

FAILURE TO HAVE IGNITION INTERLOCK DEVICE

G.L. c. 90, § 24S(a)

The defendant is charged with failing to have an ignition interlock device.

In order to prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

***First:* That the defendant operated a motor vehicle;**

***Second:* That (he) (she) did so on a (public way) (place to which members of the public have access as invitees or licensees);**

***Third:* That the motor vehicle driven by the defendant was not equipped with a certified functioning ignition interlock device; and**

***Fourth:* That (his) (her) license to operate was restricted to operating only vehicles with such a device.**

At this point, the jury must be instructed on the definitions of "Operation of a Motor Vehicle" (Instruction 3.200) and "Public Way" (Instruction 3.280).

The term "certified ignition interlock device" means an alcohol breath screening device that prevents a vehicle from starting if it detects a blood alcohol concentration over a preset limit of .02 or 20 mg of alcohol per 100 ml of blood.

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NOTES:

1. **Statute is not violated if defendant's license has been revoked.** "[A] license simply cannot be both restricted and revoked at the same time." *Commonwealth v. Pettit*, 83 Mass. App. Ct. 401, 404 (2013).
2. **Statutory definition of "certified ignition interlock device."** A "certified ignition interlock device" shall mean "an alcohol breath screening device that prevents a vehicle from starting if it detects a blood alcohol concentration over a preset limit of .02 or 20 mg of alcohol per 100 ml of blood." G.L. c. 90, § 24S(b).
3. Certification of ignition interlock devices is entrusted to the Registrar of Motor Vehicles, who publishes a list of certified types of devices. 540 C.M.R. § 25.05.