

State DUI Laws: New Hampshire

Legal Blood Alcohol Content Level: .08

Automatic Suspension of License for Failure of Blood Alcohol Test or Refusal to Submit to Test: Yes

Ignition Interlock Requirement upon Conviction: Yes

Felony Conviction for Repeat Offenses: Yes

New Hampshire Revised Statutes

§ 261:180. Mandatory Suspension or Revocation of Registration

I. No person shall register any type of motor vehicle in this state while his license is under revocation or suspension for any of the reasons listed in paragraph III of this section. Any person who registers a vehicle while his license is under suspension or revocation for any reason under paragraph III shall be guilty of a violation, and shall have his registration revoked.

II. A person whose license is under suspension or revocation for any of the reasons listed in paragraph III of this section who registers a vehicle shall not be entitled to a refund of either the municipal permit fee or the registration fee.

III. The commissioner, when suspending a driver's license or privilege to drive because the driver is an habitual offender or has been convicted of negligent homicide involving the use of a motor vehicle, manslaughter involving the use of a motor vehicle, a subsequent offense of driving under the influence of intoxicating liquor or any controlled drug under RSA 265:82, or aggravated driving while intoxicated under RSA 265:82-a, shall also revoke the registration of any vehicle registered to the individual whose license is being revoked or suspended, for the period of revocation or suspension of the license or privilege to drive.

IV. The commissioner shall establish, pursuant to RSA 541-A, a system for providing a hardship registration for an additional fee of \$ 10 on a vehicle registered to a person whose license is under suspension or revocation and whose registration has also been suspended or revoked pursuant to this section.

263:65. Revocation for Reckless Driving or Driving While Under Influence of Alcohol or Drugs

Upon a conviction of a violation of RSA 265:79, 82 or 82-a, the court shall report to the department and shall immediately revoke the license or driving privilege of the person so convicted, or the right of a nonresident so convicted to drive within the state of New Hampshire; and said court in the case of holders of New Hampshire licenses shall return such license with its findings marked thereon, together with the court return, to the department; and the department may revoke the license of any person who shall be convicted of a similar offense by a court of any other state in a criminal proceeding, or who shall be found to have committed a similar act by a court of any other state in a civil proceeding.

§ 263:65-a. Attendance at Impaired Driver Intervention Program Required

I. The director shall not restore the license or driving privilege of any person whose license or privilege has been revoked or suspended pursuant to RSA 265:82 or 265:82-a until such person has furnished proof of successful completion of an impaired driver intervention program which is:

(a) Approved by the commissioner of the department of health and human services and the commissioner of safety pursuant to RSA 172-B:2-a and RSA 172-B:2-b; or

(b) Approved by the court, in the case of a person who is not a resident of this state.

(c) Operated by the department of corrections and approved pursuant to RSA 172-B:2-a, I-a.

II. For the purposes of this section, "successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the I.D.I.P. or the M.O.P. or its equivalent; provided, however, that the offender shall have the right to a hearing before the commissioner or designee, who shall determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration.

III. Successful completion shall also include payment of all assessed I.D.I.P., M.O.P., and equivalent program fees, except in the case of attendance at programs operated by the department of corrections. Failure of the offender to make full payment of the assessed fee may also result in petition for contempt of court charges against the offender.

IV. (a) Upon enrolling in an impaired driver intervention program, a person shall provide to the program an original certified copy of the person's driver's license record. Such record shall be secured from the division of motor vehicles, or from the state in which the person holds a driver's license, if an out-of-state resident. The person shall pay for all costs involved in securing the certified copy.

(b) In the case of enrollment in the state-operated 7-day multiple DWI offender intervention detention center, a person shall provide such certified copy at the time of enrollment or prior to the issuance of a report under RSA 172-B:2-b, III and RSA 265:82-b, V.

V. (a) A person shall be presumed to have furnished proof of successful completion of an impaired driver intervention program if the person furnishes a report indicating that he or she has completed attendance at the I.D.I.P., the M.O.P., or an equivalent program, and that he or she has paid all assessed program fees. The presumption may be overcome by a hearing requested by the department, or the I.D.I.P., the M.O.P., or an equivalent program, with notice to and an opportunity to be heard by the person, where the department and/or the I.D.I.P., the M.O.P., or an equivalent program, shall have the burden of proving that the person has not successfully completed an impaired driver intervention program.

(b) The I.D.I.P., the M.O.P., or an equivalent program shall inform the department of safety in writing of any further treatment it deems necessary in order to be considered a completed program before a license suspension should be restored. The department of safety shall notify the licensee of his or her ability to request a hearing to dispute the findings and the licensee shall inform the department of safety if the licensee requests a hearing within 20 days of receipt of such notice. At such hearing the I.D.I.P., the M.O.P., or an equivalent program shall have the burden of proving the person has not successfully completed an impaired driver intervention program. The I.D.I.P., the M.O.P., or an equivalent program shall inform the department of safety in writing within 5 days after the end of the program attended by the licensee.

