

Legislative Analysis



IGNITION INTERLOCK DEVICES

Phone: (517) 373-8080
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House Bill 4980 (reported from committee w/o amendment)
Sponsor: Rep. Klint Kesto

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 176 (reported from committee as H-1)
Senate Bill 357 (reported from committee w/o amendment)
Sponsor: Sen. Tonya Schuitmaker

House Committee: Judiciary
Senate Committee: Judiciary
Complete to 12-16-15

REVISED SUMMARY:

Senate Bill 176 revises provisions in the Michigan Vehicle Code regarding ignition interlock devices. Among other things, the bill requires that only *breath alcohol ignition interlock device (BAIID) manufacturers and vendors* install, service, or remove a BAIID approved for use in the state.

Senate Bill 357 requires a mechanic to hold a specialty mechanic's certificate in BAIID service before performing service on a BAIID and to perform such services only at a facility authorized to perform BAIID service.

House Bill 4980 revises provisions within the sentencing guidelines to conform to changes to the Michigan Vehicle Code made by Senate Bill 176 regarding certain BAIID-related offenses.

An ignition interlock device or BAIID is a device that when installed in a vehicle prevents the vehicle from starting at any time without first determining the operator's alcohol level. A driver must breathe into the device and if the device measures a breath alcohol level of 0.025 grams, the vehicle will not start.

Senate Bills 176 and 357 are tie-barred to each other, and House Bill 4980 is also tie-barred to Senate Bill 176. A tie-bar prevents a bill from taking effect unless all bills to which it is tie-barred are also enacted. All the bills take effect 90 days after enactment. A more detailed description of each bill follows.

Senate Bill 176 amends the Michigan Vehicle Code (MCL 257.20d et al.). Under the bill, the terms "ignition interlock device," "breath alcohol ignition interlock device," and "BAIID" would be interchangeable. Currently, a BAIID must meet or exceed 1992 federal model specifications. The bill would instead require the devices to meet the May 8, 2013, or subsequent federal model specifications. (A BAIID that met the 1992 model specifications and installed in a vehicle prior to the bill taking effect could be used for 24

months after that date). The bill makes numerous revisions to laws pertaining to ignition interlock devices. Significant changes include, but are not limited to, the following:

- ❖ Provide that only service centers that were breath alcohol ignition interlock device (BAIID) manufacturers and vendors could install, service, or remove a BAIID approved for use in the state.
- ❖ Provide that the Department of State would be responsible for approving BAIID service centers in Michigan, and establish criteria for approval.
- ❖ Require each service center to have at least one mechanic who possessed a specialty certification in BAIID service and certification to work as a BAIID installer.
- ❖ Prohibit a person from installing, servicing, or removing a BAIID in Michigan without being certified by the SOS, and require a manufacturer to ensure that BAIID installers met requirements prescribed in the bill.
- ❖ Authorize the Secretary of State (SOS) to suspend or revoke a manufacturer's BAIID certification under certain circumstances.
- ❖ Establish requirements for a person to be certified as a BAIID installer, including that being a motor vehicle mechanic and possessing a specialty certification in BAIID service.
- ❖ Preclude an installer convicted of a felony or alcohol-related driving offense within the previous five years from BAIID approval eligibility.
- ❖ Authorize the SOS to investigate a BAIID installer's compliance with the Code, and require the SOS to suspend, revoke, or deny BAIID certification under certain circumstances.
- ❖ Revise requirements that a BAIID manufacturer must comply with in order to be included on the department's list of approved manufacturers.
- ❖ Require a manufacturer to reapply for approval annually.
- ❖ Allow the department to conduct compliance inspections of a manufacturer or service center, at the manufacturer's expense.
- ❖ Require a manufacturer, upon request, to give the department model-certified BAIIDs and install them in vehicles at no cost to the state for demonstration and training purposes.
- ❖ Require a BAIID provider to train department employees at no cost to the state, and provide a detailed description of the device and complete technical specifications upon request.
- ❖ Delete provisions exempting the state, the department, or a court, as well as officers, agents, and employees of those entities, from liability regarding damage to people or property resulting from a BAIID manufacturer's, installer's, or servicing agent's act or omission.
- ❖ Revise liability insurance provisions for a BAIID manufacturer and provider.
- ❖ Require a BAIID to be capable of recording a digital image of the person providing a breath sample and recording the time and date the sample was provided.
- ❖ Provide that a required period of suspension or restriction due to a drunk driving conviction would not be subject to appeal to the SOS.
- ❖ Prohibit a hearing officer from issuing an unrestricted driver license for one year if the officer determined that a person consumed alcohol or unlawfully used a controlled substance during the time the person's license was restricted.
- ❖ Authorize the SOS to provide by electronic means any notice required under the Code or another law regulating vehicle operation.

- ❖ Rescind R 257.1005 and R 257.1006 of the Michigan Administrative Code. Those rules pertain to conditions under which the SOS may remove a manufacturer or laboratory from the list of manufacturers of approved certified BAIDs or the list of approved laboratories.

Senate Bill 357 amends the Motor Vehicle Service and Repair Act (MCL 257.1302 and 257.1310). Briefly, the bill would do the following:

- Prohibit a motor vehicle repair facility from providing BAID service without the approval of the Department of State.
- Establish operational requirements for a facility that provided BAID service.
- Authorize the department to inspect a repair facility that provided BAID service.
- Prohibit Beginning July 1, 2016, a person from performing BAID service in Michigan without having a specialty mechanic's certificate in BAID service.
- Require the SOS to develop or adopt an examination for a specialty mechanic's certification in the repair or service of BAIDs.
- Establish requirements for a motor vehicle repair facility and BAID mechanic.

House Bill 4980 amends the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.12f). Among the numerous revisions to the Michigan Vehicle Code by Senate Bill 176, that bill also relocated the penalty provisions for certain violations pertaining to a BAID from Section 625k to Section 625q, but did not revise the penalties. House Bill 4980 thus revises the statutory citations for the two felony penalties related to BAIDs to refer instead to violations of Sections 257.625q(3) and 257.625q(5). [Section 257.625q(3) and (5) pertain to knowingly providing false information concerning a BAID and failure to report an illegal BAID, respectively. Both penalties carry a maximum term of imprisonment of 10 years.]

FISCAL IMPACT:

Senate Bill 176: The bill would have no fiscal impact to the state or local governments. Any increase in costs to the Department of State associated with inspecting the BAID devices or installation centers would be covered by the BAID manufacturers and installation centers.

Senate Bill 357: The bill would have a minimal fiscal impact to the Department of State and no fiscal impact on local government. The department could face a negligible increase in costs that would be covered under current funding levels.

House Bill 4980 would not have a direct fiscal impact on state correctional costs.

POSITIONS:

A representative of the following entities testified in support of or indicated support for one or more of the bills:

- Department of Secretary of State: SB 176, SB 357, and HB 4980
- MADD Michigan: SB 176 and SB 357 (11-10-15)

- Coalition of Ignition Interlock Manufacturers (CIIM): SB 176 and SB 357 (10-27-15 and 11-10-15)
- Automotive Service Association of Michigan: SB 357 (11-10-15)
- Michigan Department of State Police: SB 176 and SB 357 (11-10-15)

A representative of the following entities testified against or indicated opposition to one or more of the bills:

- Alcohol Detection Services (ADS): SB 176 and SB 357 (10-27-15 and 11-10-15)
- Michigan Interlock: SB 176 and SB 357 (11-10-15)
- WOW Electronics: SB 176 and SB 357 (11-10-15)
- Ameristar Auto Outfitters: SB 176 and SB 357 (10-127-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.