



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure:	PPD 6.3.409 OFFENDERS WITH RESTRICTED DRIVING PRIVILEGES
Effective Date:	08/31/2020 Page 1 of 3
Revisions Date(s):	05/24/2021
Reference(s):	45-9-202, MCA; 46-18-201, MCA; 46-23-1004, MCA; 46-23-1011, MCA; 46-23-1021, MCA; 53-1-201, MCA; 61-1-101, MCA; 61-5-208, MCA; 61-8-101 and 102, MCA; 61-8-391, MCA; 61-8-401, MCA; 61-8-406, MCA; 61-8-411, MCA; 61-8-442, MCA; 61-8-731 and 732, MCA
Signature / Title:	/s/ Katie Donath, Acting Probation and Parole Division Administrator

I. PURPOSE:

Probation and Parole Division staff will enforce the provisions of Montana statutes regarding driving restrictions for offenders being supervised by the Department. This procedure is also applicable retroactively to judgments on DUI offenses committed prior to July 1, 2001. Offenders may be granted permission to operate a motor vehicle only after significant advances in rehabilitation and recovery have been demonstrated.

II. DEFINITIONS:

DUI – Driving under the influence of alcohol or drugs.

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices and interstate transfers.

III. PROCEDURES:

A. GENERAL REQUIREMENTS:

1. Montana law grants Probation & Parole (P&P) Officers the authority to permit felony DUI offenders, and other offenders restricted by a court judgment or a Board of Pardons and Parole (BOPP) assigned condition of parole, to operate a motor vehicle. P&P Officers should be aware that the Montana Motor Vehicle Division (MVD) can issue a probationary driver’s license once an offender has met all requirements for a suspended or revoked license although no P&P approval has been given.
2. Montana statutes require all felony DUI offenders allowed to drive to equip their vehicle(s) with an alcohol-specific ignition interlock system, which shall be paid for by the offender. This system may be required for other offenses by court order.
3. A P&P Officer, with authorization as outlined in Section C. below, may grant conditional or limited permission to drive a motor vehicle depending on the risks posed by the individual offender and on the offender’s needs as articulated in section B.6 below. For example, driving may be limited to going to and from work, doctor appointments, and other necessary errands.
 - a. Additional conditions or limitations may be imposed as circumstances warrant; and
 - b. All conditions and limitations must be in writing and given to the offender, with a copy for the offender’s file.

4. A P&P Officer, without authorization as outlined in Section C. below, may allow an offender who has not been granted reinstatement of driving privileges permission to drive work-related vehicles directly across a public road and/or highway of the state; for example, as required in the transportation of natural resource products including agricultural products and livestock from one side of the road directly to the other side of the road.
 - a. Work-related vehicles not designed to be driven on the ways of the state (i.e., swathers, combines, pit trucks) are not required to be equipped with an alcohol-specific ignition interlock system.
 - b. If the work-related vehicle is designed to transport persons or property upon the ways of the state and is operated by a felony DUI offender, it is required to be equipped with an alcohol-specific ignition interlock system.
5. Driving privileges may be withdrawn at any time if the offender's circumstances change, he/she violates conditions of supervision, or fails to follow established driving criteria.

B. CRITERIA FOR DRIVING PRIVILEGES:

1. Offender has had no alcohol/drug violations for at least 180 consecutive days while under current P&P supervision period;
2. Offender has demonstrated sobriety and continued investment in his/her treatment program;
3. Offender has met all conditions required of the MVD and is eligible to receive a driver's license from the MVD and can obtain the required insurance;
4. Offender is in compliance with all court- or BOPP-ordered conditions;
5. Offender has a mentor/sponsor who has frequent contact with offender and can assist the supervising P&P Officer in determining offender's compliance with supervision conditions;
6. Offender can identify and justify the need to have his/her license restored for essential driving purposes; and
7. Offender has the financial ability to pay for the expenses associated with an alcohol-specific interlock device and/or other programs or processes that may be utilized to ensure compliance.

C. PROCEDURES AND RESPONSIBILITIES:

1. Offender makes a request to P&P Officer to have his/her driving privileges reinstated. Offender must substantiate the necessity to have the privileges and demonstrate that all criteria have been met for this request to be considered.
2. The P&P Officer will establish that the requirements have been met and there is justifiable reason for reinstatement of driving privileges.
3. P&P Officer will staff the case with his/her immediate supervisor and DC:
 - a. Probation and Conditional Release offenders:
 - 1) If DC approves the request:
 - a) all conditions and limitations for the offender must be in writing in accordance with *PPD 6.3.409(B) Sample Approval Letter*, and
 - b) DC makes necessary OMIS CHRONOLOGICAL and ALERT entries regarding approval.
 - 2) If DC denies the request, the denial will be given to the offender in writing in accordance with *PPD 6.3.409(C) Sample Denial Letter*
 - b. Parole offender with a BOPP-ordered condition that restricts driving:
 - 1) If DC approves request:

- a) the Officer will contact BOPP at CORBOPP@mt.gov and include all documentation from the offender for review;
 - b) BOPP will make an administrative decision and provide a disposition either approving or denying the request.
 - c) The Officer will have offender sign the added condition as stated in the disposition.
 - d) all conditions and limitations for the offender must be in writing in accordance with *PPD 6.3.409(B) Sample Approval Letter*, and
 - e) DC makes necessary OMIS CHRONOLOGICAL and ALERT entries regarding approval.
- 2) If DC denies the request, the denial will be given to the offender in writing in accordance with *PPD 6.3.409(C) Sample Denial Letter*
4. When offender is approved for driving privileges, P&P Officer will ensure that:
- a. A legal driver's license has been obtained through the MVD (may be a work permit only) and shown to P&P Officer.
 - b. Liability insurance has been obtained, and proof of coverage (SR22 form if high-risk coverage) is sent to the Officer by the insurance company.
 - 1) Offender shall provide documentation on a monthly basis that liability insurance remains in effect.
 - 2) Further, the offender shall provide documentation using *PPD 6.3.409(A) Insurance Notification* that his/her insurance representative has been given authorization to inform the Officer if the liability insurance is terminated for any reason.
 - 3) Copy of signed *Notification* is maintained in offender's file.
 - c. If required, offender will have an alcohol-specific interlock device placed on all vehicles the offender will operate. This includes employers' vehicles the offender has access to use in the course of his/her employment.
 - d. Offender cannot drive any vehicle under any circumstance that has not been specifically approved by the Officer. If authorized to drive a vehicle for work purposes only, a work schedule will be provided to the Officer as far in advance as possible, and offender shall not drive to work without prior authorization from the Officer.
5. Driving privileges may be revoked at any time for offender's failure to maintain the established criteria. Officer will notify DC of revocation in writing, noting circumstances for revocation and whether other consequences resulted (i.e., intervention hearing).
6. Cases for offenders approved to drive prior to the original 2004 implementation date of this procedure will be staffed with the DC. The approval will be noted in the offender's OMIS ALERTS.

IV. CLOSING:

Questions regarding this procedure should be directed to the Deputy Chief or designee.

V. FORMS:

PPD 6.3.409 (A)	Insurance Notification
PPD 6.3.409 (B)	Sample Approval Letter
PPD 6.3.409 (C)	Sample Denial Letter