



## Policy Brief Memorandum

**To:** Members of the House Transportation Committee

**From:** Matt Levin, Legislative Policy Manager

**Date:** May 7, 2021

**Re:** HB 4638: Answers to Member Questions

Below please find information in response to questions advanced in committee this week. Please feel free to contact me at [levinm1@michigan.gov](mailto:levinm1@michigan.gov) should you have any additional questions or concerns.

### May 4 Committee Questions:

**(Rep. Roth) Please explain how the device works. Is it self-contained? Is it attached to the battery of the car?**

The interlock device is located inside the vehicle, near the driver's seat, and is directly connected to the engine's ignition system. It does require a very small amount of battery power but will not drain the battery to the point where it will not start—unless the vehicle has not started for approximately 10 consecutive days. It is highly unlikely the device would drain a car battery to the point of it not starting. The device draws less than ¼ of an amp when the vehicle is not in operation, and it will draw ½ of an amp when it is preparing for a test. For more information, please see the attached "Interlock Myths-Facts" sheet from the Traffic Injury Research Foundation, as well as Smart Start's [The Top 6 Ignition Interlock Device Myths Debunked](#).

**(Rep. LaFave) What happens when a driver blows into the device with high mouth alcohol resulting from the recent use of mouthwash?**

A breath alcohol test is required when the driver first starts up the vehicle. If the test registers at or above .025, it may be a violation. At this point, the driver has 15 minutes to submit a new sample that must be under that amount. If the driver fails to do so, it counts as a violation. If, on the other hand, the new sample is under .025, nothing happens. The car starts and no action is taken by the Michigan Department of State (MDOS). In a situation involving high alcohol content due to mouthwash, simply rinsing and waiting would correct the high register. The data logs will show a sharp decrease in a subsequent BAC reading if the first sample provided was high due to mouth alcohol.

All ignition interlock companies include a checklist for the drivers to complete at the time of installation. The checklist instructs the driver to never eat or drink anything prior to blowing



into the device. The driver is instructed to keep a bottle of water in the vehicle to rinse his/her mouth prior to providing another sample after a fail. **They instruct the driver to not use mouthwash immediately prior to attempting to start the vehicle.** I have also attached a document that the hearing officers give to all drivers when granting interlock restrictions. This document includes information about mouthwash.

**(Rep. LaFave) What happens to that person described in the previous question? What does MDOS do in response to a false positive? What does MDOS do with the report generated by that blow?**

There are no “false positives”. The interlocks are all fuel cell devices that detect alcohol. The alcohol may be mouth alcohol and not be a violation, but the device did its job of detecting the alcohol.

MDOS receives all data from the devices, not just alleged violations. MDOS has a system that automatically scrubs the data to find potential violations. Currently, three technicians review all potential violations to make a determination based on the data logs, photos from the device, and any documentation submitted to the Department by the driver. If there is a BAC reading of .025 that drops below that level within 15 minutes, staff will review the photos to ensure it was the same person, and then take no action on the reported violation. If the driver provides a sample that is .025 or higher and does not provide another sample within 15 minutes, or does not provide a sample below .025 within 15 minutes, it is counted as a violation.

**(Chair O’Malley) How long has Michigan had the BAIID system in place?**

The program has been in place since 1999; however, changes in legislation and administrative rules led to a great increase in the number of drivers required to have a device installed. When BAIID oversight was first assigned to MDOS, we were tasked with 312 drivers who committed 500 alcohol-related violations. Today we oversee more than 17,000 drivers responsible for over 47,000 alcohol-related violations. In addition, prior to 2013, there was very little oversight of the manufacturers, their service centers, or the people who installed the device in drivers’ vehicles. In 2013, legislation was passed to require all ignition interlock service to be provided in licensed repair facilities by licensed mechanics with a BAIID specialty.

**(Rep. Carra) What happens if an intoxicated person blows high, then has a substitute person who is sober blow in his/her stead, but decides the better of it and does not drive the vehicle once the ignition is unlocked?**



This would be considered a circumvention of the device whether the driver operated the vehicle or not. The violation is appealable to the Department within 14 days.

