

CHAPTER 88. IGNITION INTERLOCK

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Source

The provisions of this Chapter 88 adopted January 30, 2004, effective January 31, 2004, 34 Pa.B. 567; amended July 15, 2005, effective July 16, 2005, 35 Pa.B. 3938, unless otherwise noted. Immediately preceding text appears at serial pages (302679) to (302682).

§§ 88.1—88.8. [Reserved].**§ 88.101. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Department—The Department of Transportation of the Commonwealth.

Provider—A vendor or person who installs and monitors ignition interlock equipment and who has the authority to verify vehicle ownership through access to the Department's vehicle records system.

Unrestricted license—A replacement license issued under 75 Pa.C.S. § 1951(d) (relating to driver's license and learner's permit) that does not contain the ignition interlock restriction.

§ 88.102. Installation of ignition interlock system.

(a) *General rule.* A person subject to 75 Pa.C.S. § 3805 (relating to ignition interlock) who seeks a restoration of operating privileges shall engage a provider, at the person's own expense, to install the ignition interlock systems required under 75 Pa.C.S. § 3805, and otherwise ensure compliance with this chapter.

(b) *Identification of owned vehicles.* The person seeking a restoration of operating privilege under 75 Pa.C.S. § 3805 shall submit to the provider a certification, on a form provided by the Department, that identifies each motor vehicle owned by the person or registered to the person. A vehicle is considered registered to a person under this chapter if Department records reflect that the vehicle is registered to a person or the person is otherwise designated as the registrant of the vehicle or named as the lessee of the vehicle under 75 Pa.C.S. § 1305 (relating to application for registration). The provider shall verify the accuracy of the facts in the person's certification through an inquiry to the Department's motor vehicle records system.

(c) *Installation and certification.* The provider shall install an ignition interlock system on each motor vehicle owned by the person or registered to the person and shall certify to the Department that the installation has been completed.

(d) *Installation not required.* Installation of an ignition interlock system is not required in the following situations:

(1) *No motor vehicles owned or registered.* If the person certifies to the provider, on a form provided by the Department, that there are no motor vehicles owned by the person or registered to the person, installation is not required on any motor vehicle.

(2) *Inoperable vehicles.* If the person certifies to the provider, on a form provided by the Department, that a motor vehicle owned or registered to the person is inoperable, installation is not required on the inoperable vehicle.

(3) *Verification.* The provider shall verify the accuracy of a certification submitted under paragraph (1) or (2) through an inquiry to the Department's motor vehicle records system and shall certify to the Department that the person is in compliance with this subsection.

(e) *Economic hardship exemption.* A person will be exempt from the requirement to install an ignition interlock system on each of the person's motor vehicles if the person demonstrates that the requirement will result in undue financial hardship.

(1) Undue financial hardship shall be demonstrated only by one of the following:

(i) Evidence on the person's most recently filed Federal Income Tax return showing an adjusted gross household income below 200% of the poverty guidelines issued for that tax year by the United States Department of Health and Human Services for the person's family size.

(ii) Documentation of participation in a governmental assistance program included on a list of applicable programs published by the Department in the *Pennsylvania Bulletin*.

(2) The person shall submit to the provider an application for a hardship exemption on a form provided by the Department along with the required documentation.

(3) The provider shall review the required documentation to confirm that it meets the requirements of paragraph (1).

(4) The provider shall then install an ignition interlock system on only one vehicle owned by the person or registered to the person, forward the application to the Department, and certify to the Department that the person has complied with this section.

Cross References

This section cited in 67 Pa. Code § 88.103 (relating to maintenance of ignition interlock system); and 67 Pa. Code § 88.104 (relating to removal of ignition interlock system).

§ 88.103. Maintenance of ignition interlock system.

(a) *General rule.* The person shall make any vehicles on which an ignition interlock system is installed available for regularly scheduled maintenance by the provider.

