

SENATE BILL No. 637

October 23, 2013, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 20d, 212, 304, 319, 625k, and 625l (MCL
257.20d, 257.212, 257.304, 257.319, 257.625k, and 257.625l), section
20d as added by 2008 PA 462, section 212 as amended by 2002 PA 534,
section 304 as amended by 2012 PA 498, section 319 as amended by
2012 PA 306, and sections 625k and 625l as amended by 2008 PA 461.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20d. "Ignition interlock device" OR "**BREATH ALCOHOL**
2 **IGNITION INTERLOCK DEVICE**" OR "**BAIID**" means an alcohol
3 concentration measuring device that prevents a motor vehicle from
4 being started at any time without first determining through a deep
5 lung sample the operator's alcohol level, calibrated so that the
6 motor vehicle cannot be started if the breath alcohol level of the

1 operator, as measured by the test, reaches a level of 0.025 grams
2 per 210 liters of breath, and to which all of the following apply:

3 (a) The device meets or exceeds the model specifications for
4 breath alcohol ignition interlock devices (BAIID), 57 FR 11772 -
5 11787 (April 7, 1992).

6 (b) The device utilizes alcohol-specific electrochemical fuel
7 sensor technology.

8 (c) As its anticircumvention method, the device installation
9 uses a positive-negative-positive air pressure test requirement, a
10 midtest hum tone requirement, or any other anticircumvention method
11 or technology that first becomes commercially available after July
12 31, 2007 and that is approved by the department as equally or more
13 effective.

14 Sec. 212. (1) If the secretary of state is authorized or
15 required to give notice under this act or other law regulating the
16 operation of a vehicle, unless a different method of giving notice
17 is otherwise expressly prescribed, notice shall be given either by
18 personal delivery to the person to be notified or by first-class
19 United States mail addressed to the person at the address shown by
20 the record of the secretary of state. The giving of notice by mail
21 is complete upon the expiration of 5 days after mailing the notice.
22 Proof of the giving of notice in either manner may be made by the
23 certificate of a person 18 years of age or older, naming the person
24 to whom notice was given and specifying the time, place, and manner
25 of the giving of notice.

26 (2) ANY NOTICE REQUIRED TO BE PROVIDED UNDER THIS SECTION MAY
27 BE PROVIDED BY ELECTRONIC MEANS.

1 Sec. 304. (1) Except as provided in subsection (3), the
2 secretary of state shall issue a restricted license to a person
3 whose license was suspended or restricted under section 319 or
4 revoked or denied under section 303 based on either of the
5 following:

6 (a) Two or more convictions for violating section 625(1) or
7 (3) or a local ordinance of this state substantially corresponding
8 to section 625(1) or (3).

9 (b) One conviction for violating section 625(1) or (3) or a
10 local ordinance of this state substantially corresponding to
11 section 625(1) or (3), preceded by 1 or more convictions for
12 violating a local ordinance or law of another state substantially
13 corresponding to section 625(1), (3), or (6), or a law of the
14 United States substantially corresponding to section 625(1), (3),
15 or (6).

16 (2) A restricted license issued under subsection (1) shall not
17 be issued until after the person's operator's or chauffeur's
18 license has been suspended or revoked for 45 days and the judge
19 assigned to a DWI/sobriety court certifies to the secretary of
20 state that both of the following conditions have been met:

21 (a) The person has been admitted into a DWI/sobriety court
22 program.

23 (b) An ignition interlock device approved, certified, and
24 installed as required under sections 625k and 625l has been
25 installed on each motor vehicle owned or operated, or both, by the
26 individual.

27 (3) A restricted license shall not be issued under subsection

(1) if the person is otherwise ineligible for an operator's or chauffeur's license under this act, unless the person's ineligibility is based on 1 or more of the following:

- (a) Section 303(1)(i) or (l).
- (b) Section 303(2)(c)(i) or (iii).
- (c) Section 303(2)(g)(i) or (iii).
- (d) Section 319(4), (5), (6), (7), (8)(a) to (e), or (9).
- (e) Section 319e(2)(a) or (b).
- (f) Section 320(1)(d).
- (g) Section 321a(1), (2), or (3).
- (h) Section 323c.
- (i) Section 625f.
- (j) Section 732a(5).
- (k) Section 904(10).
- (l) Section 82105a(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82105a.
- (m) Section 3177 of the insurance code of 1956, 1956 PA 218, MCL 500.3177.
- (n) Section 10 of the motor vehicle claims act, 1965 PA 198, MCL 257.1110.

(4) A restricted license issued under subsection (1) permits the person to whom it is issued to operate only the vehicle equipped with an ignition interlock device described in subsection (2)(b), to take any driving skills test required by the secretary of state, and to drive to and from any combination of the following locations or events:

- (a) In the course of the person's employment or occupation if

1 the employment or occupation does not require a commercial driver
2 license.

3 (b) To and from any combination of the following:

4 (i) The person's residence.

5 (ii) The person's work location.

6 (iii) An alcohol, drug, or mental health education and treatment
7 as ordered by the court.

8 (iv) Alcoholics anonymous, narcotics anonymous, or other court-
9 ordered self-help programs.

10 (v) Court hearings and probation appointments.

11 (vi) Court-ordered community service.

12 (vii) An educational institution at which the person is
13 enrolled as a student.

14 (viii) A place of regularly occurring medical treatment for a
15 serious condition or medical emergency for the person or a member
16 of the person's household or immediate family.

17 (ix) Alcohol or drug testing as ordered by the court.

18 (x) Ignition interlock service provider as required.

19 (5) While driving with a restricted license, the person shall
20 carry proof of his or her destination and the hours of any
21 employment, class, or other reason for traveling and shall display
22 that proof upon a peace officer's request.

23 (6) Except as otherwise provided in this section, a restricted
24 license issued under subsection (1) is effective until a hearing
25 officer orders an unrestricted license under section 322. The
26 hearing officer shall not order an unrestricted license until the
27 later of the following events occurs:

1 (a) The court notifies the secretary of state that the person
2 has successfully completed the DWI/sobriety court program.

3 (b) The minimum period of license sanction that would have
4 been imposed under section 303 or 319 but for this section has been
5 completed.

6 (c) The person demonstrates that he or she has operated with
7 an ignition interlock device for not less than 1 year.

8 (d) The person satisfies the requirements of section 303 and R
9 257.313 of the Michigan administrative code.

10 (7) In determining whether to order an unrestricted license
11 under subsection (6), the successful completion of the DWI/sobriety
12 court program and a certificate from the DWI/sobriety court judge
13 shall be considered positive evidence of the petitioner's
14 abstinence while the petitioner participated in the DWI/sobriety
15 court program. As used in this subsection, "certificate" includes,
16 but is not limited to, a statement that the participant has
17 maintained a period of abstinence from alcohol for not less than 6
18 months at the time the participant completed the DWI/sobriety court
19 program.

