

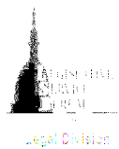
HOUSE BILL NO. 6230

September 16, 2020, Introduced by Rep. Sneller and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 625k (MCL 257.625k), as amended by 2016 PA 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 625k. (1) An ignition interlock device (BAIID)
- 2 manufacturer seeking certification of a device in this state shall
- 3 do all of the following:
- 4 (a) Complete an application to the department for
- 5 certification of the BAIID.
- 6 **(b) Pay all applicable fees assessed by the department under**



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1 **subsection (15).**

2 **(c)** ~~(b)~~ Submit a report from a department-approved or National
3 Highway Traffic Safety Administration-approved laboratory
4 certifying that the BAIID meets or exceeds the model specifications
5 for BAIIDs, 78 FR 26849 - 26867 (May 8, 2013), or any subsequent
6 version. Subject to subsection (5), the department shall provide a
7 list of all manufacturers of approved certified devices to each
8 person who is approved to be issued a restricted license that
9 permits the person to drive a vehicle only if equipped with a
10 BAIID. The department shall rotate the order of the providers with
11 each list provided under this subsection. Any model of an ignition
12 interlock device certified by a department-approved laboratory as
13 complying with the model specifications for breath alcohol ignition
14 interlock devices (BAIIDs), 57 FR 11772-11787 (April 7, 1992), that
15 was installed in a vehicle before ~~the effective date of the~~
16 ~~amendatory act that added this subdivision~~ **June 6, 2016** may be used
17 in this state ~~for the 24 months after the effective date of the~~
18 ~~amendatory act that added this subdivision~~ **through June 6, 2018.**

19 **(d)** ~~(e)~~ Ensure that a BAIID is capable of recording a digital
20 image of the individual providing the sample, and record the time
21 and date the sample was provided on or logically associated with
22 the digital image. A BAIID presented to the department for
23 certification may include additional technological features,
24 including, but not limited to, the ability to remotely report
25 information collected by the device.

26 **(e)** ~~(d)~~ Agree to ensure proper record keeping in a format
27 approved by the department and provide testimony relating to any
28 aspect of the installation, service, repair, use, removal, or
29 interpretation of any report or information recorded in the data



1 storage system of a device or performance of any other duties
2 required by this act at no cost on behalf of ~~the~~**this** state or any
3 political subdivision of ~~the~~**this** state.

4 (2) The secretary of state shall promulgate rules to implement
5 this section in compliance with the administrative procedures act
6 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 (3) The manufacturer of an ignition interlock device shall
8 bear the cost of that device's certification.

9 (4) A laboratory that certifies an ignition interlock device
10 as provided in this section shall immediately notify the department
11 of that certification.

12 (5) The department shall not include the manufacturer of a
13 certified ignition interlock device on the list of manufacturers
14 published under subsection (1) unless the manufacturer complies
15 with all of the following:

16 (a) The manufacturer has filed copies of all of the following
17 with the department:

18 (i) A bond executed as provided in section 625o or a letter of
19 credit.

20 (ii) Proof of liability insurance issued by an insurance
21 company authorized to do business in this state specifying all of
22 the following:

23 (A) That the policy is current and ~~shall~~**must** remain valid
24 during the duration of device approval.

25 (B) The name and model number of the device model covered by
26 the policy.

27 (C) That the policy has a minimum coverage of \$1,000,000.00
28 per occurrence and \$3,000,000.00 in the aggregate.

29 (D) That the policy will indemnify the department and any



1 other person injured as a result of any defects in manufacture,
2 materials, design, calibration, installation, or operation of the
3 device.

4 (iii) An affidavit that the ignition interlock device meets or
5 exceeds all of the following conditions:

6 (A) Meets the definition in section 20d.

7 (B) Is set to periodically take samples while the vehicle is
8 in operation. After the vehicle is in operation, the device
9 requires a first retest sample within 5 to 15 minutes of the
10 operator starting the vehicle. The device prompts second and
11 subsequent retests within 15 to 45 minutes of the first retest. The
12 operator of the vehicle is afforded not more than 5 minutes to
13 provide a passing retest sample for each retest prompted by the
14 device. The device accepts multiple attempts to provide a retest
15 sample without initiating a lockout. If the device detects an
16 alcohol content of 0.025 grams or more per 210 liters of breath in
17 the person who offers a breath sample or if a breath sample is not
18 given within the allotted time the device does all of the
19 following:

20 (I) Emits a visible or audible warning signal.