§ 263:66. Revocation of License for Driving While Intoxicated and Appeal

Whenever any person convicted of a violation of RSA 265:82 or 82-a appeals, the municipal or district court shall forthwith revoke the license or driving privilege of such person and, in case of a holder of a New Hampshire license, shall return such license together with the court return to the department which shall not reissue any license until the period of revocation determined by the court has elapsed.

§ 263:68. Suspension of License; Recognizance Required on Appeal

Whenever any person convicted of a violation of RSA 265:79 appeals, the municipal or district court or justice shall order the person appealing to recognize in the sum of \$ 100, with sufficient sureties, to keep the peace and be of good behavior until such appeal has been finally disposed of. If the person appealing fails to recognize in said sum, the municipal or district court or justice shall forthwith suspend the license of such person. If during such appeal period, such person is convicted of another violation of RSA 265:79 unrelated to the prior conviction, the municipal or district court or the justice shall, upon receiving notice of such conviction, immediately suspend the license of such person, shall declare the recognizance forfeited, and shall request the county attorney to cause proceedings to be had immediately for the recovery of such forfeiture, such proceedings to be subject to the provisions of RSA 597:33, 34, 35, 36 and 38. Upon suspension of the license of such person either upon failure to recognize after conviction or during the appeal period as hereinabove provided, in case of holders of New Hampshire licenses, the municipal or district court or justice shall return such licenses together with the court return to the department which shall not reissue said license until such person is acquitted. If the person so appealing is convicted, and has had his license suspended during the appeal period for failure to recognize in the required sum, the period of suspension shall be computed from the date of the initial conviction. If the person so appealing is convicted and has not had his license suspended because he has recognized in the required sum, or has had his license suspended because of a second conviction during the appeal period, the period of suspension shall commence upon the date of his final conviction upon such appeal.

§ 265:82. Driving Under Influence of Drugs or Liquor; Driving with Excess Alcohol Concentration

I. No person shall drive or attempt to drive a vehicle upon any way:

(a) While such person is under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drugs; or

(b) While such person has an alcohol concentration of 0.08 or more or in the case of a person under the age of 21, 0.02 or more.

II. [Repealed.]

§ 265:82-a. Aggravated Driving While Intoxicated

A person shall be guilty of a violation of this section if the person drives or attempts to drive a vehicle upon any way:

I. While under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug and, at the time alleged:

(a) Drives at a speed more than 30 miles per hour in excess of the prima facie limit;

(b) Causes a motor vehicle collision resulting in serious bodily injury, as defined in RSA 625:11, to the person or another;

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning a vehicle while being pursued; or

(d) Carries as a passenger a person under the age of 16;

II. While having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more or, in the case of a person driving a commercial motor vehicle and licensed pursuant to RSA 263:86 at the time of the offense and notwithstanding the provisions of RSA 263:94, 0.04 or more and, at the time alleged:

(a) Drives at a speed more than 30 miles per hour in excess of the prima facie limit;

(b) Causes a motor vehicle collision resulting in serious bodily injury, as defined in RSA 625:11, to the person or another;

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning a vehicle while being pursued; or

(d) Carries as a passenger a person under the age of 16; or

III. While having an alcohol concentration of 0.16 or more.

§ 265:82-b. Penalties for Intoxication or Under Influence of Drugs Offenses

. Except as otherwise provided in this section:

(a) Any person who is convicted of any offense under RSA 215-A:11, I or RSA 265:82 shall be:

(1) Guilty of a class B misdemeanor;

(2) Fined not less than \$ 500;

(3) Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services;

(4) The person's driver's license or privilege to drive shall be revoked for not less than 9 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by

subparagraph (3) within 45 days after conviction, or as soon thereafter as any extenuating circumstances approved by the department of health and human services allow;

(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate; and

(6) The court in which the person was convicted may reduce the conviction to a violation upon a motion filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, any evidence of drug or alcohol treatment, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.

(b) Any person who is convicted of any aggravated DWI offense under RSA 215-A:11, II, or RSA 265:82-a, except as provided in subparagraph (c), shall be:

(1) Guilty of a class A misdemeanor;

(2) Fined not less than \$ 500;

(3) Sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall be in no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space, the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order;

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) as soon as any circumstances approved by the department of health and human services allow;

(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other test as the court may deem appropriate; and

(6) A person who leaves the relevant driver intervention program required by subparagraph II(a)(3) before completion and fails to return and complete it as soon as extenuating circumstances approved by the department of health and human services allow or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 14 days in the county correctional facility.

(c) Any person who is convicted of aggravated DWI under RSA 215-A:11, II(a)(1) or II(b)(1), or RSA 265:82-a, I(b) or

II(b), shall be:

(1) Guilty of a class B felony;

(2) Fined not less than \$ 1,000;

(3) Sentenced to a mandatory sentence of not less than 21 consecutive days of which 14 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services, and the remainder of the sentence may be deferred at the court's discretion. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence; and

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) as soon as any extenuating circumstances approved by the department of health and human services allow.

