

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 552

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-1203, IDAHO CODE, TO PROVIDE  
2 FOR RECORDS OF JUDGMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
3 SECTION 18-8002, IDAHO CODE, TO PROVIDE FOR BUSINESS DAYS, TO PROVIDE  
4 THAT CERTAIN FAILURE TO APPEAR AT OR TO REQUEST A HEARING SHALL BE CON-  
5 sidered a default judgment, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
6 SECTION 18-8002A, IDAHO CODE, TO PROVIDE FOR BUSINESS DAYS, TO PROVIDE  
7 THAT CERTAIN FAILURE TO APPEAR AT OR TO REQUEST A HEARING SHALL BE CON-  
8 sidered a default judgment, AND TO MAKE A TECHNICAL CORRECTION; AND  
9 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 49-1203, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 49-1203. COURTS TO REPORT NONPAYMENT OF JUDGMENTS -- NONRESI-  
15 DENTS. (1) Whenever any person fails within sixty (60) days to satisfy a  
16 judgment, it shall be the duty of the clerk of the court, or of the judge of a  
17 court, ~~which that~~ has no clerk, in which a judgment is rendered within this  
18 state, to forward to the department immediately after the expiration of the  
19 sixty (60) days, a ~~certified copy~~ record of the judgment.

20 (2) If the defendant named in any ~~certified copy~~ record of a judgment  
21 reported to the department is a nonresident, the department shall transmit  
22 a ~~certified copy~~ record of the judgment to the official in charge of the is-  
23 suance of drivers' licenses of the state ~~of which~~ the defendant is a resident  
24 of.

25 SECTION 2. That Section 18-8002, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 18-8002. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS  
28 OR OTHER INTOXICATING SUBSTANCES -- PENALTY AND SUSPENSION UPON REFUSAL OF  
29 TESTS. (1) Any person who drives or is in actual physical control of a motor  
30 vehicle in this state shall be deemed to have given his consent to eviden-  
31 tiary testing for concentration of alcohol as defined in section 18-8004,  
32 Idaho Code, and to have given his consent to evidentiary testing for the  
33 presence of drugs or other intoxicating substances, provided that such  
34 testing is administered at the request of a peace officer having reasonable  
35 grounds to believe that the person has been driving or was in actual physical  
36 control of a motor vehicle in violation of the provisions of section 18-8004  
37 or 18-8006, Idaho Code.

38 (2) Such person shall not have the right to consult with an attorney be-  
39 fore submitting to such evidentiary testing.

1 (3) At the time evidentiary testing for concentration of alcohol or for  
2 the presence of drugs or other intoxicating substances is requested, the  
3 person shall be informed that if he refuses to submit to or if he fails to  
4 complete evidentiary testing:

5 (a) He is subject to a civil penalty of two hundred fifty dollars (\$250)  
6 for refusing to take the test;

7 (b) He is subject to mandatory installation of a state-approved igni-  
8 tion interlock system, at his expense, on all of the motor vehicles op-  
9 erated by him for a period to end one (1) year following the end of the  
10 suspension period;

11 (c) He has the right to request a hearing within seven (7) business days  
12 to show cause why he refused to submit to or complete evidentiary test-  
13 ing;

14 (d) If he does not request a hearing or does not prevail at the hearing,  
15 the court shall sustain the civil penalty and shall order the required  
16 installation of a state-approved ignition interlock system on all motor  
17 vehicles operated by him and his driver's license will be suspended ab-  
18 solutely for one (1) year if this is his first refusal and two (2) years  
19 if this is his second refusal within ten (10) years;

20 (e) Provided however, if he is admitted to a problem solving court pro-  
21 gram and has served at least forty-five (45) days of an absolute sus-  
22 pension of driving privileges, then he may be eligible for a restricted  
23 permit for the purpose of getting to and from work, school or an alcohol  
24 treatment program, but only if a state-approved ignition interlock sys-  
25 tem has been installed, at his expense, on all motor vehicles operated  
26 by him; and

27 (f) After submitting to evidentiary testing, he may, when practicable,  
28 at his own expense, have additional tests made by a person of his own  
29 choosing.

