*** § 1198. Installation and operation of ignition interlock devices.** 1. Applicability. The provisions of this section shall apply throughout the state to each person required or otherwise ordered by a court as a condition of probation or conditional discharge to install and operate an ignition interlock device in any vehicle which he or she owns or operates.

2. Requirements. (a) In addition to any other penalties prescribed by law, the court shall require that any person who has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this article is an essential element, to install and maintain, as a condition of probation or conditional discharge, a functioning ignition interlock device in accordance with the provisions of this section and, as applicable, in accordance with the provisions of subdivisions one and one-a of section eleven hundred ninety-three of this article; provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked except as provided herein. For any such individual subject to a sentence of probation, installation and maintenance of such ignition interlock device shall be a condition of probation.

(b) Nothing contained in this section shall prohibit a court, upon application by a probation department, from modifying the conditions of probation of any person convicted of any violation set forth in paragraph (a) of this subdivision prior to the effective date of this section, to require the installation and maintenance of a functioning ignition interlock device, and such person shall thereafter be subject to the provisions of this section.

(c) Nothing contained in this section shall authorize a court to sentence any person to a period of probation or conditional discharge for the purpose of subjecting such person to the provisions of this section, unless such person would have otherwise been so eligible for a sentence of probation or conditional discharge.

3. Conditions. (a) Notwithstanding any other provision of law, the

commissioner may grant a post-revocation conditional license, as set forth in paragraph (b) of this subdivision, to a person who has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article and who has been sentenced to a period of probation or conditional discharge, provided the person has satisfied the minimum period of license revocation established by law and the commissioner has been notified that such person may operate only a motor vehicle equipped with a functioning ignition interlock device. No such request shall be made nor shall such a license be granted, however, if such person has been found by a court to have committed a violation of section five hundred eleven of this chapter during the license revocation period or deemed by a court to have violated any condition of probation or conditional discharge set forth by the court relating to the operation of a motor vehicle or the consumption of alcohol. In exercising discretion relating to the issuance of a post-revocation conditional license pursuant to this subdivision, the commissioner shall not deny such issuance based solely upon the number of convictions for violations of any subdivision of section eleven hundred ninety-two of this article committed by such person within the ten years prior to application for such license. Upon the termination of the period of probation or conditional discharge set by the court, the person may apply to the commissioner for restoration of a license or privilege to operate a motor vehicle in accordance with this chapter.

(b) Notwithstanding any inconsistent provision of this chapter, a post-revocation conditional license granted pursuant to paragraph (a) of this subdivision shall be valid only for use by the holder thereof, (1) enroute to and from the holder's place of employment, (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof, (3) enroute to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (4) to and from court ordered probation activities, (5) to and from a motor vehicle office for the transaction of business relating to such license, (6) for a three hour consecutive daytime period, chosen by the department, on a day during which the participant is not engaged in usual employment or vocation, (7) enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of

the participant's household, as evidenced by a written statement to that effect from a licensed medical practitioner, (8) enroute to and from a class or an activity which is an authorized part of the alcohol and drug rehabilitation program and at which participant's attendance is required, and (9) enroute to and from a place, including a school, at which a child or children of the participant are cared for on a regular basis and which is necessary for the participant to maintain such participant's employment or enrollment at an accredited school, college or university or at a state approved institution of vocational or technical training.

(c) The post-revocation conditional license described in this subdivision may be revoked by the commissioner for sufficient cause including but not limited to, failure to comply with the terms of the condition of probation or conditional discharge set forth by the court, conviction of any traffic offense other than one involving parking, stopping or standing or conviction of any alcohol or drug related offense, misdemeanor or felony or failure to install or maintain a court ordered ignition interlock device.

(d) Nothing contained herein shall prohibit the court from requiring, as a condition of probation or conditional discharge, the installation of a functioning ignition interlock device in any vehicle owned or operated by a person sentenced for a violation of subdivision two, two-a, or three of section eleven hundred ninety-two of this chapter, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this chapter is an essential element, if the court in its discretion, determines that such a condition is necessary to ensure the public safety. Imposition of an ignition interlock condition shall in no way limit the effect of any period of license suspension or revocation set forth by the commissioner or the court.

(e) Nothing contained herein shall prevent the court from applying any other conditions of probation or conditional discharge allowed by law, including treatment for alcohol or drug abuse, restitution and community service.

(f) The commissioner shall note on the operator's record of any person restricted pursuant to this section that, in addition to any other restrictions, conditions or limitations, such person may operate only a

motor vehicle equipped with an ignition interlock device.

4. Proof of compliance and recording of condition. (a) Following imposition by the court of the use of an ignition interlock device as a condition of probation or conditional discharge it shall require the person to provide proof of compliance with this section to the court and the probation department or other monitor where such person is under probation or conditional discharge supervision. If the person fails to provide for such proof of installation, absent a finding by the court of good cause for that failure which is entered in the record, the court may revoke, modify, or terminate the person's sentence of probation or conditional discharge as provided under law. Good cause may include a finding that the person is not the owner of a motor vehicle if such person asserts under oath that such person is not the owner of any motor vehicle and that he or she will not operate any motor vehicle during the period of interlock restriction except as may be otherwise authorized pursuant to law. "Owner" shall have the same meaning as provided in section one hundred twenty-eight of this chapter.

