

**State of Kansas
Department of Revenue
Notice of Hearing on Proposed Administrative Regulation**

A public hearing will be conducted by the Department of Revenue at 10:00 a.m. on Wednesday, December 16, 2015, in Room 230, Secretary's Conference Room on the second floor of the Docking State Office Building, 915 SW Harrison, Topeka to consider amendments to an ignition interlock device regulation. Copies of this proposed regulation may be found at www.ksrevenue.org.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulation. All interested parties may submit written public comments on the proposed regulation prior to the hearing to Kathleen Smith, Tax Specialist, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612 or through e-mail at kathleen.smith@kdor.ks.gov.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulation. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Kathleen Smith at (785) 296-3081 or TTY (785) 296-6461. Disabled parking is located in State Parking Lot No. 2, south of the Docking Building facing Harrison Street. The east entrance to the Docking Building is accessible.

This regulation is proposed for adoption on a permanent basis. A summary of the proposed regulation and the economic impact follows:

**Kansas Department of Revenue
Article 56. Ignition Interlock Devices**

Amendments to K.A.R. 92-56-4. The proposed change to K.A.R. 92-56-4 removes the reference to K.A.R. 92-56-2(k), which has been stricken from K.A.R. 92-56-2 through prior regulation changes. The reference no longer applies.

Economic Impact:

The Kansas Department of Revenue does not anticipate that the removal of the reference to K.A.R. 92-56-2(k) will have substantial impact on any economic impact upon other government agencies, private businesses or individuals.

A copy of this regulation and the economic impact statement may be obtained from the Kansas Department of Revenue, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612-1588 or via our website: www.ksrevenue.org.

92-56-4. Installation, inspection, and calibration standards. (a) Each ignition interlock device installed at the direction of the division shall be done at the driver's own expense, except as allowed by K.A.R. 92-56-2.

(b) A manufacturer shall ensure that each service provider meets the following requirements:

(1) Install each device in accordance with the manufacturer's instructions. Each service provider shall, within two weeks of installation, inform the division each time a device has been installed;

(2) install each device so that the device will be deactivated if the driver has a BrAC of .03 or higher until a successful retest occurs;

(3) set each device so that if the driver fails the initial ignition interlock device test, a retest cannot be done for 15 minutes;

(4) set each device so that a rolling retest will be required of the driver of the vehicle within 10 minutes of starting the vehicle. Subsequent rolling retests shall occur as described in K.A.R. 92-56-1~~(n)~~. The driver shall have five minutes to complete the retest. The free restart shall not be operative when the device is waiting for a rolling retest sample;

(5) calibrate each device at least every 30 days at the driver's own expense, ~~except as allowed by K.A.R. 92-56-2(k)~~, and maintain an inspection and calibration record with the following information:

(A) The name of the person performing the calibration;

(B) the date of the inspection and calibration;

(C) the method by which the calibration was performed;

(D) the name and model number of the device calibrated;

(E) a description of the vehicle in which the device is installed, including the license plate number, make, model, year, and color; and

(F) a statement by the service provider indicating whether there is any evidence of circumvention or tampering; and

(6) set each device so that a lockout will occur no later than seven days after any of the following events occurs:

(A) The 30-day calibration and service requirement has been reached;

(B) five or more violations are recorded;

(C) the emergency bypass procedure has been used;

(D) a hardware failure or evidence of tampering is recorded; or

(E) the events log has exceeded 90 percent of capacity.

(c) Each driver restricted to driving a vehicle equipped with an ignition interlock device shall keep a copy of the inspection and calibration records in the vehicle at all times. The manufacturer shall retain the original record for each current driver for one year after the device is removed. The manufacturer shall

notify the division within seven days after a device has been serviced due to a lockout that occurred for any of the reasons specified in paragraph (b)(6)(D).

(d) The service provider shall enable each device's anticircumvention features when installing a device and keep the features enabled during the ignition interlock device period. Within two business days, a service provider shall notify the division of any evidence of tampering or circumvention. The evidence shall be preserved by the manufacturer or the manufacturer's representative until otherwise notified by the division.

(e) The division may conduct or have conducted independent checks on any of the approved ignition interlock devices to determine whether the devices are operating in a manner consistent with the manufacturer's specifications, manufacturer's certifications, or these regulations. The director may require the manufacturer or the manufacturer's representative to correct any abnormality found in the installation, calibration, maintenance checks, or usage records of the device. The manufacturer and the manufacturer's representative shall report in writing to the division within 30 days after receiving notification of any abnormality. In conducting these checks, the manufacturer shall install the device

in a vehicle chosen by the division, and the manufacturer shall waive any costs to the division for the installation, calibration, or testing of the device.

(f) Each manufacturer shall ensure that its service providers meet all of the following requirements:

(1) Follow certified manufacturer's standards and specifications for service associated with the manufacturer's state-approved ignition interlock device;

(2) have the skills, equipment, and facilities necessary to comply with all of the certification and operational requirements specified in this article;

(3) comply with any division reporting requirements; and

(4) have a fixed site to provide each driver with access to an enclosed building that is open for business and has a separate waiting area.

(g) Each manufacturer shall provide the division with written evidence of that manufacturer's statewide network of service providers within seven days of a request by the division. Written evidence shall include lease and ownership documents associated with each manufacturer's service providers in the required state judicial districts.

(h) A manufacturer, manufacturer's representative, or service provider shall not compel any driver to travel out of Kansas to receive services.

(i) A manufacturer shall not permit its service provider to install any device in that service provider's vehicle for the purpose of satisfying K.S.A. 8-1014, and amendments thereto. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended May 2, 2014; amended P-_____.)



Nick Jordan, Secretary
Lisa Kaspar, Director

Sam Brownback, Governor

**KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-4**

I. Summary of Proposed Regulation.

The proposed change of K.A.R. 92-56-4 removes the reference to K.A.R. 92-56-2(k), which has been stricken from K.A.R. 92-56-2 through prior Rule and Regulation changes. The reference no longer applies.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

The Kansas Department of Revenue has deemed it necessary to require that all drivers visit their BAIIID provider every 30 days for calibration. The regulation reference within 92-56-4 no longer applies.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will not have any economic impact upon the Department of Revenue.

IV. Anticipated Financial Impact upon other Government Agencies and upon Private Business or Individuals.

The Kansas Department of Revenue does not anticipate that the removal of the reference to K.A.R. 92-56-2(k) will have substantial impact on any economic impact upon other government agencies, private businesses or individuals.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIIID providers and affected government stakeholders (Kansas Attorney General's Office, Kansas Department of Health and Environment and Kansas Highway Patrol) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.