



The Monitored Device Driving Permit: What Practitioners Need to Know

In 2009, Illinois replaced the judicial driving permit with the monitored device driving permit (“MDDP”), which requires a large number of DUI offenders to use a breath interlock device. This article comprehensively reviews the law and discusses recent amendments and rule changes.

In 1971 Illinois first adopted the principle of implied consent, providing that any person who drives or is in physical control of a motor vehicle on public highways is deemed to have given consent to chemical testing if arrested for DUI.¹

With the introduction of the Illinois summary suspension law on January 1, 1986,² Illinois drivers arrested for DUI faced the statutory summary suspension (“SSS”) of their driving privileges regardless of whether they failed or refused testing. This was a significant change from the original implied consent law,

which only provided for suspension for a test refusal.³

Additionally, requesting a hearing to challenge the suspension would no longer indefinitely delay its imposition, as it did under the old law. The suspension would now take effect within a statutorily defined period unless successfully challenged prior to the expiration of that time.⁴

Unless rescinded, the suspended driver could seek a judicial

1. 625 ILCS 5/11-501.1 (PA 76-1586 added by PA 77-1800 eff 7/1/71). Note that the implied consent law now also applies to those arrested for 625 ILCS 5/11-401 (leaving the scene of a motor vehicle accident involving death or personal injury).

2. See 625 ILCS 5/2-118.1, 6-206.1, 6-208.1 and 11-501.1 (PA 84-272 eff 1/1/86).

3. See 625 ILCS 5/11-501.1 (PA 76-1586 added by PA 77-1800 eff 7/1/71).

4. 625 ILCS 5/11-501.1(g).

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driving permit (“JDP”) from the court for employment, education, or medical purposes, provided the driver was a first offender and met other conditions.⁵ Before a JDP could be granted, the driver had to complete an alcohol/drug evaluation. The court had discretion to grant or deny the permit, depending on whether the person was an acceptable risk to drive and whether failure to allow the permit worked a serious hardship.⁶

Later, in June 1994, the Secretary of State’s (“SOS”) office began a pilot program to determine the effectiveness of the breath alcohol ignition interlock device (“BAIID”).⁷ The device prevents a driver from driving a vehicle if his or her breath alcohol concentration (“BrAC”) exceeds a given level. Over time, state and federal law mandated use of the device for certain drivers who were revoked for DUI and sought restricted driving privileges (“RDP”) through an administrative hearing before the SOS.⁸

While the benefits of these devices are subject to debate, BAIID technology has found favor in many state legislatures and the federal government. Effective January 1, 2009, Illinois eliminated the use of the JDP and replaced it with the monitored device driving permit (“MDDP”).

With certain limited exceptions, the MDDP requires the use of the BAIID.⁹ Through the efforts of the ISBA, the law was amended effective February 14, 2011 to eliminate the need for a court order in order to obtain issuance of the MDDP.¹⁰

This article is a comprehensive practitioner’s guide to the MDDP law. For a thumbnail sketch of the MDDP law, see Theodore J. Harvatin, *DUI Will Travel: When Drunk Driving Crosses State Lines*, 99 IBJ 414 (August 2011), on the web at www.isba.org/ibj/2011/08.

MDDP highlights and comparison with previous law governing JDPs

• The MDDP is not a restricted driving permit. It is issued to certain persons during the SSS period but is not available to those who are revoked for DUI. The only relief available to eligible revoked drivers is an RDP through the administrative hearing process before the SOS.

• As with the judicial driving permit it replaced, the MDDP is only available to first offenders. Generally, this includes those who have not had a previous DUI disposition (including supervision, con-

viction, or a SSS) within five years of the current arrest. Those who are not statutory first offenders are not eligible for any relief, either from the court or secretary of state, during the period of the SSS.¹¹

• Consistent with the JDP law, the original MDDP law provided that permits be issued pursuant to court order by the SOS.¹² The statute governing MDDPs was amended effective February 14, 2011.¹³ Under the amended statute, the MDDP eligible driver is automatically enrolled in the program without the need for a court order.¹⁴ This amendment was drafted by the ISBA in response to the reluctance of some judges to grant MDDPs to individuals who were statutorily entitled to them and to otherwise streamline the process of issuance.

