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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Department of Safety
<b>Division:</b>	TN Highway Patrol
<b>Contact Person:</b>	Elizabeth Stroecker
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*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Elizabeth Stroecker
<b>Address:</b>	312 Rosa L. Parks Ave., Nashville, TN 37243
<b>Phone:</b>	615-251-5199
<b>Email:</b>	Elizabeth.Stroecker@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	1150 Foster Avenue		
Address 2:	McCord Hall Building Hearing Room 108		
City:	Nashville		
Zip:	37243		
Hearing Date:	08/10/2023		
Hearing Time:	9:00am	<input checked="" type="checkbox"/> _X_CST/CDT <input type="checkbox"/> EST/EDT	

**Additional Hearing Information:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ODI5ODA4ZTctY2U0Ni00Y2FILTIIMWMtZTZkZTZg0NDk3NGFj%40thread.v2/0?context=%7b%22Tid%22%3a%22f345bebf-0d71-4337-9281-24b941616c36%22%2c%22Oid%22%3a%223e65be46-f4e6-4e59-a553-6097b28641fd%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODI5ODA4ZTctY2U0Ni00Y2FILTIIMWMtZTZkZTZg0NDk3NGFj%40thread.v2/0?context=%7b%22Tid%22%3a%22f345bebf-0d71-4337-9281-24b941616c36%22%2c%22Oid%22%3a%223e65be46-f4e6-4e59-a553-6097b28641fd%22%7d)

**Revision Type (check all that apply):**

☒ Amendment  
☐ New  
☐ Repeal

**Rule(s)** (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1340-03-06	Rules of Ignition Interlock Device Program
<b>Rule Number</b>	<b>Rule Title</b>
1340-03-06-.01	Purpose and Scope
1340-03-06-.02	Definitions
1340-03-06-.03	Manufacturer Application Procedures
1340-03-06-.04	Subcontractor Application Procedures
1340-03-06-.05	Service Center Application Procedures
1340-03-06-.06	General Requirements
1340-03-06-.07	Approved BAIID Requirements
1340-03-06-.08	BAIID Breath Reductions & Medical Waivers
1340-03-06-.09	Service Center-Owner/Technician Requirements
1340-03-06-.10	BAIID Installation Requirements
1340-03-06-.11	Orientation of Program Participant
1340-03-06-.12	Proof of Installation of a BAIID
1340-03-06-.13	Monitoring Requirements
1340-03-06-.14	Repair, Replacement, or Vehicle Transfer of a BAIID
1340-03-06-.15	Compliance-Based Removal & Non- Compliance Report
1340-03-06-.16	Toll of the Required Consecutive Day Period
1340-03-06-.17	Fees
1340-03-06-.18	Financial Responsibility Requirements
1340-03-06-.19	Liability
1340-03-06-.20	Audits and Inspections
1340-03-06-.21	Denial, Suspension, or Permanent Revocation of License
1340-03-06-.22	Administrative Hearings

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

These rules are being amended to be up to date with recent TCA changes as well industry standards. The laws relative to ignition interlock devices had a clean-up in 2022 and these changes reflect those rules. Also, fees are amended to be in line with current inflation and industry standards.

**RULES OF  
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY  
HIGHWAY PATROL DIVISION**

**CHAPTER 1340-03-06  
RULES OF IGNITION INTERLOCK DEVICE PROGRAM  
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1340-03-06-.11	Orientation of Program Participant	1340-03-06-.22	Administrative Hearings

**1340-03-06-.01 PURPOSE AND SCOPE.**

To establish uniform statewide minimum standards for ignition interlock devices, for the certification and licensing of ignition interlock device manufacturers, subcontractors, service centers, and technicians, and for program participant monitoring pursuant to T.C.A. §§ 55-10-417, 55-10-418, and 55-10-425.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

**1340-03-06-.02 DEFINITIONS.**

- (1) Accuracy Check - confirming the calibration of the equipment used for the BAID's calibration.
- (2) Administrative Fee - a fee collected by the manufacturer from each participant.
- (3) A-List - the Department's secure data reporting system.
- (4) Breath Alcohol Concentration (BrAC) - the amount of alcohol expressed in weight per volume(w/v) of breath based upon grams of alcohol per 210 liters (L) of breath.
- (5) Breath Alcohol Ignition Interlock Device (BAID) - a device that is designed to allow a driver to start a vehicle if the driver's BrAC is below the set point and to prevent the driver from starting the vehicle if the driver's BrAC is at or above the set point.
- (6) Breath Reduction – Reducing the required breath volume for a test sample from 1.5 liters to 1.2 liters of breath volume per test sample due to a doctor-diagnosed medical condition.
- (7) Calibration – the process of testing and/or adjusting the BAID to ensure accuracy by using a dry gas standard as defined by the current National Highway Traffic Safety Administration (NHTSA) model specifications for calibration units. A wet bath simulator should not be utilized as the primary method for conducting BAID calibrations and should only be used for calibrations when a dry gas standard cannot be obtained due to abnormal supply chain issues.
- (8) Camera - a feature of the device that incorporates photo identification or digital images of the person who is providing the breath test in all light conditions.

- (9) Certificate of Compliance - a certificate issued into A-list by the manufacturer which indicates that a participant has been compliant with the program conditions for the required period.
- (10) Circumvent - to bypass the correct operation of the BAID.
- (11) Commissioner - the Commissioner of the Tennessee Department of Safety and Homeland Security.
- (12) Compliance Determination Form – a form created by the Department that the manufacturer must use to notify the participant of compliance or non-compliance and the resulting extension of the ignition interlock requirement usage period.
- (13) Compliance-Based Removal - the authorized removal of the BAID as determined by the participant meeting terms set by T.C.A. § 55-10-425.
- (14) Department - the Tennessee Department of Safety and Homeland Security.
- (15) Hearing Officer - the officer designated by the Commissioner to preside over administrative hearings.
- (16) Ignition Interlock Program - the Department of Safety and Homeland Security's program of regulating BAIDs, manufacturers, service centers, and technicians in the State of Tennessee.
- (17) Ignition Interlock Provider – A BAID manufacturer that is licensed by the Department pursuant to T.C.A. § 55-10-420.
- (18) Ignition Interlock Service Center Inspection Checklist - a form (SF-1535) developed and published by the Ignition Interlock Program to be completed by the manufacturer or service center prior to initial and/or annual renewal inspection.
- (19) Ignition Interlock Usage Period – A three-hundred-sixty-five-consecutive-day period or the entire period of the person's driver's license revocation, whichever is longer.
- (20) In Writing – means either electronically or by regular mail.
- (21) Licensing Period –. The initial licensing period for a manufacturer, subcontractor, service center, or technician may be shorter or longer than one (1) year for any new applicant. This is to allow the Ignition Interlock Program to sync all license expirations and renewals with the Annual License Renewal District Schedule. The initial license application fee will be prorated at a monthly rate beginning on the date of the application. Once the license expiration and renewal cycle are in sync with the Annual License Renewal District Schedule, all subsequent licensing periods will be valid for a period of one year and will expire on the last day of the month. The Annual License Renewal District Schedule form is developed and published by the Ignition Interlock Program.
- (22) Manufacturer - a person or organization responsible for the design, construction, and/or production of the BAID, which has been approved and licensed by the Ignition Interlock Program as meeting all of the minimum requirements set forth in these rules.
- (23) Manufacturer/Service Center Non-Compliance Fee - a fee charged to the manufacturer for non-compliance with any of the requirements stated in Chapter 1340-03-06.
- (24) Manufacturer Representative - an individual designated by the manufacturer as a direct point of contact for the ignition interlock program administrator in the State of Tennessee.
- (25) Medical Waiver – A waiver issued by the Department to a person who has been diagnosed by two or more physicians as being unable to produce enough breath volume to operate an ignition interlock device after a breath reduction setting adjustment.
- (26) Non-Compliance - failure to meet the minimum requirements set forth in state law, these rules, a court order, or the device configuration requirements.
- (27) Normal Business Hours - standard workdays of Monday through Saturday between the hours of 7:00 am and 7:00 pm, at a minimum of four (4) hours per day and five (5) days per week, excluding state and federal holidays.

- (28) Participant - an individual who has been ordered by a court or the Department pursuant to the provisions of T.C.A. § 55-10-417 to operate a motor vehicle that has been equipped with a functioning BAID.
- (29) Permanent Lockout - a condition where the device will not accept a breath test until serviced.
- (30) Permanent Revocation - the indefinite revocation of an entity's or individual's license or ability to provide ignition interlock services or perform the actions authorized under this section.
- (31) Probation - an entity appointed to investigate, supervise, and report on the conduct of program participants.
- (32) Program Administrator - an individual who is the direct point of contact with the general public, current and prospective service centers, manufacturers, and other government and private entities.
- (33) Random Retest - a breath test that is required after the initial engine start-up breath test and while the vehicle is being operated. Note: Commonly referred to as a rolling, random, or running retest.
- (34) Real-Time Reporting - the contemporaneous transmission of data any time a photo is captured to a specified monitoring entity as the event occurs or as soon as cellular reception permits.
- (35) Remove Interlock Restriction Letter - a letter issued by the Department to a participant indicating program compliance.
- (36) Residual Mouth Alcohol - alcohol found in the oral cavity that dissipates over a short period of time.
- (37) Service Center - the entity designated by the manufacturer and licensed by the Ignition Interlock Program to provide services to include, but not limited to, installation, inspection, maintenance, and removal of the BAID within Tennessee.
- (38) Service Center License - a license provided by the Ignition Interlock Program once the Ignition Interlock Program is satisfied that the service center complies with all of the minimum requirements set forth in Chapter 1340-03-06.
- (39) Subcontractor - means an individual or entity, other than a service center or technician, seeking to provide intermediary services for a manufacturer, including opening and managing service centers and installing and monitoring ignition interlock devices.
- (40) Suspension – A penalty enforced for a law or rule violation that is considered temporary in nature with a set beginning date and end date. A suspension period can be extended indefinitely until compliance is achieved.
- (41) Tampering - an attempt to physically disable, disconnect, adjust, or otherwise alter the proper operation of a BAID and/or any of its components; to remove the BAID and/or any of its components without authorization. Note: Disconnecting the handset once the vehicle is turned off is permissible unless the vehicle was turned off during a random retest.
- (42) Technician - a person affiliated with a service center and engaged in the installation, inspection, maintenance, and removal of BAIDs and is responsible for providing device orientation and hands-on training to the program participant in this state.
- (43) Technician's Certificate of Training - a certificate issued to the technician by the manufacturer certifying that the technician has been properly trained in the installation, inspection, maintenance, and removal of BAIDs in Tennessee.
- (44) Technician Training - type(s) of training provided to the technician by the manufacturer, including hands-on training, paper materials, and training videos.
- (45) Temporary Lockout Code - a temporary code issued by the manufacturer to a participant whose BAID is in lockout mode.

- (46) Violation - non-compliance with a law, regulation, or rule.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

**1340-03-06-.03 MANUFACTURER APPLICATION PROCEDURES.**

- (1) Any individual or business shall apply to be an approved and licensed manufacturer using forms supplied by the Ignition Interlock Program.
  - (a) The Manufacturer Application form developed and published by the department shall be completed in full and shall include the following:
    1. A list of all states for which you are currently an approved BAIID manufacturer.
    2. A list of all states where the BAIID manufacturer is currently or has been suspended or revoked within the last ten (10) years.
    3. A statewide criminal history background check is performed through the Tennessee Bureau of Investigation (TBI) or a background check through the equivalent State Bureau of Investigation from the state through which the applicant's driver's license is issued. If the manufacturer is not an individual but a business entity, the background check should be completed by the Manufacturer's Representative.
    4. Verification that the manufacturer is not an employee of the Department.
    5. Certification that the BAIID meets or exceeds the most recent model specifications established by the National Highway Traffic Safety Administration (NHTSA).
      - (i) The certification documentation must be provided from an independent testing laboratory that is accredited to the ISO 17025 Laboratory Management Standard and is physically located within the United States.
      - (ii) The test results must verify that the proposed Breath Alcohol Ignition Interlock Device (BAIID) meets or exceeds the Model Specifications of the National Highway Traffic Safety Administration (NHTSA) and the additional requirements set forth by the administering authority.
      - (iii) The manufacturer must provide the appropriate certification to indicate that the proposed BAIIDS are manufactured in a facility that is accredited to the ISO 9001 Quality Management System.
      - (iv) The manufacturer should assume all costs associated with the laboratory analysis and its reporting.
    6. A Quality Assurance Plan (QAP) in accordance with the most recent NHTSA Model Specifications, which includes the operating instructions for the BAIID and step-by-step instructions of the process for checking the accuracy of the calibration of the BAIID.
    7. Verification of current financial responsibility as stated in Rule 1340-03-06-.16.
    8. Verification that the manufacturer has completed the required testing and can accurately submit automated reports via a web service program into A-List.
    9. A copy of the materials used to train the participant on the proper use of the BAIID.
    10. The physical addresses of planned installation locations in Tennessee. A licensed manufacturer will have ninety (90) days to establish their service center locations within the geographical boundaries of Tennessee or the manufacturer will be removed from the licensed manufacturer list and must reapply. At a minimum, each licensed manufacturer must open and maintain one (1) service center in each of the

eight (8) Tennessee Highway Patrol districts.

11. A two hundred and fifty dollars (\$250.00) non-refundable application fee transferred by Automated Clearing House (ACH) to the Ignition Interlock Program.
  12. The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for the service center application fee.
- (b) All applications will be submitted to the Ignition Interlock Program by the Manufacturer Representative.
- (2) The applicant will be notified by U.S. mail or electronically of the approval or denial of the application. If the application is approved, the manufacturer will receive a license which shall be valid for one (1) year. If the application is denied, the applicant will be informed of the reason for the denial.
- (3) In order to continue as a licensed manufacturer, an application to renew must be submitted to the Ignition Interlock Program annually.
- (a) The renewal application consists of all the required information under (1)(a) and must be submitted to the Ignition Interlock Program at least sixty (60) days prior to the expiration of its current license.
  - (b) At the time the application to renew is submitted, a one hundred dollar (\$100.00) non-refundable renewal fee shall be transferred by ACH to the Ignition Interlock Program.
  - (c) If the application to renew, including background checks and proof of financial responsibility, is not submitted at a minimum of sixty (60) days prior to the expiration of the current license then the licensee is not authorized to perform new installations of ignition interlock devices after the expiration date of the license until a renewal has been issued by the department. In addition to the renewal fee, the licensee is subject to a late of one hundred dollars (\$100.00).
  - (d) If the appropriate renewal fee is not submitted, the application will be considered incomplete and will not be processed for renewal.
  - (e) The department must inform the licensee in writing of the date the renewal application was received and if they will be authorized to continue to perform new installations of ignition interlock devices after the expiration date of the license if the department has not issued a renewal or denial of renewal.
  - (f) Any licensee who has not held an active license for more than one (1) year from the date of expiration of the previous license must apply as a new licensee.
- (4) The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for any late fees paid.
- (5) The Ignition Interlock Program shall notify the manufacturer of its decision before the expiration date of the current license. If approved, the manufacturer shall receive a license that states the effective date and the expiration date of the licensing period. If the renewal of the license is denied, the Ignition Interlock Program will inform the manufacturer of the reason for the denial. The manufacturer shall have ten (10) days from the date the notification is sent to correct any deficiencies and notify the Ignition Interlock Program in writing of such correction. The manufacturer may also request a hearing pursuant to Rule 1340-03-06-.22.
- (6) All manufacturer licenses issued by the Department will expire on June 30<sup>th</sup> of each year.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425

**1340-03-06-.04 SUBCONTRACTOR APPLICATION PROCEDURES.**

- (1) Any individual or business shall apply to be an approved and licensed subcontractor using forms supplied by the Ignition Interlock Program.
  - (a) The Subcontractor Application form developed and published by the department shall be completed in full and shall include the following:
    1. A list of all states for which you are currently an approved BAIID subcontractor.
    2. A list of all states where the BAIID subcontractor is currently or has previously been suspended or revoked within the last ten (10) years.
    3. A statewide criminal history background check is performed through the Tennessee Bureau of Investigation (TBI) or a background check through the equivalent State Bureau of Investigation from the state through which the applicant's driver's license is issued. If the subcontractor is not an individual but a business entity, the background check should be completed by the Subcontractor's Representative.
    4. Verification that the subcontractor is not an employee of the Department.
    5. Certification that the BAIID meets or exceeds the most recent model specifications established by the National Highway Traffic Safety Administration (NHTSA).
      - (i) The certification documentation must be provided by an independent testing laboratory accredited to the ISO 17025 Laboratory Management Standard and physically located within the United States.
      - (ii) The test results must verify that the proposed Breath Alcohol Ignition Interlock Device (BAIID) meets or exceeds the Model Specifications of the National Highway Traffic Safety Administration (NHTSA) and the additional requirements set forth by the administering authority.
      - (iii) The manufacturer must provide the appropriate certification to indicate that the proposed BAIIDS are manufactured in a facility accredited to the ISO 9001 Quality Management System.
      - (iv) The manufacturer should assume all costs associated with the laboratory analysis and its reporting.
    6. A Quality Assurance Plan (QAP) in accordance with the most recent NHTSA Model Specifications, which includes the operating instructions and the step-by-step instructions of the process for checking the accuracy of the calibration of the BAIID.
    7. Verification of current financial responsibility as stated in Rule 1340-03-06-.18.
    8. Verification that the subcontractor's manufacturer has completed the required testing and can accurately submit automated reports via a web service program into A-List.
    9. A copy of the materials used to train the participant on the proper use of the BAIID.
    10. The physical addresses of planned installation locations in Tennessee. A licensed subcontractor will have ninety (90) days to establish their service center locations within the geographical boundaries of Tennessee or the subcontractor will be removed from the licensed subcontractor list and must reapply. At a minimum, each licensed subcontractor must open and maintain one (1) service center in each of the eight (8) Tennessee Highway Patrol districts.
    11. A two hundred and fifty dollars (\$250.00) non-refundable application fee transferred by Automated Clearing House (ACH) to the Ignition Interlock Program.



