

2682A TAMPERING WITH AN IGNITION INTERLOCK DEVICE — § 347.413**Statutory Definition of the Crime**

Section 347.413(1) of the Wisconsin Statutes is violated by one who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device installed on a motor vehicle in response to a court order and that motor vehicle is operated on or occupies a highway.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following three elements were present.

Elements of the Crime That the State Must Prove

1. The defendant was subject to a court order under § 343.301 requiring the installation of an ignition interlock device on a motor vehicle.¹
2. The defendant (removed) (disconnected) (tampered with) (or) (otherwise circumvented the operation of) the ignition interlock device installed in response to the court order.
3. The motor vehicle (was operated on) (occupied) a highway.²

Jury's Decision

If you are satisfied beyond a reasonable doubt that all three elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 2682A was originally published in 2010 and revised in 2012. This revision was approved by the Committee in February 2014; it amended the third element.

This instruction is drafted for one of the two types of criminal violations under § 347.413, Ignition interlock device tampering; failure to install. This instruction addresses removing, disconnecting, tampering with, or otherwise circumventing the operation of an ignition interlock device installed in response to the court order under § 346.65(6), 1999 stats., or § 343.301(1), 2007 stats., or § 343.301(1g). Penalties are set forth in § 347.50.

See Wis JI-Criminal 2682B for the other type of violation: failing to have the ignition interlock device installed as ordered by the court.

1. Section 347.413 applies to ignition interlock installation ordered under three different statutes. Section 343.301 (1g) is the authority under current [2009-10] statutes. Also covered are orders issued under § 346.65(6), 1999 stats., and § 343.301(1), 2007 stats. The statute under which the order was issued should be accurately identified in the instruction. The Committee concluded that a reference to "§ 343.301" is sufficient for orders under current statutes and the 2007 statutes; for the other option, the reference should be to "§ 346.65 of the 1999 Wisconsin Statutes."

Section 340.01(35) defines "motor vehicle." Also see Wis JI-Criminal 2600, Sec. II.

2. This element was added to the instruction as part of the 2012 based on § 347.02(2) which provides: "No provision of this chapter requiring or prohibiting certain types of equipment on a vehicle is applicable when such vehicle is not operated upon or occupying a highway." As originally published, the element required that "the defendant operated that motor vehicle on a highway." The 2014 revision changed the element to require that the vehicle must be operated on or occupy the highway. The Committee concluded that the defendant need not be the individual who operated it.

Section 340.01(22) defines "highway." Also see Wis JI-Criminal 2600, Sec. I.