

Breath Test Operator's Manual

Prepared by the Massachusetts State Police
Office of Alcohol Testing

**This program is funded by
the Executive Office of
Public Safety and Security
(EOPSS) and in accordance
with 501 CMR 2.00.**

Massachusetts State Police Crime Laboratory Office of Alcohol Testing

124 Acton Street
Maynard, MA 01754

Main (857) 377-3030

Fax (857) 377-3035

Email: POL-DL-OAT@mass.gov

OAT receives several inquiries per week

- These may include questions regarding any invalid tests such as “Mouth Alcohol” or “Interferent Detected” messages or instrument related-inquiries
- Inquiries may also include requests for information or questions about Discovery materials
- Requests for materials can be emailed to:

OATDiscoveryRequest@pol.state.ma.us

BUT...please be advised that materials are also available through the eDiscovery Portal.

eDiscovery Portal

MOST Breath Test records generated by OAT
are available through the eDiscovery Portal

Records can be accessed through the following website:

<https://oatediscovery.chs.state.ma.us>

Training Requirements

Breath Test Operator Certification

- Class is taught by BT Instructor
- Must successfully complete written exam
- Must successfully complete a Training Test on a Draeger Alcotest 9510
- Certificates or Letters of Certification are not issued. Proof of Operator Certification is found on the Breath Test Report form per 501 CMR 2.07 (4).

Breath Test Operator Certification

- Certification is valid for 3 years from the date of class
 - Can be certified again any time within the 3 year certification period, but OAT suggests recertification within the six months before your expiration date.
- Certification is still valid if you change departments or if you work for more than one department
 - Must contact OAT by email advising of change.
- No extensions are granted
 - Expired means EXPIRED, no exceptions.
 - You cannot conduct breath tests if you are expired.
 - Expired operators may enter a Refusal.

Breath Test Operator Certification

Breath Test Operator Recertification

- Web-based online recertification is available for qualified BTO's.
- Online recertification, including completion of the Training Test practical, must be successfully completed BEFORE the BTO's expiration date.

<https://mspbtocertification.com>

Breath Test Operator Certification

Under no circumstances are you allowed to use another operator's ID to administer a breath test!

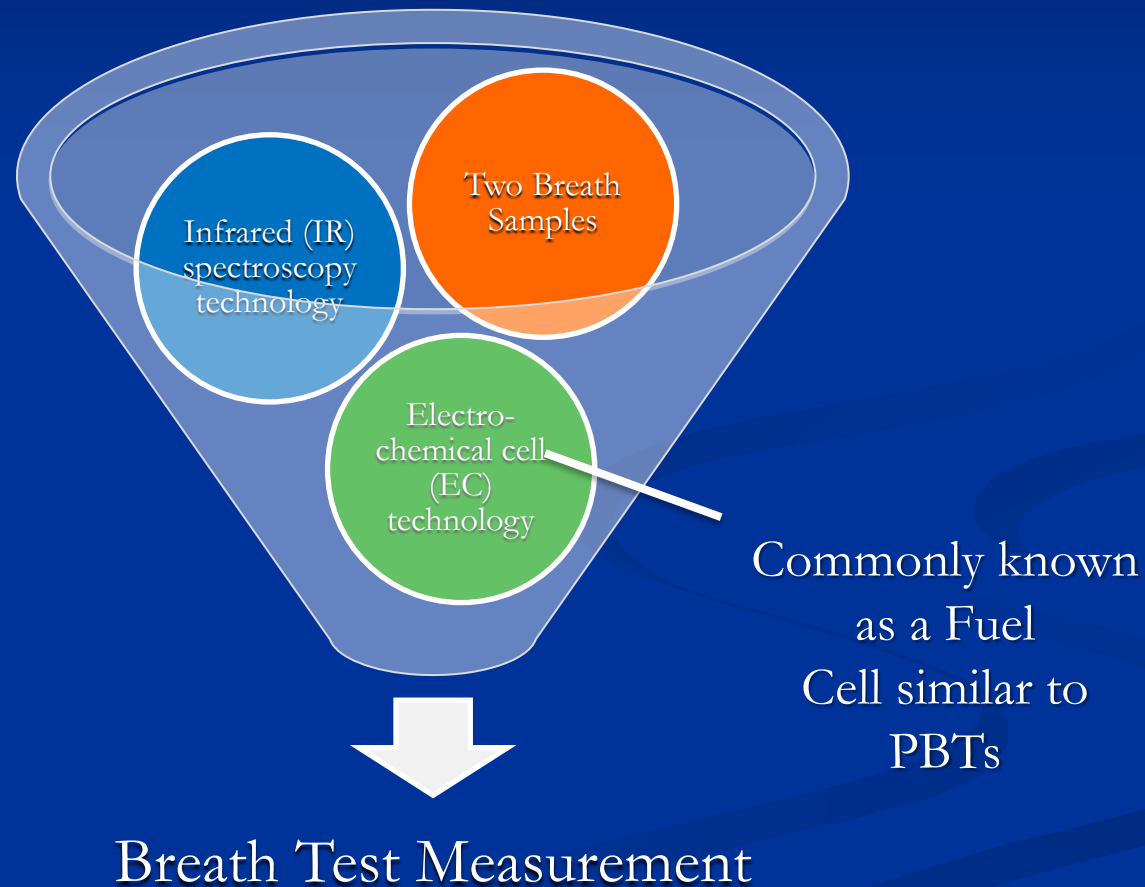
Doing so may result in the revocation of your BTO privileges.

Do NOT use any operator ID other than your own!

Draeger Alcotest 9510



Draeger Alcotest 9510 BT Technology



MGL C90 s24K

- Chemical analysis of the breath of a person **CHARGED** with a violation of this chapter shall not be considered valid under the provisions of this chapter, unless such analysis has been performed by a certified operator, using infrared breath-testing devices according to methods approved by the Secretary of Public Safety.
 - 1) Certified Operator
 - 2) Infrared Device (Draeger 9510)
 - 3) Approved Methods

MGL C90 s24K continued

■ Approved Methods:

■ Test Sequence

- One adequate breath sample analysis
- One calibration standard analysis
- One second adequate breath sample analysis

■ No use of alcohol-based cleaners

- Contact your OIC for cleaning guidance.

■ Uniform form

■ Sequential test number

Elements c90 s24

- Operation of a Motor Vehicle
- Public way
- Under the Influence of Alcohol – Two Ways to Prove the Offense.....

With BAC 0.08% or greater (Per Se)
OR
Impairment

Impairment

- Still must prove “under the influence”
 - Diminished capacity to safely operate...
- One charge – OUI alcohol
- Regardless of BAC level

Statutory Rights and Consent Form

STATUTORY RIGHTS AND CONSENT FORM – EVIDENTIARY SAMPLE OF ☐ BREATH OR ☐ BLOOD

(Check One)

Arrestee: _____ Date: _____

The arrestee was advised of the following (Sections 1 – 10):

1. You have been arrested for an Operating Under the Influence of Alcohol offense and are guaranteed certain rights.
2. You shall be permitted the use of a telephone at your own expense to communicate with your family or friends, or arrange for release on bail, or engage the services of an attorney. Such use may be postponed until your consent or refusal has been documented on this form. Regardless, the use of a telephone shall be permitted within one hour of your arrival.
3. You have the right, at your request and your expense, to be examined immediately by a physician of your choosing. You shall be afforded a reasonable opportunity to exercise this right, but the test process will not be delayed pending this examination.
4. I am requesting that you consent to an ☐ evidentiary breath test / ☐ evidentiary blood draw and test (check one) to determine your blood alcohol concentration.
The following sections concern your right to operate a motor vehicle:
5. Drivers UNDER Age 21: If you refuse this test, your license or right to operate in Massachusetts shall be suspended for a period of 3 years up to life. If your blood alcohol concentration is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. If your blood alcohol concentration is .02 or above, the Registry of Motor Vehicles will impose administrative penalties against you. If you take the test and fail, the suspension period is 30 days, however you will also face an additional suspension of 180 days up to 1 year imposed by the Registry of Motor Vehicles.
6. Drivers Age 21 or OVER: If you refuse this test, your license or right to operate in Massachusetts shall be suspended for a period of 180 days up to life. If your blood alcohol concentration is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. If you take the test and your blood alcohol concentration is .08 or above, the suspension period is 30 days.
7. If you decide to take the test, you will have the right to a comparison blood test within a reasonable period of time at your own expense. The results of a comparison blood test may be used to restore your license or right to operate at a court hearing within 10 days.
8. Refusal or failure to consent to take this evidentiary test is a violation of the Implied Consent Law and will result in your right to operate a motor vehicle being suspended. Refusing this test and requesting some other type of test is deemed a refusal under the law.
9. Additionally, whether you hold a Commercial Driver's License (CDL) or not, anyone who fails to submit to this required test shall be disqualified from driving a commercial motor vehicle for a period of 1 year up to life.
10. If you were operating a motor vehicle that was transporting a hazardous material required to be placarded, the CDL disqualification for refusal shall be for 3 years. If you have been previously convicted of a disqualifying offense as described in federal CDL regulations or in state law, the CDL disqualification shall be for life.

Having been advised and understanding the above, do you consent to submit to the

☐ evidentiary breath test / ☐ evidentiary blood draw and test (check one)

that I am requesting to determine your blood alcohol concentration?

☐ Yes ☐ No

Time of Consent or Refusal _____

I have read and understood this Statutory Rights and Consent Form.

Arrestee's Signature: _____ Date: _____

Arresting Officer or Breath Test Operator Signature: _____ Date: _____

Signature of Refusal Witness: _____ Date: _____

(Must be different than officer who signed above)

RIGHT TO A DOCTOR General Laws, Ch. 263, Sec. 5A: A person held in custody at a police station or other place of detention, charged with operating a motor vehicle while under the influence of intoxicating liquor, shall have the right, at his request and at his expense, to be examined immediately by a physician selected by him. The police official in charge of such station or place of detention, or his designee, shall inform him of such right immediately upon being booked, and shall afford him a reasonable opportunity to exercise it. Such person shall, immediately upon being booked, be given a copy of this section unless such a copy is posted in the police station or other place of detention in a conspicuous place to which such person has access.

RIGHT TO A TELEPHONE General Laws Ch. 276, Sec. 33A: The police official in charge of the station or other place having a telephone wherein the person is held in custody, shall permit the use of the telephone at the expense of the arrested person, for allowing the arrested person to communicate with his family or friends, or arrange for release on bail, or engage the services of an attorney. Any such person shall be informed forthwith upon his arrival at such station or place of detention, of his right to use the telephone, and such use shall be permitted within one hour thereafter.

MSP Form Number 329

July 14, 2023

- This form is required for the administration of a Breath Test or Blood Draw and Test.
- The vehicle operator **MUST** be advised of their rights.
- **Read all 10 sections** of the form to the subject.
- Please check to see if you have the most current version of this form. It was revised July 14, 2023.

Statutory Rights and Consent Form

STATUTORY RIGHTS AND CONSENT FORM – EVIDENTIARY SAMPLE OF ☒ BREATH OR ☐ BLOOD
(Check One)

Arrestee: _____ Date: _____

The arrestee was advised of the following (Sections 1 – 10):

1. You have been arrested for an Operating Under the Influence of Alcohol offense and are guaranteed certain rights.

- Check the box for the type of evidentiary sample being requested, either Breath or Blood.

The type of evidentiary sample being requested is dependent upon the location of custody, whether it be a hospital or a police station / barracks.

Breath or Blood Test

- If the subject is under arrest at a police department and consents.
 - The evidentiary sample being requested is breath.
- If the subject is under arrest at a medical facility for treatment and consents.
 - The evidentiary sample being requested is blood.
- The subject under arrest does not have a statutory right to request a blood test in lieu of a breath test.
 - This is to be entered as a refusal.

Statutory Rights and Consent Form

STATUTORY RIGHTS AND CONSENT FORM – EVIDENTIARY SAMPLE OF ☒ BREATH OR ☐ BLOOD
(Check One)

Arrestee: John Q. Public Date: July 16, 2023

The arrestee was advised of the following (Sections 1 – 10):

1. You have been arrested for an Operating Under the Influence of Alcohol offense and are guaranteed certain rights.

- Record the Arrestee's Name
- Record the Date

Statutory Rights and Consent Form

STATUTORY RIGHTS AND CONSENT FORM – EVIDENTIARY SAMPLE OF ☒ BREATH OR ☐ BLOOD

(Check One)

Arrestee: John Q. Public Date: July 16, 2023

The arrestee was advised of the following (Sections 1 – 10):

1. You have been arrested for an Operating Under the Influence of Alcohol offense and are guaranteed certain rights.

Begin reading the form to the Arrestee.

- The arrestee was advised of the following (Sections 1 – 10):

1. You have been arrested for an Operating Under the Influence of Alcohol offense and are guaranteed certain rights.

Right to a Telephone

2. You shall be permitted the use of a telephone at your own expense to communicate with your family or friends, or arrange for release on bail, or engage the services of an attorney. Such use may be postponed until your consent or refusal has been documented on this form. Regardless, the use of a telephone shall be permitted within one hour of your arrival.

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MSP Form Number 329

July 14, 2023

Massachusetts General Laws Ch. 276, Sec. 33A

Right to a Telephone

General Laws Ch. 276, Sec. 33A:

The police official in charge of the station or other place of detention having a telephone wherein a person is held in custody, shall permit the use of the telephone, at the expense of the arrested person, for the purpose of allowing the arrested person to communicate with his family or friends, or to arrange for release on bail, or to engage the services of an attorney. Any such person shall be informed forthwith upon his arrival at such station or place of detention, of his right to so use the telephone, and such use shall be permitted within one hour thereafter.

Right to A Doctor

3. You have the right, at your request and your expense, to be examined immediately by a physician of your choosing. You shall be afforded a reasonable opportunity to exercise this right, but the test process will not be delayed pending this examination.

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RIGHT TO A DOCTOR General Laws, Ch. 263, Sec. 5A: A person held in custody at a police station or other place of detention, charged with operating a motor vehicle while under the influence of intoxicating liquor, shall have the right, at his request and at his expense, to be examined immediately by a physician selected by him. The police official in charge of such station or place of detention, or his designee, shall inform him of such right immediately upon being booked, and shall afford him a reasonable opportunity to exercise it. Such person shall, immediately upon being booked, be given a copy of this section unless such a copy is posted in the police station or other place of detention in a conspicuous place to which such person has access.

- General Laws, Ch. 263, Sec. 5A: A person held in custody at a police station or other place of detention, charged with operating a motor vehicle while under the influence of intoxicating liquor, shall have the right, at his request and at his expense, to be examined immediately by a physician selected by him.
- The police official in charge of such station or place of detention, or his designee, shall inform him of such right immediately upon being booked, and shall afford him a reasonable opportunity to exercise it.
- Such person shall, immediately upon being booked, be given a copy of this section unless such a copy is posted in the police station or other place of detention in a conspicuous place to which such person has access.

Right to a Doctor, cont.

- *Commonwealth v. Hampe*, 419 Mass. 514 (1995) – A police officer's decision to hold a defendant charged with OUI overnight rather than calling a bail commissioner was inappropriate. A defendant is entitled to obtain a blood test and because evidence is fleeting, time is of the essence.
- *Commonwealth v. King*, 429 Mass. 169 (1999) - The police have no obligation to help him in exercising right. The police are required to afford the defendant a "reasonable opportunity" to exercise right. However, if the bail magistrate fails to conduct a bail hearing promptly this frustrates the defendant's right to an independent medical examination.
- *Commonwealth v. Mandell*, 61 Mass. App. Ct. 526 (2004) - A defendant charged with OUI drugs does not have a right (either statutory or constitutional) to an independent medical exam under G.L. c. 263, §5A.

Request to Consent to an Evidentiary Test

4. I am requesting that you consent to an ☒ evidentiary breath test / ☐ evidentiary blood draw and test (check one) to determine your blood alcohol concentration.

- Check the appropriate box for Section 4 and read the correct corresponding statement.
4. I am requesting that you consent to an evidentiary breath test to determine your blood alcohol concentration.
- OR
4. I am requesting that you consent to an evidentiary blood draw and test to determine your blood alcohol concentration.

Comm. vs Alano, 388 Mass. 871, 448 N.E. 2d 1122 (1983)

Commonwealth v. Alano, 388 Mass. 871, 448 N.E. 2d 1122 (1983). No constitutional or statutory right to a breath test. The police need only inform the defendant of his right to independent examination and allow him access to a telephone.

