



RoadSafetyBC
Ministry of Public Safety and Solicitor General

Remedial and Ignition Interlock Programs
Policies and Guidelines

June 2018

RoadSafetyBC
Po Box 9254 Stn Prov Govt
Victoria, BC, V8W 9J2

Table of Contents

Section 1 Introduction	3
1.0 Overview.....	3
1.1 Legislative Authority and Delegation.....	3
Section 2—Description of the Programs	4
2.0 RDP (Remedial Program).....	4
2.1 IIP (Ignition Interlock Program).....	4
Section 3—Mandatory Requirements	4
3.0 The Process for Mandatory Requirements.....	5
3.1 Explanation of Program Points.....	5
Section 4—Discretionary Requirements	8
4.0 Discretionary Decisions of the Superintendent.....	8
4.1 Extension of Ignition Interlock Term.....	9
4.2 New Ignition Interlock Term.....	9
4.3 Drivers with more than 16 program points.....	9
4.4 Additional Program Requirements Following RDP.....	9
Section 5—Requirement Letter	10
Section 6—Reconsideration	10
6.0 Reconsideration of Superintendent’s decision under section 25.1.....	10
6.1 No reconsideration of mandatory requirements under section 25.2.....	11
6.1.1 Exception—Extension of time to complete the RDP.....	11
6.1.2 Exception—Medical exemption for IIP.....	11

Section 7—Program Completion 12

Section 1 Introduction

1.0 Overview

Under the *Motor Vehicle Act* (MVA), drivers are regulated to ensure the safe and responsible operation of motor vehicles in British Columbia. Every Canadian province and many jurisdictions throughout the world have remedial programs which reduce the risk of repeat alcohol- or drug-related collisions.

The Superintendent of Motor Vehicles (the Superintendent) oversees two programs for drivers who have received MVA driving prohibitions or *Criminal Code* of Canada (Criminal Code, or CCC) convictions for alcohol- and/or drug-related driving events: the Responsible Driver Program (RDP, or Remedial program), an education and/or counselling program; and the Ignition Interlock Program (IIP), a program that requires drivers to provide a breath sample into a device before attempting to drive a motor vehicle.

The RDP and the IIP (the Programs) support public safety by helping drivers separate their alcohol and/or drug use from their driving. The Programs provide a means to address drinking and driving behavior or drug use and driving behavior through education, counselling and the use of an ignition interlock device.

A driver may be required to participate in the Programs at the discretion of the Superintendent in accordance with section 25.1 of the MVA or due to mandatory requirements under section 25.2 of the MVA and Division 46 of the Motor Vehicle Act Regulations (Regulations).

This document explains the mandatory and discretionary requirements and how these requirements are applied.

1.1 Legislative Authority and Delegation

Section 25.1 of the MVA provides the Superintendent with the discretionary authority to require, as a condition of a driver’s licence, a driver to attend or participate in and complete one or both of the Programs. Under this section, the Superintendent can require drivers to complete the Programs as a condition of retaining an existing driver’s licence, or as a condition of licence reinstatement for those who have lost driving privileges.

Section 25.2 of the MVA requires the Superintendent to add, as a condition of a driver’s licence, that a driver attend or participate in and complete the Programs if that driver’s driving record meets the criteria set out in Division 46 of the Regulations. For mandatory RDP and/or IIP requirements under the Regulations, the Superintendent will apply the point system in section 46.04 to determine the requirements for drivers who have received alcohol and/or drug related prohibitions or convictions to attend either or both of the Programs.

Section 117 of the MVA authorizes the Superintendent to delegate duties, functions and decision making powers to employees of RoadSafetyBC. References in this Policy to decisions, determinations or reviews by the Superintendent include decisions, determinations or reviews by a delegate of the Superintendent.

Section 2—Description of the Programs

2.0 RDP (Remedial Program)

The RDP is British Columbia's Remedial program for drivers who present a risk to public safety because of alcohol- or drug-related MVA prohibitions or Criminal Code convictions.

Based on an assessment interview, drivers are assigned to either an eight-hour education program or a 16-hour counselling program. Upon completion of the RDP, the Superintendent notifies drivers in writing that their program requirements have been completed.

Drivers required to participate in the RDP must complete the program within one year of the requirement being added as a condition on their driver's licence. If a driver is unable to complete the RDP within one year for reasons beyond their control, such as illness, jury duty or incarceration, the driver may seek an extension (see Section 6—Reconsideration).

