

Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—[Traffic and]Highway Safety and Traffic Division
Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational
Requirements

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PROPOSED AMENDMENT

7 CSR 60-2.010 Definitions. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This proposed amendment defines the terms used in the breath alcohol ignition interlock device certification and operational requirements.

(1) Definitions.

(A) The following words and terms as used in *[these requirements shall]* 7 CSR 60-2.010 through 7 CSR 60-2.060 have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set for the rolling retests;

2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device *[is set to lock the ignition]* **prevents the vehicle from starting** *[The alcohol setpoint is the nominal lock point at which the ignition interlock device is set at the time of calibration];*

3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;

4. Authorized service provider (ASP)—**The entity designated by the manufacturer to provide services to include, but not be limited to, installation, monitoring, maintenance and removal of the breath alcohol ignition interlock device***[A person, company, or authorized franchise who is certified by the state of Missouri to provide breath alcohol ignition interlock devices under sections 577.600–577.614, RSMo];*

5. Bogus breath sample—Any *[gas]*sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;

6. Breath alcohol concentration (BrAC)—**The amount of alcohol in a given amount of breath, expressed in weight per volume** *[number of grams of alcohol]*(% weight/volume) based on grams of alcohol per two hundred ten (210) liters of breath;

7. Breath alcohol ignition interlock device (BAIID)—**A breath testing device, including all parts necessary for operation, e.g. handset and camera, installed in a vehicle that prevents it from operating if breath test results show a BrAC that meets or exceeds the alcohol setpoint. The device also requires the driver to continue to pass repeated breath tests while the vehicle is running to ensure that the driver remains below the alcohol setpoint. However, the interlock device will not interfere with the normal operation of the vehicle while it is in use** *[mechanical unit that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine and will provide a warning message. If the unit detects a BAC test result at or above the alcohol setpoint, the vehicle will be prohibited from starting];*

8. Breath *[sample]*—Expired human breath containing primarily alveolar air;

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9. Calibration—The process which ensures an accurate alcohol concentration reading on a device;

10. Circumvention—An unauthorized, intentional, or overt act or attempt to start, drive, or operate a vehicle equipped with a breath alcohol ignition interlock device without the driver of the vehicle providing a pure breath sample **and/or blocking, moving or disabling the camera, if required;**

11. **Commission—The Missouri highways and transportation commission created by article IV, section 29, Constitution of Missouri***[Committee—The persons delegated to conduct informal reviews of suspension or revocation of a device by the Missouri Highways and Transportation Commission];*

12. **Department—The Missouri department of transportation created by article IV, section 29, Constitution of Missouri;**

1[2]3. Designated monitoring period—The period of time indicated by the Department of Revenue for required monitoring of the driver's ignition interlock use by the **manufacturer***[authorized service provider];*

1[3]4. Device—Breath alcohol ignition interlock device *[(BAIID)];*

15. **Division—The highway safety and traffic division under the department that is delegated the authority to administer the provisions of 7 CSR 60-2.010 through 7 CSR 60-2.060;**

1[4]6. Download—The transfer of information from the interlock device's memory onto disk or other electronic or digital transfer protocol;

1[5]7. Emergency service—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

1[6]8. Filtered breath sample—A breath sample which has been filtered through a substance in an attempt to remove alcohol from the sample;

1[7]9. Global positioning system (GPS)—A feature of the device that will log the location (longitude and latitude), date, and time of each breath sample including any refusal, any circumvention attempt, and any attempt to tamper with the ignition interlock device;

[18. Independent laboratory—A laboratory which properly equipped and staffed to conduct laboratory tests on ignition interlock devices;

19]20. Initial breath test—A breath test required to start a vehicle to ensure that the driver's BrAC is below the alcohol setpoint;

2[0]1. Installation—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by installers;

[21. Installer—A dealer, distributor, supplier, individual, or service center who provides device calibration, installation, and other related activities as required by the authorized service provider;]

22. **ISO—International Organization for Standardization;**

2[2]3. Lockout—*[The ability]* **A condition of the device [to]which** prevents a vehicle's engine from starting unless it is serviced or recalibrated;