30 (4) If the motorist refuses to submit to or complete evidentiary test-  
31 ing after the information has been given in accordance with subsection (3) of  
32 this section:

33 (a) He shall be fined a civil penalty of two hundred fifty dollars  
34 (\$250);

35 (b) The court shall direct the installation, at his expense, of a state-  
36 approved ignition interlock system meeting the requirements set forth  
37 in section 18-8008, Idaho Code, on all motor vehicles operated by him  
38 for a period of one (1) year following the end of the suspension period;

39 (c) A written request may be made within seven (7) calendar business  
40 days for a hearing before the court; if requested, the hearing must be  
41 held within thirty (30) days of the date of service unless this period  
42 is, for good cause shown, extended by the court for one (1) additional  
43 thirty (30) day period. The hearing shall be limited to the question  
44 of why the defendant did not submit to or complete evidentiary test-  
45 ing, and the burden of proof shall be ~~upon~~ on the defendant; the court  
46 shall sustain a two hundred fifty dollar (\$250) civil penalty immedi-  
47 ately, suspend all the defendant's driving privileges immediately for  
48 one (1) year for a first refusal and two (2) years for a second refusal  
49 within ten (10) years and direct the installation, at his expense, of a  
50 state-approved ignition interlock system meeting the requirements set

1       forth in section 18-8008, Idaho Code, on all motor vehicles operated by  
2       him for a period to end one (1) year following the end of the suspension  
3       period, unless it finds that the peace officer did not have legal cause  
4       to stop and request him to take the test or that the request violated his  
5       civil rights. Failure to appear at a requested hearing shall be consid-  
6       ered a default judgment against the defendant;

7       (d) If a hearing is not requested by written notice to the court con-  
8       cerned within seven (7) ~~calendar~~ business days, upon receipt of a sworn  
9       statement by the peace officer of the circumstances of the refusal, the  
10      court shall sustain a two hundred fifty dollar (\$250) civil penalty,  
11      suspend the defendant's driving privileges for one (1) year for a first  
12      refusal and two (2) years for a second refusal within ten (10) years,  
13      during which time he shall have absolutely no driving privileges of  
14      any kind, and direct the installation of a state-approved ignition in-  
15      terlock system, at his expense, meeting the requirements set forth in  
16      section 18-8008, Idaho Code, on all motor vehicles operated by him for  
17      a period to end one (1) year following the end of the suspension period.  
18      Failure to request a hearing shall be considered a default judgment  
19      against the defendant;

20      (e) Notwithstanding the provisions of paragraphs (c) and (d) of this  
21      subsection, if the defendant is enrolled in and is a participant in good  
22      standing in a drug court or mental health court approved by the supreme  
23      court drug court and mental health court coordinating committee under  
24      the provisions of chapter 56, title 19, Idaho Code, or other similar  
25      problem solving court utilizing community-based sentencing alterna-  
26      tives, then the defendant shall be eligible for restricted noncommer-  
27      cial driving privileges for the purpose of getting to and from work,  
28      school or an alcohol treatment program, which may be granted by the pre-  
29      siding judge of the drug court or mental health court or other similar  
30      problem solving court, provided that the defendant has served a period  
31      of absolute suspension of driving privileges of at least forty-five  
32      (45) days, that a state-approved ignition interlock system meeting the  
33      requirements set forth in section 18-8008, Idaho Code, is installed,  
34      at his expense, on all motor vehicles operated by him for a period to  
35      end one (1) year following the end of the suspension period and that the  
36      defendant has shown proof of financial responsibility as defined and  
37      in the amounts specified in section 49-117, Idaho Code, provided that  
38      the restricted noncommercial driving privileges and the requirement  
39      of a state-approved ignition interlock system may be continued if the  
40      defendant successfully completes the drug court, mental health court or  
41      other similar problem solving court, and that the court may revoke such  
42      privileges for failure to comply with the terms of probation or with the  
43      terms and conditions of the drug court, mental health court or other  
44      similar problem solving court program; and

45      (f) After submitting to evidentiary testing at the request of the peace  
46      officer, he may, when practicable, at his own expense, have additional  
47      tests made by a person of his own choosing. The failure or inability to  
48      obtain an additional test or tests by a person shall not preclude the ad-  
49      mission of results of evidentiary testing for alcohol concentration or  
50      for the presence of drugs or other intoxicating substances taken at the

1 direction of the peace officer unless the additional test was denied by  
2 the peace officer.

3 (5) Any sustained sanction under this section or section 18-8002A,  
4 Idaho Code, shall be a sanction separate and apart from any other sanction  
5 imposed for a violation of other Idaho motor vehicle codes or for a con-  
6 viction of an offense pursuant to this chapter and may be appealed to the  
7 district court.