Section 3 herein outlines the process for mandatory requirements under section 25.2 of the MVA and the Regulations. For an outline of the Superintendent's discretionary authority under section 25.1 of the MVA to require a driver to participate in the RDP, please see Section 4.

2.1 IIP (Ignition Interlock Program)

British Columbia's IIP is designed to reduce drinking and driving recidivism. Drivers required to participate in the IIP must have an ignition interlock device installed in any vehicle that they operate, at their own expense. An ignition interlock device measures a driver's blood alcohol content. It is linked to the vehicle's ignition system and prevents the vehicle from being started if the driver has consumed alcohol. Drivers are required to obtain an ignition interlock-restricted driver's licence, which only allows them to operate vehicles equipped with an interlock device.

In the case of drivers who have an ignition interlock-restricted driver's licence and drive a vehicle without the interlock device, police may provide a report to the Superintendent that may result in one or more of the following: a prohibition from driving; a discretionary extension to the IIP term; and/or a new IIP term.

Section 3 herein outlines the process for mandatory requirements under section 25.2 of the MVA and the Regulations. For an outline of the Superintendent's discretionary authority under section 25.1 of the MVA to require a driver to participate in the IIP, please see Section 4.

Section 3—Mandatory Requirements

3.0 The Process for Mandatory Requirements

Under section 25.2 of the MVA, a driver who meets the threshold number of RDP or IIP points set out in the Regulations will be subject to a mandatory requirement to attend one or both of the Programs.

Drivers with 6 or more Remedial program points for prohibitions or convictions that occurred within a 5-year period will be subject to a mandatory requirement to participate in the RDP. A driver who acquires additional Remedial program points (up to 16 points) within a 5-year period will be required to participate in the RDP again under section 25.2; however, under the Regulations a driver cannot be required to complete the RDP under section 25.2 more than twice in any 5-year period.

Drivers will be subject to a mandatory requirement to participate in an IIP term specified by the Regulations if they acquire 9 IIP points for prohibitions or convictions that occurred within a 5-year period. Additional IIP terms are required for drivers acquiring IIP points above 9 and up to 16; however, under the Regulations, a driver cannot be required to participate in the IIP under section 25.2 for more than 36 months within a 5-year period.¹

A summary of point totals and mandatory requirements is provided below.

Mandatory Requirements Table		
Remedial Program Points and Ignition Interlock Program Points Total (within a 5 year period)²	Remedial Program³	Ignition Interlock Program Term⁴
6-8	required	0 months
9-10	required	6 months
11-12	required	12 months
13-14	required	18 months
15-16	required	24 months

3.1 Explanation of Program Points

For section 25.2, the Superintendent will use the program point system under the Regulations to determine the requirements for drivers to participate in one or both of the programs.

It is mandatory for drivers to complete the Programs each time the cumulative Remedial program points and/or IIP points that the person acquires for a prohibition or conviction, together with the Remedial program and/or IIP points for prohibitions and convictions that occurred during the five years preceding that prohibition or conviction, meet the criteria set out in the Regulations.

In determining if drivers are required under section 25.2 to participate in the Programs, the following point allocation established in section 46.04 of the Regulations is used:

¹ Drivers may be subject to additional periods under section 25.1 that are not included as part of the 36-month maximum.

² The Remedial program and/or IIP points for prohibitions and convictions that occurred in the last 5 years do not include an Immediate Roadside Prohibition (IRP) served prior to June 15, 2012 based on an approved screening device registering a "Fail" (i.e. 90-day IRP where device indicating that the concentration of alcohol in a person's blood is not less than 80 milligrams of alcohol in 100 millilitres of blood).

³ RDP

⁴ IIP terms are in addition to any IIP term a driver may already be required to complete.

Points Drivers Receive For Prohibitions under the *Motor Vehicle Act*

Program Points Table			
Prohibitions Received under the MVA		Remedial Program Points	Ignition Interlock Program Points
90-day Administrative Driving Prohibition	Person has been served with a notice of driving prohibition under section 94.1(1)(a) of the MVA ⁵	6	6
90-day Administrative Driving Prohibition	Person has been served with a notice of driving prohibition under section 94.1(1)(b) of the MVA ⁶	6	6
24-hour Prohibition	Person has been served with a notice of driving prohibition under section 215(2) of the MVA ⁷	2	2
24-hour Prohibition	Person has been served with a notice of driving prohibition under section 215(3) of the MVA ⁸	2	0
3-, 7- or 30-day Immediate Roadside Prohibition	Person has been served with a notice of driving prohibition under section 215.41 (3.1) of the MVA because the approved screening device registered a warn. ⁹	3	3
90-day Immediate Roadside Prohibition	Person has been served with a notice of driving prohibition under section 215.41(3.1) of the MVA because the approved screening device registered a fail ¹⁰	6	6
90-day Immediate Roadside Prohibition	Person has been served with a notice of driving prohibition under section 215.41(4) of the MVA ¹¹	6	6

