

DEPARTMENT OF TRANSPORTATION

Adoption of Chapter 19-147
Hawaii Administrative Rules

January 4, 2011

SUMMARY

Chapter 19-147, Hawaii Administrative Rules,
entitled "Ignition Interlock Devices", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 5

MOTOR VEHICLE SAFETY OFFICE

CHAPTER 147

IGNITION INTERLOCK DEVICES

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§19-147-1 Purpose. The purpose of this chapter is to establish a statewide program for the certification, installation, maintenance, monitoring and removal of ignition interlock devices pursuant to HRS section 291E-6. [Eff FEB 14 2011] (Auth: HRS §291E-6) (Imp: HRS §291E-6)

§19-147-2 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Alcohol" means the product of distillation of any fermented liquid, regardless of whether rectified, whatever may be the origin thereof, and includes ethyl alcohol, lower aliphatic alcohol, and phenol as well as synthetic ethyl alcohol, but not denatured or other alcohol that is considered not potable under the customs laws of the United States.

"Alcohol concentration" means either grams of alcohol per one hundred milliliters or cubic centimeters of blood or grams of alcohol per two hundred ten liters of breath.

"Department" means the department of transportation of the State of Hawaii.

"Director" means the director of the department or his or her authorized representative.

"HRS" means Hawaii Revised Statutes.

"Ignition interlock device" means a device certified by the director of transportation and approved for use pursuant to HRS section 291E-6 and rules adopted thereunder that, when affixed to the ignition system of a motor vehicle, prevents the vehicle from being started without first testing, and thereafter from being operated without periodically retesting, a deep-lung breath sample of the person required to use the device that indicates the person's alcohol concentration is less than .02.

[Eff FEB 14 2011] (Auth: HRS §291E-6) (Imp: HRS §291E-6)

§19-147-3 Statewide program for the certification, installation, maintenance, monitoring and removal of ignition interlock devices. (a) The director shall establish and administer a statewide program for the certification, installation, maintenance, monitoring and removal of ignition interlock devices. This program will have the following components:

- (1) Selection of the vendor;
 - (2) Procedures and standards for the certification of the vendor;
 - (3) Responsibilities of the vendor;
 - (4) Procedures for the certification of ignition interlock devices;
 - (5) Standards for the certification of ignition interlock devices; and
 - (6) Audit of the vendor.
- (b) The details of these components are set forth in the following sections. [Eff FEB 14 2011]
(Auth: HRS §291E-6) (Imp: HRS §291E-6)

§19-147-4 Selection of the vendor. The director shall select a single vendor to certify, install, maintain, monitor and remove ignition interlock devices. [Eff FEB 14 2011] (Auth: HRS §291E-6)
(Imp: HRS §291E-6)

§19-147-5 Procedures and standards for the certification of the vendor. (a) The director shall issue a solicitation in accordance with state procurement rules to contract with a vendor to certify, install, maintain, monitor and remove ignition interlock devices pursuant to HRS chapter 291E.

- (b) The certification of the vendor shall be accomplished during the solicitation process.
- (1) The certification procedures shall be set forth during the solicitation process.
 - (2) The certification standards are set forth in subsection (c).
- (c) The vendor shall:
- (1) Have the knowledge and experience to certify, install, maintain, monitor and remove ignition interlock devices;

- (2) Be certified by the manufacturer to install, maintain, monitor and remove the ignition interlock devices;
 - (3) Install only ignition interlock devices that are certified pursuant to this chapter;
 - (4) Install, maintain, monitor and remove ignition interlock devices statewide;
 - (5) Provide training on use of the ignition interlock devices to drivers who are required to have an ignition interlock device issued pursuant to HRS chapter 261E;
 - (6) Schedule the driver for all necessary readings and maintenance of the device; and
 - (7) Provide periodic reports on the use of each ignition interlock device installed pursuant to HRS chapter 291E; the report shall include data such as:
 - (A) All attempts to circumvent the device;
 - (B) All attempts to tamper with the device;
 - (C) All attempts to start the vehicle without first taking an initial breath test;
 - (D) All attempts to continue driving the vehicle without taking a random retest;
 - (E) The date, time, alcohol concentration of the driver and success or failure of each random retest;
 - (F) The total number of events recorded by the data recorder since the last service visit; and
 - (G) The total number of vehicle starts.
- [Eff FEB 14 2011] (Auth: HRS §291E-6) (Imp: HRS §291E-6)

§19-147-6 Responsibilities of the vendor.

- (a) The vendor shall be responsible for the certification, installation, maintenance, monitoring and removal of ignition interlock devices.

(b) The responsibilities of the vendor shall be set forth in detail in the terms and conditions of the contract.

(c) The vendor shall comply with the provisions of this chapter and applicable laws, rules, policies and procedures of the State of Hawaii.

