

1 Department of Public Safety

2

3 Adopted Permanent Rules Relating to Vehicle Ignition Interlock
4 Devices

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6 Rules as Adopted

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IGNITION INTERLOCK DEVICES

8 7409.3700 DEFINITIONS.

9 Subpart 1. **Scope.** The terms used in parts 7409.3700 to
10 7409.3770 have the meanings given them in this part and part
11 7409.0100.

12 Subp. 2. **AC.** "AC" is the abbreviation for alcohol
13 concentration and means the number of grams of alcohol per 210
14 liters of breath.

15 Subp. 3. **Alcohol.** "Alcohol" means ethanol or ethyl
16 alcohol.

17 Subp. 4. **Alcohol setpoint.** "Alcohol setpoint" means the
18 minimum AC at which a BAIID is set to lock a motor vehicle's
19 ignition.

20 Subp. 5. **Authorized person.** "Authorized person" means a
21 participant or any other licensed driver who has completed the
22 orientation provided for in part 7409.3750, subpart 4.

23 Subp. 6. **BAIID.** "BAIID" is the abbreviation for breath
24 alcohol ignition interlock device and means a device designed to
25 allow a vehicle ignition to start the vehicle engine when the AC
26 test result is below the alcohol setpoint and to lock the
27 vehicle ignition to prevent the vehicle engine from starting
28 when the AC test result is at or above the alcohol setpoint.

29 Subp. 7. **Breath sample.** "Breath sample" means expired
30 human breath containing primarily air from the deep lung.

31 Subp. 8. **Circumvention or bypass.** "Circumvention" or
32 "bypass" means an overt, conscious attempt to provide an air
33 sample to the BAIID other than a breath sample from an
34 authorized person and thus to permit a person with an AC at or
35 above the alcohol setpoint to start the vehicle engine.

1 Circumvention or bypass includes the use of a human breath
2 sample that has intentionally been altered so as to remove or
3 reduce the amount of alcohol contained in the breath sample.

4 Subp. 9. **Commissioner.** "Commissioner" means the
5 commissioner of the Department of Public Safety or an authorized
6 agent.

7 Subp. 10. **Department.** "Department" means the Department
8 of Public Safety or an authorized officer or agent.

9 Subp. 11. **Fail-safe.** "Fail-safe" means the BAIID must
10 lock a motor vehicle's ignition.

11 Subp. 12. **Participant.** "Participant" means a person who
12 has been issued a limited license under Minnesota Statutes,
13 section 171.305, subdivision 5.

14 Subp. 13. **Service provider.** "Service provider" means a
15 dealer, distributor, supplier, or service center of a BAIID used
16 in Minnesota, designated by the manufacturer and approved by the
17 department.

18 Subp. 14. **Sufficient cause to believe.** "Sufficient cause
19 to believe" means grounds put forth in good faith that are not
20 arbitrary, irrational, unreasonable, or irrelevant and that make
21 the proposition asserted more likely than not, provided the
22 grounds are based on at least one of the following sources:

23 A. written information from an identified person;

24 B. facts or statements supplied by a manufacturer of
25 a BAIID;

26 C. facts or statements supplied by a designated
27 service provider;

28 D. court documents and police records; and

29 E. facts of which the commissioner or the
30 commissioner's employees have personal knowledge.

31 Subp. 15. **Tampering.** "Tampering" means an overt,
32 conscious attempt to disable or disconnect the BAIID from its
33 power source, or any other act intended to start the vehicle
34 engine without providing a breath sample to the BAIID for
35 analysis.

1 7409.3710 PURPOSE AND SCOPE.

2 The purpose of parts 7409.3700 to 7409.3770 is to establish
3 performance standards for BAIIDs and certification standards and
4 fees for manufacturers of BAIIDs, to be used pursuant to
5 Minnesota Statutes, section 171.305.

6 7409.3720 STANDARDS AND SPECIFICATIONS.

7 Subpart 1. Alcohol setpoint. The alcohol setpoint is
8 0.020 AC.

9 Subp. 2. Breath samples. A BAIID must meet all of the
10 following specifications concerning breath samples and vehicle
11 operation:

12 A. A BAIID must determine the AC of a breath sample.

13 B. A minimum pressure requirement of 12 inches of
14 water is required for the BAIID to accept a breath sample for
15 analysis of AC.