8 (6) No hospital, hospital officer, agent, or employee, or health care  
9 professional licensed by the state of Idaho, whether or not such person has  
10 privileges to practice in the hospital in which a body fluid sample is ob-  
11 tained or an evidentiary test is made, shall incur any civil or criminal li-  
12 ability for any act arising out of administering an evidentiary test for al-  
13 cohol concentration or for the presence of drugs or other intoxicating sub-  
14 stances at the request or order of a peace officer in the manner described in  
15 this section and section 18-8002A, Idaho Code; provided that nothing in this  
16 section shall relieve any such person or legal entity from civil liability  
17 arising from the failure to exercise the community standard of care.

18 (a) This immunity extends to any person who assists any individual to  
19 withdraw a blood sample for evidentiary testing at the request or order  
20 of a peace officer, which individual is authorized to withdraw a blood  
21 sample under the provisions of section 18-8003, Idaho Code, regardless  
22 of the location where the blood sample is actually withdrawn.

23 (b) A peace officer is empowered to order an individual authorized in  
24 section 18-8003, Idaho Code, to withdraw a blood sample for evidentiary  
25 testing when the peace officer has probable cause to believe that the  
26 suspect has committed any of the following offenses:

27 (i) Aggravated driving under the influence of alcohol, drugs or  
28 other intoxicating substances as provided in section 18-8006,  
29 Idaho Code;

30 (ii) Vehicular manslaughter as provided in subsection (3) (a), (b)  
31 and (c) of section 18-4006, Idaho Code;

32 (iii) Aggravated operating of a vessel on the waters of the state  
33 while under the influence of alcohol, drugs or other intoxicating  
34 substances as provided in section 67-7035, Idaho Code; or

35 (iv) Any criminal homicide involving a vessel on the waters of the  
36 state while under the influence of alcohol, drugs or other intoxi-  
37 cating substances.

38 (c) Nothing herein shall limit the discretion of the hospital admin-  
39 istration to designate the qualified hospital employee responsible to  
40 withdraw the blood sample.

41 (d) The law enforcement agency that requests or orders withdrawal of  
42 the blood sample shall pay the reasonable costs to withdraw such blood  
43 sample, perform laboratory analysis, preserve evidentiary test re-  
44 sults, and testify in judicial proceedings. The court may order resti-  
45 tution pursuant to the provisions of section 18-8003(2), Idaho Code.

46 (e) The withdrawal of the blood sample may be delayed or terminated if:

47 (i) In the reasonable judgment of the hospital personnel, with-  
48 drawal of the blood sample may result in serious bodily injury to  
49 hospital personnel or other patients; or

1 (ii) The licensed health care professional treating the suspect  
2 believes the withdrawal of the blood sample is contraindicated be-  
3 cause of the medical condition of the suspect or other patients.

4 (7) "Actual physical control" as used in this section and section  
5 18-8002A, Idaho Code, shall be defined as being in the driver's position of  
6 the motor vehicle with the motor running or with the motor vehicle moving.

7 (8) Any written notice required by this section shall be effective upon  
8 mailing.

9 (9) For the purposes of this section and section 18-8002A, Idaho Code,  
10 "evidentiary testing" ~~shall mean~~ means a procedure or test or series of pro-  
11 cedures or tests, including the additional test authorized in subsection  
12 (10) of this section, utilized to determine the concentration of alcohol or  
13 the presence of drugs or other intoxicating substances in a person.

14 (10) A person who submits to a breath test for alcohol concentration,  
15 as defined in subsection (4) of section 18-8004, Idaho Code, may also be re-  
16 quested to submit to a second evidentiary test of blood or urine for the pur-  
17 pose of determining the presence of drugs or other intoxicating substances  
18 if the peace officer has reasonable cause to believe that a person was driv-  
19 ing under the influence of any drug or intoxicating substance or the combined  
20 influence of alcohol and any drug or intoxicating substance. The peace of-  
21 ficer shall state in his or her report the facts ~~upon~~ on which that belief is  
22 based.

23 (11) Notwithstanding any other provision of law to the contrary, the  
24 civil penalty imposed ~~under~~ pursuant to the provisions of this section must  
25 be paid, as ordered by the court, to the county justice fund or the county  
26 current expense fund where the incident occurred. If a person does not pay  
27 the civil penalty imposed as provided in this section within thirty (30) days  
28 of the imposition, unless this period has been extended by the court for good  
29 cause shown, the prosecuting attorney representing the political subdivi-  
30 sion where the incident occurred may petition the court in the jurisdiction  
31 where the incident occurred to file the order imposing the civil penalty as  
32 an order of the court. Once entered, the order may be enforced in the same  
33 manner as a final judgment of the court. In addition to the civil penalty,  
34 attorney's fees, costs and interest may be assessed against any person who  
35 fails to pay the civil penalty.