Paragraph I-a effective until January 1, 2005; see also paragraph I-a set out below.

I-a. Any person convicted of a violation of RSA 270:48-a shall be subject to the penalties set out in this section for a violation of RSA 265:82.

Paragraph I-a effective January 1, 2005; see also paragraph I-a set out above.

I-a. Any person convicted of a violation of RSA 270:48-a, III shall be subject to the penalties set out in this section for a violation of RSA 265:82-a. Any person convicted of a violation of any other provision in RSA 270:48-a shall be subject to the penalties set out in this section for a violation of RSA 265:82.

I-b. Any person who is convicted of an offense under RSA 265:82, RSA 265:82-a, or RSA 630:3, II and the offenses occurred while the person was under the age of 21 shall be sentenced according to the provisions of this section, except that in all cases the person's driver's license or privilege to drive shall be revoked for not less than one year.

II. Upon conviction of any offense under RSA 215-A:11, RSA 265:82, or RSA 265:82-a, based on a complaint which alleged that the person has had one or more prior convictions under RSA 215-A:11, RSA 265:82, or RSA 265:82-a, or RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction, within 10 years preceding the date of the second or subsequent offense, the person shall be subject to the following penalties in addition to those provided in paragraph I:

Subparagraph (a) effective until January 1, 2005; see also subparagraph (a) set out below.

(a) For a second offense:

(1) The person shall be guilty of a misdemeanor.

(2) The person shall be fined not less than \$ 500.

(3) The person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b within 21 days after conviction, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned the first available space. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods at the center or such other time as the court may order.

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the state-operated, 7-day multiple DWI offender intervention detention center program prior to license restoration.

(6) A person who leaves the program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

Subparagraph (a) effective January 1, 2005; see also subparagraph (a) set out above.

(a) For a second offense:

(1) The person shall be guilty of a class A misdemeanor.

(2) The person shall be fined not less than \$ 500.

(3) (A) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 37 consecutive days of which 30 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods to be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b within 21 days after conviction, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 30 consecutive 24-hour periods or such other time as the court may order.

(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the state-operated, 7-day multiple DWI offender intervention detention center program prior to license restoration. If the person attends an approved equivalent 7-day residential intervention program, the fees and costs shall be paid to the program.

(6) A person who leaves the program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

(7) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

Subparagraph (b) effective until January 1, 2005; see also subparagraph (b) set out below.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 263:65-a and all other requirements under law are met.

(2) If the person has completed the state-operated 7-day multiple DWI offender intervention detention center program as required under subparagraph (a)(3) upon conviction for a prior offense, the person shall be sentenced to not less than 30 consecutive days of which 23 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, and the person shall complete at the person's own expense a residential treatment program of at least 28 days duration or an intensive course of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and

human services before the driver's license may be restored.

(3) A person who leaves the multiple DWI offender program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

Subparagraph (b) effective January 1, 2005; see also subparagraph (b) set out above.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 263:65-a and all other requirements under law are met.

(2) The person shall be sentenced to a mandatory sentence of not less than 180 consecutive days of which 30 consecutive 24-hour periods shall be served in the county correctional facility following which the person shall complete at the person's own expense a residential treatment program of at least 28 days duration or an intensive course of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and human services before the driver's license may be restored. The remainder of the sentence may be deferred for a period of up to 2 years. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence.

(3) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

(c) For a fourth or subsequent offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person shall be guilty of a felony, and the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 7 years.

(d) For a third or subsequent offense when any prior offense under this paragraph is negligent homicide under RSA 630:3, II, or reasonably equivalent offense in an out-of-state jurisdiction, the person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 10 years.

II-a. Voluntary completion of an impaired driver intervention program, or an appropriate equivalent, and commencement of treatment recommended by the program may be considered by a court when determining a sentence under this section.

III. If any person is convicted of a violation of RSA 215-A:11, RSA 265:82, or RSA 265:82-a, and the conviction is not based upon a complaint which alleges prior convictions as provided in RSA 265:82-b, II, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction within 10 years preceding the date of the offense, the person's driver's license or privilege to drive shall be revoked for not less than one year nor more than 3 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that within 45 days after conviction the person has entered the 7-day program at the state-operated multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the, commissioner of health and human services; as provided in RSA 172-B:2-b and RSA 263:65-a. The person's license shall not be restored until the person has successfully completed the program. The court may further order attendance at a residential treatment center, for a period not to exceed 30 days, at the person's own expense.

IV. For the purposes of this section:

(a) "Revocation" or "revoked" means revocation as defined in RSA 259:90 and also includes, if the person is a nonresident, the revocation of the person's privilege as an out-of-state driver to drive on any ways of this state.

