

SENATE BILL No. 176

March 4, 2015, 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 2013 PA 226, 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
7 operator, as measured by the test, reaches a level of 0.025 grams

1 per 210 liters of breath, and to which all of the following apply:

2 (a) The device meets or exceeds the model specifications for
3 breath alcohol ignition interlock devices (BAIID), ~~57 FR 11772~~
4 ~~11787 (April 7, 1992)~~. **78 FR 26849 - 26867 (MAY 8, 2013)**.

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

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

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

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

27 Sec. 304. (1) Except as provided in subsection (3), the

1 secretary of state shall issue a restricted license to a person
2 whose license was suspended or restricted under section 319 or
3 revoked or denied under section 303 based on either of the
4 following:

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

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

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

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

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

26 (3) A restricted license shall not be issued under subsection
27 (1) if the person is otherwise ineligible for an operator's or

1 chauffeur's license under this act, unless the person's
2 ineligibility is based on 1 or more of the following:

3 (a) Section 303(1)(i) or (l).

4 (b) Section 303(2)(c)(i) or (iii).

5 (c) Section 303(2)(g)(i) or (iii).

6 (d) Section 319(4), (5), (6), (7), (8)(a) to (e), or (9).

7 (e) Section 319e(2)(a) or (b).

8 (f) Section 320(1)(d).

9 (g) Section 321a(1), (2), or (3).

10 (h) Section 323c.

11 (i) Section 625f.

12 (j) Section 732a(5).

13 (k) Section 904(10).

14 (l) Section 82105a(2) of the natural resources and
15 environmental protection act, 1994 PA 451, MCL 324.82105a.

16 (m) Section 3177 of the insurance code of 1956, 1956 PA 218,
17 MCL 500.3177.

18 (n) Section 10 of the motor vehicle claims act, 1965 PA 198,
19 MCL 257.1110.

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

26 (a) In the course of the person's employment or occupation if
27 the employment or occupation does not require a commercial driver

1 license.

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

3 (i) The person's residence.

4 (ii) The person's work location.

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

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

9 (v) Court hearings and probation appointments.

10 (vi) Court-ordered community service.

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

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

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

17 (x) Ignition interlock service provider as required.

18 (5) 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 (6) Except as otherwise provided in this section, a restricted
23 license issued under subsection (1) is effective until a hearing
24 officer orders an unrestricted license under section 322. ~~The~~
25 **SUBJECT TO SUBSECTION (7), THE** hearing officer shall not order an
26 unrestricted license until the later of the following events
27 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) A HEARING OFFICER SHALL NOT ISSUE AN UNRESTRICTED LICENSE**
11 **FOR 1 YEAR IF EITHER OF THE FOLLOWING APPLY:**

12 **(A) THE HEARING OFFICER DETERMINES THAT THE PERSON CONSUMED**
13 **ANY ALCOHOL DURING THE PERIOD THAT HIS OR HER LICENSE WAS**
14 **RESTRICTED UNDER THIS SECTION, AS DETERMINED BY BREATH, BLOOD,**
15 **URINE, OR TRANSDERMAL TESTING UNLESS A SECOND TEST, TAKEN WITHIN**
16 **FIVE MINUTES AFTER ADMINISTERING THE FIRST TEST, SHOWED AN ABSENCE**
17 **OF ALCOHOL.**

18 **(B) THE HEARING OFFICER DETERMINES THAT THE PERSON CONSUMED OR**
19 **OTHERWISE USED ANY CONTROLLED SUBSTANCE DURING THE PERIOD THAT HIS**
20 **OR HER LICENSE WAS RESTRICTED UNDER THIS SECTION, EXCEPT AS**
21 **LAWFULLY PRESCRIBED.**

22 **(8) ~~(7)~~—In determining whether to order an unrestricted**
23 **license under subsection (6), the successful completion of the**
24 **DWI/sobriety court program and a certificate from the DWI/sobriety**
25 **court judge shall be considered positive evidence of the**
26 **petitioner's abstinence while the petitioner participated in the**
27 **DWI/sobriety court program. THIS SUBSECTION DOES NOT APPLY TO A**

1 **DETERMINATION MADE UNDER SUBSECTION (7).** As used in this
2 subsection, "certificate" includes, but is not limited to, a
3 statement that the participant has maintained a period of
4 abstinence from alcohol for not less than 6 months at the time the
5 participant completed the DWI/sobriety court program.

6 (9) ~~(8)~~—If the secretary of state receives a notification from
7 the DWI/sobriety court under section 1084(6) of the revised
8 judicature act of 1961, 1961 PA 236, MCL 600.1084, the secretary of
9 state shall summarily impose 1 of the following license sanctions,
10 as applicable:

11 (a) Suspension for the full length of time provided under
12 section 319(8). However, a restricted license shall not be issued
13 as provided under section 319(8). This subdivision applies if the
14 underlying conviction or convictions would have subjected the
15 person to a license sanction under section 319(8) if this section
16 did not apply.

17 (b) A license revocation and denial for the full length of
18 time provided under section 303. The minimum period of license
19 revocation and denial imposed shall be the same as if this section
20 did not apply. This subdivision applies if the underlying
21 conviction or convictions would have caused a license revocation
22 and denial under section 303 if this section did not apply.