(b) When a court imposes the condition specified in subdivision one of this section, the court shall notify the commissioner in such manner as the commissioner may prescribe, and the commissioner shall note such condition on the operating record of the person subject to such conditions.

5. Cost, installation and maintenance. (a) The cost of installing and maintaining the ignition interlock device shall be borne by the person subject to such condition unless the court determines such person is financially unable to afford such cost whereupon such cost may be imposed pursuant to a payment plan or waived. In the event of such waiver, the cost of the device shall be borne in accordance with regulations issued under paragraph (g) of subdivision one of section eleven hundred ninety-three of this article or pursuant to such other agreement as may be entered into for provision of the device. Such cost shall be considered a fine for the purposes of subdivision five of section 420.10 of the criminal procedure law. Such cost shall not replace, but shall instead be in addition to, any fines, surcharges, or other costs imposed pursuant to this chapter or other applicable laws.

(b) The installation and service provider of the device shall be responsible for the installation, calibration, and maintenance of such device.

6. Certification. (a) The commissioner of the department of health shall approve ignition interlock devices for installation pursuant to subdivision one of this section and shall publish a list of approved devices.

(b) After consultation with manufacturers of ignition interlock devices and the national highway traffic safety administration, the commissioner of the department of health, in consultation with the commissioner and the office of probation and correctional alternatives, shall promulgate regulations regarding standards for, and use of, ignition interlock devices. Such standards shall include provisions for setting a minimum and maximum calibration range and shall include, but not be limited to, requirements that the devices:

(1) have features that make circumventing difficult and that do not interfere with the normal or safe operation of the vehicle;

(2) work accurately and reliably in an unsupervised environment;

(3) resist tampering and give evidence if tampering is attempted;

(4) minimize inconvenience to a sober user;

(5) require a proper, deep, lung breath sample or other accurate measure of blood alcohol content equivalence;

(6) operate reliably over the range of automobile environments;

(7) correlate well with permissible levels of alcohol consumption as may be established by the sentencing court or by any provision of law; and

(8) are manufactured by a party covered by product liability insurance.

(c) The commissioner of the department of health may, in his discretion, adopt in whole or relevant part, the guidelines, rules, regulations, studies, or independent laboratory tests performed on and relied upon for the certification or approval of ignition interlock devices by other states, their agencies or commissions.

7. Use of other vehicles. (a) Any requirement of this article or the penal law that a person operate a vehicle only if it is equipped with an

ignition interlock device shall apply to every motor vehicle operated by that person including, but not limited to, vehicles that are leased, rented or loaned.

(b) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his or her driving privilege restricted to vehicles equipped with an ignition interlock device unless the vehicle is so equipped. Any person whose driving privilege is so restricted shall notify any other person who rents, leases, or loans a motor vehicle to him or her of such driving restriction.

(c) A violation of paragraph (a) or (b) of this subdivision shall be a misdemeanor.

8. Employer vehicle. Notwithstanding the provisions of subdivision one and paragraph (d) of subdivision nine of this section, if a person is required to operate a motor vehicle owned by said person's employer in the course and scope of his or her employment, the person may operate that vehicle without installation of an approved ignition interlock device only in the course and scope of such employment and only if the employer has been notified that the person's driving privilege has been restricted under the provisions of this article or the penal law and the person whose privilege has been so restricted has provided the court and probation department with written documentation indicating the employer has knowledge of the restriction imposed and has granted permission for the person to operate the employer's vehicle without the device only for business purposes. The person shall notify the court and the probation department of his or her intention to so operate the employer's vehicle. A motor vehicle owned by a business entity which business entity is all or partly owned or controlled by a person otherwise subject to the provisions of this article or the penal law is not a motor vehicle owned by the employer for purposes of the exemption provided in this subdivision. The provisions of this subdivision shall apply only to the operation of such vehicle in the scope of such employment.

9. Circumvention of interlock device. (a) No person whose driving privilege is restricted pursuant to this article or the penal law shall request, solicit or allow any other person to blow into an ignition interlock device, or to start a motor vehicle equipped with the device,

for the purpose of providing the person so restricted with an operable motor vehicle.

(b) No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is so restricted.

(c) No person shall tamper with or circumvent an otherwise operable ignition interlock device.

(d) No person subject to a court ordered ignition interlock device shall operate a motor vehicle without such device.

(e) In addition to any other provisions of law, any person convicted of a violation of paragraph (a), (b), (c), or (d) of this subdivision shall be guilty of a Class A misdemeanor.

10. Warning label. The department of health shall design a warning label which the manufacturer shall affix to each ignition interlock device upon installation in the state. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor and may be subject to civil liability.

* NB Repealed September 1, 2027