

Motor Vehicle Division Policy Memo # 19-06

24/7 Sobriety Program

DATE: June 17, 2019

FROM: Darcy Doty, Director, Driver and Identification Services

TO: All Driver and Identification Services staff, Iowa County Treasurers and County Treasurer's staff
the issue driver's licenses and non-operator's identification cards

SUBJECT

This policy memo explains legislation enacted during the 2017 and 2019 legislative sessions regarding provisions related to the implementation of a new 24/7 sobriety program in Iowa.

SUMMARY

Senate File 444, enacted in 2017, added several provisions to the code aimed at making it safer to drive. The legislation targets distracted driving and impaired driving, and its most significant provision is the creation of a 24/7 sobriety program in Iowa, in which a customer would be required to test for alcohol or drug presence twice a day for a specified period of time if they commit an eligible offense in a participating county. Other states, including South Dakota, currently employ a 24/7 sobriety program as a tool against impaired driving.

The legislation adopted code chapter 901D, entitled the Iowa Sobriety and Drug Monitoring Program Act, also known as the 24/7 sobriety program. This chapter requires the Department of Public Safety (DPS) to establish a statewide sobriety and drug monitoring program to be used by participating jurisdictions, which shall be available 24 hours per day, 7 days per week. Testing will occur at the County Sheriff's Office within the participating county, or the sheriff's office may establish an alternative testing location. A customer may be required to participate in the 24/7 program if ordered to do so by a court, as a condition of parole, as a condition of receiving a temporary restricted license (TRL) if the customer committed an eligible offense in a participating county, or as a condition of reinstating their license if they committed a repeat offense.

Eligible offenses include the following, whether based on an implied consent or a conviction:

- OWI 1st – BAC > .15
- OWI 1st – accident
- OWI 1st – test refusal
- OWI 2nd or subsequent

As mentioned above, the court can order someone to participate in 24/7 and the DOT must administratively require someone to participate in 24/7 as a condition of their TRL or license when an IID is required if they have committed an eligible offense in a county that is participating in the 24/7 sobriety program. The law also provides that a court may excuse a customer's participation in 24/7 by court order, including due to hardship or geographic impracticality. We will not be determining hardship when administratively requiring someone to participate in 24/7 as a condition of their license. However, we will honor court orders that excuse participation in the program.

If the customer is found to be in noncompliance with the 24/7 program, such as a failed test or failure to show up for a test, a magistrate will order the customer into immediate incarceration, and may also notify us to cancel the customer's license or issue a revocation for violation of restricted license.

The legislation also changed several provisions of Iowa Code chapter 321J, including requiring both the installation of an IID and participation in 24/7 as a condition of the customer's TRL if the customer committed an eligible offense in a participating jurisdiction. Also, because of the way the legislation was written, the requirement to participate in 24/7 will also extend to customers who are required to install an IID after reinstatement under Iowa Code section 321J.17.

The legislation caused us to reprogram ARTS to add participation in the 24/7 program as a compliance requirement for a TRL, and for a regular license for repeat offenders, if an eligible offense occurred in a participating county.

Senate File 364, enacted in 2019, further clarified the length of the 24/7 participation requirement by providing that the court may order the customer to complete at least 90 days in the 24/7 program with the remaining 30 days of the program to be a mandatory "clean" period. What that means is that the customer will not be released from the 24/7 program until they have maintained at least a 30-day continuous period with no violations (i.e., no test failures or no-shows). Iowa Code chapter 321J was also amended to require the 24/7 condition on the license to last the length of the court order. Once the customer has completed participation in the 24/7 program, the county sheriff in or other official in the participating county will notify us of the completion so that we can remove the 24/7 condition from the license.

Below is a further explanation of the changes made to ARTS and the process changes to be aware of because of this new program.

The initial legislation authorizing the 24/7 program in Iowa became effective on July 1, 2017; however, the Department of Public Safety plans to implement a pilot program in Woodbury County, Iowa effective July 8, 2019. The 2019 legislation addressing the length of participation in the program is effective July 1, 2019.