23 (10) ~~(9)~~—After the person completes the DWI/sobriety court
24 program, the following apply:

25 (a) The secretary of state shall postpone considering the
26 issuance of an unrestricted license under section 322 for a period
27 of 3 months for each act that would be a minor violation if the

1 person's license had been issued under section 322(6). As used in
2 this subdivision, "minor violation" means that term as defined in R
3 257.301a of the Michigan administrative code.

4 (b) The restricted license issued under this section shall be
5 suspended or revoked or denied as provided in subsection ~~(8)~~, ~~(9)~~,
6 unless set aside under subsection (6), if any of the following
7 events occur:

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

10 (ii) The person removes, or causes to be removed, an ignition
11 interlock device from a vehicle he or she owns or operates unless
12 the secretary of state has authorized its removal under section
13 322a.

14 (iii) The person commits any other act that would be a major
15 violation if the person's license had been issued under section
16 322(6). As used in this subparagraph, "major violation" means that
17 term as defined in R 257.301a of the Michigan administrative code.

18 (iv) The person is arrested for a violation of any of the
19 following:

20 (A) Section 625.

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

23 (C) A law of the United States substantially corresponding to
24 section 625.

25 (c) If the person is convicted of or found responsible for any
26 offense that requires the suspension, revocation, denial, or
27 cancellation of the person's operator's or chauffeur's license, the

1 restricted license issued under this section shall be suspended
2 until the requisite period of license suspension, revocation,
3 denial, or cancellation, as appropriate, has elapsed.

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

8 (11) ~~(10)~~ All driver responsibility fees required to be
9 assessed by the secretary of state under section 732a for the
10 conviction or convictions that led to the restricted license under
11 this section shall be held in abeyance as follows:

12 (a) The fees shall be held in abeyance during the time the
13 person has a restricted license under this section and is
14 participating in the DWI/sobriety court program.

15 (b) At the end of the person's participation in the
16 DWI/sobriety court program, the driver responsibility fees shall be
17 assessed and paid under the payment schedule described in section
18 732a.

19 (12) ~~(11)~~ The vehicle of an individual admitted to the
20 DWI/sobriety court program whose vehicle would otherwise be subject
21 to immobilization or forfeiture under this act is exempt from both
22 immobilization and forfeiture under sections 625n and 904d if both
23 of the following apply:

24 (a) The person is a DWI/sobriety court program participant in
25 good standing or the person successfully satisfactorily completes
26 the DWI/sobriety court program.

27 (b) The person does not subsequently violate a law of this

1 state for which vehicle immobilization or forfeiture is a sanction.

2 (13) ~~(12)~~—This section only applies to individuals arrested
3 for a violation of section 625 on or after January 1, 2011.

4 (14) ~~(13)~~—As used in this section:

5 (a) "DWI/sobriety court" means that term as defined in section
6 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
7 600.1084.

8 (b) "DWI/sobriety court program" means "pilot project" or
9 "program" as those terms are ~~defined~~ **USED** in section 1084 of the
10 revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

11 Sec. 319. (1) The secretary of state shall immediately suspend
12 a person's license as provided in this section upon receiving a
13 record of the person's conviction for a crime described in this
14 section, whether the conviction is under a law of this state, a
15 local ordinance substantially corresponding to a law of this state,
16 a law of another state substantially corresponding to a law of this
17 state, or, beginning October 31, 2010, a law of the United States
18 substantially corresponding to a law of this state.

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

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

23 (b) A violation of section 413 of the Michigan penal code,
24 1931 PA 328, MCL 750.413.

25 (c) A violation of section 1 of former 1931 PA 214 ~~—MCL~~
26 ~~752.191,~~ or **FORMER** section 626c.

27 (d) A felony in which a motor vehicle was used. As used in

1 this section, "felony in which a motor vehicle was used" means a
2 felony during the commission of which the person convicted operated
3 a motor vehicle and while operating the vehicle presented real or
4 potential harm to persons or property and 1 or more of the
5 following circumstances existed:

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

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

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

9 (iv) The vehicle was necessary for the commission of the
10 felony.

11 (e) A violation of section 602a(2) or (3) of this act or
12 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
13 750.479a.

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

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

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

19 (b) A violation of section 601b(2), section 601c(1), section
20 653a(3), section 626 before October 31, 2010, or, beginning October
21 31, 2010, section 626(2).

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

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

27 (4) The secretary of state shall suspend the person's license

1 for 30 days for malicious destruction resulting from the operation
2 of a vehicle under section 382(1)(a) of the Michigan penal code,
3 1931 PA 328, MCL 750.382.

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

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

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

14 (6) For a violation of section 414 of the Michigan penal code,
15 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
16 person's license as follows:

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

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

21 (7) For a violation of section 624a or 624b of this act or
22 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
23 58, MCL 436.1703, the secretary of state shall suspend the person's
24 license as follows:

25 (a) If the person has 1 prior conviction for an offense
26 described in this subsection or section 33b(1) of former 1933 (Ex
27 Sess) PA 8, for 90 days. The secretary of state may issue the

1 person a restricted license after the first 30 days of suspension.