If the driver does not wish to have an MDDP and the accompanying interlock device, then under the amended statute he or she is required to appear in court and, after being admonished about the consequences of driving without an MDDP during the period of the SSS,¹⁵ may opt out of the program. The court clerk will then send notice to the secretary of state advising of the person’s decision to opt out.¹⁶

• Unlike JDPs, which could only be issued for employment, medical, alcohol treatment, or educational purposes within set days and times, MDDPs have no time or purpose limitations.¹⁷

• While the court previously had statutory discretion to deny a JDP petition, the SOS must issue the MDDP if the person meets the requirements.¹⁸

• The SSS for first offenders has been increased from three to six months for those who submit to testing and from six to 12 months for those who refuse. The length of suspension remains the same for SSS second offenders (12 months for those who complete testing and 36 months for those who refuse – again, SSS second offenders, as defined, are not eligible for driving relief from the court or the SOS).¹⁹

• The law governing JDPs did not require the installation of a BAIID (unless ordered by the court). In contrast, an MDDP can only be issued to a person

who operates a vehicle equipped with a BAIID, with limited exceptions.²⁰

• The requirement that the person complete an alcohol/drug evaluation as a condition to issuance of the MDDP has been eliminated.²¹

Eligibility to drive

As stated above, to get an MDDP a person must be a first offender as defined by statute. SSS second offenders are not eligible for any form of driving relief.²²

Under SOS procedure the driver does not need to appear in court to decline the MDDP, despite the provisions of the statute to the contrary. If he or she does not send in the MDDP program application form, the permit will not issue.

Furthermore, the SOS may not issue the MDDP if the person does not have a valid driver’s license (for a reason other than the SSS), the DUI involved death or great bodily harm, or the person was previously convicted of reckless homicide or aggravated DUI involving death or is under 18.²³

If a person’s driving privileges are suspended, revoked, or cancelled or otherwise become invalid after he or she gets an MDDP, the MDDP becomes invalid.

5. 625 ILCS 5/6-206.1 eff 1/1/86 (PA 76-1586 added by PA 84-272).

6. Id.

7. PA 88-238.

8. 625 ILCS 5/6-205 (c)(3)(A-B) and 5/6-206 (c)(3) (A-B); See Federal TEA-21 Restoration Act, PL 105-178 and 105-206 as well as 23 CFR Part 1275.

9. PA 95-400; 625 ILCS 5/ 6-206.1(a-1).

10. See repeal of relevant part of 625 ILCS 5/6-206.1(a) by PA 96-1526 eff 2/14/11.

11. 625 ILCS 5/6-206.1, 11-500 and 6-208.1(g).

12. Id.

13. PA 96-1526.

14. 625 ILCS 5/6-206.1(a)

15. 625 ILCS 5/6-206.1(a).

16. Id.

17. 625 ILCS 5/6-206.1(a-1).

18. 625 ILCS 5/6-206.1(a).

19. 625 ILCS 5/6-208.1(a) and 6-208.1(g).

20. 625 ILCS 5/6-206.1(a-1).

21. See 625 ILCS 5/6-206.1(a)(4)(i) repealed by PA 95-400.

22. 625 ILCS 5/6-206.1 and 6-208.1(g).

23. 625 ILCS 5/6-206.1(a).

Thereafter, the person must petition for a RDP to the SOS through its administrative hearing process and, if the RDP is granted, must have a BAIID device installed. However, if the basis for the invalidation is removed, he or she may obtain another MDDP for the balance of the suspension period unless the MDDP was cancelled for serious violations as defined in 625 ILCS 5/6-206.1(c-1).²⁴

Applying for an MDDP

The MDDP issuance process is now largely automatic. When, or shortly after, the SSS confirmation is mailed, the SOS will also forward a notice to the driver describing the MDDP program. This notice will contain a tear-off section entitled “MDDP Program Application,” which the person must return to the SOS requesting issuance of the MDDP, and a check-off box advising the SOS if the driver seeks an employment exemption.