As mentioned previously, MDOS reviews all BAC readings of .025 or higher to determine if a violation occurred. The review includes viewing the associated photos to ensure the same person provided the breath samples. If it is determined a violation did occur, MDOS takes the appropriate licensing sanction based on the statute and administrative rules.

**(Rep. Eisen) Does the device recognize marijuana and other drugs (besides alcohol) that impair a person's ability to drive?**

The devices do not detect marijuana. Any person convicted of multiple drug-related driving offenses (two within seven years or three within 10 years) would be required to install the device as a condition of a restricted license—just as they would if all offenses were alcohol-related. This is due to the fact that drugged driving offenses fall under the same provisions of MCL 257.625 (alcohol and drug driving offenses) and the same revocation provisions of MCL 257.303. As a result, MCL 257.322 requires installation of an interlock. With that said, usually one or more of the offenses involve alcohol. Anecdotally, MDOS staff could recall only one person in 15 years who was revoked for habitual drugged (non-alcohol) driving. Usually, an individual using marijuana also uses alcohol.

**(Rep. Puri and Rep Clemente): Would it be possible to see a detailed description of fees the Department would assess under this legislation?**

Yes, of course. Please see the attached list of fees currently assessed by the state of Washington. Michigan's fee schedule will mirror theirs.

Attachments:

- Interlock Myths-Facts
- Proper Interlock Use
- Intoxilock BAIID Manual
- Washington Fee Schedule

# ALCOHOL INTERLOCKS MYTHS & FACTS



## MYTH

Eating *certain foods* may result in a *failed ignition interlock test*.

Will I fail the breath test?



## FACT

Most foods *don't contain sufficient alcohol* to fail a test. Users should always rinse their mouth and avoid eating five minutes before taking a test as instructed.

## MYTH

An alcohol interlock device *drains the car battery*.

## FACT

Alcohol interlocks use *minimal battery power* and will not drain a maintained vehicle that is driven regularly.



CHARGED

Currently, 35 states and Washington D.C. require interlocks for all offenders.

## MYTH

Blowing into the *interlock while driving* can lead to a *crash*.

## FACT

The interlock *allows time for you to pull safely to the side of the road* to provide a test.



## MYTH

If a driver *fails a retest*, the car will *automatically stop*.

## FACT

The interlock will *not shut down the engine* of a moving vehicle.



ENGINE ON

## MYTH

Alcohol interlocks are *easy to bypass*.

## FACT

Alcohol interlocks have many *anti-circumvention features*. They *cannot be bypassed* using a balloon, filtered breath or air compressor.

Balloons filled with air will not pass the breath test.

## MYTH

The camera and GPS *record my everyday driving*.

## FACT

Some interlocks are programmed to *take a picture* and capture GPS data at vehicle *start-up* and during *certain points during the test sequence*. They do not record *all driving activity*.

CAMERA NOT RECORDING



To learn more about interlocks, go to [aiipaonline.org](http://aiipaonline.org) & [aic.tirf.ca](http://aic.tirf.ca)

## PROPER INTERLOCK USE

**YOU WILL BE RESPONSIBLE FOR ALL INTERLOCK VIOLATIONS.** The statements that follow cover some of the common violations involving the ignition interlock devices, but this list is not exhaustive. **You must read this Order in its entirety and learn to use the ignition interlock device correctly.** You must familiarize yourself with any and all instructions provided by your ignition interlock company.