LINK TO IOWA CODE, LEGISLATION AND ADMINISTRATIVE RULES

Iowa Code chapter 901D:

<https://www.legis.iowa.gov/docs/code/901d.pdf>

Iowa Code chapter 321J:

<https://www.legis.iowa.gov/docs/code/321j.pdf>

2019 Iowa Acts, Senate File 364

<https://www.legis.iowa.gov/docs/publications/LGE/88/SF364.pdf>

Iowa Administrative rule chapter 620:

<https://www.legis.iowa.gov/docs/iac/chapter/01-30-2019.761.620.pdf>

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide information regarding new procedures that will be helpful to you as you process TRL applications and license reinstatement applications for repeat offenders, and answer customer questions regarding the 24/7 program. The questions and answers are broken down into the following categories: Pilot Program, 24/7 as Condition of TRL or License, No-Shows and Noncompliance with 24/7, and Court Order Waiving Participation

PILOT PROGRAM

HOW MANY COUNTIES WILL BE PARTICIPATING COUNTIES IN THE 24/7 PROGRAM?

At this point in time, only Woodbury County will be participating in the initial pilot of the program.

WHEN WILL THE 24/7 PROGRAM START IN WOODBURY COUNTY?

The pilot is tentatively set to begin July 8, 2019.

WHAT IF THE CUSTOMER LIVES IN A DIFFERENT COUNTY FROM WHERE THEY WERE CITED FOR OWI?

If a customer commits an eligible offense in Woodbury county, they will be required to participate in the 24/7 program as a condition of their TRL or one-year IID reinstatement license, no matter which county they reside in. However, a court may excuse the customer's participation in 24/7 by court order. The DOT has no authority to consider hardship or geographic impracticality when requiring someone to participate in 24/7, but we will honor a court order excusing participation. If customers have questions about challenges in getting to and from the testing location each day due to geographic impracticality or any other reason, we should let them know that only a court order can excuse their participation.

HOW WILL WE KNOW WHEN A COUNTY BEGINS PARTICIPATING IN THE 24/7 PROGRAM?

As the program evolves and more counties decide to participate, we will communicate with DPS and with the courts to make sure we all know who is required to participate in the program and when the requirement will begin, and that information will be shared before the county begins participating.

WHAT HAPPENS ONCE THE PILOT PROJECT IN WOODBURY COUNTY IS OVER?

We aren't sure yet how long the pilot project in Woodbury County will last, but once the pilot project is over, we presume that DPS will use the results of the pilot to determine whether to expand 24/7 into any other counties. The legislature has also required a report detailing the outcomes of the 24/7 program and that report may guide some future action regarding the program.

24/7 AS CONDITION OF TRL OR LICENSE

DO I HAVE TO WAIT TO ISSUE THE TRL UNTIL THE CUSTOMER OBTAINS AN ORDER FROM THE COURT REQUIRING PARTICIPATION IN THE 24/7 PROGRAM?

No. Similar to the current OWI process, there are some elements of the process that are criminal and handled by the courts, and other elements which are administrative, and handled by the DOT. The way the law is written, it requires participation in 24/7 as a condition of a TRL, and we determined that there was no need to make the customer wait for the court order before they were able to obtain the TRL. This is because although in most instances, the court will issue an order requiring the customer to participate in 24/7 at the customer's initial appearance in the criminal OWI matter, we know there can sometimes be delays between the administrative OWI revocation taking effect and the criminal process. Therefore, we did not want customers to be prevented from obtaining a TRL that they will need to participate in the 24/7 program anyway and did not want to make them come back to us multiple times, if that could be avoided. The sheriff's office will monitor for the court order requiring participation in the 24/7 program and will notify us after a certain period of time if the court order is never received.

WHAT IF THE CUSTOMER IS ORDERED TO PARTICIPATE IN 24/7 BUT THEY HAVE NOT SATISFIED ALL OF THE REQUIREMENTS TO OBTAIN A TRL?