2 (b) If the person has 2 or more prior convictions for an
3 offense described in this subsection or section 33b(1) of former
4 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
5 the person a restricted license after the first 60 days of
6 suspension.

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

9 (a) For 180 days for a violation of section 625(1) or (8)
10 before October 31, 2010 or, beginning October 31, 2010, section
11 625(1)(a) or (b) or (8) if the person has no prior convictions
12 within 7 years. The secretary of state may issue the person a
13 restricted license during a specified portion of the suspension,
14 except that the secretary of state shall not issue a restricted
15 license during the first 30 days of suspension.

16 (b) For 90 days for a violation of section 625(3) if the
17 person has no prior convictions within 7 years. However, if the
18 person is convicted of a violation of section 625(3), for operating
19 a vehicle when, due to the consumption of a controlled substance or
20 a combination of alcoholic liquor and a controlled substance, the
21 person's ability to operate the vehicle was visibly impaired, the
22 secretary of state shall suspend the person's license under this
23 subdivision for 180 days. The secretary of state may issue the
24 person a restricted license during all or a specified portion of
25 the suspension.

26 (c) For 30 days for a violation of section 625(6) if the
27 person has no prior convictions within 7 years. The secretary of

1 state may issue the person a restricted license during all or a
2 specified portion of the suspension.

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

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

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

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

20 (h) Beginning October 31, 2010, the department shall order a
21 person convicted of violating section 625(1)(c) not to operate a
22 motor vehicle under a restricted license issued under subdivision
23 (g) unless the vehicle is equipped with an ignition interlock
24 device approved, certified, and installed as required under
25 sections 625k and 625l. The ignition interlock device may be removed
26 after the interlock device provider provides the department with
27 verification that the person has operated the vehicle with no

1 instances of reaching or exceeding a blood alcohol level of 0.025
2 grams per 210 liters of breath. This subdivision does not prohibit
3 the removal of the ignition interlock device for any of the
4 following:

5 (i) A start-up test failure that occurs within the first 2
6 months after installation of the device. As used in this
7 subdivision, "start-up test failure" means that the ignition
8 interlock device has prevented the motor vehicle from being
9 started. Multiple unsuccessful attempts at 1 time to start the
10 vehicle shall be treated as 1 start-up test failure only under this
11 subparagraph.

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

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

21 (i) Beginning October 31, 2010, if an individual violates the
22 conditions of the restricted license issued under subdivision (g)
23 or operates or attempts to operate a motor vehicle with a blood
24 alcohol level of 0.025 grams per 210 liters of breath, the
25 secretary of state shall impose an additional like period of
26 suspension and restriction as prescribed under subdivision (g).
27 This subdivision does not require an additional like period of

1 suspension and restriction for any of the following:

2 (i) A start-up test failure within the first 2 months after
3 installation of the ignition interlock device. As used in this
4 subdivision, "start-up test failure" means that the ignition
5 interlock device has prevented the motor vehicle from being
6 started. Multiple unsuccessful attempts at 1 time to start the
7 vehicle shall be treated as 1 start-up test failure only under this
8 subparagraph.

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

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

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

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

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

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

27 (11) For a violation or attempted violation of section 411a(2)

1 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
2 school, the secretary of state shall suspend the license of a
3 person 14 years of age or over but less than 21 years of age until
4 3 years after the date of the conviction or juvenile disposition
5 for the violation. The secretary of state may issue the person a
6 restricted license after the first 365 days of suspension.

7 (12) For a second or subsequent violation of section 701(1) of
8 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
9 by an individual who is not a retail licensee or a retail
10 licensee's clerk, agent, or employee, the secretary of state shall
11 suspend the person's license for 180 days. The secretary of state
12 may issue a person a restricted license during all or a specified
13 portion of the suspension.

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

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

21 (15) The secretary of state may waive a restriction,
22 suspension, or revocation of a person's license imposed under this
23 act if the person submits proof that a court in another state
24 revoked, suspended, or restricted his or her license for a period
25 equal to or greater than the period of a restriction, suspension,
26 or revocation prescribed under this act for the violation and that
27 the revocation, suspension, or restriction was served for the

1 violation, or may grant a restricted license.

2 (16) The secretary of state shall not issue a restricted
3 license to a person whose license is suspended under this section
4 unless a restricted license is authorized under this section and
5 the person is otherwise eligible for a license.

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

9 (18) Except as provided in subsection (17), a restricted
10 license issued under this section shall permit the person to whom
11 it is issued to take any driving skills test required by the
12 secretary of state and to operate a vehicle under 1 or more of the
13 following circumstances:

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

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

16 (i) The person's residence.

17 (ii) The person's work location.

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

20 (iv) The court probation department.

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

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

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

27 (19) While driving with a restricted license, the person shall

1 carry proof of his or her destination and the hours of any
2 employment, class, or other reason for traveling and shall display
3 that proof upon a peace officer's request.