(b) "Out-of-state jurisdiction" includes any governmental entity that issues driver's licenses that are valid for operating a motor vehicle on the ways of this state as provided in RSA 263:37, and that has laws relating to driving while intoxicated that are reasonably equivalent to the laws of this state.

(c) "Successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the I.D.I.P. or the M.O.P. or its equivalent; provided, however, that the offender shall have the right to a hearing before the commissioner or designee, who shall determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration. The definition in this subparagraph shall also apply to RSA 263:65-a, II.

(d) A person shall be presumed to have furnished proof of successful completion of an impaired driver intervention program if the person furnishes a report indicating that he or she has completed attendance at the I.D.I.P., the M.O.P., or an equivalent program, and that he or she has paid all assessed program fees. The presumption may be overcome by a hearing requested by the department, or the I.D.I.P., the M.O.P., or an equivalent program, with notice to and an opportunity to be heard by the person, where the department and/or the I.D.I.P., the M.O.P., or an equivalent program shall have the burden of proving that the person has not successfully completed an impaired driver intervention program.

(e) The I.D.I.P., the M.O.P., or an equivalent program shall inform the department of safety in writing of any further treatment it deems necessary in order to be considered a completed program before a license suspension should be restored. The department of safety shall notify the licensee of his or her ability to request a hearing to dispute the findings and the licensee shall inform the department of safety if the licensee requests a hearing within 20 days of receipt of such notice. At such hearing the I.D.I.P., the M.O.P., or an equivalent program shall have the burden of proving the person has not successfully completed an impaired driver intervention program. The I.D.I.P., the M.O.P., or an equivalent program shall inform the department of safety in writing within 5 days after the end of the program attended by the licensee.

V. No portion of the minimum mandatory sentence of imprisonment and no portion of the mandatory sentence of the period of revocation and no portion of any fine imposed under this section shall be suspended or reduced by the court. No case brought to enforce this section shall be continued for sentencing for longer than 35 days. No person serving the

minimum mandatory sentence under this section shall be discharged pursuant to authority granted under RSA 651:18, released pursuant to authority granted under RSA 651:19, or in any manner, except as provided in RSA 623:1, prevented from serving the full amount of such minimum mandatory sentence under any authority granted by RSA title LXII or any other provision of law.

VI. Upon conviction under the provisions of RSA 215-A:11, RSA 265:82, or RSA 265:82-a, the prosecutor shall present to the court a certified copy of the defendant's record of convictions of motor vehicle offenses under RSA title XXI and reasonably equivalent offenses in out-of-state jurisdictions which are on record at the New Hampshire division of motor vehicles or known to the prosecutor, or a signed statement that the defendant has no such prior convictions within the preceding 7 years. Prior to sentencing the court shall note on the complaint the number of prior convictions for drug or alcohol-related motor vehicle offenses, or the absence of any such prior convictions, as shown on such report or statement.

VII. Any conviction under RSA 215-A:11, RSA 265:82, or RSA 265:82-a shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.

Paragraph VIII effective until January 1, 2005; see also paragraph VIII set out below.

VIII. Any person convicted of a violation of RSA 215-A:11, RSA 265:82, or RSA 265:82-a, and who at the time of driving a vehicle or off highway recreational vehicle was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the state-operated multiple DWI offender program or an equivalent 7-day residential intervention program approved by the commissioner at the person's own expense.

Paragraph VIII effective January 1, 2005; see also paragraph VIII set out above.

VIII. Any person convicted of a violation of RSA 215-A:11, RSA 270:48-a, or RSA 265:82-a, and who at the time of driving a vehicle or off highway recreational vehicle or operating a boat was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the state-operated multiple DWI offender program or an equivalent 7-day residential intervention program approved by the commissioner at the person's own expense.

§ 265:82-c. Annulment; Plea Bargaining

I. Notwithstanding the provisions of RSA 651:5, no court shall order an annulment of any record of conviction of driving or attempting to drive a vehicle upon any way while under the influence of intoxicating liquor or any controlled drug or while having an alcohol concentration of 0.08 or more or of aggravated drunken driving until 10 years after the date of conviction. Any record thus annulled shall be retained in a permanent file, to be opened only for purposes of sentencing in the case of an offense under RSA 215-A:11, II or RSA 265:82-a.

II. Notwithstanding any other provision of law to the contrary, in any case in which a person is arrested for and charged with the offense of driving or attempting to drive a vehicle on any way while under the influence of intoxicating liquor or drugs or while having an alcohol concentration of 0.08 or more and that charge is reduced from a second or subsequent

offense to a first offense or in which the original charge is reduced to or in any manner substituted with another charge or a nolle prosequi entered in exchange for an agreement to plead guilty or nolo contendere to another charge, the prosecutor shall submit to the attorney general a written report describing such agreement. All such written reports shall be submitted to the attorney general on a monthly basis. The report shall contain such information as the attorney general shall prescribe; provided, however, that he shall not be subject to the provisions of RSA 541-A in prescribing such information. The report required by this paragraph shall be a public record and shall be available for public inspection as provided in RSA 91-A:4.

