

OFFICE OF THE DIRECTOR**DEPARTMENT OF MOTOR VEHICLES**

P.O. BOX 932328
SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to amend Sections 125.00, 125.02, 125.12, 125.16, 125.18, 125.20, and 125.22 and adopt Sections 126.00, 126.02, 126.04, 127.00, 127.02, 127.04, 127.06, 127.08 and 127.10 in Article 2.55, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to the California Ignition Interlock Device Program.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on April 5, 2010, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 13352, 13386, 14601, 14601.2, 14601.4, 14601.5, 23152, 23153, 23573, 23575, and 23700.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This action is based on the passage of Senate Bill (SB) 1388 (Chapter 404, Statutes of 2008), Assembly Bill (AB) 91 (Chapter 217, Statutes of 2009) and Senate Bill 598 (Chapter 193, Statutes of 2009). Passage of these bills implement changes in the California Ignition Interlock Device Program and are being combined into one rulemaking file.

SB 1388 implements Vehicle Code section 23573. Vehicle Code section 23573 requires the department, upon receipt of a court's abstract of conviction of Vehicle Code section 14601.2, 14601.4 or 14601.5, subsequent to prior conviction(s) of Vehicle Code section 14601.2, 14601.4, 14601.5, 23103.5, 23152 or 23153, to notify the convicted person of his or her requirement to have an ignition interlock device (IID) installed in their vehicle.

Vehicle Code section 23573 allows the department to charge an administrative fee sufficient to offset the costs of administering the department ordered IID program.

Vehicle Code section 23573 requires program participants to have the IID installed within thirty days of the mail date of the department's notice by an authorized IID installer and verification of the installation to be submitted to the department on a department prescribed "Verification of Installation" form.

Vehicle Code section 23573 requires participants to return the vehicle at least once every sixty days for the installer to ensure the IID is operating properly and check for signs of tampering, attempts at removing, or bypassing the IID.

The department has determined it necessary to promulgate regulations providing the application process, including the adoption of a new, distinguishing verification of installation form, and fee requirements for participants required to have an IID installed. These regulations will provide an exemption process for drivers authorized to claim such an exemption pursuant to Vehicle Code section 23573(g)(1)(A) and provide the distribution of documents required to ensure all parties have paperwork necessary to comply with Article 2.55, California Code of Regulations.

AB 91 implements Vehicle Code section 23700. Vehicle Code section 23700 requires the department to establish a pilot program in the counties of Alameda, Los Angeles, Sacramento and Tulare, whereby, as a condition of being issued or reissued a driver license, a driver convicted of certain driving under the influence provisions is required to have an ignition interlock device (IID) installed in his or her vehicle for a specified period of time.

In addition to requiring the department to notify drivers of IID installation and monitoring requirements, AB 91 requires IID manufacturers and manufacturer's agents to adopt a reduced fee schedule, based on a person's ability to pay proportionate with that person's income relative to the federal poverty level, for payment of IID costs. IID manufacturers and manufacturer's agents are currently required to adopt fee schedules that provide for the payment of the costs of the IID by applicants equal to the applicant's ability to pay. Under this program, a driver convicted of violating Vehicle Code section 23152 is required to have a certified IID installed in all vehicles owned or operated by the driver for a term as follows:

- First offense – Mandatory term of five months
- Second offense – Mandatory term of twelve months
- Third offense – Mandatory term of twenty-four months
- Fourth and subsequent offense – Mandatory term of thirty-six months

A driver convicted of violating Vehicle Code section 23153 is required to have a certified IID installed in all vehicles owned or operated by the driver for a term as follows:

- First offense – Mandatory term of twelve months
- Second offense – Mandatory term of twenty-four months
- Third offense – Mandatory term of thirty-six months
- Fourth and subsequent offense – Mandatory term of forty-eight months

Provisions of AB 91 require drivers to adhere to IID monitoring requirements similar to those established in current IID regulations and provide for exclusions similar to those permitted by SB 1388.

DOCUMENTS INCORPORATED BY REFERENCE

The following forms are incorporated by reference:

- Application for Certification of Ignition Interlock Device, form DL 9 (REV 4/2000) in Section 125.02
- Laboratory Report, form DL 28 (REV 3/2000) in Section 125.02
- Verification of Installation, form DL 920, (REV 7/2010) in Section 125.12, 125.16
- Ignition Interlock Notice of Removal, form DL 922 (REV 1/2007) in Section 125.12, 125.20
- Notice of Non-Compliance, form DL 921 (NEW 1/99) in Section 125.18
- Notice to Employers, Ignition Interlock Restriction, form DL 923 (1/99) in Section 125.22
- Department of Motor Vehicles Ordered Verification of Ignition Interlock, form DL 924 (REV 7/2010) in Section 126.00
- Exemption for Ignition Interlock Device, form DL 4054B (REV 7/2010), in Section 126.04
- Exemption for Ignition Interlock Device, form DL 4055B (NEW 7/2010) in Section 127.04
- Report of False Positives/Reset Time, form DL 9A (NEW 7/2010) in Section 127.06

These forms are not published in the California Code of Regulations, because it would be impractical and cumbersome to publish these documents in the Code of Regulations, however, the documents are readily available to the affected public on the department's internet website or by contacting the departmental representative identified below.

FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the regulations only provide definition for the existing language used in the Vehicle Code.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820
Telephone: (916) 657-6469
Facsimile: (916) 657-1204
E-Mail: RCalkins@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Cathy Sowell, Chief of Staff
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the aforementioned Initial Statement of Reasons and the Express Terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

The contact person identified in this notice shall also make available to the public upon request the Initial Statement of Reasons and Final Statement of Reasons, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at <http://www.dmv.ca.gov/about/lad/regactions.htm>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.