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

9 (a) Except as provided in subsection (21), a violation or
10 attempted violation of any of the following:

11 (i) Section 625, except a violation of section 625(2), or a
12 violation of any prior enactment of section 625 in which the
13 defendant operated a vehicle while under the influence of
14 intoxicating or alcoholic liquor or a controlled substance, or a
15 combination of intoxicating or alcoholic liquor and a controlled
16 substance, or while visibly impaired, or with an unlawful bodily
17 alcohol content.

18 (ii) Section 625m.

19 (iii) Former section 625b.

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

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

25 (21) Except for purposes of the suspensions described in
26 subsection (8)(c) and (d), only 1 violation or attempted violation
27 of section 625(6), a local ordinance substantially corresponding to

1 section 625(6), or a law of another state substantially
 2 corresponding to section 625(6) may be used as a prior conviction.

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

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

9 Sec. 625k. (1) ~~The department shall approve an ignition~~
 10 ~~interlock device certified by a department approved laboratory as~~
 11 ~~complying with the model specifications for breath alcohol ignition~~
 12 ~~interlock devices (BAIID), 57 FR 11772 - 11787 (April 7, 1992).~~
 13 ~~Subject to subsection (5), the department shall provide a list of~~
 14 ~~all manufacturers of approved certified devices to each person who~~
 15 ~~is issued a restricted license that permits the person to drive a~~
 16 ~~vehicle only if it is equipped with an ignition interlock device.~~
 17 ~~The department shall rotate the order of the providers with each~~
 18 ~~list provided under this subsection.~~ **AN IGNITION INTERLOCK DEVICE**
 19 **(BAIID) MANUFACTURER SEEKING CERTIFICATION OF A DEVICE IN THIS**
 20 **STATE SHALL DO ALL OF THE FOLLOWING:**

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

22 (B) SUBMIT A REPORT FROM A DEPARTMENT-APPROVED OR NATIONAL
 23 HIGHWAY TRAFFIC SAFETY ADMINISTRATION-APPROVED LABORATORY
 24 CERTIFYING THAT THE BAIID MEETS OR EXCEEDS THE MODEL SPECIFICATIONS
 25 FOR BAIIDS, 78 FR 26849 - 26867 (MAY 8, 2013), OR ANY SUBSEQUENT
 26 VERSION. SUBJECT TO SUBSECTION (5), THE DEPARTMENT SHALL PROVIDE A
 27 LIST OF ALL MANUFACTURERS OF APPROVED CERTIFIED DEVICES TO EACH

1 PERSON WHO IS ISSUED A RESTRICTED LICENSE THAT PERMITS THE PERSON
2 TO DRIVE A VEHICLE ONLY IF EQUIPPED WITH A BAIID. THE DEPARTMENT
3 SHALL ROTATE THE ORDER OF THE PROVIDERS WITH EACH LIST PROVIDED
4 UNDER THIS SUBSECTION.

5 (C) ENSURE THAT A BAIID INSTALLED ON OR AFTER JULY 1, 2015 IS
6 CAPABLE OF TAKING PHOTOGRAPHS.

7 (D) AGREE TO ENSURE PROPER RECORD-KEEPING AND PROVIDE
8 TESTIMONY RELATING TO ANY ASPECT OF THE INSTALLATION, SERVICE,
9 REPAIR, USE, REMOVAL, OR INTERPRETATION OF ANY REPORT OR
10 INFORMATION RECORDED IN THE DATA STORAGE SYSTEM OF A DEVICE OR
11 PERFORMANCE OF ANY OTHER DUTIES REQUIRED BY THIS ACT AT NO COST ON
12 BEHALF OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE.

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

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

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

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

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

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

1 credit.

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

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

6 (B) THE NAME AND MODEL NUMBER OF THE DEVICE MODEL COVERED BY
7 THE POLICY.

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

10 (D) THAT THE POLICY WILL INDEMNIFY THE DEPARTMENT AND ANY
11 OTHER PERSON INJURED AS A RESULT OF ANY DEFECTS IN MANUFACTURE,
12 MATERIALS, DESIGN, CALIBRATION, INSTALLATION, OR OPERATION OF THE
13 DEVICE.

14 (iii) An affidavit that the ignition interlock device meets OR
15 EXCEEDS all of the following conditions:

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

17 (B) Is set to periodically take samples while the vehicle is
18 in operation. ~~and to do both of the following when~~ AFTER THE
19 VEHICLE IS IN OPERATION, THE DEVICE SHALL REQUIRE A FIRST RETEST
20 SAMPLE WITHIN 5 TO 15 MINUTES OF THE OPERATOR STARTING THE VEHICLE.
21 THE DEVICE SHALL PROMPT SECOND AND SUBSEQUENT RETESTS WITHIN 25 TO
22 45 MINUTES OF THE FIRST RETEST. THE OPERATOR OF THE VEHICLE SHALL
23 BE AFFORDED NOT MORE THAN 5 MINUTES TO PROVIDE A PASSING RETEST
24 SAMPLE FOR EACH RETEST PROMPTED BY THE DEVICE. THE DEVICE SHALL
25 ACCEPT MULTIPLE ATTEMPTS TO PROVIDE A RETEST SAMPLE WITHOUT
26 INITIATING A LOCKOUT. IF the device detects an alcohol content of
27 0.025 grams or more per 210 liters of breath in the person who

1 offers a breath sample or if a breath sample is not given within
2 the allotted time **THE DEVICE SHALL DO ALL OF THE FOLLOWING:**

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

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

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

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

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

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

17 **(C)** ~~(d)~~ Agrees to provide an ignition interlock device without
18 cost to a person whose gross income for the immediately preceding
19 tax year based on his or her state income tax return was less than
20 150% of the official poverty line for that same tax year
21 established in the poverty guidelines issued by the secretary of
22 health and human services under 42 USC 9902. A person in whose
23 vehicle an ignition interlock device is installed without cost
24 under this subdivision shall pay a maintenance fee to the installer
25 of not more than \$2.00 per day.

