

RCW 46.20.720 Ignition interlock device restriction—For whom—Duration—Removal requirements—Credit—Employer exemption—Fee. (1) **Ignition interlock restriction.** The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device:

(a) **Pretrial release.** Upon receipt of notice from a court that an ignition interlock device restriction has been imposed under RCW 10.21.055;

(b) **Ignition interlock driver's license.** As required for issuance of an ignition interlock driver's license under RCW 46.20.385;

(c) **Deferred prosecution.** Upon receipt of notice from a court that the person is participating in a deferred prosecution program under RCW 10.05.020 for a violation of:

(i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
or

(ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person would be required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person in the event of a conviction;

(d) **Post conviction.** After any applicable period of mandatory suspension, revocation, or denial of driving privileges, or upon fulfillment of day-for-day credit under RCW 46.61.5055(9) (b) (ii) for a suspension, revocation, or denial of driving privileges:

(i) Due to a conviction of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance;
or

(ii) Due to a conviction of a violation of RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person; or

(e) **Court order.** Upon receipt of an order by a court having jurisdiction that a person charged or convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific alcohol set point at which the ignition interlock will prevent the vehicle from being started. The court shall also establish the period of time for which ignition interlock use will be required.

(2) **Alcohol set point.** Unless otherwise specified by the court for a restriction imposed under subsection (1)(e) of this section, the ignition interlock device shall have an alcohol set point that prevents the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.020 or more.

(3) **Duration of restriction.** A restriction imposed under:

(a) Subsection (1)(a) of this section shall remain in effect until:

(i) The court has authorized the removal of the device under RCW 10.21.055; or

(ii) The department has imposed a restriction under subsection (1)(b), (c), or (d) of this section arising out of the same incident.

(b) Subsection (1)(b) of this section remains in effect during the validity of any ignition interlock driver's license that has been issued to the person.

(c) Subsection (1)(c)(i) or (d)(i) of this section shall be for no less than:

(i) For a person who has not previously been restricted under this subsection, a period of one year;

(ii) For a person who has previously been restricted under (c) (i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (c) (ii) of this subsection, a period of ten years.

The restriction of a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who committed the offense while one or more passengers under the age of sixteen were in the vehicle shall be extended for an additional period as required by RCW 46.61.5055(6) (a).

(d) Subsection (1) (c) (ii) or (d) (ii) of this section shall be for a period of no less than six months.

(e) The period of restriction under (c) or (d) of this subsection shall be extended by one hundred eighty days whenever the department receives notice that the restricted person has been convicted under RCW 46.20.740 or 46.20.750. If the period of restriction under (c) or (d) of this subsection has been fulfilled and cannot be extended, the department must add a new one hundred eighty-day restriction that is imposed from the date of conviction and is subject to the requirements for removal under subsection (4) of this section.

(f) Subsection (1) (e) of this section shall remain in effect for the period of time specified by the court.

(g) The period of restriction under (c) and (d) of this subsection based on incidents occurring on or after June 9, 2016, must be tolled for any period in which the person does not have an ignition interlock device installed on a vehicle owned or operated by the person unless the person receives a determination from the department that the person is unable to operate an ignition interlock device due to a physical disability. The department's determination that a person is unable to operate an ignition interlock device must be reasonable and be based upon good and substantial evidence. This determination is subject to review by a court of competent jurisdiction. The department may charge a person seeking a medical exemption under this subsection a reasonable fee for the assessment.

(4) **Requirements for removal.** A restriction imposed under subsection (1) (c) or (d) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying the following:

(a) That there have been none of the following incidents in the one hundred eighty consecutive days prior to the date of release:

(i) Any attempt to start the vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples;

(ii) Failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test;

(iii) Failure to pass any random retest with a breath alcohol concentration of lower than 0.020 unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.020, and the digital image confirms the same person provided both samples;

(iv) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device; or

(v) Removal of the ignition interlock device by a person other than an ignition interlock technician certified by the Washington state patrol; and

(b) That the ignition interlock device was inspected at the conclusion of the one hundred eighty-day period by an ignition interlock technician certified by the Washington state patrol and no evidence was found that the device was tampered with in the manner described in RCW 46.20.750.

(5) **Day-for-day credit.** (a) The time period during which a person has an ignition interlock device installed in order to meet the requirements of subsection (1)(b) of this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident.

(b) The department must also give the person a day-for-day credit for any time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates, other than those subject to the employer exemption under subsection (6) of this section.

(c) If the day-for-day credit granted under this subsection equals or exceeds the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident, and the person has already met the requirements for removal of the device under subsection (4) of this section, the department may waive the requirement that a device be installed or that the person again meet the requirements for removal.

(6) **Employer exemption.** (a) Except as provided in (b) of this subsection, the installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to chapter 5.50 RCW from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. When the department receives a declaration under this subsection, it shall attach or imprint a notation on the person's driving record stating that the employer exemption applies.

(b) The employer exemption does not apply when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.

(7) **Ignition interlock device revolving account.** In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of twenty-one dollars per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional fee to the department to be deposited into the ignition interlock device revolving account, except that the company may retain twenty-five cents per month of the additional fee to cover the expenses associated with administering the fee. The department may waive the monthly fee if the person is indigent under RCW 10.101.010.

(8) **Foreign jurisdiction.** For a person restricted under this section who is residing outside of the state of Washington, the department may accept verification of installation of an ignition interlock device by an ignition interlock company authorized to do business in the jurisdiction in which the person resides, provided the device meets any applicable requirements of that jurisdiction. The department may waive one or more requirements for removal under subsection (4) of this section if compliance with the requirement or requirements would be impractical in the case of a person residing in another jurisdiction, provided the person is in compliance with any equivalent requirement of that jurisdiction. The department may waive the monthly fee required by subsection (7) of this section if collection of the fee would be impractical in the case of a person residing in another jurisdiction. [2020 c 330 § 10; 2019 c 232 § 22; 2017 c 336 § 5; 2016 c 203 § 14; 2013 2nd sp.s. c 35 § 19; 2012 c 183 § 9; 2011 c 293 § 6; 2010 c 269 § 3; 2008 c 282 § 12; 2004 c 95 § 11; 2003 c 366 § 1; 2001 c 247 § 1; 1999 c 331 § 3; 1998 c 210 § 2; 1997 c 229 § 8; 1994 c 275 § 22; 1987 c 247 § 2.]

Effective date—2020 c 330: See note following RCW 9.94A.729.

Finding—2017 c 336: See note following RCW 9.96.060.

Effective date—2012 c 183: See note following RCW 9.94A.475.

Effective date—2011 c 293 §§ 1-9: See note following RCW 46.20.385.

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2008 c 282: See note following RCW 46.20.308.

Effective date—1999 c 331: See note following RCW 9.94A.525.

Short title—1998 c 210: "This act may be known and cited as the Mary Johnsen Act." [1998 c 210 § 1.]

Finding—Intent—1998 c 210: "The legislature finds that driving is a privilege and that the state may restrict that privilege in the interests of public safety. One such reasonable restriction is requiring certain individuals, if they choose to drive, to drive only vehicles equipped with ignition interlock devices. The legislature further finds that the costs of these devices are minimal and are affordable. It is the intent of the legislature that these devices be paid for by the drivers using them and that neither the state nor entities of local government provide any public funding for this purpose." [1998 c 210 § 7.]

Effective date—1998 c 210: "This act takes effect January 1, 1999." [1998 c 210 § 9.]

Effective date—1997 c 229: See note following RCW 10.05.090.

Short title—Effective date—1994 c 275: See notes following RCW 46.04.015.