Right to Operate a Motor Vehicle

- The following sections concern your right to operate a motor vehicle:

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5. Drivers UNDER Age 21: If you refuse this test, your license or right to operate in Massachusetts shall be suspended for a period of 3 years up to life. If your blood alcohol concentration is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. If your blood alcohol concentration is .02 or above, the Registry of Motor Vehicles will impose administrative penalties against you. If you take the test and fail, the suspension period is 30 days, however you will also face an additional suspension of 180 days up to 1 year imposed by the Registry of Motor Vehicles.
6. Drivers Age 21 or OVER: If you refuse this test, your license or right to operate in Massachusetts shall be suspended for a period of 180 days up to life. If your blood alcohol concentration is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. If you take the test and your blood alcohol concentration is .08 or above, the suspension period is 30 days.
7. If you decide to take the test, you will have the right to a comparison blood test within a reasonable period of time at your own expense. The results of a comparison blood test may be used to restore your license or right to operate at a court hearing within 10 days.
8. Refusal or failure to consent to take this evidentiary test is a violation of the Implied Consent Law and will result in your right to operate a motor vehicle being suspended. Refusing this test and requesting some other type of test is deemed a refusal under the law.
9. Additionally, whether you hold a Commercial Driver's License (CDL) or not, anyone who fails to submit to this required test shall be disqualified from driving a commercial motor vehicle for a period of 1 year up to life.
10. If you were operating a motor vehicle that was transporting a hazardous material required to be placarded, the CDL disqualification for refusal shall be for 3 years. If you have been previously convicted of a disqualifying offense as described in federal CDL regulations or in state law, the CDL disqualification shall be for life.

Right to Operate a Motor Vehicle

- 5. Drivers UNDER Age 21:** If you refuse this test, your license or right to operate in Massachusetts shall be suspended for a period of 3 years up to life. If your blood alcohol concentration is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. If your blood alcohol concentration is .02 or above, the Registry of Motor Vehicles will impose administrative penalties against you. If you take the test and fail, the suspension period is 30 days, however you will also face an additional suspension of 180 days up to 1 year imposed by the Registry of Motor Vehicles.

Right to Operate a Motor Vehicle

- 6. Drivers Age 21 or OVER:** If you refuse this test, your license or right to operate in Massachusetts shall be suspended for a period of 180 days up to life. If your blood alcohol concentration is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. If you take the test and your blood alcohol concentration is .08 or above, the suspension period is 30 days.

License Suspensions

SUSPENSION	IF 21 OR OVER CLASS D OPERATOR	IF UNDER 21 CLASS D OPERATOR
Refusal Suspension	180 days or up to life	3 years or up to life
Fail the Test Suspension	30 days	30 days
Additional Suspension	Not Applicable	MGL c90 s24P – 180 days to 1 year

Comparison Blood Test

7. If you decide to take the test, you will have the right to a comparison blood test within a reasonable period of time at your own expense. The results of a comparison blood test may be used to restore your license or right to operate at a court hearing within 10 days.

Implied Consent Law

8. Refusal or failure to consent to take this evidentiary test is a violation of the Implied Consent Law and will result in your right to operate a motor vehicle being suspended. Refusing this test and requesting some other type of test is deemed a refusal under the law.

The type of evidentiary test being requested is dependent upon the location of custody, whether it be a hospital or police station / barracks.

Commercial Driver's License

9. Additionally, whether you hold a Commercial Driver's License (CDL) or not, anyone who fails to submit to this required test shall be disqualified from driving a commercial motor vehicle for a period of 1 year up to life.
10. If you were operating a motor vehicle that was transporting a hazardous material required to be placarded, the CDL disqualification for refusal shall be 3 years. If you have been previously convicted of a disqualifying offense as described in federal CDL regulations or in state law, the CDL disqualification shall be for life.

Commercial Driver's License

■ Operating a commercial vehicle

If you stop a CDL motor vehicle and you detect the odor of an alcoholic beverage while you are asking for the driver's license and registration, you can place the subject out of service per MGL 90F as well as the CFR. SFSTs should then be administered to the operator.

Commercial Driver's License

■ Operating a non-commercial vehicle

The 0.04 %BAC threshold for CDL suspension only applies where the CDL operator is driving a **commercial vehicle** and submits to a required test of breath or blood.

■ CDL operator refusal

If an operator holds a CDL license and refuses a chemical test, his Class D license is suspended for six months up to life. The operator will face an additional suspension for such refusal as it applies to his CDL license. These suspensions apply whether the subject was operating a commercial vehicle or a non-commercial vehicle.

Consent to Submit to the Evidentiary Test

Having been advised and understanding the above, do you consent to submit to the

☒ evidentiary breath test / ☐ evidentiary blood draw and test (*check one*)

that I am requesting to determine your blood alcohol concentration?

☒ Yes ☐ No

Time of Consent or Refusal

22:35

- Check the box for the type of test being requested, either an “evidentiary breath test” or an “evidentiary blood draw and test”.
- Check the “Yes” box if the arrestee consents or check the “No” box if the arrestee refuses to consent.
- Record the “Time of Consent or Refusal”.

Consent to Submit to the Evidentiary Test

I have read and understood this Statutory Rights and Consent Form.

Arrestee's Signature: _____ Date _____

Arresting Officer or Breath Test Operator Signature: _____ Date _____

Signature of Refusal Witness: _____ Date _____
(Must be different than officer who signed above)

- The arrestee signs and dates that they have read and understood the form and either consent to or refuse the evidentiary test.
- The arresting officer or BTO that read the form to the arrestee signs and dates the form.
- If the arrestee refuses to consent, a 3rd party must also sign and date the form that they witnessed the Refusal.

Refusal to Answer - Example

- A subject is arrested for OUI alcohol and brought back to the station's booking room. The officer reads the Statutory Rights and Consent form to the subject. When he reaches the section asking the subject to consent to a chemical test, the subject refuses to answer until he can exercise his "right to call an attorney".

Commonwealth v. Brazelton, 404 Mass. 783 (1989) –

A defendant does not have a constitutional right to confer with his attorney before deciding whether to submit to the test because the moment at which a defendant has to decide to take or refuse the test is not a critical stage in the criminal process.

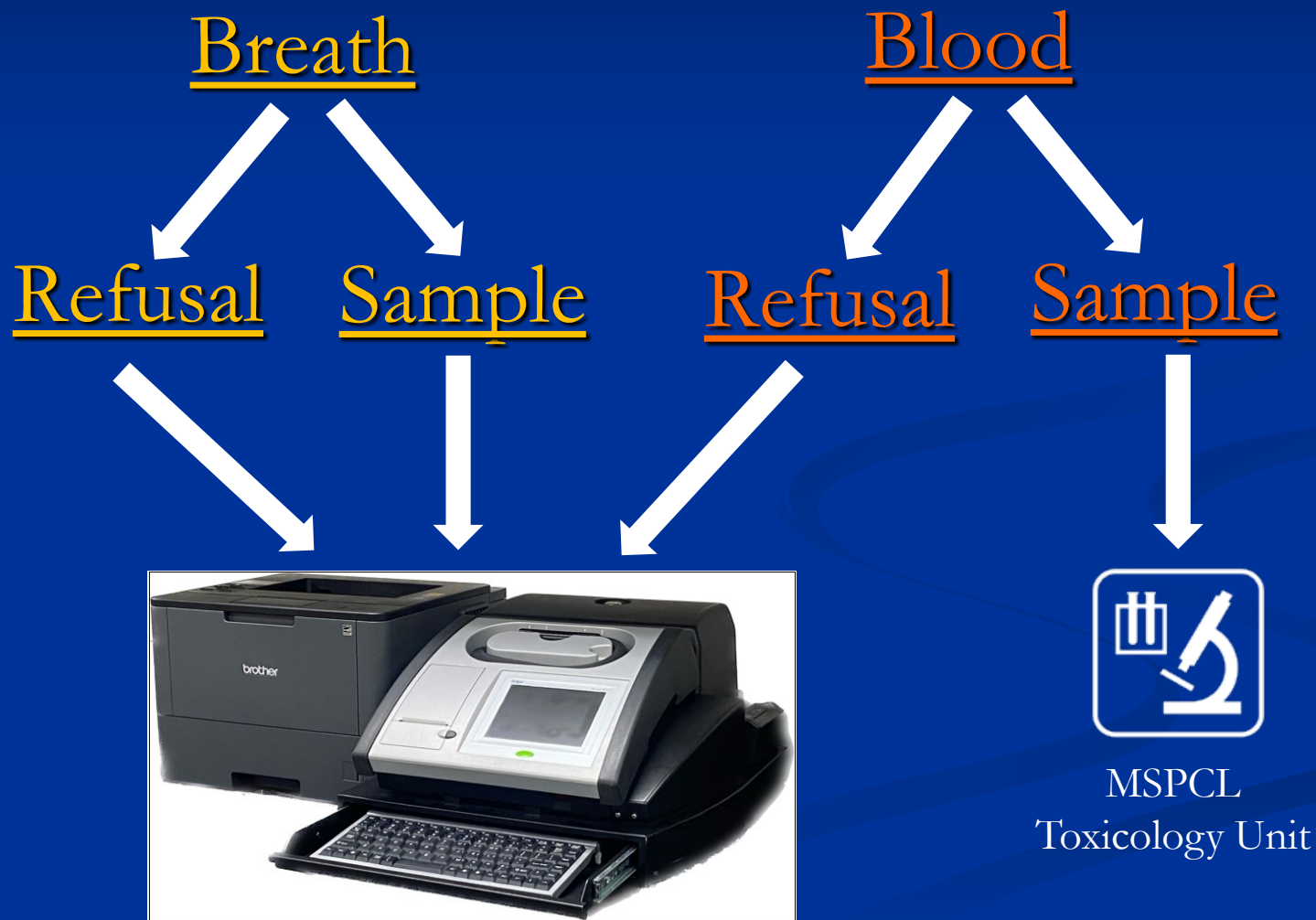
Commonwealth v. Neary-French, 475 Mass. 167 (2016) –

Reaffirms Brazelton post-Melanie's Law.

Refusal Witness

- An officer must have a witness if the subject refuses the evidentiary test.
- This witness can be any party, sworn or civilian, who is present and aware of the refusal.
- The RMV and courts require the name of this witness.
- The witness must sign and date the Statutory Rights and Consent form and their name will be entered into the Breath Test Instrument by the Breath Test Operator.

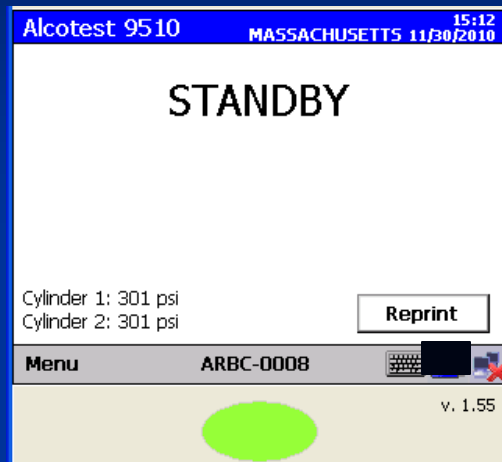
Breath or Blood Test



Administering the BT Test

- Breath Test Instrument location
 - To administer a Breath Test, a certified breath test operator can use the BT instrument at his barracks or department, as well as neighboring agencies upon request.
 - Your certification and login are valid on any 9510 instrument in Massachusetts

The Main Screen



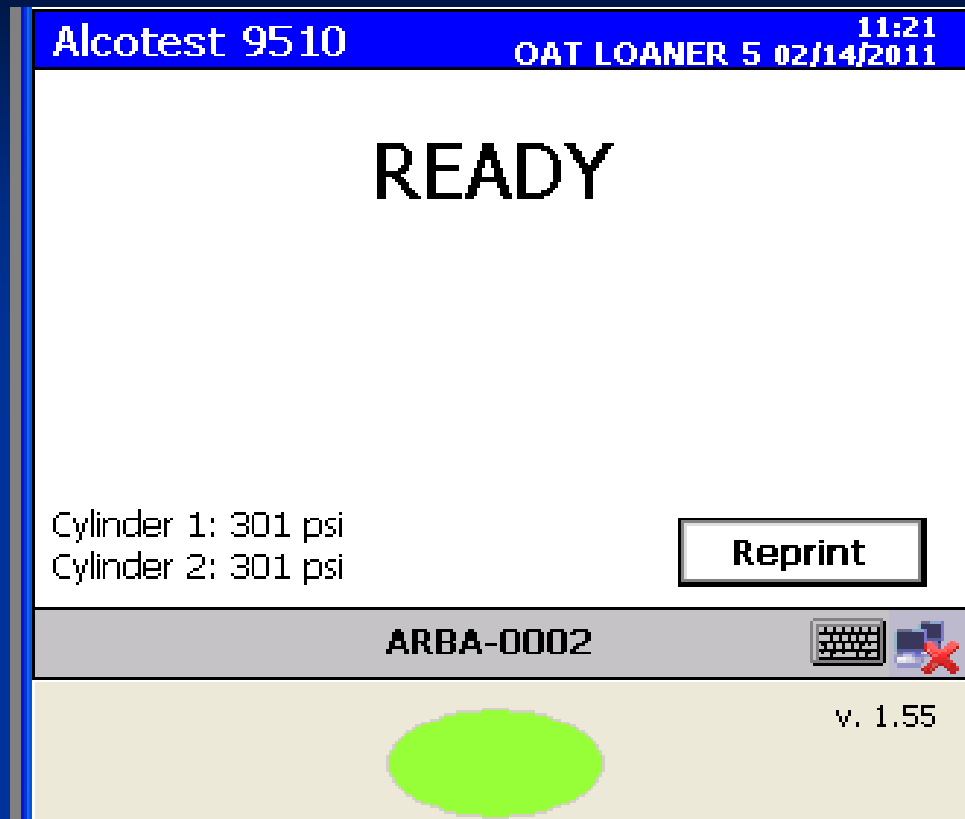
- Instrument designed to be left on at all times.
- Push the green button.
 - 6-8 minute “WARM-UP”.

The Main Screen



- If “PER. TEST REQUIRED”, “CONTACT OAT”, or “DISABLED” is displayed:
 - No test can be performed.
 - Contact OIC.
 - Transport the subject to neighboring department or barracks to administer breath test and restart the 15 minute observation period again upon your arrival.

Breath Test Sequence



- Once the display states “READY,” a breath test can begin.
 - Push the green button.
 - Follow the prompts on the touch screen display.

Test Menu

Alcotest 9510

90-24 Arrest

90B Arrest

Protective Custody

Training Test

Periodic Test

Back

■ Select 90-24 Arrest to:

- Administer an evidentiary breath test to a defendant who has been arrested for Operating a Motor Vehicle Under the Influence of Intoxicating Liquor pursuant to Ch. 90, S. 24.
- Report a breath or blood test refusal.
- NOTE: This is a “live” breath test; the information IS reported to the RMV.

Operator I.D.'s


- Operator IDs can have up to 7 Characters.
- Each OIC has a list of operator IDs.
- State Police unchanged. Ex- “SP1235” or “SP0143”.
- Boston P.D. unchanged. Ex- BP1234 or BP0123.
- Local departments-combination of CJIS Agency Code + 4 characters. Ex- “ AUB1234 or AUB12CS”.
- Passwords- **NO PASSWORD IS REQUIRED. Press enter to skip over password prompt.**

Operator ID

Alcotest 9510 90-24 Arrest X

Login

Operator ID: JSZETO

Password: 

☒ Certified Operator (BT or Refusal)

☐ Uncertified operator (Refusal Only)

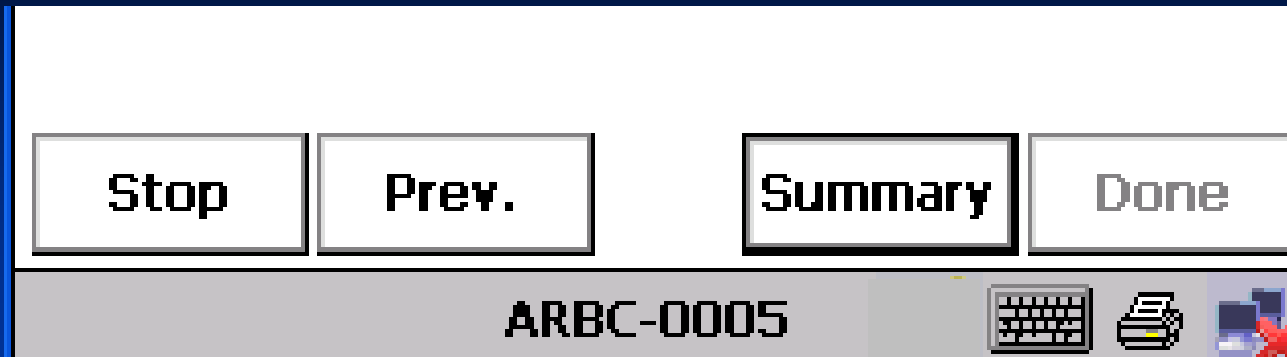
- Certified Operator: Access to initiate BT and Refusal tests
 - Enter OAT-issued ID
 - **Leave Password Blank**
- Uncertified Operator: Access to enter Refusal data only
- Select OK Button (not shown) to accept.

