

CIRCUMVENTION OF AN INTERLOCK DEVICE
(Operate without interlock device)
Vehicle & Traffic Law § 1198 (9)(d)
(Committed on or after Dec. 18, 2009)

The (specify) count is Circumvention of an Interlock Device.

Under our law, no person subject to a court ordered ignition interlock device shall operate a motor vehicle without such device.

A person is subject to a court ordered ignition interlock device when he or she is required or otherwise ordered by a court as a condition of probation or conditional discharge to install and operate an ignition interlock device in any vehicle which he or she owns or operates.¹

The following terms used in that definition have a special meaning.

MOTOR VEHICLE means every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power.²

To OPERATE a motor vehicle means to drive it.

¹ Vehicle and Traffic Law § 1198 (1).

² The term “motor vehicle” is defined in Vehicle and Traffic Law § 125. That definition contains exceptions which are not set forth in the text of this charge. The term “public highway” appearing the definition of “motor vehicle” is itself separately defined in Vehicle and Traffic Law § 134 and the terms within that definition are also separately defined in article 1 of the VTL. If an exception or definition is in issue, then the charge should be amplified accordingly.

[NOTE: Add the following if there is an issue as to operation:

A person also OPERATES a motor vehicle when such person is sitting behind the wheel of a motor vehicle for the purpose of placing the vehicle in motion, and when either the motor vehicle is moving, or even if it is not moving, the engine is running.^{3]}

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the 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), operated a motor vehicle without an ignition interlock device; and
2. That the defendant did so while he/she was subject to a court ordered ignition interlock device.

If you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

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 this crime.

³ See *People v Alamo*, 34 NY2d 453, 458 (1974); *People v Marriott*, 37 AD2d 868 (3d Dept 1971); *People v O'Connor*, 159 Misc 2d 1072, 1074-1075 (Dist Ct, Suffolk County 1994). See also *People v Prescott*, 95 NY2d 655, 662 (2001).