12. The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for the subcontractor application fee.
  - (b) All applications will be submitted to the Ignition Interlock Program by the Manufacturer Representative.
- (2) The applicant will be notified by U.S. mail or electronically of the approval or denial of the application. If the application is approved, the subcontractor will receive a license which shall be valid for one (1) year. If the application is denied, the applicant will be informed of the reason for the denial.
- (3) In order to continue as a licensed subcontractor, an application to renew must be submitted to the Ignition Interlock Program annually.
  - (a) The renewal application consists of all the required information under (1)(a) and must be submitted to the Ignition Interlock Program at least sixty (60) days prior to the expiration of its current license.
  - (b) At the time the application to renew is submitted, a one hundred dollar (\$100.00) non-refundable renewal fee shall be transferred by ACH to the Ignition Interlock Program.
  - (c) If the application to renew, including background checks and proof of financial responsibility, is not submitted at a minimum of sixty (60) days prior to the expiration of the current license, then the licensee is not authorized to perform new installations of ignition interlock devices after the expiration date of the license until a renewal has been issued by the department. In addition to the renewal fee, the licensee is subject to a late fee of one hundred dollars (\$100.00).
  - (d) If the appropriate renewal fee is not submitted, the application will be considered incomplete and will not be processed for renewal.
  - (e) The department must inform the licensee in writing of the date the renewal application was received and if they will be authorized to continue to perform new installations of ignition interlock devices after the expiration date of the license if the department has not issued a renewal or denial of renewal.
  - (f) Any licensee who has not held an active license for more than one (1) year from the date of expiration of the previous license must apply as a new licensee.
- (4) The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for any late fees paid.
- (5) The Ignition Interlock Program shall notify the manufacturer of its decision before the expiration date of the current license. If approved, the manufacturer and subcontractor shall receive a license that states the effective date and the expiration date of the licensing period. If the renewal of the license is denied, the Ignition Interlock Program will inform the manufacturer of the reason for the denial. The manufacturer shall have ten (10) days from the date the notification is sent to correct any deficiencies and notify the Ignition Interlock Program in writing of such correction. The manufacturer may also request a hearing pursuant to Rule 1340-03-06-.21.
- (6) All subcontractor licenses issued by the Department will expire on June 30<sup>th</sup> of each year.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.05 SERVICE CENTER AND TECHNICIAN APPLICATION PROCEDURES.**

- (1) Any individual or business shall apply to be a licensed service center using forms supplied by the Ignition Interlock Program.
  - (a) The Service Center Application form developed and published by the department shall be completed in full and shall include the following:
    1. Name and physical address of individual or business applying to be a service center.

2. A copy of the service center applicant's official business license.
  3. A list of the names and a Technician Application form developed and published by the department shall be completed for each of the persons applying for a license who will be installing, calibrating, servicing, or removing the BAIID.
  4. The individual's or business's experience in installing, servicing, and removing BAIIDs in other jurisdictions.
  5. A statewide criminal history background check of the owner and all technicians is performed through the Tennessee Bureau of Investigation (TBI) or a background check through the equivalent State Bureau of Investigation from the state through which the applicant's driver's license is issued.
  6. Verification that the service center owner and technicians are not employees of the Department.
  7. Verification of current financial responsibility as stated in Rule 1340-03-06-.16.
  8. A copy of the technicians' certificates of training issued by the manufacturer.
  9. The name of the manufacturer that the applicant is affiliated with.
  10. An Ignition Interlock Service Center Inspection Checklist (SF-1535).
  11. A two hundred and fifty dollars (\$250.00) non-refundable application fee per service center is transferred by ACH to the Ignition Interlock Program.
  12. A fifty-dollar (\$50.00) non-refundable application fee per technician transferred by ACH to the Ignition Interlock Program.
- (b) All applications will be submitted to the Ignition Interlock Program by the affiliated Manufacturer Representative.
- (2) Upon receipt of the application and fee, the Ignition Interlock Program will process the application and conduct an on-site inspection of the service center.
  - (3) The applicant will be notified by U.S. mail or electronically of the approval or denial of the application. If the application is approved, the manufacturer, service center, and any approved technicians will receive a license that states the effective date and the expiration date of the licensing period. If the application is denied, the applicant's affiliated manufacturer will be informed of the reason for the denial.
  - (4) An entity desiring to become a service center must apply separately through each manufacturer that it intends to be affiliated with, including submission of an application, application fee, and all required information under (1)(a).
  - (5) In order for a service center or technician to maintain their license, every year the affiliated manufacturer(s) shall submit an application to renew the license to the Ignition Interlock Program.
    - (a) The renewal consists of all the required information under (1)(a) for each service center and must be submitted to the Ignition Interlock Program at least sixty (60) days prior to the expiration of its current license.

- (b) At the time the application to renew is submitted, a one hundred dollar (\$100.00) non-refundable renewal fee for all service centers and a fifty dollar (\$50.00) non-refundable renewal fee for all technicians will be transferred by ACH to the Ignition Interlock Program.
  - (c) If the application to renew, including background checks, proof of financial responsibility, and the facility checklist, is not submitted at least sixty (60) days prior to the expiration of the current license, then the licensee is not authorized to perform new installations of ignition interlock devices after the expiration date of the license until a renewal has been issued by the department. In addition to the renewal fee, the licensee is subject to a late fee of one hundred dollars (\$100).
  - (d) If the appropriate renewal fee is not submitted, the application will be considered incomplete and will not be processed for renewal.
  - (e) The department must inform the licensee in writing of the date the renewal application was received and if they will be authorized to continue to perform new installations of ignition interlock devices after the expiration date of the license if the department has not issued a renewal or denial of renewal.
  - (f) Any licensee who has not held an active license for more than one (1) year from the date of expiration of the previous license must apply as a new licensee.
- (6) If the application to renew and all other required documents are received at least sixty (60) days prior to the expiration of the current license, the Ignition Interlock Program will notify the service center and the manufacturer of its decision before the expiration date of the current license. If approved, the manufacturer, service center, and technicians shall receive a license valid for the next licensing period. The service center's license shall be posted in a conspicuous place at the service center's office where it is clearly visible to the program participants. The service center shall maintain a copy of each approved technician's license for review upon request at the time of an interim inspection. If the renewal of the license is denied, the Ignition Interlock Program will inform the manufacturer of the reason for the denial. The manufacturer shall have ten (10) days from the date the notification is sent to correct any deficiencies and notify the Ignition Interlock Program in writing of such correction. The manufacturer may also request a hearing pursuant to Rule 1340-03-06-.22.
- (7) The Annual License Renewal District Schedule is as follows:
- (a) Jackson District - License Expires March 31<sup>st</sup> ;
  - (b) Memphis District - License Expires April 30<sup>th</sup> ;
  - (c) Cookeville District - License Expires May 31<sup>st</sup> ;
  - (d) Chattanooga District - License Expires June 30<sup>th</sup> ;
  - (e) Nashville District – License Expires August 31<sup>st</sup> ;
  - (f) Fall Branch District – License Expires September 30<sup>th</sup> ;
  - (g) Knoxville District - License Expires October 31<sup>st</sup> ;
  - (h) Lawrenceburg District - License Expires November 30<sup>th</sup>.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-417, and 55-10-425.

#### **1340-03-06-.06 GENERAL REQUIREMENTS.**

- (1) The rules, regulations, and requirements established herein are minimums and may be exceeded by the service center or manufacturer. The Ignition Interlock Program reserves the right to implement new procedures and requirements not found in these rules on an interim basis until these rules are amended in order to comply with the requirements of any new legislation passed by the Tennessee General Assembly. Licensed manufacturers, subcontractors, and service centers will be notified of

the new procedures or requirements in writing prior to the enactment of said procedure or requirement. Manufacturers, subcontractors, or service centers may not waive any requirement of these rules or pass any requirement imposed on the manufacturer, subcontractor, or service center to a program participant through contract or other means.

- (2) The service center and manufacturer shall comply with all applicable state laws, administrative rules, and regulations.
- (3) The manufacturer shall have the ability to accurately submit automated reports via a web service program into A-List. All automated reports must be submitted to A-list within two (2) working days of performing any device installation, removal, or monitoring check. Upon request of the Ignition Interlock Program, any rejected, incomplete, or missing reports must be corrected and resubmitted into A-List within a reasonable period of time not to exceed seven (7) calendar days.
- (4) The manufacturer shall actively participate in all reoccurring testing in A-list until they have met the updated requirements and can accurately submit automated reports via a web service program to A-list. Only the data required by the most recent A-list schema should be submitted. Submission of additional data not required by the most recent A-list schema may cause errors resulting in the rejection of the report being uploaded to A-list. Failure to maintain the ability to accurately submit automated reports into A-list may result in the suspension of any new device installations until the manufacturer is able to provide proof that the automated reporting issue has been corrected.
- (5) The manufacturer shall provide and maintain their business within the United States. The manufacturer shall maintain the confidentiality of all Tennessee customer accounts and personal information. The manufacturer shall not provide any customer accounts or personal information to any third party for the purpose of reviewing or reporting customer compliance.
- (6) A service center shall provide and maintain their business within the geographical boundaries of Tennessee. The location will be easily accessible and open during normal business hours. The service center's hours of operation and the manufacturer's twenty-four (24) hour emergency phone number shall be posted in a conspicuous place at the service center's office where it is clearly visible to the program participants from the exterior of the building. If at any time the service center changes hours of service, the Ignition Interlock Program shall be immediately notified.
- (7) Licensed manufacturers must open and maintain service centers at a distance no greater than one hundred (100) miles from each other. If an existing service center closes, the manufacturer shall have thirty (30) days to submit an application for a replacement service center within that immediate geographic area.
- (8) A service center shall comply with all minimum requirements for installation and any other Tennessee state and federal laws applicable to BAIDs and manufacturers.
- (9) All BAIDs that are required by Tennessee courts, or the Department shall have all calibrations, data downloads, and servicing completed at a licensed service center's fixed facility within Tennessee unless otherwise authorized by the Ignition Interlock Program.
- (10) All BAIDs that are required by Tennessee courts, or the Department shall only be installed and removed at a licensed service center's fixed facility within Tennessee unless otherwise authorized by the Ignition Interlock Program.
- (11) A manufacturer may request approval to recover a BAID after ninety (90) consecutive delinquent days. The manufacturer may only remove the delinquent BAID at an off-site location upon approval by the Ignition Interlock Program. The manufacturer and service center will hold the Department and the State of Tennessee harmless from any liability resulting from the recovery of a BAID pursuant to this subsection. The option to recover a BAID for delinquency must have been included in the contract signed by the program participant in order to be approved by the Ignition Interlock Program.

- (12) A manufacturer may utilize a subcontractor for responsibilities including but not limited to:
  - (a) Service Center recruitment and support;
  - (b) Participant scheduling of services;
  - (c) Participant billing and invoicing;
  - (d) Providing participant customer service;
  - (e) Marketing – clients, probation departments, DUI attorneys, etc.
- (13) A manufacturer shall not utilize a subcontractor for the following responsibilities:
  - (a) As a manufacturer's representative to serve as a direct point of contact for the State;
  - (b) The submission of applications for new or existing service centers or technicians;
  - (c) The required initial training of service center technicians;
  - (d) The automated reporting of participant files into A-list;
  - (e) The determination of participants' meeting the program compliance requirements.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.07 APPROVED BAIID REQUIREMENTS.**

- (1) Only BAIIDs that are alcohol specific fuel cell devices may be used. These must be capable of recording, through a reliable electronic information system, all reports required in these rules. It is mandatory that all BAIIDs meet or exceed the most recent model specifications established by the NHTSA. Adherence to these standards must be verified by a laboratory which subscribes to the quality code of the International Standards Organization of the American National Standards Institute, or another commensurate laboratory approved by the Ignition Interlock Program.
- (2) All BAIIDs installed must include a camera component to comply with T.C.A. §§ 55-10-417 and 55-10-425. All BAIID cameras that are not integrated into the handset shall be mounted on the passenger side of the vehicle cabin facing toward the driver.
- (3) The camera must be capable of providing a wide-angle view of sufficient quality so the person providing a breath sample and his/her position in the vehicle can be clearly identified.
- (4) The camera must be capable of providing a photo or digital image of sufficient quality and resolution so that the operator can be clearly identified in all lighting conditions including but not limited to extreme brightness, darkness, and low light conditions.
- (5) A photo should be captured when:
  - (a) An initial test is requested;
  - (b) A random retest is requested;
  - (c) Any time a breath sample is provided; or
  - (d) Any time when circumvention of the device is detected.
- (6) All BAIIDs installed on a participant's vehicle must be equipped with and utilize Real-Time Reporting.
- (7) All new BAIID installations occurring on or after January 1, 2024, shall employ global positioning system (GPS) technology that will geotag the motor vehicle's location whenever an initial startup test, a random retest, or a skipped test occurs, or when circumvention of the device is detected. The GPS

technology shall not be used for continuous tracking of the vehicle.

- (8) A breath alcohol content (BAC) of .020 or greater shall prevent the vehicle from starting and constitutes a failure for retests.
- (9) The BAID must allow the participant to provide a minimum of three (3) retests within ten (10) minutes of any failed initial test or random retest.
- (10) The first random retest should occur five (5) to fifteen (15) minutes after the initial start-up and subsequent tests should occur fifteen (15) to forty-five (45) minutes from the conclusion of the previous retest.
- (11) All installed devices must cause the vehicle's horn to blow and the hazard lights to flash upon a violation of a random retest and stop only upon the ignition being turned off or a passed retest.
- (12) A violation will be recorded for any of the following reasons:
  - (a) The engine is started without passing a breath test or while in a lockout state;
  - (b) The user fails or refuses to take a random retest;
  - (c) The user delivers a breath sample above the violation level of .020;
  - (d) The user tampers with or attempts to circumvent the device,
  - (e) The user fails to return for service within the required thirty (30) day calibration period, or
  - (f) Unauthorized removal of the device before the end of the required ignition interlock usage period.
- (13) Once five (5) violations have occurred, the user must return for service within seventy-two (72) hours, or the device will lock out and prevent the vehicle from starting.
- (14) All installed BAIDS must require calibration and monitoring within thirty (30) days after the initial installation and at least every thirty (30) days thereafter. If the user fails to return for service within the required thirty (30) day calibration period, the device must lock out and prevent the vehicle from starting. The thirty (30) day BAID calibration schedule is calculated, to begin with, the date of the previous calibration service.
- (15) The service center or manufacturer is authorized to issue a temporary lockout code to a participant whose device is in a permanent lockout mode. The temporary lockout code will allow the vehicle to be started one (1) time, provided a proper breath test is submitted and passed, and should be valid for a period of time not to exceed two (2) hours. The temporary lockout code shall only be issued one (1) time in a thirty (30) day period for the purpose of allowing a participant to drive their vehicle to a service center for service.
- (16) The BAID manufacturer must notify the Ignition Interlock Program before any software changes are made to the BAID.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.08 BAID BREATH REDUCTIONS & MEDICAL WAIVERS.**

- (1) All breath reductions of the BAID shall be approved by the Ignition Interlock Program. The required breath volume shall be set at 1.5 liters unless granted a medical exemption. If a reduction is approved the required breath volume shall not be set at less than 1.2 liters. The process for requesting a medical exemption breath reduction is as follows:
  - (a) The client must obtain a plain-language statement from their primary care physician or pulmonary specialist that details why they are unable to utilize the BAID.

