



Frequently Asked Questions

(And Answers from the
Trial Court Services Division
of the State Court Administrative Office)

FAQ 2011-01

**Published February 17, 2011
Updated November 28, 2012**

Ignition Interlock Pilot Project Implementation

This FAQ clarifies procedures and provides information on rules governing the Ignition Interlock Pilot Project established by Michigan Compiled Laws (MCL) 600.1084 and MCL 257.304. For further information on procedures related to MCL 257.304 (restricted driver's license) contact Michigan Department of State (MDOS) Court Liaisons Kari Ferri at 517-636-0962, David Handsor at 517-636-1029, or Lee Ann Gaspar at 810-762-0764. For all other questions contact Dana Graham, State Court Administrative Office (SCAO) Trial Court Services Management Analyst, at 517-373-2218.

#1 Q: What are the qualifications for a court to participate in the Ignition Interlock Pilot Project?

A: Courts desiring to participate in the pilot program must meet the eligibility criteria described in MCL 600.1084 subsection 8(a). This includes any DWI/sobriety court, drug treatment court, or veterans treatment court on the SCAO official list of recognized programs (i.e., local administrative order approved by SCAO, current memorandum of understanding on file at SCAO, and in compliance with submitting minimum standard data to SCAO).

#2 Q: What offenses qualify for the MCL 257.304 restricted license?

A: Pursuant to MCL 257.304 subsection 10, to qualify for the new restrictions, drivers must be arrested on or after January 1, 2011, for violation of 625(1) or (3) of the Motor Vehicle Code with a prior violation of 625(1), (3), or (6) on the record.

#3 Q: Where can I locate an electronic version of form MC 393?

A: The MC 393 form can be accessed on the Michigan Supreme Court website in the forms library (General Criminal) at <http://www.courts.mi.gov/Administration/SCAO/Forms/Pages/Search-for-a-form.aspx>

#4 Q: What are the reasons that a defendant's restricted license can be suspended or revoked?

A: Per MCL 600.1084(6) a restricted license shall be suspended or revoked if any of the following occur:

- a) The court orders that a defendant be removed from the court program before he or she successfully completes it.
- b) The court becomes aware that a defendant operates a motor vehicle that is not equipped with an interlock device or tampers with, circumvents, or removes a court-ordered interlock device without prior court approval.
- c) A defendant is charged with a new violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

#5 Q: Does a defendant have to be terminated from the DWI court program before the MDOS will revoke the restricted license?

A: No. Pursuant to MCL 600.1084(6)(b)(c), the court shall notify the MDOS if the defendant operates a motor vehicle that is not equipped with an interlock device or tampers with, circumvents, or removes a court-ordered interlock device without prior court approval, or a defendant is charged with a new violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625. Therefore, even if the judge allows a defendant to remain in the program after any of these incidents occur, the restricted license will still be suspended or revoked.

#6 Q: Can a Breath Alcohol Ignition Interlock Device (BAIID) be removed from a defendant's vehicle and reinstalled?

A: No. The BAIID can only be installed once on a defendant's vehicle for a 257.304 restricted license.

#7 Q: How is compliance with the BAIID monitored?

A: Courts should review written and electronic reports provided by the vendor to monitor compliance.

#8 Q: How is eligibility for a restricted driver's license determined?

A: Implementation for determining driver eligibility will occur in two phases. During Phase One, courts should contact the Action Processing Unit at 517-322-6406 to determine driver eligibility. The "SOBERCHK" inquiry will be implemented in Phase Two. Once Phase Two is available, courts will run the "SOBERCHK" inquiry to make the preliminary determination on a defendant's eligibility for the 257.304 restricted license.

Note that Phase One will modify the driving record status line for drivers under sobriety court restrictions. During Phase One, if law enforcement runs a 35;1 or

42;5 inquiry on any active Ignition Interlock Pilot driver, a status response of “Eligible - Sobriety Court Restrictions - Check Restricted Drivers License” will be displayed on the status line. However, during Phase One, the status may still display the driver’s prior status (i.e., denied/revoked) within the body of the driving record.

#9 Q: Who makes the official determination on a defendant’s eligibility?

A: MDOS makes the official determination on eligibility for the restricted license.

#10 Q: When is the BAIID installed?

A: The BAIID should be installed after the preliminary determination on driver eligibility.

#11 Q: When is form MC 393 sent to the MDOS?

A: Courts need to fax form MC 393 to MDOS ordering the 257.304 restricted license after the BAIID has been installed on all vehicles owned or operated, or both, by the defendant. The fax number for the Action Processing Unit is 517- 322-1767.

#12 Q: How does the court confirm installation of the BAIID?

A: Courts should request an installation certificate from vendors that will verify the BAIID has been properly installed on all required vehicles.

#13 Q: When seeking removal of driver license restrictions, does court program participation time count toward the minimum duration of sobriety mandated by Administrative Rule 257.313(1)(b)?

A: The administrative rules do not prohibit a hearing officer from considering abstinence established while under court supervision.

#14 Q: How does a defendant get a BAIID installed?

A: The defendant will have to be driven to and from a vendor’s installation center by a licensed driver.

#15 Q: How much does the BAIID cost?

A: The state does not regulate the cost of the BAIID. Contact a BAIID provider to obtain cost information. The Legislature did limit the amount that can be charged to people on low incomes to a maximum of \$2 per day. In order to qualify for this reduced fee a defendant’s income must fall below 150 percent of the current poverty guidelines published by the U.S. Secretary of Health and Human Services. To determine if a defendant qualifies, consult with the selected vendor.

Note that the law does require that a defendant submit a copy of his or her state income tax return for the previous year to the BAIID vendor to assist in determining if he or she qualifies for a reduced fee.

#16 Q: What driving restrictions does the defendant receive with their restricted license?

A: MCL 257.304 §4 permits the driver to operate a vehicle to take any driving skills test required by MDOS, or to drive to and from any combination of the person's residence, workplace, school, an alcohol or drug education or treatment program as ordered by the court, court-ordered self-help programs, court hearings and probation appointments, court-ordered community service, an educational institution at which the person is enrolled as a student, a place of regularly occurring medical treatment for a serious condition or a medical emergency for the person or a member of the person's household or immediate family, court-ordered drug or alcohol testing, or an ignition interlock service provider as required.

#17 Q: Can a participant continue to drive on a restricted license after completing the problem-solving court program?

A: Except as otherwise provided in MCL 257.304, the restricted license is effective until a hearing officer orders an unrestricted license.

#18 Q: What are the State Court Administrative Office's requirements for data collection for courts participating in the Ignition Interlock Pilot Project?

A: Data requirements and instructions on submitting data in the Drug Court Case Management Information System (DCCMIS) can be accessed on the Michigan Supreme Court website at <http://www.courts.michigan.gov/scao/services/DCCMIS/Interlock-Instructions.pdf>.