

Motor Vehicle Division Policy Memo # 23-01

IID requirements for repeat offenders

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FROM: Kathleen Meradith-Eyers, MVD Compliance Officer

TO: All Motor Vehicle Division staff, Iowa County Treasurers, and County Treasurers' staff that process license sanctions or issue driver's licenses and non-operator's identification cards

SUBJECT

This memo clarifies the ignition interlock device (IID) requirements for individuals who have committed more than one operating while intoxicated (OWI) offense, often known as "repeat" or "subsequent" offenders.

BACKGROUND

Iowa law establishes different IID requirements for OWI offenders based on whether the offense is their first offense or they have previously committed another OWI offense. A first offender must only install an IID on vehicles they operate while they hold a temporary restricted license (TRL). In contrast, a repeat offender must install an IID on all vehicles they own *or* operate for a minimum of one year, regardless of whether they seek a TRL while they are serving the revocation. Additionally, Iowa law requires that an OWI offense be purged from a person's record once it has been 12 years from the date of conviction or the end date of the revocation. Accordingly, a person who has committed multiple OWIs throughout their lifetime could show only one OWI on their driving record.

EXPLANATION

After closely reviewing Iowa law and conferring with DOT legal counsel, this guidance seeks to clarify that **any person serving a revocation for an OWI that was considered a repeat offense at the time of the incident (even if the first OWI has since been purged off their record) must maintain the IID for one year following reinstatement on both owned and operated vehicles.**

This means that when determining a person's IID requirements, staff must closely look at the most recent OWI offense to determine whether it is a first or repeat offense **based on the revocation code number and length, and not solely on the number of OWI offenses currently visible on the record.** This is because OWI offense(s) that were on the record when the most recent OWI was committed may have since been purged from the record, and we are required by law to determine IID requirements based on whether the person was considered a first or repeat offender at the time of the offense, not based on the current driving record.

The revocation code and length will tell you whether the most recent OWI is considered a first offense or repeat offense for purposes of IID requirements. Administrative revocations can be decoded as follows:

180-day REV 84 = first offense	1-year REV 84 = repeat offense
1-year REV 44 = first offense	2-year REV 44 = repeat offense

Conviction-based revocations may require some research into the record to determine if the most recent offense was a first or repeat offense:

180-day REV 62 = first offense	1-year REV 62 <i>test failure</i> = repeat offense*
1-year REV 62 <i>test refusal</i> = first offense*	2-year REV 62 = repeat offense
90-day REV 70 = first offense (repeat offenders aren't eligible for deferred judgments)	

We recognize that the imposition and determination of IID requirements can be extremely complex. The bottom line is: **if the most recent OWI was treated as a repeat offense at the time the offense occurred, the repeat offender IID requirements apply (1-year installation on owned or operated vehicles).**

*If you cannot determine whether these conviction-based revocations are a first or repeat offense by examining the record, the documents in ERMS, the ACD code, and Iowa Courts Online, it is acceptable to rely on the number of OWIs on the record at the present time to determine IID requirements.

NOTE: We have also revised IM 21-21, which explains 2021 legislation concerning IID requirements, to reflect this change in policy.

PRIOR POLICY

To identify what IID requirements applied to a customer, staff determined whether a person was a first or repeat offender based on how many OWI revocations were on the record at the time of reinstatement.

NEW POLICY

To identify what IID requirements apply to a customer, staff must determine whether the person is a first or repeat offender based on the revocation code number and length (i.e., one year REV 84 = repeat offense), and not solely on the number of OWI offenses visible on the record at the time of reinstatement.

QUESTIONS AND ANSWERS:

HOW CAN WE TELL IF AN OWI IS A REPEAT OFFENSE IF THE PRIOR OWI(S) HAVE FALLEN OFF THE RECORD?

The revocation code and length will tell you whether the most recent OWI is considered a first offense or repeat offense. Here are some examples of administrative OWI revocations that are repeat offenses:

This customer’s OWI revocation is coded as a **REV 84** (administrative test failure) and lasts for **one year**. Therefore, we know that it is a **repeat offense** regardless of whether there are any prior OWI revocations on the record.

REV084	09/12/2022	09/11/2023		Pending
IC84	05/30/2022			
Hearing	06/01/2022	08/23/2022		Uphold As Is
Probation	09/12/2023	09/10/2024		

This customer’s OWI is coded as a **REV 44** (administrative test refusal) and lasts for **two years**. Therefore, we know that it is a **repeat offense** regardless of whether there are any other OWI revocations on the record.

REV044	10/05/2022	10/04/2024		IA
IC44	09/24/2022			IA/77
Probation	10/05/2024	10/04/2025		

In contrast, the following customers’ OWIs are considered first offenses based on the length of the revocations and revocation codes:

This customer's OWI is coded as a **REV 84** (administrative test failure) and lasts for **180 days**. Therefore, we know that it is a **first offense**.

pe	Start Date	End Date	Reinstate Date	JUR/CO
REV084	10/05/2022	04/02/2023		IA
IC84	09/24/2022			IA/77

This customer's OWI is coded as a **REV 44** (administrative test refusal) and lasts for **one year**. Therefore, we know that it is a **first offense**.