20 (8) If the secretary of state receives a notification from the
21 DWI/sobriety court under section 1084(6) of the revised judicature
22 act of 1961, 1961 PA 236, MCL 600.1084, the secretary of state
23 shall summarily impose 1 of the following license sanctions, as
24 applicable:

25 (a) Suspension for the full length of time provided under
26 section 319(8). However, a restricted license shall not be issued
27 as provided under section 319(8). This subdivision applies if the

1 underlying conviction or convictions would have subjected the
2 person to a license sanction under section 319(8) if this section
3 did not apply.

4 (b) A license revocation and denial for the full length of
5 time provided under section 303. The minimum period of license
6 revocation and denial imposed shall be the same as if this section
7 did not apply. This subdivision applies if the underlying
8 conviction or convictions would have caused a license revocation
9 and denial under section 303 if this section did not apply.

10 (9) After the person completes the DWI/sobriety court
11 interlock pilot program, the following apply:

12 (a) The secretary of state shall postpone considering the
13 issuance of an unrestricted license under section 322 for a period
14 of 3 months for each act that would be a minor violation if the
15 person's license had been issued under section 322(6). As used in
16 this subdivision, "minor violation" means that term as defined in R
17 257.301a of the Michigan administrative code.

18 (b) The restricted license issued under this section shall be
19 suspended or revoked or denied as provided in subsection (8),
20 unless set aside under subsection (6), if any of the following
21 events occur:

22 (i) The person operates a motor vehicle without an ignition
23 interlock device that meets the criteria under subsection (2)(b).

24 (ii) The person removes, or causes to be removed, an ignition
25 interlock device from a vehicle he or she owns or operates unless
26 the secretary of state has authorized its removal under section
27 322a.

1 (iii) The person commits any other act that would be a major
2 violation if the person's license had been issued under section
3 322(6). As used in this subparagraph, "major violation" means that
4 term as defined in R 257.301a of the Michigan administrative code.

5 (iv) The person is arrested for a violation of any of the
6 following:

7 (A) Section 625.

8 (B) A local ordinance of this state or another state
9 substantially corresponding to section 625.

10 (C) A law of the United States substantially corresponding to
11 section 625.

12 (v) **THE PERSON FAILS TO MAINTAIN COMPLETE ABSTINENCE FROM**
13 **ALCOHOL OR NONPRESCRIBED CONTROLLED SUBSTANCES.**

14 (c) If the person is convicted of or found responsible for any
15 offense that requires the suspension, revocation, denial, or
16 cancellation of the person's operator's or chauffeur's license, the
17 restricted license issued under this section shall be suspended
18 until the requisite period of license suspension, revocation,
19 denial, or cancellation, as appropriate, has elapsed.

20 (d) If the person has failed to pay any court-ordered fines or
21 costs that resulted from the operation of a vehicle, the restricted
22 license issued under this section shall be suspended pending
23 payment of those fines and costs.

24 (10) All driver responsibility fees required to be assessed by
25 the secretary of state under section 732a for the conviction or
26 convictions that led to the restricted license under this section
27 shall be held in abeyance as follows:

1 (a) The fees shall be held in abeyance during the time the
2 person has a restricted license under this section and is
3 participating in the DWI/sobriety court interlock pilot project.

4 (b) At the end of the person's participation in the
5 DWI/sobriety court program, the driver responsibility fees shall be
6 assessed and paid under the payment schedule described in section
7 732a.

8 (11) The vehicle of an individual admitted to the DWI/sobriety
9 court interlock pilot project whose vehicle would otherwise be
10 subject to immobilization or forfeiture under this act is exempt
11 from both immobilization and forfeiture under sections 625n and
12 904d if both of the following apply:

13 (a) The person is a DWI/sobriety court interlock pilot program
14 participant in good standing or the person successfully
15 satisfactorily completes the DWI/sobriety court interlock pilot
16 program.

17 (b) The person does not subsequently violate a law of this
18 state for which vehicle immobilization or forfeiture is a sanction.

19 (12) This section only applies to individuals arrested for a
20 violation of section 625 on or after January 1, 2011.

21 (13) As used in this section:

22 (a) "DWI/sobriety court" means that term as defined in section
23 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
24 600.1084.

25 (b) "DWI/sobriety court interlock pilot project" and
26 "DWI/sobriety court program" mean those terms as ~~defined or~~
27 ~~described~~ **USED** in section 1084 of the revised judicature act of

1 1961, 1961 PA 236, MCL 600.1084.

2 Sec. 319. (1) The secretary of state shall immediately suspend
3 a person's license as provided in this section upon receiving a
4 record of the person's conviction for a crime described in this
5 section, whether the conviction is under a law of this state, a
6 local ordinance substantially corresponding to a law of this state,
7 a law of another state substantially corresponding to a law of this
8 state, or, beginning October 31, 2010, a law of the United States
9 substantially corresponding to a law of this state.

10 (2) The secretary of state shall suspend the person's license
11 for 1 year for any of the following crimes:

12 (a) Fraudulently altering or forging documents pertaining to
13 motor vehicles in violation of section 257.

14 (b) A violation of section 413 of the Michigan penal code,
15 1931 PA 328, MCL 750.413.

16 (c) A violation of section 1 of former 1931 PA 214, MCL
17 752.191, or **FORMER** section 626c.

18 (d) A felony in which a motor vehicle was used. As used in
19 this section, "felony in which a motor vehicle was used" means a
20 felony during the commission of which the person convicted operated
21 a motor vehicle and while operating the vehicle presented real or
22 potential harm to persons or property and 1 or more of the
23 following circumstances existed:

24 (i) The vehicle was used as an instrument of the felony.

25 (ii) The vehicle was used to transport a victim of the felony.

26 (iii) The vehicle was used to flee the scene of the felony.

27 (iv) The vehicle was necessary for the commission of the

1 felony.

2 (e) A violation of section 602a(2) or (3) of this act or
3 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
4 750.479a.

5 (f) Beginning October 31, 2010, a violation of section 601d.

6 (3) The secretary of state shall suspend the person's license
7 for 90 days for any of the following crimes:

8 (a) Failing to stop and disclose identity at the scene of an
9 accident resulting in injury in violation of section 617a.

10 (b) A violation of section 601b(2), section 601c(1), section
11 653a(3), section 626 before October 31, 2010, or, beginning October
12 31, 2010, section 626(2).

13 (c) Malicious destruction resulting from the operation of a
14 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
15 code, 1931 PA 328, MCL 750.382.

16 (d) A violation of section 703(2) of the Michigan liquor
17 control code of 1998, 1998 PA 58, MCL 436.1703.

18 (4) The secretary of state shall suspend the person's license
19 for 30 days for malicious destruction resulting from the operation
20 of a vehicle under section 382(1)(a) of the Michigan penal code,
21 1931 PA 328, MCL 750.382.