36 (12) Upon petition of the person required to install an ignition in-  
37 terlock device pursuant to subsection (4)(b) of this section, section  
38 18-8002A(4), 18-8005(1)(e), or 18-8008, Idaho Code, a court in its dis-  
39 cretion may relieve the person from the installation of the device where  
40 the court finds it clear and convincing that the person will not present a  
41 danger to the public or that there are exceptional or mitigating circum-  
42 stances demonstrating that installation of the device is unnecessary or  
43 unwarranted. Financial hardship, standing alone, is not an exceptional or  
44 mitigating circumstance. If no civil or criminal case is pending related  
45 to the order to install the ignition interlock device, a person may file a  
46 petition for relief in magistrate court under this section in his county  
47 of residence, or, if such person has no county of residence in Idaho, in  
48 Ada county, if such petition is filed within thirty (30) days of the order  
49 requiring the installation of the interlock device. While any petition for  
50 judicial review in district court or motion or petition before a magistrate

1 court is pending, the ignition interlock device requirement shall be stayed.  
2 The Idaho transportation department shall not be a party to any petition for  
3 interlock relief filed before a court. An order for relief from the instal-  
4 lation of the ignition interlock device from any court shall apply to all  
5 statutory ignition interlock requirements.

6 (13) A court may determine that an offender is eligible to utilize  
7 available funds from the court interlock device and electronic monitoring  
8 device fund, as outlined in section 18-8010, Idaho Code, for the instal-  
9 lation and operation of an ignition interlock device, based on evidence of  
10 financial hardship.

11 (14) As used in this section, "at his expense" includes the cost of ob-  
12 taining, installing, using and maintaining an ignition interlock system.

13 SECTION 3. That Section 18-8002A, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 18-8002A. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF  
16 DRUGS OR OTHER INTOXICATING SUBSTANCES -- SUSPENSION UPON FAILURE OF  
17 TESTS. (1) Definitions. As used in this section:

18 (a) "Actual physical control" means being in the driver's position of a  
19 motor vehicle with the motor running or with the vehicle moving.

20 (b) "Administrative hearing" means a hearing conducted by a hearing  
21 officer to determine whether a suspension imposed by the provisions of  
22 this section should be vacated or sustained.

23 (c) "Department" means the Idaho transportation department and, as the  
24 context requires, shall be construed to include any agent of the depart-  
25 ment designated by rule as hereinafter provided.

26 (d) "Director" means the director of the Idaho transportation depart-  
27 ment.

28 (e) "Evidentiary testing" means a procedure or test or series of proce-  
29 dures or tests utilized to determine the concentration of alcohol or the  
30 presence of drugs or other intoxicating substances in a person, includ-  
31 ing additional testing authorized by subsection (6) of this section. An  
32 evidentiary test for alcohol concentration shall be based on a formula  
33 of grams of alcohol per one hundred (100) cubic centimeters of blood,  
34 per two hundred ten (210) liters of breath, or per sixty-seven (67) mil-  
35 liliters of urine. Analysis of blood, breath or urine for the purpose  
36 of determining alcohol concentration shall be performed by a laboratory  
37 operated by the Idaho state police or by a laboratory approved by the  
38 Idaho state police under the provisions of approval and certification  
39 standards to be set by the Idaho state police, or by any other method ap-  
40 proved by the Idaho state police. Notwithstanding any other provision  
41 of law or rule of court, the results of any test for alcohol concentra-  
42 tion and records relating to calibration, approval, certification or  
43 quality control performed by a laboratory operated and approved by the  
44 Idaho state police or by any other method approved by the Idaho state po-  
45 lice shall be admissible in any proceeding in this state without the ne-  
46 cessity of producing a witness to establish the reliability of the test-  
47 ing procedure for examination.

48 (f) "Hearing officer" means a person designated by the department to  
49 conduct administrative hearings. The hearing officer shall have au-

1           thority to administer oaths, examine witnesses and take testimony,  
2           receive relevant evidence, issue subpoenas, regulate the course and  
3           conduct of the hearing and make a final ruling on the issues before him.

4           (g) "Hearing request" means a request for an administrative hearing on  
5           the suspension imposed by the provisions of this section.