If the SOS does not receive this document back, it will send a follow-up reminder notice. If neither form is returned, the MDDP will not be issued.

MDDP procedure

Upon issuance of the MDDP, the driver must pay to the SOS a BAIID administration fee of \$30 per month and have the BAIID installed within 14 days of MDDP issuance. Failure to comply with either of these requirements will result in cancellation of the BAIID.²⁵

After installation, the device is designed to record all attempts to start the vehicle, all “rolling retests” required during driving, and any attempts to circumvent or disable the BAIID. The driver must regularly download information to the BAIID provider/installer. The information is forwarded to the SOS.²⁶

An MDDP is not effective until the 31st day of the SSS. No relief is available for the first 30 days of the SSS.²⁷

When the driver declines the MDDP

To formally decline the MDDP, the driver must file a petition with the court of venue. The court then must advise him or her of the consequences of declining, including the enhanced penalties for driving while suspended.²⁸ The person may then execute a written document declining issuance, which is to be filed with the court and forwarded by the clerk to the SOS.²⁹

Note, however, that thanks to SOS procedure the driver does not need to appear in court to decline the MDDP, despite the provisions of the statute to the contrary. If the person does not send in the MDDP program application form, the permit will not issue. Although the SOS notice states that the person is automatically enrolled in the program, he or she is not actually enrolled unless the application is returned.

A person may voluntarily terminate participation in the MDDP program by written notification and surrender of the permit to the SOS. Likewise, the person may resume participation during the period of the SSS by notifying the SOS BAIID Division in writing. After voluntarily terminating participation, a person may only re-enroll once.³⁰

Indigents and BAIID expenses

Those who cannot afford the costs associated with the BAIID may seek indigency status from the SOS.³¹ The request must be made in writing. To qualify as an indigent, a person must receive 1) monthly income of 150 percent or less of the federal poverty guidelines, as evidenced by a copy of their federal or state tax return for the most recent calendar year, 2) Temporary Assistance to Needy Families (“TANF”), 3) Supplemental Nutrition Assistance Program Benefits (“SNAP”), or (4) Social Security Supplemental Security Income (“SSI”).

If the person has not filed a tax return for the most recent calendar year, he or she may qualify by providing documentation from Illinois Department of Human Services demonstrating receipt of benefits as defined above. Someone who has not filed a tax return and is not receiving TANF or SNAP benefits but is receiving SSI can show indigency by completing an affidavit attesting under oath that the total amount of all income from all sources, including SSI, is less than 150 percent of federal poverty guidelines.³²

Proof of indigency is valid for 12 months. If the suspension is extended beyond 12 months as the result of BAIID violations, the driver must renew the application to keep using the MDDP as an indigent.³³

The provider is required to install the BAIID without charge to those granted indigency status but may seek reimbursement from the SOS indigent BAIID fund, which gets its revenues from BAIID pro-

viders in the form of five percent of their gross revenues.³⁴ The provider is prohibited from charging the indigent any fees except a one-month security deposit that may not exceed one month’s rental. The indigency fee waiver is limited to one vehicle per person.³⁵

Exceptions to the BAIID requirement

The general rule is that a person issued an MDDP can only drive a BAIID-equipped vehicle. However, the legislature has recognized that the BAIID is not a workable option for some. This includes those required to drive company vehicles or who have medical conditions that interfere with their ability to use a BAIID.

Employment exemption. The operator of an employer-owned vehicle may be allowed to drive without a BAIID if the SOS approves. This exemption includes test-driving non-employer-owned vehicles (e.g., cars brought in for repair) within a five-mile radius of the place of employment.

