

	Electric Power Supplier License	[Clean Power Marketer License]	Gas Supplier License	Energy Agent, Private Aggregator, and/or Energy Consultant Registration	[Private Aggregator Registration]
<b>Initial Application Fee-</b>					
Nonrefundable	\$250.00	[\$250.00]	\$250.00	\$500.00	[\$500.00]
<b>Initial License Fee refunded if license is denied</b>	\$1,000.00	[\$1,000.00]	\$800.00	\$0	[\$0]
<b>[Renewal] Annual Information Update</b>					
Fee Nonrefundable	\$500.00	[\$500.00]	\$400.00	\$200.00	[\$200.00]

(b) If an applicant applies for more than one license, the applicant shall submit the application fees for both licenses. For example, the application fee for both an electric power supplier license and a [clean power marketer license would be \$2,500; and the fee for both an electric power supplier license and a] gas supplier license would be [\$2,050] **\$2,300**. Similarly, an applicant that applies for more than one license shall post a surety bond for the sum of the applicable amounts required at N.J.A.C. 14:4-5.4(f). **For registrants, the application fee remains the same if an applicant applies for one, two, or all three registrations. For example, an initial fee for an Energy Agent would be \$500.00 and the initial fee for an Energy Agent and Energy Consultant would be \$500.00 as well.**

14:4-5.13 Enforcement

(a)-(c) (No change.)

**(d) Nothing shall limit the authority of the Board to deny, suspend, or revoke a license or registration at any time, consistent with the provisions P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.).**

**Summary**

The Motor Vehicle Commission (Commission) proposes amendments to N.J.A.C. 13:19-6.4, 6.5, 6.9, 6.10, and 6.11. P.L. 2019, c. 248 (the Act) amended N.J.S.A. 39:4-50, 50.4a, 50.17, and 50.18, effective December 1, 2019, to revise the penalties for operating a motor vehicle under the influence and expand the use of ignition interlock devices to deter drunk driving and enhance public safety.

Prior to the change in the law, a determination that a first-time drunk driving offender with a blood alcohol concentration (BAC) of 0.08 percent or higher, but less than 0.10 percent, resulted in a mandatory driver's license suspension for three months. If the first-time offender's BAC was 0.10 percent or higher, or if the vehicle was being operated under the influence of drugs, the license suspension would range from seven months to one year. The new law makes a significant change that will allow a first-time drunk driver to continue to operate a vehicle rather than requiring a license suspension, so long as the driver is compliant with installing and driving with an ignition interlock device on the vehicle.

In enacting the statutory amendments, the Legislature found that since January 2001, New Jersey law has required repeat drunk drivers and first-time offenders with a high BAC to install an ignition interlock device; however, ignition interlock installation has not been mandatory for all first-time offenders. The Legislature also found that, despite the suspension of their driving privileges, many offenders continued to drive, which the Legislature concluded was ineffective in combating drunk driving. The Legislature further concluded, based upon a review of a recent national study by the Insurance Institute for Highway Safety (IIHS) and state laws, that ignition interlock devices are more effective in deterring drunk driving than license suspension. Specifically, the IIHS study (State alcohol ignition interlock laws and fatal crashes. Teoh, Eric R. / Fell, James C. / Scherer, Michael / Wolfe, Danielle E.R., *Insurance Institute for Highway Safety*, March 2018) found that state laws mandating interlock devices reduced the number of drivers involved in fatal crashes, where the driver had a BAC of 0.08 percent or higher, by 16 percent compared to states with no interlock laws and by eight percent when required for first time and repeat offenders. According to studies relied upon by the Legislature, the cost shouldered by the offender will be substantially outweighed by the increased public safety and potential to save lives lost because of drunk drivers. The Act, which applies to offenses that occurred on and after December 1, 2019, expires January 1, 2024.

The proposed amendments implement the provisions of the Act that expand the use of ignition interlock devices, specify the conditions necessary for removal of the ignition interlock device (also referred to in the rules as a breath alcohol ignition interlock device, or BAIID), and mandate new reporting requirements regarding the installation and use of ignition interlock devices.

**TRANSPORTATION**

**(a)**

**MOTOR VEHICLE COMMISSION**

**Installation and Use of Ignition Interlock Devices**

**Proposed Amendments: N.J.A.C. 13:19-6.4, 6.5, 6.9, 6.10, and 6.11**

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 39:2-3, 39:2A-28, 39:4-50, 39:4-50.16 et seq., 39:4-50.17 et seq., 39:4-50.21, 39:5-30, and 39:5D-4; and P.L. 2019, c. 248.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-012.