⁵ Has a concentration of alcohol in the blood that exceeds .08

⁶ Fails to comply with a demand under the Criminal Code to provide a sample of breath or blood

⁷ Ability to drive affected by alcohol

⁸ Ability to drive affected by a drug other than alcohol

⁹ Has a concentration of the alcohol in the blood that is not less than .05

¹⁰ Has a concentration of alcohol in the blood that is not less than .08

¹¹ Fails to comply with a demand under the Criminal Code to provide a sample of breath

Program Points Drivers Receive For Convictions under the *Criminal Code*

Program Points Table			
Convictions Received under the CCC		Remedial Program Points	Ignition Interlock Program Points
Criminal Code Conviction	Person has been convicted of an offence under section 253 (1)(a) of the Criminal Code in respect of a motor vehicle ¹²	6	0
Criminal Code Conviction	Person has been convicted of an offence under section 253 (1)(b) of the Criminal Code in respect of a motor vehicle ¹³	6	6
Criminal Code Conviction	Person has been convicted of an offence under section 254 (5) of the Criminal Code in respect of a motor vehicle ¹⁴	6	6
Criminal Code Conviction	Person has been convicted of an offence under section 255 (2) of the Criminal Code in respect of a motor vehicle ¹⁵	6	0
Criminal Code Conviction	Person has been convicted of an offence under section 255 (2.1) of the Criminal Code in respect of a motor vehicle ¹⁶	6	6
Criminal Code Conviction	Person has been convicted of an offence under section 255 (2.2) of the Criminal Code in respect of a motor vehicle ¹⁷	6	6
Criminal Code Conviction	Person has been convicted of an offence under section 255 (3) of the Criminal Code in respect of a motor vehicle ¹⁸	6	0

¹² Operates a motor vehicle while impaired by alcohol or a drug

¹³ Operates a motor vehicle while having a concentration of alcohol in blood that exceeds .08

¹⁴ Fails or refuses, after operating a motor vehicle, to comply with a demand under section 254

¹⁵ Operates a motor vehicle while impaired by alcohol or a drug and causes bodily harm

¹⁶ Operates a motor vehicle while having a concentration of alcohol in blood that exceeds .08 and causes bodily harm

¹⁷ Fails or refuses, after operating a motor vehicle, to comply with a demand under section 254 and causes an accident resulting in bodily harm

¹⁸ Operates a motor vehicle while impaired by alcohol or a drug and causes death

Program Points Table			
Convictions Received under the CCC		Remedial Program Points	Ignition Interlock Program Points
Criminal Code Conviction	Person has been convicted of an offence under section 255 (3.1) of the Criminal Code in respect of a motor vehicle ¹⁹	6	6
Criminal Code Conviction	Person has been convicted of an offence under section 255 (3.2) of the Criminal Code in respect of a motor vehicle ²⁰	6	6

If a driver is subject to one or more prohibitions and/or convictions resulting from a single alcohol- or drug-related event, the Remedial program points and/or IIP points for only one prohibition and/or conviction are assigned to the driver. If the Remedial program points and/or IIP points for one prohibition and/or conviction are higher than the other(s), the higher number of points is assigned to the driver.

Section 4—Discretionary Requirements

4.0 Discretionary Decisions of the Superintendent

The Superintendent may exercise discretionary authority to require a driver to participate in the Programs under section 25.1 of the MVA. Under this section of the Act a driver may be subject to a discretionary requirement if the Superintendent considers the driver’s record is unsatisfactory or where, with respect to the person’s driving skills, fitness or ability to drive and operate a motor vehicle, it is in the public interest for the person to attend or participate in the Programs.

The Superintendent may require a driver who is not subject to mandatory requirements under section 25.2 (i.e. when a driver’s Remedial program points total is from 0 to 5 or is greater than 16, or if their IIP points total is from 0 to 8 or greater than 16) to attend or participate and complete one or both of the Programs under the discretionary authority of section 25.1. The Superintendent may also exercise discretionary authority under section 25.1 to place further requirements on a driver who is required to participate and complete one or both of the Programs under section 25.1 or section 25.2. For example, the Superintendent may extend an IIP term or require participation in a new IIP term when there is evidence that a driver has committed an IIP violation, or the Superintendent may require a driver to repeat RDP sessions in circumstances where the driver does not complete the program as required.

