

WSR 26-01-133

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed December 18, 2025, 10:46 a.m., effective January 1, 2026]

Effective Date of Rule: January 1, 2026.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This rule making implements HB [ESHB] 1493 (impaired driving), which takes effect January 1, 2026. Implementation of this rule by January 1st satisfies RCW 34.05.380 (3)(a) and (c), as the effective date is outlined in statute and there is a potential risk to public safety if not implemented by the effective date.

Purpose: This rule making will implement provisions of HB [ESHB] 1493, concerning impaired driving, around the employee exemption for obtaining an ignition interlock device and removes the self-employed exemption. Rule making will also make various technical and nonsubstantive corrections to the WAC chapter as part of a broader cleanup.

Citation of Rules Affected by this Order: New WAC 308-107-100 Ignition interlock device—Employer exemption; and amending WAC 308-107-040 Functioning device—Evidence that device is no longer installed or functioning, and 308-107-090 Ignition interlock device—Medical exemption.

Statutory Authority for Adoption: RCW 46.01.110 Rule-making authority.

Other Authority: HB [ESHB] 1493, passed during the 2024 legislative session.

Adopted under notice filed as WSR 25-19-098 on September 17, 2025.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 18, 2025.

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RDS-6644.2

AMENDATORY SECTION (Amending WSR 08-24-059, filed 11/26/08, effective 1/1/09)

WAC 308-107-040 Functioning device—Evidence that device is no longer installed or functioning. (1) For purposes of RCW 46.20.311, 46.20.385, and 46.20.740, the department may determine that a device is no longer installed or functioning in the vehicle(s) driven by a person based on:

(a) An ignition interlock status verification form submitted by a manufacturer, or by an authorized service provider associated with such manufacturer, indicating that a device is no longer installed or functioning;

(b) Notice from the commission that a report received under WAC 308-107-080 indicates that a device is no longer installed or functioning or that the driver has failed to appear for scheduled maintenance;

(c) The termination or expiration without renewal of an agreement entered into between the department and the manufacturer of the device(s) installed in the vehicle(s) driven by the person; or

~~(d) ((A statement from a law enforcement officer made under RCW 9A.72.085 indicating that a device has been disabled or removed from a motor vehicle operated by the person; or~~

~~(e)))~~ A conviction under RCW 46.20.740(2) for operating a motor vehicle that is not equipped with a functioning device.

(2) Before making a determination under this section, the department may consider evidence from the person indicating that:

(a) The person is no longer operating the vehicle in which a device is no longer installed or functioning and that another vehicle driven by the person is so equipped; or

(b) The device has been replaced with a functioning device installed by another manufacturer or authorized service provider.

(3) Once the department has determined under this section that a device is no longer installed or functioning, the person must re-establish that a functioning device has been installed before a license may be reinstated or reissued during the remainder of an applicable period of restriction.

AMENDATORY SECTION (Amending WSR 17-22-049, filed 10/25/17, effective 11/25/17)

WAC 308-107-090 Ignition interlock device—Medical exemption.

(1) A person applying for an ignition interlock device tolling medical exemption under RCW 46.20.720 (3)(e) must obtain and submit a statement on a department prescribed form certifying the person's condition and have the form signed by a licensed physician or other proper authority designated by the department.

(2) The department may approve or deny the exemption based on the department's evaluation.

(3) The medical exemption decision is for the confidential use of the director, the chief of the Washington state patrol, and any other public officials designated by law. It is exempt from public inspection and copying notwithstanding chapter 42.56 RCW.

(4) The medical exemption shall only be effective during an ignition interlock device period of restriction under RCW 46.20.720 (1) (c) and (d).

(5) Exemptions shall not waive the ignition interlock device duration of restriction.

(6) A person with a medical exemption shall not be eligible to drive, apply for an ignition interlock license, or receive day-for-day credit.

(7) The medical exemption shall be valid for not more than ~~((three hundred sixty six))~~ 366 days. For renewal of the medical exemption, a person must submit a new form as outlined in subsection (1) of this section.

(8) The department may invalidate a medical exemption if a person has an ignition interlock device installed.

(9) The department may develop procedures to certify that a person with an ignition interlock device tolling medical exemption meets the removal requirements as outlined in RCW ~~((46.20.710(4)))~~ 46.20.720(4).

(10) The department may invalidate the medical exemption and require an application for a new medical exemption if the person's license is subsequently suspended, revoked or canceled for a different violation.

NEW SECTION

WAC 308-107-100 Ignition interlock device—Employer exemption.

(1) A person applying for an ignition interlock device employer exemption under RCW 46.20.720 (6) (b) must submit a declaration pursuant to chapter 5.50 RCW from their employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours on the form provided by the department.

(2) The department may approve or deny the exemption based on the department's evaluation.

(3) The employer exemption decision is for the confidential use of the director, the chief of the Washington state patrol, and any other public officials designated by law. It is exempt from public inspection and copying notwithstanding chapter 42.56 RCW.

(4) The employer exemption shall only be effective during an ignition interlock device period of restriction under RCW 46.20.720 (1) (c) and (d).

(5) Exemptions shall not waive the ignition interlock device duration of restriction.

(6) A person with an employer exemption shall only operate vehicles owned by their employer during work hours and have an ignition interlock device installed in their personal vehicle.

(7) The employer exemption shall be valid for not more than 366 days. For renewal of the employer exemption, a person must submit a new form as outlined in subsection (1) of this section.

(8) The department may invalidate an employer exemption if a person no longer has an ignition interlock device installed in their personal vehicle.

(9) The employer exemption does not apply to a person who is self-employed unless the person's vehicle is used exclusively for the person's employment.

(10) The department may invalidate the employer exemption and require an application for a new employer exemption if the person's license is subsequently suspended, revoked, or canceled for a different violation.