26 **(D)** ~~(e)~~ Agrees to comply with the reporting requirements of
27 the secretary of state.

1 (E) ~~(f)~~Agrees to periodically monitor installed ignition
2 interlock devices and if monitoring indicates that the device has
3 been circumvented, tampered with, or that a person with a breath
4 alcohol level of 0.025 or more grams per 210 liters of breath has
5 attempted to operate the motor vehicle, or both, to communicate all
6 of the relevant information concerning these facts to the secretary
7 of state or to the court, or both, as appropriate.

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

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

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

21 (9) UPON THE REQUEST OF THE DEPARTMENT, FOR EACH BAIID MODEL
22 APPROVED BY THE DEPARTMENT, THE BAIID PROVIDER SHALL PROVIDE A
23 TOTAL OF NOT LESS THAN 10 HOURS OF TRAINING TO DEPARTMENT EMPLOYEES
24 AT NO COST TO THIS STATE. THIS TRAINING SHALL BE HELD AT THE TIMES
25 AND LOCATIONS WITHIN THE STATE DESIGNATED BY THE DEPARTMENT. THE
26 TRAINING SHALL BE DESIGNED TO FAMILIARIZE DEPARTMENT EMPLOYEES WITH
27 THE INSTALLATION, OPERATION, SERVICE, REPAIR, AND REMOVAL OF THE

1 BAIIDS AND INCLUDE THE TRAINING AND INSTRUCTIONS THAT THE BAIID
2 PROVIDERS WILL GIVE TO CUSTOMERS. THE BAIID PROVIDER SHALL ALSO
3 PROVIDE THE DEPARTMENT, UPON REQUEST, WITH THE FOLLOWING
4 INFORMATION:

5 (A) A DETAILED DESCRIPTION OF THE DEVICE, INCLUDING COMPLETE
6 INSTRUCTIONS FOR INSTALLATION, OPERATION, SERVICE, REPAIR, AND
7 REMOVAL OF THE BAIID.

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

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

15 (A) A DESCRIPTION AND EXPLANATION OF THE MODIFICATION,
16 UPGRADE, OR ALTERATION AND PROOF SATISFACTORY TO THE DEPARTMENT
17 THAT THESE MODIFICATIONS, UPGRADES, OR ALTERATIONS DO NOT ADVERSELY
18 AFFECT THE ABILITY OF THE DEVICE TO SATISFY THE REQUIREMENTS OF
19 THIS ACT.

20 (B) A COMPREHENSIVE PLAN OF ACTION FOR THE PHASING OUT OF THE
21 USE OF THE CURRENT DEVICE. THIS PLAN OF ACTION MUST BE APPROVED BY
22 THE DEPARTMENT PRIOR TO THE IMPLEMENTATION OF THE PLAN OF ACTION.

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

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

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

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

5 (A) ONLY SERVICE CENTERS THAT ARE MANUFACTURERS AND VENDORS
6 MAY SERVICE BAIIDS APPROVED FOR USE IN THIS STATE.

7 (B) BEGINNING JULY 1, 2016, A BAIID MAY ONLY BE INSTALLED,
8 SERVICED, OR REMOVED IN A MOTOR VEHICLE REPAIR FACILITY OR IN A
9 BAIID MANUFACTURER'S CORPORATE OFFICE IF THAT CORPORATE OFFICE IS
10 LOCATED IN THIS STATE AND IS SUBJECT TO MOTOR VEHICLE REPAIR
11 FACILITY REQUIREMENTS AND SANCTIONS. 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) EACH SERVICE CENTER SHALL HAVE AT LEAST 1 LICENSED
18 MECHANIC WITH A BAIID CERTIFICATION OR A BAIID CERTIFIED TECHNICIAN
19 AND WHO IS PROPERLY TRAINED BY THE BAIID MANUFACTURER FOR WHICH THE
20 SERVICE CENTER IS A VENDOR AS ITS BAIID TECHNICIAN TO SERVICE THE
21 BAIID.

22 (E) EACH SERVICE CENTER SHALL MAINTAIN AND MAKE AVAILABLE FOR
23 INSPECTION RECORDS THAT PROVE THAT EACH CERTIFIED BAIID TECHNICIAN
24 OR CERTIFIED BAIID MECHANIC WORKING AT THE SERVICE CENTER HAS BEEN
25 PROPERLY TRAINED BY THE BAIID MANUFACTURER TO SERVICE THE BAIID FOR
26 WHICH THE CENTER IS A VENDOR.