III. Notwithstanding any other provision of law to the contrary, if a person is arrested for driving or attempting to drive a motor vehicle upon any way while under the influence of intoxicating liquor or drugs or while having an alcohol concentration of 0.08 or more, no prosecutor shall enter into any agreement with such person or such person's attorney if such agreement would result in a charge that removed the case from consideration under any provision of RSA 259-RSA 266. The provisions of this paragraph, however, shall not prevent the bringing of any charge under RSA 630:2 or RSA 630:3.

§ 265:83. Arrest Without a Warrant

Notwithstanding any other statutory provision of law to the contrary, a law enforcement officer may, without a warrant, arrest any person involved in a traffic accident when the officer has probable cause to believe that such person has committed an offense, an element of which is driving under the influence of intoxicating liquors, controlled drugs or both. Notwithstanding any statutory provision of law to the contrary, a law enforcement officer may make such an arrest in such officer's own jurisdiction or on the property of any medical facility in another jurisdiction in this state where the person or others are taken for treatment for injuries suffered in such traffic accident.

§ 265:84. Implied Consent of Driver of Motor Vehicle to Submit to Testing to Determine Alcohol Concentration

Any person who drives a vehicle upon the ways of this state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether such person is under the influence of intoxicating liquor or controlled drugs, and to a chemical, infrared molecular absorption or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath, for the purpose of determining the controlled drug content of such person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265:93, the prerequisites of RSA 265:87 shall not apply.

§ 265:85. Administration of Alcohol Concentration Tests

I. Only a duly licensed physician, registered nurse, certified physician's assistant, or qualified medical technician or medical technologist acting at the request of a law enforcement officer may withdraw blood for the purpose of a test required by RSA 265:84. Such licensed physician, registered nurse, physician's assistant, or qualified medical technician or medical technologist shall not be liable for damages or otherwise to the person from whom blood is withdrawn for any act performed in connection with such withdrawal provided the physician, registered nurse, physician's assistant, or qualified medical technician or medical technologist acts with ordinary care.

II. All such blood and urine tests made under the direction of a law enforcement officer shall be conducted in the forensic science laboratory of the department of safety established in RSA 106-B:2-a or, in the case of blood and urine samples to be tested for the presence of controlled drugs, in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended.

III. The successful completion of the external standard reference check shall be admissible evidence that the instrument was properly calibrated at the time of the test. The external standard reference check shall be performed according to the schedule required in rules adopted by the commissioner of the department of safety pursuant to RSA 541-A.

IV. No tests of blood, urine or breath authorized by RSA 265:84 shall be considered as evidence in any proceeding before any administrative officer or court unless such test is performed in accordance with methods prescribed by the commissioner of the department of safety.

V. The commissioner of the department of safety shall adopt rules pursuant to RSA 541-A relative to:

(a) Methods and procedures for the testing of blood, urine, and breath to determine alcohol concentration and controlled drug content of a person's blood;

(b) Techniques or methods for ascertaining the qualifications and competence of individuals to conduct such tests;

(c) Methods and procedures for the delivery and processing of samples of such tests;

(d) Forms relative to taking samples for alcohol concentration tests for admission as evidence pursuant to RSA 265:90, IV;

(e) Procedures for certification of any laboratory that conducts tests pursuant to RSA 265:86, 270:53, or 215-A:11-e; and

(f) Such other matters as are required to carry out the provisions of this chapter relative to alcohol concentration tests.

§ 265:86. Additional Tests

Any person to whom RSA 265:84 is applicable shall have the right at his own expense to have similar tests made by a person of his own choosing who is competent to conduct the tests, as determined by the commissioner of the department of safety under RSA 265:85, and shall be so informed by the law enforcement officer at the same time as the person is requested to permit a test under the provisions of RSA 265:84. The failure or inability of an arrested person to obtain an additional test shall not preclude the admission of any test taken at the direction of a law enforcement officer. Nothing herein shall require the release from custody of the arrested person for the purpose of having such additional test made.

For the purpose of this section:

I. The sample of blood taken pursuant to RSA 265:84 shall be of sufficient quantity to allow 2 tests; and the testing laboratory shall retain for a period of 30 days subsequent to the test conducted pursuant to RSA 265:84 a quantity of said sample sufficient for another test, which quantity shall be made available to the respondent or his counsel upon request.

II. The sample or samples of breath taken pursuant to RSA 265:84 shall be captured in an appropriate medium approved by the commissioner of the department of safety pursuant to RSA 265:85, V, and shall be sufficient to allow an equivalent additional test for each breath sample taken pursuant to 265:84. The captured sample or samples shall be given to the respondent in a manner determined by the commissioner of the department of safety.