- (b) The participant shall request permission from the Ignition Interlock Program to lower the required breath volume on the BAID by sending the physician's statement to the Ignition Interlock Program at 1150 Foster Avenue, Nashville, TN 37210, by U.S. mail or electronically to [safety.interlock@tn.gov](mailto:safety.interlock@tn.gov).
  - (c) The Ignition Interlock Program will review the documentation and forward approvals to the manufacturer.
  - (d) The manufacturer will advise the service center on how to calibrate the BAID.
- (2) If a person is unable to produce enough breath volume to operate an ignition interlock device, then the person may apply to the department for a waiver of the ignition interlock requirement.
- (3) An application for a waiver must be on a form developed by the department, and the following documents must be submitted with the application:
  - (a) A statement by an ignition interlock provider, dated within sixty (60) days of the application, that an ignition interlock device cannot be adjusted to allow the person to use the device and register the person's breath alcohol level; and
  - (b) Statements from at least two (2) licensed physicians who have examined the person at an in-office appointment, dated within sixty (60) days of the application, indicating that the person has a medical condition that renders the person unable to provide a deep lung breath sample for analysis by an ignition interlock device.
- (4) A person who fails to submit the documents required at the time of application must be provided an additional thirty (30) days to submit the documents before the department may deny the waiver for the failure to submit the required documents.
- (5) Within sixty (60) days after receipt of a waiver application and all required documents, the department shall review the application and the statements from the interlock provider and the physicians and determine if a person is unable to operate an ignition interlock device and the failure to grant an interlock waiver would constitute a hardship based on the person's work or medical needs.
- (6) Upon determining that a person is unable to operate an ignition interlock device and the failure to grant a waiver would constitute a hardship, the department may issue a waiver of the person's ignition interlock requirement. The waiver form issued by the department must specify the necessary times and places of permissible operation of a motor vehicle for the limited purposes of going to and from:
  - (a) Work at the person's regular place of employment;
  - (b) The office of the person's probation officer or other similar location for the sole purpose of attending a regularly scheduled meeting or other function with the probation officer by a route to be designated by the probation officer;
  - (c) A court-ordered alcohol safety program;
  - (d) A college or university in the case of a student enrolled full-time in the college or university;
  - (e) A court-ordered outpatient alcohol and drug treatment program;
  - (f) The person's regular place of worship for regularly scheduled religious services conducted by a bona fide religious institution as defined in § 48-101-502(c); and
  - (g) Medical treatment of the person or an immediate family member or provision of care for the person or an immediate family member suffering from a serious illness.
- (7) The time and geographic restrictions must be required for the entire period of license revocation or the entire period an ignition interlock device was required based on the law at the time of the person's conviction.

- (8) A person who receives a waiver must carry the waiver form at all times while the person is operating a motor vehicle. A person who does not have the waiver form while operating a motor vehicle is considered to be driving on a revoked license.
- (9) A person who has been granted a waiver form by the department must take the form, accompanied by a fee of sixty-five dollars (\$65.00), to a driver services center to apply for a restricted driver's license.
- (10) The denial of a waiver may be appealed in accordance with the rules and procedures for appeals through the department's driver improvement division. The department shall not issue a license without an ignition interlock restriction during the pendency of the appeal.
- (11) The Medical Waiver allows a person to have the Code 16 – Ignition Interlock Restriction removed from their license and requires that a Code 15 – Geographic Restricted license be issued to the person for the duration of their Ignition Interlock Usage Period and/or License Revocation Period.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.09 SERVICE CENTER–OWNER/TECHNICIAN REQUIREMENTS.**

- (1) Service center owner(s) shall not be an employee of the Department; shall not have been convicted of a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency within ten (10) years prior to the date of the application or any conviction of vehicular homicide or vehicular assault regardless of the date of conviction; shall have and maintain a valid driver license; shall be at least eighteen (18) years of age and shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program.
- (2) Technician(s) who works for a service center shall not be an employee of the Department, shall not have been convicted of a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency within ten (10) years of the date of the application or of vehicular homicide or vehicular assault regardless of the date of conviction; shall have and maintain a valid driver license; shall be at least eighteen (18) years of age and shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program. The technician shall not have been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application, where none of these convictions occurred within five (5) years from the date of application or renewal. At no time may a technician who is required to operate a vehicle equipped with a BAIID utilize a device that the technician is licensed to service.
- (3) Falsification on any application shall be sufficient grounds for denial of the application.
- (4) The manufacturer shall train all technicians in a timely manner to ensure the proper installation, servicing, and removal of the device prior to the inspection of the facility. The training of technicians shall include hands-on training by a representative of the manufacturer. Once the technicians are properly trained the manufacturer shall submit a Technician's Application and a certificate of training to the Ignition Interlock Program by U.S. mail or electronically. Technicians must be certified by the manufacturer and licensed by the Department prior to performing any type of ignition interlock device related services. The licensed technician shall only install and service the approved BAIID at fixed facilities that have been inspected and approved by the Ignition Interlock Program.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.10 BAIID INSTALLATION REQUIREMENTS.**

- (1) A BAIID shall be installed, serviced, and removed in all makes and models of motor vehicles only by technicians who have been licensed by the Ignition Interlock Program and have been certified by the manufacturer of the BAIID in the installation, servicing, and removal of such device.
- (2) Under no circumstances will the participant be allowed to watch the installation or removal of the BAIID. Adequate security measures shall be taken to ensure that the installations and removals of BAIIDs shall not be visible to participants.



- (3) A reference and problem-solving guide developed by the manufacturer shall be given to the program participant at the time of the installation. This guide shall include information on the correct operation of the BAID, a twenty-four (24) hour customer service phone number, service procedures, emergency procedures, and how the BAID detects non-compliance.
- (4) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to materials such as tamper-proof seals, installation instructions, and files of other BAID program participants.
- (5) The service center is required to inspect all vehicles prior to installation and to determine whether the vehicle is in acceptable mechanical and electrical condition. For reasons of safety, a BAID will not be installed unless the vehicle is capable of supporting such installation. The service center and the manufacturer shall maintain a log of such inspections.
- (6) The service center shall follow all written instructions from the manufacturer for the BAID installation and removal. Installations shall be executed according to accepted trade standards and the manufacturer's instructions.
- (7) Tamper-proof seals should be on every connection and must be proprietary to the manufacturer. A visual inspection should be done during each service visit to affirm that the seals are intact.
- (8) Removal of the BAID shall be carried out so that the ignition may be operated in the same manner as before installation of the BAID. All severed wires will be permanently soldered and insulated with a heat-shrink wrap or its equivalent. Reasonable wear and tear are expected.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.11 ORIENTATION OF PROGRAM PARTICIPANT.**

- (1) The service center shall conduct an orientation on the correct use of the BAID for the program participant and for any family member or friend who may drive the vehicle. Program participants will be informed of the need to ensure that all vehicle users are adequately trained, which may require a subsequent visit.
  - (a) The service center shall advise the BAID participant that residual mouth alcohol is the responsibility of the offender to prevent and avoid.
  - (b) The service center shall advise the BAID participant that all breath tests must be performed within view of the camera.
- (2) During orientation, the service center shall provide the participant with a copy of the BAID Program Requirements brochure and make the participant aware of the compliance-based removal requirements of T.C.A. § 55-10-425, as well as the Ignition Interlock Program website <https://www.tn.gov/safety/ignitioninterlock>, where the participant may read the entire compliance-based removal law. The summary of this law provided by the Ignition Interlock Program shall be posted in a conspicuous place at the service center's office.
- (3) At the end of orientation, the service center shall complete the Participant Training Checklist form developed and published by the department. A signed copy of this completed form will be provided to the interlock program participant and the service center shall place the original in the participant's file.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.12 PROOF OF INSTALLATION OF A BAID.**

- (1) Within two (2) working days of installing a BAID, the manufacturer shall submit the installation report to A-List. This notice shall include:
  - (a) Name (as it appears on the participant's driver's license), date of birth, and driver's license number of the Ignition Interlock Program participant;

- (b) Vehicle make, model, and year, Vehicle Identification Number (VIN), of the vehicle in which the BAID is installed; and
  - (c) BAID model number and BAID serial numbers of the handset, camera, and relay.
- (2) If the participant is on supervised probation, the manufacturer will notify Probation of the installation of the BAID by U.S. mail or electronically.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.13 MONITORING REQUIREMENTS.**

- (1) At the time of servicing or calibration of the BAID, the technician is required to conduct an inspection to determine if there is evidence of tampering or circumventing the device. The technician shall conduct a manual test of the BAID to confirm that the vehicle cannot be started prior to the successful completion of the initial startup test. The technician should also confirm that the tamper-proof seals are intact. A technician shall not conduct a calibration or service any BAID unless the vehicle is present at the approved facility and is in mechanically operable condition. Participants shall not be allowed to remove or install any component of the BAID during the time of servicing or calibration.
- (2) Within two (2) working days of performing any removal of a device, whether the removal was authorized or unauthorized, the manufacturer shall submit a report of the removal in A-List and if applicable also to Probation.
- (3) Servicing, inspecting, and monitoring of each BAID and all of its components shall occur thirty (30) days after the initial installation and at least every thirty (30) days thereafter. The thirty (30) day BAID calibration schedule is calculated, to begin with, the date of the previous calibration service. The technician shall only service, calibrate, or remove the BAID at a service center located within the geographical boundaries of Tennessee or at a location that has been approved by the Ignition Interlock Program.
- (4) The manufacturer shall maintain records on every program participant, including the results of every monitoring check. Violations or evidence of non-compliance, and the reasons for such, will be submitted to A-List within forty-eight (48) hours of detection.
- (5) Within two (2) working days of performing a monitoring check, the manufacturer shall submit the following information by electronic transmission to A-List and, if applicable, to Probation:
  - (a) BrAC above 0.020%;
  - (b) Evidence of tampering or circumventing the device;
  - (c) Failing to take or skipping a random retest if the driver is in the vehicle;
  - (d) Failing a random retest;
  - (e) Removing or causing the removal of the BAID at any time during ignition interlock usage period;
  - (f) Failing to appear at the BAID service center when required for calibration, monitoring, or inspection of the device;
  - (g) Name and driver's license number of the participant.
- (6) If the use of a BAID is a bond condition or a requirement of supervised probation, under no circumstance shall a BAID be removed without authorization from the court or Probation. This only applies to participants not required to have a BAID under T.C.A. § 55-10-425 or by the Department.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.14 REPAIR, REPLACEMENT, OR VEHICLE TRANSFER OF A BAID.**

- (1) The service center or manufacturer shall respond to all service inquiries by phone within one (1) hour of initial contact during normal business hours. Repair or replacement of any BAID shall be conducted within forty-eight (48) hours of initial contact. The manufacturer shall notify the Ignition Interlock Program of any changes in the BAID by submitting a transfer report into A-List within forty-eight (48) hours of the changes. The transfer report must include the vehicle year, make, model, VIN, license plate number, and odometer reading, as well as the BAID's model number; serial numbers of the handset, relay, and camera; and the next calibration date.
- (2) The service center shall be available to answer questions and troubleshoot any mechanical problems relating to the BAID in the vehicle or to repair/replace an inoperable or malfunctioning BAID during normal business hours.
- (3) Customer service call centers shall not be outsourced to third parties located outside of the United States. Customer service providers must be knowledgeable of all Tennessee specific requirements and must be able to communicate accurate information to program participants.
- (4) A manufacturer or subcontractor shall respond in writing to all inquiries from the Ignition Interlock Program within forty-eight (48) hours of initial contact during normal business hours.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.15 COMPLIANCE-BASED REMOVAL/NON-COMPLIANCE REPORT**

- (1) Program Compliance Criteria:
  - (a) A person who is required to install and use only a vehicle equipped with a functioning ignition interlock device pursuant to T.C.A. § 55-10-425 is prohibited from violating any of the following conditions of T.C.A. § 55-10-425(c) during the entire ignition interlock usage period:
    1. Removing or causing to be removed the ignition interlock device from the motor vehicle;
    2. Failing to appear at the ignition interlock device provider when required for calibration, monitoring, or inspection of the device; and
    3. Tampering with or circumventing the ignition interlock device.
  - (b) Unless as otherwise provided by an approved toll period per T.C.A. § 55-10-425(h), and as described in section 1340-03-06-16 of this Rule, the person must maintain the device in working order for the entire ignition interlock usage period.
  - (c) Failure to comply with the above requirements of T.C.A. § 55-10-425(c) will result in the entire ignition interlock usage period starting over from the date that compliance was reestablished.
  - (d) During the final one-hundred-twenty (120) day period of an ignition interlock usage period, the person shall not violate any of the following conditions of T.C.A. § 55-10-425(d):
    1. Attempt to start the motor vehicle with a breath alcohol concentration in excess of the two-hundredths of one percent (0.02%) blood alcohol concentration; provided, however, that a person is not in violation for attempting to start the motor vehicle, if a subsequent retest within ten (10) minutes shows a breath alcohol concentration of two-hundredths of one percent (0.02%) or less and review of the digital images associated with each test confirms that the same person performed both tests;
    2. Failing to take or skipping a retest when required by the ignition interlock device; provided, however, that a person is not in violation for failing to take or skipping a retest if a review of the digital images associated with the test confirms that the motor vehicle was not occupied by the driver at the time of the retest;

3. Failing a retest required by the ignition interlock device with a breath alcohol concentration in excess of two-hundredths of one percent (0.02%); provided, however, that a person is not in violation for failing a rolling test if a subsequent retest within ten (10) minutes shows a breath alcohol concentration of two-hundredths of one percent (0.02%) or less and review of the digital images associated with each test confirms that the same person performed both tests; and/or
4. Removing the ignition interlock device from the motor vehicle, except for necessary maintenance, replacement, or repair as determined by the department, or as allowed by an approved toll period per T.C.A. § 55-10-425(h), and as described in section 1340-03-06-16 of this Rule.

(2) Program Non-Compliance:

- (a) If at any time during the ignition interlock usage period, the department determines that the person has committed a violation of T.C.A. § 55-10-425(c), as described above in the Program Compliance Criteria section of this Rule, then the ignition interlock usage period must start again from the date compliance was re-established.
- (b) If at any time during the final one hundred twenty (120) days of the ignition interlock usage period the department determines that the person has committed a violation of T.C.A. § 55-10-425(d)(1)(A)-(C) as described above in the Program Compliance Criteria section (d)(1)-(3) of this Rule, then the one-hundred-twenty-day (120) period must start again from the date of the violation. The ignition interlock provider should review the entire final one-hundred-twenty-day period, including the data from the final download, prior to restarting the final one hundred twenty (120) days of the ignition interlock usage period for a violation of this section. The restart should be due to the most recent violation under this section.
- (c) If at any time during the final one hundred twenty (120) days of the ignition interlock usage period, the department determines that the person has committed a violation of T.C.A. § 55-10-425(d)(1)(D), as described above in the Program Compliance Criteria section (1)(d)(4) of this Rule, then the entire ignition interlock usage period must start again from the date compliance was re-established.
- (d) If the ignition interlock provider notifies the person that the provider's records indicate the person has not complied with the conditions of T.C.A. § 55-10-425(c) or (d), listed in the Program Compliance Criteria section of this Rule, then the person may either accept the extension of the ignition interlock requirement or request that the provider reconsider the finding of noncompliance and consider evidence of compliance provided by the person. If the provider confirms the finding of noncompliance, then the person may either accept the extension of the ignition interlock requirement or request an administrative compliance review by the department.
- (e) A person who has had their ignition interlock usage period extended by a provider may request, in writing, an administrative compliance review by the department. Any evidence of compliance the person intends to present to the department must be included with the written request.
- (f) The department must review the request, including any evidence provided by the person and the records provided by the provider, within thirty (30) days of receiving the request. All evidence to be considered shall be submitted into the Department's Zendesk tracking system where it can be retained if needed in the event of a request for a judicial review. Following the department's review, the department must notify the person and the provider of the department's determination in writing.
- (g) If the department determines that the person has been compliant as required under T.C.A. § 55-10-425, then the department must issue an Interlock Removal Form.
- (h) If the department determines that the person was not in compliance for the required periods, then the department must inform the person of the determination in writing. The person may

seek judicial review of the department's administrative compliance review determination as provided by T.C.A. § 4- 5-322.

(3) Successful Certificate of Compliance:

- (a) Upon completion of the ignition interlock usage period person must take the motor vehicle to an ignition interlock provider for a final download of the person's data file and a determination as to whether the person has successfully completed the ignition interlock usage period without violations of T.C.A. § 55-10-425(c) and whether the final one-hundred-twenty-day period was completed without violations of T.C.A. § 55-10-425(d).
- (b) The ignition interlock provider must send the data file from the person's final download to the department within two (2) business days.
- (c) If the person has successfully completed the ignition interlock usage period without violations of T.C.A. § 55-10-425(c) and the final one-hundred-twenty-day period was completed without violations of T.C.A. § 55-10-425(d), then the ignition interlock provider must issue a Compliance Determination Form to the person. If the person has not successfully completed the ignition interlock usage period without violations of T.C.A. § 55-10-425(c), or the final one-hundred-twenty-day period was not completed without violations of T.C.A. § 55-10-425(d), then the ignition interlock provider must notify the person of non-compliance and the resulting extension of the ignition interlock requirement on the Compliance Determination Form. The ignition interlock provider must use the Compliance Determination Form developed and published by the department.
- (d) If the ignition interlock provider issues a Certificate of Compliance, then the ignition interlock division within the department must issue an Interlock Removal Form authorizing the removal of the ignition interlock restrictions from the person's driver's license and the removal of the ignition interlock device from the person's motor vehicle, provided the department's review of the person's records show the person has been in compliance during the ignition interlock usage period.
- (e) The person may take the Interlock Removal Form to a driver services center and apply for the removal of the ignition interlock requirements and reinstatement of the person's driver's license or the issuance of a photo identification license. If the person meets all requirements for driver's license reinstatement and pays all reinstatement fees, then the department must reinstate the driver's license.

