

DUI and Ignition Interlocks

Dear NETS Members,

December 13, 2010

Bob Holman (Merck) sent a question concerning driving under the influence and interlocks. Please see Bob's full question below.

Responses follow Bob's question.

Please contact me if you have any questions or suggestions.

Jack Hanley
NETS
Executive Director
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Question

Background

There are an increasing number of states that have added possible requirements for breath analyzer interlocks as part of the DUI/DWI license re-instatement and conditional license process, even for a first offense.

Question Set

1. Has your company established a formal position on installation of breath analyzer interlocks in company cars?

1. A Do you permit them to be installed when required by the courts? We have not at this time- but we do not have a formal policy.

1. B If the answer to 1A above is yes, who pays for the interlock?

2. If you prohibit interlocks in company vehicles, would you terminate a driver who has a court requirement for an interlock, but allow a driver in another state with a very similar case, but not court requirement to remain employed? If an employee has a DUI they are typically removed from a driving position

3. Do you have any other information that you would like to share on this topic?

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DUI and Ignition Interlocks

Background

There are an increasing number of states that have added possible requirements for *breath analyzer* interlocks as part of the DUI/DWI license re-instatement and conditional license process, even for a first offense.

		<p>1. Has your Company established a formal position on installation of breath analyzer interlocks in company cars?</p> <p>2. Do you permit them to be installed when required by the courts?</p> <p>3. If the answer above is yes, who pays for the interlock?</p>	<p>If you prohibit interlocks in company vehicles, would you terminate a driver who has a court requirement for an interlock, but allow a driver in another state with a very similar case, but no court requirement to remain employed?</p>	<p>Do you have any other information that you would like to share on this topic?</p>
1	<p>Coca-Cola Amy Lokken alokken@coca-cola.com</p>	<p>1. We have not at this time- but we do not have a formal policy.</p>	<p>If an employee has a DUI he/she typically is removed from a driving position</p>	
2	<p>Amgen Scott Thompson sothomps@amgen.com</p>	<p>1. No Policy</p> <p>2. Has never come up. Would be a case by case decision by HR/Legal</p> <p>3. Would be decided by HR</p>		
3	<p>Anon</p>	<p>1. Not a formal policy, but...</p> <p>2. No</p>	<p>Would be circumstance dependent. If the employee is required to drive for their position and cannot, termination or job transfer to a non-driving job is possible. In some business units, outcome would be influenced by the collective bargaining agreement</p>	

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4	Anon	<p>1. Yes 2. Yes 3. The Fleet Department</p>		<p>Additional Information</p> <p>From our Fleet Policy - <u>Alcohol and Drug Use (DUI/DWI)</u> Authorized drivers may not operate any vehicle if impaired by alcohol, drugs, medication, illness, fatigue or injury.</p> <p>If an authorized driver is given a citation, ticket or charged by law enforcement for impaired driving (DUI/DWI), or if the driver refuses a breath test, while driving a company provided vehicle or personal vehicle, the employee must immediately notify his/her management, Fleet Safety and HR Representative. Any employee driver given a citation, ticketed or charged with an alcohol or drug-related offense that occurred while driving a company vehicle or any vehicle may have his/her company vehicle privileges terminated and may face other appropriate disciplinary action, up to and including termination of employment.</p> <p>Authorized spouse / domestic partners given a citation, ticketed or charged with an alcohol or drug related offense immediately lose their privilege to operate a company vehicle.</p> <ul style="list-style-type: none"> · Employees given a citation, ticketed or charged with a DUI/DWI in any vehicle must contact his/her management, Fleet Safety and HR representative within 5 days of the citation, ticket, charge or arrest. Failure to do so will be consider an act of misconduct. · Employees must cease driving the company provided vehicle or a personal

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			<p>vehicle for company business immediately upon citation, ticket or charge of DUI/DWI until released to do so by Fleet Safety and Employee Health Services. In addition the employee must not drive any vehicle for company business immediately following citation, ticket or charge of DUI/DWI until released to do so by Fleet Safety and Employee Health Services.</p> <ul style="list-style-type: none"> · The company may require, at the company's cost, the employee to install on their company provided vehicle an ignition interlock device for one year. Employees who use their own vehicle for business driving are excluded from this process, unless required by state law. · Assessment of the employee's ability to return to their role involving driving a company provided vehicle is required by Employee Health Services (EHS). A health care provider approved by EHS must conduct this evaluation. · To resume driving a vehicle for company business, the employee must provide suitable proof of valid/reinstated driver's license to both his/her manager and Fleet Safety and complete the required Fleet Safety training program. <p>Additional information All DUI/DWI tickets are 10 points in our Driver Risk Analysis system.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Fleet Safety Training for highest risk drivers or a Critical Event</p> <ul style="list-style-type: none"> · Charged or ticked with DUI/DWI · Fleeing the scene of an accident · Use of a company provided vehicle or a personal vehicle on company business in violation of any criminal law. · Committing a driving-related felony, homicide, or manslaughter · Falsifying collision / incident facts · Operating a company vehicle without a valid driver's license · Failure to report an accident · Allowing an unauthorized person to drive a company vehicle · Transporting a firearm in the company vehicle </div>
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			<div style="border: 1px solid black; padding: 5px;"> <p>Required Actions</p> <ul style="list-style-type: none"> · Driver completes all assigned on-line safety training · Management works with HR to initiate appropriate disciplinary action which may include revoking driver privileges and/or separation from the company · Driver completes remedial Behind-the-Wheel Fleet Safety Training · Driver pays Fleet Safety Training fee for the class; Driver's district is charged Fleet Safety Training Fee for the class · Driver may be required to reimburse the Company for a loss (fixing the bent metal) occurring as a result of a critical event. · Spouses/Registered Domestic partners are no longer authorized to drive the company provided vehicle. </div>	
5	Anon	<ol style="list-style-type: none"> 1. Yes 2. No 	<p>We will terminate an employee where the court mandates the installation of an interlock device on the Company vehicle (with no consideration of what other state laws require). Our experience has been that the courts will not mandate the installation of an interlock device on a Company vehicle. If the employee has a personal vehicle the device would have to be placed on their personal vehicle.</p>	
6	<p>Novo Nordisk <i>Donna Bibbo</i> <i>dbib@novonordisk.com</i></p>	<ol style="list-style-type: none"> 1. No 2. We permit them to be installed if required by the courts. 3. It is at the cost of the driver, not the company. Up until now, we have only had to do this once. 		<p>If you're looking at allowing this, one auto manufacturer (company name deleted by editor) has a new product that they are looking for fleets to test. I don't believe that you need to actually have (this vehicle) to do this.</p>