Log-In Confirmation

The screenshot shows a software window titled "Alcotest 9510" with a subtitle "90-24 Arrest" and a close button (X). The window has a "Login" tab. A modal dialog box titled "Information" is open, displaying the following text: "Name: SMITH, DAVID", "Department: OAT1", and "Are you this operator?". There are two radio buttons; the top one is selected. At the bottom of the dialog are "Yes" and "No" buttons. The background window shows partial labels for "Op", "Pas", and "(22.38)".

- Information box validates Breath Test Operator (BTO) identification.
- “Are you this operator?”
 - If “No” – prompt returns to Operator ID and Password “Login”
 - If “Yes” – Breath Test Operator (BTO) data is auto-populated

Navigation Buttons



- Navigation buttons direct the program.
 - Stop – can be used at anytime to terminate a test
 - Prev. - scroll back to previous prompt
 - Summary - directs to review screen
 - Done – moves onto the next screen
- Notice that the keyboard and printer icons are revealed indicating that both are attached and ready.

Case Number

Alcotest 9510		10:34	
		90-24 Arrest 11/05/2010	
Case Number	<input type="text" value="2010-OAT-000000"/>		
Stop		Prev.	Summary
			Done

- Select “Done” button or “Summary” button.
 - Optional field
- State Police should enter RAMS number.

Uncertified Operator Login

Alcotest 9510 90-24 Arrest X

Login

Operator ID:

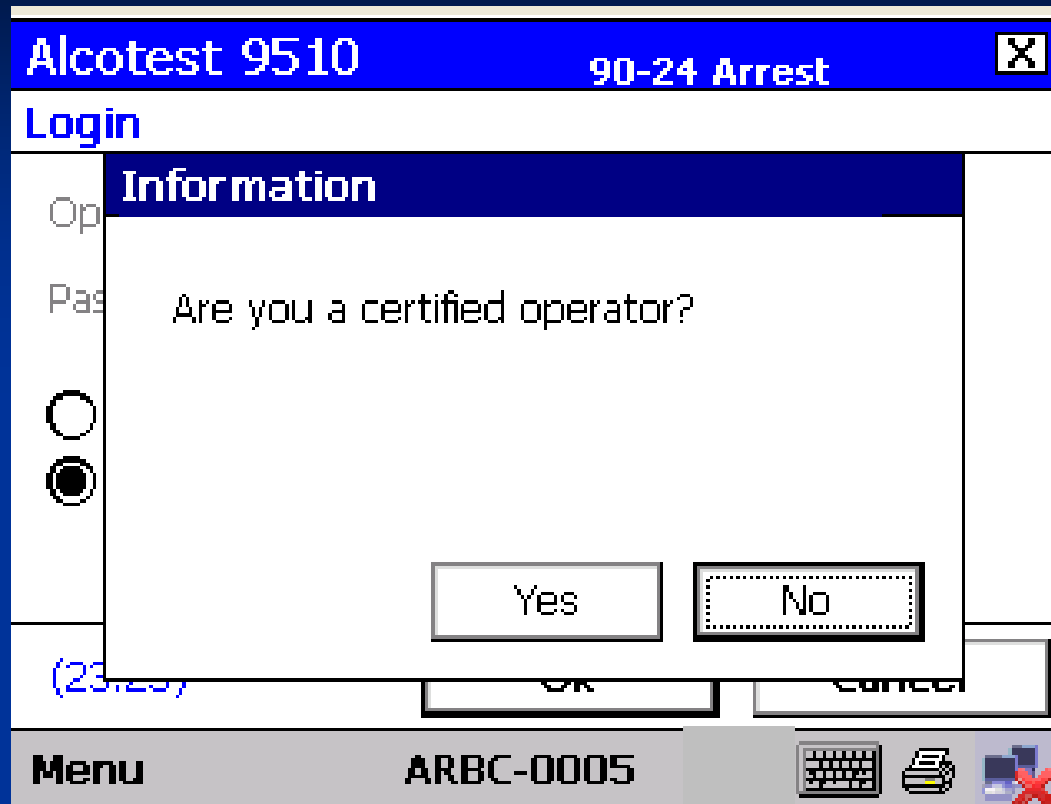
Password:

☐ Certified Operator (BT or Refusal)

☒ Uncertified operator (Refusal Only)

- Pursuant to Chap.90 sec.24, any Police Officer, certified or not certified, can enter Refusal data.
 - Uncertified operators will be required to enter their identifying information.

Uncertified Operator Confirmation



- Asks if you are an uncertified operator.
 - If “No” – uncertified operators need to enter operator information manually
 - If “Yes” – certified operators should use their operator ID

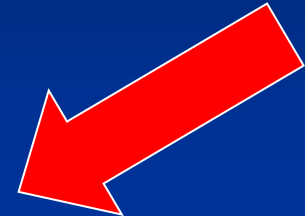
BTO Summary Screen

Alcotest 9510 10:35
90-24 Arrest 11/05/2010

BTO First Name	JUSTIN
BTO Middle Initial	E
BTO Last Name	SZETO
BTO Phone Number	978-392-4050
BTO Department	OAT

Stop Save

Scroll down to
review data



- Certified BTO: Operator ID info defaults to primary department.
 - Editable fields, double tap on the item to make the changes.
 - BTO Phone Number
 - BTO Department
 - BTO Department Officer ID Number
- Verify auto-populated data and select “Save” button.
- Uncertified BTO: Verify manually entered data & select “Save”.

Summary Screens

- Selecting “Save” before verifying data activates an information box stating “Please verify all entered data. Scroll down.”



Subject Licensed

Alcotest 9510

10:41
90-24 Arrest 11/05/2010

Subject Licensed



YES



NO

- Does the arrested subject have a license?
 - Does not mean “license in possession”.
 - Check RMV for assigned A or X number.
 - Includes licenses that are suspended or revoked.

License State



The screenshot shows the Alcotest 9510 interface. At the top, a blue header bar contains the text "Alcotest 9510" on the left and "10:41" on the right. Below the header, the text "90-24 Arrest 11/05/2010" is displayed. The main area is white and contains the label "License State" on the left. To the right of the label is a dropdown menu with "MASSACHUSETTS" selected and a downward arrow button.

- Defaults to Massachusetts.
- Drop down box if Out-of-State License.
 - Touch down arrow on screen.
 - **“Foreign License”** and **“No License”** tabs available
 - Select letter key (ex: “C” for Connecticut).

Scan MA License

Alcotest 9510		10:28
90-24 Arrest		07/06/2023
Scan MA License	<input type="radio"/> YES	<input checked="" type="radio"/> NO

- 9510 only scans MA Licenses.
- MA licenses issued after 2016 will not populate in the BT and the information must be entered **MANUALLY**.
- If an out-of-state license, “Scan” prompt does not appear and data must be entered manually.

Scan MA License

Alcotest 9510 10:28
90-24 Arrest 07/06/2023

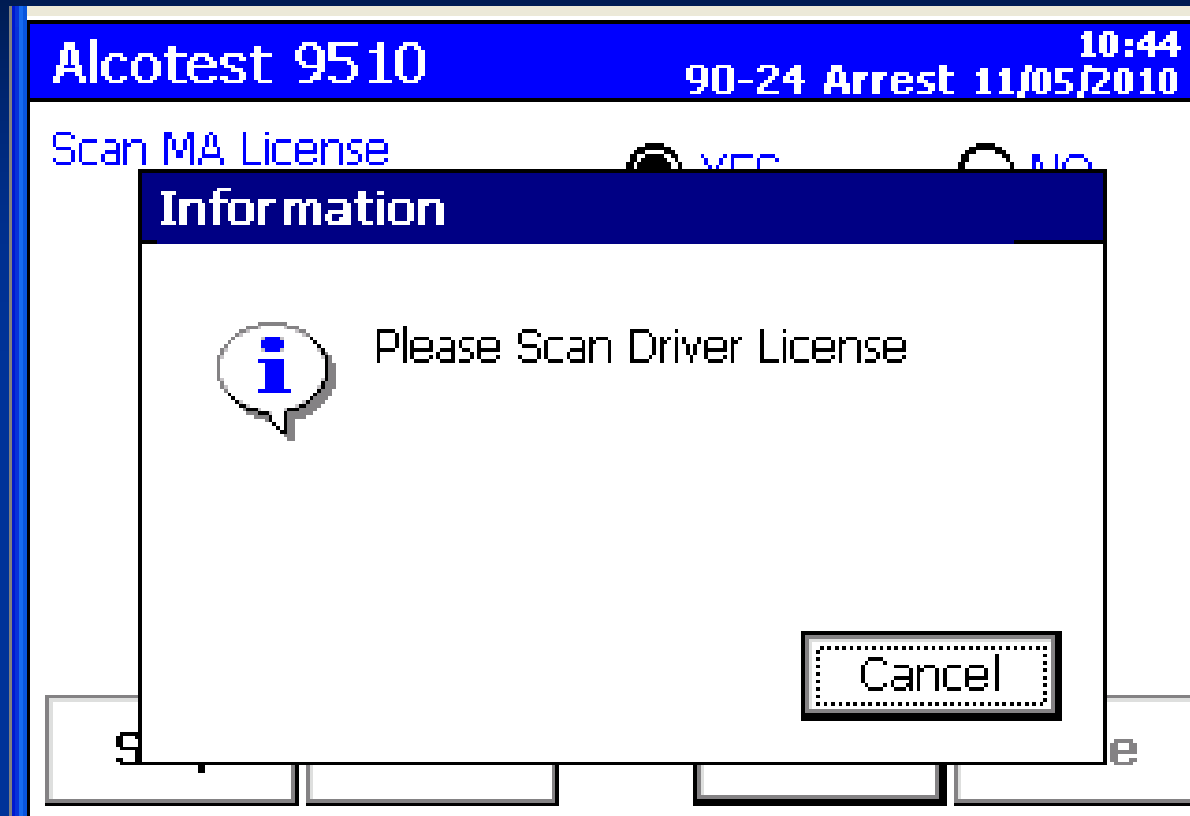
Scan MA License ☐ YES ☒ NO

Stop Prev. Next Done

ARBK-0013

- Once you select “YES” or “NO”, you must press “Next” in order to proceed to the next screen.

Please Scan Driver License



- Place the driver's license in the scanner with the 2D barcode facing the BT.
- Pull license out of scanner.

Verifying License Data

Alcotest 9510

10:45
90-24 Arrest 11/05/2010

Subject Last Name

SMITH

- Confirm data for accuracy with license.
- Hyphenated names are accepted, no corrective action is necessary.
 - Example: *Smith-Jones* is acceptable.
- To Make Corrections:
 - Backspace to delete and enter new data manually.

Verifying License Data

Alcotest 9510		10:46
		90-24 Arrest 11/05/2010
Subject First Name	<input type="text" value="JOHN"/>	

Alcotest 9510		10:46
		90-24 Arrest 11/05/2010
Subject Middle Initial	<input type="text" value="Q"/>	

- Confirm for Accuracy.

Verifying License Data

Alcotest 9510		11:18
Training Test		11/21/2019
Subject Gender	<input type="radio"/> MALE	<input type="radio"/> FEMALE <input checked="" type="radio"/> X

Alcotest 9510	10:48
90-24 Arrest	11/05/2010
Subject Date Of Birth	<input type="text" value="11/12/1978"/>

- The non-binary gender code, “X”, is now available on all field instruments. Please select this option when a subject identifies themselves as non-binary.
- DOB is still entered as 2 character month; 2 character day; 4 character year (MMDDYYYY).
- No need to enter forward slashes (/).

Verifying License Data

Alcotest 9510

10:48
90-24 Arrest 11/05/2010

Subject Street Address

12 MEMO LANE

Alcotest 9510

10:49
90-24 Arrest 11/05/2010

Subject City

DEVENS

- Use CURRENT address.
 - Do not assume address on license is correct.
 - RMV no longer provides white tape to change address information on back of license.

Verifying License Data

Alcotest 9510		10:49
90-24 Arrest		11/05/2010
Subject State	<input type="text" value="MASSACHUSETTS"/> 	

Alcotest 9510		10:50
90-24 Arrest		11/05/2010
Subject Zip Code	<input type="text" value="01434"/>	

- Subject State can be entered using drop down box or entering the letter key to the state desired.

Verifying License Data

Alcotest 9510		10:50
90-24 Arrest		11/05/2010
License Number	<input type="text" value="S12345678"/>	

- This field can be up to 20 characters.
 - MA licenses limited to 9 characters.
 - Out of State licenses up to 20 characters.
- Check for RMV assigned “S”, “SA”, “A”, or “X” number.

Alcotest 9510		10:51
90-24 Arrest		11/05/2010
License Expires	<input type="text" value="11/12/2012"/>	

Verifying License Data

Alcotest 9510

10:51
90-24 Arrest 11/05/2010

Restrictions

BH

- Massachusetts “Restricted Hours” licenses.
 - Not always auto-filled after scanning. Enter information manually.
 - Example - Restriction “H” (AKA “Cinderella” licenses).
 - Two additional prompts for Restriction ‘H’ that need to be entered manually:
 - **FROM: “HH:MM” (ex. FROM: 08:00) (Military Time)**
 - **TO: “HH:MM” (ex. TO: 20:00) (Military Time)**

Verifying License Data

Alcotest 9510		10:53
		90-24 Arrest 11/05/2010
License Class	<input type="text" value="D"/>	

- If not “D” or “M”, then following prompt will be displayed:

Alcotest 9510		10:55
		90-24 Arrest 11/05/2010
CDL License	<input checked="" type="radio"/> YES	<input type="radio"/> NO

Verifying License Data

Alcotest 9510

10:56
90-24 Arrest 11/05/2010

Operating CDL Vehicle



YES



NO

- If “YES”, then following questions are displayed:
 - **VEH. REQUIRES HAZMAT PLACARD** ☐ Yes ☐ No
 - **OPER. PLACED OUT OF SERVICE** ☐ Yes ☐ No

Operator Placed Out of Service – CDL Vehicle

Alcotest 9510	10:56
90-24 Arrest 11/05/2010	
Operator Placed Out of Service	<input checked="" type="radio"/> YES <input type="radio"/> NO

- If “Operator Placed Out of Service” is **YES**.
 - Instrument prints “24 Hr. Out of Service” notice upon completion.
- If “Operator Placed Out of Service” is **NO**.
 - Instrument prints “24 Hr. Out of Service” notice upon completion with **any detectable amount** of alcohol if “Operating CDL Vehicle” question was answered **YES**.

Subject Summary

Alcotest 9510		10:57
		90-24 Arrest 11/05/2010
Subject Licensed	YES	
License State	MASSACHUSETTS	
Scan MA License	NO	
Subject Last Name	SMITH	
Subject First Name	JOHN	


- Scroll down verifying data for accuracy.
- Once “Save” is selected, no changes can be made.

Public Way

Alcotest 9510

10:58
90-24 Arrest 11/05/2010

Public Way

 YES

■ ONE ELEMENT OF THE CRIME

- A public way is defined as any street or highway that is open to the public. In addition, a place to which the public has right of access, or any place to which members of the public have access as invitees or licensees.

Operation

Alcotest 9510		10:58
90-24 Arrest		11/05/2010
Observed Driving	<input type="radio"/> YES	<input checked="" type="radio"/> NO

Alcotest 9510		10:59
90-24 Arrest		11/05/2010
Operation Proven By	<div>WITNESS STATEMENT</div>	

■ ANOTHER ELEMENT OF THE CRIME

- Actual Observation – select “YES”
- Other Proof of Operation – select “NO”

Arresting Officer's Observations

Alcotest 9510

11:00
90-24 Arrest 11/05/2010

Unsteady on Feet



YES



NO

Alcotest 9510

11:00
90-24 Arrest 11/05/2010

Slurred Speech



YES



NO

Alcotest 9510

11:00
90-24 Arrest 11/05/2010

Glassy Eyes



YES



NO

Alcotest 9510

11:01
90-24 Arrest 11/05/2010

Bloodshot Eyes



YES



NO

Arresting Officer's Observations

Alcotest 9510		11:01		
		90-24 Arrest 11/05/2010		
Odor	<input type="radio"/> STRONG	<input type="radio"/> MODER.	<input type="radio"/> SLIGHT	<input checked="" type="radio"/> NO

- “UNSTEADY ON FEET,” “SLURRED SPEECH,” “GLASSY EYES,” “BLOODSHOT EYES,” “ODOR”
 - **Arresting officer's observations, NOT BTO's observation.**
 - Printed in middle portion of “BATS - Completion Record” in the “Breath Test – Arresting Officer Observation Report”.
 - This is discoverable. Must be included in paperwork provided to ADA.