If the customer has not satisfied all the requirements to obtain a TRL, we are not required to issue the TRL, even if they have been ordered by the court to participate in 24/7. Iowa Code section 901D.3 states that a customer is not required to begin testing in the 24/7 program until they are eligible for a TRL under applicable law. Therefore, if the customer has not paid the \$200 civil penalty or filed SR-22 insurance, for example, we do not have to issue the TRL until those compliance items have been satisfied.

WHAT IF THE COURT ORDERS A CUSTOMER TO PARTICIPATE IN 24/7 FOR 90 DAYS, BUT THE TRL IS WRITTEN FOR 180 DAYS?

Participation in 24/7 will be required as a condition of the TRL for the period required by the court order. The participating county will notify us when the customer has completed the 24/7 program and then we will remove the 24/7 condition from the TRL.

WHAT IF THE CUSTOMER IS A REPEAT OFFENDER AND IS REQUIRED TO INSTALL AN IID FOR ONE YEAR AFTER REINSTATEMENT OF THEIR REGULAR LICENSE UNDER SECTION 321J.17?

The law is written to require participation in 24/7 anytime an IID would be required under chapter 321J if the customer commits an eligible offense in a participating county. Therefore, because chapter 321J requires installation of an IID for one year after reinstatement for repeat offenders, the customer will also be required to participate in 24/7 after reinstatement, minus any eligible time completed on their TRL, unless we have received notification that the customer has completed participation in the 24/7 program while on their TRL or has been excused from participation by court order. For example, if a customer is revoked for a second OWI test failure for one year and decides not to get a TRL until the last 30 days of their revocation, the customer

will be required to install an IID as a condition of their regular license for an additional 335 days per Iowa Code section 321J.17. The customer in this example would be required to participate in 24/7 for the 30 days they had a TRL during their original revocation and would still be required to participate in 24/7 for potentially another 60 days as a condition of their regular license after reinstatement, or for whatever length of time until the participating county notifies us that the customer has completed the 24/7 program.

IS IT ACCURATE TO SAY THAT WHENEVER A CUSTOMER NEEDS AN IID THAT THEY WILL ALSO NEED TO PARTICIPATE IN 24/7 IF THEIR OFFENSE OCCURRED IN A PARTICIPATING COUNTY?

Almost, but it didn't align perfectly regarding 1st offense OWIs. The legislation was written to say that the customer must participate in a 24/7 program to obtain their TRL or to reinstate whenever chapter 321J requires an IID. However, the legislation also states that the customer must have committed an eligible offense, and for first offenses, an eligible offense is defined as a first offense where the customer's BAC was greater than .15, there was an accident, or they refused. We require an IID for any first offense OWI, so there is the potential for someone with a first offense OWI with a BAC of less than .15 to have to install an IID, but not participate in the 24/7 program even if their offense occurred in a participating county.

WHAT ABOUT CUSTOMERS WHO HAD AN OWI BEFORE THE PROGRAM BEGAN AND APPLY FOR A TRL OR TO REINSTATE THEIR REGULAR LICENSE AFTER A REPEAT OFFENSE? DOES THIS APPLY TO THEM AND HOW WILL THEY KNOW ABOUT IT?

It was decided that the pilot program will be implemented on a going-forward basis. Therefore, only customers who received an eligible OWI offense in Woodbury County after the effective date of the pilot will be required to participate in 24/7 as a condition of their license.

HOW WILL THE PROCESS WORK WHEN A CUSTOMER HAS AN ELIGIBLE OFFENSE IN WOODBURY COUNTY AND WANTS A TRL OR LICENSE WHEN AN IID IS REQUIRED?

When a customer has an eligible first offense in Woodbury county and wants a TRL or a regular license with an IID is required under 321J.17, you will need to check the box for 24/7 on the sanction Consequences tab in ARTS as shown on the screen shot below. The TRL checklist has also been updated to include this requirement.

When a customer has an eligible second offense in Woodbury county, the 24/7 box on the sanction Consequences tab in ARTS should already be checked. If you do not see this, you should contact your area Records AA2.