6           (2) Information to be given. At the time of evidentiary testing for  
7           concentration of alcohol or for the presence of drugs or other intoxicating  
8           substances is requested, the person shall be informed that if the person re-  
9           fuses to submit to or fails to complete evidentiary testing, or if the per-  
10          son submits to and completes evidentiary testing and the test results indi-  
11          cate an alcohol concentration or the presence of drugs or other intoxicating  
12          substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code,  
13          the person shall be informed substantially as follows (but need not be in-  
14          formed verbatim):

15          If you refuse to submit to or if you fail to complete and pass eviden-  
16          tiary testing for alcohol or other intoxicating substances:

17          (a) The peace officer will issue a notice of suspension and you will be  
18          required to install, at your expense, a state-approved ignition inter-  
19          lock system on all motor vehicles you operate for a period to end one (1)  
20          year following the end of the suspension period;

21          (b) You have the right to request a hearing within seven (7) business  
22          days of the notice of suspension of your driver's license to show cause  
23          why you refused to submit to or to complete and pass evidentiary testing  
24          and why your driver's license should not be suspended;

25          (c) If you refused or failed to complete evidentiary testing and do not  
26          request a hearing before the court or do not prevail at the hearing, your  
27          driver's license will be suspended and you will be required to install,  
28          at your expense, a state-approved ignition interlock system on all mo-  
29          tor vehicles you operate for a period to end one (1) year following the  
30          end of the suspension period. The suspension will be for one (1) year if  
31          this is your first refusal. The suspension will be for two (2) years if  
32          this is your second refusal within ten (10) years. You will not be able  
33          to obtain a temporary restricted license during that period;

34          (d) If you complete evidentiary testing and fail the testing and do not  
35          request a hearing before the department or do not prevail at the hear-  
36          ing, your driver's license will be suspended and you will be required to  
37          install, at your expense, a state-approved ignition interlock system on  
38          all motor vehicles you operate for a period to end one (1) year following  
39          the end of the suspension period. This suspension will be for ninety  
40          (90) days if this is your first failure of evidentiary testing, but you  
41          may request restricted noncommercial vehicle driving privileges after  
42          the first thirty (30) days. The suspension will be for one (1) year  
43          if this is your second failure of evidentiary testing within five (5)  
44          years. You will not be able to obtain a temporary restricted license  
45          during that period;

46          (e) However, if you are admitted to a problem solving court program and  
47          have served at least forty-five (45) days of an absolute suspension of  
48          driving privileges, you may be eligible for a restricted permit for the  
49          purpose of getting to and from work, school or an alcohol treatment pro-

1 gram, but only if you install, at your expense, a state-approved igni-  
2 tion interlock system on all motor vehicles you operate;

3 (f) However, if you are admitted to a diversion program under section  
4 19-3509, Idaho Code, you may be eligible for a restricted permit for the  
5 purpose of getting to and from work, school, medical appointments, or  
6 a treatment program, but only if you install, at your expense, a state-  
7 approved ignition interlock system on all motor vehicles you operate;  
8 and

9 (g) After submitting to evidentiary testing, you may, when practica-  
10 ble, at your own expense, have additional tests made by a person of your  
11 own choosing.

12 (3) Rulemaking authority of the Idaho state police. The Idaho state po-  
13 lice may, pursuant to chapter 52, title 67, Idaho Code, prescribe by rule:

14 (a) What testing is required to complete evidentiary testing under this  
15 section; and

16 (b) What calibration or checking of testing equipment must be performed  
17 to comply with the department's requirements. Any rules of the Idaho  
18 state police shall be in accordance with the following: a test for alco-  
19 hol concentration in breath as defined in section 18-8004, Idaho Code,  
20 and subsection (1) (e) of this section will be valid for the purposes of  
21 this section if the breath alcohol testing instrument was approved for  
22 testing by the Idaho state police in accordance with section 18-8004,  
23 Idaho Code, at any time within ninety (90) days before the evidentiary  
24 testing. A test for alcohol concentration in blood or urine as defined  
25 in section 18-8004, Idaho Code, that is reported by the Idaho state po-  
26 lice or by any laboratory approved by the Idaho state police to perform  
27 this test will be valid for the purposes of this section.

28 (4) Suspension and ignition interlock system.

29 (a) Upon receipt of the sworn statement of a peace officer that there  
30 existed legal cause to believe a person had been driving or was in actual  
31 physical control of a motor vehicle while under the influence of alco-  
32 hol, drugs or other intoxicating substances and that the person submit-  
33 ted to a test and the test results indicated an alcohol concentration or  
34 the presence of drugs or other intoxicating substances in violation of  
35 section 18-8004, 18-8004C or 18-8006, Idaho Code, the department shall  
36 suspend the person's driver's license, driver's permit, driving privi-  
37 leges or nonresident driving privileges:

38 (i) For a period of ninety (90) days for a first failure of evi-  
39 dentiary testing under the provisions of this section. The  
40 first thirty (30) days of the suspension shall be absolute and the  
41 person shall have absolutely no driving privileges of any kind.  
42 Restricted noncommercial vehicle driving privileges applicable  
43 during the remaining sixty (60) days of the suspension may be re-  
44 quested as provided in subsection (9) of this section.

