

Frequently asked questions about ignition interlock devices

Legal Issues

Q: Who can be ordered to install an ignition interlock device?

- A: Wisconsin Act 100, which took effect on July 1, 2010, requires judges to order an IID for:
- ALL repeat OWI offenders
 - ALL first time OWI offenders with an alcohol concentration of 0.15 percent or higher
 - ALL drivers who refuse to provide a breath or blood sample for a chemical test at a traffic stop

Q: How does an IID order affect the offender?

- A: The order affects the offender in two ways. First, the IID order applies to every vehicle owned by the offender, regardless of what type of vehicle (car, pickup, van, motorcycle, or large truck). Second, the offender's driving privilege is restricted so that they can operate only IID-equipped vehicles during the duration of the order.

The law does give the court some discretion to exclude one or more vehicles from an IID order if the offender can convince the judge that compliance would cause undue financial hardship. One example might be to allow the spouse to avoid IID installation in a vehicle that only the spouse drives. Offenders may not operate a vehicle that requires a regular (Class D) driver's license if the vehicle is not equipped with an IID while their operating privilege is restricted. The courts have no discretion to waive or modify that restriction.

Q: Will the stronger IID law make our roads safer?

- A: The roads will be safer as long as OWI offenders actually comply with their court order to have an IID installed. Once equipped with an IID, a vehicle will not start if the driver has an alcohol concentration over 0.02 percent and will set off alarms if the driver's alcohol concentration reaches that level after the vehicle has been started.

Q: What if the offender chooses not to drive?

- A: Convicted OWI offenders may choose not to drive, but they cannot simply "wait out" the clock on their IID order. Offenders may be prosecuted for failure to comply with the IID order. When and if offenders choose to restore their operating privilege, the clock will start on their IID order on the day DMV issues them any kind of license.

If offenders choose to apply for an Occupational License from DMV, which allows them to drive to/from work or school, or to take care of essential household activities, then their restricted operating privilege will be conditioned on driving a vehicle equipped with an IID—

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and it will not matter who owns the vehicle (the offenders, their employer, or whomever loaned them a vehicle).

Offenders who are serving a sentence in county jail and qualify for daily work release, will have two weeks in which to show proof of having an IID installed. Failure to do so will result in revocation of work release privilege.

If offenders choose to wait until after their court-ordered license revocation period is completed, the clock starts on their IID order the day their full operating privilege is reinstated.

Q: What if the offender does not own a motor vehicle?

A: Even if the OWI offender does not own a vehicle, the operating privilege will be restricted. If the offender borrows, leases or rents a vehicle, it must be equipped with an IID for them to legally operate it.

Q: What happens if the offender does not comply with the IID order?

A: Failure to install an IID in each vehicle owned by the offender will result in a fine of \$150-\$600 and/or up to six months in jail at court's discretion, plus a mandatory six-month extension of the IID order period. A second or subsequent violation within five years will result in fines up to \$1,000.

Q: What happens if the offender attempts to circumvent, disconnect, remove or tamper with the IID?

A: An IID will activate the vehicle's emergency lights and horn if any attempt to circumvent, disconnect, remove or tamper is detected. The event is also recorded in the device memory, and a service reminder will be immediately activated.

Act 100 criminalizes IID circumvention, disconnection, removal or tampering with fines from \$150-\$600 and/or up to six months in jail at the court's discretion, plus a mandatory six-month extension of the IID order period. Circumvention includes breath samples from sources (human and non-human) other than the offender, manipulation of samples that enable a driver with a prohibited alcohol concentration to start or operate a vehicle equipped with an IID and failure to complete any required servicing.

IID Installation and Operation

Q: How much do IIDs cost?

A: The State of Wisconsin does not regulate the various fees associated with leasing an IID. The offender will be assessed a \$50 surcharge by the court. The IID vendor will charge an

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installation fee which ranges from \$75-\$150. The IID lease and service agreement includes a monthly fee, generally \$60-\$90. There are additional fees, which vary by vendor, for routine monitoring, recalibration, and insurance. Routine service, including reporting all IID data to the sheriff of the county where the offender resides, is required every 60 days.