24. **Manufacturer—A person or company responsible for the design, construction, and/or production of a BAIID;**

25. **Mobile Service—A portable authorized service provider, whether contained within a vehicle or temporarily erected on location, which includes all personnel and equipment necessary to conduct ignition interlock device related business and services;**

[23. NHTSA—Federal agency known as the National Highway Traffic Safety Administration;]

2[4]6. Operator—Any person who operates a vehicle that has a court-ordered or Department of Revenue required breath alcohol ignition interlock device installed;

27. Override lockout—Method of overriding a lockout condition by providing a breath sample;

2[5]8. Permanent lockout—**A condition in which the device will not accept a breath test until serviced by an ASP**[feature of a device in which a vehicle will not start until the device is reset by a device installer];

2[6]9. Photo ID technology—A feature of the device that incorporates [technology] **photo identification or digital images of** [that will photograph] the person who is providing the breath test;

[27. Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the ignition interlock device;]

[28]30. Pure breath sample—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

31. Real-Time Reporting—The near real-time transmission of ignition interlock data between the manufacturer's server and the driver's ignition interlock while the device is in use;

[29]32. Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the device[Reinstallation—Replacing a breath alcohol ignition interlock device in a vehicle by an installer after it has been removed for service];

33. Relative Within Second Degree of Consanguinity or Affinity—A spouse or domestic partner, parent, step parent, child, step child, grandparent, step grandparent, grandchild, step grandchild, brother, step brother, sister, step sister, mother-in-law, father-in-law, grandparent-in-law, grandchild-in-law, brother-in-law, or sister-in-law;

3[0]4. Retest—Two (2) additional chances to provide a breath sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the [rolling]running retest;

[31. Revocation—A revocation is a removal of a device from the approved list and requires reapplication under 7 CSR 60-2.020. After revocation, an authorized service provider must wait at least one (1) year or longer, if determined by Traffic and Highway Safety Division or the committee, before reapplication;]

3[2]5. [Rolling]Running retest—A subsequent breath test that must be conducted within five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter while the vehicle is in operation;

3[3]6. Service lockout—**A condition**[feature] of the breath alcohol ignition interlock device **that occurs when the operator fails to have the device serviced during a certain period of time and results in a permanent lockout condition**[which will not allow a breath test and will not allow the vehicle to start until the device is serviced and recalibrated as required];

[34. Suspension—The period after a finding by the Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee designated by the Missouri Highways and Transportation Commission to conduct informal review of a device, that is to be or has been removed from the list of approved devices. A suspension is temporary and may not require the manufacturer to go through the approval procedure although the Traffic and Highway Safety

and Traffic Division or the committee may impose requirements before the suspension is removed;]

3[5]7. Tampering—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering measures, so a driver can start the vehicle without taking and passing an initial breath test;

38. Technician—A person trained by the authorized service provider to possess the skills necessary to install, service, calibrate, and/or remove ignition interlock devices;

3[6]9. Temporary lockout—A condition[feature of the device] in which the device will not allow the vehicle to start for fifteen (15) minutes after three (3) failed attempts to blow a pure breath sample; and

[37]40. Violations reset—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

- A. Two (2) fifteen- (15-) minute temporary lockouts within a thirty- (30-) day period;
- B. Any three (3) refusals to provide a retest sample within a thirty- (30-) day period;
- C. Any three (3) breath samples, after startup, at or above the alcohol setpoint within a thirty- (30-) day period; or
- D. Any attempts to circumvent or tamper with a device.

AUTHORITY: sections 302.440-302.462, RSMo, 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.010. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.010, effective Aug. 28, 2003. Emergency amendment filed May 7, 2009, effective July 1, 2009, expired Dec. 30, 2009. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Emergency amendment filed April 8, 2010, effective April 18, 2010, expired Nov. 30, 2010. Amended: Filed April 8, 2010, effective Nov. 30, 2010. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expired March 29, 2014. Amended: Filed Sept. 12, 2013, effective March 30, 2014. Amended: Filed March 9, 2018.*

**Original authority: 577.600–577.614, see Missouri Revised Statutes and 226.130, RSMo 1939, amended 1993, 1995.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.