(d) The vendor shall provide partial financial relief for the installation and the periodic calibration charges to offenders who apply for such assistance, and who are recipients, at the time of license revocation or suspension, of:

- (1) Food stamps under the Supplemental Nutrition Assistance Program; or
- (2) Free services under the Older Americans Act or Developmentally Disabled Assistance and Bill of Rights Act. [Eff FEB 14 2011]
(Auth: HRS §§291E-5, 291E-6) (Imp: HRS §§291E-5, 291E-6)

§19-147-7 Procedures for the certification of ignition interlock devices. (a) All ignition interlock devices used pursuant to HRS chapter 291E must be approved by the director.

(b) The vendor shall arrange for the certification of the ignition interlock devices, and provide the director with the following documents:

- (1) The name and address of the ignition interlock device manufacture (if the vendor is not the manufacturer).
- (2) The name and model number of the ignition interlock device.
- (3) A detailed description of the device including technical specifications, installation and operational instructions, and capabilities of the device.
- (4) Certification from an independent laboratory that the ignition interlock device has been tested in accordance with current model specifications published by the National

Highway Traffic Safety Administration, and that the ignition interlock device meets or exceeds those specifications. The certification report shall include:

- (A) The name and location of the testing laboratory;
 - (B) The address and phone number of the testing laboratory;
 - (C) A description of the tests performed;
 - (D) Copies of the data and results of the testing procedures; and
 - (E) Names and qualifications of the individuals performing the tests.
- (5) A notarized affidavit from the manufacturer of the device certifying that the vendor is an authorized manufacturer's representative (if the vendor is not the manufacturer).
- (c) All ignition interlock devices approved by the director shall have affixed to it a warning label that reads as follows: "WARNING: Any person circumventing, tampering with, or otherwise misusing this device is guilty of a violation of law and may be subject to a fine, imprisonment or other penalty."
- (1) The cost and supply of the warning labels shall be borne by the manufacturer.
 - (2) The manufacturer shall submit a prototype of the warning label to the director for approval. [Eff FEB 14 2011] (Auth: HRS §291E-6) (Imp: HRS §291E-6)

§19-147-8 Standards for the certification of ignition interlock devices. All ignition interlock devices used pursuant to HRS chapter 291E shall be certified by an independent laboratory that they meet or exceed the model specifications published in the Federal Register by the National Highway Traffic Safety Administration. At minimum, the standards shall require that the devices:

- (1) Operate using an alcohol-specific technology;
- (2) Employ a digital camera by which a photograph of the person using the device can be incorporated into the electronic record generated by each use of the device;
- (3) Require a rolling retest by which the driver must, within a specified period of time or distance after starting the vehicle, be retested and found to have an alcohol concentration of less than .02 with a margin of error of .01.
- (4) Have the capability to prevent the normal operation of the motor vehicle by an offender who fails to retest;
- (5) Generate a record of vehicular usage, including dates and times driven;
- (6) Be capable of random retesting and timed retesting;
- (7) Minimize opportunities to be bypassed, circumvented or tampered with;
- (8) Correlate accurately with established measures of blood alcohol content and be calibrated according to the manufacturer's specifications;
- (9) Indicate when a sufficient sample of breath has been collected and shall indicate this by audible or visual means;
- (10) Work accurately and reliably in an unsupervised environment;
- (11) Minimize inconvenience to others;
- (12) Issue a warning of impending lockout; and
- (13) Be manufactured by an entity which is adequately insured against liability.

[Eff FEB 14 2011] (Auth: HRS §291E-6)
 (Imp: HRS §291E-6)

§19-147-9 Audit of the vendor. (a) The director shall audit the vendor annually to ensure

compliance with the terms and conditions of the contract and provisions of this chapter.

(b) The vendor shall pay for the costs incurred in conducting the audit. [Eff FEB 14 2011] (Auth: HRS §291E-6) (Imp: HRS §291E-6)

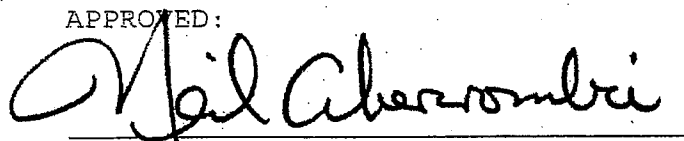
§19-147-10 Severability. The provisions of this chapter are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of this chapter shall not be affected. [Eff FEB 14 2011] (Auth: HRS §291E-6) (Imp: HRS §291E-6)

DEPARTMENT OF TRANSPORTATION

Chapter 19-147, Hawaii Administrative Rules, on the Summary Page dated January 4, 2011, was adopted on January 4, 2011, following public hearings held on November 15, 16, 17, 18 and 22, 2010, after public notice was given in the Honolulu Star-Advertiser, Maui News, West Hawaii Today, Garden Island and Hawaii Tribune-Herald on October 7, 2010.

The adoption of Chapter 19-147, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.


GLENN M. OKIMOTO
Interim Director of Transportation

APPROVED:

NEIL ABERCROMBIE
Governor
State of Hawaii

Date: 1-25-11

Filed

APPROVED AS TO FORM:


Deputy Attorney General