21 (II) Renders the vehicle inoperable as soon as the vehicle is
22 no longer being operated, requiring the operator to provide a
23 breath sample containing a breath alcohol level of less than 0.025
24 grams per 210 liters of breath before the vehicle may be restarted.

25 (III) Disables the free restart as defined by the National
26 Highway Traffic Safety Administration standards.

27 (IV) Activates a violation reset. The device initiates an
28 audible or visual cue that warns the driver that the device will
29 enter a permanent lockout in 5 days.



(b) Agrees to have service locations within 50 miles of any location within this state. A manufacturer may request a waiver of this requirement from the secretary of state if the manufacturer is unable to secure an installation facility within 50 miles of any location in this state. Subject to review, the secretary of state may determine whether the manufacturer's waiver request shall be approved. The secretary of state shall only approve a waiver of the 50-mile requirement and designate a location not meeting the 50-mile requirement as a service center if the service center employs a BAIID certified installer who shall perform any installation or service to a BAIID at that location. If the secretary of state approves a waiver of the 50-mile requirement, that waiver applies only to the approved location. A manufacturer shall make a separate request for a waiver of the 50-mile requirement for any additional installation facility not meeting the 50-mile requirement.

(c) Agrees to provide an ignition interlock device without cost to a person whose gross income for the immediately preceding tax year based on his or her state income tax return was less than 150% of the official poverty line for that same tax year established in the poverty guidelines issued by the ~~secretary of health and human services~~ **United States Secretary of Health and Human Services** under 42 USC 9902. A person in whose vehicle an ignition interlock device is installed without cost under this subdivision shall pay a maintenance fee to the installer of not more than \$2.00 per day.

(d) Agrees to comply with the reporting requirements of the secretary of state.

(e) Agrees to periodically monitor installed ignition interlock devices and if monitoring indicates that the device has



1 been circumvented, tampered with, or that a person with a breath
2 alcohol level of 0.025 or more grams per 210 liters of breath has
3 attempted to operate the motor vehicle, or both, to communicate all
4 of the relevant information concerning these facts to the secretary
5 of state, and to the court if appropriate.

6 (6) A manufacturer that has made a filing under subsection (5)
7 shall immediately notify the department if the device no longer
8 meets the requirements of subsection (5).

9 (7) Upon the request of the department, the BAIID manufacturer
10 shall, at no cost to this state, provide the department with not
11 less than 2 BAIIDs for each model that is certified under this
12 section for demonstration and training purposes by the department.

13 (8) Upon the request of the department, the BAIID manufacturer
14 shall, at no cost to this state, install 1 of each device that is
15 certified under this section in a vehicle provided by the
16 department. Any service performed under this subsection, including,
17 but not limited to, installation, maintenance, calibration, or
18 removal, ~~shall~~**must** be completed at no cost to this state.

19 (9) Upon the request of the department, for each BAIID model
20 approved by the department, the BAIID manufacturer shall provide a
21 total of not less than 10 hours of training to department employees
22 at no cost to this state. This training ~~shall~~**must** be held at the
23 times and locations within the state designated by the department.
24 The training ~~shall~~**must** be designed to familiarize department
25 employees with the installation, operation, service, repair, and
26 removal of the BAIIDs and include the training and instructions
27 that a BAIID installer will give to customers. The BAIID
28 manufacturer shall also provide the department, upon request, with
29 the following information:



1 (a) A detailed description of the device, including complete
2 instructions for installation, operation, service, repair, and
3 removal of the BAIID.

4 (b) Complete technical specifications, including detailed
5 explanations and definitions of all data log entries.

6 (10) A BAIID manufacturer shall notify the department not less
7 than 15 days before implementation of any modification, upgrade, or
8 alteration to any hardware, software, or firmware of a device
9 certified for use in this state. The notification ~~shall~~**must**
10 include both of the following:

11 (a) A description and explanation of the modification,
12 upgrade, or alteration and proof satisfactory to the department
13 that these modifications, upgrades, or alterations do not adversely
14 affect the ability of the device to satisfy the requirements of
15 this section and section 625/.

16 (b) A comprehensive plan of action for the phasing out of the
17 use of the current device. This plan of action must be approved by
18 the department prior to the implementation of the plan of action.

19 (11) Any equipment in the possession of the department that
20 was retained for certification of the device ~~shall~~**must** be
21 modified, upgraded, or altered simultaneously with the
22 implementation of a plan of action under subsection (10). The
23 department, in its discretion, may retain a BAIID device regardless
24 of whether the device is no longer the current version or model of
25 that device.

26 (12) Material modifications to a certified BAIID device may
27 require recertification under this section as determined by the
28 department.