22 (5) For perjury or making a false certification to the
23 secretary of state under any law requiring the registration of a
24 motor vehicle or regulating the operation of a vehicle on a
25 highway, or for conduct prohibited under section 324(1) or a local
26 ordinance substantially corresponding to section 324(1), the
27 secretary shall suspend the person's license as follows:

1 (a) If the person has no prior conviction for an offense
2 described in this subsection within 7 years, for 90 days.

3 (b) If the person has 1 or more prior convictions for an
4 offense described in this subsection within 7 years, for 1 year.

5 (6) For a violation of section 414 of the Michigan penal code,
6 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
7 person's license as follows:

8 (a) If the person has no prior conviction for that offense
9 within 7 years, for 90 days.

10 (b) If the person has 1 or more prior convictions for that
11 offense within 7 years, for 1 year.

12 (7) For a violation of section 624a or 624b of this act or
13 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
14 58, MCL 436.1703, the secretary of state shall suspend the person's
15 license as follows:

16 (a) If the person has 1 prior conviction for an offense
17 described in this subsection or section 33b(1) of former 1933 (Ex
18 Sess) PA 8, for 90 days. The secretary of state may issue the
19 person a restricted license after the first 30 days of suspension.

20 (b) If the person has 2 or more prior convictions for an
21 offense described in this subsection or section 33b(1) of former
22 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
23 the person a restricted license after the first 60 days of
24 suspension.

25 (8) The secretary of state shall suspend the person's license
26 for a violation of section 625 or 625m as follows:

27 (a) For 180 days for a violation of section 625(1) or (8)

1 before October 31, 2010 or, beginning October 31, 2010, section
2 625(1)(a) or (b) or (8) if the person has no prior convictions
3 within 7 years. The secretary of state may issue the person a
4 restricted license during a specified portion of the suspension,
5 except that the secretary of state shall not issue a restricted
6 license during the first 30 days of suspension.

7 (b) For 90 days for a violation of section 625(3) if the
8 person has no prior convictions within 7 years. However, if the
9 person is convicted of a violation of section 625(3), for operating
10 a vehicle when, due to the consumption of a controlled substance or
11 a combination of alcoholic liquor and a controlled substance, the
12 person's ability to operate the vehicle was visibly impaired, the
13 secretary of state shall suspend the person's license under this
14 subdivision for 180 days. The secretary of state may issue the
15 person a restricted license during all or a specified portion of
16 the suspension.

17 (c) For 30 days for a violation of section 625(6) if the
18 person has no prior convictions within 7 years. The secretary of
19 state may issue the person a restricted license during all or a
20 specified portion of the suspension.

21 (d) For 90 days for a violation of section 625(6) if the
22 person has 1 or more prior convictions for that offense within 7
23 years.

24 (e) For 180 days for a violation of section 625(7) if the
25 person has no prior convictions within 7 years. The secretary of
26 state may issue the person a restricted license after the first 90
27 days of suspension.

1 (f) For 90 days for a violation of section 625m if the person
2 has no prior convictions within 7 years. The secretary of state may
3 issue the person a restricted license during all or a specified
4 portion of the suspension.

5 (g) Beginning October 31, 2010, for 1 year for a violation of
6 section 625(1)(c) if the person has no prior convictions within 7
7 years or not more than 2 convictions within 10 years. The secretary
8 of state may issue the person a restricted license, except that the
9 secretary of state shall not issue a restricted license during the
10 first 45 days of suspension.

11 (h) Beginning October 31, 2010, the department shall order a
12 person convicted of violating section 625(1)(c) not to operate a
13 motor vehicle under a restricted license issued under subdivision
14 (g) unless the vehicle is equipped with an ignition interlock
15 device approved, certified, and installed as required under
16 sections 625k and 625l. The ignition interlock device may be removed
17 after the interlock device provider provides the department with
18 verification that the person has operated the vehicle with no
19 instances of reaching or exceeding a blood alcohol level of 0.025
20 grams per 210 liters of breath. This subdivision does not prohibit
21 the removal of the ignition interlock device for any of the
22 following:

23 (i) A start-up test failure that occurs within the first 2
24 months after installation of the device. As used in this
25 subdivision, "start-up test failure" means that the ignition
26 interlock device has prevented the motor vehicle from being
27 started. Multiple unsuccessful attempts at 1 time to start the

1 vehicle shall be treated as 1 start-up test failure only under this
2 subparagraph.

3 (ii) A start-up test failure occurring more than 2 months after
4 installation of the device, if not more than 15 minutes after
5 detecting the start-up test failure the person delivers a breath
6 sample that the ignition interlock device analyzes as having an
7 alcohol level of less than 0.025 grams per 210 liters of breath.

8 (iii) A retest prompted by the device, if not more than 5
9 minutes after detecting the retest failure the person delivers a
10 breath sample that the ignition interlock device analyzes as having
11 an alcohol level of less than 0.025 grams per 210 liters of breath.

12 (i) Beginning October 31, 2010, if an individual violates the
13 conditions of the restricted license issued under subdivision (g)
14 or operates or attempts to operate a motor vehicle with a blood
15 alcohol level of 0.025 grams per 210 liters of breath, the
16 secretary of state shall impose an additional like period of
17 suspension and restriction as prescribed under subdivision (g).
18 This subdivision does not require an additional like period of
19 suspension and restriction for any of the following:

20 (i) A start-up test failure within the first 2 months after
21 installation of the ignition interlock device. As used in this
22 subdivision, "start-up test failure" means that the ignition
23 interlock device has prevented the motor vehicle from being
24 started. Multiple unsuccessful attempts at 1 time to start the
25 vehicle shall be treated as 1 start-up test failure only under this
26 subparagraph.

27 (ii) A start-up test failure occurring more than 2 months after

1 installation of the device, if not more than 15 minutes after
2 detecting the start-up test failure the person delivers a breath
3 sample that the ignition interlock device analyzes as having an
4 alcohol level of less than 0.025 grams per 210 liters of breath.

5 (iii) Any retest prompted by the device, if not more than 5
6 minutes after detecting the retest failure the person delivers a
7 breath sample that the ignition interlock device analyzes as having
8 an alcohol level of less than 0.025 grams per 210 liters of breath.

9 (9) For a violation of section 367c of the Michigan penal
10 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
11 suspend the person's license as follows:

12 (a) If the person has no prior conviction for an offense
13 described in this subsection within 7 years, for 6 months.

14 (b) If the person has 1 or more convictions for an offense
15 described in this subsection within 7 years, for 1 year.

16 (10) For a violation of section 315(4), the secretary of state
17 may suspend the person's license for 6 months.

18 (11) For a violation or attempted violation of section 411a(2)
19 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
20 school, the secretary of state shall suspend the license of a
21 person 14 years of age or over but less than 21 years of age until
22 3 years after the date of the conviction or juvenile disposition
23 for the violation. The secretary of state may issue the person a
24 restricted license after the first 365 days of suspension.