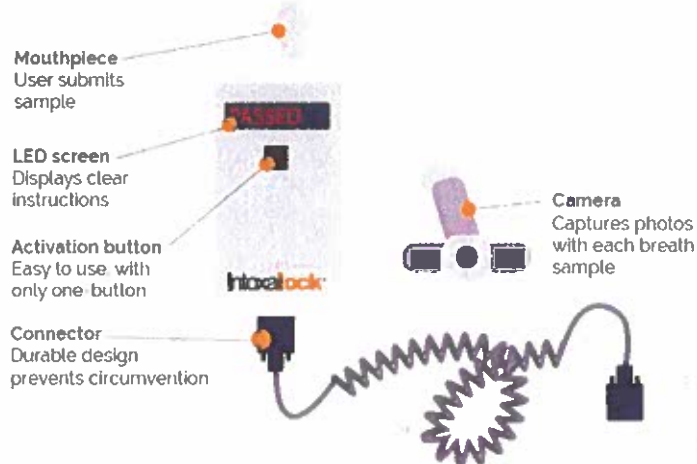
- **Never** leave your vehicle running and unattended, even momentarily. If you fail to provide a timely rolling re-test for any reason, it is a major ignition interlock violation. Your original revocation/denial will be reinstated and you will lose your license.
- **Never** exit your vehicle without first making sure that a rolling re-test has not been requested. Arrive at your destination, physically look at the ignition interlock device, and then turn off the ignition. You should look at the device again before exiting. Do not turn your vehicle off after a rolling re-test has been requested without providing a breath sample within the allotted five (5) minute time frame. Failure to provide a rolling re-test is a major violation. Your original revocation/denial will be reinstated and you will lose your license.
- **Periodically** start your vehicle, even if it is not being driven every day, to ensure that the battery remains charged. If your battery dies, use a tow service or AAA to obtain a jumpstart and send the receipt and a letter of explanation to the Department immediately after doing so.
- You and/or a repair facility **must** contact the interlock company **before** making any repairs to your vehicle. Provide notice to the interlock company of the type of repairs and the dates they are scheduled to be completed.
- **Obtain documentation** (legible, dated, and signed receipts) for any repairs done to your vehicle. This includes tow receipts and receipts from auto parts stores. These receipts and a letter of explanation that is notarized, dated, and signed by you should be sent to the Department immediately after repairs are completed. **Make sure it is clear on the face of the receipt if a mechanic has possession of the vehicle for longer than one (1) day.**
- Receipts with an accompanying letter of explanation should be scanned, uploaded as an attachment, and emailed to MDOS-BAIIDDocumentation@michigan.gov within five (5) days of repairs being completed. Note that this email is used solely to submit documents and that the Department will not respond to emails.
- **Never eat or drink anything** (other than plain water) within 15 minutes of providing a breath sample. **Be careful if you use mouthwashes or cold medications**, such as Listerine, Scope or Nyquil. Many contain alcohol, ranging from about 20% to 30%. You should avoid using any products that contain alcohol. If alcohol is detected by the machine, you should rinse out your mouth with water and provide a second sample within five (5) minutes. Do not just walk away from the machine. It is advisable that you keep a bottle of water in your vehicle. Ask your pharmacist if you are unsure if a product contains alcohol. **FOLLOW THIS INSTRUCTION CAREFULLY – YOU WILL BE HELD RESPONSIBLE FOR POSITIVE ALCOHOL INDICATIONS.**

- **With an alcohol reading on your interlock device or other violation such as missed rolling retest or power losses, it is also advisable that you obtain an objective test to prove you were not drinking.** This might involve a preliminary breath test (PBT) from your local police station, sheriff's department, or State Police post if within 1 hour of the violation. It could also involve other chemical tests such as an Ethyl Glucuronide (ETG) test from a toxicology lab if within 24 hours of the violation. Note that doing so will not necessarily avoid a reinstated revocation/denial if a major violation occurs, i.e., a failed rolling re-test. However, the test results may be taken into consideration in the event an administrative hearing is scheduled. The burden is **always on you** to prove that you had continued to maintain abstinence and had not relapsed.
- **Limit** the people who have access to your vehicle. **You are responsible** for all violations of the interlock device. Action will be taken **against you** if another individual misses a re-test, provides a breath sample that includes alcohol, or otherwise violates the interlock device.
- If you change interlock companies, **notify** the Department **within seven (7) days** of the removal of your first interlock company's interlock device and the installation of the new company's device by mailing the new installation certificate to the Department.



## HOW IGNITION INTERLOCK DEVICES WORK

IIDs fit into a vehicle's center console and is comprised of a handheld unit with an LED screen displaying clear instructions; mouthpiece to submit sample with activation button; durable relay cord connecting the device to the vehicle; and camera unit mounted to the front windshield to capture photos with each breath sample (if required by state law). States may require IIDs be integrated with GPS if there is no jurisdictional limitation. The device is engineered for anti-circumvention and guarantees continued driver sobriety throughout their time behind the wheel.



