

SUBSTITUTE FOR  
SENATE BILL NO. 892

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending section 625k (MCL 257.625k), as amended by 2016 PA 32,  
and by adding section 62b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 62B. "STARTUP OPERATED BREATH ENGINE RESTRICTOR" OR  
2        "SOBER" MEANS AN ALCOHOL CONCENTRATION MEASURING DEVICE THAT  
3        PREVENTS A MOTOR VEHICLE FROM BEING STARTED AT ANY TIME WITHOUT  
4        FIRST DETERMINING THROUGH A DEEP LUNG SAMPLE THE OPERATOR'S ALCOHOL  
5        LEVEL, CALIBRATED SO THAT THE MOTOR VEHICLE CANNOT BE STARTED IF  
6        THE BREATH ALCOHOL LEVEL OF THE OPERATOR, AS MEASURED BY THE TEST,  
7        REACHES A LEVEL OF 0.025 GRAMS PER 210 LITERS OF BREATH, AND TO  
8        WHICH ALL OF THE FOLLOWING APPLY:

9        (A) THE DEVICE IS VOLUNTARILY INSTALLED IN THE MOTOR VEHICLE

1 BY THE VEHICLE OWNER.

2 (B) THE DEVICE UTILIZES ALCOHOL-SPECIFIC ELECTROCHEMICAL FUEL  
3 SENSOR TECHNOLOGY.

4 (C) AS ITS ANTICIRCUMVENTION METHOD, THE DEVICE INSTALLATION  
5 USES A POSITIVE-NEGATIVE-POSITIVE AIR PRESSURE TEST REQUIREMENT, A  
6 MIDTEST HUM TONE REQUIREMENT, OR ANY OTHER ANTICIRCUMVENTION METHOD  
7 OR TECHNOLOGY THAT FIRST BECOMES COMMERCIALY AVAILABLE AFTER JULY  
8 31, 2007.

9 (D) THE DEVICE IS DISTINGUISHED SO AS NOT TO BE VISUALLY  
10 CONFUSED WITH A BREATH ALCOHOL IGNITION INTERLOCK DEVICE.

11 (E) THE DEVICE IS NOT A BREATH ALCOHOL IGNITION INTERLOCK  
12 DEVICE.

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

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

18 (b) Submit a report from a department-approved or National  
19 Highway Traffic Safety Administration-approved laboratory  
20 certifying that the BAIID meets or exceeds the model specifications  
21 for BAIIDs, 78 FR 26849 - 26867 (May 8, 2013), or any subsequent  
22 version. Subject to subsection (5), the department shall provide a  
23 list of all manufacturers of approved certified devices to each  
24 person who is approved to be issued a restricted license that  
25 permits the person to drive a vehicle only if equipped with a  
26 BAIID. The department shall rotate the order of the providers with  
27 each list provided under this subsection. Any model of an ignition

1 interlock device certified by a department-approved laboratory as  
2 complying with the model specifications for breath alcohol ignition  
3 interlock devices (BAIIDs), 57 FR 11772-11787 (April 7, 1992), that  
4 was installed in a vehicle before ~~the effective date of the~~  
5 ~~amendatory act that added this subdivision~~ **JUNE 6, 2016** may be used  
6 in this state ~~for the 24 months after the effective date of the~~  
7 ~~amendatory act that added this subdivision~~ **THROUGH JUNE 6, 2018.**

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

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

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

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

27 (4) A laboratory that certifies an ignition interlock device

1 as provided in this section shall immediately notify the department  
2 of that certification.

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

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

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

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

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

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

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

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

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

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

27 (B) Is set to periodically take samples while the vehicle is

1 in operation. After the vehicle is in operation, the device  
2 requires a first retest sample within 5 to 15 minutes of the  
3 operator starting the vehicle. The device prompts second and  
4 subsequent retests within 15 to 45 minutes of the first retest. The  
5 operator of the vehicle is afforded not more than 5 minutes to  
6 provide a passing retest sample for each retest prompted by the  
7 device. The device accepts multiple attempts to provide a retest  
8 sample without initiating a lockout. If the device detects an  
9 alcohol content of 0.025 grams or more per 210 liters of breath in  
10 the person who offers a breath sample or if a breath sample is not  
11 given within the allotted time the device does all of the  
12 following:

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

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

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

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

23 (b) Agrees to have service locations within 50 miles of any  
24 location within this state. A manufacturer may request a waiver of  
25 this requirement from the secretary of state if the manufacturer is  
26 unable to secure an installation facility within 50 miles of any  
27 location in this state. Subject to review, the secretary of state

1 may determine whether the manufacturer's waiver request shall be  
2 approved. The secretary of state shall only approve a waiver of the  
3 50-mile requirement and designate a location not meeting the 50-  
4 mile requirement as a service center if the service center employs  
5 a BAIID certified installer who shall perform any installation or  
6 service to a BAIID at that location. If the secretary of state  
7 approves a waiver of the 50-mile requirement, that waiver applies  
8 only to the approved location. A manufacturer shall make a separate  
9 request for a waiver of the 50-mile requirement for any additional  
10 installation facility not meeting the 50-mile requirement.