25 (12) For a second or subsequent violation of section 701(1) of
26 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
27 by an individual who is not a retail licensee or a retail

1 licensee's clerk, agent, or employee, the secretary of state shall
2 suspend the person's license for 180 days. The secretary of state
3 may issue a person a restricted license during all or a specified
4 portion of the suspension.

5 (13) Except as provided in subsection (15), a suspension under
6 this section shall be imposed notwithstanding a court order unless
7 the court order complies with section 323.

8 (14) If the secretary of state receives records of more than 1
9 conviction of a person resulting from the same incident, a
10 suspension shall be imposed only for the violation to which the
11 longest period of suspension applies under this section.

12 (15) The secretary of state may waive a restriction,
13 suspension, or revocation of a person's license imposed under this
14 act if the person submits proof that a court in another state
15 revoked, suspended, or restricted his or her license for a period
16 equal to or greater than the period of a restriction, suspension,
17 or revocation prescribed under this act for the violation and that
18 the revocation, suspension, or restriction was served for the
19 violation, or may grant a restricted license.

20 (16) The secretary of state shall not issue a restricted
21 license to a person whose license is suspended under this section
22 unless a restricted license is authorized under this section and
23 the person is otherwise eligible for a license.

24 (17) The secretary of state shall not issue a restricted
25 license to a person under subsection (8) that would permit the
26 person to operate a commercial motor vehicle.

27 (18) Except as provided in subsection (17), a restricted

1 license issued under this section shall permit the person to whom
2 it is issued to take any driving skills test required by the
3 secretary of state and to operate a vehicle under 1 or more of the
4 following circumstances:

5 (a) In the course of the person's employment or occupation.

6 (b) To and from any combination of the following:

7 (i) The person's residence.

8 (ii) The person's work location.

9 (iii) An alcohol or drug education or treatment program as
10 ordered by the court.

11 (iv) The court probation department.

12 (v) A court-ordered community service program.

13 (vi) An educational institution at which the person is enrolled
14 as a student.

15 (vii) A place of regularly occurring medical treatment for a
16 serious condition for the person or a member of the person's
17 household or immediate family.

18 (19) While driving with a restricted license, the person shall
19 carry proof of his or her destination and the hours of any
20 employment, class, or other reason for traveling and shall display
21 that proof upon a peace officer's request.

22 (20) Subject to subsection (22), as used in subsection (8),
23 "prior conviction" means a conviction for any of the following,
24 whether under a law of this state, a local ordinance substantially
25 corresponding to a law of this state, or a law of another state
26 substantially corresponding to a law of this state:

27 (a) Except as provided in subsection (21), a violation or

1 attempted violation of any of the following:

2 (i) Section 625, except a violation of section 625(2), or a
3 violation of any prior enactment of section 625 in which the
4 defendant operated a vehicle while under the influence of
5 intoxicating or alcoholic liquor or a controlled substance, or a
6 combination of intoxicating or alcoholic liquor and a controlled
7 substance, or while visibly impaired, or with an unlawful bodily
8 alcohol content.

9 (ii) Section 625m.

10 (iii) Former section 625b.

11 (b) Negligent homicide, manslaughter, or murder resulting from
12 the operation of a vehicle or an attempt to commit any of those
13 crimes.

14 (c) Beginning October 31, 2010, a violation of section 601d or
15 section 626(3) or (4).

16 (21) Except for purposes of the suspensions described in
17 subsection (8)(c) and (d), only 1 violation or attempted violation
18 of section 625(6), a local ordinance substantially corresponding to
19 section 625(6), or a law of another state substantially
20 corresponding to section 625(6) may be used as a prior conviction.

21 (22) If 2 or more convictions described in subsection (20) are
22 convictions for violations arising out of the same transaction,
23 only 1 conviction shall be used to determine whether the person has
24 a prior conviction.

25 (23) ANY PERIOD OF SUSPENSION OR RESTRICTION REQUIRED UNDER
26 THIS SECTION IS NOT SUBJECT TO APPEAL TO THE SECRETARY OF STATE.

27 Sec. 625k. (1) ~~The department shall approve 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).~~

~~Subject to subsection (5), the department shall provide a list of
all manufacturers of approved certified devices to each person who
is issued a restricted license that permits the person to drive a
vehicle only if it is equipped with an ignition interlock device.~~

~~The department shall rotate the order of the providers with each
list provided under this subsection.~~ AN IGNITION INTERLOCK DEVICE

(BAIID) MANUFACTURER SEEKING CERTIFICATION OF A DEVICE IN THIS
STATE SHALL DO ALL OF THE FOLLOWING:

(A) COMPLETE AN APPLICATION FOR CERTIFICATION OF THE BAIID.

(B) SUBMIT A REPORT FROM A DEPARTMENT-APPROVED LABORATORY
CERTIFYING THAT THE BAIID MEETS OR EXCEEDS THE MODEL SPECIFICATIONS
FOR BAIIDS, 57 FR 11772-11787 (APRIL 7, 1992), 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 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.

(C) AGREE TO ENSURE PROPER RECORD-KEEPING 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.

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

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

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

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

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

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

17 (ii) ~~Evidence of insurance as described in section 625l.~~ **PROOF OF**
18 **LIABILITY INSURANCE ISSUED BY AN INSURANCE COMPANY AUTHORIZED TO DO**
19 **BUSINESS IN THIS STATE SPECIFYING ALL OF THE FOLLOWING:**

20 **(A) THAT THE POLICY IS CURRENT AT THE TIME OF APPLICATION.**

21 **(B) THE NAME AND MODEL NUMBER OF THE DEVICE MODEL COVERED BY**
22 **THE POLICY.**

23 **(C) THAT THE POLICY HAS A MINIMUM COVERAGE OF \$1,000,000.00**
24 **PER OCCURRENCE AND \$3,000,000.00 IN THE AGGREGATE.**

25 **(D) THAT THE POLICY WILL INDEMNIFY THE DEPARTMENT AND ANY**
26 **OTHER PERSON INJURED AS A RESULT OF ANY DEFECTS IN MANUFACTURE,**
27 **MATERIALS, DESIGN, CALIBRATION, INSTALLATION, OR OPERATION OF THE**

1 **DEVICE.**

2 (iii) An affidavit that the ignition interlock device meets **OR**
3 **EXCEEDS** all of the following conditions:

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

5 (B) Is set to periodically take samples while the vehicle is
6 in operation and to do ~~both~~-**ALL** of the following when the device
7 detects an alcohol content of 0.025 grams or more per 210 liters of
8 breath in the person who offers a breath sample or if a breath
9 sample is not given within the allotted time:

10 (I) Emit a visible or audible warning signal.

11 (II) Render the vehicle inoperable as soon as the vehicle is
12 no longer being operated, requiring the operator to provide a
13 breath sample containing a breath alcohol level of less than 0.025
14 grams per 210 liters of breath before the vehicle may be restarted.