Arresting Officer's Observations

Alcotest 9510	11:02
90-24 Arrest 11/05/2010	
Crash	<input checked="" type="radio"/> YES <input type="radio"/> NO

Alcotest 9510	11:02
90-24 Arrest 11/05/2010	
PBT	<input type="radio"/> PASS <input checked="" type="radio"/> FAIL <input type="radio"/> N/A

- Additional “Arresting Officer Observations”.
- PBT should be reported in written report.
 - Last SFST, Pass/Fail and Numerical Result (ex: 0.102).
 - Report as “Fail” if PBT reading is 0.060% or higher.

Arresting Officer's Observations

Alcotest 9510

11:03
90-24 Arrest 11/05/2010

Other Grounds for Arrest

SFST INDICATE IMPAIRMENT

- Enter the observed signs of impairment in this field.
 - SFST indicate impairment
 - Crossed Dbl Yellow
 - Marked Lanes Violation
- Max. 24 character in this mandatory field.
- “Arresting Officer Observation” report is used by RMV Hearings Officers and is subject to scrutiny in a court of law as a discoverable document.

Officer Observation Summary

Alcotest 9510

11:03
90-24 Arrest 11/05/2010

Public Way
YES
Observed Driving
NO
Operation Proven By
WITNESS STATEMENT
Unsteady on Feet
YES
Slurred Speech
YES
_ _

- Scroll down verifying data for accuracy.
- Once “Save” is selected, no changes can be made.

Date & Town of Arrest

Alcotest 9510	11:04 90-24 Arrest 11/05/2010
Date of Arrest	<input type="text" value="11/05/2010"/>

Alcotest 9510	11:04 90-24 Arrest 11/05/2010
Town of Arrest	<input type="text" value="AYER"/>

- Confirm for Accuracy.

Arresting Officer

Alcotest 9510		11:05
90-24 Arrest		11/05/2010
Arresting Officer Same as BTO	<input checked="" type="radio"/> YES	<input type="radio"/> NO

- Select “YES”
 - If Arresting Officer same as BTO.
 - Officer data will auto-populate.
- Select “NO”
 - If Arresting Officer is NOT the same as the BTO.
 - Manually enter Arresting Officer’s data.
 - Be sure to use full proper names.

Arresting Officer

Alcotest 9510

11:06
90-24 Arrest 11/05/2010

Arresting Officer ID

C2367

Alcotest 9510

11:07
90-24 Arrest 11/05/2010

Arresting Officer
Department

DEVENS

Alcotest 9510

11:08
90-24 Arrest 11/05/2010

Arresting Officer Last
Name

JONES

Alcotest 9510

11:08
90-24 Arrest 11/05/2010

Arresting Officer First
Name

THOMAS

Refusal Consequences

Alcotest 9510

11:09

90-24 Arrest 11/05/2010

Advised Subject of Refusal
Consequences

☒ YES

Alcotest 9510

11:09

90-24 Arrest 11/05/2010

Advised Subject of CDL
Refusal Consequences

☒ YES

- Completing the Statutory Rights and Consent Form satisfies these two prompts.

Arresting Officer Summary

Alcotest 9510		11:10
90-24 Arrest		11/05/2010
Date of Arrest	11/05/2010	
Town of Arrest	AYER	
Arresting Officer Same as BTO	NO	
Arresting Officer ID	C2367	
Arresting Officer Department	DEVENS	

- Scroll down verifying data for accuracy.
- Once “Save” is selected, no changes can be made.

Test Type

Alcotest 9510		11:12
90-24 Arrest		11/05/2010
Test Type	<input checked="" type="radio"/> BT TEST	<input type="radio"/> REFUSAL

- Select “BT Test” to continue with breath test.
- Select “Refusal” if subject refuses; then proceed to refusal questions.
 - **REFUSAL TYPE**
 - **TOWN OF REFUSAL**
 - **DATE OF REFUSAL**
 - **REFUSAL WITNESS**

Refusal Questions

Alcotest 9510

11:14
90-24 Arrest 11/05/2010

Refusal Type



BREATH



BLOOD

Alcotest 9510

11:14
90-24 Arrest 11/05/2010

Town of Refusal

DEVENS

Alcotest 9510

11:15
90-24 Arrest 11/05/2010

Date of Refusal

11/05/2010

Refusal Questions

Alcotest 9510

11:16
90-24 Arrest 11/05/2010

Refusal Witness Last Name

KENT

Alcotest 9510

11:16
90-24 Arrest 11/05/2010

Refusal Witness First Name

CLARK

- Refusal Witness must be a third party, but can be sworn officer or civilian.
 - Cannot be Subject Name or Refusal Officer.
 - The instrument will not allow the witness to be the same as the Refusal officer.

Test Type Summary

Alcotest 9510		11:16
90-24 Arrest		11/05/2010
Test Type	REFUSAL	
Refusal Type	BREATH	
Town of Refusal	DEVENS	
Date of Refusal	11/05/2010	
Refusal Witness Last Name	KENT	

- Scroll down verifying data for accuracy.
- Once “Save” is selected, no changes can be made.

Observation Period

Alcotest 9510		11:18
90-24 Arrest		11/05/2010
Subject Observed 15 Minutes	<input checked="" type="radio"/> YES	<input type="radio"/> NO

- Only select “Yes” if the mandatory 15-minute observation period has occurred.
 - Remember, there **MUST** be a 15-minute observation period **PRECEDING** the breath test.
- 501 CMR 2.13(3) states “The BTO shall observe the arrestee for no less than 15 minutes immediately prior to the administration of the breath test.”

Observation Period

Alcotest 9510		11:18
90-24 Arrest 11/05/2010		
Subject Observed 15 Minutes	<input type="radio"/> YES	<input checked="" type="radio"/> NO

Alcotest 9510		11:19
90-24 Arrest 11/05/2010		
Do You Want a 15 Minute Countdown Timer?	<input checked="" type="radio"/> YES	<input type="radio"/> NO

- If the 15 minute observation period has not occurred, select “NO”.
- The next screen will ask “Do You Want a 15 Minute Countdown Timer?”.
 - Select “Yes” and the BT will begin a countdown.
 - Select “No” and the prompts will then revert back to the “Test Type” screen.
- This countdown timer is not reflected on the BT ticket. This event should be reflected in your report.

Observation Period

- To document the observation START time, you should:
 - Use the time located on the display of the BT instrument.
 - Document it in your written arrest report.
- You may use the “Time of Consent or Refusal” from the Statutory Rights and Consent Form but this is not required.

Observation Summary

Alcotest 9510	11:21 90-24 Arrest 11/05/2010
Test Type BT TEST Subject Observed 15 Minutes YES	

- Remember - the BT does not print the start of the 15 minute observation period. This should be included in the officer's written report.
- Scroll down verifying data for accuracy.
- Once "Save" is selected, no changes can be made.

The Observation Period

- What is the purpose of the 15 minute observation period?
 - To allow for the dissipation of mouth alcohol.
- 501 CMR 2.13(3) further states “If the BTO has reason to believe the arrestee has introduced any item into his or her mouth, the 15 minute observation period shall be restarted.”

The Observation Period

- If the observation starts at 21:00, then the BTO can begin the breath test at 21:15.
 - Although this is true, the seconds are not displayed, so it is best to wait at least **16 minutes** or more to begin the breath test.
- Only the BTO who is conducting the Breath Test can enter any data into the BT.
- *Commonwealth vs Pierre, 72 Mass. App. Ct. 230 (2008)*, the CMRs which require a BTO to observe the arrestee for fifteen minutes prior to administration of the breath test, does not preclude observation outside the breath testing room prior to being advised of his rights and consenting to take the test.

The Observation Period - Challenges

What if a subject burps loudly 10 minutes into the observation period? Do you start the observation period over or continue?

- The observation period shall be restarted.
- Remember to document this new time.

Administering the Breath Test

PLEASE BLOW



- This screen appears when the instrument is **READY** for a breath test.
 - Remove hose from storage recess.
 - Gently insert a new mouthpiece.
 - Hold the hose for the subject.
 - It is not recommended that the subject hold the breath hose himself.
 - This is to protect it from possible damage for the subject who may suddenly decide that the BT instrument is a toy.
 - Instruct subject to inhale, create and maintain a tight seal around the mouthpiece, then blow.

Changing Minds

- If subject **REFUSES** at this point, select the “**STOP**” option and process the subject’s refusal.

Commonwealth v. Curley, 78 Mass. App. Ct. 163 (2010) states that the introduction of evidence of a failed breathalyzer attempt by the Commonwealth does not violate a defendant’s right against self-incrimination.

Commonwealth v. Adonsoto 475 Mass. 497 (2016) reaffirmed Curley.

Overview of the Breath Test Sequence

A **VALID** Breath Test Sequence consists of:

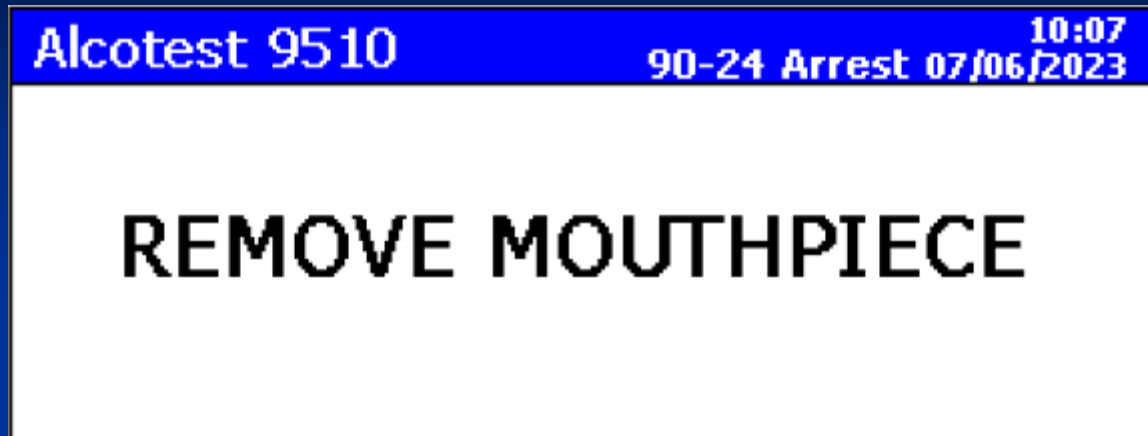
- 1) air blank test of 0.000%
- 2) breath sample 1 supplied by subject
- 3) air blank test of 0.000%
- 4) calibration check of 0.074% - 0.086%
- 5) air blank test of 0.000%
- 6) breath sample 2 supplied by subject
- 7) air blank test of 0.000%

Breath Sample

Alcotest 9510	11:23 90-24 Arrest 11/05/2010
PLEASE BLOW	
<div><div></div></div>	

- Two of the parameters that must be met:
 - Minimum of 1.5 liters of breath.
 - Minimum 4.5 continuous seconds of breath.
- When the rectangular box is in **BOLD**, the criteria has been met.
- Remove Mouthpiece and only return the mouthpiece when prompted “Please Blow” for the next sample.
 - It is the officer’s discretion whether or not to replace the mouthpiece in between valid breath samples, but OAT requires that the mouthpiece must always be removed from the breath hose after the individual’s first valid breath test sample. But for each new subject, a new mouthpiece is required.

Breath Sample



- Remove Mouthpiece and only return the mouthpiece when prompted “Please Blow” for the next sample.
 - It is the officer’s discretion whether or not to replace the mouthpiece in between valid breath samples, but OAT requires that the mouthpiece must always be removed from the breath hose after the individual’s first valid breath test sample.
- For each new subject, a new mouthpiece is required.

Please Wait



- A 60 second countdown after the first sample is initiated to diagnostically ready the instrument for the control standard.

Dry Gas Check

Alcotest 9510

11:24
90-24 Arrest 11/05/2010

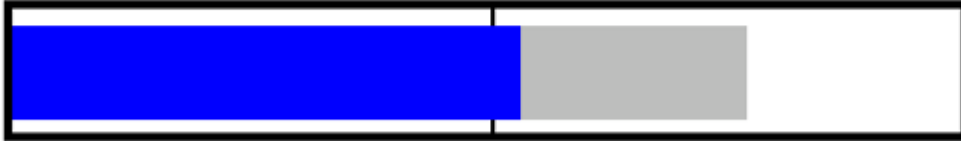
DRY GAS CHECK

- The BT will analyze the control standard during the calibration check.
 - This utilizes the gas cylinder attached to the BT.
 - A known alcohol concentration (**0.080 %**).
 - This calibration check does not calibrate or adjust the instrument in any way.
 - The results shall be acceptable if within a range of **0.074%-0.086%** as allowed in 501 CMR 2.11(2).

2nd Breath Sample

Alcotest 9510	11:55
90-24 Arrest 07/06/2023	

PLEASE BLOW



- The grey bar represents the subject's first breath sample.
- When the rectangular box is **BOLD**, the criteria has been met.

Reportable Value

Alcotest 9510

11:28
90-24 Arrest 11/05/2010

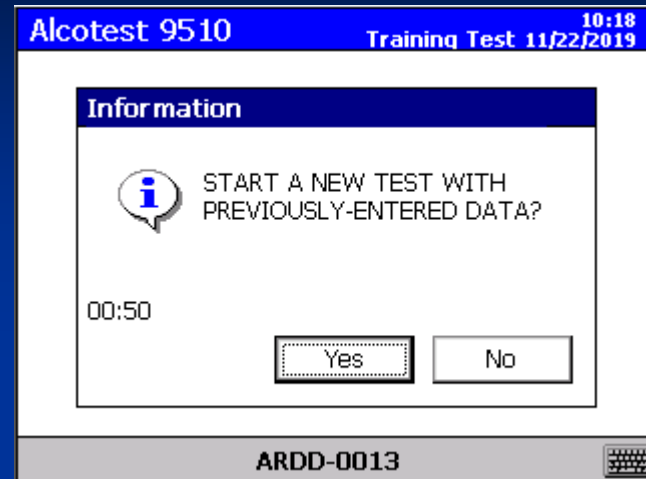
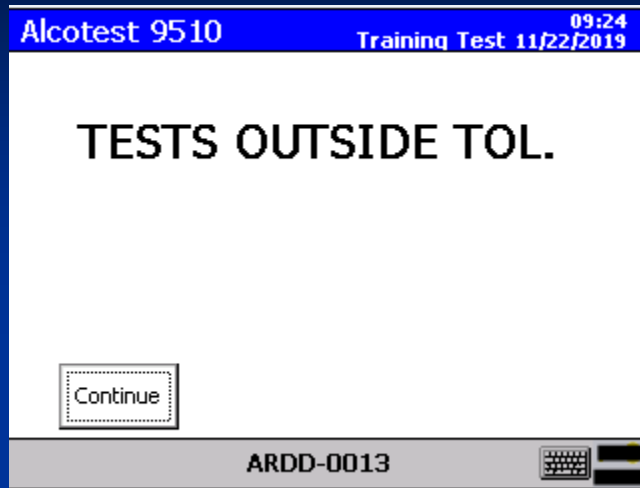
**REPORTABLE VALUE:
0.17 %BAC**

- First breath sample and second breath sample must agree within ± 0.020 %BAC.
- The lower of the two samples will be displayed prior to printout.
 - Use this result to help answer the prompt “Seized MA License”.

Breath Test Results Summary

0.08 %BAC or above	Per Se Impairment for all operators regardless of age and vehicles.
0.07 %BAC 0.06 %BAC	Probable cause for arrest remains. However, no permissible inference of intoxication. No immediate license loss for operators if over 21 years of age (with the exception of CDL licenses).
Below 0.06 BAC%	No permissible inference of intoxication and released forthwith if OUI Alcohol is the only arrestable charge.
0.04 %BAC or above	Administrative license suspension for CDL operation and CDL vehicle. This applies to the vehicle, not the license. Class D is still active, Class A is not.
0.02 %BAC or above	If operator is under 21 years of age, this will result in an administrative license suspension.

Tests Outside Tolerance



- If two samples **DO NOT** agree within ± 0.020 %BAC:
 - **“TEST OUTSIDE TOL.”** will appear on display briefly and ALSO on the Breath Test Report Form.
 - The BT will prompt with a question about starting a new test.
 - Note that the BT retains all the information previously entered.
 - The observation period does not need to be repeated.
 - 501 CMR 2.14 (4) states “If the sequence...does not result in breath samples that are within ± 0.020 blood alcohol content units, a new breath test sequence shall begin.”

ARE THESE TESTS VALID?