16 C. The BAIID must lock the vehicle ignition at least
17 90 percent of the time when the AC of the breath sample is 0.03
18 or more. The BAIID must lock the vehicle ignition at least 99.5
19 percent of the time when the AC of the breath sample is 0.04 or
20 more.

21 D. The BAIID must lock the vehicle ignition no more
22 than ten percent of the time when the AC of the breath sample is
23 0.01 or less. The BAIID must lock the vehicle ignition no more
24 than 0.5 percent of the time when the AC of the breath sample is
25 0.00.

26 E. When the BAIID allows the vehicle engine to start,
27 the BAIID must require a breath sample to determine AC at
28 variable time intervals ranging from five to 30 minutes while
29 the engine is running.

30 F. The BAIID must be prepared to accept a breath
31 sample for analysis within three minutes of an AC result of 0.05
32 or less.

33 G. If the vehicle stalls after the BAIID has allowed
34 the vehicle engine to start, the BAIID must permit the vehicle
35 engine to start without requiring a breath sample for the next

1 two minutes after the stall.

2 Subp. 3. **Power source.** The BAIID must be designed to be
3 operated from a 12-volt DC vehicle battery. The BAIID must meet
4 the requirements of this part when operated with automotive
5 voltages of 11 to 16 volts DC. When operated with voltages of
6 less than 11 volts or more than 16 volts, the BAIID must meet
7 the requirements of this part or fail-safe.

8 Subp. 4. **Temperature.** The BAIID must meet the
9 requirements of this part when operated within a temperature
10 range of +85 degrees Celsius to -40 degrees Celsius (+185
11 degrees Fahrenheit to -40 degrees Fahrenheit). If the BAIID is
12 exposed to temperatures above +85 degrees Celsius or below -40
13 degrees Celsius, then the BAIID must meet the requirements of
14 this part or fail-safe. The BAIID must be ready for operation
15 within five minutes of being turned on at -20 degrees Celsius
16 (-4 degrees Fahrenheit).

17 Subp. 5. **Electromagnetic interference.** The BAIID must
18 either fail-safe or meet the requirements of this part when
19 exposed to radio frequency interference or electromagnetic
20 interference sources normally found in an operating motor
21 vehicle.

22 Subp. 6. **Tampering, circumvention, or bypass.** The BAIID
23 must provide a method to detect tampering, circumvention, or
24 bypass. The BAIID must have a method to prevent deter an
25 unauthorized person from operating the BAIID. A warning label
26 visible to front seat occupants must be attached to the BAIID
27 stating: "It is a misdemeanor to circumvent, bypass, or tamper
28 with this device."

29 Subp. 7. **Data recording.** A BAIID must record the
30 following information:

31 A. the date and time of any attempt to tamper with,
32 circumvent, or bypass the BAIID;

33 B. the date and time of any use of the vehicle or any
34 attempt to use the vehicle, including all times that the vehicle
35 engine was started or stopped;

36 C. the date, time, and AC of each breath sample

1 provided to the BAIID;

2 D. the date and time of any malfunction of the BAIID;

3 E. the date and time that a breath sample was
4 required under subpart 2, item E, and a breath sample was not
5 provided;

6 F. the date a "service required" message was issued;
7 and

8 G. the date service is performed.

9 Subp. 8. **Driver messages.** The BAIID must provide the
10 following information to the driver:

11 A. BAIID readiness for acceptance of a breath sample,
12 including samples required under subpart 2, item E;

13 B. either the AC of each breath sample or an
14 indication for each breath sample of pass if the AC is below the
15 alcohol setpoint or fail if the AC is at or above the alcohol
16 setpoint; and

17 C. a notice to obtain service within seven days if a
18 breath sample has an AC at or above the alcohol setpoint, if the
19 BAIID detects tampering, circumvention, or bypass, or if a
20 breath sample is not provided as required by subpart 2, item E.

21 Subp. 9. **Need for service.** The BAIID must meet the
22 requirements of this part for a minimum period of 37 days
23 without requiring intervening service.