There will be a "Days Remaining on 24/7" and "24/7 Required Through" line on the compliance screen that will display like the existing "Days Remaining on IID" and "IID Required Through" lines, and once an IID TRL or an IID one-year reinstatement license has been issued, the fields on the compliance screen for 24/7 will automatically populate.

If we receive a paper notice of a court order waiving participation in the 24/7 program at a Driver's License Service Center, you will go to the sanction Consequences tab and remove the check in the box for 24/7. If a TRL has been issued with a 24/7 requirement, you will create an

amended TRL that no longer shows 24/7 requirement information. If a one-year reinstatement license with an IID and 24/7 requirement has been issued, you will issue a duplicate license without the 24/7 requirement condition.


Once the appropriate waiver steps have been taken, you will email Sanctions.Support@iowadot.us and send a copy of the paper waiver to Sanctions unit. The Sanctions unit will email this information to the Woodbury county liaison so that they can automate a waiver notice to us. The sanctions unit will also scan and index the court order of waiver into the customer's ERMS file.

Once we begin receiving automated waiver notices in Intoxitrack, ARTS will automatically remove the 24/7 requirement from the sanction Consequences tab and will create an amended TRL, or an amended lift notice advising the customer to return for a duplicate license without the 24/7 requirement.

ARTS will send an automated notice to Intoxitrack when the 24/7 requirement has completed from the DOT's perspective, i.e., the customer is no longer required to have an IID installed as a condition of their license or TRL. ARTS will also automatically receive the completion notice from Intoxitrack when the participating county has determined the customer has completed participation in the 24/7 program per the terms of the court order.

If you have any questions about processing the 24/7 requirement or a waiver, please contact your area Records AA2. If you are a county treasurer and have questions about the steps to take to issue a license with a 24/7 requirement, including accessing the appropriate screens, please contact your county liaison or the county contact.

Sanction Add/Edit

Customer Name 

Residency Address

Identification






Current Class 0; ISS: 01-10-2017; EXP: 01-10-2025

Previous Class C; ; REST: 2; ISS: 09-29-2015; EXP: 12-24-2019

Customer #

Customer Type

Date of Birth

Sanction Data | Related Cases | Code Section(s) | AAMVA | Consequences | Triggering Events

Consequences

☒ Civil Penalty Required

☒ IID Required

☒ 24/7

☒ Reinstatement Fee Required

☒ Financial Responsibility Required

☒ Proof Of Insurance

☒ Reinstatement As New

☐ Drinking Driver School Required

☒ Probation Required

☐ Treatment Evaluation Required

☒ Third Party Notification Required

Months of Probation

12

Extent

☒ Commercial Affected


☒ Affects Hazmat Endorsement

All Consequences Lifted Date

☒ Non Operators Affected

☒ Affects Moped Restriction

☒ Non Commercial Affected

 Compliance

CAN A CUSTOMER FILL OUT THE REST OF THE REQUIRED 24/7 PAPERWORK AND COMPLETE ENROLLMENT AT THE DOT?

No, we only issue the TRL or license, which is a requirement of participating in the 24/7 program. The customer will additionally need to complete the required paperwork, arrange testing times and pay any required fees to be fully enrolled in the 24/7 program, and all those steps must be done at the sheriff's office.

WILL DOT CHARGE THE CUSTOMER A FEE FOR PARTICIPATING IN 24/7?

No, the DOT will not charge a fee for the 24/7 program. DPS and the participating county will be responsible for assessing and collecting the required fees. Nothing in the law affects the current civil penalty that we assess or the other compliance requirements the DOT imposes after an OWI.

WHAT HAPPENS AFTER WE ISSUE A TRL OR LICENSE WITH 24/7 AS A CONDITION?

Once you have issued the TRL or license with 24/7 as a condition, ARTS will notify Intoxitrack, which is the system being used by DPS to manage the 24/7 program in Iowa. The customer will then need to proceed to the Woodbury County sheriff's office to complete enrollment in the 24/7 program. What this means is that the customer will need to fill out the remaining paperwork at the sheriff's office to become enrolled and be notified of testing times, as well as pay any required fees.