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7	Anon	<p>1. We are looking to institute a policy of not permitting interlocks on company vehicles (applies to US only at this time). In final review process.</p> <p>2. NA</p> <p>3. Actions with consequences that prohibit the driver from doing his/her essential functions may result in termination or reassignment.</p>	
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		<p>1. Has your Company established a formal position on installation of breath analyzer interlocks in Company cars?</p> <p>2. Do you permit them to be installed when required by the courts?</p> <p>3. If the answer above is yes, who pays for the interlock?</p>	<p>If you prohibit interlocks in company vehicles, would you terminate a driver who has a court requirement for an interlock, but allow a driver in another state with a very similar case, but not court requirement to remain employed?</p> <p>Do you have any other information that you would like to share on this topic?</p>
8	BMS <i>Wendy Dymkowski</i> wendy.dymkowski@bms.com	<p>1. No</p> <p>2. We disallow the installation of any equipment.</p>	<p>We disallow the installation of any equipment, if it is a requirement of the state to install an ignition interlock to retain one's driver's license and driving is a requirement of the job, then one may be terminated.</p>
9	Anon	<p>Hopefully, this question has been posed to HR. The issue goes well beyond "safety." Disparate treatment is certainly part of the issue. As is the organization's willingness to continue allowing DUI offenders to drive.</p>	
10	Quintiles <i>Steve Meyer</i> Steve.Meyers@quintiles.com	<p>1. We considered, but did not include a formal position in our SOPs</p> <p>2. Yes</p> <p>3. Employee—including removal.</p>	<p>Interlocks were carefully considered, but we ultimately decided that other disciplinary actions (up to and</p>

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				including termination based on the circumstances) would be more appropriate and less costly.
1	Spectra Energy <i>Kathy Webster</i> kwebster@spectraenergy.com	We do not have a formal documented policy but we have allowed these inter locks to be installed in fleet vehicles-the unit, install and removal are at the employee's expense.		

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12	Pfizer <i>Teri Snow</i> theresa.l.snow@pfizer.com	<p>1. Yes</p> <p>2. Yes</p> <p>3. Driver pays</p>	N/A	If the driver tampers with the device then they are subject to termination or further disciplinary action
13	sanofi-aventis <i>Tom Consentino</i> Thomas.Cosentino@sanofi-aventis.com	<p>1. Yes, we require them if the employee has received a citation (before a conviction) and they are still allowed to drive by the state.</p> <p>2. Yes</p> <p>3. The employee pays all associated costs.</p>		
14	AstraZeneca <i>Mary Rost</i> mary.rose@astrazeneca.com	<p>1. Yes</p> <p>2. This requirement will result in immediate termination of the employee.</p>	In all cases where a driver is required to have an interlock device installed on their vehicle as a condition of their	A few years ago, a company vehicle was returned to inventory that had an interlock device. We were unaware this device had been installed until after the fact. Once it was discovered, the

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			<p>DUI, we will terminate that employee. Every DUI case is unique and when they happen, this event will prompt a thorough investigation of the employee's performance history, corporate credit card use, sales logs, etc. If they pass the review of their employment history but the court places any restrictions on their license by the state, that individual will be terminated. In our experience, the investigation into the employee's work history typically highlights other compliance violations or performance issues and the DUI was simply the catalyst that solidified that individual's termination.</p>	<p>vehicle was taken to a shop to have it removed, but we soon learned that removal could only be performed on approval by the court. Since the individual was no longer an employee, gaining that court approval was extremely difficult and removal of the equipment also resulted in damage to the company vehicle.</p> <p>After that incident, we discussed this matter with our Legal Department. There concern was that if a driver was required to have an interlock device installed on their vehicle and they were involved in a collision incident, the company was open to risk of liability even if our driver was not at fault for a collision simply based on the fact that our driver was required to use an interlock to operate the vehicle. Leadership also felt the company could be viewed negatively by our customers if they saw one of our drivers having to blow into a breathalyzer device to operate their car. Additionally, since we own the company car and do not provide a vehicle allowance that would allow an individual to operate their own vehicle, we have taken the stance that any DUI that requires an interlock device will result in immediate termination.</p>
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