Function	SUBJECT 1	SUBJECT 2	SUBJECT 3	SUBJECT 4
Air Blank Test	0.000	0.000	0.000	0.000
Subject Test 1	0.204	0.174	0.089	0.330
Air Blank Test	0.000	0.000	0.000	0.000
Calibration Check	0.080	0.073	0.083	0.081
Air Blank Test	0.000	0.000	0.000	0.000
Subject Test 2	0.199	0.169	0.071	0.309
Air Blank Test	0.000	0.000	0.000	0.000

Finishing the BT Report

Alcotest 9510

11:29
90-24 Arrest 11/05/2010

Report Prepared By
Testing Officer?

☒ YES

Alcotest 9510

11:30
90-24 Arrest 11/05/2010

Under Penalties of Perjury?

☒ YES

- Verifies that the BTO completed the breath test under penalties of perjury.
- If this is a “Refusal”, the question would ask:
 - **“Report Prepared By Refusal Officer?”**

Finishing the BT Report

The screenshot shows the Alcotest 9510 interface. At the top, a blue header bar contains the text "Alcotest 9510" on the left and "09:26 90-24 Arrest 03/29/2023" on the right. Below the header, the main display area has a white background with a black border. It contains two questions, each followed by the word "YES" on a new line. The first question is "Report Prepared By Testing Officer?" and the second is "Under Penalties of Perjury?". At the bottom of the screen, there are two buttons: "Stop" on the left and "Save" on the right. The "Save" button is highlighted with a dashed border.

Alcotest 9510 09:26 90-24 Arrest 03/29/2023

Report Prepared By Testing Officer?
YES

Under Penalties of Perjury?
YES

Stop Save

- Once “Save” is selected, no changes can be made and the instrument will continue to the next set of questions.

Seizing Licenses

- How do you know if you need to seize the driver's Massachusetts license?

0.02 %BAC and above	Massachusetts license seized for those under 21 years of age
0.04 %BAC and above	Massachusetts license seized if a CDL operator was driving a CDL vehicle at the time of the alleged offense (but Class D is still active).
0.08 %BAC and above	Massachusetts license seized for everyone licensed in the Commonwealth of MA

Seizing Licenses

- 20-year-old driver has a test result of 0.034 %BAC.

0.02 %BAC and above	Massachusetts license seized for those under 21 years of age
0.04 %BAC and above but below 0.08% BAC	Massachusetts license seized if a CDL operator was driving a CDL vehicle at the time of the alleged offense (but Class D is still active).
0.08 %BAC and above	Massachusetts license seized for everyone licensed in the Commonwealth of MA

- Are they still under arrest?
- What happens to their license?

Seizing Licenses

- Tractor trailer driver has a test result of 0.058 %BAC.

0.02 %BAC and above	Massachusetts license seized for those under 21 years of age
0.04 %BAC and above but below 0.08% BAC	Massachusetts license seized if a CDL operator was driving a CDL vehicle at the time of the alleged offense (but Class D is still active).
0.08 %BAC and above	Massachusetts license seized for everyone licensed in the Commonwealth of MA

- Are they still under arrest?
- What happens to their license?

Seizing Licenses

- Class B licensed driver driving a Class D vehicle has a test result of 0.057 %BAC.

0.02 %BAC and above	Massachusetts license seized for those under 21 years of age
0.04 %BAC and above but below 0.08% BAC	Massachusetts license seized if a CDL operator was driving a CDL vehicle at the time of the alleged offense (but Class D is still active).
0.08 %BAC and above	Massachusetts license seized for everyone licensed in the Commonwealth of MA

- Are they still under arrest?
- What happens to their license?

Seizing Licenses

- Class B licensed driver driving a Class D vehicle has a test result of 0.072 %BAC.

0.02 %BAC and above	Massachusetts license seized for those under 21 years of age
0.04 %BAC and above but below 0.08% BAC	Massachusetts license seized if a CDL operator was driving a CDL vehicle at the time of the alleged offense (but Class D is still active).
0.08 %BAC and above	Massachusetts license seized for everyone licensed in the Commonwealth of MA

- Are they still under arrest?
- What happens to their license?

Seizing Licenses

- Anyone driving a Class D vehicle has a test result of 0.095 %BAC.

0.02 %BAC and above	Massachusetts license seized for those under 21 years of age
0.04 %BAC and above but below 0.08% BAC	Massachusetts license seized if a CDL operator was driving a CDL vehicle at the time of the alleged offense (but Class D is still active).
0.08 %BAC and above	Massachusetts license seized for everyone licensed in the Commonwealth of MA

- Are they still under arrest?
- What happens to their license?

Seize MA License

Alcotest 9510	09:28
90-24 Arrest 03/29/2023	
Did you seize MA license?	<input checked="" type="radio"/> YES <input type="radio"/> NO

- When do you seize an MA License?
 - 0.08 %BAC or higher for all operators.
 - 0.04 %BAC or higher but below 0.08 %BAC for a CDL driver only if he was driving a commercial vehicle at the time of the alleged offense.
 - 0.02 %BAC or higher for all operators under 21.
- What do you do with the *seized* license?

Seizing Licenses

- The Registry of Motor Vehicles (RMV) has granted the authority to Local and State Police to destroy “MASSACHUSETTS” licenses and dispose of them whenever a “*Notice of Suspension for a Chemical Test Failure or Refusal*” has been issued by the Police.
- Do NOT Seize or Destroy Out-of-State licenses!

12 Hour Vehicle Impound

Pursuant to General Laws Ch. 90, Sec. 24 (f) (1):

“If a person refuses to take a test under this paragraph, the police officer shall:

(iii) impound the vehicle being driven by the operator and arrange for the vehicle to be impounded for a period of 12 hours after the operator's refusal, with the costs for the towing, storage and maintenance of the vehicle to be borne by the operator.”

Citation and Tracking Numbers

Alcotest 9510		11:31
90-24 Arrest		11/05/2010
Citation Number	<input type="text" value="M23456789"/>	

Alcotest 9510		11:31
90-24 Arrest		11/05/2010
OBTN	<input type="text"/>	

- **OPTIONAL FIELDS.** If you don't have the information, move on and complete the Breath Test or Refusal.
 - To be used to assist in linking separate forms.
 - OBTN – Offender Based Tracking Number

Summary Screen

The image shows a software interface for an Alcotest 9510 device. At the top, a blue header bar contains the text "Alcotest 9510" on the left and "09:29" on the right. Below this, a white area displays "90-24 Arrest 03/29/2023". The main section is a white box with a black border containing the question "Did you seize MA license?". Below the question, the text "YES" is displayed. Further down, "Citation Number" is followed by "12345". Below that, "OBTN" is followed by "67890". At the bottom of this white box are two buttons: "Stop" on the left and "Save" on the right. The "Save" button has a dashed border. Below the white box is a gray bar with the text "ARBK-0013" and two small icons: a keyboard and a printer.

Alcotest 9510	09:29
90-24 Arrest 03/29/2023	
Did you seize MA license?	
YES	
Citation Number	
12345	
OBTN	
67890	
Stop	Save
ARBK-0013	

- Once “Save” is selected, no changes can be made and the Breath Test Report will print.

Blank Fields

Alcotest 9510	09:26 90-24 Arrest 03/29/2023
Report Prepared By Testing Officer? YES	
Under Penalties of Perjury? YES	
Stop	Save

Alcotest 9510	09:29 90-24 Arrest 03/29/2023
Did you seize MA license? YES	
Citation Number 12345	
OBTN 67890	
Stop	Save

- PLEASE NOTE: If the instrument is left idle for 25 minutes during any of these 5 questions before selecting “Save”, the instrument will time out. The documents will then print and the information will be transmitted but the answers to the questions you have not saved will be blank.

Blank Fields

Massachusetts Office of Alcohol Testing
BATS - Completion Record

OAT Loaner 22

Test Date:	03/29/2023	Seq. Test #:	1798
Dept. Case #:	123456	Citation #:	-
Model #:	ALCOTEST 9510	Firmware:	8322232 0.7.1
Serial #:	ARBK-0013	License #:	123456789
Date of Arrest:	03/17/2023	License State:	MASSACHUSETTS
Arrest Town:	DEVENS	Last Name:	DINGLE
Test Type:	90-24 ARREST	First Name, MI:	PAUL, J
Test Result:	0.00 %BAC	D. O. B.:	12/12/1955

Breath Test - Arresting Officer Observation Report

Public Way:	YES	OUI Alcohol Arrest:	YES	Offered Test:	YES
Observed Driving:	YES	Unsteady on Feet:	YES	Slurred Speech:	YES
Glassy Eyes:	YES	Bloodshot Eyes:	YES	Odor:	MODER.
PBT:	FAIL	Crash:	YES		
Other Grounds:	SFST INDICATE IMPAIRMENT				

Arresting Officer's Name:	DANIEL RENCZKOWSKI
Arresting Officer Signature:	
Breath Test Operator:	DANIEL J. RENCZKOWSKI
Observed Subject 15 Minutes:	YES
Refusal Witness:	N/A
Report Prepared by Testing Officer:	YES
Under Penalties of Perjury:	YES

Massachusetts Office of Alcohol Testing
BATS - Completion Record

CERTLAB

Test Date:	07/06/2023	Seq. Test #:	2051
Dept. Case #:	12345	Citation #:	-
Model #:	ALCOTEST 9510	Firmware:	8322232 0.7.1
Serial #:	ARBE-0032	License #:	S00276722
Date of Arrest:	07/06/2023	License State:	MASSACHUSETTS
Arrest Town:	MAYNARD	Last Name:	MARSHALL
Test Type:	90-24 ARREST	First Name, MI:	LENA, A
Test Result:	0.00 %BAC	D. O. B.:	02/02/1980

Breath Test - Arresting Officer Observation Report

Public Way:	YES	OUI Alcohol Arrest:	YES	Offered Test:	YES
Observed Driving:	YES	Unsteady on Feet:	YES	Slurred Speech:	YES
Glassy Eyes:	YES	Bloodshot Eyes:	YES	Odor:	STRONG
PBT:	FAIL	Crash:	YES		
Other Grounds:	SFST INDICATE IMPAIRMENT				

Arresting Officer's Name:	BROOKE BARAN
Arresting Officer Signature:	
Breath Test Operator:	BROOKE E. BARAN
Observed Subject 15 Minutes:	YES
Refusal Witness:	N/A
Report Prepared by Testing Officer:	-
Under Penalties of Perjury:	-

- The answers to the two RMV questions now appear on the BATS – Completion Record and will appear as either “Yes” if the summary screen was saved or as “-” if the data was not saved.

BATS Data Correction Form

BATS DATA CORRECTION FORM

Email To: DCULegal@dot.state.ma.us
OR Fax To: 857.368.0019

TO: DRIVER CONTROL UNIT
REGISTRY OF MOTOR VEHICLES

FROM: _____
(Officer)

(Department or Agency)

RE: Sequential Test Number: _____
(Found on BATS Completion Record)

Defendant: _____
(Found on BATS Completion Record)

Correction(s) needed:

Signed under the pains and penalties of perjury this ____ day of _____, 20__

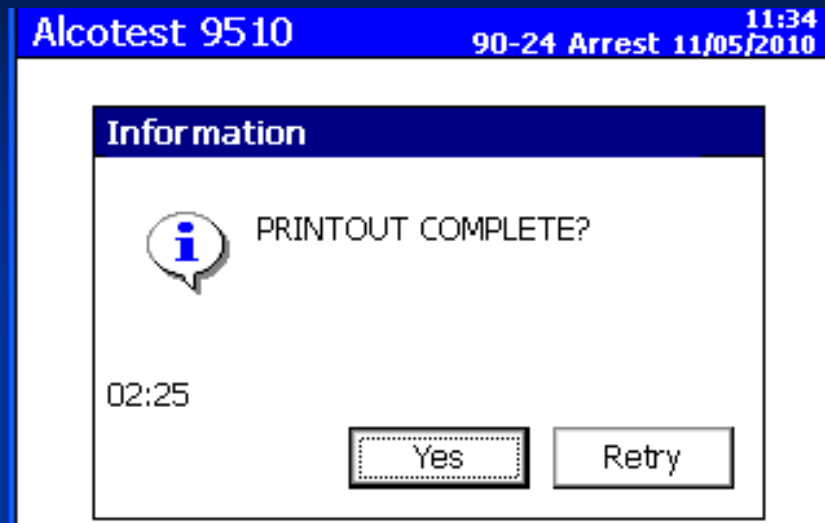
(Officer's Signature)

Revised 2/15/2023

25 Minute Timeouts

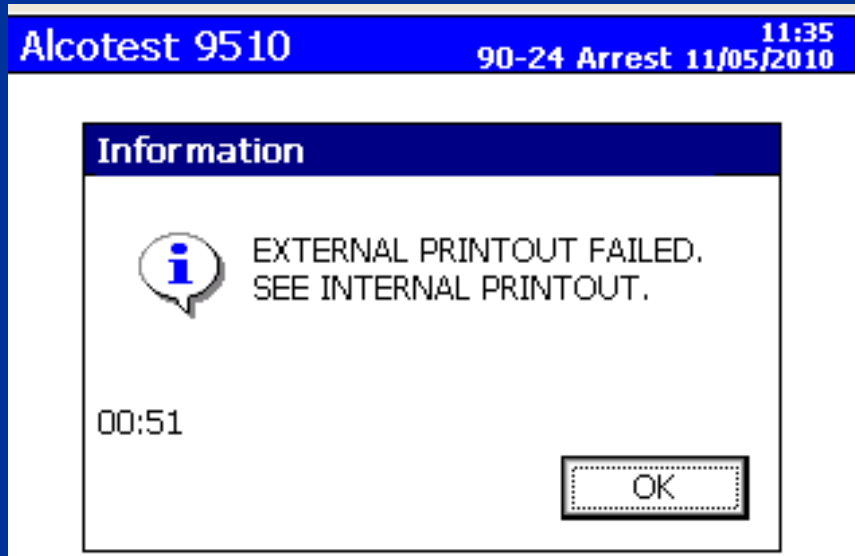
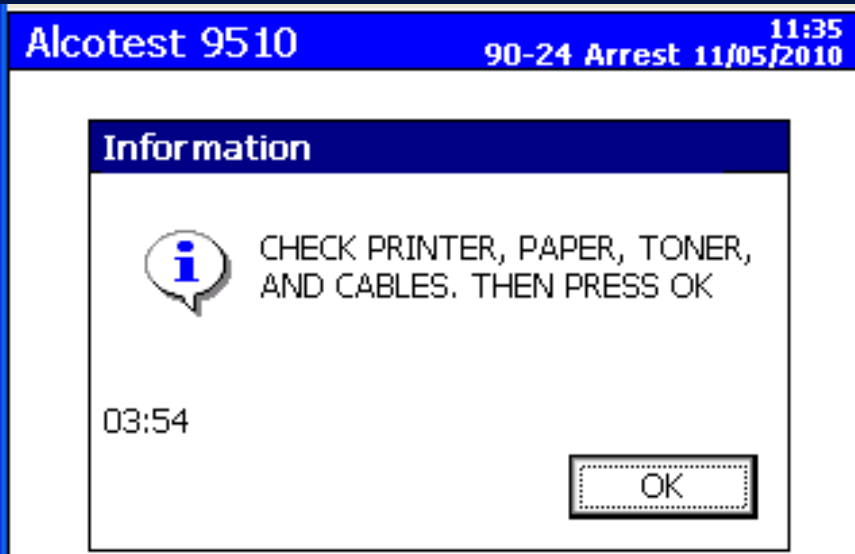
- If you are aware of a time out during any of these 5 questions, fill out a BATS Data Correction Form.
- Email or fax the Form directly to the RMV.
- Forward any BATS Data Correction Forms to the prosecuting agency.