15 **(III) DISABLE THE FREE RESTART.**

16 **(IV) ACTIVATE A VIOLATION RESET. THE DEVICE SHALL INITIATE AN**
17 **AUDIBLE OR VISUAL CUE THAT WILL WARN THE DRIVER THAT THE DEVICE**
18 **WILL ENTER A PERMANENT LOCKOUT IN 5 DAYS.**

19 ~~—— (b) Provides a list of installers who are authorized to~~
20 ~~install and service its ignition interlock devices to the secretary~~
21 ~~of state.~~

22 **(B) ~~(e)~~**Agrees to have service locations within 50 miles of
23 any location within this state.

24 **(C) ~~(d)~~**Agrees to provide an ignition interlock device without
25 cost to a person whose gross income for the immediately preceding
26 tax year based on his or her state income tax return was less than
27 150% of the official poverty line for that same tax year

1 established in the poverty guidelines issued by the secretary of
2 health and human services under 42 USC 9902. A person in whose
3 vehicle an ignition interlock device is installed without cost
4 under this subdivision shall pay a maintenance fee to the installer
5 of not more than \$2.00 per day.

6 (D) ~~(e)~~—Agrees to comply with the reporting requirements of
7 the secretary of state.

8 (E) ~~(f)~~—Agrees to periodically monitor installed ignition
9 interlock devices and if monitoring indicates that the device has
10 been circumvented, tampered with, or that a person with a breath
11 alcohol level of 0.025 or more grams per 210 liters of breath has
12 attempted to operate the motor vehicle, or both, to communicate all
13 of the relevant information concerning these facts to the secretary
14 of state or to the court, or both, as appropriate.

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

18 (7) UPON THE REQUEST OF THE DEPARTMENT, THE BAIID MANUFACTURER
19 SHALL, AT NO COST TO THIS STATE, PROVIDE THE DEPARTMENT WITH AT
20 LEAST 2 BAIIDS FOR EACH MODEL THAT IS CERTIFIED UNDER THIS ACT FOR
21 DEMONSTRATION AND TRAINING PURPOSES BY THE DEPARTMENT.

22 (8) UPON THE REQUEST OF THE DEPARTMENT, THE BAIID MANUFACTURER
23 SHALL, AT NO COST TO THIS STATE, INSTALL 1 OF EACH DEVICE THAT IS
24 CERTIFIED UNDER THIS ACT IN A VEHICLE PROVIDED BY THE DEPARTMENT.
25 ANY SERVICE PERFORMED UNDER THIS SUBSECTION, INCLUDING, BUT NOT
26 LIMITED TO, INSTALLATION, MAINTENANCE, CALIBRATION, OR REMOVAL,
27 SHALL BE COMPLETED AT NO COST TO THIS STATE.

1 (9) UPON THE REQUEST OF THE DEPARTMENT, FOR EACH BAIID MODEL
2 APPROVED BY THE DEPARTMENT, THE BAIID PROVIDER SHALL PROVIDE A
3 TOTAL OF NOT LESS THAN 10 HOURS OF TRAINING TO DEPARTMENT EMPLOYEES
4 AT NO COST TO THIS STATE. THIS TRAINING SHALL BE HELD AT THE TIMES
5 AND LOCATIONS WITHIN THE STATE DESIGNATED BY THE DEPARTMENT. THE
6 TRAINING SHALL BE DESIGNED TO FAMILIARIZE DEPARTMENT EMPLOYEES WITH
7 THE INSTALLATION, OPERATION, SERVICE, REPAIR, AND REMOVAL OF THE
8 BAIIDS AND INCLUDE THE TRAINING AND INSTRUCTIONS THAT THE BAIID
9 PROVIDERS WILL GIVE TO CUSTOMERS. THE BAIID PROVIDER SHALL ALSO
10 PROVIDE THE DEPARTMENT, UPON REQUEST, WITH THE FOLLOWING
11 INFORMATION:

12 (A) A DETAILED DESCRIPTION OF THE DEVICE, INCLUDING COMPLETE
13 INSTRUCTIONS FOR INSTALLATION, OPERATION, SERVICE, REPAIR, AND
14 REMOVAL OF THE BAIID.

15 (B) COMPLETE TECHNICAL SPECIFICATIONS, INCLUDING DETAILED
16 EXPLANATIONS AND DEFINITIONS OF ALL DATA LOG ENTRIES.

17 (10) A MANUFACTURER SHALL NOTIFY THE DEPARTMENT AT LEAST 15
18 DAYS BEFORE IMPLEMENTATION OF ANY MODIFICATION, UPGRADE, OR
19 ALTERATION TO ANY HARDWARE, SOFTWARE, OR FIRMWARE OF A DEVICE
20 CERTIFIED FOR USE IN THIS STATE. THE NOTIFICATION SHALL INCLUDE
21 BOTH OF THE FOLLOWING:

22 (A) A DESCRIPTION AND EXPLANATION OF THE MODIFICATION,
23 UPGRADE, OR ALTERATION AND PROOF SATISFACTORY TO THE DEPARTMENT
24 THAT THESE MODIFICATIONS, UPGRADES, OR ALTERATIONS DO NOT ADVERSELY
25 AFFECT THE ABILITY OF THE DEVICE TO SATISFY THE REQUIREMENTS OF
26 THIS ACT.

27 (B) A COMPREHENSIVE PLAN OF ACTION FOR THE PHASING OUT OF THE

1 USE OF THE CURRENT DEVICE. THIS PLAN OF ACTION MUST BE APPROVED BY
2 THE DEPARTMENT PRIOR TO THE IMPLEMENTATION OF THE PLAN OF ACTION.

3 (11) ANY EQUIPMENT IN THE POSSESSION OF THE DEPARTMENT THAT
4 WAS RETAINED FOR CERTIFICATION OF THE DEVICE SHALL BE MODIFIED,
5 UPGRADED, OR ALTERED SIMULTANEOUSLY WITH IMPLEMENTATION.

6 (12) MATERIAL MODIFICATIONS TO A CERTIFIED DEVICE MAY REQUIRE
7 RECERTIFICATION UNDER THIS ACT AS DETERMINED BY THE DEPARTMENT.

8 (13) A MANUFACTURER SHALL REAPPLY FOR APPROVAL ANNUALLY.

9 (14) THE DEPARTMENT IS RESPONSIBLE FOR APPROVING BAIID SERVICE
10 CENTERS FOR OPERATION IN THIS STATE. ALL OF THE FOLLOWING
11 REQUIREMENTS APPLY FOR APPROVAL UNDER THIS SUBSECTION:

12 (A) ONLY SERVICE CENTERS THAT ARE MANUFACTURER/VENDORS MAY
13 SERVICE BAIIDS APPROVED FOR USE IN THIS STATE.