REV044	10/05/2022	10/04/2023		IA
IC44	09/24/2022			IA/31
Probation	10/05/2023	10/03/2024		

This customer's OWI is coded as a **REV 44** (administrative test refusal) and lasts for **approximately one year**, minus credit given for time served during the appeal process. Therefore, we know that it is a **first offense**.

REV044	05/09/2022	04/29/2023		Active
IC44	10/27/2021			
Hearing	11/02/2021	03/07/2022		Uphold As Is
Hearing	03/21/2022	04/18/2022		Uphold As Is
Probation	04/30/2023	04/28/2024		

WHAT ARE THE SECTIONS OF IOWA LAW THAT DETERMINE THIS POLICY?

Iowa Code section 321J.17(3) related to IID requirements for repeat offenders states:

The department shall also require certification of installation of an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by any person seeking reinstatement following a second or subsequent revocation under section 321J.4, 321J.9, or 321J.12. The requirement for the installation of an approved ignition interlock device shall be for one year from the date of reinstatement unless a longer time period is required by statute. The one-year period a person is required to maintain an ignition interlock device under this subsection shall be reduced by any period of time the person held a valid temporary restricted license during the period of the revocation for the occurrence from which the arrest arose.

Iowa Code section 321J.20(2) related to IID requirements for first and repeat offenders seeking a TRL states:

A temporary restricted license issued under this section shall not be issued until the applicant installs an approved ignition interlock device on all motor vehicles owned or operated by the applicant. However, if the applicant has had no previous conviction or revocation under this chapter, a temporary restricted license issued under this section shall not be issued until the applicant installs an approved ignition interlock device on all motor vehicles operated by the applicant. Installation of an ignition interlock device under this section shall be required for the period of time for which the temporary restricted license is issued, and for such additional period of time following reinstatement as is required under section 321J.17, subsection 3.

WHAT IF WE CAN'T FIGURE OUT WHETHER AN OWI IS A FIRST OR REPEAT OFFENSE?

Sometimes, figuring out whether an OWI is a first or repeat offense will take some additional research. Contact your supervisor or the ACE team, who can assist in doing the extra digging (such as pulling revocation notices in ERMS or reviewing Iowa Courts Online records) to accurately issue the customer.

It is important that we accurately apply IID requirements to comply with Iowa's OWI law, even if it causes a bit of extra wait time for the customer. Issuing the customer correctly the first time is a better outcome than making an incorrect guess and having to cancel the customer's license and make them return to be re-issued.

Unfortunately, for conviction-based revocations (REV62) you may not be able to determine if it is a first or repeat offense even after digging into the record. In those cases, you may rely on the number of OWIs on the record at the present time to determine IID requirements.

WHAT IID REQUIREMENTS APPLY TO A "ZERO TOLERANCE" REVOCATION FOR UNDER-21 OFFENDERS (REV 121)?

Individuals serving a REV 121 are not eligible for a TRL, nor are they required by Iowa Code section 321J.17 to install an IID following reinstatement from a second offense. Therefore, the IID requirements don't apply to individuals serving a REV 121 for either a first or repeat offense.

APPENDIX: Quick-reference IID requirements

IID requirements apply based on how the most recent OWI was treated at the time the offense occurred, not based on how many OWIs are on the driving record when the customer is getting a TRL/reinstating. If the most recent OWI was treated as a repeat offense at the time the offense occurred, the repeat offender IID requirements apply (one-year installation on owned or operated vehicles) regardless of how many OWI revocations appear on the driving record.

First offense = IID required for duration of TRL in operated vehicles only

Repeat offense = IID required for duration of TRL and for 1 year following reinstatement (minus credit for any time the offender held a valid TRL with IID), in owned and operated vehicles

Sanction duration*	REV84 <i>Administrative test result</i>	REV44 <i>Administrative test refusal</i>	REV62 <i>Court conviction</i>	REV70 <i>Deferred judgment (conviction)</i>
60-day				
90-day				First
180-day	First		First	
1-year	Repeat	First	Refusal=first** Failure=repeat**	
2-year		Repeat	Repeat	
6-year			Repeat	

*Total duration may be somewhat reduced if the customer received credit for time served during the appeal process (e.g., a 180-day REV84 may show as 175 days due to 5 days’ credit for time served while the appeal request was processing)

**If you cannot determine whether a conviction-based revocation is a first or repeat offense by examining the record, the documents in ERMS, the ACD code, and Iowa Courts Online, it is acceptable to rely on the number of OWIs on the record at the present time to determine IID requirements.