The exemption does not apply to those who drive 1) a school bus or school vehicle, 2) a vehicle designed to transport more than 15 passengers, 3) an employer-owned vehicle when the owner or part-owner is the MDDP holder or a his or her family member (including a corporation when the MDDP holder or immediate family own five percent or more of the outstanding shares), 4) an employer-owned vehicle available to the MDDP holder for personal use, or 5) a vehicle assigned exclusively to the MDDP holder and used solely for commuting to and from employment, i.e., not also used for work-related driving

24. Section 6-206.1(c-1) violations include 625 ILCS 5/6-206.2, 6-303, 11-204, 11-401, 11-501, 11-503 11-506 or similar provisions of local ordinances or out-of-state offenses or unauthorized de-installation of the BAIID device; also see discussion at H(1)(A) below.

25. 625 ILCS 5/6-206.1(a); 92 Ill Adm Code § 1001.444(b)(1).

26. See Paragraph I below.

27. 625 ILCS 5/6-206.1(a).

28. Id.

29. Id.; 92 Ill Adm Code § 1001.444(a)(1).

30. 92 Ill Adm Code § 1001.444(a)(6).

31. These costs include BAIID installation and monthly rental fees.

32. 92 Ill Adm Code § 1001.444(l)(4)(A-B). Note that § 1001.444(l)(4) provides that income shall be 150% or less than guidelines and Section 1001.444(l)(4)(B) states that income shall be less than 150% of guidelines. This is under review by the SOS.

33. 92 Ill Adm Code § 1001.444 (l)(5).

34. 625 ILCS 5/6-206.1(c-5); 92 Ill Adm Code § 1001.444(l)(1).

35. 92 Ill Adm Code § 1001.444(b)(C).

during work.³⁶

Those who drive to and from a farm (within 50 miles of the originating farm) in the course of conducting farm operations are also exempt.³⁷

Unlike the person driving on an MDDP with a BAIID, who can drive 24/7, exempt drivers may not drive more than six days a week and 12 hours per day.³⁸ Additionally, those who hold commercial drivers licenses (“CDL”) are prohibited from driving commercial vehicles on an MDDP.³⁹

The SOS may terminate the exemption if it receives credible evidence that the driver is using the vehicle for other than employment purposes. The SOS will request an explanation to which the person must respond within 21 days. If no satisfactory response is received, the exemption will be terminated.⁴⁰

Medical exemption. Those with a medical condition that impairs their ability to use a BAIID may seek a waiver or modification of the requirement by submitting a medical report supporting the request to the SOS. However, they must also satisfy SOS alcohol/drug evaluation and treatment requirements,⁴¹ which do not apply to employment waivers, and demonstrate at a hearing that they will not be a risk to the public safety and welfare if granted the privilege to drive without a BAIID.⁴²

Types of violations and sanctions

At first glance, the provisions of the statute and SOS rules governing MDDP and BAIID violations seem confusing. In fact, they are relatively straightforward.

Essentially, two groups of violations result in two types of sanctions. First are the more serious violations that result in cancellation of the MDDP, including serious vehicle code offenses and unauthorized deinstallation or tampering with the BAIID. Second are what may be described as lesser violations that result in extensions of the SSS period in three-month increments.

Cancellation mandated by statute. 625 ILCS 6/6-206.1(c-1) provides that if a person is convicted of or receives court supervision for the following offenses, the MDDP shall be cancelled: Section 6-206.2 (violations relating to an ignition interlock device, including operating a vehicle without a BAIID when required, soliciting another to blow into a BAIID or assisting another by blowing into a BAIID, or tampering with or cir-

cumventing the BAIID); Section 6-303 (Driving While Suspended or Revoked); Section 11-204 (Fleeing or Attempting to Elude); Section 11-401 (Leaving the scene of an accident involving death or personal injury); Section 11-501 (DUI); Section 11-503 (Reckless Driving); Section 11-506 (Street Racing or Aggravated Street Racing); or any offense for which alcohol or drugs is an element.