29 (13) A BAIID manufacturer shall apply to the department



1 annually for recertification of BAIID devices it manufactures.

2 (14) The department is responsible for approving BAIID service
3 centers for operation in this state. The department shall not
4 approve a BAIID service center unless all of the following
5 conditions are satisfied:

6 (a) Only service centers that are BAIID manufacturer and
7 vendor approved shall install, service, or remove BAIIDs approved
8 for use in this state.

9 (b) Except as provided in subdivision (d), beginning July 1,
10 2016, a BAIID ~~shall~~**must** only be installed, serviced, or removed in
11 a motor vehicle repair facility. As used in this subdivision,
12 "motor vehicle repair facility" means that term as defined in
13 section 2 of the motor vehicle service and repair act, 1974 PA 300,
14 MCL 257.1302.

15 (c) A service center shall be located in a fixed facility
16 within this state.

17 (d) A business that installs, services, or removes a BAIID,
18 including a BAIID manufacturer's corporate office located in this
19 state, that is installing, repairing, or removing BAIID devices on
20 ~~the effective date of the amendatory act that amended this section~~
21 **June 6, 2016** may install, service, and remove BAIIDs in this state
22 without being certified as a motor vehicle repair facility under
23 the motor vehicle service and repair act, 1974 PA 300, MCL ~~257.1302~~
24 **257.1301** to 257.1340, if the business employs a certified BAIID
25 installer to perform any installation, service, or removal of a
26 BAIID.

27 (e) Each service center shall have not less than 1 individual
28 who is a mechanic and who possesses a specialty certification in
29 BAIID service under section ~~10(1)(j)~~**10b(1)(l)** of the motor vehicle



1 service and repair act, 1974 PA 300, MCL ~~257.1310~~, **257.1310b**, and
2 holds a BAIID certification under this section to work as a BAIID
3 installer.

4 (f) Each service center shall maintain and make available for
5 inspection records that prove that each certified BAIID installer
6 working at the service center has been properly trained by the
7 BAIID manufacturer to service the BAIID for which the center is a
8 vendor.

9 (g) Each service center shall provide a designated waiting
10 area for customers that is separate from the area in which BAIIDs
11 are installed or serviced.

12 (h) Only certified BAIID installers and representatives of the
13 BAIID manufacturer or the department ~~shall be allowed to~~ **may**
14 observe the installation or removal of a BAIID.

15 (i) Adequate security measures ~~shall~~ **must** be taken to ensure
16 that unauthorized personnel are not allowed access to proprietary
17 materials of BAIID manufacturers or files of customers.

18 (j) BAIID manufacturer service centers shall install,
19 maintain, service, and remove all BAIIDs handled by that service
20 center and perform any other services determined necessary by the
21 department for using those BAIIDs in this state.

22 (k) The BAIID manufacturer shall inform the department of a
23 change in its service center's business address 15 days prior to
24 the date of any relocation.

25 (l) BAIIDs approved for use in this state ~~shall~~ **must** only be
26 serviced by service centers located within this state, unless the
27 customer is unable to return to this state for service because of a
28 significant personal hardship.

29 (m) If a BAIID is serviced by a service center outside of this



1 state, the BAIID service provider shall ensure that all of the
2 following requirements are met:

3 (i) The BAIID operates using the same firmware that is used for
4 devices in this state.

5 (ii) The data recorded by the BAIID remain intact on the device
6 for later retrieval by a service center in this state or the data
7 are transferred to a BAIID manufacturer database for review.

8 (n) Service centers shall make the addresses of their
9 locations available to the department.

10 (o) BAIIDs for use in this state ~~shall~~**must** be installed and
11 ~~shall be removed~~ only in a service center approved by the
12 department for installing that device under this subsection.

13 (p) Each application for approval ~~shall~~**must** be for a single
14 service center. A separate service center application is required
15 for each additional service center.

16 (q) Before issuance of approval, the department may require an
17 on-site evaluation to ensure compliance with the requirements of
18 this section and section 625/.

19 (r) The department's approval of a service center ~~shall be~~**is**
20 for a period of 1 year. The renewal process ~~shall~~**must** be the same
21 as the initial service center approval process under this section.

22 **(15) The department may assess a nonrefundable, reasonable**
23 **application fee not to exceed \$3,000.00 and shall assess**
24 **administrative, renewal, and other fees necessary to fund the**
25 **certification and inspection of ignition interlock devices. Fees**
26 **collected by the department under this subsection must be credited**
27 **to the transportation administration collection fund created under**
28 **section 810b.**

29 **(16)** ~~(15)~~The department may conduct inspections of a



1 manufacturer or a BAIID service center to ensure compliance with
 2 this act and rules promulgated to implement this act. The
 3 manufacturer shall pay for the actual costs to the department in
 4 conducting an inspection under this subsection. **Costs under this**
 5 **subsection must be paid by the transportation administration**
 6 **collection fund created under section 810b.**

7 (17) ~~(16)~~—An individual shall not install, service, or remove
 8 a BAIID in this state without being certified by the department
 9 under this section.