§ 265:87. Prerequisites to Tests

I. Before any test of a person's blood, urine or breath specified in RSA 265:84 is given, the law enforcement officer shall:

- (a) Inform the arrested person of his right to have a similar test or tests made by a person of his own choosing;
- (b) Afford him an opportunity to request such additional test; and
- (c) Inform him of the consequences of his refusal to permit a test at the direction of the law enforcement officer.

I-a. Before any post-arrest physical test specified in RSA 265:84 is given, the law enforcement officer shall inform the defendant of the consequences of the defendant's refusal to comply with the law enforcement officer's instructions for a post-arrest physical test.

II. If the law enforcement officer fails to comply with the provisions of this section, the test shall be inadmissible as evidence in any proceeding before any administrative officer and court of this state.

§ 265:88-a. Effect of Evidence of Refusal to Take Alcohol Concentration Test

If a person refuses to submit to a test as provided in RSA 265:84, such refusal may be admissible into evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by that person while driving or attempting to drive a motor vehicle while under the influence of intoxicating liquor or any controlled drug.

§ 265:89. Evidence

Upon complaint, information, indictment, or trial of any person charged with the violation of RSA 265:82 or 265:82-a, the court may admit evidence of physical testing of the defendant for being under the influence of intoxicating liquor or controlled drugs as provided in RSA 265:84, and of the controlled drug content of the defendant's blood and the defendant's alcohol concentration, as shown by a test of his or her breath, blood, or urine as provided in RSA 265:84. Evidence that there was, at the time alleged, an alcohol concentration of 0.03 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that there was, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence but is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more is prima facie evidence that the defendant was under the influence

of intoxicating liquor. In addition, evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265:82, I(b) of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265:82, I(b); and evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265:82-a, II of driving or attempting to drive a vehicle upon a way and of one or more of the circumstances specified in RSA 265:82-a, II(a), (b), (c), and (d) constitute a separate offense under RSA 265:82-a, II; and evidence that there was, at the time alleged, an alcohol concentration of 0.16 or more shall, in conjunction with the evidence otherwise required by RSA 265:82-a, III of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265:82-a, III.

§ 265:91-a. Administrative License Suspension

I. If any person refuses a test as provided in RSA 265:92 or submits to a test described in RSA 265:84 which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more, the law enforcement officer shall submit a sworn report to the department. In the report the officer shall certify that the test was requested pursuant to RSA 265:84 and that the person refused to submit to testing or submitted to a test which disclosed an alcohol concentration of 0.08 or more, or, in the case of a person under the age of 21, 0.02 or more.

II. Upon receipt of the sworn report of a law enforcement officer submitted under paragraph I, the department shall suspend the person's driver's license or privilege to drive as follows:

(a) In the case of a refusal to take a test described in RSA 265:84, the suspension shall be for the period specified in RSA 265:92.

(b) In the case of a person who submits to a test described in RSA 265:84 which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more, the suspension shall be for:

(1) Six months if there is no prior refusal under RSA 265:92, no prior driving while intoxicated or aggravated driving while intoxicated convictions, and no prior administrative license suspension pursuant to RSA 265:91-a.

(2) Two years if there is a prior refusal under RSA 265:92, or a prior driving while intoxicated or aggravated driving while intoxicated conviction, or a prior administrative suspension pursuant to RSA 265:91-a.

III. On behalf of the department, the law enforcement officer submitting the sworn report under paragraph I shall serve immediate notice of suspension on the person, and the suspension shall be effective 30 days after the date of service. If the person has a valid New Hampshire driver's license, an officer shall take the driver's license of the person, and issue a temporary license valid for the notice period. The officer shall send the license to the department along with the sworn report under paragraph I.

IV. If the person submits to a test described in RSA 265:84 and the results of the test are not immediately available and therefore no notice has been served by the law enforcement officer, the department shall mail such notice and the suspension shall be effective 30 days after the date of service. If the address shown in the law enforcement officer's report differs from that shown on the department records, the notice shall be mailed to both addresses. The notice shall be presumed to have been served 3 days after mailing. Upon receipt of the notice of suspension and before requesting any review or hearing under RSA 265:91-b, if the person has a New Hampshire driver's license that has not been surrendered, the person shall surrender such person's license at a place designated by the department and shall be

issued a temporary driving permit valid for the notice period.

V. In the case of a person who has a driver's license from another jurisdiction, all provisions of this subdivision shall apply except that surrender of the out-of-state driver's license and issuance of a temporary driving permit shall not be required. The department shall transmit a copy of the suspension order to the motor vehicle authorities in the jurisdiction where the person's license was issued, and also in the jurisdiction of the person's residence if different from that where the license was issued.