At the conclusion of the IID restriction, a removal fee of \$40-\$60 is also assessed. The total cost for an IID can be substantial, considering that a court order must be for a minimum of 12 months.

Low-income offenders, with annual incomes less than 150 percent of the Federal Poverty Level (FPL), are entitled to pay only half of the regular cost of IID installation and monthly service fee. The FPL is adjusted annually and depends on the number of people in the household. For 2010, 150 percent of the FPL for a single-person household is \$16,245 and \$33,075 for a four-person household.

Q: How does an offender go about installation of an IID?

A: A list of IID installation and service centers is maintained on the WisDOT website. Offenders should call the toll-free number listed to obtain cost information and to schedule installation at the service center of their choice.

Q: How and when is a breath sample provided?

A: Each device has specific requirements for providing samples. Proper technique will be taught at the time the IID is installed. In general, a person has up to three tries within five minutes to provide a breath sample to start the vehicle. If there are three failed or aborted attempts to provide a breath sample, the IID enters a "Temporary Lockout" and the vehicle will not start for 15 minutes.

A second breath sample will be required approximately five minutes after the vehicle has started. Additional breath samples will be required at random (5-30 minute) intervals for as long as the engine is running. These are referred to as "rolling retest" samples.

Q: What prevents the driver from drinking after the vehicle has started?

A: If the breath sample during a rolling retest tests above the 0.02 limit, or if the driver fails to provide retest samples, the vehicle's horn and emergency lights will be activated by the IID. The IID will not, under any circumstance, shut the vehicle off.

The only way to stop the horn and lights is for the driver to turn off the engine. If the driver's breath sample tests above the limit after stopping the engine, the vehicle will not start.

Q: What prevents the driver from having someone else provide a breath sample to start the vehicle?

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A: By definition, this would be circumvention. The person who provided the sample will face a substantial penalty (up to six months in jail and a \$150-\$600 fine). The offender would also receive a 6 month extension of the IID order.

Q: Under what circumstances would an IID prevent a vehicle from starting?

A: If the driver provides a breath sample above the 0.02 limit, the IID will prevent the vehicle from starting.

If there are three breath samples above 0.02 on separate occasions, or if breath samples are not submitted for three consecutive rolling retests, or the IID detects an attempted circumvention or tampering, a service feature is activated. The offender must then see the service provider within seven days for a “violations reset.”

If the vehicle is not taken in for IID service within seven days of the violations reset, the IID will go into “permanent lockout”, which means the vehicle will not start until the IID is reset by the service provider. The offender might need to have the vehicle towed to the service provider or request mobile service in the event of permanent lockout.

Q: What if the IID loses power?

A: All IIDs are required to retain tamper detection capability even when disconnected to the vehicle’s power supply. The device retains all event data, including the date, time and result of every breath sample, every engine start and stop, and any attempt to circumvent or tamper with the system.

IID Service Provider Requirements

Q: What are the requirements for IID service providers in Wisconsin?

A: The requirements for IID service providers include:

- IID providers must have a reasonable number of installation and service facilities within the state.
- A 24-hour toll-free telephone number must be available to answer questions, deal with mechanical problems, and address emergencies related to the device.
- Installation of an IID must be completed within 14 days of a court order or customer request, whichever is later.
- IIDs must be repaired or recalibrated within three business days after service is requested.

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- Vehicles must be inspected before installation to ensure they are in sufficient mechanical and electrical condition to allow the device to operate normally. Vehicles not in appropriate condition must be repaired at the offender's expense before the device is installed.
- Service providers must provide a certificate of installation or removal to the offender and the DMV within three working days. The offender must present a copy of this certificate as a condition of obtaining a driver's license.
- All IIDs must be scheduled for service at intervals not to exceed **60 days**.
- All data recorded in the device's memory must be retained in the offender's file.

Q: What data are reported to the county sheriff where the offender lives?

A: The service provider must notify the sheriff when:

- The IID is removed (within three working days).
- The offender fails to report for a required service appointment.
- There are any bypass, circumvention, tampering or violation resets (these are to be reported immediately).