(4) Compliance-Based Removals:

- (a) Prior to lawfully removing the BAID of a compliance-based program participant, the manufacturer must first receive written authorization from the Ignition Interlock Program. Once the manufacturer receives written authorization from the Ignition Interlock Program for removal of the BAID, the manufacturer must contact their appropriate service center to authorize the removal of the BAID from the program participant's vehicle.
- (b) When removing an ignition interlock device on or after July 1, 2016, a licensed ignition interlock provider may in good faith rely on the participant's Interlock Removal Form issued by the Department, that removal of the ignition interlock device is lawful.
- (c) A participant is lawfully required to only operate a motor vehicle that is equipped with a functioning BAID until they obtain a valid driver's license without the ignition interlock restriction (code 16).

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

**1340-03-06-.16 TOLL OF THE REQUIRED CONSECUTIVE DAY PERIOD.**

- (1) A participant whose vehicle is inoperable due to damage from an accident or other uncontrollable circumstance where the participant's intoxication was not a proximate cause; or due to repairs based on normal wear and tear of a vehicle, or due to a recall, may request the Ignition Interlock Program

- toll the required consecutive day period, beginning on the date of the incident that led to the vehicle to be inoperable. The participant must submit proof to the manufacturer that the vehicle was involved in a traffic crash, is being repaired, or was rendered inoperable due to some other circumstance beyond the participant's control.
- (2) If the vehicle was in an accident and a law enforcement agency issued a crash report, the crash report must be submitted. Other proof may consist of, but is not limited to:
    - (a) A written statement from the insurance company regarding repairs;
    - (b) A written statement from a repair shop showing the damage being repaired and the estimated time of completion for repairs; or
    - (c) Other documentation acceptable to the Ignition Interlock Program.
  - (3) The manufacturer shall forward the request and documentation to the Ignition Interlock Program within five (5) business days of receipt.
  - (4) The Ignition Interlock Program shall notify the participant and the manufacturer by U.S. mail or electronically if the tolling period has been granted or denied, and, if denied, the reason for the denial.
  - (5) At the end of any thirty-day toll period, if no new request has been submitted and granted, then the required consecutive day period shall resume with the participant being required to maintain a BAID for the period of time that was remaining on the day the tolling period began.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-417, and 55-10-425.

#### **1340-03-06-.17 FEES.**

- (1) Whenever a participant ordered to install a BAID pursuant to T.C.A. § 55-10-409 or § 55-10-417 asserts to the court that the participant is indigent and financially unable to pay for a BAID, the court shall conduct a full and complete hearing as to the financial ability of the participant to pay for such device and, thereafter, make a finding as to the indigency of such participant. Any participant who has been declared indigent by the court pursuant to T.C.A. § 55-10-419(d), upon providing a copy of the Proof of Indigency Form signed by the judge, shall not be refused service by a manufacturer as long as funds are available in the Electronic Monitoring Indigency Fund (EMIF). The manufacturer shall submit the required documentation to the State Treasury Department to recover the costs associated with the lease, purchase, installation, removal, and maintenance of BAIDs or with any other cost or fee associated with a BAID required by this part.
- (2) The fees for leasing, buying, monitoring, servicing, installing, and removing the BAID shall be at a reasonable rate set by the manufacturer.
- (3) Manufacturers shall charge reasonable and customary fees, not to exceed an hourly rate of one hundred dollars (\$100.00) per hour with a three (3) hour maximum, for the installation of a BAID.
- (4) Manufacturers shall charge reasonable and customary fees, not to exceed a total of one hundred and twenty-five dollars (\$125.00) per month for leasing, monitoring, and maintenance of BAIDs. If a participant is extended in the program due to non-compliance, the fee for the leasing, monitoring, and maintenance of the BAID will not exceed five dollars (\$5.00) per day or one hundred and twenty-five dollars (\$125.00) per month during the extension, whichever is less.
- (5) Manufacturers shall charge reasonable and customary fees, not to exceed an hourly rate of one hundred dollars (\$100.00) per hour with a one (1) hour maximum, for the removal of the BAID.
- (6) Manufacturers shall charge reasonable and customary fees, not to exceed a total of fifty dollars (\$50.00), for resetting a BAID that is in permanent lockout mode due to five (5) or more violations.
- (7) Manufacturers may charge reasonable and customary fees, not to exceed a total of twenty-five dollars (\$25.00), for a temporary lockout code.

- (8) Manufacturers, subcontractors, or service centers may charge reasonable and customary late payment fees. A late payment fee shall only be applicable to balances that are at least thirty (30) days delinquent and shall not exceed five (5) percent of the total overdue monthly balance.
- (9) Manufacturers, subcontractors, or service centers may charge reasonable and customary fees, for any rescheduled, late, or missed appointments for service unless the customer has provided an adequate notice of a least twenty-four (24) hours on the previous workday. These fees shall not exceed the actual cost of the original scheduled service that was to be provided.
- (10) A manufacturer shall charge an annual administrative fee of twelve dollars and fifty cents (\$12.50) to each new BAIID user. This fee will be collected from each participant at the time of the installation of the BAIID and again annually for the duration of the ignition interlock usage period. The manufacturer shall submit all proceeds collected from the annual administrative fee by an ACH transfer to the Ignition Interlock Program by the tenth (10<sup>th</sup>) day of each month. The manufacturer will submit a monthly report listing the installation dates, participants' names, driver's license numbers, installing service center's names, and the total administrative fees collected by the tenth (10<sup>th</sup>) day of each month.
- (11) The fee rates shall be posted in a conspicuous place at the service center's office.
- (12) All manufacturers will pay a BAIID certification fee of five dollars (\$5.00) per BAIID per month by ACH transfer to the Ignition Interlock Program by the tenth (10<sup>th</sup>) day of each month. The manufacturer will submit a monthly report listing the name, date of birth, and BAIID installation date of all current participants as well as the total BAIID certification fees submitted for the month.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, 55-10-418, 55-10-423, and 55-10-425.

#### **1340-03-06-.18 FINANCIAL RESPONSIBILITY REQUIREMENTS.**

- (1) The manufacturer and subcontractor shall each maintain their own comprehensive general liability insurance in the amount of at least one million dollars (\$1,000,000.00) per occurrence with a three million dollars (\$3,000,000.00) aggregate total liability that shall cover defects or problems with product design and materials; workmanship during manufacture; and BAIID calibration, installation, use, and removal. The manufacturer shall provide the Ignition Interlock Program written notice forty-five (45) days prior to cancellation, material change, or lapse of the insurance policy.
- (2) The service center shall maintain comprehensive general liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) per occurrence with a three hundred thousand dollars (\$300,000.00) aggregate total liability that shall cover defects or problems with the BAIID calibration, installation, use, and removal. The manufacturer shall provide the Ignition Interlock Program written notice forty-five (45) days prior to cancellation, material change, or lapse of the insurance policy held by any of its service centers.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425

#### **1340-03-06-.19 LIABILITY.**

- (1) The manufacturer, subcontractor, and service center shall protect, save, and hold harmless the State, all State Departments, Agencies, Boards, and Commissions, as well as all officials, employees, agents, and servants of the State of Tennessee (all in their official and individual capacities, both current and former), from any and all claims, demands, expenses, and liability arising out of any omission by the service center or manufacturer in the performance of its duties set forth in the law or these rules.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.20 AUDITS AND INSPECTIONS.**

- (1) Service centers shall be subject to unannounced inspections and reviews of all records and to being temporarily placed out of service, suspension, or permanent revocation of their license if sufficient cause exists as determined by the Ignition Interlock Program that the service center does not meet the

requirements of any applicable law or these rules. The scope of service center inspections can be found on SF-1508 On-Site Inspection and SF-1512 On-Site Interim Inspection.

- (2) Service centers must maintain paper or electronic files on all participant's vehicle inspection reports and customer receipts for all installs, calibrations, removals, and servicing or repairs of the device.
  - (a) The files must be maintained for at least one (1) year after the participant has completed their interlock usage period, and
  - (b) The files must be accessible and provided to the inspector upon request at the time of any audit or service center inspection.
- (3) Service centers shall be subject to an accuracy check on their dry gas and wet bath equipment. The accuracy check by the Ignition Interlock Program will consist of:
  - (a) Verification that the certification label, lot number, and expiration date are on the dry gas tank;
  - (b) Verification of the empty wet bath solution bottle's lot number and expiration date for the current solution being used;
  - (c) Verification that the equipment is stored and used in an enclosed climate-controlled environment;
  - (d) Inspection of the tubing leading from the solution tower to the BAID for wet bath stations, ensuring:
    1. Maximum length of six (6) inches,
    2. No moisture, and
    3. Cleanliness.
  - (e) Verification that the wet bath solution is being changed after a maximum of thirty (30) days or thirty (30) calibrations, whichever comes first (Note: Service centers must maintain a log of the dates when the wet bath solution is changed; the log must also contain the solution lot number, bottle number, and BrAC value);
  - (f) Verification that the temperature of the wet bath solution is thirty-four (34) degrees Celsius at a quantity of five hundred (500) milliliters; and
  - (g) Verification that the BrAC in the dry gas and wet bath solution is accurate (.005 +/-) according to the manufacturer's QAP.
- (4) If the Ignition Interlock Program finds that the service center is not in compliance at the time of an interim or renewal inspection, a non-compliance fee will be assessed to the service center's manufacturer. The ACH will transfer all non-compliance fees to the Ignition Interlock Program. The manufacturer will submit a detailed payment report to the Ignition Interlock Program on the day that the non-compliance fees are paid. The report will contain a list of service centers incurring fees and the non-compliance fees associated with each.
  - (a) If the cause of non-compliance is a minor violation of these rules and is corrected immediately, the manufacturer(s) must pay a non-compliance fee of fifty dollars (\$50) for the inspection.
  - (b) If the cause of non-compliance is a more serious violation or it cannot be immediately corrected, the manufacturer(s) must pay a non-compliance fee of one hundred dollars (\$100) for the inspection.
- (5) Failing a facility inspection may delay a service center's re-inspection for a maximum of thirty (30) days.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.



### **1340-03-06-.21 DENIAL, SUSPENSION, OR PERMANENT REVOCATION OF A LICENSE.**

- (1) Failure to comply with any requirements set forth in the law or these rules may result in a penalty of:
  - (a) being placed temporarily out of service;
  - (b) being assessed a non-compliance fee; or
  - (c) the denial, suspension, or permanent revocation of the manufacturer, subcontractor, service center or technician's certification to:
    1. install BAIDS;
    2. inspect, BAIDS;
    3. remove BAIDS; and / or
    4. perform any actions in the state, which would include the installing, inspecting, or removing BAIDS.
- (2) Other reasons for denial, suspension, or permanent revocation may include, but are not limited to the following:
  - (a) Non-compliance with any of the minimum requirements stated in Chapter 1340-03-06;
  - (b) Providing false or inaccurate information to the Ignition Interlock Program;
  - (c) Assisting or enabling the participant's circumvention of or tampering with the BAID;
  - (d) Installing devices other than those supplied by the service center's manufacturer.
  - (e) Service center's failing to provide all required services to include, but not limited to, the installation, inspection, maintenance, and removal of the BAID.
- (3) If a manufacturer, subcontractor, service center, or technician's license is permanently revoked subsequent to the administrative hearing process, the manufacturer will be responsible for all costs associated with the removal of their BAIDS. Manufacturers aggrieved by the application of this rule have a right to request a hearing pursuant to Rule 1340-03-06-.202.
- (4) If a manufacturer, subcontractor, or technician's license or certification is revoked, suspended, or canceled for any reason in any other state, the manufacturer shall notify the Ignition Interlock Program within seven (7) days.
- (5) Submission of license fees and non-compliance fees will be the sole responsibility of the manufacturer for their respective subcontractors, service centers, and technicians. If a manufacturer is more than thirty (30) days delinquent in the payment of any required BAID administrative, certification, license, or non-compliance fees listed in Rules 1340-03-06-.03, 1340-03-06-.04, 1340-03-06-.14, 1340-06-06-.15, or 1340-03-06-.18, the manufacturer, subcontractor, or service center's license will be suspended until there is proof that all of the delinquent fees have been paid.
- (6) A licensee who violates a statute, rule, or regulation applicable to their license is subject to penalties determined by the department under Rule 1340-03-09.
- (7) The ignition interlock manufacturer must reimburse participant's monthly fees if extensions are overturned as determined by the department under Rule 1340-03-09.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.22 ADMINISTRATIVE HEARINGS.**

- (1) A manufacturer may request in writing an administrative hearing within ten (10) days of written notification of any suspension, permanent revocation, or denial of license or certification.
- (2) All hearings shall be recorded. A copy of the recording will be provided to the complainant upon receipt of a written request.
- (3) Only the Hearing Officer is allowed to ask questions during hearings, and the rules of evidence shall not apply.
- (4) The Hearing Officer shall open and preside over each hearing as follows:
  - (a) Read or permit a member of the Ignition Interlock Program to read the reason for suspension, permanent revocation, or denial of license or certification;
  - (b) Permit an attorney to attend and speak and answer questions on behalf of a manufacturer;
  - (c) Accept documentary proof;
  - (d) Hear the testimony of witnesses, if any;
  - (e) Ask questions, if deemed appropriate;
  - (f) Reconvene the hearing within seven (7) working days for other witnesses unable to attend, if deemed appropriate; and
  - (g) Conclude the hearing.
- (5) At the conclusion of the hearing, the Hearing Officer shall take the matter under advisement and render a written "Hearing Officer's Determination" within fifteen (15) working days of the date of the hearing.
- (6) Appeal of the Hearing Officer's Determination:
  - (a) In the event the manufacturer wishes to appeal the Hearing Officer's Determination, the party shall file a written appeal with the Administrative Support Bureau, Lieutenant Colonel, within fifteen (15) working days of the date of the Final Hearing Officer's Determination.
  - (b) The Administrative Support Bureau Lieutenant Colonel, acting as the Commissioner's Designee, shall review the Hearing Officer's Determination.
    1. Such review shall be solely on the record compiled by the Hearing Officer, which shall include the recording of the hearing and any documentation submitted during the hearing.
    2. The Lieutenant Colonel shall review the record and render a written decision in thirty (30) working days.
    3. Such decision shall be the final decision of the Department.
- (7) Any party wishing to appeal the Administrative Support Bureau Lieutenant Colonel's decision shall have sixty (60) days from the date of the decision to file a Petition for Review in the Chancery Court of Davidson County, pursuant to T.C.A. § 4-5-322.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: June 6, 2023

Signature: *Elizabeth R. Stroecker*

Name of Officer: Elizabeth Stroecker

Title of Officer: Director of Legislation

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**RULES OF  
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY  
HIGHWAY PATROL DIVISION**

**CHAPTER 1340-03-06  
RULES OF IGNITION INTERLOCK DEVICE PROGRAM  
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**1340-03-06-.01 PURPOSE AND SCOPE.**

To establish uniform statewide minimum standards for ignition interlock devices, for the certification and licensing of ignition interlock device manufacturers, subcontractors, service centers, and technicians and for program participant monitoring pursuant to T.C.A. §§ 55-10-417, 55-10-418, and 55-10-425.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~Administrative History: Original rule filed December 17, 2012; effective May 31, 2013. Amendments filed February 19, 2020; effective May 19, 2020.~~

**1340-03-06-.02 DEFINITIONS.**

- (1) Accuracy Check - confirming the calibration of the equipment used for the BAIID's calibration.
- (2) Administrative Fee - a fee collected by the manufacturer from each participant.
- (3) A-List - the Department ~~of Safety and Homeland Security~~'s secure data reporting system.
- (4) Breath Alcohol Concentration (BrAC) - the amount of alcohol expressed in weight per volume (w/v) of breath based upon grams of alcohol per 210 liters (L) of breath.
- (5) Breath Alcohol Ignition Interlock Device (BAIID) - a device that is designed to allow a driver to start a vehicle if the driver's BrAC is below the set point and to prevent the driver from starting the vehicle if the driver's BrAC is at or above the set point.
- (6) Breath Reduction – Reducing the required breath volume for a test sample from 1.5 liters to 1.2 liters of breath volume per test sample due to a doctor diagnosed medical condition.
- (7) Calibration – the process of testing and/or adjusting the BAIID to ensure accuracy by using a ~~wet bath or~~ dry gas standard as defined by the current National Highway Traffic Safety Administration (NHTSA) model specifications for calibration units. A wet bath simulator should not be utilized as the primary method for conducting BAIID calibrations and should only be used for calibrations when a dry gas standard cannot be obtained due to abnormal supply chain issues.
- (8) Camera - a feature of the device that incorporates photo identification or digital images of the person who is providing the breath test in all light conditions.