Submit comments by April 3, 2020, to:

Kate Tasch, Director  
 Legal and Regulatory Affairs  
 Motor Vehicle Commission  
 225 East State Street  
 PO Box 162  
 Trenton, NJ 08666-0162  
 Or via email to: [rulecomments@mvc.nj.gov](mailto:rulecomments@mvc.nj.gov)

The agency proposal follows:

N.J.A.C. 13:19-6.4 is proposed for amendment to create a distinction for offenses occurring between December 1, 2019 and January 1, 2024, and offenses prior to and after that period. The proposed amendment also provides that a licensee subject to court-ordered BAIID installation must install the BAIID in one motor vehicle that is owned, leased, or principally operated by the licensee, and that the licensee shall drive no vehicle other than the one in which a BAIID has been installed, pursuant to the court order. Further, the proposed amendment removes from the driver's license, the date of completion of the offender's ignition interlock sentence for offenses that occur on and after December 1, 2019 and before January 2, 2024, and requires a certification of compliance in accordance with the Act prior to the issuance of a driver's license with the ignition interlock imprint removed.

N.J.A.C. 13:19-6.5 is proposed for amendment to change the maximum required service interval from 67 days to 60 days to ensure proper functioning of the device and ensure accurate readings throughout the installation period, including the last 30 days of the installation period. The Act permits the removal of a BAIID only if the offender submits to the Chief Administrator, a certification from the ignition interlock manufacturer or service center that during the final 30 days of the installation period there was not more than one failure to take a test or more than one test with a resulting BAC of 0.08 percent or higher, unless a re-test conducted within five minutes of the initial test indicates a BAC of less than 0.08 percent. This proposed amendment ensures that offenders sentenced to 90 days of BAIID installation will not have calibration or service-related issues during the final 30 days of the installation period.

N.J.A.C. 13:19-6.9 is proposed for amendment to establish requirements for BAIID manufacturers to maintain records of the number of offenders who qualify for a BAIID at a reduced rate pursuant to N.J.S.A. 39:4-50.17a, and to report this data to the Motor Vehicle Commission on January 1 and July 1 of each calendar year. Manufacturers will also be responsible for maintaining records of offenders who remove the BAIID due to their inability to afford continued installation and to report this data to the Motor Vehicle Commission on January 1 and July 1 of each calendar year. The proposed amendments are necessary for the Chief Administrator to comply with the semiannual reporting requirements of the Act.

N.J.A.C. 13:19-6.10 is proposed for amendment to continue to provide the Chief Administrator with the power to revoke BAIID certification and remove that manufacturer from the list of approved BAIID manufacturers for failure to comply with the rules and removes the requirement that the non-compliance must impair the integrity, safety, consistency, or cost-effectiveness of the public trust in the program.

N.J.A.C. 13:19-6.11 is proposed for amendment to change the maximum required monitoring interval from 67 days to 60 days to ensure proper functioning and use of the device and to ensure accurate readings throughout the installation period, including the last 30 days of the installation period. The Commission also proposes to amend this rule to require that the certificate of installation provided by the BAIID service center include the date of the offense for which the BAIID is being installed and the name and address of the court ordering the BAIID installation. The proposed amendments also establish requirements for the creation and submission of a certification of compliance at the conclusion of the court-ordered BAIID installation period, or when non-compliance requires a return to the court or Motor Vehicle Commission for a determination as to an additional BAIID installation term of up to 90 days.

This notice of proposal is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice will be 60 days.

#### **Social Impact**

The proposed amendments enhance the safety of the public by ensuring that offenders are not able to operate a motor vehicle with a BAIID installed if their breath alcohol concentration (BrAC) is 0.05 percent or above.

Additionally, the proposed amendments will allow offenders to continue to drive to meet transportation obligations necessitated by employment, family, and travel.

#### **Economic Impact**

The proposed amendments will have an economic impact on the general public. For those individuals who are convicted of a violation of N.J.S.A. 39:4-50 or 50.4a, there will be costs associated with the installation, purchase, or rental and maintenance of the BAIID. The Commission anticipates that these costs will be mitigated by the fact that, once the BAIID is installed, offenders will continue to have the ability to use their vehicles to travel to and from their places of employment, transport themselves and their family members, and maintain their typical lifestyles instead of being suspended. If offenders' licenses were suspended, offenders would then be responsible for finding alternative transportation, which can be inconvenient and costly.

The costs are also mitigated by the benefit to public safety when offenders are prohibited from operating a motor vehicle if the BAIID reading is 0.05 percent or above.