14 (B) A BAIID MAY ONLY BE INSTALLED, SERVICED, OR REMOVED IN A
15 MOTOR VEHICLE REPAIR FACILITY. AS USED IN THIS SUBDIVISION, "MOTOR
16 VEHICLE REPAIR FACILITY" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
17 THE MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL
18 257.1302.

19 (C) A SERVICE CENTER SHALL BE LOCATED IN A FIXED FACILITY
20 WITHIN THIS STATE.

21 (D) EACH SERVICE CENTER SHALL HAVE AT LEAST 1 LICENSED
22 MECHANIC WITH A BAIID CERTIFICATION AND WHO IS PROPERLY TRAINED BY
23 THE BAIID MANUFACTURER FOR WHICH THE SERVICE CENTER IS A VENDOR AS
24 ITS BAIID TECHNICIAN TO SERVICE THE BAIID.

25 (E) EACH SERVICE CENTER SHALL MAINTAIN AND MAKE AVAILABLE FOR
26 INSPECTION RECORDS THAT PROVE THAT EACH BAIID MECHANIC WORKING AT
27 THE SERVICE CENTER HAS BEEN PROPERLY TRAINED BY THE BAIID

1 MANUFACTURER TO SERVICE THE BAIID FOR WHICH THE CENTER IS A VENDOR.

2 (F) EACH SERVICE CENTER SHALL PROVIDE A DESIGNATED WAITING
3 AREA FOR CUSTOMRS THAT IS SEPARATE FROM THE AREA IN WHICH BAIIDS
4 ARE INSTALLED OR SERVICED.

5 (G) ONLY BAIID MECHANICS AND REPRESENTATIVES OF THE
6 MANUFACTURER OR THE DEPARTMENT SHALL BE ALLOWED TO OBSERVE THE
7 INSTALLATION OR REMOVAL OF A BAIID.

8 (H) ADEQUATE SECURITY MEASURES SHALL BE TAKEN TO ENSURE THAT
9 UNAUTHORIZED PERSONNEL CANNOT GAIN ACCESS TO PROPRIETARY MATERIALS
10 OR FILES OF PARTICIPANTS.

11 (I) MANUFACTURER SERVICE CENTERS SHALL INSTALL, MAINTAIN,
12 CALIBRATE, AND REMOVE ALL BAIIDS HANDLED BY THAT SERVICE CENTER AND
13 PERFORM ANY OTHER SERVICES DETERMINED NECESSARY BY THE DEPARTMENT
14 FOR THOSE USING THOSE BAIIDS IN THIS STATE.

15 (J) THE SERVICE CENTER SHALL INFORM THE DEPARTMENT OF A CHANGE
16 IN ITS BUSINESS ADDRESS 15 DAYS PRIOR TO THE DATE OF ANY
17 RELOCATION.

18 (K) BAIIDS APPROVED FOR USE IN THIS STATE SHALL ONLY BE
19 SERVICED BY SERVICE CENTERS LOCATED WITHIN THIS STATE, UNLESS 1 OF
20 THE FOLLOWING APPLIES:

21 (i) THE CUSTOMER HAS A PERMANENT RESIDENCE IN A STATE OTHER
22 THAN THIS STATE.

23 (ii) THE CUSTOMER IS UNABLE TO RETURN TO THIS STATE FOR SERVICE
24 BECAUSE OF A SIGNIFICANT PERSONAL HARDSHIP.

25 (l) IF A BAIID IS SERVICED BY A SERVICE CENTER OUTSIDE OF THIS
26 STATE, THE BAIID PROVIDER SHALL ENSURE THAT ALL OF THE FOLLOWING
27 REQUIREMENTS ARE MET:

1 (i) THE BAIID OPERATES USING THE SAME FIRMWARE THAT IS USED FOR
2 DEVICES IN THIS STATE.

3 (ii) THE DATA RECORDED BY THE BAIID REMAIN INTACT ON THE DEVICE
4 FOR LATER RETRIEVAL BY A SERVICE CENTER IN THIS STATE OR THE DATA
5 ARE TRANSFERRED TO A SERVICE CENTER DATABASE WITHIN THIS STATE FOR
6 REVIEW.

7 (M) SERVICE CENTERS SHALL MAKE THE ADDRESSES OF THEIR
8 LOCATIONS AVAILABLE TO THE DEPARTMENT FOR THE AREA IN WHICH THE
9 SERVICE CENTER IS LOCATED.

10 (N) BAIIDS FOR USE IN THIS STATE SHALL BE INSTALLED AND SHALL
11 BE REMOVED ONLY IN A SERVICE CENTER APPROVED FOR INSTALLING THAT
12 DEVICE.

13 (O) EACH APPLICATION FOR APPROVAL SHALL BE FOR A SINGLE
14 SERVICE CENTER. SEPARATE SERVICE CENTER APPLICATIONS ARE REQUIRED
15 FOR ADDITIONAL SERVICE CENTERS.

16 (P) PRIOR TO ISSUANCE OF APPROVAL, AN ON-SITE EVALUATION MAY
17 BE REQUIRED BY THE DEPARTMENT TO ENSURE COMPLIANCE WITH THE
18 REQUIREMENTS IN THIS ACT.

19 (Q) THE APPROVAL OF A SERVICE CENTER SHALL BE FOR A PERIOD OF
20 1 YEAR. THE RENEWAL PROCESS SHALL BE THE SAME AS THE SERVICE CENTER
21 APPROVAL PROCESS UNDER THIS SECTION.

22 (15) THE DEPARTMENT MAY CONDUCT INSPECTIONS OF A MANUFACTURER
23 OR A BAIID SERVICE CENTER TO ENSURE COMPLIANCE WITH THIS ACT AND
24 RULES PROMULGATED TO IMPLEMENT THIS ACT. THE MANUFACTURER SHALL PAY
25 FOR THE ACTUAL COSTS TO THE DEPARTMENT IN CONDUCTING AN INSPECTION
26 UNDER THIS SUBSECTION.

27 (16) A PERSON SHALL NOT PERFORM ANY SERVICE RELATED TO ANY

1 BAIID IN THIS STATE WITHOUT BEING APPROVED BY THE DEPARTMENT.

2 (17) ALL INSTALLATIONS OF BAIIDS SHALL BE DONE IN A
3 WORKMANLIKE MANNER BY A BAIID MECHANIC AT AN APPROVED SERVICE
4 CENTER AND SHALL BE IN ACCORDANCE WITH THE STANDARDS SET FORTH IN
5 THIS SECTION AND WITH THE REQUIREMENTS OF THE MANUFACTURER. ALL
6 BAIIDS INSTALLED SHALL BE IN WORKING ORDER AND SHALL PERFORM IN
7 ACCORDANCE WITH THE STANDARDS SET FORTH IN THIS ACT. ALL
8 CONNECTIONS SHALL BE SOLDERED AND COVERED WITH A TAMPER SEAL.