- ▶ Drivers with an IID installed in their vehicle must submit a breath sample into the mouthpiece before they are able to start their vehicle. State certified IIDs use fuel cell technology to measure the amount of alcohol on the user's breath. If the breath sample detects alcohol at or above the limit set by the state (usually 0.02), the car will not start.
- ▶ If the breath sample returns a breath alcohol concentration below that set limit, the driver will be able to insert their key into the ignition and safely start their vehicle.
- ▶ Once the vehicle is started, an IID will require the driver to continue providing breath samples throughout the duration of their trip to ensure that the driver does not just have a sober person start their vehicle for them so they could continue driving after drinking alcohol.
- ▶ These continued tests are required by ignition interlock providers as mandated by individual state laws. Most ignition interlock providers give the driver four to six minutes to complete a retest once prompted. This allows the driver to safely pull over to the side of the road if needed or to take extra precautionary measures if driving in heavy traffic.

## ABOUT INTOXALOCK

Headquartered in Des Moines, Iowa, Intoxalock is a strong leader in the ignition interlock industry with a focus on providing customers with professional services and the most reliable alcohol monitoring devices available. Intoxalock's top-rated ignition interlock devices meet state requirements in more than 46 states, with alcohol monitoring products utilized in all 50 states. Intoxalock has been manufacturing ignition interlocks for over 25 years and was the first company to combine fuel cell technology, photo verification and real-time reporting to meet the most rigorous state requirements to enhance the safety of our roadways and reduce alcohol-related traffic fatalities.



**IGNITION INTERLOCK PROGRAM  
IGNITION INTERLOCK  
FEE SUBMISSION**



**Company/Business Name**

**Doing Business As (if different from above)**

**Fee Period – Month/Year**

**Remit by electronic funds transfer through the Automated Clearing House (ACH) to:**

Name of Financial Institution: US Bank  
 Financial Institution Address: 60 Livingston Ave., St. Paul MN 55107-2292  
 Account Name: 2250-WASHINGTON STATE PATROL  
 ABA/Routing Number: 123000848  
 Account Number: 153910882296  
 Account Type: Checking

**Address:**

Washington State Patrol  
 Budget and Fiscal Services  
 PO Box 42602  
 Olympia WA 98504-2602

<b>Fee Description</b>	<b>Fee</b>	<b># Submitted Per Fee</b>	<b>Total Per Fee</b>
Initial Device Certification	\$ 1,000		\$ 0
Annual Device Certification Renewal	\$ 500		\$ 0
Installation Verification Form	\$ 10		\$ 0
Sixty-Day Calibration	\$ 10		\$ 0
Initial Service Center Certification	\$ 250		\$ 0
Annual Service Center Certification Renewal	\$ 75		\$ 0
Initial Ignition Interlock Technician Certification	\$ 50		\$ 0
Ignition Interlock Technician Certification Renewal	\$ 25		\$ 0
<b>Total Submitted</b>			<b>\$ 0</b>

- Enter the total number of each fee included in the fee submission above. If none, insert 0 (zero). The total will be calculated automatically. Include this total in the ACH submission.

By typing or signing my name and the date below, I certify or declare that the information submitted on this document is true, correct, and accurate to the best of my knowledge.

**Name of Person Submitting Document**

**Date of Submission**

**Title of Person Submitting Document**

**Contact Information (e.g., Telephone, Address, E-mail, etc.)**

Forward a copy of this submission form by e-mail (preferred), fax, or mail to:

**Name and Address**  
 Ignition Interlock Program  
 Washington State Patrol  
 811 East Roanoke St  
 Seattle WA 98102

**E-Mail (preferred)**  
[ignition.interlock@wsp.wa.gov](mailto:ignition.interlock@wsp.wa.gov)

**Fax**  
 (206) 720-3246

**Office Number**  
 (206) 720-3018  
 Ext. 24134