Manufacturers and ignition interlock service centers will be positively affected because of the anticipated increase in the use of BAIIDs.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed amendments are not being proposed to implement, comply with, or participate in any program established under Federal law or standards or under a State law that incorporates or refers to Federal law, standards, or requirements.

#### **Jobs Impact**

The Commission anticipates that the proposed amendments may have a positive impact on jobs, as those who are subject to the installation of a BAIID will be able to continue to drive to their place of employment, or to destinations to seek employment, whereas, if a person's driver license were suspended, the person may not have a way to get to places of employment. Also, the increased use of BAIIDs may generate additional jobs at the ignition interlock installation facilities.

#### **Agriculture Industry Impact**

The Commission does not anticipate that there will be any impact on the agriculture industry as a result of the proposed amendments.

#### **Regulatory Flexibility Analysis**

The Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., defines a "small business" as any business resident in this State that employs fewer than 100 employees full-time, is independently owned and operated, and is not dominant in its field. Some of the businesses affected by the proposed amendments are small businesses.

The cost of compliance with the proposed amendments will be administrative in nature; no professional services are required to comply. The proposed amendments do increase reporting requirements, as discussed in the Summary above; the majority of information requested from the manufacturers and service centers is information that is already captured. The recordkeeping and compliance requirements, as discussed in the Summary above, are designed to maintain essential compliance information needed by the Commission and the courts to comply with the Act's reporting requirements and to ensure that a BAIID, and the ignition interlock imprint on the driver's license, are only removed upon successful completion of the ignition interlock program requirements.

#### **Housing Affordability Impact Analysis**

The proposed amendments will have no impact on housing affordability, or the average costs associated with housing, because the proposed amendments pertain to driving while intoxicated and the installation of the ignition interlock device.

#### **Smart Growth Development Impact Analysis**

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments pertain to driving while intoxicated and the installation of the ignition interlock device.

**Racial and Ethnic Community Criminal Justice and Public Safety  
Impact**

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 6. INSTALLATION AND USE OF IGNITION  
INTERLOCK DEVICES

13:19-6.4 Requirements for use of BAIIDS installed to meet  
sentencing requirements

(a) In order to have a driver license restored, an offender required by the court to have a BAIID installed as part of a sentence imposed under N.J.S.A. 39:4-50 and 39:4-50.17:

**1. For an offense committed prior to December 1, 2019 or after January 1, 2024**, shall have installed, in the motor vehicle principally operated by the offender during and following the expiration of the period of license suspension imposed, a BAIID that has been certified by the Chief Administrator under N.J.A.C. 13:19-6.7, and for the duration of the court's order, an offender shall drive no vehicle other than one in which an interlock device has been installed pursuant to the order.

**2. For an offense committed on or after December 1, 2019 through January 1, 2024, shall have installed, in one motor vehicle the person owns, leases, or principally operates, whichever the person most operates, pursuant to the sentence imposed by the court under N.J.S.A. 39:4-50 and pursuant to N.J.S.A. 39:4-50.17, a BAIID that has been certified by the Chief Administrator under N.J.A.C. 13:19-6.7. For the duration of the court's order, an offender shall not drive any vehicle other than the one in which an ignition interlock device has been installed pursuant to the order.**

(b)-(c) (No change.)

(d) A BAIID installed as part of a sentence:

**1. For an offense committed prior to December 1, 2019 or after January 1, 2024**, imposed under N.J.S.A. 39:4-50 and 39:4-50.17, shall not be removed until the date of the completion of the offender's interlock sentence as designated on the driver license document, unless the offender first surrenders his or her driver's license to the Commission.

**2. For an offense committed on or after December 1, 2019 through January 1, 2024, imposed under N.J.S.A. 39:4-50 and 39:4-50.17 shall not be removed until the date of the completion of the offender's interlock sentence and submission of the certification of compliance to the Commission, pursuant to N.J.S.A. 39:4-50.18 and N.J.A.C. 13:19-6.11, unless the offender first surrenders his or her driver's license to the Commission.**

13:19-6.5 Specifications for BAIIDS

(a)-(c) (No change.)

(d) The manufacturer's required service interval shall not exceed [67] **60** days.

13:19-6.9 Reports required from manufacturer after BAIID  
certification

(a)-(b) (No change.)

(c) **Beginning December 1, 2019, and through January 1, 2024, the manufacturer of a BAIID, certified under N.J.A.C. 13:19-6.7, shall maintain records and provide, on January 1 and July 1 of each year, to the Commission, in either computerized or hard copy form, or both, the following:**

**1. A report detailing the number of persons, categorized by county of offender residence, who qualified for a BAIID at a reduced monthly rental rate in accordance with N.J.S.A. 39:4-50.17a and N.J.A.C. 13:19-6.14 during the reporting period.**

**2. A report detailing the number of persons who removed a BAIID due to their inability to afford continued installation, during the reporting period.**

13:19-6.10 Revocation of certification of BAIID

(a) The Chief Administrator shall revoke certification of a BAIID, and remove it from the list of approved BAIIDS, upon one or more of the following grounds:

1.-4. (No change.)