27 (F) EACH SERVICE CENTER SHALL PROVIDE A DESIGNATED WAITING

1 AREA FOR CUSTOMERS THAT IS SEPARATE FROM THE AREA IN WHICH BAIIDS
2 ARE INSTALLED OR SERVICED.

3 (G) ONLY CERTIFIED BAIID TECHNICIANS AND CERTIFIED BAIID
4 MECHANICS AND REPRESENTATIVES OF THE MANUFACTURER OR THE DEPARTMENT
5 SHALL BE ALLOWED TO OBSERVE THE INSTALLATION OR REMOVAL OF A BAIID.

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

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

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

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

19 (i) THE CUSTOMER HAS A PERMANENT RESIDENCE IN A STATE OTHER
20 THAN THIS STATE.

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

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

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

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

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

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

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

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

17 (Q) THE APPROVAL OF A SERVICE CENTER SHALL BE FOR A PERIOD OF
18 1 YEAR. THE RENEWAL PROCESS SHALL BE THE SAME AS THE SERVICE CENTER
19 APPROVAL PROCESS UNDER THIS SECTION.

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

25 (16) A PERSON SHALL NOT PERFORM ANY SERVICE RELATED TO ANY
26 BAIID IN THIS STATE WITHOUT BEING CERTIFIED BY THE DEPARTMENT.

27 (17) ALL INSTALLATIONS OF BAIIDS SHALL BE DONE IN A

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

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

12 (19) A MANUFACTURER SHALL ENSURE THAT BAIID CERTIFIED
13 TECHNICIANS AND BAIID MECHANICS MEET THE FOLLOWING REQUIREMENTS:

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

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

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

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

26 (20) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF AN ALCOHOL-
27 RELATED DRIVING OFFENSE OR ANY OFFENSE CLASSIFIED AS A FELONY IN

1 THIS STATE OR ELSEWHERE WITHIN 5 YEARS PRIOR TO THE DATE OF FILING
2 AN APPLICATION FOR APPROVAL AS A BAIID CERTIFIED TECHNICIAN OR
3 BAIID MECHANIC IS NOT ELIGIBLE FOR APPROVAL AS A BAIID CERTIFIED
4 TECHNICIAN OR MECHANIC UNDER THIS ACT.

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

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

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

1 (C) HE OR SHE MUST BE A CERTIFIED BAIID TECHNICIAN UNDER THIS
2 ACT.

3 (27) TO BE A CERTIFIED BAIID TECHNICIAN UNDER THIS ACT, THE
4 APPLICANT SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

5 (A) PROPERLY COMPLETE AND FILE A BAIID TECHNICIAN APPLICATION
6 FORM WITH THE DEPARTMENT. THE APPLICATION MAY REQUIRE, BUT NOT BE
7 LIMITED TO, DOCUMENTATION PROVIDED BY AN EMPLOYER THAT THE
8 APPLICANT IS CURRENTLY TRAINED IN ALL NECESSARY ASPECTS OF THE
9 SPECIFIC BAIID DEVICE APPROVED FOR USE IN THIS STATE THAT HE OR SHE
10 WILL BE SERVICING, OR ANY OTHER DOCUMENTATION AS REQUIRED BY THE
11 DEPARTMENT. THE FEE FOR THE CERTIFICATION OF A BAIID TECHNICIAN
12 SHALL ACCOMPANY THE TECHNICIAN'S APPLICATION FOR CERTIFICATION
13 FILED WITH THE ADMINISTRATOR. THE FEE SHALL BE DETERMINED IN THE
14 SAME MANNER AS FOR A MECHANIC UNDER R 257.169 OF THE MICHIGAN
15 ADMINISTRATIVE CODE.

16 (B) BEFORE INITIAL CERTIFICATION AS A CERTIFIED BAIID
17 TECHNICIAN OF A BAIID MANUFACTURER, AN APPLICANT MUST
18 SATISFACTORILY PASS A WRITTEN EXAMINATION THAT COVERS REGULATORY
19 AND OTHER ASPECTS OF THE BAIID USAGE PROGRAM IN THIS STATE. FAILURE
20 OF THE INITIAL EXAMINATION WILL CAUSE THE APPLICANT TO BE
21 INELIGIBLE FOR REEXAMINATION FOR A PERIOD OF 30 DAYS. FAILURE OF
22 SUBSEQUENT EXAMINATIONS WILL BE CONDUCTED IN THE SAME MANNER AS AN
23 INITIAL FAILURE.

24 (C) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF THE
25 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, BE A CERTIFIED BAIID
26 TECHNICIAN. THE DEPARTMENT MAY CREATE A CERTIFIED BAIID TECHNICIAN
27 CERTIFICATE FOR PURPOSES OF THIS SUBDIVISION.

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

3 (28) EACH APPLICATION FOR APPROVAL SHALL BE FOR A SINGLE
4 CERTIFIED BAIID TECHNICIAN. SEPARATE CERTIFIED BAIID TECHNICIAN
5 APPLICATIONS ARE REQUIRED FOR ADDITIONAL BAIID TECHNICIANS.