45 (ii) For a period of one (1) year for a second and any subsequent  
46 failure of evidentiary testing under the provisions of this sec-  
47 tion within the immediately preceding five (5) years. No driving  
48 privileges of any kind shall be granted during the suspension im-  
49 posed pursuant to this subparagraph.

1 The department shall also direct the installation, at the offender's  
2 expense, of a state-approved ignition interlock system meeting the re-  
3 quirements of section 18-8008, Idaho Code, on all motor vehicles oper-  
4 ated by the offender for a period to end one (1) year following the end of  
5 the suspension period.

6 The person may request an administrative hearing on the suspension as  
7 provided in subsection (7) of this section. Any right to contest the  
8 suspension shall be waived if a hearing is not requested as therein pro-  
9 vided.

10 (b) The suspension shall become effective thirty (30) days after ser-  
11 vice upon the person of the notice of suspension and notice of the re-  
12 quirement to install, at his expense, a state-approved ignition inter-  
13 lock system for a period to end one (1) year following the end of the sus-  
14 pension period. The notice shall be in a form provided by the department  
15 and shall state:

16 (i) The reason and statutory grounds for the suspension and the  
17 requirement to install the ignition interlock system;

18 (ii) The effective date of the suspension and the requirement to  
19 install the ignition interlock system;

20 (iii) The suspension periods to which the person may be subject as  
21 provided in paragraph (a) of this subsection;

22 (iv) The procedures for obtaining restricted noncommercial vehi-  
23 cle driving privileges;

24 (v) The rights of the person to request an administrative hear-  
25 ing on the suspension and that, if an administrative hearing is not  
26 requested within seven (7) business days of service of the notice  
27 of suspension and notice of the requirement to install the igni-  
28 tion interlock system, the right to contest the suspension shall  
29 be waived;

30 (vi) The procedures for obtaining an administrative hearing on  
31 the suspension;

32 (vii) The right to judicial review of the hearing officer's deci-  
33 sion on the suspension and the procedures for seeking such review.

34 (c) Notwithstanding the provisions of paragraph (a) (i) and (ii) of  
35 this subsection, a person who is enrolled in and is a participant in  
36 good standing in a drug court or mental health court approved by the  
37 supreme court drug court and mental health court coordinating commit-  
38 tee under the provisions of chapter 56, title 19, Idaho Code, or other  
39 similar problem solving court utilizing community-based sentencing  
40 alternatives shall be eligible for restricted noncommercial driving  
41 privileges for the purpose of getting to and from work, school or an al-  
42 cohol treatment program, which may be granted by the presiding judge of  
43 the drug court or mental health court or other similar problem solving  
44 court, provided that the offender has served a period of absolute sus-  
45 pension of driving privileges of at least forty-five (45) days, that a  
46 state-approved ignition interlock system is installed, at his expense,  
47 on all motor vehicles operated by him for a period to end one (1) year  
48 following the end of the suspension period and that the offender has  
49 shown proof of financial responsibility as defined and in the amounts  
50 specified in section 49-117, Idaho Code, provided that the restricted

1 noncommercial driving privileges may be continued if the offender  
2 successfully completes the drug court, mental health court or other  
3 similar problem solving court, and that the court may revoke such privi-  
4 leges for failure to comply with the terms of probation or with the terms  
5 and conditions of the drug court, mental health court or other similar  
6 problem solving court program.

7 (5) Service of suspension and ignition interlock system by peace of-  
8 ficer or the department. If the driver submits to evidentiary testing af-  
9 ter the information in subsection (2) of this section has been provided and  
10 the results of the test indicate an alcohol concentration or the presence  
11 of drugs or other intoxicating substances in violation of the provisions of  
12 section 18-8004, 18-8004C or 18-8006, Idaho Code:

13 (a) The peace officer shall, acting on behalf of the department, serve  
14 the person with a notice of suspension and notice of the requirement to  
15 install, at his expense, a state-approved ignition interlock system for  
16 a period to end one (1) year following the end of the suspension period  
17 in the form and containing the information required under subsection  
18 (4) of this section. The department may serve the person with a notice  
19 of suspension and the requirement to install the ignition interlock  
20 system if the peace officer failed to do so or failed to include the date  
21 of service as provided in subsection (4) (b) of this section.