§ 265:91-b. Administrative Review and Hearings

I. (a) Any person whose license is suspended or revoked under this subdivision or RSA 263:96 may request either an administrative review or a hearing. The request shall be in writing and shall state the grounds upon which the person seeks to have the order of suspension or revocation rescinded, which grounds shall be limited to those provided in paragraph II. The filing of the request shall not stay the suspension or revocation. A request for either administrative review or hearing received by the department after 30 days from the date the notice is issued shall be denied as untimely.

(b) If the request is for an administrative review, the request may be accompanied by any statement or other evidence which the person wants the department to consider. Upon receiving the request the department shall review the order, the evidence upon which it is based, including whether the person was driving or in actual physical control of a motor vehicle, and any other information brought to the attention of the department, and shall determine whether sufficient cause exists to sustain the order.

(c) If the request is for a hearing, the request shall also indicate whether or not the person desires to have the law enforcement officer present. The hearing shall be held within 20 days after the filing of the request unless the person requests a continuance. A request for a continuance by the person shall not stay the order of suspension or revocation. The hearing shall be recorded, and be conducted by the department's designated agent. The hearing may be conducted upon a review of the law enforcement officer's report if there is no request to have the officer present. If there is a request that the law enforcement officer be present at the hearing and the officer fails to appear without good cause shown, the case shall be dismissed and the order rescinded. If the person requesting the hearing fails to appear without good cause shown, the right to a hearing shall be waived and the order sustained.

II. The scope of the administrative review or hearing shall be limited to the issues of:

(a) Whether the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor, narcotics or drugs;

(b) The facts upon which the reasonable grounds to believe such are based;

(c) Whether the person had been arrested;

(d) Whether the person has refused to submit to the test upon the request of the law enforcement officer or whether a properly administered test or tests disclosed an alcohol concentration of 0.08 or more, or, in the case of a person under 21 years of age, 0.02 or more;

(e) Whether the officer informed the arrested person of his right to have a similar test or tests conducted by a person of his own choosing; and

(f) Whether the officer informed the arrested person of the fact that refusal to permit the test would result in suspension of his license or driving privilege and that testing above the alcohol concentration level specified in RSA 265:91-a would also result in suspension.

III. In the case of either an administrative review or a hearing, the hearing examiner shall issue his or her recommendation on the order of suspension or revocation within 15 days of the request for administrative review or the hearing date. The recommendation shall be in writing and a copy shall be provided to the parties. The recommendation shall be final unless a review or appeal is filed under RSA 265:91-d or RSA 265:91-e.

§ 265:92. Refusal of Consent

I. If a person under arrest for any violation or misdemeanor under RSA 265 refuses upon the request of a law enforcement officer to submit to physical tests or to a test of blood, urine, or breath designated by the law enforcement officer as provided in RSA 265:84, none shall be given, but:

(a) If this is the first refusal with no prior driving while intoxicated or aggravated driving while intoxicated convictions:

(1) The director shall suspend his license to drive or nonresident driving privilege for a period of 180 days; or

(2) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 180 days after the date of the alleged violation.

(b) If the person has a prior driving while intoxicated or aggravated driving while intoxicated conviction or a prior refusal of consent under this section:

(1) The director shall suspend his license to drive or nonresident driving privilege for a period of 2 years; or

(2) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 2 years after the date of the alleged violation.

II. The 180-day or 2-year suspension period or denial of issuance period imposed pursuant to this section shall not run concurrently with any other penalty imposed under the provision of this title. Any such suspension or denial of a license or privilege to drive shall be imposed in addition to any other penalty provided by law, subject to review as provided in RSA 265:91-b.

III. A refusal of consent for both post-arrest physical testing and testing of blood, urine or breath following any one arrest shall be deemed one refusal for the purposes of this section.

§ 265:92-a. Preliminary Breath Test

I. Any police officer, who has been certified by the police standards and training council according to standards for such

certification contained in rules adopted by said council pursuant to RSA 541-A, having reasonable grounds to believe that a person has been driving or operating a vehicle on a way while under the influence of intoxicating liquor or controlled drug or while the person's alcohol concentration was 0.08 or more or in the case of a person under the age of 21, 0.02 or more may, without making an arrest, request that such person submit to a preliminary breath test for alcohol concentration to be administered by the officer. The results of any test administered under this section may be introduced into evidence in a court for any relevant purpose. Failure to submit to the test shall not constitute a violation of this chapter. Evidence of a failure to submit to a preliminary breath test shall not be admissible in court in any prosecution under this subdivision, except for the purpose of determining whether the officer had probable cause to arrest the person. The provisions of this section shall not limit the introduction of any other competent evidence bearing on the question of whether a person charged with violating RSA 265:82, I(a) or RSA 265:82-a, I was under the influence of intoxicating liquor or any controlled drug. Nothing contained in this section shall be construed to prevent or require a subsequent test pursuant to RSA 265:84. The police officer requesting the test shall advise orally the person to be tested that his or her failure to take the test or his or her taking of the test shall not be construed to prevent or require a subsequent test pursuant to RSA 265:84. The results of the test shall be furnished immediately to the person tested by the police officer administering the test and in writing, if requested.