6 (29) CERTIFICATION OF A CERTIFIED BAIID TECHNICIAN IS FOR 1
7 YEAR. THE RENEWAL PROCESS SHALL BE THE SAME AS THE CERTIFIED BAIID
8 TECHNICIAN APPROVAL PROCESS UNDER THIS ACT. A CERTIFIED BAIID
9 TECHNICIAN SHALL REAPPLY FOR CERTIFICATION IF HE OR SHE INSTALLS
10 BAIID DEVICES FOR A MANUFACTURER IN ADDITION TO, OR IN LIEU OF, THE
11 MANUFACTURER LISTED ON THE LAST CERTIFICATION APPLICATION. IF A
12 NAME OR ADDRESS OF THE CERTIFIED BAIID TECHNICIAN CHANGES, THE
13 TECHNICIAN SHALL NOTIFY THE DEPARTMENT IN WRITING OF THE CHANGE.
14 APPROPRIATE CHANGES SHOULD BE MADE ON THE RENEWAL REGISTRATION WHEN
15 DUE.

16 (30) THE DEPARTMENT MAY INVESTIGATE A CERTIFIED BAIID
17 TECHNICIAN'S COMPLIANCE WITH THIS SECTION AND SHALL SUSPEND,
18 REVOKE, OR DENY AN INDIVIDUAL'S CERTIFICATION AS A CERTIFIED BAIID
19 TECHNICIAN IF THE SECRETARY OF STATE DETERMINES THAT 1 OR MORE OF
20 THE FOLLOWING APPLY:

21 (A) THE CERTIFIED BAIID TECHNICIAN VIOLATED THIS ACT OR A RULE
22 PROMULGATED UNDER THIS ACT.

23 (B) THE CERTIFIED BAIID TECHNICIAN COMMITTED A FRAUDULENT ACT
24 IN CONNECTION WITH THE INSPECTION, INSTALLATION, MONITORING, OR
25 REMOVAL OF A BAIID.

26 (C) THE CERTIFIED BAIID TECHNICIAN PERFORMED IMPROPER,
27 CARELESS, OR NEGLIGENT INSPECTION, INSTALLATION, MONITORING, OR

1 **REMOVAL OF A BAIID.**

2 (D) THE CERTIFIED BAIID TECHNICIAN MADE A FALSE STATEMENT OF A
3 MATERIAL FACT REGARDING HIS OR HER ACTIONS IN INSPECTING,
4 MONITORING, OR REMOVING A BAIID.

5 (31) THE DEPARTMENT SHALL NOT ISSUE OR RENEW ANY APPLICATION
6 FOR CERTIFIED BAIID TECHNICIAN FROM AN INDIVIDUAL WHO HAS
7 PREVIOUSLY BEEN SUSPENDED, OR DENIED AS A RESULT OF AN ACTION TAKEN
8 UNDER SUBSECTION (30).

9 (32) ~~(7)~~—A person who knowingly provides false information to
10 the department under subsection (4) or (5) is guilty of a felony
11 punishable by imprisonment for not less than 5 years or more than
12 10 years or a fine of not less than \$5,000.00 or more than
13 \$10,000.00, or both, together with costs of the prosecution.

14 (33) ~~(8)~~—A person who negligently provides false information
15 to the department under subsection (4) or (5) is guilty of a
16 misdemeanor punishable by imprisonment for not more than 1 year or
17 a fine of not more than \$1,000.00, or both, together with costs of
18 the prosecution.

19 (34) ~~(9)~~—A person who knowingly fails to comply with
20 subsection (6) is guilty of a felony punishable by imprisonment for
21 not less than 5 years or more than 10 years or a fine of not less
22 than \$5,000.00 or more than \$10,000.00, or both, together with
23 costs of the prosecution.

24 (35) ~~(10)~~—A person who negligently fails to comply with
25 subsection (6) is guilty of a misdemeanor punishable by
26 imprisonment for not more than 1 year or a fine of not more than
27 \$1,000.00, or both, together with costs of the prosecution.

1 (36) THE DEPARTMENT MAY SUSPEND OR REVOKE THE CERTIFICATION OF
2 A MANUFACTURER AND ITS DEVICE FROM THE LIST OF APPROVED CERTIFIED
3 BAIIDS FOR ANY OF THE FOLLOWING REASONS:

4 (A) THE MANUFACTURER, THE MANUFACTURER'S BAIIDS, OR THE
5 MANUFACTURER'S INSTALLERS OR SERVICE PROVIDERS NO LONGER COMPLY
6 WITH THE REQUIREMENTS OF THIS SECTION OR SECTION 625/ OR THE
7 RELEVANT RULES PROMULGATED UNDER THIS ACT.

8 (B) THE MANUFACTURER OR THE INSTALLERS AND SERVICE PROVIDERS
9 AUTHORIZED TO INSTALL AND SERVICE THE MANUFACTURER'S BAIIDS HAVE
10 FAILED TO SUBMIT REPORTS REQUIRED UNDER THIS ACT OR THE RELEVANT
11 RULES PROMULGATED UNDER THIS ACT IN A TIMELY MANNER ON THE FORM
12 PRESCRIBED BY THE DEPARTMENT.

