

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 19A – DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.1(a3) that the Department of Transportation - Division of Motor Vehicles intends to adopt the rule cited as 19A NCAC 03K .0103.

Codifier of Rules received for publication the following notice and proposed temporary rule(s) on: March 1, 2022.

Public Hearing:

Date: March 15, 2022

Time: 10:00 a.m.

Location: Go to meeting: <https://attendee.gotowebinar.com/register/2069434136979734797> After registering you will receive a confirmation e-mail containing information about joining the webinar. Teleconference 1-415-930-5321, Access code: 348-889-276

Reason for Proposed Temporary Action: The effective date of a recent act of the General Assembly or of the U.S. Congress, S.L. 2021-182, effective November 19, 2021. Session Law 2021-182 Section 1.(e) Article 3 of Chapter 20 of the General Statutes was amended by adding a new section to read: "§ 20-179.5. (e) Reduction of Costs. – A vendor who receives a waiver under subsection (b) of this section that complies with the requirements of subsections (c) and (d) of this section shall install the ignition interlock system in accordance with both of the following terms: (1) The applicant shall not be required to pay for installation or removal of the ignition interlock system or systems. (2) The applicant shall receive a fifty percent (50%) discount on the monthly service rate charged to persons who are not granted a waiver under this section.

Session Law 2021-182 Section 1.(f) states that the Division of Motor Vehicles shall adopt temporary rules to implement the provisions of G.S. 20-179.5, as enacted by subsection (e) of this section. Temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective. The agency is proposing to adopt the proposed temporary rule 19A NCAC 03K .0103 Review of Denial for Ignition Interlock System to comply with the Session Law.

Comment Procedures: Comments from the public shall be directed to: Hannah Jernigan, 1501 MSC, Raleigh, NC 27699-1501; email Rulemaking@ncdot.gov. The comment period begins March 1, 2022 and ends March 30, 2022.

CHAPTER 03 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 03K – DIVISION HEARING FEES

19A NCAC 03K .0103 REVIEW OF DENIAL FOR IGNITION INTERLOCK SYSTEM

(a) In the event an applicant is denied a waiver of costs for an ignition interlock system and pursuant to G.S. 20-179.5, the applicant may seek review of the decision by the Division of Motor Vehicles of the vendor's determination. No fees shall be charged for a Review of a Denial of the Affordability of an Ignition Interlock System as set forth in G.S. 20-179.5.

(b) Should any applicant disagree with a decision of the vendor pertaining to the denial of the waiver, the applicant may appeal to the Division of Motor Vehicles in accordance with this Rule.

(c) Within 30 days from the time of the decision of the vendor, the applicant shall submit a written appeal to the Division of Motor Vehicles setting forth the facts and arguments upon which the appeal is based. The appeal shall be sent to the Division by certified mail and with a return receipt requested.

(d) Upon receipt of the written appeal, the Division shall review the written appeal and the vendor's decision, as well as any documents, exhibits, or other evidence bearing on the appeal, and shall render the final agency decision, supported by findings of fact. The final agency decision shall be given by deposit in the US mail of such notice in an envelope with postage prepaid, addressed to such person at the address as shown by the records of the Division.

Authority ; G.S. 20-179.5; S.L. 2021-182.