II. No device may be used to give a chemical test under the provisions of this section unless it has been approved as to type and make by the department of safety.

III. The commissioner of the department of safety shall adopt rules, pursuant to RSA 541-A, relative to methods and procedures for evaluation and approval of preliminary breath test devices.

§ 265:93-a. Alcohol Ignition Interlock Program Established

I. Any person whose license or permission to drive has been revoked or suspended for an aggravated DWI offense under RSA 265:82-b, I(b), I(c), or a subsequent DWI offense under RSA 265:82-b, II may be required by the court after the period of revocation or suspension to install an ignition interlock device as defined in RSA 259:43-a in any vehicle registered to that person or used by that person on a regular basis, for not less than 6 months nor more than 2 years. Installation and monitoring costs shall be paid by the offender. A certificate proving installation of the device shall be provided to the division of motor vehicles as a condition precedent to reinstatement of the individual's license to drive, and the division may mark the person's license accordingly.

II. Nothing in this section shall prohibit a court of competent jurisdiction from requiring the installation of an ignition interlock device for any person convicted of a violation of RSA 265:82, where the conviction is not based upon a complaint which alleges prior convictions as provided in RSA 265:82-b, II, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction.

III. Any person under the age of 21 whose license or permission to drive has been revoked or suspended under RSA 265:82-b may be required by the court after the period of revocation or suspension to install an ignition interlock device as defined in RSA 259:43-a in any vehicle registered to that person or used by that person on a regular basis, until the age of 21 or for not less than 12 months, whichever is longer.

IV. An ignition interlock device may not be sold or distributed in this state without the device being approved by the commissioner or the department of safety.

V. The department of safety shall establish rules, pursuant to RSA 541-A, for the approval of ignition interlock devices and

for the licensing of approved interlock service providers.

VI. The commissioner shall adopt rules and regulations to create an ignition interlock program that will control the delivery of interlock service in this state under this subdivision. The rules adopted for the licensing of approved interlock service providers shall require that each provider, at a minimum:

(a) Provide recalibration of each device monthly, unless otherwise ordered by the court;

(b) Maintain at least that number of locations across the state for the installation, service, calibration, and monitoring of an ignition interlock device as might be required from time to time by the program operating protocol developed by the commissioner;

(c) Provide periodic reports as determined by the court or in department rules, to the probation office and treatment provider, if applicable; if the offender is not placed on probation, to the arresting agency and the court of jurisdiction;

(d) Retain all data-logger records for 12 months after the end of the period to which the offender is sentenced;

(e) Provide installation and service to those offenders determined by the court to be unable to pay the full cost of an interlock program by reserving for this purpose a hardship credit equal to 2 percent of the service provider's gross receipts, excluding the purchase or rental cost of the interlock device, which credit and free service shall be reported annually to the department; and

(f) Provide a certificate of installation to the vehicle's owner upon installation of the device in a form to be determined by the department's interlock rules.

§ 265:93-b. Alcohol Ignition Interlock Circumvention.

I. Any person required by the court to drive only a motor vehicle equipped with an ignition interlock device shall not drive any motor vehicle not equipped with this device.

II. A person shall not tamper with, or in any way attempt to circumvent the operation of an ignition interlock device that has been installed in a motor vehicle.

III. A person shall not start or attempt to start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person who is restricted by law to drive only a motor vehicle so equipped. The provisions of this section do not apply if the starting of a motor vehicle, or the request to start a motor vehicle equipped with an ignition interlock device, is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order does not drive the vehicle.

IV. A person shall not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person whom the provider of the vehicle knows was sentenced to drive only a motor vehicle equipped with an ignition interlock device.

V. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

§ 265:93-c. Violating Court Order

I. Upon written notice, by affidavit, that any person has violated an order of the court with regard to the installation of an ignition interlock device after the period of revocation or suspension imposed in RSA 265:82-b, 265:79, or 630:3, a hearing shall be scheduled within 14 business days of the notice. Pending the hearing and upon a finding of probable cause that a violation has occurred based upon the affidavit, the court shall immediately suspend the defendant's privilege to drive a motor vehicle. After the hearing and upon a finding of violation by a preponderance of the evidence, the privilege to drive shall not be restored until the court is satisfied that the person is in compliance with its order.

II. If it is found that a person required to drive a motor vehicle equipped with an ignition interlock device has failed to comply with any requirement for the maintenance or calibration of the device, or shows a consistent pattern of failures to pass the breath test provided by the device, the court may order a hearing to determine if the person should be held in contempt of court. Upon a finding of contempt, the court may sentence the defendant to up to 6 months in a county department of corrections facility, may make such other orders as necessary to bring about compliance, and may order a further license suspension or revocation for a period of not more than 12 months. The period of suspension or revocation under this section shall be added to any previously ordered suspension or revocation.