- (9) Certificate of Compliance - a certificate issued into A-list by the manufacturer which indicates that a participant has been compliant with the program conditions for the required period.
- (10) Circumvent - to bypass the correct operation of the BAIID. ~~by starting the vehicle without being in view of the camera and first providing a breath test.~~
- (11) Commissioner - the Commissioner of the Tennessee Department of Safety and Homeland Security.
- (12) Compliance Determination Form – a form created by the Department that the manufacturer must use to notify the participant of compliance or non-compliance and the resulting extension of the ignition interlock requirement usage period.
- (13) Compliance-Based Removal - the authorized removal of the BAIID as determined by the participant meeting terms set by T.C.A. § 55-10-425.
- (14) Department - the Tennessee Department of Safety and Homeland Security.
- (15) Hearing Officer - the officer designated by the Commissioner to preside over administrative hearings.
- (16) Ignition Interlock Program - the Department of Safety and Homeland Security's program of regulating BAIIDs, manufacturers, service centers, and technicians in the State of Tennessee.
- (17) Ignition Interlock Provider – A BAIID manufacturer that is licensed by the Department pursuant to T.C.A. § 55-10-420.
- (18) Ignition Interlock Service Center Inspection Checklist - a form (SF-1535) developed and published by the Ignition Interlock Program to be completed by the manufacturer or service center prior to initial and/or annual renewal inspection.
- (19) Ignition Interlock Usage Period – A three-hundred-sixty-five-consecutive-day period or the entire period of the person's driver's license revocation, whichever is longer.
- (20) In Writing – means either electronically or by regular mail.
- (21) Licensing Period – The initial licensing period for a manufacturer, subcontractor, service center, or technician may be shorter or longer than one (1) year for any new applicant. This is to allow the Ignition Interlock Program to sync all license expirations and renewals with the Annual License Renewal District Schedule. The initial license application fee will be prorated at a monthly rate beginning on the date of the application. Once the license expiration and renewal cycle are in sync with the Annual License Renewal District Schedule, all subsequent licensing periods will be valid for a period of one year and will expire on the last day of the month. The Annual License Renewal District Schedule form is developed and published by the Ignition Interlock Program.
- (22) Manufacturer - a person or organization responsible for the design, construction, and/or production of the BAIID, which has been approved and ~~certified~~ licensed by the Ignition Interlock Program as meeting all of the minimum requirements set forth in these rules.
- ~~(21) Manufacturer Certificate of Compliance – a certificate of compliance issued by the manufacturer to a participant who has been compliant with the program conditions for the required period.~~
- (23) Manufacturer/Service Center Non-Compliance Fee - a fee charged to the manufacturer for non-compliance with any of the requirements stated in Chapter 1340-03-06.

- (24) Manufacturer Representative - an individual designated by the manufacturer as a direct point of contact for the ignition interlock program administrator in the State of Tennessee.
- (25) Medical Waiver – A waiver issued by the Department to a person who has been diagnosed by two or more physicians as being unable to produce enough breath volume to operate an ignition interlock device after a breath reduction setting adjustment.
- (26) Non-Compliance - failure to meet the minimum requirements set forth in state law, these rules, a court order, or the device configuration requirements.
- (27) Normal Business Hours - standard ~~eight (8) hour~~ workdays of Monday through Saturday between the hours of 7:00 am and 7:00 pm, at a minimum of four (4) hours per day and five (5) days per week, excluding state and federal holidays.
- (28) Participant - an individual who has been ordered by a court or the Department pursuant to the provisions of T.C.A. § 55-10-417 to operate a motor vehicle that has been equipped with a functioning BAID.
- (29) Permanent Lockout - a condition where the device will not accept a breath test until serviced.
- (30) Permanent Revocation - the indefinite revocation of an entity's or individual's license or ability to provide ignition interlock services or perform the actions authorized under this section.
- (31) Probation - an entity appointed to investigate, supervise, and report on the conduct of program participants.
- (32) Program Administrator - an individual who is the direct point of contact with the general public, current and prospective service centers, manufacturers, and other government and private entities.
- (33) Random Retest - a breath test that is required after the initial engine start-up breath test and while the vehicle is being operated. Note: Commonly referred to as a rolling, random, or running retest.
- (34) Real-Time Reporting - the contemporaneous transmission of data any time a photo is captured to a specified monitoring entity as the event occurs or as soon as cellular reception permits.
- (35) Remove Interlock Restriction Letter - a letter issued by the Department to a participant indicating program compliance.
- (36) Residual Mouth Alcohol - alcohol found in the oral cavity that dissipates over a short period of time.
- (37) Service Center - the entity designated by the manufacturer and ~~approved~~ licensed by the Ignition Interlock Program to provide services to include, but not limited to, installation, inspection, maintenance, and removal of the BAID within Tennessee.
- (38) Service Center ~~Certificate License~~ - a certificate license provided by the Ignition Interlock Program once the Ignition Interlock Program is satisfied that the service center complies with all of the minimum requirements set forth in Chapter 1340-03-06.
- (39) Subcontractor - means an individual or entity, other than a service center or technician, seeking to provide intermediary services for a manufacturer, including opening and managing service centers and installing and monitoring ignition interlock devices.

- (40) Suspension – A penalty enforced for a law or rule violation that is considered temporary in nature with a set beginning date and end date. A suspension period can be extended indefinitely until compliance is achieved.
- (41) Tampering - an attempt to physically disable, disconnect, adjust, or otherwise alter the proper operation of a BAIID and/or any of its components; to remove the BAIID and/or any of its components without authorization. Note: Disconnecting the handset once the vehicle is turned off is permissible unless the vehicle was turned off during a random retest.
- (42) Technician - a person affiliated with a service center and engaged in the installation, inspection, maintenance, and removal of BAIIDs in Tennessee and is responsible for providing device orientation and hands-on training to the program participant in this state.
- (43) Technician's Certificate of Training - a certificate issued to the technician by the manufacturer certifying that the technician has been properly trained in the installation, inspection, maintenance, and removal of BAIIDs in Tennessee.
- (44) Technician Training - type(s) of training provided to the technician by the manufacturer including hands-on training, paper materials, and training videos.
- (45) Temporary Lockout Code - a temporary code issued by the manufacturer to a participant whose BAIID is in lockout mode.
- (46) Violation - non-compliance with a law, regulation, or rule.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.03 MANUFACTURER APPLICATION PROCEDURES.**

- (1) Any individual or business shall apply to be an approved and ~~certified~~ licensed manufacturer using forms supplied by the Ignition Interlock Program.
- (a) The Manufacturer Application form developed and published by the department shall be completed in full and shall include the following:
1. A list of all states for which you are currently an approved BAIID manufacturer.
  2. A list of all states where the BAIID manufacturer is currently or has previously been suspended or revoked within the last ten (10) years.
  3. A statewide criminal history background check is performed through the Tennessee Bureau of Investigation (TBI) or a background check through the equivalent State Bureau of Investigation from the state through which the applicant's driver's license is issued. If the manufacturer is not an individual but a business entity, the background check should be completed by the Manufacturer's Representative.
  4. Verification that the manufacturer is not an employee of the Department.
  5. ~~Verification~~ Certification that the BAIID meets or exceeds the most recent model specifications established by the National Highway Traffic Safety Administration (NHTSA).
    - (i) The certification documentation must be provided from an independent testing laboratory that is accredited to the ISO 17025 Laboratory Management Standard and is physically located within the United States.

- (ii) The test results must verify that the proposed Breath Alcohol Ignition Interlock Device (BAIID) meets or exceeds the Model Specifications of the National Highway Traffic Safety Administration (NHTSA) and the additional requirements set forth by the administering authority.
  - (iii) The manufacturer must provide the appropriate certification to indicate that the proposed BAIIDS are manufactured in a facility that is accredited to the ISO 9001 Quality Management System.
  - (iv) The manufacturer should assume all costs associated with the laboratory analysis and its reporting.
- 6. A Quality Assurance Plan (QAP) in accordance with the most recent NHTSA Model Specifications, which includes the operating instructions for the BAIID and step-by-step instructions of the process for checking the accuracy of the calibration of the BAIID.
- 7. Verification of current financial responsibility as stated in Rule 1340-03-06-.16.
- 8. Verification that the manufacturer has completed the required testing and has the ability to can accurately submit automated reports via a web service program into A-List.
- 9. A copy of the materials used to train the participant on the proper use of the BAIID.
- 10. The physical addresses of planned installation locations in Tennessee. A licensed certified manufacturer will have ninety (90) days to establish their service center locations within the geographical boundaries of Tennessee or the manufacturer will be removed from the certified licensed manufacturer list and must reapply. At a minimum, each approved licensed manufacturer must open and maintain one (1) service center in each of the eight (8) Tennessee Highway Patrol districts.
- 11. A two hundred and fifty dollars (\$250.00) non-refundable application fee transferred by Automated Clearing House (ACH) to the Ignition Interlock Program.
- 12. The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for the service center application fee.
- (b) All applications will be submitted to the Ignition Interlock Program by the Manufacturer Representative.
- (2) The applicant will be notified by U.S. mail or electronically of the approval or denial of the application. If the application is approved, the manufacturer will receive a certificate license which shall be valid for one (1) year. If the application is denied, the applicant will be informed of the reason for the denial.
- (3) In order to continue as an approved a licensed manufacturer, an application to renew must be submitted to the Ignition Interlock Program annually.
  - (a) The renewal application consists of all the required information under (1)(a) and must be submitted to the Ignition Interlock Program at least sixty (60) days prior to the expiration of its current certificate license.
  - (b) At the time the application to renew is submitted, a one hundred dollars (\$100.00) non-refundable renewal fee shall be transferred by ACH to the Ignition Interlock Program.



- (c) If the application to renew, including background checks and proof of financial responsibility, is not submitted at a minimum of sixty (60) days prior to the expiration of the current ~~certificate license, the non-refundable renewal fee will increase to two hundred and fifty dollars (\$250.00)~~ then the licensee is not authorized to perform new installations of ignition interlock devices after the expiration date of the license until a renewal has been issued by the department. In addition to the renewal fee, the licensee is subject to a late of one hundred dollars (\$100.00).
- (d) If the appropriate renewal fee is not submitted, the application will be considered incomplete and will not be processed for renewal.
- (e) The department must inform the licensee in writing of the date the renewal application was received and if they will be authorized to continue to perform new installations of ignition interlock devices after the expiration date of the license if the department has not issued a renewal or denial of renewal.
- (f) Any licensee who has not held an active license for more than one (1) year from the date of expiration of the previous license must apply as a new licensee.
- (4) The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for any late fees paid.
- (5) The Ignition Interlock Program shall notify the manufacturer of its decision before the expiration date of the current ~~certificate license~~. If approved, the manufacturer shall receive a ~~certificate license valid for one (1) year that states the effective date and the expiration date of the licensing period~~. If the ~~re-certification~~ renewal of the license is denied, the Ignition Interlock Program will inform the manufacturer of the reason for the denial. The manufacturer shall have ten (10) days from the date the notification is sent to correct any deficiencies and notify the Ignition Interlock Program in writing of such correction. The manufacturer may also request a hearing pursuant to Rule 1340-03-06-.202.
- (6) All manufacturer licenses issued by the Department will expire on June 30<sup>th</sup> of each year.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### 1340-03-06-.04 SUBCONTRACTOR APPLICATION PROCEDURES.

- (1) Any individual or business shall apply to be an approved and licensed subcontractor using forms supplied by the Ignition Interlock Program.
  - (a) The Subcontractor Application form developed and published by the department shall be completed in full and shall include the following:
    - 1. A list of all states for which you are currently an approved BAIID subcontractor.
    - 2. A list of all states where the BAIID subcontractor is currently or has previously been suspended or revoked within the last ten (10) years.
    - 3. A statewide criminal history background check is performed through the Tennessee Bureau of Investigation (TBI) or a background check through the equivalent State Bureau of Investigation from the state through which the applicant's driver's license is issued. If the subcontractor is not an individual but a business entity, the background check should be completed by the Subcontractor's Representative.

4. Verification that the subcontractor is not an employee of the Department.
  5. Certification that the BAID meets or exceeds the most recent model specifications established by the National Highway Traffic Safety Administration (NHTSA).
    - (i) The certification documentation must be provided from an independent testing laboratory that is accredited to the ISO 17025 Laboratory Management Standard and is physically located within the United States.
    - (ii) The test results must verify that the proposed Breath Alcohol Ignition Interlock Device (BAID) meets or exceeds the Model Specifications of the National Highway Traffic Safety Administration (NHTSA) and the additional requirements set forth by the administering authority.
    - (iii) The manufacturer must provide the appropriate certification to indicate that the proposed BAIDS are manufactured in a facility that is accredited to the ISO 9001 Quality Management System.
    - (iv) The manufacturer should assume all costs associated with the laboratory analysis and its reporting.
  6. A Quality Assurance Plan (QAP) in accordance with the most recent NHTSA Model Specifications, which includes the operating instructions and the step-by-step instructions of the process for checking the accuracy of the calibration of the BAID.
  7. Verification of current financial responsibility as stated in Rule 1340-03-06-.18.
  8. Verification that the subcontractor's manufacturer has completed the required testing and can accurately submit automated reports via a web service program into A-List.
  9. A copy of the materials used to train the participant on the proper use of the BAID.
  10. The physical addresses of planned installation locations in Tennessee. A licensed subcontractor will have ninety (90) days to establish their service center locations within the geographical boundaries of Tennessee or the subcontractor will be removed from the licensed subcontractor list and must reapply. At a minimum, each licensed subcontractor must open and maintain one (1) service center in each of the eight (8) Tennessee Highway Patrol districts.
  11. A two hundred and fifty dollars (\$250.00) non-refundable application fee transferred by Automated Clearing House (ACH) to the Ignition Interlock Program.
  12. The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for the subcontractor application fee.
- (b) All applications will be submitted to the Ignition Interlock Program by the Manufacturer Representative.
- (2) The applicant will be notified by U.S. mail or electronically of the approval or denial of the application. If the application is approved, the subcontractor will receive a license which shall be valid for one (1) year. If the application is denied, the applicant will be informed of the reason for the denial.
  - (3) In order to continue as a licensed subcontractor, an application to renew must be submitted to the Ignition Interlock Program annually.

- (a) The renewal application consists of all the required information under (1)(a) and must be submitted to the Ignition Interlock Program at least sixty (60) days prior to the expiration of its current license.
- (b) At the time the application to renew is submitted, a one hundred dollars (\$100.00) non-refundable renewal fee shall be transferred by ACH to the Ignition Interlock Program.
- (c) If the application to renew, including background checks and proof of financial responsibility, is not submitted at a minimum of sixty (60) days prior to the expiration of the current license, then the licensee is not authorized to perform new installations of ignition interlock devices after the expiration date of the license until a renewal has been issued by the department. In addition to the renewal fee, the licensee is subject to a late fee of one hundred dollars (\$100.00).
- (d) If the appropriate renewal fee is not submitted, the application will be considered incomplete and will not be processed for renewal.
- (e) The department must inform the licensee in writing of the date the renewal application was received and if they will be authorized to continue to perform new installations of ignition interlock devices after the expiration date of the license if the department has not issued a renewal or denial of renewal.
- (f) Any licensee who has not held an active license for more than one (1) year from the date of expiration of the previous license must apply as a new licensee.
- (4) The manufacturer shall submit the "Ignition Interlock Fee Submission Form" for any late fees paid.
- (5) The Ignition Interlock Program shall notify the manufacturer of its decision before the expiration date of the current license. If approved, the manufacturer and subcontractor shall receive a license that states the effective date and the expiration date of the licensing period. If the renewal of the license is denied, the Ignition Interlock Program will inform the manufacturer of the reason for the denial. The manufacturer shall have ten (10) days from the date the notification is sent to correct any deficiencies and notify the Ignition Interlock Program in writing of such correction. The manufacturer may also request a hearing pursuant to Rule 1340-03-06-.21.
- (6) All subcontractor licenses issued by the Department will expire on June 30<sup>th</sup> of each year.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425.

#### **1340-03-06-.045 SERVICE CENTER AND TECHNICIAN APPLICATION PROCEDURES.**

- (1) Any individual or business shall apply to be a ~~certified~~ licensed service center using forms supplied by the Ignition Interlock Program.
  - (a) The Service Center Application form developed and published by the department shall be completed in full and shall include the following:
    - (a) Name and physical address of individual or business applying to be a service center.
    - (b) A copy of the service center applicant's official business license.