When using discretionary authority the Superintendent will consider all relevant information including any of the following on the driving record:

¹⁹ Operates a motor vehicle while having a concentration of alcohol in blood that exceeds .08 and causes an accident resulting in death

²⁰ Fails or refuses, after operating a motor vehicle, to comply with a demand under section 254 and causes an accident resulting in death

- All alcohol- or drug-related MVA prohibitions within the last five years²¹;
- All alcohol- or drug-related driving CCC convictions within the last five years; and,
- Documentation from previous and/or current program requirements in the last five years.

In assessing the above, the Superintendent will consider whether the alcohol- or drug-related driving behaviour poses a public safety risk that may be addressed through the RDP or IIP.²²

4.1 Extension of Ignition Interlock Term

The Superintendent may extend an IIP term when there is evidence that a driver has committed an IIP violation. When drivers are notified of the decision to extend their IIP term, drivers are offered the opportunity to apply for reconsideration of that decision (see Section 6—Reconsiderations). Discretionary extensions of IIP terms imposed under section 25.1 of the MVA do not count towards the 36-month maximum term for mandatory IIP requirements under section 25.2 of the MVA.

4.2 New Ignition Interlock Term

The Superintendent may also require a BC driver who is satisfying the requirements of another jurisdiction’s ignition interlock program to participate in a new IIP term when there is evidence that a driver has committed an IIP violation. When a decision has been made to impose a new IIP term upon receipt of evidence that a driver has committed an IIP violation, drivers are offered the opportunity to apply for reconsideration of that decision (see Section 6—Reconsiderations). Discretionary new IIP terms imposed under section 25.1 of the MVA do not count towards the 36-month maximum term for mandatory IIP requirements under section 25.2 of the MVA.

4.3 Drivers with more than 16 program points

A Remedial program point score or an IIP point score exceeding 16 points demonstrates a sustained and concerning pattern of driving while affected by drugs or alcohol. As a guideline, the Superintendent will consider referring drivers to an indefinite IIP term on the basis of the driver’s driving record and the public safety risk associated with the driver’s pattern of driving while affected by drugs or alcohol. An indefinite IIP term will continue for a minimum of 24 months. The Superintendent will review all relevant evidence after 24 months and determine if the indefinite IIP requirements should be continued.

4.4 Additional Program Requirements Following RDP

Where the RDP has not been completed as required, the Superintendent may require drivers to repeat sessions. A discretionary requirement to repeat RDP sessions under section 25.1 does not count towards the limit in the Regulations that no person is required to complete the RDP more than twice in any 5-year period under section 25.2.

²¹ An Immediate Roadside Prohibition (IRP) served prior to June 15, 2012 based on an approved screening device registering a “Fail” (i.e. 90-day IRP where device indicating that the concentration of alcohol in a person’s blood is not less than 80 milligrams of alcohol in 100 millilitres of blood) will not be considered for the purposes of a discretionary referral.

²² If any prohibition or conviction on the driving record is drug related, as opposed to alcohol related, the Superintendent will consider whether the IIP will be beneficial.

Section 5—Requirement Letter

If the Superintendent determines that a driver is required to participate in one or both of the Programs under section 25.1 of the MVA, or that a driving record meets the criteria for mandatory requirements under section 25.2 and the Regulations for participation in one or both of the Programs, a letter is sent to the driver.

The letter will include reference to the review of the driver's driving record and lists the driving events which form the basis for the determination under either section 25.1 or section 25.2.

Depending on which of the Programs the driver is required to participate in, and the section of the MVA under which the requirement to participate is made, the letter will explain one or more of the following:

- The steps required for the driver to participate in and complete the Programs
- The driver may apply for an extension of time to complete the RDP
- The driver may have their IIP term extended due to program violations
- The driver has the option to seek medical exemption from the IIP
- The driver has the option to apply for a reconsideration (if referred by the Superintendent under section 25.1)

Section 6—Reconsideration

6.0 Reconsideration of Superintendent's decision under section 25.1

Drivers may apply to the Superintendent for a reconsideration of a discretionary decision to require them to attend or participate in and complete the Programs under section 25.1 of the MVA. Drivers who apply for reconsideration within 30 days of the date of their requirement letter will receive a stay of their requirements to complete the Programs until a decision is made on the reconsideration. Based on the evidence before the Superintendent, a decision will be made to uphold, vary or cancel a requirement to complete the Programs under s. 25.1.