The offenses cited above include similar provisions of local or out-of-state laws but do not include any offense alleged as part of the occurrence for which the MDDP was issued. Also note that cancellation will occur regardless of whether the person is convicted or granted court supervision.

Furthermore, 625 ILCS 5/6-206.1(c-1) provides that the unauthorized deinstallation of the BAIID will result in the cancellation of the MDDP.⁴³

Cancellation mandated by administrative rule. While 625 ILCS 5/6-206.1(c-1) requires cancellation upon report of conviction or supervision for certain serious violations, the SOS by administrative rule also provides for cancellation upon notification from the BAIID provider or installer that a physical inspection of the device shows tampering or circumvention, regardless whether there is a conviction or sentence of court supervision for a violation of 625 ILCS 5/6-206.2.⁴⁴

Extension of suspension mandated by statute. Several areas defined by statute are the basis for BAIID violations resulting in the extension of the SSS: providing too many breath samples that register excessive blood alcohol levels according to SOS rules, failure to provide evidence to the SOS that the BAIID has been installed in the person’s vehicle(s), and failure to follow applicable rules adopted by the SOS.⁴⁵

Extension of suspension mandated by administrative rule. SOS rules provide that failing to 1) pass or take a running retest (random test required during operation of the vehicle), 2) use the BAIID as required or 3) submit a BAIID report in a timely manner all could result in the extension of the SSS.⁴⁶

General provisions governing cancellations and extensions of driving suspension

Cancellation. As stated above, violations as defined in 625 ILCS 5/6-206.1(c-1) will result in the cancellation of the MDDP. If a cancellation for one of

these reasons occurs, reinstatement is not automatic at the termination of the SSS. Instead, the SOS will enter an extension of suspension (or new suspension if the original suspension has already terminated) for not less than twice the original summary suspension period or for the length of any extensions of suspension, whichever is longer. Upon termination of the original period of summary suspension, the person may apply for a RDP before the secretary of state (through an administrative hearing) subject to BAIID requirements.⁴⁷

Extension of suspension. If the SOS determines that a violation of the MDDP law or rules has occurred – other than one resulting in cancellation of the permit – the SOS will extend the SSS for an additional three-month period. Any extensions will be consecutive.

If the suspension has already terminated at the time of the determination, the person will be re-suspended for three months. There is no limit on the number of times a suspension may be extended or re-suspended, but multiple violations occurring within one monitoring period will not result in extensions of suspension or re-suspensions totaling more than six months.⁴⁸ During any period of suspension (including extension(s) or re-suspension) the only available driving relief is an MDDP subject to BAIID requirements.⁴⁹

Note that under SOS rules a person may obtain, without limit, additional MDDPs during any period of suspension extension or re-suspension that occurs as a result of a violation. Distinguish this from a person who voluntarily terminates participation in the program and, under the rules, is only allowed to reapply once.⁵⁰

36. 625 ILCS 5/6-206.1(a-2) and 92 Ill Adm Code § 1001.444(j)(1-2).

37. 625 ILCS 5/6-201.1(a-3).

38. 625 ILCS 5/6-206.1(a-2).

39. 625 ILCS 5/6-206.1(a-1).

40. 92 Ill Adm Code § 1001.444(j)(3).

41. 92 Ill Adm Code § 1001.444(i)(1-2) and 1001.400-1001.490 (Subpart D).

42. 92 Ill Adm Code § 1001.444(j)(1-2).

43. 625 ILCS 5/6-206.1(c-1) and 92 Ill Adm Code § 1001.440(d)(1-3).

44. 625 ILCS 5/6-206.1(h)(1); 92 Ill Adm Code § 1001.440(d)(2) and 92 Ill Adm Code § 1001.440(e)(1).

45. 625 ILCS 5/6-206.1(h)(2-4).

46. 92 Ill Adm Code § 1001.444(d)(7, 9-10).

47. 625 ILCS 5/6-206.1(l); 625 ILCS 5/6-206.1(c-1) and 92 Ill Adm Code § 1001.444(e)(1).

