

# NEBRASKA DUI AND THE IGNITION INTERLOCK DEVICE

*Only an Experienced Nebraska DUI Defense Attorney  
Can Provide You with Specific Advice Regarding Your  
Situation; However, a Basic Understanding of Nebraska's  
IID Laws and Procedures May Be Beneficial as Well*



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An arrest for driving under the influence, or DUI, in Nebraska is typically a stressful and frightening experience for anyone. If you are ultimately convicted of DUI you can expect to face harsh penalties as a result of that conviction. For many motorists, however, the threat of a license suspension or revocation is of



more concern than some of the other penalties that typically accompany an arrest and/or conviction for DUI in Nebraska. Fortunately, you may be able to continue to drive even after a revocation if you qualify to operate your vehicle with an Ignition Interlock Device, or IID.

Only an experienced Nebraska DUI defense attorney can provide you with specific advice regarding your situation; however, a basic understanding of Nebraska's IID laws and procedures may be beneficial as well.

## **NEBRASKA'S ADMINISTRATIVE LICENSE REVOCATION**

In Nebraska, you face a license revocation simply for being arrested and *charged* with driving under the influence. Pursuant to Nebraska's Administrative License Revocation, or ALR, law your driving privileges can be revoked for a minimum of 180 days following an arrest for DUI. The law allows a law enforcement officer to immediately confiscate your driver's license if you fail a chemical test or refuse to take one. You will then be given a temporary license that is good for 15 days after which time your license will be suspended for 180 days for a chemical test

failure, assuming this is your first failure. If you refuse the chemical test, or have failed a test within the previous 15 years, you will lose your license for an entire year. You have the right to contest the ALR but must do so within ten days. If you do not contest the license revocation it will take effect on the 15<sup>th</sup> day.

## **SOLUTIONS TO THE ALR**

One possible solution to losing your license following an arrest for DUI is to contest the revocation of your license. Though you have the right to request a hearing regarding the automatic revocation, doing so disqualifies you for an Ignition Interlock Permit, or IIP.

Be sure to discuss your options with an experienced attorney before deciding to contest the revocation. If you have valid grounds for contesting the revocation it may be in your best interest to do so; however, if you lack grounds to contest the revocation you may be better off simply acquiescing to the revocation and applying for an IIP.



## **IGNITION INTERLOCK DEVICE**

Before applying for an IIP you need to know what an Ignition Interlock Device is and why it is used. An IID is essentially a miniature breath test machine that is installed on your vehicle. The purpose of the IID is to prevent the vehicle from being operated by a driver who is under the influence of alcohol.

Once the IID is installed on your vehicle you will have to breath into the mouthpiece of the device every time you start the vehicle. The device then measures your breath alcohol concentration, or BAC. If the device registered a BAC level over the pre-programmed limit the vehicle will not start. You may also be required to provide additional samples while driving the vehicle. Contrary to what many people believe, the vehicle does not shut off if alcohol is detected during a random sample; however, you will be given a signal to pull over and stop the vehicle. In addition, the results of all tests are recorded and reported to the proper authorities.

The costs associated with the installation and monitoring of the IID are your responsibility as well.

## **WHEN IS AN IID REQUIRED?**

There are two situations in which an IID is required. The first is when your license has been revoked following an arrest for DUI pursuant to Nebraska's ALR law. In that case, you may apply for an Ignition Interlock Permit through the Nebraska Department of Motor Vehicles. You must have the IID installed on your vehicle before you apply for the IIP and must meet all other IIP requirements.

The second scenario in which an IID will be required is pursuant to a sentence *after* a conviction for DUI or another alcohol related driving offense. The penalties for a DUI conviction in Nebraska are harsh. As a general rule, even a first time offender will be required by the sentencing judge to install an IID as part of the sentence. The length of time the IID must be used is determined by the judge at sentencing.

## VIOLATING AN IID ORDER

As you may imagine, people often try to circumvent an IID or tamper with it to avoid a positive test result. Before you consider doing this, keep in mind that violating either a DMV or court order relating to an IID is a criminal offense in Nebraska. Tampering with, circumventing, or driving without an IID if under an order to have one on your vehicle is a Class I misdemeanor. The offense is elevated to a Class IV felony if you are also caught with a breath alcohol concentration (BAC) of 0.02 percent or greater. Any other type of violation of the IID order may be charged as a Class III misdemeanor. If the IID was ordered as a term of your probation you will likely face a probation violation that could result in a return to jail should you violate the terms of use for the IID.

If you have specific questions regarding the Ignition Interlock Permit, a pending driving under the influence charge, or your Ignition Interlock court order, contact the Omaha, Nebraska law office of Petersen Law Office 24 hours a day at 402-513-2180.

## REFERENCES

DMV Nebraska, [ALR \(Administrative License Revocation\)](#)

Nebraska Revised Statute, [60-6, 196](#)

Nebraska Revised Statute, [60-6, 211.05](#)

DMV Nebraska, [Ignition Interlock Restricted Permit, License](#)

Lifesaver, [What Is an Interlock?](#)

## About the Author



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For almost two decades Nebraska attorney Thomas M. Petersen of Petersen Law Offices has been defending individuals charged with driving under the influence, or DUI. As a result of his dedication to defending his clients, Attorney Petersen was recently selected as one of the top 50 DUI attorneys in Nebraska. If you have been charged with an Omaha, Cass County, or Sarpy County, Nebraska, contact the Nebraska DUI team today by

calling 402-513-2180 or by filling out our online contact form for a free evaluation of your case.



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