3. A list of the names and a Technician Application (SF-1378) form developed and published by the department shall be completed for each of the persons applying for a license, who will be installing, calibrating, servicing, or removing the BAID.
  4. The individual's or business's experience in installing, servicing, and removing BAIDs in other jurisdictions.
  5. A statewide criminal history background check of the owner and all technicians is performed through the Tennessee Bureau of Investigation (TBI) or a background check through the equivalent State Bureau of Investigation from the state through which the applicant's driver's license is issued.
  6. Verification that the service center owner and technicians are not employees of the Department.
  7. Verification of current financial responsibility as stated in Rule 1340-03-06-.16.
  8. A copy of the technicians' certificates of training issued by the manufacturer.
  9. The name of the manufacturer that the applicant is affiliated with.
  10. An Ignition Interlock Service Center Inspection Checklist (SF-1535).
  11. A two hundred and fifty dollars (\$250.00) non-refundable application fee per service center is transferred by ACH to the Ignition Interlock Program.
  12. A fifty-dollar (\$50.00) non-refundable application fee per technician transferred by ACH to the Ignition Interlock Program.
- (b) All applications will be submitted to the Ignition Interlock Program by the affiliated Manufacturer Representative.
- (2) Upon receipt of the application and fee, the Ignition Interlock Program will process the application and conduct an on-site inspection of the service center.
  - (3) The applicant will be notified by U.S. mail or electronically of the approval or denial of the application. If the application is approved, the manufacturer, and service center, and any approved technicians will receive a certificate-license which shall be valid for one (1)-year that states the effective date and the expiration date of the licensing period. If the application is denied, the applicant's affiliated manufacturer will be informed of the reason for the denial.
  - (4) An entity desiring to become a service center must apply separately through each manufacturer that it intends to be affiliated with, including submission of an application, application fee, and all required information under (1)(a).
  - (5) In order for a service center or technician to maintain its-certificate their license, every year it's the affiliated manufacturer(s) shall submit an application to renew the license to the Ignition Interlock Program.
    - (a) The renewal consists of all the required information under (1)(a) for each service center and must be submitted to the Ignition Interlock Program at least sixty (60) days prior to the expiration of its current certificate-license.
    - (b) At the time the application to renew is submitted a one hundred dollar (\$100.00) non-refundable renewal fee for all service centers and a fifty dollar (\$50.00) non-refundable renewal fee for all technicians will be transferred by ACH to the Ignition Interlock Program.

- (c) If the application to renew, including background checks, proof of financial responsibility, and the facility checklist, is not submitted at least sixty (60) days prior to the expiration of the current ~~certificate license~~, ~~the non-refundable renewal fee will be increased to two hundred and fifty dollars (\$250.00) and the renewal inspection may be delayed then the licensee is not authorized to perform new installations of ignition interlock devices after the expiration date of the license until a renewal has been issued by the department. In addition to the renewal fee, the licensee is subject to a late fee of one hundred dollars (\$100).~~
- (d) If the appropriate renewal fee is not submitted, the application will be considered incomplete and will not be processed for renewal.
- (e) The department must inform the licensee in writing of the date the renewal application was received and if they will be authorized to continue to perform new installations of ignition interlock devices after the expiration date of the license if the department has not issued a renewal or denial of renewal.
- (f) Any licensee who has not held an active license for more than one (1) year from the date of expiration of the previous license must apply as a new licensee.
- (6) If the application to renew and all other required documents are received at least sixty (60) days prior to the expiration of the current ~~certificate license~~, the Ignition Interlock Program will notify the service center and the manufacturer of its decision before the expiration date of the current ~~certificate license~~. If approved, the manufacturer, ~~and the~~ service center, ~~and the technicians~~ shall receive a ~~certificate license~~ valid for ~~one (1) year the next licensing period~~. ~~This certificate~~ The service center's license shall be posted in a conspicuous place at the service center's office where it is clearly visible to the program participants. The service center shall maintain a copy of each approved technician's license for review upon request at the time of an interim inspection. If the ~~re-certification~~ renewal of the license is denied, the Ignition Interlock Program will inform the manufacturer of the reason for the denial. The manufacturer shall have ten (10) days from the date the notification is sent to correct any deficiencies and notify the Ignition Interlock Program in writing of such correction. The manufacturer may also request a hearing pursuant to Rule 1340-03-06-~~202~~.
- (7) The Annual License Renewal District Schedule is as follows:
  - (a) Jackson District - License Expires March 31<sup>st</sup> :
  - (b) Memphis District - License Expires April 30<sup>th</sup> :
  - (c) Cookeville District - License Expires May 31<sup>st</sup> :
  - (d) Chattanooga District - License Expires June 30<sup>th</sup> :
  - (e) Nashville District – License Expires August 31<sup>st</sup> :
  - (f) Fall Branch District – License Expires September 30<sup>th</sup> :
  - (g) Knoxville District - License Expires October 31<sup>st</sup> :
  - (h) Lawrenceburg District - License Expires November 30<sup>th</sup> .

**Authority:** T.C.A. §§ 4-3-2009, 55-10-417, and 55-10-425. ~~**Administrative History:** New rule filed February 19, 2020; effective May 19, 2020.~~

**1340-03-06-.056 GENERAL REQUIREMENTS.**

- (1) The rules, regulations, and requirements established herein are minimums and may be exceeded by the service center or manufacturer. The Ignition Interlock Program reserves the right to implement new procedures and requirements not found in these rules on an interim basis until these rules are amended in order to comply with the requirements of any new legislation passed by the Tennessee General Assembly. Certified Licensed manufacturers, subcontractors, and service centers will be notified of the new procedures or requirements in writing prior to the enactment of said procedure or requirement. Manufacturers, subcontractors, or service centers may not waive any requirement of these rules or pass any requirement imposed on the manufacturer, subcontractor, or service center to a program participant through contract or other means.
- (2) The service center and manufacturer shall comply with all applicable state laws, administrative rules, and regulations.
- (3) The manufacturer shall have the ability to accurately submit automated reports via a web service program into A-List. All automated reports must be submitted to A-list within two (2) working days of performing any device installation, removal, or monitoring check. Upon request of the Ignition Interlock Program, any rejected, incomplete, or missing reports must be corrected and resubmitted into A-List within forty-eight business (48) hours a reasonable period of time not to exceed seven (7) calendar days.
- (4) The manufacturer shall actively participate in all reoccurring testing in A-list until they have met the updated requirements and can accurately submit automated reports via a web service program to A-list. Only the data required by the most recent A-list schema should be submitted. Submission of additional data not required by the most recent A-list schema may cause errors resulting in the rejection of the report being uploaded to A-list. Failure to maintain the ability to accurately submit automated reports into A-list may result in the suspension of any new device installations until the manufacturer is able to provide proof that the automated reporting issue has been corrected.
- (5) The manufacturer shall provide and maintain their business within the United States. The manufacturer shall maintain the confidentiality of all Tennessee customer accounts and personal information. The manufacturer shall not provide any customer accounts or personal information to any third party for the purpose of reviewing or reporting customer compliance.
- (6) A service center shall provide and maintain their business within the geographical boundaries of Tennessee. The location will be easily accessible and open during normal business hours. The service center's hours of operation and the manufacturer's twenty-four (24) hour emergency phone number shall be posted in a conspicuous place at the service center's office where it is clearly visible to the program participants from the exterior of the building. If at any time the service center changes hours of service, the Ignition Interlock Program shall be immediately notified.
- (7) Approved Licensed manufacturers must open and maintain service centers at a distance no greater than one hundred (100) miles from each other. If an existing service center closes, the manufacturer shall have thirty (30) days to submit an application for a replacement service center within that immediate geographic area.
- (8) A service center shall comply with all minimum requirements for installation and any other Tennessee state and federal laws applicable to BAIDs and manufacturers.
- (9) All BAIDs that are required by Tennessee courts, or the Department shall have all calibrations, data downloads, and servicing completed at a certified licensed service center's fixed facility within Tennessee unless otherwise authorized by the Ignition Interlock Program.

- (10) All BAIIDs that are required by Tennessee courts, or the Department shall only be installed and removed at a ~~certified~~ licensed service center's fixed facility within Tennessee unless otherwise authorized by the Ignition Interlock Program.
- (11) A manufacturer may request approval to recover a BAIID after ninety (90) consecutive delinquent days. The manufacturer may only remove the delinquent BAIID at an off-site location upon approval by the Ignition Interlock Program. The manufacturer and service center will hold the Department and the State of Tennessee harmless from any liability resulting from the recovery of a BAIID pursuant to this subsection. The option to recover a BAIID for delinquency must have been included in the contract signed by the program participant in order to be approved by the Ignition Interlock Program.
- (12) A manufacturer may utilize a subcontractor for responsibilities including but not limited to:
  - (a) Service Center recruitment and support;
  - (b) Participant scheduling of services;
  - (c) Participant billing and invoicing;
  - (d) Providing participant customer service;
  - (e) Marketing – clients, probation departments, DUI attorneys, etc.
- (13) A manufacturer shall not utilize a subcontractor for the following responsibilities:
  - (a) As a manufacturer's representative to serve as a direct point of contact for the State;
  - (b) The submission of applications for new or existing service centers or technicians;
  - (c) The required initial training of service center technicians;
  - (d) The automated reporting of participant files into A-list;
  - (e) The determination of participants' meeting the program compliance requirements.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.04 but was renumbered 1340-03-06-.05 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.067 APPROVED BAIID REQUIREMENTS.**

- (1) Only BAIIDs that are alcohol specific fuel cell devices may be used. These must be capable of recording, through a reliable electronic information system, all reports required in these rules. It is mandatory that all BAIIDs meet or exceed the most recent model specifications established by the NHTSA. Adherence to these standards must be verified by a laboratory which subscribes to the quality code of the International Standards Organization of the American National Standards Institute, or another commensurate laboratory approved by the Ignition Interlock Program.
- (2) All BAIIDs installed must include a camera component to comply with T.C.A. §§ 55-10-417 and 55-10-425. All BAIID cameras that are not integrated into the handset shall be mounted on the passenger side of the vehicle cabin facing toward the driver.
- (3) The camera must be capable of providing a wide-angle view of sufficient quality so the person providing a breath sample and his/her position in the vehicle can be clearly identified.



- (4) The camera must be capable of providing a photo or digital image of sufficient quality and resolution so that the operator can be clearly identified in all lighting conditions including but not limited to extreme brightness, darkness, and low light conditions.
- (5) A photo should be captured when:
  - (a) An initial test is requested;
  - (b) A random retest is requested;~~or~~
  - (c) Any time a breath sample is provided; or
  - (d) Any time when circumvention of the device is detected.
- (6) All BAIIDs installed on a participant's vehicle, ~~beginning six (6) months after the effective date of these rules,~~ must be equipped with and utilize Real-Time Reporting.
- (7) All new BAIID installations occurring on or after January 1, 2024, shall employ global positioning system (GPS) technology that will geotag the motor vehicle's location whenever an initial startup test, a random retest, or a skipped test occurs, or when circumvention of the device is detected. The GPS technology shall not be used for continuous tracking of the vehicle.
- (8) A breath alcohol content (BAC) of .020 or greater shall prevent the vehicle from starting and constitutes a failure for retests.
- (9) The BAIID must allow the participant to provide a minimum of three (3) retests within ten (10) minutes of any failed initial test or random retest.
- (10) The first random retest should occur five (5) to fifteen (15) minutes after the initial start-up and subsequent tests should occur fifteen (15) to forty-five (45) minutes from the conclusion of the previous retest.
- (11) All installed devices must cause the vehicle's horn to blow and the hazard lights to flash upon a violation of a random retest and stop only upon the ignition being turned off or a passed retest.
- (12) A violation will be recorded for any of the following reasons:
  - (a) The engine is started without passing a breath test or while in a lockout state;
  - (b) The user fails or refuses to take a random retest;
  - (c) The user delivers a breath sample above the violation level of .020; ~~or~~
  - (d) The user tampers with or attempts to circumvent the device,
  - (e) The user fails to return for service within the required thirty (30) day calibration period, or
  - (f) Unauthorized removal of the device before the end of the required ignition interlock usage period.
- (13) Once five (5) violations have occurred, the user must return for service within seventy-two (72) hours or the device will lock out and prevent the vehicle from starting. ~~This shall not apply to BAIIDs equipped with real time reporting technology.~~
- (14) All installed BAIIDS must require calibration and monitoring within thirty (30) days after the initial installation and at least every thirty (30) days thereafter. If the user fails to return for service within the required thirty (30) day calibration period, the device must lock out and prevent



the vehicle from starting. The thirty (30) day BAID calibration schedule is calculated, to begin with, the date of the previous calibration service.

- (15) The service center or manufacturer is authorized to issue a temporary lockout code to a participant whose device is in a permanent lockout mode. The temporary lockout code will allow the vehicle to be started one (1) time, provided a proper breath test is submitted and passed and should be valid for a period of time not to exceed two (2) hours. The temporary lockout code shall only be issued one (1) time in a thirty (30) day period for the purpose of allowing a participant to drive their vehicle to a service center for service.
- (16) The BAID manufacturer must notify the Ignition Interlock Program before any software changes are made to the BAID.

~~(13) All breath reductions of the BAID shall be approved by the Ignition Interlock Program. The required breath volume shall be set at 1.5 liters unless granted a medical exemption. If a 9-reduction is approved the required breath volume shall not be set at less than 1.2 liters. The process for requesting a medical exemption breath reduction is as follows:-~~

- ~~(a) The client must obtain a plain language statement from their primary care physician or pulmonary specialist that details why they are unable to utilize the BAID.~~
- ~~(b) The participant shall request permission from the Ignition Interlock Program to lower the required breath volume on the BAID by sending the physician's statement to the Ignition Interlock Program at 1150 Foster Avenue, Nashville, TN 37210, by U.S. mail or electronically to [safety.interlock@tn.gov](mailto:safety.interlock@tn.gov).~~
- ~~(c) The Ignition Interlock Program will review the documentation and forward approvals to the manufacturer.~~
- ~~(d) The manufacturer will advise the service center how to calibrate the BAID.~~

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.05 but was renumbered 1340-03-06-.06 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.08 BAID BREATH REDUCTIONS & MEDICAL WAIVERS.**

- (1) All breath reductions of the BAID shall be approved by the Ignition Interlock Program. The required breath volume shall be set at 1.5 liters unless granted a medical exemption. If a reduction is approved the required breath volume shall not be set at less than 1.2 liters. The process for requesting a medical exemption breath reduction is as follows:
  - (a) The client must obtain a plain-language statement from their primary care physician or pulmonary specialist that details why they are unable to utilize the BAID.
  - (b) The participant shall request permission from the Ignition Interlock Program to lower the required breath volume on the BAID by sending the physician's statement to the Ignition Interlock Program at 1150 Foster Avenue, Nashville, TN 37210, by U.S. mail or electronically to [safety.interlock@tn.gov](mailto:safety.interlock@tn.gov).
  - (c) The Ignition Interlock Program will review the documentation and forward approvals to the manufacturer.
  - (d) The manufacturer will advise the service center on how to calibrate the BAID.
- (2) If a person is unable to produce enough breath volume to operate an ignition interlock device, then the person may apply to the department for a waiver of the ignition interlock requirement.

- (3) An application for a waiver must be on a form developed by the department, and the following documents must be submitted with the application:
  - (a) A statement by an ignition interlock provider, dated within sixty (60) days of the application, that an ignition interlock device cannot be adjusted to allow the person to use the device and register the person's breath alcohol level; and
  - (b) Statements from at least two (2) licensed physicians who have examined the person at an in-office appointment, dated within sixty (60) days of the application, indicating that the person has a medical condition that renders the person unable to provide a deep lung breath sample for analysis by an ignition interlock device.
- (4) A person who fails to submit the documents required at the time of application must be provided an additional thirty (30) days to submit the documents before the department may deny the waiver for the failure to submit the required documents.
- (5) Within sixty (60) days after receipt of a waiver application and all required documents, the department shall review the application and the statements from the interlock provider and the physicians and determine if a person is unable to operate an ignition interlock device and the failure to grant an interlock waiver would constitute a hardship based on the person's work or medical needs.
- (6) Upon determining that a person is unable to operate an ignition interlock device and the failure to grant a waiver would constitute a hardship, the department may issue a waiver of the person's ignition interlock requirement. The waiver form issued by the department must specify the necessary times and places of permissible operation of a motor vehicle for the limited purposes of going to and from:
  - (a) Work at the person's regular place of employment;
  - (b) The office of the person's probation officer or other similar location for the sole purpose of attending a regularly scheduled meeting or other function with the probation officer by a route to be designated by the probation officer;
  - (c) A court-ordered alcohol safety program;
  - (d) A college or university in the case of a student enrolled full-time in the college or university;
  - (e) A court-ordered outpatient alcohol and drug treatment program;
  - (f) The person's regular place of worship for regularly scheduled religious services conducted by a bona fide religious institution as defined in § 48-101-502(c); and
  - (g) Medical treatment of the person or an immediate family member or provision of care for the person or an immediate family member suffering from a serious illness.
- (7) The time and geographic restrictions must be required for the entire period of license revocation, or the entire period an ignition interlock device was required based on the law at the time of the person's conviction.
- (8) A person who receives a waiver must carry the waiver form at all times while the person is operating a motor vehicle. A person who does not have the waiver form while operating a motor vehicle is considered to be driving on a revoked license.
- (9) A person who has been granted a waiver form by the department must take the form, accompanied by a fee of sixty-five dollars (\$65.00), to a driver services center to apply for a restricted driver's license.