9 (18) UPON COMPLETION OF THE INSTALLATION OF A DEVICE REQUIRED
10 UNDER THIS ACT, THE APPROVED BAIID MECHANIC SHALL PROVIDE THE
11 CUSTOMER WITH INSTALLATION VERIFICATION IN THE FORM AND FORMAT
12 DESIGNATED BY THE DEPARTMENT.

13 (19) A MANUFACTURER SHALL ENSURE THAT BAIID MECHANICS MEET THE
14 FOLLOWING REQUIREMENTS:

15 (A) POSSESS THE APPROPRIATE CERTIFICATION FROM THE DEPARTMENT.

16 (B) POSSESS AND MAINTAIN ALL NECESSARY TRAINING AND SKILLS
17 REQUIRED TO INSTALL, EXAMINE, TROUBLESHOOT, AND VERIFY THE PROPER
18 OPERATION OF BAIIDS.

19 (C) POSSESS THE TOOLS, TEST EQUIPMENT, AND MANUALS NEEDED TO
20 INSTALL, INSPECT, DOWNLOAD, CALIBRATE, REPAIR, MAINTAIN, SERVICE,
21 AND REMOVE DEVICES.

22 (D) PROVIDE ALL PERSONS WHO WILL USE THE VEHICLE WITH WRITTEN
23 AND HANDS-ON TRAINING REGARDING THE OPERATION OF A VEHICLE EQUIPPED
24 WITH THE BAIID AND ENSURE THAT EACH OF THOSE PERSONS DEMONSTRATES A
25 PROPERLY DELIVERED ALVEOLAR BREATH SAMPLE AND AN UNDERSTANDING OF
26 HOW THE ABORT TEST FEATURE WORKS.

27 (20) A MECHANIC WHO HAS BEEN CONVICTED OF AN ALCOHOL-RELATED

1 DRIVING OFFENSE OR ANY OFFENSE CLASSIFIED AS A FELONY IN THIS STATE
2 OR ELSEWHERE WITHIN 5 YEARS PRIOR TO THE DATE OF FILING AN
3 APPLICATION FOR APPROVAL AS A BAIID MECHANIC IS NOT ELIGIBLE FOR
4 APPROVAL AS A BAIID MECHANIC UNDER THIS ACT.

5 (21) THE FOLLOWING REQUIREMENTS APPLY TO A BAIID MECHANIC
6 UNDER THIS ACT:

7 (A) HE OR SHE MUST BE AT LEAST 18 YEARS OF AGE.

8 (B) HE OR SHE MUST POSSESS A VALID DRIVER LICENSE.

9 (C) HE OR SHE MUST BE A MOTOR VEHICLE MECHANIC AS DEFINED IN
10 SECTION 2 OF THE MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300,
11 MCL 257.1302.

12 (D) HE OR SHE MUST BE CERTIFIED AS A BAIID MECHANIC UNDER THIS
13 ACT.

14 (22) TO BE CERTIFIED AS A BAIID MECHANIC UNDER THIS ACT, THE
15 MECHANIC SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

16 (A) POSSESS A SPECIALTY CERTIFICATION IN ELECTRICAL SYSTEMS
17 UNDER SECTION 10(1)(F) OF THE MOTOR VEHICLE SERVICE AND REPAIR ACT,
18 1974 PA 300, MCL 257.1310.

19 (B) PROPERLY COMPLETE AND FILE A BAIID MECHANIC APPLICATION
20 FORM WITH THE DEPARTMENT.

21 (C) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF THE
22 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, BE A LICENSED MECHANIC
23 IN THIS STATE WITH CERTIFICATION IN THE BAIID MECHANIC CATEGORY.
24 THE DEPARTMENT MAY CREATE A BAIID MECHANIC CERTIFICATION FOR
25 PURPOSES OF THIS SUBDIVISION.

26 (D) SUBMIT A CRIMINAL HISTORY REPORT CERTIFIED WITHIN THE
27 IMMEDIATELY PRECEDING 30 DAYS.

1 (E) MEET THE REQUIREMENTS OF THE DEPARTMENT FOR CERTIFICATION
2 UNDER THIS ACT.

3 (23) EACH APPLICATION FOR APPROVAL SHALL BE FOR A SINGLE BAIID
4 MECHANIC. SEPARATE BAIID MECHANIC APPLICATIONS ARE REQUIRED FOR
5 ADDITIONAL BAIID MECHANICS.

6 (24) APPROVAL OF A BAIID MECHANIC IS FOR 1 YEAR. THE RENEWAL
7 PROCESS SHALL BE THE SAME AS THE BAIID MECHANIC APPROVAL PROCESS
8 STATED IN THIS ACT.

9 (25) THE SECRETARY OF STATE MAY INVESTIGATE A BAIID MECHANIC'S
10 COMPLIANCE WITH THIS SECTION AND SHALL SUSPEND, REVOKE, OR DENY AN
11 INDIVIDUAL'S CERTIFICATION AS A BAIID MECHANIC IF THE SECRETARY OF
12 STATE DETERMINES THAT 1 OR MORE OF THE FOLLOWING APPLY:

13 (A) THE BAIID MECHANIC VIOLATED THIS ACT OR A RULE PROMULGATED
14 UNDER THIS ACT.

15 (B) THE BAIID MECHANIC COMMITTED A FRAUDULENT ACT IN
16 CONNECTION WITH THE INSPECTION, INSTALLATION, MONITORING, OR
17 REMOVAL OF A BAIID.

18 (C) THE BAIID MECHANIC PERFORMED IMPROPER, CARELESS, OR
19 NEGLIGENT INSPECTION, INSTALLATION, MONITORING, OR REMOVAL OF A
20 BAIID.

21 (D) THE BAIID MECHANIC MADE A FALSE STATEMENT OF A MATERIAL
22 FACT REGARDING HIS OR HER ACTIONS IN INSPECTING, INSTALLING,
23 MONITORING OR REMOVING A BAIID.

24 (26) ~~(7)~~A person who knowingly provides false information to
25 the department under subsection (4) or (5) is guilty of a felony
26 punishable by imprisonment for not less than 5 years or more than
27 10 years or a fine of not less than \$5,000.00 or more than

1 \$10,000.00, or both, together with costs of the prosecution.

2 (27) ~~(8)~~—A person who negligently provides false information
3 to the department under subsection (4) or (5) is guilty of a
4 misdemeanor punishable by imprisonment for not more than 1 year or
5 a fine of not more than \$1,000.00, or both, together with costs of
6 the prosecution.

7 (28) ~~(9)~~—A person who knowingly fails to comply with
8 subsection (6) is guilty of a felony punishable by imprisonment for
9 not less than 5 years or more than 10 years or a fine of not less
10 than \$5,000.00 or more than \$10,000.00, or both, together with
11 costs of the prosecution.