Drivers with 16 or fewer Remedial program or IIP points who apply for reconsideration of the Superintendent's decision under section 25.1 must demonstrate that a requirement to attend or participate in and complete a program is unreasonable, or that they would incur significant hardship. Considerations that may be relevant to the Superintendent's decision to terminate or vary a requirement include economic impact such as loss of job or financial impacts to family, impact on community, infeasibility to install the interlock device, access issues to the Programs, personal safety, or medical restrictions.

Drivers with RDP or IIP points in excess of 16 who apply for reconsideration of the Superintendent's decision under section 25.1 are subject to a higher threshold when applying for reconsideration due to a sustained and concerning pattern of driving while affected by drugs or alcohol. A driver with points in excess of 16 must demonstrate it is impossible for them to comply with a requirement to complete the Programs due to reasons beyond their control, such as incarceration or illness.

The Superintendent will consider all relevant information that is before the Superintendent on the reconsideration. In making a decision, the Superintendent will consider relevance, accuracy and

reliability of the evidence that has been submitted and may vary the driver's requirement to attend or participate in and complete the Programs where it is reasonable to do so.

If a reconsideration is unsuccessful, an applicant may only apply for a subsequent reconsideration where there has been a *material* change in circumstances.

6.1 No reconsideration of mandatory requirements under section 25.2

Drivers cannot seek reconsideration when subject to mandatory requirements under section 25.2 of the MVA and the Regulations to participate in the RDP or IIP. However, under the Regulations, two exceptions apply as follows:

6.1.1 Exception—Extension of time to complete the RDP

A driver may apply for an extension of time to complete the program. Under the Regulations the Superintendent must extend the time for a person to complete the Remedial program under section 25.2 of the Act if the Superintendent is satisfied that the person is unable to complete the program within one year for reasons beyond the person's control, such as illness, jury duty or incarceration.²³

6.1.2 Exception—Medical exemption for IIP

An exemption from required participation in the IIP under section 25.2 is available to drivers with a chronic medical condition that affects drivers' respiratory functions.²⁴ Drivers who cannot produce the volume of breath required to operate the device must submit a Request for Medical Exemption form established by the Superintendent. Drivers seeking medical exemption of a mandatory IIP requirement must provide a signed statement from a medical practitioner outlining their chronic medical condition and how it prevents them from producing the volume of breath needed to operate an ignition interlock device. Drivers will be advised in writing as to the status of their IIP requirement once the Superintendent has reviewed the submitted form.

6.2 Reconsiderations—Summary Table

The table below provides an outline when a driver may:

1. Seek reconsideration of a decision made under section 25.1 of the MVA;
2. Apply for an extension of time to complete the RDP; or
3. Apply for a medical exemption of a requirement to participate in the IIP.

²³ A driver who is subject to a requirement to participate in the RDP under section 25.1 may also apply for an extension of time to complete the program.

²⁴ A driver who is subject to a requirement to participate in the IIP under section 25.1 may also apply for a medical exemption.

Program Requirement	Reconsideration available for RDP and/or IIP requirement	Application for Extension of time to complete RDP	Application for Medical Exemption of an IIP Term
Section 25.1 - RDP	Yes	Yes	N/A
Section 25.1 - IIP	Yes	N/A	Yes
Section 25.2 - RDP	No	Yes	N/A
Section 25.2 - IIP	No	N/A	Yes

Section 7—Program Completion

When drivers complete the Programs, the Superintendent will assess the driver’s participation in the Programs and determine whether the Programs have been completed in accordance with the regulations (section 25.2) or to the Superintendent’s satisfaction (section 25.1). If the Superintendent determines that the Programs have not been completed as required, the Superintendent may impose further requirements on a driver under section 25.1, which may include a requirement to attend additional RDP sessions, having their IIP term extended or a new IIP term imposed. This may occur, for example, where a driver attends a program under the influence of drugs or alcohol, or tries to use the interlock device while under the influence of alcohol.

When the Superintendent is satisfied that the Programs have been completed as required, the Superintendent will determine if the driver may apply for an unrestricted driver’s licence; may apply for an interlock restricted driver’s licence; may continue with their interlock term, if they were already assigned to interlock; or, must meet further requirements before they can apply for a driver’s licence. Drivers will be notified in writing as to their licensing eligibility.

Upon completion of the Programs, if additional drug- or alcohol-related driving events occur, the driver may be subject to additional requirements either under section 25.1 or 25.2 of the MVA.