Printing



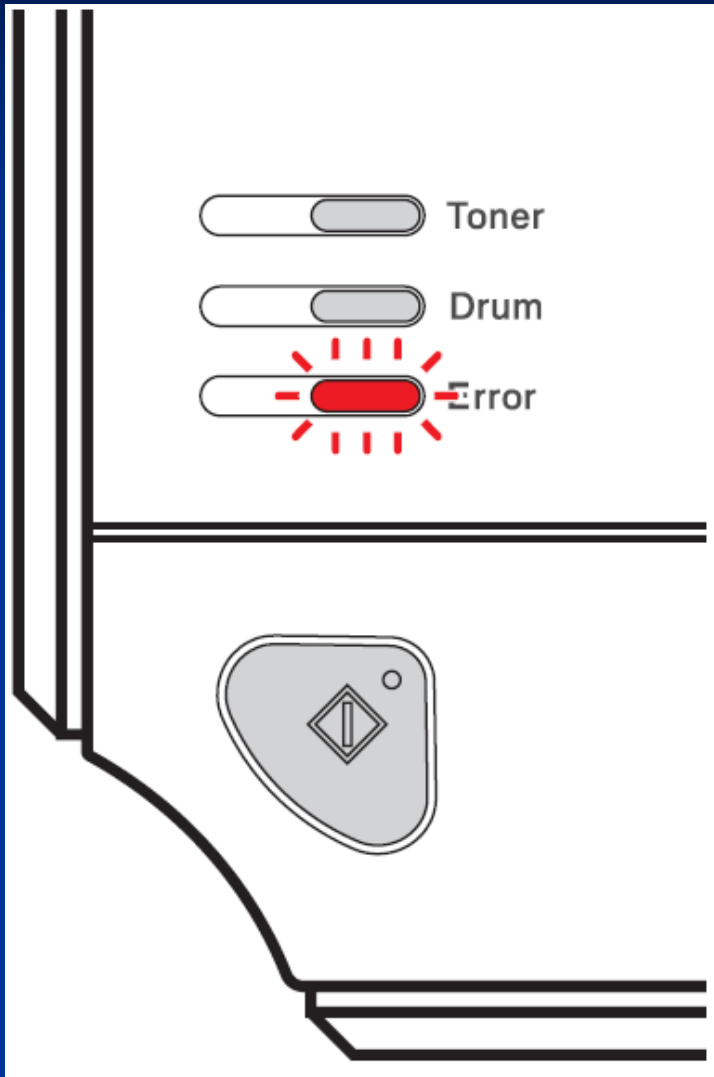
- A prompt will appear: “Printout Complete?”
 - This prompt should be answered, but if it is not, then the sequence will still complete automatically.
- Check the printed documents for accuracy as well as to ensure the results COMPLY with the current CMRs.
- If a notice of suspension has printed, it must be served in hand forthwith.

Printer Problems



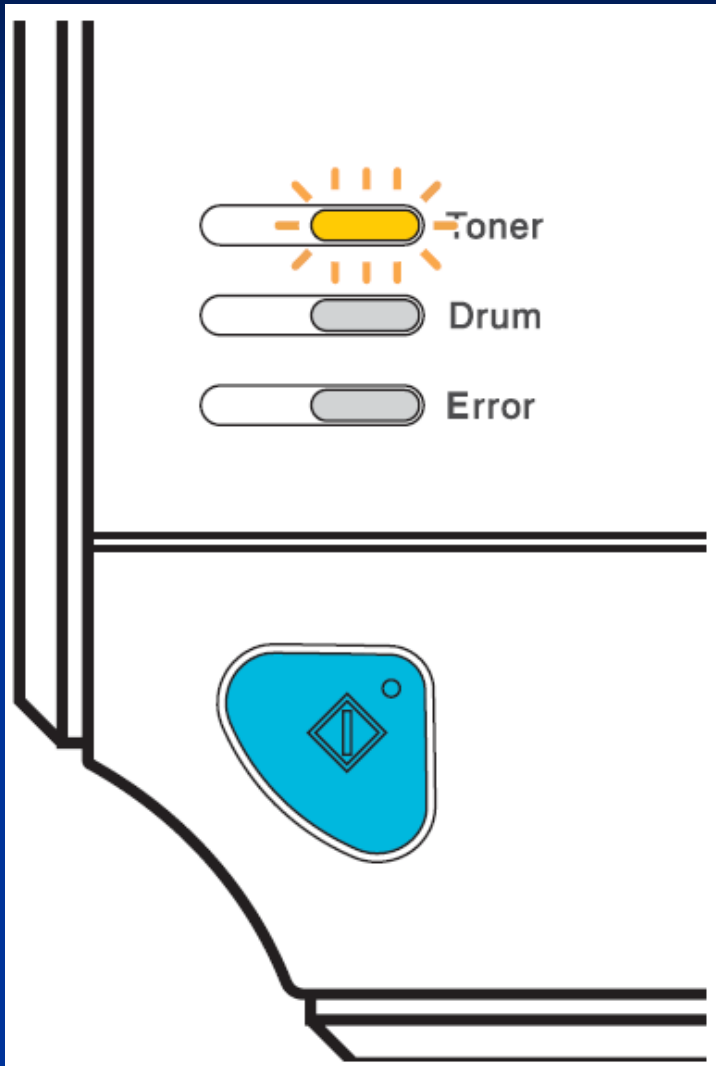
- If a printer problem exists
 - Box will display “Check Printer, Paper, Toner, and Cables. Then Press OK.”
- Follow the instructions to try and remedy the problem.
- After 3rd failed attempt:
 - Box will display “External Printout Failed. See Internal Printout.”
 - In this case, use the “Reprint” tab on the initial “Ready” screen.

Printer Out of Paper



- Error light flashing
 - Paper Jam
- Error light solid
 - Out of paper
- Add paper or remove jam
- Press the go button to ready printer, then reprint if needed.

Printer Low on Toner



- Toner light flashing
 - Running low on toner
 - Advise OIC to replace toner
- Toner light solid
 - Out of toner
 - Blank paper has come out of printer
 - Replace toner immediately and reprint

Replacing Toner

TN-760 Toner Cartridge



DR-730 Drum Unit



TN-760 Toner Cartridge Installed into
a DR-730 Drum Unit



Brother toner cartridge

Replace

Brother drum unit

KEEP

Toner cartridge installed into the drum unit. This is how the toner / drum will look when you remove it from the printer.

Reprint Function

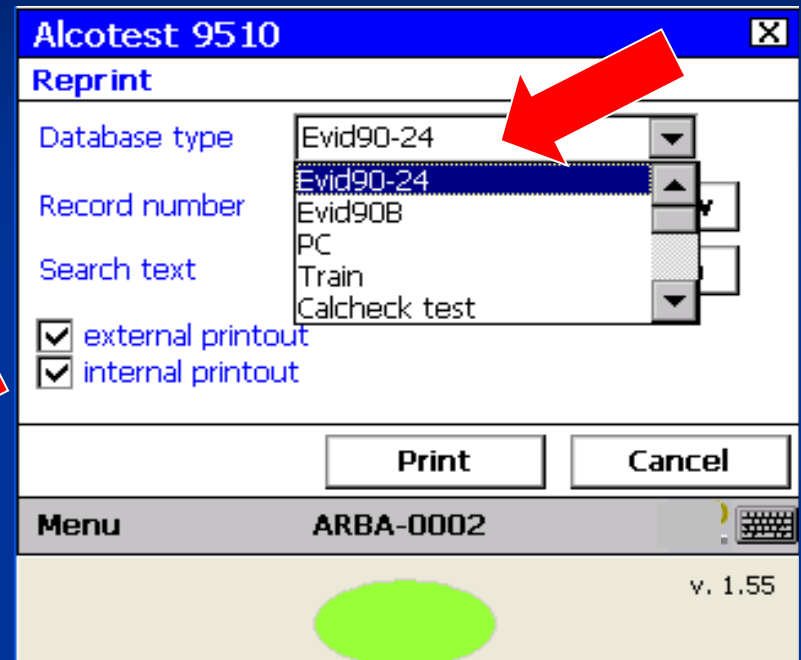
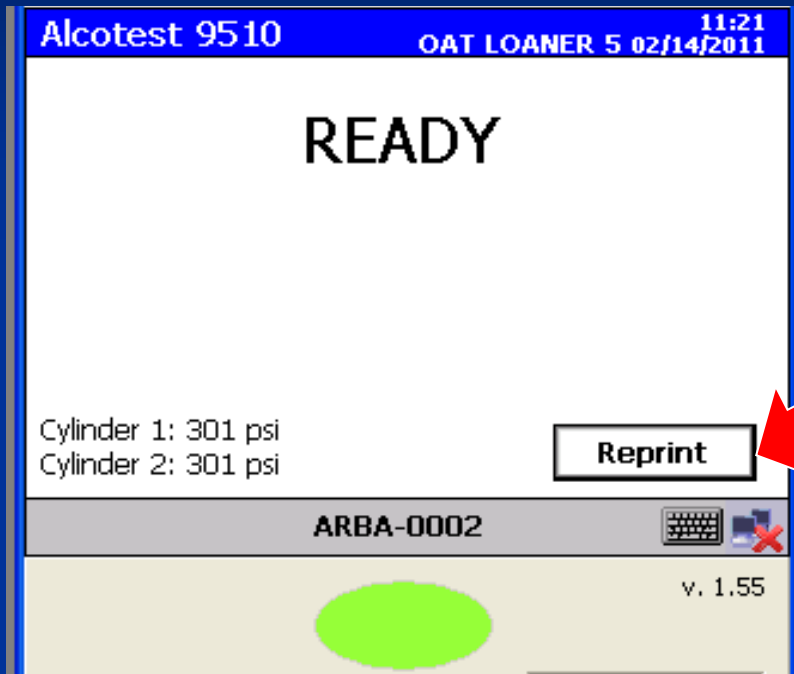
- Circumstances that may require use of the REPRINT function.
 - An officer needs to retrieve a *past* test or Power Loss.
 - An officer encounters a printer problem after completing the test.
 - An OIC needs statistics on an officer.
- Power Loss tests do not automatically print. The BTO must go into the Reprint function and reprint the test manually to include with your report.

Reprint Function

- The BT can only hold a certain number of tests in its memory and may be cleared during the annual certification at OAT or during repair.

Do NOT wait to reprint!

Retrieving and Reprinting Breath Test Records



- Press “Reprint” to print tests.

- Highlight desired test type from drop down box.

Records Can Be Retrieved One of Three Ways

The screenshot shows a Windows-style dialog box titled "Alcotest 9510" with a close button (X) in the top right corner. Below the title bar is a section labeled "Reprint". Inside this section, there are several input fields and buttons:

- A "Database type" dropdown menu currently showing "Evid90-24".
- A "Record number" text input field.
- A "Search text" text input field.
- Two checkboxes, both checked: "external printout" and "internal printout".
- Two buttons: "Preview" and "Search".
- At the bottom of the dialog are two buttons: "Print" and "Cancel".

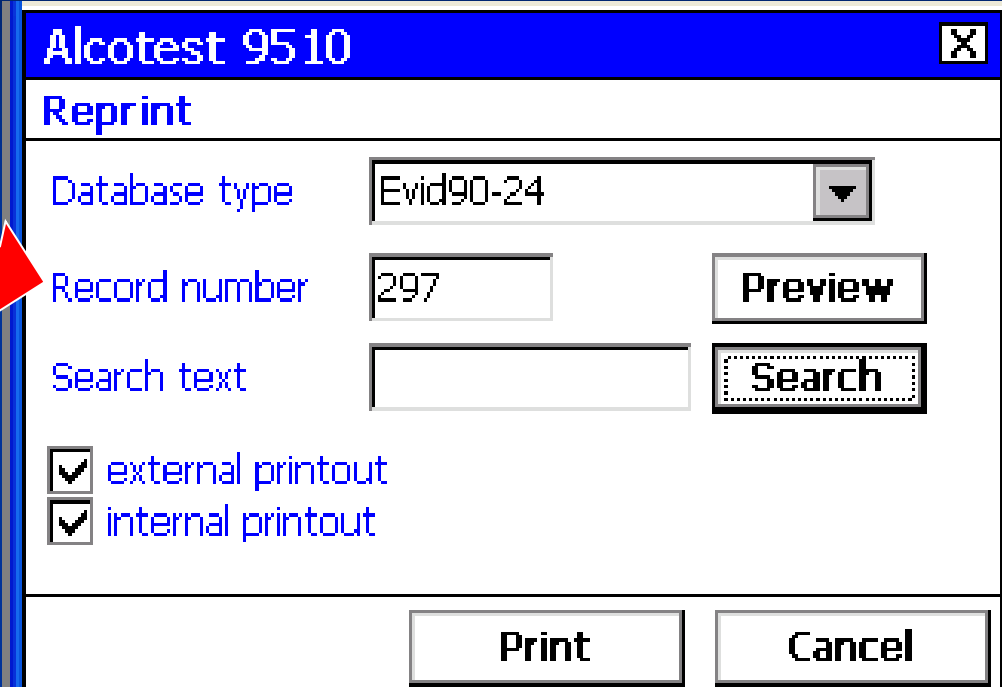
Three red arrows are overlaid on the image to highlight specific features:

- One arrow points from the left towards the "Record number" input field.
- A second arrow points from the left towards the "Search text" input field.
- A third arrow points from the right towards the "Search" button.

Records can be retrieved by:

- Entering in the record number (Sequential Test Number)
- Search Text (BTO name, subject data, or any other text)
- General Search

Records Retrieved Entering Record Number (Sequential Test Number)



Alcotest 9510

Reprint

Database type: Evid90-24

Record number: 297

Search text:

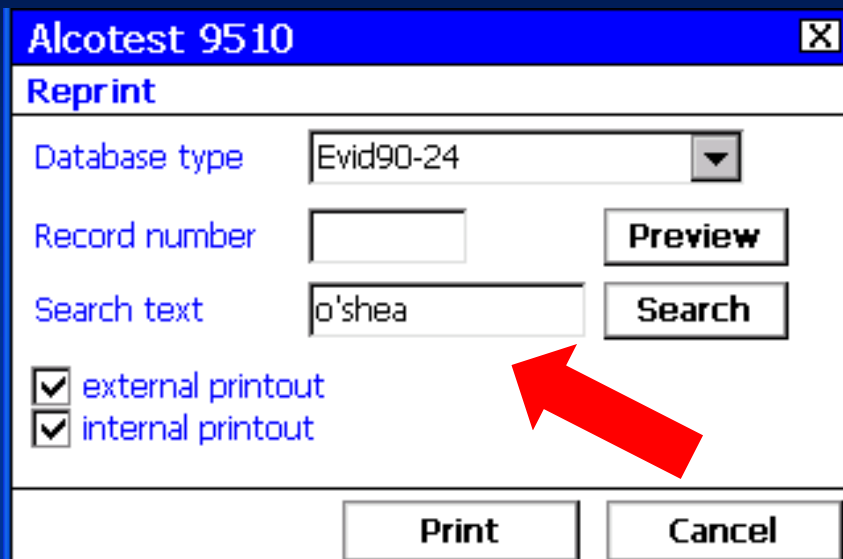
☒ external printout

☒ internal printout

Buttons: Preview, Search, Print, Cancel

- Enter Sequential Test Number
- Select “Print”
 - A copy of the selected test will be printed

Records Retrieved Using Search Text



Alcotest 9510

Reprint

Database type: Evid90-24

Record number:

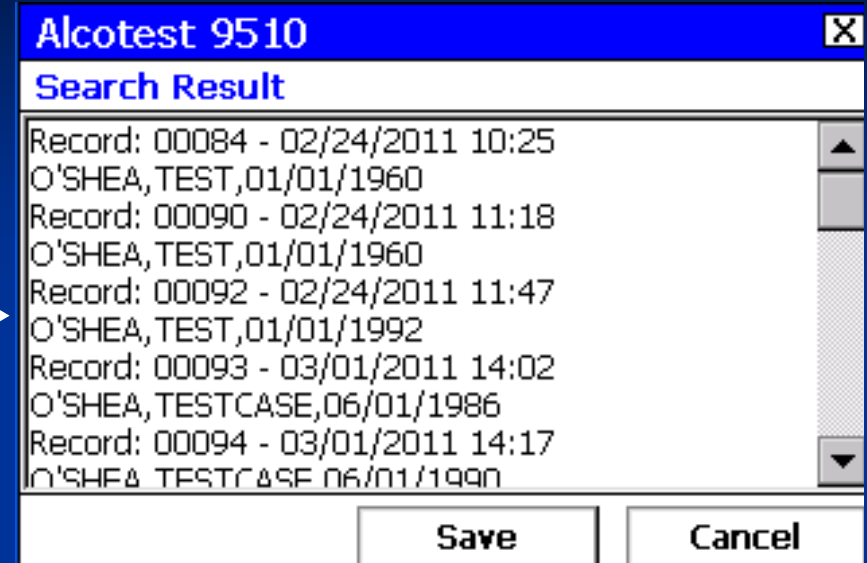
Search text: o'shea

☒ external printout

☒ internal printout

Preview Search

Print Cancel



Alcotest 9510

Search Result

Record: 00084 - 02/24/2011 10:25
O'SHEA,TEST,01/01/1960

Record: 00090 - 02/24/2011 11:18
O'SHEA,TEST,01/01/1960

Record: 00092 - 02/24/2011 11:47
O'SHEA,TEST,01/01/1992

Record: 00093 - 03/01/2011 14:02
O'SHEA,TESTCASE,06/01/1986

Record: 00094 - 03/01/2011 14:17
O'SHEA,TESTCASE,06/01/1990

Save Cancel

Enter the following:

- BTO Name (or)
- Subject Data (or)
- Any key text related to the test record

- A list of all tests with the entered text will appear on the screen

Records Retrieved Using Search by Text

Alcotest 9510

Search Result

Record: 00084 - 02/24/2011 10:25
O'SHEA,TEST,01/01/1960
Record: 00090 - 02/24/2011 11:18
O'SHEA,TEST,01/01/1960
Record: 00092 - 02/24/2011 11:47
O'SHEA,TEST,01/01/1992
Record: 00093 - 03/01/2011 14:02
O'SHEA,TESTCASE,06/01/1986
Record: 00094 - 03/01/2011 14:17
O'SHEA,TESTCASE,06/01/1990

Save Cancel

Alcotest 9510

Reprint

Database type Evid90-24

Record number 93

Search text o'shea

☒ external printout
☒ internal printout

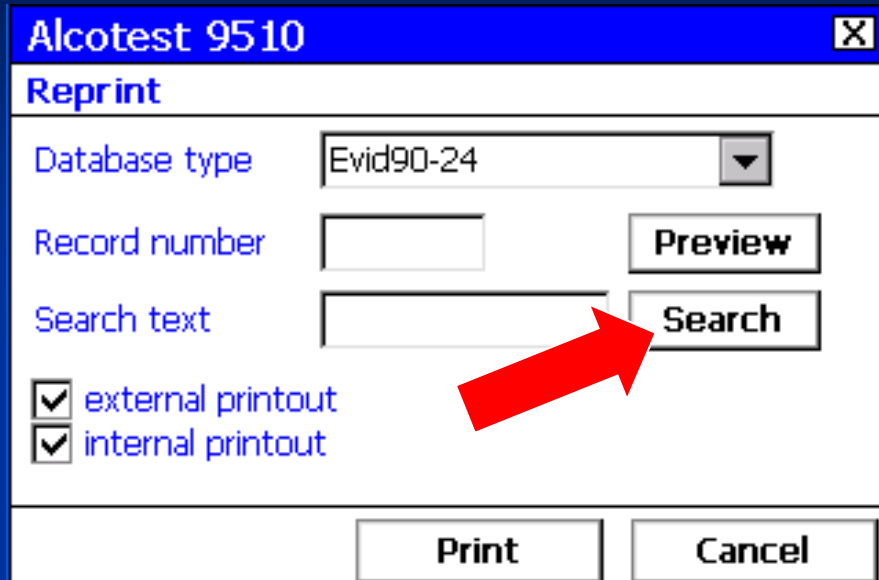
Preview Search

Print Cancel

- Highlight the desired record number you wish to retrieve.
- Select “Save”

- The record number will auto-populate.
- Select “Print”

Records Retrieved By General Search



Alcotest 9510

Reprint

Database type: Evid90-24

Record number:

Search text:

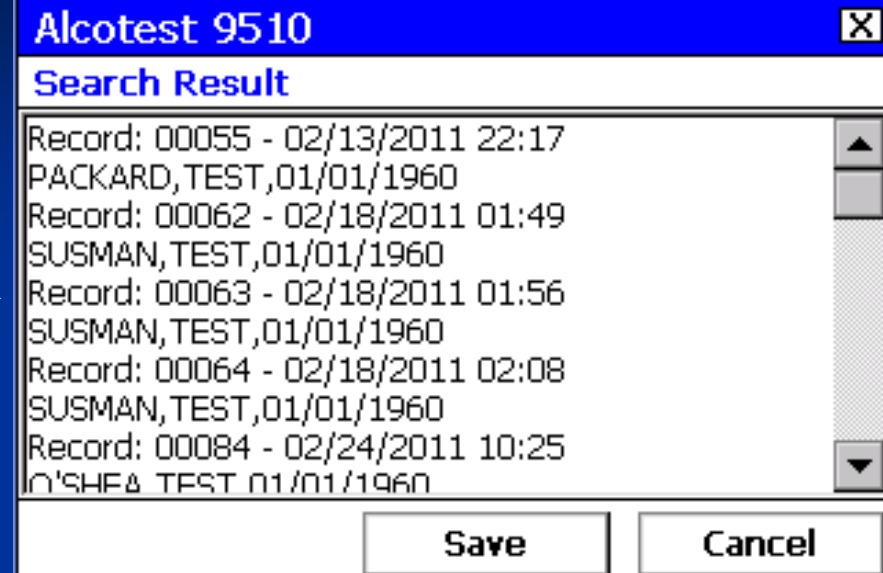
☒ external printout

☒ internal printout

Preview

Search

Print Cancel



Alcotest 9510

Search Result

Record: 00055 - 02/13/2011 22:17
PACKARD,TEST,01/01/1960

Record: 00062 - 02/18/2011 01:49
SUSMAN,TEST,01/01/1960

Record: 00063 - 02/18/2011 01:56
SUSMAN,TEST,01/01/1960

Record: 00064 - 02/18/2011 02:08
SUSMAN,TEST,01/01/1960

Record: 00084 - 02/24/2011 10:25
SUSMAN,TEST,01/01/1960

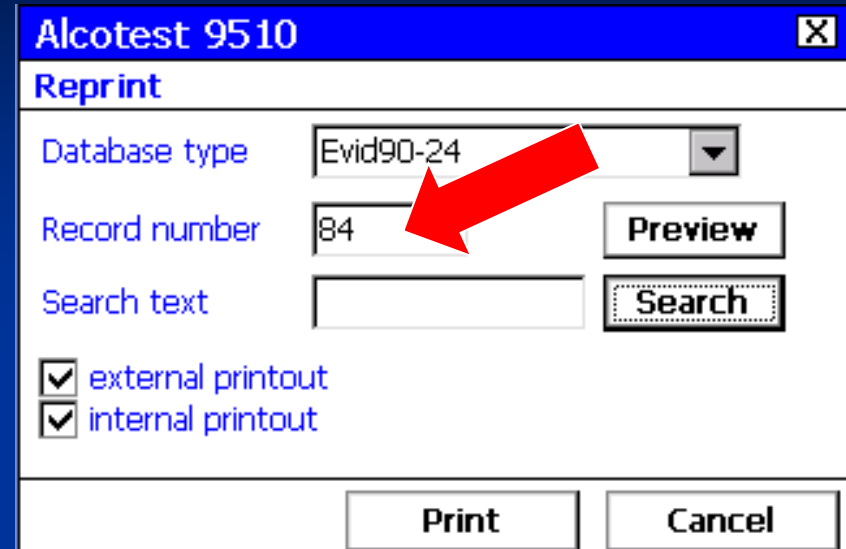
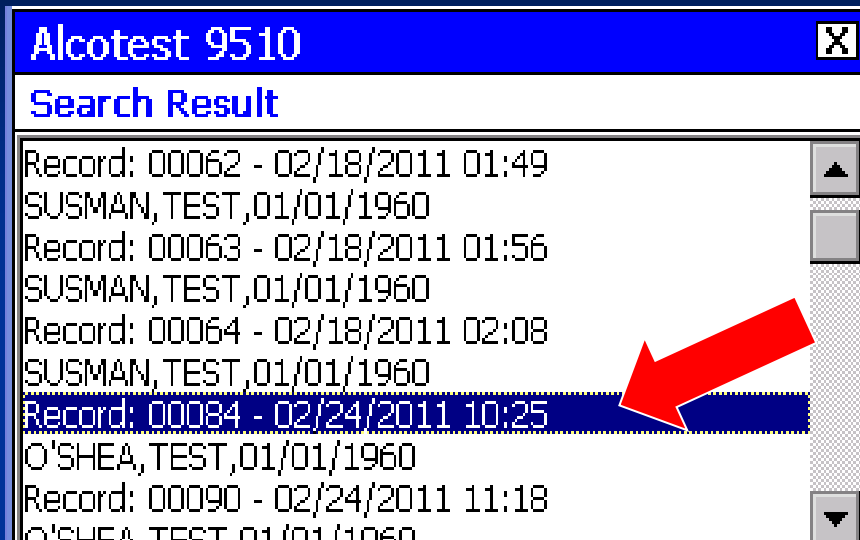
Record: 00085 - 02/24/2011 10:25
SUSMAN,TEST,01/01/1960

Save Cancel

- Select “Search” to display all breath test records.

- A list of saved breath test records will appear on the screen.

Records Retrieved By General Search



- HIGHLIGHT the desired record number you wish to retrieve.
- Select “Save”

- The record number will auto-populate.
- Select “Print”

Mistries

- When the BT is unable to analyze a breath sample due to how the subject is blowing, it is referred to as a mistry.
- When a mistry occurs, the BT will ask for another sample.
- Mistries are not recorded on the Breath Test Report Form.
- Message codes that are mistries:
 - “Blowing Time Too Short”
 - “Blowing Not Allowed”
 - “Minimum Volume Not Achieved”
- The officer should note these in the report.

Alcohol in Ambient Air

Massachusetts Office of Alcohol Testing
Breath Test Report Form
MASSACHUSETTS

Test Date: 09/12/2011 Sequential Test #: 325
Dept. Case #: 2011-QAT Citation #:

Test Results: Test Not Completed: ALCOHOL IN AMBIENT AIR

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
<u>Alcotest 9510</u>	<u>ARBA-0001</u>	<u>02/09/2011</u>	<u>02/09/2012</u>

Calibration Standard Information

Lot Number	Concentration	Expiration	Inlet
<u>Dry Gas Cylinder: 765817</u>	<u>0.080</u>	<u>05/06/2013</u>	<u>CAL GAS INLET 2</u>

Subject Information

- If there is a source of alcohol in the vicinity of the BT, the BT will sense it and this message may occur.
 - Example – hand sanitizer
 - Ventilation is the best recourse.
 - Once the air around the BT is cleared, conduct a new test.
 - A new 15 minute observation is not required.

Calibration Standard Failure

Massachusetts Office of Alcohol Testing
Breath Test Report Form
MASSACHUSETTS

Test Date: 09/12/2011 Sequential Test #: 326
Dept. Case #: 2011-QAT Citation #:

Test Results: Test Not Completed: CAL. STANDARD FAILED

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
Alcotest 9510	ARBA-0001	02/09/2011	02/09/2012

- This message occurs when the control standard is outside of the acceptable range.
- Review the Breath Test Report Form control standard result to confirm.
- A Periodic Test will be required.
 - If the OIC is unavailable, you must utilize another BT at a nearby police department or barracks.
 - A new 15 minute observation must occur if this period has been interrupted.

Interferent Detected

Massachusetts Office of Alcohol Testing
Breath Test Report Form
MASSACHUSETTS

Test Date: 09/12/2011 Sequential Test #: 320
Dept. Case #: 2011-OAT Citation #:

Test Results: Test Not Completed: INTERFERENT DETECTED

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
Alcotest 9510	ARBA-0001	02/09/2011	02/09/2012

- A common cause for this status message can be a range disparity between the IR and the Fuel Cell.
- Retest the subject on the same BT instrument.
 - It may take 15 minutes or more for the interfering substance to dissipate.
- If an interferent is detected again, utilize another BT at a nearby police department or barracks.
 - A new 15 minute observation must occur if direct observation has been interrupted.

Mouth Alcohol

Massachusetts Office of Alcohol Testing
Breath Test Report Form
OAT LOANER 7

Test Date: 09/12/2011 Sequential Test #: 243
Dept. Case #: 2011-OAT Citation #: _____

Test Results: Test Not Completed: MOUTH ALCOHOL

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
<u>Alcotest 9510</u>	<u>ARBE-0005</u>	<u>09/06/2011</u>	<u>09/06/2012</u>

- An additional 15 minute observation period must be observed before retesting the subject.
- This allows for the dissipation of mouth alcohol.
- The new observation period must begin utilizing the time recorded for the last test on the BT Ticket with the Mouth Alcohol status message.

Cal Gas Supply

Massachusetts Office of Alcohol Testing
Breath Test Report Form

OAT LOANER 4

Test Date: 09/12/2011 Sequential Test #: 1018
Dept. Case #: 125 Citation #:

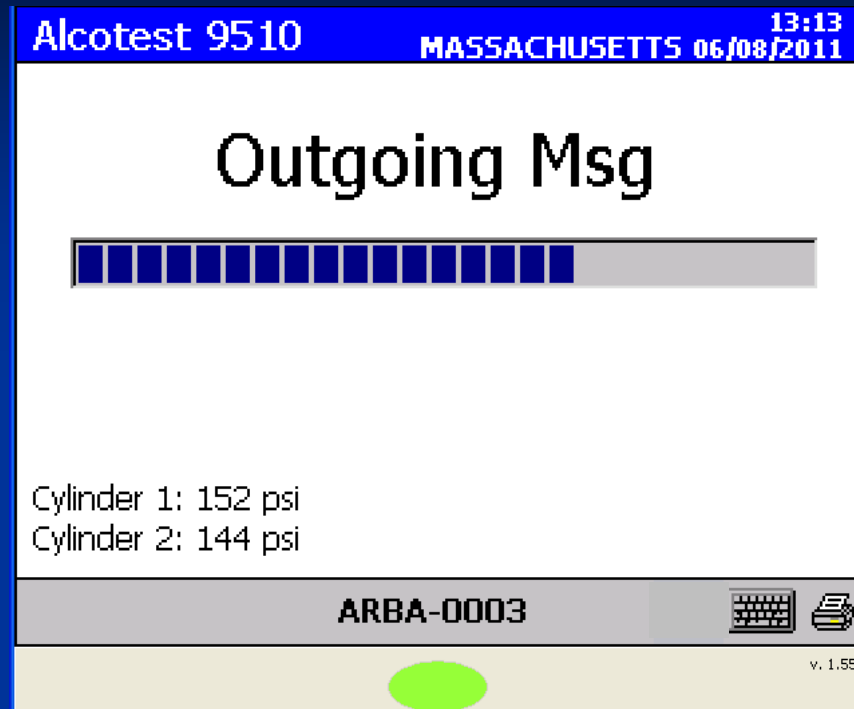
Test Results: Test Not Completed: CAL GAS SUPPLY

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
Alcotest 9510	ARBC-0006	09/06/2011	09/06/2012

- Both gas cylinders may be empty or not installed properly.
- You must contact your OIC.
- If your OIC is not available, utilize another BT at a nearby police department or barracks.
 - A new 15 minute observation must occur if direct observation has been interrupted.

Data Transfer



- The Breath Test Instrument transmits the data promptly to CJIS and the RMV when the breath test sequence is complete.
- Look for the “Outgoing Message” screen, as it is an important notification.

Data Not Transmitted

Facsimile Transmittal Sheet
Fax: 857.377.3035

TO: Office of Alcohol Testing DATE: _____

FROM: _____ Number of Pages: _____

SUBJECT: BATS DATA NOT TRANSMITTED

Instrument Serial #: _____ Sequential Test #: _____

Test Date: _____ Breath Test Operator: _____

Defendant: _____ Case #: _____

Receipt of this Facsimile Transmittal Sheet indicates that at the completion of the Breath Test or Refusal the associated **data has not been transmitted** to the Office of Alcohol Testing (OAT). This may result in the inability of the RMV to suspend certain operators. Breath Test Operators are required to complete this form. This form, along with a copy of all printed documentation associated with the Test that printed from the BATS, shall be faxed forthwith, to the Office of Alcohol Testing at (857) 377-3035.

- If the data has not transmitted in approximately 1.5 minutes, a “BATS Data Not Transmitted” fax sheet will print out.
- Complete and fax this form with corresponding documentation for this Breath Test to OAT’s fax number listed or email the documents to OATnotifications@mass.gov.

Breath Test Documents

BATS – Completion Record

- Chap.90 sec.24K
 - Uniform Forms
 - Sequentially Numbered
- “Arresting Officer Observation Report”
- Arresting Officer and/or BTO name and information
- List of Associated Documents
- Ensure this BATS completion corresponds to the observations in your written report as it may be scrutinized in a court of law.

Massachusetts Office of Alcohol Testing
BATS - Completion Record

OAT Loaner 22

Test Date:	07/06/2023	Seq. Test #:	1886
Dept. Case #:	12345	Citation #:	54321
Model #:	ALCOTEST 9510	Firmware:	8322232 0.7.1
Serial #:	ARBK-0013	License #:	S00276722
Date of Arrest:	07/06/2023	License State:	MASSACHUSETTS
Arrest Town:	MAYNARD	Last Name:	MARSHALL
Test Type:	90-24 ARREST	First Name, MI:	LENA, A
Test Result:	0.18 %BAC	D. O. B.:	02/02/1960

Breath Test - Arresting Officer Observation Report

Public Way:	YES	OUI Alcohol Arrest:	YES	Offered Test:	YES
Observed Driving:	YES	Unsteady on Feet:	YES	Slurred Speech:	YES
Glassy Eyes:	YES	Bloodshot Eyes:	YES	Odor:	MODER.
PBT:	FAIL	Crash:	YES		
Other Grounds:	SFST INDICATE IMPAIRMENT				

Arresting Officer's Name:	BROOKE BARAN
Arresting Officer Signature:	
Breath Test Operator:	BROOKE E. BARAN
Observed Subject 15 Minutes:	YES
Refusal Witness:	N/A
Report Prepared by Testing Officer:	YES
Under Penalties of Perjury:	YES

List of Associated Documents:
Breath Test Report Form (BATS-01-BTR)
Notice of Suspension For Chemical Test Failure

BATS-02-BTR-CR

Breath Test Report Form

- Only the BTO may sign the report.
- Time indicated in Breath Sequence Details is when the instrument completed its IR measurement.