24 Subp. 10. **Ignition lockout.** The BAIID must permanently
25 lock the ignition if service under subpart 8, item C, or part
26 7409.3750, subpart 5, item A, is not obtained within seven days.

27 7409.3730 CERTIFICATION REQUIREMENTS.

28 Subpart 1. **Application for certification.** A manufacturer
29 may submit a BAIID model to the commissioner for certification.
30 Application for certification must be on a form prescribed by
31 the department. Each application must be for only one model or
32 type of BAIID. A manufacturer must make separate applications
33 for models or types of BAIIDs that differ in any operational
34 aspect. An application for certification must include, in
35 addition to other information necessary to the administration of

1 the pilot program that the department may require:

- 2 A. the name and address of the manufacturer;
- 3 B. the name and model number of the BAIID;
- 4 C. a detailed description of the BAIID, including
- 5 instructions for installation and operation, and technical
- 6 specifications describing the BAIID's accuracy, security, data
- 7 collection and recording, tamper detection, and environmental
- 8 features;
- 9 D. a certification by the manufacturer that all
- 10 BAIIDs sold, offered for sale, leased, or installed in Minnesota
- 11 will meet the requirements for certification set forth in these
- 12 specifications;
- 13 E. a certification by the manufacturer that the
- 14 requirements of part 7409.3760 have been met; and
- 15 F. a certification fee of \$5,000.

16 **Subp. 2. Testing data.** For any BAIID model submitted for

17 certification, the manufacturer must provide data from an

18 independent laboratory approved by the department, demonstrating

19 that the BAIID model meets each of the requirements of part

20 7409.3720. The data must be obtained from a production line

21 unit or from production line units of the BAIID model. The data

22 must include the following information:

23 A. The data must show the AC for a minimum of five

24 human subjects with an AC ranging from 0.030 to 0.039. A

25 minimum of three breath samples must be provided to the BAIID by

26 each human subject for a total of 30 breath samples. The

27 requirements of part 7409.3720, subpart 2, item C, must be met.

28 B. The data must show the AC for a minimum of five

29 human subjects with an AC ranging from 0.040 to 0.049. A

30 minimum of three breath samples must be provided to the BAIID by

31 each human subject for a total of 30 breath samples. The

32 requirements of part 7409.3720, subpart 2, item C, must be met.

33 **Subp. 3. Equipment.** For any BAIID model submitted for

34 certification, two BAIIDs and the materials necessary to conduct

35 100 breath tests must be submitted by the manufacturer to the

36 department. The BAIIDs must be installed in vehicles provided

1 by the manufacturer for independent testing by the department,
2 at no expense to the department.

3 Subp. 4. **Design changes.** The manufacturer shall notify
4 the department in writing of any changes in the components,
5 design, or installation and operation instructions of any BAIID
6 model certified by the commissioner. The manufacturer shall
7 supply supportive documentation to the department establishing
8 that the changes do not affect the ability of the BAIID to
9 comply with the requirements of part 7409.3720.

10 Subp. 5. **Length of certification.** Certification is
11 effective until revocation under part 7409.3770, subpart 1, or
12 expiration of the program established under Minnesota Statutes,
13 section 171.305, whichever is earlier.

14 7409.3740 MANUFACTURER'S RESPONSIBILITIES.

15 Subpart 1. **Designated service provider.** Upon
16 certification of the BAIID by the commissioner, the manufacturer
17 shall submit to the department for approval its designated
18 service providers. The manufacturer may designate itself as a
19 service provider. To receive department approval, the
20 manufacturer shall submit to the department:

21 A. certification from each service provider that the
22 service provider's responsibilities as listed in parts 7409.3750
23 and 7409.3760 will be met; and

24 B. a certificate of insurance as required in part
25 7409.3760.

26 Subp. 2. **Installation instructions.** The manufacturer
27 shall develop written instructions for installing the BAIID.
28 The instructions must include inspection procedures to ensure
29 the vehicle in which the BAIID will be installed is in a
30 mechanical and electrical condition that will allow the BAIID to
31 meet the specifications in part 7409.3720. The instructions
32 must be provided to all service providers that will install the
33 BAIID.

