

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

***** 257.625k.amended THIS AMENDED SECTION IS EFFECTIVE JUNE 6, 2016 *****

257.625k.amended Ignition interlock device manufacturer; certification; approval; requirements; rules; cost; notice to department by certifying laboratory; list of manufacturers; BAIID manufacturer; approval of BAIID service center; inspections; prohibited conduct by individual; installation requirements; installer qualifications and requirements; approval; renewal.

Sec. 625k. (1) An ignition interlock device (BAIID) manufacturer seeking certification of a device in this state shall do all of the following:

(a) Complete an application to the department for certification of the BAIID.

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

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

(d) Agree to ensure proper record keeping in a format approved by the department and provide testimony relating to any aspect of the installation, service, repair, use, removal, or interpretation of any report or information recorded in the data storage system of a device or performance of any other duties required by this act at no cost on behalf of the state or any political subdivision of the state.

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

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

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

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

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

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

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

(A) That the policy is current and shall remain valid during the duration of device approval.

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

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

(D) That the policy will indemnify the department and any other person injured as a result of any defects in manufacture, materials, design, calibration, installation, or operation of the device.

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

(A) Meets the definition in section 20d.

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

- (I) Emits a visible or audible warning signal.
- (II) Renders the vehicle inoperable as soon as the vehicle is no longer being operated, requiring the operator to provide a breath sample containing a breath alcohol level of less than 0.025 grams per 210 liters of breath before the vehicle may be restarted.
- (III) Disables the free restart as defined by the National Highway Traffic Safety Administration standards.
- (IV) Activates a violation reset. The device initiates an audible or visual cue that warns the driver that the device will 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 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 been circumvented, tampered with, or that a person with a breath alcohol level of 0.025 or more grams per 210 liters of breath has attempted to operate the motor vehicle, or both, to communicate all of the relevant information concerning these facts to the secretary of state, and to the court if appropriate.
- (6) A manufacturer that has made a filing under subsection (5) shall immediately notify the department if the device no longer meets the requirements of subsection (5).
- (7) Upon the request of the department, the BAIID manufacturer shall, at no cost to this state, provide the department with not less than 2 BAIIDs for each model that is certified under this section for demonstration and training purposes by the department.
- (8) Upon the request of the department, the BAIID manufacturer shall, at no cost to this state, install 1 of each device that is certified under this section in a vehicle provided by the department. Any service performed under this subsection, including, but not limited to, installation, maintenance, calibration, or removal, shall be completed at no cost to this state.
- (9) Upon the request of the department, for each BAIID model approved by the department, the BAIID manufacturer shall provide a total of not less than 10 hours of training to department employees at no cost to this state. This training shall be held at the times and locations within the state designated by the department. The training shall be designed to familiarize department employees with the installation, operation, service, repair, and removal of the BAIIDs and include the training and instructions that a BAIID installer will give to customers. The BAIID manufacturer shall also provide the department, upon request, with the following information:
 - (a) A detailed description of the device, including complete instructions for installation, operation, service, repair, and removal of the BAIID.
 - (b) Complete technical specifications, including detailed explanations and definitions of all data log entries.
- (10) A BAIID manufacturer shall notify the department not less than 15 days before implementation of any modification, upgrade, or alteration to any hardware, software, or firmware of a device certified for use in this state. The notification shall include both of the following:
 - (a) A description and explanation of the modification, upgrade, or alteration and proof satisfactory to the department that these modifications, upgrades, or alterations do not adversely affect the ability of the device to satisfy the requirements of this section and section 625I.
 - (b) A comprehensive plan of action for the phasing out of the use of the current device. This plan of action must be approved by the department prior to the implementation of the plan of action.
- (11) Any equipment in the possession of the department that was retained for certification of the device shall be modified, upgraded, or altered simultaneously with the implementation of a plan of action under subsection (10). The department, in its discretion, may retain a BAIID device regardless of whether the device is no longer the current version or model of that device.

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

(13) A BAIID manufacturer shall apply to the department annually for recertification of BAIID devices it manufactures.

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

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

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

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

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

(e) Each service center shall have not less than 1 individual who is a mechanic and who possesses a specialty certification in BAIID service under section 10(1)(j) of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1310, and holds a BAIID certification under this section to work as a BAIID installer.

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

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

(h) Only certified BAIID installers and representatives of the BAIID manufacturer or the department shall be allowed to observe the installation or removal of a BAIID.

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

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

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

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

(m) If a BAIID is serviced by a service center outside of this state, the BAIID service provider shall ensure that all of the following requirements are met:

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

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

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

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

(p) Each application for approval shall be for a single service center. A separate service center application is required for each additional service center.

(q) Before issuance of approval, the department may require an on-site evaluation to ensure compliance with the requirements of this section and section 6251.

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

(15) The department may conduct inspections of a manufacturer or a BAIID service center to ensure compliance with this act and rules promulgated to implement this act. The manufacturer shall pay for the actual costs to the department in conducting an inspection under this subsection.

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

(17) All BAIID installations shall be done in a workmanlike manner by a BAIID certified installer at an approved service center and shall be in accordance with the standards set forth in this section and with the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this act. All connections shall be covered with a tamper seal.

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

(19) A manufacturer shall ensure that BAIID certified installers meet the following requirements:

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

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

(c) Possess the tools, test equipment, and manuals needed to install, inspect, download, calibrate, repair, maintain, service, and remove BAIID devices.

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

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

(21) The following requirements apply to a BAIID certified installer under this act:

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

(b) Possess a valid driver license.

(c) Be a motor vehicle mechanic as defined in section 2 of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1302, and possess a specialty certification in BAIID service under section 10(1)(j) of the motor vehicle service and repair act, 1974 PA 300, 257.1310.

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

(22) To be certified as a BAIID installer under this section, the individual shall meet all of the following requirements:

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

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

(c) Beginning 180 days after the effective date of the amendatory act that added this subdivision, be a mechanic who is certified as a mechanic with a specialty certification in BAIID service under section 10(1)(j) of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1310, and hold a BAIID certification under this section.

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

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

(23) Each application for approval shall be for a single BAIID installer. A separate BAIID installer application is required for each additional BAIID installer.

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

History: Add. 1987, Act 109, Eff. Mar. 30, 1988;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1998, Act 340, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2008, Act 461, Eff. Oct. 31, 2010;—Am. 2016, Act 32, Eff. June 6, 2016.

Administrative rules: R 257.1001 et seq. of the Michigan Administrative Code.

Compiler's note: Enacting section 1 of Act 32 of 2016 provides:

"Enacting section 1. R 257.1005 and R 257.1006 of the Michigan Administrative Code are rescinded."