

CIRCUMVENTION OF AN INTERLOCK DEVICE
(A Misdemeanor)
(Unauthorized Start of Ignition)
VEHICLE AND TRAFFIC LAW 1198(9)(b)
(Committed on or after April 1, 1989)

The ____ count is Circumvention of an Interlock Device.

Under our law, no person shall blow into an ignition interlock device, or start a motor vehicle¹ equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is² restricted by law to operating a motor vehicle with an ignition interlock device.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in this case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), blew into an ignition interlock device, or started a motor vehicle equipped with the device; and

¹ If in issue, the term "motor vehicle" is defined in the Vehicle and Traffic Law, with certain exceptions, as "every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power." VTL §125 (exceptions omitted). The term "public highway" appearing in the definition of "motor vehicle" is itself separately defined in the Vehicle and Traffic Law as "[a]ny highway, road, street, avenue, alley, public place, public driveway or any other public way." VTL § 134.

Note that the definition of "motor vehicle" for the purposes of ignition-interlock offenses such as the one here is narrower than the definition of "motor vehicle" for the purposes of drunk-driving-related offenses (*i.e.*, VTL § 1192 offenses). This is so because the drunk-driving statute expands the definition of "motor vehicle" to include not only vehicles operated or driven on a "public highway," but also vehicles operated or driven on "private roads open to motor vehicle traffic and any other parking lot." VTL § 1192(7).

² At this point, the statute concludes with the words: "so restricted." The "so restricted" language refers to the language of the preceding paragraph [VTL § 1198(9)(a)], *i.e.*, "whose driving privilege is restricted pursuant to this article or the penal law." Accordingly, in this charge, the language utilized in the charge for the preceding paragraph is substituted here for the statutory language "so restricted."

2. That the defendant did so for the purpose of providing an operable motor vehicle to a person whose driving privilege was restricted by law to operating a motor vehicle with an ignition interlock device.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Circumvention of an Interlock Device as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Circumvention of an Interlock Device as charged in the _____ count.