34 7409.3750 SERVICE PROVIDER'S RESPONSIBILITIES.

35 Subpart 1. **Service locations and hours.** A service

1 provider shall provide for service locations as follows:

2 A. The service provider shall make available a
3 minimum of one permanent installation and service location
4 within the state. The permanent service center must establish
5 and maintain reasonable business hours for a minimum of five
6 days a week. A schedule stating those hours must be submitted
7 to the department.

8 B. The service provider shall provide service
9 locations so that there is a service location within 100
10 straight-line miles of the residence or employment site of any
11 participant for service. Service locations may be provided
12 through installation and service centers or through mobile
13 service. A plan describing the service locations must be
14 submitted to the department.

15 Subp. 2. **Security.** A service provider shall comply with
16 all of the following security requirements:

17 A. Only authorized employees of the service provider,
18 manufacturer, or department are permitted to observe the
19 installation of the BAIID. Reasonable security measures must be
20 taken to prevent other individuals from observing installation
21 or obtaining access to installation materials.

22 B. The service provider shall not facilitate
23 tampering, circumvention, or bypass of a BAIID. If the service
24 provider is aware of a participant operating a vehicle that is
25 not equipped with a BAIID, the service provider shall
26 immediately notify the department.

27 C. A participant may not be employed by a
28 manufacturer or service provider in a position that has access
29 to installation instructions or materials.

30 Subp. 3. **Installation.** A service provider shall comply
31 with the following installation service requirements:

32 A. Installation must be done in compliance with the
33 installation instructions provided by the manufacturer and in
34 accordance with accepted trade standards of the automotive
35 repair industry.

36 B. The service provider shall inspect each vehicle

1 before installing the BAIID. The inspection must include
 2 screening procedures to ensure the vehicle in which the BAIID is
 3 to be installed is in a mechanical and electrical condition that
 4 will allow the BAIID to meet the specifications in part
 5 7409.3720. Conditions that the manufacturer has determined
 6 would prevent the BAIID from meeting the specifications of part
 7 7409.3720, must be repaired before the BAIID is installed. The
 8 participant shall bear the costs of any repairs to the vehicle.

9 C. The service provider shall provide a certificate
 10 of installation to the participant and the department upon
 11 completing installation of the BAIID. The certificate must
 12 include the following information:

13 (1) the participant's full name, address, date of
 14 birth, and telephone number;

15 (2) the full names and dates of birth of all
 16 authorized persons other than the participant;

17 (3) the vehicle's make, model, vehicle
 18 identification number, model year, license plate number, and
 19 state of registration;

20 (4) the vehicle owner's full name and date of
 21 birth;

22 (5) the serial number of the installed BAIID;

23 (6) the date of installation;

24 (7) the frequency of required service and
 25 monitoring; and

26 (8) any additional information necessary to the
 27 administration of the pilot program requested by the department.

28 Subp. 4. **Orientation.** The service provider shall provide
 29 an orientation to the participant and any other licensed driver
 30 authorized to operate the vehicle. The orientation must include
 31 information on the proper use of the BAIID, service locations,
 32 and procedures for regular service and emergency situations.

33 Subp. 5. **Service requirements.** A service provider shall
 34 comply with the following ongoing service requirements:

35 A. The service provider shall service and monitor the
 36 installed BAIID a minimum of every 30 days after initial

1 installation. If during the regular service appointment the
2 service provider determines the BAIID to be defective, it must
3 be repaired or replaced within 24 hours of that determination.
4 If the participant fails to obtain regular service, the service
5 provider shall immediately notify the department.

6 B. Each time the BAIID is serviced, the service
7 provider shall review the data recorded under part 7409.3720,
8 subpart 7, and provide a copy to the department within five
9 business days of the service date. The service provider shall
10 immediately notify the department by telephone or facsimile if
11 any of the following is indicated:

- 12 (1) tampering, circumvention, or bypass;
13 (2) failure to provide a breath sample as
14 required under part 7409.3720, subpart 2, item E; or
15 (3) AC at or above the setpoint.