- (10) The denial of a waiver may be appealed in accordance with the rules and procedures for appeals through the department's driver improvement division. The department shall not issue a license without an ignition interlock restriction during the pendency of the appeal.
- (11) The Medical Waiver allows a person to have the Code 16 – Ignition Interlock Restriction removed from their license and requires that a Code 15 – Geographic Restricted license be issued to the person for the duration of their Ignition Interlock Usage Period and/or License Revocation Period.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.05 but was renumbered 1340-03-06-.06 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.079 SERVICE CENTER–OWNER/TECHNICIAN REQUIREMENTS.**

- (1) Service center owner(s) shall not be an employee of the Department; shall not have been convicted of a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency within ten (10) years prior to the date of the application or any conviction of vehicular homicide or vehicular assault regardless of the date of conviction; shall have and maintain a valid driver license; shall be at least eighteen (18) years of age and shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program.
- (2) Technician(s) who works for a service center shall not be an employee of the Department, shall not have been convicted of a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency within ten (10) years of the date of the application or of vehicular homicide or vehicular assault regardless of the date of conviction; shall have and maintain a valid driver license; shall be at least eighteen (18) years of age and shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program. The technician shall not have been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application, where none of these convictions occurred within five (5) years from the date of application or renewal. At no time may a technician who is required to operate a vehicle equipped with a BAIID utilize a device that the technician is ~~certified~~ licensed to service.
- (3) Falsification on any application shall be sufficient grounds for denial of the application.
- (4) The manufacturer shall train all technicians in a timely manner to ensure the proper installation, servicing, and removal of the device prior to the inspection of the facility. The training of technicians shall include hands-on training by a representative of the manufacturer. Once the technicians are properly trained the manufacturer shall submit a Technician's Application and a certificate of training to the Ignition Interlock Program by U.S. mail or electronically. Technicians must be certified by the manufacturer and licensed by the Department prior to performing any type of ignition interlock device related services. The ~~certified~~ licensed technician shall only install and service the approved BAIID at fixed facilities that have been inspected and approved by the Ignition Interlock Program.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.06 but was renumbered 1340-03-06-.07 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.0810 BAIID INSTALLATION REQUIREMENTS.**

- (1) A BAIID shall be installed, serviced, and removed in all makes and models of motor vehicles only by technicians who have been licensed by the Ignition Interlock Program and have been certified by the manufacturer of the BAIID in the installation, servicing, and removal of such device.
- (2) Under no circumstances will the participant be allowed to watch the installation or removal of the BAIID. Adequate security measures shall be taken to ensure that the installations and removals of BAIIDs shall not be visible to participants.
- (3) A reference and problem-solving guide developed by the manufacturer shall be given to the program participant at the time of the installation. This guide shall include information on the correct operation of the BAIID, a twenty-four (24) hour customer service phone number, service procedures, emergency procedures, and how the BAIID detects non-compliance.
- (4) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to materials such as tamper-proof seals, installation instructions, and files of other BAIID program participants.
- (5) The service center is required to inspect all vehicles prior to installation and to determine whether the vehicle is in acceptable mechanical and electrical condition. For reasons of safety, a BAIID will not be installed unless the vehicle is capable of supporting such installation. The service center and the manufacturer shall maintain a log of such inspections.
- (6) The service center shall follow all written instructions from the manufacturer for the BAIID installation and removal. Installations shall be executed according to accepted trade standards and the manufacturer's instructions.
- (7) Tamper-proof seals should be on every connection and must be proprietary to the manufacturer. A visual inspection should be done during each service visit to affirm that the seals are intact.
- (8) Removal of the BAIID shall be carried out so that the ignition may be operated in the same manner as before installation of the BAIID. All severed wires will be permanently soldered and insulated with a heat-shrink wrap or its equivalent. Reasonable wear and tear are expected.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** *Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.07 but was renumbered 1340-03-06-.08 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.*

#### **1340-03-06-.0911 ORIENTATION OF PROGRAM PARTICIPANT.**

- (1) The service center shall conduct an orientation on the correct use of the BAIID for the program participant and for any family member or friend who may drive the vehicle. Program participants will be informed of the need to ensure that all vehicle users are adequately trained, which may require a subsequent visit.
  - (a) The service center shall advise the BAIID participant that residual mouth alcohol is the responsibility of the offender to prevent and avoid.
  - (b) The service center shall advise the BAIID participant that all breath tests must be performed within view of the camera.
- (2) During orientation, the service center shall provide the participant with a copy of the BAIID Program Requirements brochure and make the participant aware of the compliance-based removal requirements of T.C.A. § 55-10-425, as well as the Ignition Interlock Program website

<https://www.tn.gov/safety/ignitioninterlock>, where the participant may read the entire compliance-based removal law. The summary of this law provided by the Ignition Interlock Program shall be posted in a conspicuous place at the service center's office.

- (3) At the end of orientation, the service center shall complete the Participant Training Checklist form developed and published by the department. A signed copy of this completed form will be provided to the interlock program participant and the service center shall place the original in the participant's file.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.08 but was renumbered 1340-03-06-.09 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.102 PROOF OF INSTALLATION OF A BAIID.**

- (1) Within two (2) working days of installing a BAIID, the manufacturer shall ~~enter~~ submit the installation report to A-List. This notice shall include:
  - (a) Name (as it appears on the participant's driver's license), date of birth, and driver's license number of the Ignition Interlock Program participant;
  - (b) Vehicle make, model and year, Vehicle Identification Number (VIN), ~~and license plate number~~ of the vehicle in which the BAIID is installed; and
  - (c) BAIID model number and BAIID serial numbers of the handset, camera, and relay; ~~and~~
  - ~~(d) —Next calibration and monitoring check date of the BAIID.~~
- (2) If the participant is on supervised probation, the manufacturer will notify Probation of the installation of the BAIID by U.S. mail or electronically.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.09 but was renumbered 1340-03-06-.10 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.143 MONITORING REQUIREMENTS.**

- (1) At the time of servicing or calibration of the BAIID, the technician is required to conduct an inspection to determine if there is evidence of tampering or circumventing the device. The technician shall conduct a manual test of the BAIID to confirm that the vehicle cannot be started prior to the successful completion of the initial startup test. The technician should also confirm that the tamper-proof seals are intact. A technician shall not conduct a calibration or service any BAIID unless the vehicle is present at the approved facility and is in mechanically operable condition. Participants shall not be allowed to remove or install any component of the BAIID during the time of servicing or calibration.
- (2) Within two (2) working days of performing any removal of a device, whether the removal was authorized or unauthorized, the manufacturer shall submit a report of the removal in A-List and if applicable also to Probation.
- (3) Servicing, inspecting, and monitoring of each BAIID and all of its components shall occur thirty (30) days after the initial installation and at least every thirty (30) days thereafter. The thirty (30) day BAIID calibration schedule is calculated, to begin with, the date of the previous calibration service. The technician shall only service, calibrate, or remove the BAIID at a service center located within the geographical boundaries of Tennessee or at a location that has been approved by the Ignition Interlock Program.

- (4) The manufacturer shall maintain records on every program participant, including the results of every monitoring check. Violations or evidence of non-compliance, and the reasons for such, will be submitted to A-List within forty-eight (48) hours of detection.
- (5) Within two (2) working days of performing a monitoring check, the manufacturer shall ~~send~~ submit the following information by electronic transmission to A-List and, if applicable, to Probation:
  - (a) BrAC above 0.020%;
  - (b) Evidence of tampering or circumventing the device;
  - (c) Failing to take or skipping a random retest if the driver is in the vehicle;
  - (d) Failing a random retest;
  - (e) Removing or causing the removal of the BAID at any time during ~~the three hundred sixty-five (365) day consecutive day period~~ ignition interlock usage period;
  - (f) Failing to appear at the BAID service center when required for calibration, monitoring, or inspection of the device;
  - (g) Name and driver's license number of the participant;
  - ~~(h) Date of next scheduled monitoring check; and~~
  - ~~(i) Odometer reading at the end of each monitoring period.~~
- (6) If the use of a BAID is a bond condition or a requirement of supervised probation, under no circumstance shall a BAID be removed without authorization from the court or Probation. This only applies to participants not required to have a BAID under T.C.A. § 55-10-425 or by the Department.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.10 but was renumbered 1340-03-06-.11 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.124 REPAIR, REPLACEMENT, OR VEHICLE TRANSFER OF A BAID.**

- (1) The service center or manufacturer shall respond to all service inquiries by phone within one (1) hour of initial contact during normal business hours. Repair or replacement of any BAID shall be conducted within forty-eight (48) hours of initial contact. The manufacturer shall notify the Ignition Interlock Program of any changes in the BAID by submitting a transfer report into A-List within forty-eight (48) hours of the changes. The transfer report must include the vehicle year, make, model, VIN, license plate number, and odometer reading, as well as the BAID's model number; serial numbers of the handset, relay, and camera; and the next calibration date.
- (2) The service center shall be available to answer questions and troubleshoot any mechanical problems relating to the BAID in the vehicle or to repair/replace an inoperable or malfunctioning BAID during normal business hours.
- (3) Customer service call centers shall not be outsourced to third parties located outside of the United States. Customer service providers must be knowledgeable of all Tennessee specific requirements and must be able to communicate accurate information to program participants.



- (4) A manufacturer or subcontractor shall respond in writing to all inquiries from the Ignition Interlock Program within forty-eight (48) hours of initial contact during normal business hours.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. The Rule was previously numbered 1340-03-06-.11 but was renumbered 1340-03-06-.12 with the introduction of a new rule 1340-03-06-.04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

**1340-03-06-.135-PROGRAM COMPLIANCE-BASED REMOVAL/NON-COMPLIANCE REPORT**

(1) Program Compliance Criteria:

- (a) A person who is required to install and use only a vehicle equipped with a functioning ignition interlock device pursuant to T.C.A. § 55-10-425 is prohibited from violating any of the following conditions of T.C.A. § 55-10-425(c) during the entire ignition interlock usage period:
  - 1. Removing or causing to be removed the ignition interlock device from the motor vehicle;
  - 2. Failing to appear at the ignition interlock device provider when required for calibration, monitoring, or inspection of the device; and
  - 3. Tampering with or circumventing the ignition interlock device.
- (b) Unless as otherwise provided by an approved toll period per T.C.A. § 55-10-425(h), and as described in section 1340-03-06-16 of this Rule, the person must maintain the device in working order for the entire ignition interlock usage period.
- (c) Failure to comply with the above requirements of T.C.A. § 55-10-425(c) will result in the entire ignition interlock usage period starting over from the date that compliance was reestablished.
- (d) During the final one-hundred-twenty (120) day period of an ignition interlock usage period, the person shall not violate any of the following conditions of T.C.A. § 55-10-425(d):
  - 1. Attempt to start the motor vehicle with a breath alcohol concentration in excess of the two-hundredths of one percent (0.02%) blood alcohol concentration; provided, however, that a person is not in violation for attempting to start the motor vehicle, if a subsequent retest within ten (10) minutes shows a breath alcohol concentration of two-hundredths of one percent (0.02%) or less and review of the digital images associated with each test confirms that the same person performed both tests;
  - 2. Failing to take or skipping a retest when required by the ignition interlock device; provided, however, that a person is not in violation for failing to take or skipping a retest if a review of the digital images associated with the test confirms that the motor vehicle was not occupied by the driver at the time of the retest;
  - 3. Failing a retest required by the ignition interlock device with a breath alcohol concentration in excess of two-hundredths of one percent (0.02%); provided, however, that a person is not in violation for failing a rolling test if a subsequent retest within ten (10) minutes shows a breath alcohol concentration of two-hundredths of one percent (0.02%) or less and review of the digital images associated with each test confirms that the same person performed both tests; and/or
  - 4. Removing the ignition interlock device from the motor vehicle, except for necessary

maintenance, replacement, or repair as determined by the department, or as allowed by an approved toll period per T.C.A. § 55-10-425(h), and as described in section 1340-03-06-16 of this Rule.

(2) Program Non-Compliance:

- (a) If at any time during the ignition interlock usage period, the department determines that the person has committed a violation of T.C.A. § 55-10-425(c), as described above in the Program Compliance Criteria section of this Rule, then the ignition interlock usage period must start again from the date compliance was re-established.
- (b) If at any time during the final one hundred twenty (120) days of the ignition interlock usage period the department determines that the person has committed a violation of T.C.A. § 55-10-425(d)(1)(A)-(C) as described above in the Program Compliance Criteria section (d)(1)-(3) of this Rule, then the one-hundred-twenty-day (120) period must start again from the date of the violation. The ignition interlock provider should review the entire final one-hundred-twenty-day period, including the data from the final download, prior to restarting the final one hundred twenty (120) days of the ignition interlock usage period for a violation of this section. The restart should be due to the most recent violation under this section.
- (c) If at any time during the final one hundred twenty (120) days of the ignition interlock usage period, the department determines that the person has committed a violation of T.C.A. § 55-10-425(d)(1)(D), as described above in the Program Compliance Criteria section (1)(d)(4) of this Rule, then the entire ignition interlock usage period must start again from the date compliance was re-established.
- (d) If the ignition interlock provider notifies the person that the provider's records indicate the person has not complied with the conditions of T.C.A. § 55-10-425(c) or (d), listed in the Program Compliance Criteria section of this Rule, then the person may either accept the extension of the ignition interlock requirement or request that the provider reconsider the finding of noncompliance and consider evidence of compliance provided by the person. If the provider confirms the finding of noncompliance, then the person may either accept the extension of the ignition interlock requirement or request an administrative compliance review by the department.
- (e) A person who has had their ignition interlock usage period extended by a provider may request, in writing, an administrative compliance review by the department. Any evidence of compliance the person intends to present to the department must be included with the written request.
- (f) The department must review the request, including any evidence provided by the person and the records provided by the provider, within thirty (30) days of receiving the request. All evidence to be considered shall be submitted into the Department's Zendesk tracking system where it can be retained if needed in the event of a request for a judicial review. Following the department's review, the department must notify the person and the provider of the department's determination in writing.
- (g) If the department determines that the person has been compliant as required under T.C.A. § 55-10-425, then the department must issue an Interlock Removal Form.
- (h) If the department determines that the person was not in compliance for the required periods, then the department must inform the person of the determination in writing. The person may seek judicial review of the department's administrative compliance review determination as provided by T.C.A. § 4- 5-322.

(3) Successful Certificate of Compliance:



- (a) Upon completion of the ignition interlock usage period for which the participant is required to use a BAIID, the participant ~~shall request that the manufacturer certify that the participant has complied with the conditions of the required period~~ person must take the motor vehicle to an ignition interlock provider for a final download of the person's data file and a determination as to whether the person has successfully completed the ignition interlock usage period without violations of T.C.A. § 55-10-425(c) and whether the final one-hundred-twenty-day period was completed without violations of T.C.A. § 55-10-425(d).
  - (b) ~~The manufacturer shall determine whether the participant has complied with the conditions for the required period and either issue a certificate of compliance for the participant or notify the participant of non-compliance and the resulting extension of the BAIID requirement~~ ignition interlock provider must send the data file from the person's final download to the department within two (2) business days.
  - (c) If the person has successfully completed the ignition interlock usage period without violations of T.C.A. § 55-10-425(c) and the final one-hundred-twenty-day period was completed without violations of T.C.A. § 55-10-425(d), then the ignition interlock provider must issue a Compliance Determination Form to the person. If the person has not successfully completed the ignition interlock usage period without violations of T.C.A. § 55-10-425(c), or the final one-hundred-twenty-day period was not completed without violations of T.C.A. § 55-10-425(d), then the ignition interlock provider must notify the person of non-compliance and the resulting extension of the ignition interlock requirement on the Compliance Determination Form. The ignition interlock provider must use the Compliance Determination Form developed and published by the department.
  - (d) If the ignition interlock provider issues a Certificate of Compliance, then the ignition interlock division within the department must issue an Interlock Removal Form authorizing the removal of the ignition interlock restrictions from the person's driver's license and the removal of the ignition interlock device from the person's motor vehicle, provided the department's review of the person's records show the person has been in compliance during the ignition interlock usage period.
  - (e) The person may take the Interlock Removal Form to a driver services center and apply for the removal of the ignition interlock requirements and reinstatement of the person's driver's license or the issuance of a photo identification license. If the person meets all requirements for driver's license reinstatement and pays all reinstatement fees, then the department must reinstate the driver's license.
- (4) Compliance-Based Removals:
- (a) Prior to lawfully removing the BAIID of a compliance-based program participant, the manufacturer must first receive written authorization from the Ignition Interlock Program. Once the manufacturer receives written authorization from the Ignition Interlock Program for removal of the BAIID, the manufacturer must contact their appropriate service center to authorize the removal of the BAIID from the program participant's vehicle. ~~The manufacturer may in good faith rely on a participant's Remove Interlock Restriction Letter issued by the Department.~~
  - (b) When removing an ignition interlock device on or after July 1, 2016, a licensed ignition interlock provider may in good faith rely on the participant's Interlock Removal Form issued by the Department, that removal of the ignition interlock device is lawful.
  - (c) A participant is lawfully required to only operate a motor vehicle that is equipped with a functioning BAIID until they obtain a valid driver's license without the ignition interlock restriction (code 16).