48. 92 Ill Adm Code § 1001.444(e)(8).

49. 625 ILCS 5/6-206.1(j).

50. 92 Ill Adm Code § 1001.444(a)(6) and § 1001.444(e)(9).

What the SOS does upon determination of a violation.

- If the SOS receives a report of conviction or supervision for a violation specified in 625 ILCS 5/6-206.1(c-1), a report from the BAIID provider/installer of an unauthorized deinstallation or if a monitoring report shows any tampering with or unauthorized circumvention

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of the BAIID the SOS will cancel the MDDP. The person will be re-suspended for a period twice the original SSS or for the length of any previously imposed extension(s), whichever is longer.⁵¹

- If the monitoring report shows a violation of 625 ILCS 5/6-206.2 (tampering or unauthorized circumvention of the BAIID), the SOS will cancel the MDDP. If the suspension has already terminated, the SOS will re-suspend the person for three months.⁵²

- If the monitoring report shows 10 or more unsuccessful attempts to start the vehicle within a 30-day period (excluding a BrAC reading of .05 or more), five or more unsuccessful attempts to start the vehicle within a 24-hour period (excluding a BrAC reading of .05 or more), or a single BrAC reading of .05 or more, the SOS will extend the suspension or re-suspend the person for three months for each violation.⁵³

- If the monitoring report shows a failure to successfully complete a running retest (a random test required during the operation of the vehicle) the SOS will extend the suspension or re-suspend the person for three months.⁵⁴

In all cases involving suspected BAIID violations, with the exception of a report of conviction or supervision for a violation of 625 ILCS 5/206.1(c-1) or a report from a BAIID provider/installer that tampering or unauthorized circumvention of the device has occurred (which

require immediate cancellation), the SOS will send a letter requesting an explanation of the violation. The SOS must receive a response within 21 days of the violation notice date that reasonably assures no violation occurred. If the response is not satisfactory, the above-specified sanctions will be imposed.⁵⁵

If the SSS has already terminated when the SOS receives the report of a violation, the SOS will enter a new suspension according to the above provisions.⁵⁶

Miscellaneous sanctions, impoundment and forfeiture, and confidentiality

If the person fails to pay lease or rental fees due the BAIID provider and that results in removal of the device, the SOS will cancel the

MDDP.⁵⁷ If the person fails to use the BAIID as required, the SOS will extend the suspension or re-suspend the person for three months.⁵⁸

A person who has violated the MDDP law or rules resulting in three extensions of the summary suspension will have the vehicle impounded at his or her expense. A violation resulting in a fourth extension will subject the vehicle to seizure and forfeiture.⁵⁹

The MDDP will only appear on the person's public driving record when it is in effect. This is consistent with the confidentiality provision that the SSS for a first offender will not appear on his or her public driving record.⁶⁰

Other provisions governing MDDPs

The person must have the BAIID installed within 14 days of issuance. In the meantime, the person cannot operate a vehicle for any purpose other than getting the BAIID installed. The installer must notify the SOS within seven days verifying its installation.⁶¹

A person can only operate vehicles installed with a BAIID.⁶² The device must be downloaded by the BAIID provider/installer and a monitoring report generated every 60 days, unless the person's suspension has been extended or re-suspended as a result of a violation, in which case the period is reduced to 30

days.⁶³ The monitoring report is sent to the SOS.

If the person has failed to submit a BAIID report as required, all future reports must be submitted within 37 days. Failure to submit the monitor report without a reasonable explanation will result in a letter from the SOS giving the person 10 days to submit the report. Failure to comply will result in a three-month extension of the SSS.