(b) *Additional vehicles.* As part of each regularly scheduled maintenance check of the ignition interlock system, the provider shall, through an inquiry to the Department's motor vehicle record's system, verify that no additional vehicles are owned by or registered to the person. Unless the person has been granted an economic hardship exemption under § 88.102(e) (relating to installation of ignition interlock system), if any additional vehicles are owned by or registered to the person, the provider shall, at the person's expense, install and maintain an ignition interlock system on the vehicles.

(c) *Notification of noncompliance.* If the person fails to comply with any provision of this section, the provider shall notify the Department of the person's noncompliance.

§ 88.104. Removal of ignition interlock system.

(a) *General rule.* An ignition interlock system installed in a motor vehicle under this chapter may not be removed from the vehicle unless one of the following occurs:

(1) The motor vehicle is no longer owned by or registered to the person who engaged the provider to install the ignition interlock system.

(2) The person has been issued an unrestricted license by the Department under 75 Pa.C.S. § 3805(c) (relating to ignition interlock).

(3) The provider has certified compliance with § 88.102(e) (relating to installation of ignition interlock system) to the Department and the provider has installed an ignition interlock system on another motor vehicle owned by the person or registered to the person.

(4) The person is no longer a resident of this Commonwealth and has been issued a valid license from the state of current residency.

(b) *Unauthorized removal.* If a person removes an ignition interlock system, or directs a provider to remove an ignition interlock system, under circumstances not provided for in this section, the provider shall notify the Department of the person's noncompliance.

§ 88.105. Recall and reissuance of ignition interlock restricted license.

(a) *Recall.* Upon receipt of notification from a provider of a person's noncompliance with any provision of this chapter, the Department may recall the person's ignition interlock restricted license.

(b) *Reissuance.* After receiving a new certification from a provider of compliance with this chapter by the person, the Department may reissue an ignition interlock restricted license to the person, and the person shall complete the balance of the ignition interlock restricted license period previously imposed before an unrestricted license will be issued.

§ 88.106. Issuance of unrestricted license.

(a) *General rule.* Upon completion of the ignition interlock restricted license period, a person who has been issued an ignition interlock restricted license may apply to the Department for issuance of an unrestricted license on a form provided by the Department.

(b) *Pending charges.* A person applying for an unrestricted license shall notify the Department on the application of any convictions and pending charges of illegally operating a motor vehicle not equipped with an ignition interlock, including all convictions and charges of tampering with an ignition interlock system, in violation of 75 Pa.C.S. § 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock), for a violation within the preceding 12 months. If the person notifies the Department of a pending charge, or of a conviction that has not yet been reported to and processed by the Department, the Department will deny the application.

(c) *Cancellation of unrestricted license.* If the Department receives or processes a record of a person's first conviction of violating 75 Pa.C.S. § 3808 after issuing an unrestricted license to the person, the Department will cancel the person's unrestricted license and will issue an ignition interlock restricted license to the person after receiving a new certification from a provider of the person's compliance with this chapter.

§ 88.107. Issuance of license to a person restricted by another state.

A person who has been issued a license with an ignition interlock restriction by another state, and who is otherwise eligible for issuance of a license under 75 Pa.C.S. § 1508(b) (relating to examination of applicant for driver's license), may apply for an ignition interlock restricted license from the Department in accordance with this chapter. The person shall become eligible for issuance of an unrestricted license only after serving an ignition interlock restricted license period of 1 year. If the person can provide documentation from the state that initially imposed the ignition interlock restriction satisfactory to the Department showing the amount of time that the person has been subject to the ignition interlock restriction, the person will be given credit against the ignition interlock restricted license period imposed with the Pennsylvania license.

§ 88.108. Ignition interlock for nonresidents.

A person who is required to comply with 75 Pa.C.S. § 3805 (relating to ignition interlock), but is not a resident of this Commonwealth at the time when the person seeks a restoration of operating privileges, shall submit an affidavit and supporting documents to the Department indicating the person's state of residence. If the Department determines that the person is not a resident of this Commonwealth and the person has met all other restoration requirements, the person's driving privilege may be restored. If, however, the person should become a resident of this Commonwealth during the ignition interlock restricted license period, the person will not be issued an unrestricted license until the person complies with 75 Pa.C.S. § 3805 and this chapter.

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