22 (b) Within five (5) business days following service of a notice of sus-  
23 pension and notice of the requirement to install the ignition interlock  
24 system, the peace officer shall forward to the department a copy of the  
25 completed notice of suspension and notice of the requirement to install  
26 the ignition interlock system form upon which the date of service upon  
27 the driver shall be clearly indicated, a certified copy or duplicate  
28 original of the results of all tests for alcohol concentration, as shown  
29 by analysis of breath administered at the direction of the peace offi-  
30 cer, and a sworn statement of the officer, which may incorporate any  
31 arrest or incident reports relevant to the arrest and evidentiary test-  
32 ing setting forth:

33 (i) The identity of the person;

34 (ii) Stating the officer's legal cause to stop the person;

35 (iii) Stating the officer's legal cause to believe that the per-  
36 son had been driving or was in actual physical control of a motor  
37 vehicle while under the influence of alcohol, drugs or other in-  
38 toxicating substances in violation of the provisions of section  
39 18-8004, 18-8004C or 18-8006, Idaho Code;

40 (iv) That the person was advised of the consequences of taking and  
41 failing the evidentiary test as provided in subsection (2) of this  
42 section;

43 (v) That the person was lawfully arrested;

44 (vi) That the person was tested for alcohol concentration, drugs  
45 or other intoxicating substances as provided in this chapter, and  
46 that the results of the test indicated an alcohol concentration, and  
47 that the results of the test indicated an alcohol concentration or the  
48 presence of drugs or other intoxicating substances in viola-  
49 tion of the provisions of section 18-8004, 18-8004C or 18-8006,  
Idaho Code.

1 If an evidentiary test of blood or urine was administered rather than  
2 a breath test, the peace officer or the department shall serve the no-  
3 tice of suspension once the results are received. The sworn statement  
4 required in this subsection shall be made on forms in accordance with  
5 rules adopted by the department.

6 (c) The department may serve the person with a notice of suspension if  
7 the peace officer failed to issue the notice of suspension or failed to  
8 include the date of service as provided in subsection (4) (b) of this  
9 section.

10 (6) Additional tests. After submitting to evidentiary testing at the  
11 request of the peace officer, the person may, when practicable, at his own  
12 expense, have additional tests for alcohol concentration or for the presence  
13 of drugs or other intoxicating substances made by a person of his own choos-  
14 ing. The person's failure or inability to obtain additional tests shall not  
15 preclude admission of the results of evidentiary tests administered at the  
16 direction of the peace officer unless additional testing was denied by the  
17 peace officer.

18 (7) Administrative hearing on suspension. A person who has been served  
19 with a notice of suspension and notice of the requirement to install the ig-  
20 nition interlock system after submitting to an evidentiary test may request  
21 an administrative hearing on the suspension before a hearing officer desig-  
22 nated by the department. The hearing may be held only on the suspension and  
23 not on the requirement to install an ignition interlock system. The request  
24 for hearing shall be in writing and must be received by the department within  
25 seven (7) ~~calendar~~ business days of the date of service upon the person of  
26 the notice of suspension and notice of the requirement to install the igni-  
27 tion interlock system and shall include what issue or issues shall be raised  
28 at the hearing. The date on which the hearing request was received shall be  
29 noted on the face of the request. Failure to request a hearing or appear at a  
30 requested hearing shall be considered a default judgment against the defen-  
31 dant.

32 If a hearing is requested, the hearing shall be held within twenty (20)  
33 days of the date the hearing request was received by the department unless  
34 this period is, for good cause shown, extended by the hearing officer for a  
35 ten (10) day period. Such extension shall not operate as a stay of the sus-  
36 pension, notwithstanding an extension of the hearing date beyond such thirty  
37 (30) day period. Written notice of the date and time of the hearing shall  
38 be sent to the party requesting the hearing at least seven (7) business days  
39 prior to the scheduled hearing date. The department may conduct all hearings  
40 by telephone if each participant in the hearing has an opportunity to partic-  
41 ipate in the entire proceeding while it is taking place.

42 The hearing shall be recorded. The sworn statement of the arresting of-  
43 ficer and the copy of the notice of suspension and the notice of the require-  
44 ment to install the ignition interlock system issued by the officer shall  
45 be admissible at the hearing without further evidentiary foundation. The  
46 results of any tests for alcohol concentration or the presence of drugs or  
47 other intoxicating substances by analysis of blood, urine or breath adminis-  
48 tered at the direction of the peace officer and the records relating to cal-  
49 ibration, certification, approval or quality control pertaining to equip-  
50 ment utilized to perform the tests shall be admissible as provided in section

1 18-8004(4), Idaho Code. The arresting officer shall not be required to partici-  
2 cipate unless directed to do so by a subpoena issued by the hearing offi-  
3 cer.