If the person does not respond or cannot be located, the permit will be cancelled. If the MDDP has already expired, the person will be re-suspended for twice the length of the original SSS and cannot drive during that time, except through an SOS hearing.⁶⁴

The person must comply with any service or inspection notification within five working days.⁶⁵ He or she must keep a journal of unsuccessful attempts to start the vehicle, test failures, and retest or other problems with the BAIID (separate journals must be kept for each vehicle).⁶⁶

If an Illinois driver commits an offense in another state that imposes BAIID requirements, Illinois will give reciprocal recognition to them.⁶⁷

Hearings

The SOS is charged with promulgating MDDP administrative rules. The SOS also has authority under the statute to hold hearings where an affected person can challenge an alleged violation that results in an SSS extension or MDDP cancellation. The person must submit the hearing request in writing and pay a \$50

51. 625 ILCS 5/6-206.1(l) and 92 Ill Adm Code § 1001.444(e)(1).

52. 92 Ill Adm Code § 1001.444(2). Note that this rule is under review by the SOS. It would appear to be inconsistent with the provisions of 625 ILCS 5/6-206.1(c-1) and 92 Ill Admin Code II § 1001.444(e)(1) providing for re-suspension for a period of twice the original suspension or the length of any previous extensions of suspension (whichever is longer).

53. 625 ILCS 5/6-206.1(h) and 92 Ill Adm Code § 1001.444(e)(3).

54. Id and 92 Ill Adm Code § 1001.444(e)(4).

55. 92 Ill Adm Code § 1001.444(e)(1-4).

56. Id.

57. 92 Ill Adm Code § 1001.444(e)(5).

58. 92 Ill Adm Code § 1001.444(e)(6).

59. 625 ILCS 5/6-206.1(k).

60. 625 ILCS 5/6-206.1(d).

61. 625 ILCS 5/6-206.1(a) and 92 Ill Adm Code § 1001.444(b)(2)(B).

62. 92 Ill Admin Code II § 1001.444(c)(1).

63. See 92 Ill Adm Code § 1001.444(c)(2).

64. 92 Ill Adm Code § 1001.444(e)(7).

65. 92 Ill Adm Code § 1001.444(c)(3).

66. 92 Ill Adm Code § 1001.444(c)(4).

67. 92 Ill Adm Code § 1001.444(m).

fee. Hearings will be held under the rules found at 92 Ill Adm Code Ch II section 1001.10 et seq.⁶⁸

Conclusion

The use of the BAID continues to expand as state legislatures embrace it. Some of this expansion has been effectively mandated by the federal government, which imposes sanctions on states that do not comply with federal rules requiring use of the device.

However, the BAID is not a panacea. Studies show that the BAID may only provide short-term relief, reducing the incidence of DUI while the device is installed. In an Illinois study it was found that “[t]he BAID does not appear to

promote a long-term change in behavior. By the end of three years, those who had the device installed had arrest rates roughly similar to those who had never been exposed to the BAID.”⁶⁹

A study conducted for the National Highway Traffic Safety Administration found that “[e]xperts believe a greater tie between ignition interlock sanctions and substance abuse treatment should be encouraged, as the integration of the two strategies mutually reinforce the likelihood of a reduction in an offender’s impaired driving.⁷⁰ While the expanded use of the BAID facilitated by the MDDP law may be a good thing, eliminating the requirement of a substance abuse evaluation seems inconsistent with the long-

term goal of reducing impaired driving.

In short, the BAID is not the ultimate answer to the problem of the impaired driver. Only a multi-faceted approach, with the long-term goal of effectively changing the attitudes and behavior of drivers, will produce meaningful results. ■

68. Also See 625 ILCS 5/2-118, 6-206.1(g) and (j).

69. Page 31, *Illinois Secretary of State BAID Program Evaluation and Final Report, Volume II: Pilot Implementation Evaluation*, Northwestern University, Center for Public Safety, Project Number 051 0201 300, June 2001, available at <http://nucps.northwestern.edu/division/documents/SOS%20BAID%20II.pdf>.

70. Page 5, National Highway Traffic Safety Administration, *Ignition Interlocks-What You Need to Know: A Toolkit for Policymakers, Safety Professionals, and Advocates*, Report No HS 811 246, November, 2009, available at http://www.nhtsa.gov/staticfiles/nti/impaired_driving/pdf/811246.pdf.

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