16 Immediate notification must be followed by written notice
17 to the department within three days of the service.

18 C. The service provider must have and make known to
19 all authorized persons a 24-hour toll-free telephone number for
20 use in the event of questions or emergencies related to the
21 BAIID.

22 D. The service provider shall respond to an emergency
23 report related to the BAIID within one business day of the
24 report. If the service provider determines the emergency to be
25 the result of a defective BAIID, the service provider shall
26 repair or replace the BAIID within 48 hours of that
27 determination.

28 Subp. 6. BAIID removal. A service provider shall comply
29 with the following requirements for BAIID removal:

30 A. Upon removal of the BAIID, the service provider
31 shall restore the vehicle to its original operating condition.
32 All wires that were connected to the BAIID must be reconnected
33 and insulated.

34 B. If the service provider removes the BAIID and
35 installs a different BAIID, the service provider shall notify
36 the department by mail of the serial number of the newly

1 installed BAIID. If the BAIID is installed in a replacement
2 vehicle, the service provider shall submit a new certificate of
3 installation to the department.

4 C. If the service provider removes the BAIID for
5 reasons other than service, the service provider shall
6 immediately notify the department by telephone or facsimile. If
7 removal occurs after the department's normal business hours,
8 notification must be made at the earliest time possible.
9 Telephone notification must be followed by written notification
10 within three days of removal of the BAIID.

11 Subp. 7. Program evaluation. The service provider shall
12 submit a report to the department every six months containing
13 the following information:

14 A. all written complaints received from authorized
15 persons;

16 B. all incidents of customer error in operating the
17 BAIID;

18 C. all incidents of mechanical or electrical
19 conditions of the motor vehicle that may have affected the
20 ability of the BAIID to meet the requirements of part 7409.3720;

21 D. all incidents of failure of a BAIID to meet the
22 requirements of part 7409.3720 and the cause for the failure;
23 and

24 E. all incidents of attempts to tamper with,
25 circumvent, or bypass the BAIID and whether the participant was
26 able to operate the vehicle.

27 Subp. 8. Cost determination. The cost of installation,
28 monthly service, and monitoring must not vary according to the
29 location of the residence or employment site of the participant.

30 Subp. 9. Inspection. To ensure compliance with the
31 specifications in this part, the service provider shall make
32 available any service location and any BAIID at the service
33 location for inspection by a representative of the department
34 during the service provider's reported business hours.

35 7409.3760 LIABILITY.

1 Subpart 1. **Insurance coverage.** The manufacturer and each
2 service provider shall maintain comprehensive general liability
3 insurance in the amount of \$1,000,000 per person and \$3,000,000
4 per incident. All insurance policies must be endorsed to
5 provide the department with 45 days prior written notice of
6 cancellation, material change, or intent to lapse.

7 Subp. 2. **Indemnification.** The manufacturer and each
8 service provider shall indemnify and hold harmless the
9 department from any and all claims, demands, actions, and costs
10 related to the BAIID program.

11 7409.3770 REVOCATION OF CERTIFICATION OR APPROVAL.

12 Subpart 1. **BAIID certification.** The department shall
13 revoke the certification of the BAIID when it has sufficient
14 cause to believe any of the following:

15 A. the BAIID model does not meet the requirements of
16 part. 7409.3720;

17 B. the manufacturer has changed the components,
18 design, or installation and operation instructions in such a way
19 that the requirements of part 7409.3720 are no longer met;

20 C. the manufacturer fails to maintain the liability
21 insurance as required in part 7409.3760; or

22 D. the manufacturer fails to maintain a service
23 provider as required in part 7409.3740, subpart 1.

24 Subp. 2. **Service provider.** The department shall revoke
25 the approval of a designated service provider when it has
26 sufficient cause to believe that the service provider is not
27 meeting the requirements of part 7409.3750 or 7409.3760.

28 Subp. 3. **Review of denial or revocation of certification.**
29 If a BAIID certification or a service provider approval is
30 denied or revoked, the manufacturer or service provider may
31 request review of the denial or revocation by the commissioner.
32 The request must be in writing and made within 20 days of the
33 notification of the denial or revocation. The commissioner
34 shall issue a decision within 20 days of receiving a request for
35 review. The commissioner's decision is a final agency action.