13 (37) BEFORE REMOVING A MANUFACTURER FROM THE LIST OF
14 MANUFACTURERS OF APPROVED CERTIFIED BAIIDS, THE ADMINISTRATOR SHALL
15 GIVE THE MANUFACTURER WRITTEN NOTICE OF THE REASONS FOR THE
16 REMOVAL.

17 (38) THE NOTICE ISSUED UNDER SUBSECTION (37) SHALL ALSO
18 INDICATE THAT SUSPENSION OR REVOCATION WILL OCCUR 30 DAYS AFTER THE
19 DATE OF THE NOTICE UNLESS THE MANUFACTURER ESTABLISHES, TO THE
20 SATISFACTION OF THE ADMINISTRATOR, THAT BOTH OF THE FOLLOWING
21 APPLY:

22 (A) THE CONDITIONS SET FORTH IN SUBSECTION (36) (A) AND (B) DO
23 NOT EXIST.

24 (B) THE MANUFACTURER, THE MANUFACTURER'S BAIID, OR THE
25 MANUFACTURER'S INSTALLERS OR SERVICE PROVIDERS ARE COMPLYING WITH
26 THE REQUIREMENTS OF THIS SECTION OR SECTION 625/ AND THE RELEVANT
27 RULES PROMULGATED UNDER THIS ACT.

1 (39) THE ADMINISTRATOR MAY ORDER A SUMMARY SUSPENSION OR
2 REVOCATION OF THE CERTIFICATION OF A MANUFACTURER AND ITS DEVICE
3 FROM THE LIST OF APPROVED CERTIFIED BAIIDS FOR ANY OF THE FOLLOWING
4 REASONS:

5 (A) REPEATED FAILURE TO SUBMIT REPORTS IN A TIMELY MANNER.

6 (B) REPEATED FAILURE TO REPORT VIOLATIONS AS REQUIRED BY THE
7 APPLICABLE ADMINISTRATIVE RULES.

8 (C) REPEATED SUBMISSION OF INACCURATE VIOLATION REPORTS OR
9 ANNUAL REPORTS TO THE DEPARTMENT.

10 (D) THE MANUFACTURER, INSTALLER, OR SERVICE PROVIDER HAS
11 PROVIDED AN INDIVIDUAL WITH A BYPASS CODE.

12 (E) THE MANUFACTURER, INSTALLER, OR SERVICE PROVIDER HAS SHOWN
13 OR INSTRUCTED AN INDIVIDUAL HOW TO TAMPER WITH OR CIRCUMVENT A
14 BAIID.

15 (F) THE MANUFACTURER, INSTALLER, OR SERVICE PROVIDER HAS
16 PROVIDED A SAMPLE TO START A VEHICLE FOR AN INDIVIDUAL UPON SERVICE
17 OR INSTALLATION.

18 (G) THE MANUFACTURER, INSTALLER, OR SERVICE PROVIDER HAS
19 ALLOWED AN INDIVIDUAL OTHER THAN AN INDIVIDUAL SPECIFIED IN SECTION
20 (14) (G) TO OBSERVE THE INSTALLATION OR REMOVAL OF A BAIID.

21 (H) THE BAIID NO LONGER MEETS THE NATIONAL HIGHWAY TRAFFIC
22 SAFETY ADMINISTRATION'S STANDARDS OR NO LONGER MEETS THE
23 REQUIREMENTS OF THIS SECTION OR SECTION 625/.

24 (40) THE MANUFACTURER TO WHOM A SUMMARY ORDER IS DIRECTED
25 UNDER THIS SECTION SHALL IMMEDIATELY COMPLY WITH THAT ORDER BUT,
26 UPON APPLICATION TO THE DEPARTMENT, SHALL BE AFFORDED A HEARING BY
27 THE DEPARTMENT WITHIN 30 DAYS AFTER THE DATE OF THE APPLICATION. ON

1 THE BASIS OF A HEARING UNDER THIS SUBSECTION, THE ORDER SHALL BE
2 CONTINUED, MODIFIED, OR HELD IN ABEYANCE NOT LATER THAN 30 DAYS
3 AFTER THE HEARING IS HELD.

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

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

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

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

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

27 (6) A person who violates subsection (2), (3), (4), or (5) is

1 guilty of a misdemeanor punishable by imprisonment for not more
2 than 6 months or a fine of not more than \$5,000.00, or both.

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

12 (a) Immediately confiscate the motor vehicle registration
13 plate and destroy it.

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

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

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

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

1 (9) If the motor vehicle impounded under this section is not
2 owned individually or jointly by the operator, the law enforcement
3 officer shall impound the motor vehicle by contacting a local
4 towing agency. The motor vehicle shall only be returned to the
5 registered owner.

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

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

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

1 ~~subsection shall be in an amount of not less than \$1,000,000.00 per~~
2 ~~incident.~~

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

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

18 Enacting section 1. R 257.1005 and R 257.1006 of the Michigan
19 administrative code are rescinded.

20 Enacting section 2. This amendatory act takes effect 90 days
21 after the date it is enacted into law.