WHAT HAPPENS IF A CUSTOMER WITH 24/7 LISTED AS A CONDITION OF THEIR TRL OR LICENSE SUBSEQUENTLY LOSES THEIR TRL FOR ANOTHER REASON?

It may be common that a customer issued a TRL with 24/7 as a condition, and who is enrolled in and participating in the 24/7 program, later loses their TRL, perhaps due to another driver's license revocation or suspension, or for failure to maintain SR-22, etc. If the customer loses their TRL, ARTS will send notification to Intoxitrack that the customer is no longer "enrolled" in 24/7 so that the sheriff's office will know the customer no longer has a TRL, which is a requirement of the 24/7 program. The sheriff's office will then take whatever action they deem appropriate to notate the customer should no longer be required to participate in 24/7 due to lack of a TRL. The same applies for customers who have a driver's license with an IID restriction and they lose their driving privileges due to a new sanction.

WHAT IF A CUSTOMER COMMITS AN ELIGIBLE OFFENSE IN WOODBURY COUNTY BUT CHOOSES NOT TO GET A TRL?

There is nothing in the code that requires a customer to obtain a TRL. A TRL is required to participate in 24/7 in accordance with Iowa Code section 901D.3, however a customer may simply choose not to obtain a TRL for any number of reasons, one of which may be to avoid being subject to the 24/7 program.

WHAT HAPPENS IF A CUSTOMER OBTAINS AN ORDER TO SUPPRESS THE OWI TEST RESULT OR TEST REFUSAL?

If the customer obtains an order from the court suppressing the OWI test result or test refusal, and that order causes us to remove the OWI revocation from the driving record, the customer will no longer have an eligible offense on their record unless we have revoked based on the OWI conviction, and with no OWI offense on the record, there would be no 24/7 requirement.

WHAT HAPPENS WHEN THE CUSTOMER'S OWI REVOCATION IS OVER?

Once the OWI revocation has ended and the customer no longer requires a TRL, the requirement to participate in the 24/7 program as a condition of the TRL will be ended. ARTS will send a notification to Intoxitrack informing them that the customer no longer requires a TRL and has "completed" the program. However, if the customer is a repeat offender and never participated in the 24/7 program during their original revocation, but was required to, and they are reinstating their license with an IID requirement, participation in 24/7 will continue as a condition of the license unless or until we receive a completion notice from Intoxitrack. A customer who is reinstating their regular license with an IID requirement will be issued an "I"

restriction for the IID condition and a “J” restriction for the 24/7 condition as long as it is applicable.

WHAT HAPPENS IF WE RECEIVE AN “ADMINISTRATIVE CLOSE” NOTICE FROM INTOXITRACK?

We may receive a notice from Intoxitrack administratively closing the 24/7 program requirement for a customer for a reason other than completion or noncompliance. This could include if the customer is deceased or incarcerated. When we receive an administrative close notice from Intoxitrack, the 24/7 requirement will be ended automatically by unchecking the box for 24/7 on the sanction in ARTS. Correspondence will be sent unless the reason for the administrative close is because the customer is deceased.

ARE WE KEEPING TRACK OF WHEN THE CUSTOMER HAS COMPLETED THEIR PARTICIPATION IN THE 24/7 PROGRAM?

No, we are not able to keep track of this on the DOT side. This is because the law is written to require participation in the 24/7 program to last for the time period ordered by the court, which must be at least 90 days, but could be longer, and because the customer must complete a 30-day clean period prior to being discharged from the program. Because we are not the entity performing the testing, we cannot know when the customer has met their 30-day clean period, so that is why the law requires the county sheriff to notify us when the customer has completed participation in the 24/7 program.

NO-SHOWS AND NONCOMPLIANCE WITH 24/7

WHAT HAPPENS IF A CUSTOMER ISSUED A LICENSE WITH 24/7 AS A CONDITION NEVER SHOWS UP TO THE SHERIFF’S OFFICE TO COMPLETE ENROLLMENT IN THE PROGRAM?