4 The burden of proof shall be on the person requesting the hearing. The  
5 hearing officer shall not vacate the suspension unless he finds, by a prepon-  
6 derance of the evidence, that:

7 (a) The peace officer did not have legal cause to stop the person; or

8 (b) The officer did not have legal cause to believe the person had been  
9 driving or was in actual physical control of a vehicle while under the  
10 influence of alcohol, drugs or other intoxicating substances in viola-  
11 tion of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho  
12 Code; or

13 (c) The test results did not show an alcohol concentration or the pres-  
14 ence of drugs or other intoxicating substances in violation of section  
15 18-8004, 18-8004C or 18-8006, Idaho Code; or

16 (d) The tests for alcohol concentration, drugs or other intoxicating  
17 substances administered at the direction of the peace officer were not  
18 conducted in accordance with the requirements of section 18-8004(4),  
19 Idaho Code, or the testing equipment was not functioning properly when  
20 the test was administered; or

21 (e) The person was not informed of the consequences of submitting to ev-  
22 identary testing as required in subsection (2) of this section.

23 If the hearing officer finds that the person has not met his burden of proof,  
24 he shall sustain the suspension. The hearing officer shall make findings of  
25 fact and conclusions of law and shall enter an order vacating or sustaining  
26 the suspension. The findings of fact, conclusions of law and order entered  
27 by the hearing officer shall be considered a final order pursuant to the pro-  
28 visions of chapter 52, title 67, Idaho Code, except that motions for recon-  
29 sideration of such order shall be allowed and new evidence can be submitted.

30 The facts as found by the hearing officer shall be independent of the de-  
31 termination of the same or similar facts in the adjudication of any criminal  
32 charges arising out of the same occurrence. The disposition of those crim-  
33 inal charges shall not affect the suspension and the requirement to install  
34 the ignition interlock system required to be imposed under the provisions of  
35 this section. If a license is suspended under this section and the person is  
36 also convicted on criminal charges arising out of the same occurrence for a  
37 violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho  
38 Code, both the suspension under this section and the suspension imposed pur-  
39 suant to the provisions of section 18-8005 or 18-8006, Idaho Code, shall be  
40 imposed, but the periods of suspension shall run concurrently, with the to-  
41 tal period of suspension not to exceed the longer of the applicable suspen-  
42 sion periods, unless the court ordering the suspension in the criminal case  
43 orders to the contrary.

44 (8) Judicial review. A party aggrieved by the decision of the hear-  
45 ing officer may seek judicial review of the decision in the manner provided  
46 for judicial review of final agency action provided in chapter 52, title 67,  
47 Idaho Code. Any petition for relief from the installation of an ignition in-  
48 terlock device shall be filed in accordance with the provisions of section  
49 18-8002(12), Idaho Code. An order for relief from the installation of an ig-

1 nition interlock device from any court shall apply to all statutory ignition  
2 interlock requirements.

3 (9) Restricted noncommercial vehicle driving privileges. A person  
4 served with a notice of suspension for ninety (90) days pursuant to this  
5 section may apply to the department for restricted noncommercial vehicle  
6 driving privileges, to become effective after the thirty (30) day absolute  
7 suspension has been completed. The request may be made at any time after ser-  
8 vice of the notice of suspension. Restricted noncommercial vehicle driving  
9 privileges will be issued for the person to travel to and from work and for  
10 work purposes not involving operation of a commercial vehicle, to attend an  
11 alternative high school, work on a GED, for postsecondary education, or to  
12 meet the medical needs of the person or his family if the person is eligible  
13 for restricted noncommercial vehicle driving privileges. Any person whose  
14 driving privileges are suspended under the provisions of this chapter may be  
15 granted privileges to drive a noncommercial vehicle but shall not be granted  
16 privileges to operate a commercial motor vehicle.

17 (10) As used in this section, "at his expense," "at your expense" and "at  
18 the offender's expense" include the cost of obtaining, installing, using and  
19 maintaining an ignition interlock system.

20 (11) Rules. The department may adopt rules ~~under~~ pursuant to the provi-  
21 sions of chapter 52, title 67, Idaho Code, deemed necessary to implement the  
22 provisions of this section.

23 SECTION 4. An emergency existing therefor, which emergency is hereby  
24 declared to exist, this act shall be in full force and effect on and after  
25 July 1, 2026.