Calibration may be required more frequently at the discretion of the manufacturer or the ASP. The laboratory administrator may approve a device using fuel cell technology to be recalibrated within 187 days of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator.

158.6(4) The IID will record every instance when the vehicle is started, the results of the breath sample test, how long the vehicle was operated, and any indications that the IID may have been tampered with or bypassed.

158.6(5) The IID will require the operator to submit to a random retest within ten minutes of starting the vehicle. A minimum of two additional random retests will occur within 60 minutes of starting the vehicle, and a minimum of two random retests will occur within every 60 minutes thereafter. Random retests may be achieved during operation of the vehicle.

158.6(6) The IID will permit a sample-free restart for a maximum period of two minutes unless the IID has initiated a random retest, in which case the operator will successfully perform a breath sample test before the vehicle may be restarted.

158.6(7) The IID will automatically and completely purge residual alcohol before allowing subsequent tests.

158.6(8) The IID will be installed in such a manner that it will not interfere with the normal operation of the vehicle after the vehicle has been started.

158.6(9) The IID will be equipped with a method of immediately notifying peace officers if the retest required by subrule 158.6(5) is not performed or if the result of a random retest exceeds the alcohol concentration of 0.04 BrAC. Examples of acceptable forms of notification are repeated honking of the vehicle's horn and repeated flashing of the vehicle's headlights. Such notification may be disabled only by switching the engine off or by achievement of a retest at a level below 0.04 BrAC.

158.6(10) Each IID will be uniquely identified by a serial number. Along with any other information required by the DOT or by an originating court, all reports to the DOT or to an originating court concerning a particular IID will include the name, address, and driver's license number of the lessee and the unique serial number of the IID. The name, address, telephone number, and contact person of the manufacturer or the ASP furnishing the report will also be included as part of the report.

661—158.7(321J) IID security.

158.7(1) The manufacturer and its ASPs will take all reasonable steps necessary to prevent tampering with or physical circumvention of the IID. These steps shall include the following.

a. ASPs will use special locks, seals, installation procedures, or design characteristics that prevent or record evidence of tampering or circumvention attempts.

b. The manufacturer or the ASP will affix a label to the IID indicating that attempts to tamper with or circumvent the IID may subject a person to criminal prosecution or administrative sanctions.

158.7(2) No owner or employee of a manufacturer or an ASP may authorize or assist with the disconnection of an IID or enable the use of any emergency bypass mechanism or any other bypass procedure that allows a person restricted to the use of a vehicle equipped with a functioning IID to start or operate a vehicle without providing all required breath samples. Authorizing or assisting with the disconnection of an IID may subject the owner or employee of a manufacturer or an ASP to criminal prosecution or administrative sanctions.

661—158.8(321J) IID maintenance and reports.

158.8(1) An IID utilized in accordance with the provisions of this chapter will have the calibration checked and recalibrated at least once every 60 days using either a wet bath simulator or dry gas standard. Calibration is to be completed by the manufacturer or the ASP. In lieu of calibration of an installed IID, an installed IID may be exchanged for another calibrated IID. The laboratory administrator may approve a device that employs fuel cell technology to be used for up to 180 days from the date of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator. An IID will automatically enter a lockout condition if the IID has not been calibrated within seven days after the deadlines established in this subrule.

158.8(2) The calibration record for the IID currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this chapter and for any other IID installed in the same vehicle will be maintained by the manufacturer or the ASP. The record will include the following:

- a.* Name of the person performing the calibration;
- b.* Date;
- c.* Value and type of standard used;
- d.* Batch or lot number of standard;
- e.* Unit type and identification number of the IID; and
- f.* Description of the vehicle in which the IID is installed, including:
 - (1) Registration plate number and state;
 - (2) Make;
 - (3) Model;
 - (4) Vehicle identification number;
 - (5) Year; and
 - (6) Color.

158.8(3) The IID will be calibrated for accuracy according to the manufacturer's procedures. All data contained in the IID's memory will be downloaded, and the manufacturer or the ASP will make a hard copy or the electronic equivalent of a hard copy of client data and results of each examination.

158.8(4) All information obtained as a result of each inspection will be retained by the manufacturer or the ASP for five years from the date the IID is removed from the vehicle.

158.8(5) Any manufacturer or ASP who discovers evidence of tampering with or attempting to bypass an IID will, within 30 days of the discovery, notify the DOT and the county attorney of the county of residence of the lessee of that evidence.

158.8(6) The manufacturer or the ASP will provide, upon request, additional reports in a format acceptable to, and at no cost to, the DOT and the DCI.

158.8(7) The manufacturer or the ASP will notify the DOT within ten days if an IID is not calibrated within the time period specified in subrule 158.6(3).

661—158.9(321J) Other provisions. In addition to any other applicable provisions of this chapter, each manufacturer of an approved IID, either on its own or through its ASPs, will comply with the following provisions.

158.9(1) Each manufacturer and ASP of IIDs approved for use in Iowa pursuant to this chapter will maintain general liability insurance coverage that is effective in Iowa and that has been 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 per occurrence and \$3 million in the aggregate. Each manufacturer and ASP will furnish the DCI 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 will carry an endorsement requiring that the DCI 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.

158.9(2) Each manufacturer of IIDs approved for use in Iowa will maintain an email address and a telephone number that are available 24 hours a day, 365 days a year, for lessees or users to contact the manufacturer or the ASP if lessees or users have problems with the IID leased from the manufacturer or the ASP.

158.9(3) Each manufacturer of IIDs approved for use in Iowa will provide the lessee with instructions on how to properly use the IID, including recommending a 15-minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the IID.

158.9(4) An IID utilized under these rules will be installed and removed by the manufacturer or the ASP in conformance with the prescribed procedures of the manufacturer.

158.9(5) The department of public safety reserves the right to inspect any IID, manufacturer, or ASP at any time at the department's discretion. All records of IIDs installed, results of calibrations, violations, data logs, and results of known alcohol standards will be made available for inspection upon request to any representatives of the department of public safety or DOT or any peace officer.

These rules are intended to implement Iowa Code chapter 321J.