11 (c) Agrees to provide an ignition interlock device without  
12 cost to a person whose gross income for the immediately preceding  
13 tax year based on his or her state income tax return was less than  
14 150% of the official poverty line for that same tax year  
15 established in the poverty guidelines issued by the ~~secretary~~  
16 **UNITED STATES SECRETARY** of ~~health~~ **HEALTH** and ~~human services~~ **HUMAN**  
17 **SERVICES** under 42 USC 9902. A person in whose vehicle an ignition  
18 interlock device is installed without cost under this subdivision  
19 shall pay a maintenance fee to the installer of not more than \$2.00  
20 per day.

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

23 (e) Agrees to periodically monitor installed ignition  
24 interlock devices and if monitoring indicates that the device has  
25 been circumvented, tampered with, or that a person with a breath  
26 alcohol level of 0.025 or more grams per 210 liters of breath has  
27 attempted to operate the motor vehicle, or both, to communicate all

1 of the relevant information concerning these facts to the secretary  
2 of state, and to the court if appropriate.

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

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

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

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

27 (a) A detailed description of the device, including complete

1 instructions for installation, operation, service, repair, and  
2 removal of the BAIID.

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

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

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

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

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

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

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



1 annually for recertification of BAIID devices it manufactures.

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

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

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

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

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

26 (e) Each service center shall have not less than 1 individual  
27 who is a mechanic and who possesses a specialty certification in

1 BAIID service under section 10(1)(j) of the motor vehicle service  
2 and repair act, 1974 PA 300, MCL 257.1310, and holds a BAIID  
3 certification under this section to work as a BAIID installer.

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

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

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

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

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

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

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

1 significant personal hardship.

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

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

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

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

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

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

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

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

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

1 under this subsection. **MONEY COLLECTED BY THE DEPARTMENT UNDER THIS**  
2 **SUBSECTION SHALL BE CREDITED TO THE TRANSPORTATION ADMINISTRATION**  
3 **COLLECTION FUND CREATED IN SECTION 810B.**

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

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

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

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

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

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

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

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

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

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

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

15 (b) Possess a valid driver license.

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

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

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

24 (a) Possess a specialty certification in BAIID installation  
25 under section 10(1)(j) of the motor vehicle service and repair act,  
26 1974 PA 300, MCL 257.1310.

27 (b) Properly complete and file a BAIID installer application

1 form with the department.

2 (c) Beginning ~~180 days after the effective date of the~~  
3 ~~amendatory act that added this subdivision,~~ **DECEMBER 3, 2016**, be a  
4 mechanic who is certified as a mechanic with a specialty  
5 certification in BAIID service under section (10)(1)(j) of the  
6 motor vehicle service and repair act, 1974 PA 300, MCL 257.1310,  
7 and hold a BAIID certification under this section.

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

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

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

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

19 **(25) THIS ACT DOES NOT PROHIBIT A BAIID MANUFACTURER FROM**  
20 **DEVELOPING, MANUFACTURING, OR SELLING A STARTUP OPERATED BREATH**  
21 **ENGINE RESTRICTOR (SOBER) IN THIS STATE. A SOBER MAY BE INSTALLED**  
22 **ON ANY MOTOR VEHICLE PROPERLY TITLED IN THIS STATE BY THAT MOTOR**  
23 **VEHICLE'S OWNER, IF THE MOTOR VEHICLE IS NOT OWNED OR OPERATED BY**  
24 **AN INDIVIDUAL WHO IS REQUIRED BY THE DEPARTMENT OR A COURT ORDER TO**  
25 **INSTALL A BAIID AS A CONDITION OF OPERATING A MOTOR VEHICLE. AN**  
26 **INSTALL CERTIFICATE, REPORT, OR ANY OTHER DOCUMENT BEARING A RAISED**  
27 **SEAL SHALL NOT BE ISSUED UPON INSTALLATION OF A SOBER DEVICE.**

1           Enacting section 1. This amendatory act takes effect 90 days  
2   after the date it is enacted into law.