The sheriff’s office will set up a reminder system to monitor customers who were issued a license with a 24/7 condition, but never showed up to complete the enrollment process at the sheriff’s office. DPS has indicated that in addition to needing a driver’s license to participate in the 24/7 program, that the court must also order the customer to participate in 24/7. In most instances, the court will issue an order requiring the customer to participate in 24/7 at the customer’s initial appearance in the criminal OWI matter, however, accounting for the fact that the court order may be delayed or there may be continuances, the sheriff’s office will monitor for the court order and will notify the DOT after a specified amount of time, likely 60 days, if the customer was issued a license and was “enrolled” from the DOT’s perspective, but never completed enrollment with the sheriff’s office. Once we receive notification from Intoxitrack that the customer was a “no show” ARTS will automatically cancel the license for not entitled to issuance.

WHAT HAPPENS IF A CUSTOMER ISSUED A TRL WITH 24/7 AS A CONDITION IS FULLY ENROLLED IN THE 24/7 PROGRAM BUT LATER FAILS A TEST OR FAILS TO SHOW UP FOR A REQUIRED TEST?

DPS and the sheriff’s office have the responsibility to monitor for noncompliance with the 24/7 program and will establish criteria for determining noncompliance. According to Iowa Code

section 901D.9, once a customer has been determined noncompliant, the sheriff's office is required to notify the court. Among the other potential penalties for noncompliance, the court may order the DOT to revoke the customer's license. If there is an order to revoke the license, we will receive notification from Intoxitrack that the customer was "noncompliant" and the license will be revoked for Violation of Restricted License.

COURT ORDER WAIVING PARTICIPATION

WHAT HAPPENS IF A CUSTOMER WITH AN ELIGIBLE OFFENSE IN WOODBURY COUNTY OBTAINS A COURT ORDER EXCUSING OR WAIVING PARTICIPATION IN THE 24/7 PROGRAM?

Iowa Code section 321J.20(9) provides that participation in 24/7 will not be a requirement of a TRL or license if the customer obtains a court order waiving participation in the 24/7 program. If we receive notice of a court order waiving participation from Intoxitrack, ARTS will automatically generate an amended TRL lift letter removing 24/7 as a condition of the license. The first two lines in the screen shot below are an example of what will happen when we receive an automated notice of the waiver from Intoxitrack. However, if we receive a paper notice of the court order waiving participation from the customer, the bottom line of the screen shot below is an example of what will occur.

Search Results						
Sent	Received	Template	Subject	Created Date	Received By	
+ <input checked="" type="checkbox"/>	<input type="checkbox"/>	Sobriety247 Waive	Sobriety247 Waiver Of Enrollment	2/15/2019	DPS	
+ <input checked="" type="checkbox"/>	<input type="checkbox"/>	TRL Lift Letter	TRL Lift Letter	2/15/2019	DPS	
+ <input checked="" type="checkbox"/>	<input type="checkbox"/>	License Application	License Application	2/14/2019	thills	
+ <input checked="" type="checkbox"/>	<input type="checkbox"/>	TRL Lift Letter	TRL Lift Letter	2/14/2019	thills	

HOW WILL I RECEIVE NOTICE THERE IS AN ORDER WAIVING THE CUSTOMER'S PARTICIPATION IN 24/7?

The court should notify Intoxitrack if a court order is entered waiving participation in 24/7, and Intoxitrack should notify DOT that a waiver order has been entered. It could be that you will receive a copy of the order directly from the customer or the customer's attorney, if they have one. We should honor a waiver order we receive from the customer or the customer's attorney the same as we would if notified of the waiver order from Intoxitrack or the court directly.

WHAT HAPPENS IF THE CUSTOMER OBTAINS A COURT ORDER WAIVING PARTICIPATION AFTER THEY HAVE BEEN CANCELED OR REVOKED DUE TO NONCOMPLIANCE WITH THE PROGRAM?

If the customer obtains a court order waiving their participation in the program after we have already canceled or revoked the license due to noncompliance with the 24/7 program, you will rescind the revocation or cancellation from the record.