10 (18) ~~(17)~~—All BAIID installations ~~shall~~ **must** be done in a
 11 workmanlike manner by a BAIID certified installer at an approved
 12 service center and ~~shall be~~ in accordance with the standards set
 13 forth in this section and with the requirements of the
 14 manufacturer. All BAIIDs installed ~~shall~~ **must** be in working order
 15 and ~~shall~~ perform in accordance with the standards set forth in
 16 this act. All connections ~~shall~~ **must** be covered with a tamper seal.

17 (19) ~~(18)~~—Upon completion of the installation of a BAIID
 18 required under this act, the approved BAIID certified installer
 19 shall provide the customer with installation verification in the
 20 form and format designated by the department.

21 (20) ~~(19)~~—A manufacturer shall ensure that BAIID certified
 22 installers meet the following requirements:

23 (a) Possess the appropriate certification from the department
 24 under this section.

25 (b) Possess and maintain all necessary training and skills
 26 required to install, examine, troubleshoot, and verify the proper
 27 operation of BAIIDs.

28 (c) Possess the tools, test equipment, and manuals needed to
 29 install, inspect, download, calibrate, repair, maintain, service,



1 and remove BAIID devices.

2 (d) Provide all persons who will use the vehicle with written
3 and hands-on training regarding the operation of a vehicle equipped
4 with the BAIID and ensure that each of those persons demonstrates a
5 properly delivered alveolar breath sample and an understanding of
6 how the abort test feature works.

7 **(21)** ~~(20)~~—An individual who has been convicted of an alcohol-
8 related driving offense or any offense classified as a felony in
9 this state or elsewhere within 5 years before the date of filing an
10 application for approval as a BAIID certified installer is not
11 eligible for approval as a BAIID certified installer under this
12 act.

13 **(22)** **An individual who has been convicted of an alcohol-**
14 **related driving offense or any offense classified as a felony in**
15 **this state or elsewhere within 5 years before the date of filing an**
16 **application for approval as a BAIID service center owner is not**
17 **eligible for approval as a BAIID service center owner under this**
18 **act.**

19 **(23)** ~~(21)~~—The following requirements apply to a BAIID
20 certified installer under this act:

21 (a) Be not less than 18 years of age.

22 (b) Possess a valid driver license.

23 (c) Be a motor vehicle mechanic as defined in section 2 of the
24 motor vehicle service and repair act, 1974 PA 300, MCL 257.1302,
25 and possess a specialty certification in BAIID service under
26 section ~~10(1)(j)~~ **10b(1) (l)** of the motor vehicle service and repair
27 act, 1974 PA 300, ~~257.1310~~ **257.1310b**.

28 (d) Be certified as a BAIID installer under this section.

29 **(24)** ~~(22)~~—To be certified as a BAIID installer under this



1 section, the individual shall meet all of the following
2 requirements:

3 (a) Possess a specialty certification in BAIID installation
4 under section ~~10(1)(j)~~ **10b(1)(l)** of the motor vehicle service and
5 repair act, 1974 PA 300, MCL ~~257.1310~~ **257.1310b**.

6 (b) Properly complete and file a BAIID installer application
7 form with the department.

8 (c) Beginning ~~180 days after the effective date of the~~
9 ~~amendatory act that added this subdivision,~~ **December 3, 2016**, be a
10 mechanic who is certified as a mechanic with a specialty
11 certification in BAIID service under section ~~(10)(1)(j)~~ **10b(1)(l)** of
12 the motor vehicle service and repair act, 1974 PA 300, MCL
13 ~~257.1310~~ **257.1310b**, and hold a BAIID certification under this
14 section.

15 (d) Submit a criminal history report certified by the
16 department of state police within the immediately preceding 30
17 days.

18 (e) Meet the requirements of the department for certification
19 under this act.

20 **(25)** ~~(23)~~ Each application for approval ~~shall~~ **must** be for a
21 single BAIID installer. A separate BAIID installer application is
22 required for each additional BAIID installer.

23 **(26)** ~~(24)~~ The department's approval of a BAIID installer is
24 for 1 year. The renewal process ~~shall be~~ **is** the same as the initial
25 BAIID installer approval process under this section.