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-12 but was renumbered 1340-03-06-13 with the introduction of a new rule 1340-03-06-04 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

**1340-03-06-.1~~4~~6 TOLL OF THE REQUIRED CONSECUTIVE DAY PERIOD.**

- (1) A participant whose vehicle is inoperable due to damage from an accident or other uncontrollable circumstance where the participant's intoxication was not a proximate cause; or due to repairs based on normal wear and tear of a vehicle, or due to a recall, may request the Ignition Interlock Program toll the required consecutive day period, beginning on the date of the incident that led to the vehicle to be inoperable. The participant must submit proof to the manufacturer that the vehicle was involved in a traffic crash, is being repaired, or was rendered inoperable due to some other circumstance beyond the participant's control.
- (2) If the vehicle was in an accident and a law enforcement agency issued a crash report, the crash report must be submitted. Other proof may consist of, but is not limited to:
  - (a) A written statement from the insurance company regarding repairs;
  - (b) A written statement from a repair shop showing the damage being repaired and the estimated time of completion for repairs; or
  - (c) Other documentation acceptable to the Ignition Interlock Program.
- (3) The manufacturer shall forward the request and documentation to the Ignition Interlock Program within five (5) business days of receipt.
- (4) The Ignition Interlock Program shall notify the participant and the manufacturer by U.S. mail or electronically if the tolling period has been granted or denied, and, if denied, the reason for the denial.
- (5) At the end of any thirty-day toll period, if no new request has been submitted and granted, then the required consecutive day period shall resume with the participant being required to maintain a BAIID for the period of time that was remaining on the day the tolling period began.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-417, and 55-10-425. **Administrative History:** ~~New rule filed February 19, 2020; effective May 19, 2020.~~

**1340-03-06-.17 FEES.**

- (1) Whenever a participant ordered to install a BAIID pursuant to T.C.A. § 55-10-409 or § 55-10-417 asserts to the court that the participant is indigent and financially unable to pay for a BAIID, the court shall conduct a full and complete hearing as to the financial ability of the participant to pay for such device and, thereafter, make a finding as to the indigency of such participant. Any participant who has been declared indigent by the court pursuant to T.C.A. § 55-10-419(d), upon providing a copy of the Proof of Indigency Form signed by the judge, shall not be refused service by a manufacturer as long as funds are available in the Electronic Monitoring Indigency Fund (EMIF). The manufacturer shall submit the required documentation to the State Treasury Department to recover the costs associated with the lease, purchase, installation, removal, and maintenance of BAIIDs or with any other cost or fee associated with a BAIID required by this part.
- (2) The fees for leasing, buying, monitoring, servicing, installing, and removing the BAIID shall be

at a reasonable rate set by the manufacturer.

- (3) ~~The fee for installation of a BAIID shall not exceed an hourly rate of seventy five dollars (\$75.00) per hour with a three (3) hour maximum.~~ Manufacturers shall charge reasonable and customary fees, not to exceed an hourly rate of one hundred dollars (\$100.00) per hour with a three (3) hour maximum, for the installation of a BAIID.
- (4) Manufacturers shall charge reasonable and customary fees, not to exceed a total of one hundred and twenty-five dollars (\$125.00) per month for leasing, monitoring, and maintenance of BAIIDs. If a participant is extended in the program due to non-compliance, the fee for the leasing, monitoring, and maintenance of the BAIID will not exceed five dollars (\$5.00) per day or one hundred and twenty-five dollars (\$125.00) per month during the extension, whichever is less.
- (5) ~~Manufacturers shall charge reasonable and customary fees, not to exceed a total of seventy-five dollars (\$75.00), for the removal of the BAIID.~~ Manufacturers shall charge reasonable and customary fees, not to exceed an hourly rate of one hundred dollars (\$100.00) per hour with a one (1) hour maximum, for the removal of the BAIID.
- (6) Manufacturers shall charge reasonable and customary fees, not to exceed a total of fifty dollars (\$50.00), for resetting a BAIID that is in permanent lockout mode due to five (5) or more violations.
- (7) Manufacturers may charge reasonable and customary fees, not to exceed a total of twenty-five dollars (\$25.00), for a temporary lockout code.
- (8) Manufacturers, subcontractors, or service centers may charge reasonable and customary late payment fees. A late payment fee shall only be applicable to balances that are at least thirty (30) days delinquent and shall not exceed five (5) percent of the total overdue monthly balance.
- (9) Manufacturers, subcontractors, or service centers may charge reasonable and customary fees, for any rescheduled, late, or missed appointments for service unless the customer has provided an adequate notice of a least twenty-four (24) hours on the previous workday. These fees shall not exceed the actual cost of the original scheduled service that was to be provided.
- (10) A manufacturer shall charge an annual administrative fee of twelve dollars and fifty cents (\$12.50) to each new BAIID user. This fee will be collected from each participant at the time of the installation of the BAIID and again annually for the duration of the ~~required period~~ ignition interlock usage period. ~~By the fifth (5<sup>th</sup>) day of each month, the manufacturer shall send the Ignition Interlock Program the proceeds from this fee by an ACH transfer and a report of listing the participants' names, and driver's license numbers. The manufacturer shall submit all proceeds collected from the annual administrative fee by an ACH transfer to the Ignition Interlock Program by the tenth (10<sup>th</sup>) day of each month. The manufacturer will submit a monthly report listing the installation dates, participants' names, driver's license numbers, installing service center's names, and the total administrative fees collected by the tenth (10<sup>th</sup>) day of each month.~~
- (11) The fee rates shall be posted in a conspicuous place at the service center's office.
- (12) All manufacturers will pay a BAIID certification fee of five dollars (\$5.00) per BAIID per month by ACH transfer to the Ignition Interlock Program by the tenth (10<sup>th</sup>) day of each month. The manufacturer will submit a monthly report listing the name, date of birth, and BAIID installation date of all current participants as well as the total BAIID certification fees submitted for the month.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, 55-10-418, 55-10-423, and 55-10-425.

**Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.13 but was renumbered 1340-03-06-.15 with the introduction of new rules 1340-03-06-.04 and 1340-03-06-.14 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.168 FINANCIAL RESPONSIBILITY REQUIREMENTS.**

- (1) The manufacturer and subcontractor shall each maintain their own comprehensive general liability insurance in the amount of at least one million dollars (\$1,000,000.00) per occurrence with a three million dollars (\$3,000,000.00) aggregate total liability that shall cover defects or problems with product design and materials; workmanship during manufacture; and BAIID calibration, installation, use, and removal. The manufacturer shall provide the Ignition Interlock Program written notice forty-five (45) days prior to cancellation, material change, or lapse of the insurance policy.
- (2) The service center shall maintain comprehensive general liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) per occurrence with a three hundred thousand dollars (\$300,000.00) aggregate total liability that shall cover defects or problems with the BAIID calibration, installation, use, and removal. The manufacturer shall provide the Ignition Interlock Program written notice forty-five (45) days prior to cancellation, material change, or lapse of the insurance policy held by any of its service centers.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.14 but was renumbered 1340-03-06-.16 with the introduction of new rules 1340-03-06-.04 and 1340-03-06-.14 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.179 LIABILITY.**

- (1) The ~~service center and~~ manufacturer, subcontractor, and service center shall protect, save, and hold harmless the State, all State Departments, Agencies, Boards, and Commissions, as well as all officials, employees, agents, and servants of the State of Tennessee (all in their official and individual capacities, both current and former), from any and all claims, demands, expenses, and liability arising out of any omission by the service center or manufacturer in the performance of its duties set forth in the law or these rules.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.15 but was renumbered 1340-03-06-.17 with the introduction of new rules 1340-03-06-.04 and 1340-03-06-.14 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.1820 AUDITS AND INSPECTIONS.**

- (1) Service centers shall be subject to unannounced inspections and reviews of all records and to being temporarily placed out of service, suspension, or permanent revocation of ~~certification~~ their license if sufficient cause exists as determined by the Ignition Interlock Program that the service center does not meet the requirements of any applicable law or these rules. The scope of service center inspections can be found on SF-1508 On-Site Inspection and SF-1512 On-Site Interim Inspection.
- (2) Service centers must maintain paper or electronic files on all participant's vehicle inspection reports and customer receipts for all installs, calibrations, removals, and servicing or repairs of the device.
  - (a) The files must be maintained for at least one (1) year after the participant has completed

their interlock usage period, and

(b) The files must be accessible and provided to the inspector upon request at the time of any audit or service center inspection.

- (3) Service centers shall be subject to an accuracy check on their dry gas and wet bath equipment. The accuracy check by the Ignition Interlock Program will consist of:
- (a) Verification that the certification label, lot number, and expiration date are on the dry gas tank;
  - (b) Verification of the empty wet bath solution bottle's lot number and expiration date for the current solution being used;
  - (c) Verification that the equipment is stored and used in a an enclosed climate-controlled environment;
  - (d) Inspection of the tubing leading from the solution tower to the BAID for wet bath stations, ensuring:
    - 1. Maximum length of six (6) inches,
    - 2. No moisture, and
    - 3. Cleanliness.
  - (e) Verification that the wet bath solution is being changed after a maximum of thirty (30) days or thirty (30) calibrations, whichever comes first (Note: Service centers must maintain a log of the dates when the wet bath solution is changed; the log must also contain the solution lot number, bottle number, and BrAC value);
  - (f) Verification that the temperature of the wet bath solution is thirty-four (34) degrees Celsius at a quantity of five hundred (500) milliliters; and
  - (g) Verification that the BrAC in the dry gas and wet bath solution is accurate (.005 +/-) according to the manufacturer's QAP.
- (4) If the Ignition Interlock Program finds that the service center is not in compliance at the time of an interim or renewal inspection, a non-compliance fee will be assessed to the service center's manufacturer. The ACH will transfer all non-compliance fees to the Ignition Interlock Program. The manufacturer will submit a detailed payment report to the Ignition Interlock Program on the day that the non-compliance fees are paid. The report will contain a list of service centers incurring fees and the non-compliance fees associated with each.
- (a) If the cause of non-compliance is a minor violation of these rules and is corrected immediately, the manufacturer(s) must pay a non-compliance fee of fifty dollars (\$50) for the inspection.
  - (b) If the cause of non-compliance is a more serious violation or it cannot be immediately corrected, the manufacturer(s) must pay a non-compliance fee of fifty one hundred dollars (\$50.00-100) for the inspection to cover the expenses incurred by the Ignition Interlock Program re-inspection.
- (5) Failing a facility inspection may delay a service center's re-inspection for a maximum of thirty (30) days.

*was renumbered 1340-03-06-.18 with the introduction of new rules 1340-03-06-.04 and 1340-03-06-.14 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.*

**1340-03-06-.1921 DENIAL, SUSPENSION, OR PERMANENT REVOCATION OF CERTIFICATION A LICENSE.**

- (1) Failure to comply with any requirements set forth in the law or these rules may result in a penalty of:
  - (a) being placed temporarily out of service;
  - (b) being assessed a non-compliance fee; or
  - (c) the denial, suspension, or permanent revocation of the manufacturer, subcontractor, service center or technician's certification to:
    - (i) install BAIDS;
    - (ii) inspect, BAIDS;
    - (iii) remove BAIDS; and / or
    - (iv) perform any actions in the state, which would include the installing, inspecting, or removing BAIDS.
- (2) Other reasons for denial, suspension, or permanent revocation may include, but are not limited to the following:
  - (a) Non-compliance with any of the minimum requirements stated in Chapter 1340-03-06;
  - (b) Providing false or inaccurate information to the Ignition Interlock Program;
  - (c) Assisting or enabling the participant's circumvention of or tampering with the BAID;
  - (d) Installing devices other than those supplied by the service center's manufacturer.
  - (e) Service center's failing to provide all required services to include, but not limited to, the installation, inspection, maintenance, and removal of the BAID.
- (3) If a manufacturer, subcontractor, service center, or technician's license ~~service center's or manufacturer's certification~~ is permanently revoked subsequent to the administrative hearing process, the manufacturer will be responsible for all costs associated with the removal of their BAIDS. Manufacturers aggrieved by the application of this rule have a right to request a hearing pursuant to Rule 1340-03-06-.202.
- (4) If a ~~manufacturer's~~ manufacturer, subcontractor, or technician's license or certification is revoked, suspended, or canceled for any reason in any other state, the manufacturer shall notify the Ignition Interlock Program within seven (7) days.
- (5) Submission of ~~certification~~ license fees and non-compliance fees will be the sole responsibility of the manufacturer for their respective subcontractors, service centers, and technicians. If a manufacturer is more than thirty (30) days delinquent in the payment of any required BAID administrative, certification, license, or non-compliance fees listed in Rules 1340-03-06-.03, 1340-03-06-.04, 1340-03-06-.14, 1340-06-06-.15, or 1340-03-06-.18, the manufacturer, subcontractor, or service center's ~~certification~~ license will be suspended until there is proof that all of the delinquent fees have been paid.

- (6) A licensee who violates a statute, rule, or regulation applicable to their license is subject to penalties determined by the department under Rule 1340-03-09.
- (7) The ignition interlock manufacturer must reimburse participant's monthly fees if extensions are overturned as determined by the department under Rule 1340-03-09.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. ~~**Administrative History:** Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-.17 but was renumbered 1340-03-06-.19 with the introduction of new rules 1340-03-06-.04 and 1340-03-06-.14 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~

#### **1340-03-06-.202 ADMINISTRATIVE HEARINGS.**

- (1) A manufacturer may request in writing an administrative hearing within ten (10) days of written notification of any suspension, permanent revocation, or denial of license or certification.
- (2) All hearings shall be recorded. A copy of the recording will be provided to the complainant upon receipt of a written request.
- (3) Only the Hearing Officer is allowed to ask questions during hearings, and the rules of evidence shall not apply.
- (4) The Hearing Officer shall open and preside over each hearing as follows:
  - (a) Read or permit a member of the Ignition Interlock Program to read the reason for suspension, permanent revocation, or denial of license or certification;
  - (b) Permit an attorney to attend and speak and answer questions on behalf of a manufacturer;
  - (c) Accept documentary proof;
  - (d) Hear the testimony of witnesses, if any;
  - (e) Ask questions, if deemed appropriate;
  - (f) Reconvene the hearing within seven (7) working days for other witnesses unable to attend, if deemed appropriate; and
  - (g) Conclude the hearing.
- (5) At the conclusion of the hearing, the Hearing Officer shall take the matter under advisement and render a written "Hearing Officer's Determination" within fifteen (15) working days of the date of the hearing.
- (6) Appeal of the Hearing Officer's Determination:
  - (a) In the event the manufacturer wishes to appeal the Hearing Officer's Determination, the party shall file a written appeal with the Administrative Support Bureau, Lieutenant Colonel, within fifteen (15) working days of the date of the Final Hearing Officer's Determination.
  - (b) The Administrative Support Bureau Lieutenant Colonel, acting as the Commissioner's Designee, shall review the Hearing Officer's Determination.
    - 1. Such review shall be solely on the record compiled by the Hearing Officer, which



shall include the recording of the hearing and any documentation submitted during the hearing.

2. The Lieutenant Colonel shall review the record and render a written decision in thirty (30) working days.
  3. Such decision shall be the final decision of the Department.
- (7) Any party wishing to appeal the Administrative Support Bureau Lieutenant Colonel's decision shall have sixty (60) days from the date of the decision to file a Petition for Review in the Chancery Court of Davidson County, pursuant to T.C.A. § 4-5-322.

**Authority:** T.C.A. §§ 4-3-2009, 55-10-412, 55-10-417, and 55-10-425. **Administrative History:** ~~Original rule filed December 17, 2012; effective May 31, 2013. Rule was previously numbered 1340-03-06-18 but was renumbered 1340-03-06-20 with the introduction of new rules 1340-03-06-04 and 1340-03-06-14 filed February 19, 2020; effective May 19, 2020. Amendments filed February 19, 2020; effective May 19, 2020.~~