12 (29) ~~(10)~~—A person who negligently fails to comply with
13 subsection (6) is guilty of a misdemeanor punishable by
14 imprisonment for not more than 1 year or a fine of not more than
15 \$1,000.00, or both, together with costs of the prosecution.

16 (30) THE SECRETARY OF STATE MAY ISSUE AN ORDER SUMMARILY
17 SUSPENDING THE CERTIFICATION OF A MANUFACTURER AND ITS DEVICE AS
18 PROVIDED IN SECTION 92 OF THE ADMINISTRATIVE PROCEDURES ACT OF
19 1969, 1969 PA 306, MCL 24.292, BASED ON AN AFFIDAVIT BY A PERSON
20 FAMILIAR WITH THE FACTS SET FORTH IN THE AFFIDAVIT THAT THE
21 MANUFACTURER OR ITS SERVICE CENTER HAS FAILED TO COMPLY WITH THIS
22 ACT OR THE APPLICABLE ADMINISTRATIVE RULES. THE MANUFACTURER TO
23 WHOM THE ORDER IS DIRECTED SHALL COMPLY IMMEDIATELY, BUT ON
24 APPLICATION TO THE DEPARTMENT SHALL BE AFFORDED A HEARING WITHIN 30
25 DAYS UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
26 MCL 24.201 TO 24.328. ON THE BASIS OF THE HEARING, THE SUMMARY
27 ORDER SHALL BE CONTINUED, MODIFIED, OR HELD IN ABEYANCE NOT LATER

1 **THAN 30 DAYS AFTER THE HEARING.**

2 Sec. 625/. (1) The manufacturer of an ignition interlock device
3 shall design a warning label, and the person who has an ignition
4 interlock device shall promptly affix that label to each ignition
5 interlock device upon installation. The label shall contain a
6 warning that any person tampering with, circumventing, or otherwise
7 misusing the device is guilty of a misdemeanor punishable as
8 provided by law.

9 (2) A person who is only permitted to operate a motor vehicle
10 equipped with an ignition interlock device shall not operate a
11 motor vehicle on which an ignition interlock device is not properly
12 installed.

13 (3) A person who has an ignition interlock device installed
14 and whose driving privilege is restricted shall not request, ~~or~~
15 solicit, **OR ALLOW** any other person to blow into an ignition
16 interlock device or to start a vehicle equipped with the device for
17 the purpose of providing the person whose driving privilege is
18 restricted with an operable vehicle.

19 (4) A person shall not blow into an ignition interlock device
20 or start a motor vehicle equipped with the device for the purpose
21 of providing an operable vehicle to a person who has an interlock
22 device installed and whose driving privilege is restricted.

23 (5) A person shall not tamper with or circumvent the operation
24 of an ignition interlock device.

25 (6) A person who violates subsection (2), (3), (4), or (5) is
26 guilty of a misdemeanor punishable by imprisonment for not more
27 than 6 months or a fine of not more than \$5,000.00, or both.

1 (7) If a law enforcement officer detains the operator of a
2 motor vehicle for violating a law of this state or a local
3 ordinance and the operator is a person required to only operate a
4 motor vehicle with an ignition interlock device properly installed,
5 but no ignition interlock device is properly installed on the motor
6 vehicle, the law enforcement officer shall impound the motor
7 vehicle. If a motor vehicle impounded under this subsection is
8 individually or jointly owned by the operator, the law enforcement
9 officer shall do all of the following:

10 (a) Immediately confiscate the motor vehicle registration
11 plate and destroy it.

12 (b) Issue a temporary registration plate for the vehicle in
13 the same manner prescribed by the secretary of state for temporary
14 registration plates issued under section 226a or 226b.

15 (c) Place the temporary registration plate issued under
16 subdivision (b) on the motor vehicle in the manner prescribed by
17 the secretary of state.

18 (d) Notify the secretary of state through the law enforcement
19 information network in a form prescribed by the secretary of state
20 that the registration plate was destroyed and a temporary
21 registration plate was issued to the motor vehicle.

22 (8) A temporary registration plate issued under this section
23 is valid until the charges for violating subsection (2) are
24 dismissed, the person pleads guilty or no contest to the charge, or
25 the person is found guilty to or is acquitted of the charge.

26 (9) If the motor vehicle impounded under this section is not
27 owned individually or jointly by the operator, the law enforcement

1 officer shall impound the motor vehicle by contacting a local
2 towing agency. The motor vehicle shall only be returned to the
3 registered owner.

4 (10) The owner of a motor vehicle impounded under this section
5 is liable for the expenses incurred in the removal and storage of
6 the motor vehicle whether or not it is returned to him or her. The
7 motor vehicle shall be returned to the owner only if the owner pays
8 the expenses of removal and storage. If redemption is not made or
9 the vehicle is not returned as described under this subsection, it
10 shall be considered an abandoned vehicle and disposed of under
11 section 252a.

12 ~~—— (11) The state, or the department, its officers, employees, or~~
13 ~~agents, or a court, its officers, employees, or agents are not~~
14 ~~liable in any claim or action that may arise, directly or~~
15 ~~indirectly, out of any act or omission by a manufacturer,~~
16 ~~installer, or servicing agent of an ignition interlock device that~~
17 ~~results in damage to persons or property.~~

18 ~~—— (12) A person shall not sell, lease, install, or monitor in a~~
19 ~~vehicle in this state an ignition interlock device unless the~~
20 ~~ignition interlock device manufacturer and provider carries~~
21 ~~liability insurance covering product liability, including, but not~~
22 ~~limited to, insurance to indemnify the department and any person~~
23 ~~injured as a result of a design defect or the calibration or~~
24 ~~removal of the ignition interlock device or a misrepresentation~~
25 ~~about the ignition interlock device. The insurance required by this~~
26 ~~subsection shall be in an amount of not less than \$1,000,000.00 per~~
27 ~~incident.~~

1 ~~—— (13) The provider of insurance described in this section may~~
2 ~~cancel the insurance upon 30 days' written notice to the department~~
3 ~~and is not liable for a claim arising from an event that occurs~~
4 ~~after the effective date of a cancellation made in compliance with~~
5 ~~this section.~~

6 ~~—— (14) An ignition interlock device shall be serviced according~~
7 ~~to manufacturer's standards. Service shall include, but not be~~
8 ~~limited to, physical inspection of the device and vehicle for~~
9 ~~tampering, calibration of the device, and monitoring of the data~~
10 ~~contained within the device's memory. Only authorized employees of~~
11 ~~the manufacturer or the department, or other persons approved by~~
12 ~~the court, may observe the installation of a device. Reasonable~~
13 ~~security measures shall be taken to prevent the customer from~~
14 ~~observing the installation of a device or obtaining access to~~
15 ~~installation materials.~~

16 Enacting section 1. R 257.1005 and R 257.1006 of the Michigan
17 administrative code are rescinded.