5. Evidence that the manufacturer is not in compliance with the provisions of this subchapter[, and the determination that the noncompliance impairs the integrity, safety, consistency, or cost-effectiveness of, or public trust in, the program];

6. Evidence that the manufacturer repeatedly is not in compliance with the provisions of this subchapter[, and the determination that the repeated noncompliance impairs the integrity, safety, consistency, or cost-effectiveness of, or public trust in, the program];

7.-8. (No change.)

(b)-(c) (No change.)

13:19-6.11 Service center requirements

(a) (No change.)

(b) Each service center shall:

1.-6. (No change.)

7. Monitor BAIIDS periodically, at intervals of no more than [67] **60** days;

8.-14. (No change.)

15. Provide the program participant with a certificate of installation on a form provided by the Commission upon completion and delivery of the BAIID installation;

i. The certificate of installation shall contain the following information:

(1)-(4) (No change.)

(5) The name and address of the person required by the court to have the BAIID installed, if different than the owner; [and]

(6) (No change.)

**(7) The date of the offense for which the BAIID is being installed; and**

**(8) The name and address of the court ordering the BAIID installation;**

ii. (No change.)

16. Provide user orientation, training, and support;

i.-iii. (No change.)

iv. The service center shall provide the program participant with its 24-hour emergency telephone number and a list of service providers' locations and telephone numbers; [and]

17. Provide periodic servicing and calibration to ensure proper operation of the device and its tamper-detection capabilities that shall include:

i.-iii. (No change.)

iv. If a service center observes that a BAIID is inoperable in any respect, confirmation that the BAIID is in fully operating condition, and restoration to fully operating condition[.];

**18. Provide the program participant with a certification, on a form provided by the Commission, upon satisfactory completion of the ignition interlock installation period ordered by the court;**

**i. The certification shall contain, at a minimum, the following information:**

**(1) The service center's name, address, and telephone number;**

**(2) The name, title, and signature of the person completing the certification;**

**(3) The date of completion of the certification;**

**(4) The name and address of the registered owner of the vehicle in which the device was installed;**

**(5) The name and address of the person required by the court to have the BAIID installed, if different than the vehicle owner;**

**(6) The driver's license number of the person required by the court to have the BAIID installed;**

**(7) The make, model, year, vehicle identification number, and license plate number of the vehicle in which the BAIID was installed;**

**(8) The date of the offense for which the BAIID was installed;**

**(9) A statement that the BAIID remained installed for the duration of the court-ordered installation period;**

**(10) The name and address of the court ordering the BAIID installation;**

(11) A statement that:

(A) During the final 30 days of the installation period the program participant did not have more than one failure to take a test;

(B) During the final 30 days of the installation period the program participant did not have more than one test with a resulting BrAC of 0.08 percent or higher unless a retest conducted within five minutes of the initial test indicated a BrAC of less than 0.08 percent; and

(C) The program participant complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the BAID;

(12) If, during the final 30 days of the installation period, the program participant had more than one failure to take a test, more than one test with a resulting BrAC of 0.08 percent or higher, unless a retest conducted within five minutes of the initial test indicated a BrAC of less than 0.08 percent, or failed to comply with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the BAID, the service center shall provide the violation information on the certification provided by the Commission to the Chief Administrator and the court that ordered the installation of the BAID. At a minimum, this form shall include the information required by this subparagraph, and any reason(s) for

non-compliance, including the date and time of any BAID test that resulted in a BrAC of 0.08 percent or higher during the final 30 days of the installation period, evidence of more than one failure to take a required test during the final 30 days of the installation period, and evidence of failure to comply with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the BAID. Upon receipt, the court, or the Chief Administrator, if the offense was committed in another state or jurisdiction, shall determine whether to extend the period of BAID installation for up to 90 days. The court may, alternatively, issue, to the Chief Administrator, a certification indicating compliance with the program requirements; if the offense was committed in another state or jurisdiction, the Chief Administrator may alternatively determine if the offender is compliant; and

19. The falsification of any information on the certification shall subject the service center and manufacturer to revocation of the BAID certification, pursuant to N.J.A.C. 13:19-6.10, and any additional applicable civil and criminal penalties.

(c) (No change.)

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