Subject Result

Massachusetts Office of Alcohol Testing
Breath Test Report Form
Devens PD

Test Date: 04/08/2020 Sequential Test #: 1442
Dept. Case #: 123456 Citation #: 987654

Test Results: The subject's Blood Alcohol Concentration (BAC) is **0.19%**.

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
Alcotest 9510	ARBE-0032	02/03/2020	02/03/2021

Calibration Standard Information

Lot Number	Concentration	Expiration	Inlet
DG0177	0.080	06/04/2021	CAL GAS INLET 2

Subject Information

Last Name: DINGLE D. O. B.: 12/12/1955
First Name, MI: PAUL J License State: MASSACHUSETTS
License #: 123456789

Breath Test Sequence Details

Function	Result %BAC	Time HH:MM:SS	Volume Liters (L)	Duration Seconds (s)
Air Blank Test	0.000	07:54:44		
Subject Test 1	0.195	07:55:11	1.7L	7.4s
Air Blank Test	0.000	07:57:28		
Calibration Check	0.076	07:57:52		
Air Blank Test	0.000	07:59:26		
Subject Test 2	0.194	07:59:52	1.8L	7.5s
Air Blank Test	0.000	08:01:06		

Breath Test Operator Certification
The Breath Test Operator was certified at the time the breath test was administered.

Operator	Certification Begins	Certification Expires
DANIEL J. RENCZKOWSKI	01/01/2019	01/01/2022

Signature: _____ Signature Date: 04/08/2020

Subject Refusal

Massachusetts Office of Alcohol Testing
Breath Test Report Form
Devens PD

Test Date: 04/08/2020 Sequential Test #: 1441
Dept. Case #: 123456 Citation #: 987654

Test Results: REFUSAL

Breath Test Instrument Certification
The breath test instrument was certified at the time the breath test was administered.

Model Number	Serial Number	Certification Begins	Certification Expires
Alcotest 9510	ARBE-0032	02/03/2020	02/03/2021

Calibration Standard Information

Lot Number	Concentration	Expiration	Inlet
DG0177	0.080	06/04/2021	CAL GAS INLET 2

Subject Information

Last Name: DINGLE D. O. B.: 12/12/1955
First Name, MI: PAUL J License State: MASSACHUSETTS
License #: 123456789

Breath Test Sequence Details

Function	Result %BAC	Time HH:MM:SS	Volume Liters (L)	Duration Seconds (s)
Air Blank Test	-----	-----		
Subject Test 1	-----	-----	-----L	-----s
Air Blank Test	-----	-----		
Calibration Check	-----	-----		
Air Blank Test	-----	-----		
Subject Test 2	-----	-----	-----L	-----s
Air Blank Test	-----	-----		

Breath Test Operator Certification
The Breath Test Operator was certified at the time the breath test was administered.

Operator	Certification Begins	Certification Expires
DANIEL J. RENCZKOWSKI	01/01/2019	01/01/2022

Signature: _____ Signature Date: 04/08/2020

Notice of Suspension for a Chemical Test Failure and Refusal

NOTICE OF SUSPENSION FOR A CHEMICAL TEST FAILURE

BAC .08 or Greater (.02 or Greater for Operator Under 21)

License #: 123456789 Lic. State: MASSACHUSETTS
Operator: DINGLE, PAUL J
Address: PO BOX 123, WORCESTER, MASSACHUSETTS 43210
D.O.B.: 12/12/1955 Gender: MALE

NOTICE OF SUSPENSION

This is your formal notice of the intent to suspend your license or right to operate under M.G.L. Ch. 90, Sec. 24 (1)(f)(2). This suspension is for 30 days. Operators under 21 years of age will incur an additional 180 day to one year suspension under M.G.L. Ch. 90 s. 24P. The suspension will occur immediately. No hardship licenses are authorized by law during this period of suspension, unless you are eligible for a first offenders disposition and your case has been resolved under M.G.L. c. 90 s. 24D.

ADDITIONAL NOTICE TO INDIVIDUALS OPERATING A VEHICLE REQUIRING A COMMERCIAL DRIVERS LICENSE

In addition to the above suspension, if you are operating a vehicle requiring a CDL license and your blood alcohol content is .04 or above, you will be disqualified from operating for a period of not less than one year, or up to life. There is no hardship license available for this period of time.

OPERATOR'S RIGHT TO A HEARING

M.G.L. Ch. 90, Sec. 24 (1)(g) reads, in part: "Any person whose license, permit, or right to operate has been suspended under subparagraph (2) of paragraph (f) on the basis of chemical analysis of his breath may within ten days of such suspension request a hearing and upon such request shall be entitled to a hearing before the court in which the underlying charges are pending, or if the individual is under the age of 21 and there are no pending charges, in the district court having jurisdiction where the arrest occurred, which hearing shall be limited to the following issue: whether a blood test was administered pursuant to paragraph (e) within a reasonable period of time after such chemical analysis of his breath, shows that the percentage, by weight, of alcohol in such person's blood was less than eight one-hundredths or, relative to such person under the age of twenty-one was less than two one-hundredths."

The officer below hereby certifies that they have served the operator with this notice and has submitted an electronic notification of this transaction to the Registry of Motor Vehicles.

Officer's Name: DANIEL RENCZKOWSKI Date: 04/08/2020
Issuing Police Department: OAT1 Phone: 857-377-3030

NOTICE OF SUSPENSION FOR A CHEMICAL TEST REFUSAL

OPERATOR INFORMATION

License #: 123456789 Lic. State: MASSACHUSETTS
Operator: DINGLE, PAUL J
Address: PO BOX 123, WORCESTER, MASSACHUSETTS 43210
D.O.B.: 12/12/1955 Gender: MALE
Lic. Class: M Lic. Expires: 12/12/2005

NOTICE OF SUSPENSION

This is your formal notice of the intent to suspend your license or right to operate under M.G.L. Ch. 90, Sec. 24 (1)(f)(1). DRIVERS AGE 21 OR OVER: The suspension for this refusal will be for a period of not less than 180 days and up to life. DRIVERS UNDER AGE 21: The suspension for this refusal will be for a period of not less than three years for this and up to life, plus face an ADDITIONAL period of suspension of 180 days up to 1 year pursuant to M.G.L. Ch. 90 s. 24P. The suspension will occur immediately. No hardship licenses are authorized by law during the period of suspension, unless you are eligible for a first offenders disposition and your case has been resolved under M.G.L. c. 90 s. 24D.

ADDITIONAL NOTICE TO INDIVIDUALS OPERATING A VEHICLE REQUIRING A COMMERCIAL DRIVERS LICENSE

In addition to the above suspension, if you are operating a vehicle requiring a CDL license and your blood alcohol content is .04 or above, you will be disqualified from operating for a period of not less than one year, or up to life. There is no hardship license available for this period of time.

OPERATOR'S RIGHT TO A HEARING

M.G.L. Ch. 90 Sec. 24 (1)(g) reads, in part: "Any person whose license, permit, or right to operate has been suspended under subparagraph (1) of paragraph (f) shall, within fifteen days of suspension, be entitled to a hearing before the registrar which shall be limited to the following issues: (i) did the police officer have reasonable grounds to believe that such person had been operating a motor vehicle while under the influence of intoxicating liquor upon any way or in any place to which the members of the public have a right of access or upon any way to which the members of the public have a right of access as invitees or licensees, (ii) was such person placed under arrest, and (iii) did such person refuse to submit to such test or analysis."

TIME, DATE AND PLACE OF HEARING

You have the opportunity for such a hearing any Monday through Friday, excluding state, federal, and Suffolk County holidays, between 9:00 am and 3:00 pm. You have 15 days from the date of your arrest. These hearings are held only in the Boston office of the Registry, located at 136 Blackstone Street. Hearing requests at any other Registry branch will not be granted. Hearings are on a walk-in basis only. No extensions of the 15 day period following the arrest will be granted, and no phone calls, e-mails, or other communications with the Registry will change the terms of this notice in regards to your right to a hearing. **Note: By law, the Registry cannot issue any type of hardship, work or limited license during this suspension, and no hearing can be held on such requests, unless you are eligible for a first offenders disposition and your case has been resolved under M.G.L. c. 90 s. 24D.**

The officer below hereby certifies that they have served the operator with this notice and has submitted an electronic notification of this transaction to the Registry of Motor Vehicles.

Officer's Name: DANIEL RENCZKOWSKI Date: 04/08/2020
Issuing Police Dept.: OAT1 Phone: 857-377-3030

Data Transmission

- Run a “KQ” the next business day.
- If the subject’s license was suspended, no further action is necessary.
- If it has not been suspended, contact OAT with the following documentation:
 - BATS Completion Record
 - Breath Test Report Form
 - Either a Subject Test or Refusal

Driver History (KQ)

Original Query: OLN: [REDACTED] DEST. STATE: MA

MASSACHUSETTS REGISTRY OF MOTOR VEHICLES 08/26/10 1059
----- DRIVER HISTORY -----

OLN: [REDACTED] ST: MA
NAME L: [REDACTED] F: [REDACTED] M: [REDACTED] DOB: [REDACTED]
CORP/CO NAME:
STATUS: SUS FOLDER:

ENTRY DATE	INCIDENT DATE	DESCRIPTION	CRT DATE	FINDINGS
08/26/10	08/26/10	SUSPENSION ADMIN PER SE 30 DAYS	08/26/10	
08/26/10	08/26/10	ADMIN PER SE CHICOPEE		
09/18/06	08/20/06	SURCHARGEABLE ACCID SPRINGFIELD	09/18/06	
04/12/05	03/08/05	SURCHARGEABLE ACCID OTHER	04/12/05	
02/15/05	02/03/05	SPEEDING CHICOPEE R	03/11/05	
01/20/05	01/20/05	EXPIRATION PAYMENT DEFAULT RLS HOLYOKE	01/20/05	
12/28/04	12/28/04	SUSPENSION PAYMENT DEFAULT INDEFINITE	02/06/05	
12/13/04	11/22/04	MINOR TRAFFIC HOLYOKE R	12/28/04	
12/13/04	11/22/04	SEAT BELT VIOLATION HOLYOKE R	12/28/04	

----- END OF HISTORY -----

BATS Data Correction Form

BATS DATA CORRECTION FORM

Email To: DCULegal@dot.state.ma.us
OR Fax To: 857.368.0019

TO: DRIVER CONTROL UNIT
REGISTRY OF MOTOR VEHICLES

FROM: _____
(Officer)

(Department or Agency)

RE: Sequential Test Number: _____
(Found on BATS Completion Record)

Defendant: _____
(Found on BATS Completion Record)

Correction(s) needed:

Signed under the pains and penalties of perjury this ____ day of
_____, 20__

(Officer's Signature)

Revised 2/15/2023

Any Administrative Changes

- Fill out the BATS Data Correction Form.
- Email or fax the Form directly to the RMV.
- Remember, the BT documents will not change, only the information maintained in the Registry will.
- Forward any BATS Data Correction Forms to the prosecuting agency.

The Two Factors For Determining Under the Influence of Alcohol

Impairment – you need to prove that there was a
diminished capacity to safely operate a vehicle

AND/OR

≥ 0.080 %BAC – greater than or equal to 0.080 %BAC
is the per se level of impairment

There can be only one charge of OUI alcohol even if both
diminished capacity and BAC of 0.080% or greater exist.

Do You Know?

- MGL c90 s24 paragraph (1)(e) states that the “...evidence of the percent, by weight, of alcohol in the defendant’s blood **at the time of the alleged offense**, as shown by chemical test or analysis of his blood or... of his breath, shall be admissible and deemed relevant to the determination” of the subject’s guilt or innocence.

Comm. vs Colturi, 448 Mass. 809 (2007)

- *Commonwealth v. Colturi*, 448 Mass. 809 (2007) - Where the Commonwealth proceeds on a *per se* theory of operating under the influence, prosecutors are not required to present expert testimony on retrograde extrapolation to admit a breath test if the test was given within 3 hours of arrest.

SJC Ruling: April 19, 2007 – Breath tests are admissible within a reasonable time of the operation. Reasonable time is defined as up to three (3) hours.

What does the ADA needs from YOU?

The Three Documents...

- Statutory Rights and Consent Form
 - Proves Defendant Consented
- BATS - Completion Record
 - Officer's Observation Report is DISCOVERABLE
- Breath Test Report Form
 - Instrument / Operator Certified
 - Breath Test is VALID

Documentation

All documents may be requested by investigating agencies including the DA's Office

- Statutory Rights and Consent Form
- BATS Data Correction Form
- Notice of Suspension for Chemical Test Failure
- Notice of Suspension for Chemical Test Refusal
- Breath Test Report Form (including Power Loss tests)
- Periodic Test Reports (maintained by your department's Officer in Charge)
- Any and all Breath Test reports resulting in status messages (i.e. Mouth Alcohol)

Review

- What are the three situations that require entering data into the BT instrument every time?
 - A breath test
 - A breath test refusal
 - A blood test refusal

- A blood test is NEVER entered into the BT instrument!

Blood Test Refusal

- Advise the subject of the Statutory Rights and Consent Form in its entirety at the medical facility.
- Record the subject's refusal with his/her/their signature and yours on the Statutory Rights and Consent Form.
- Have a third party individual, sworn or civilian, witness the Refusal and sign the Statutory Rights and Consent Form.
- Process the subject's blood test refusal on a BT instrument.
- Serve the subject with the Notice of Suspension.

Remember – the officer entering the blood test refusal into the BT instrument does not have to be the arresting officer. They can be any sworn officer, BTO certified or uncertified.

Entering Blood Test Refusal Information

Alcotest 9510		10:26
Training Test		10/26/2011
Refusal Type	<input type="radio"/> BREATH	<input checked="" type="radio"/> BLOOD

- Place of Refusal
 - Should contain a city or town
 - Example – “Mass. Gen. **Boston**”
- Date of Refusal
 - Use the date format MM/DD/YYYY
- Refusal Officer
 - Example “Tpr David Smith”
- Refusal Witness
 - Type in the witness’s name
 - This is the third-party individual’s name that witnessed the refusal

Blood Test at Hospital

- Under Arrest, at Medical Facility, Charged with OUI Alcohol c90-s24, and Consents to an Evidentiary Blood Draw and Test.
- Medical conditions that exempt a subject from a blood test:
 - Hemophilia
 - Diabetics
 - Condition Requiring Anticoagulants
- Blood Drawn at the Direction of a Police Officer by: **MD, RN, or CMT.**

Blood Draw Guidelines

- MD, RN, or CMT should prep the arm with a NON-Alcohol swab.
- Two (2) tubes of blood containing a powdered anticoagulant and a preservative are recommended by the Crime Laboratory.
 - AVOID using RED stopper test tubes! They do not contain anticoagulants.
- Shake test tubes to activate the anticoagulant.
- Refrigerate (not freeze!) the blood samples at the station in a refrigerated evidence locker.
- When transporting to the Crime Laboratory, ensure they remain chilled.
 - Make sure the chain of custody is documented.
- Notify the ADA for arraignment to reserve a 90-24N hearing pending the blood test results.

Submittal Process to Crime Laboratory

- You must call to make an appointment to drop off evidence.
 - Sudbury 508-358-3155
 - Danvers 978-538-6111
 - Springfield 413-205-1837
 - Lakeville 508-946-1310
- The Toxicology Unit will then analyze the sample.
- Questions? Contact the Toxicology Unit at 857-377-3010.

Serum Conversions

- Medical records are introduced by the ADA at trial and contain a serum or plasma alcohol level.
- After 24N Hearing elements have been met.
- Crime Laboratory Forensic Scientists can convert serum or plasma alcohol levels into blood alcohol levels.
 - Usually happens because of a motor vehicle accident and operator was hospitalized.
 - DA's office summons hospital for medical records and requests the conversion from the MSPCL Toxicology Unit.

Other Examples

- Subjects arrested for OUI and being treated at a medical facility licensed under MGL c. 111 § 51 may be offered an opportunity to submit to a blood test in lieu of a breath test.
 - Prior to the drawing of a subject's blood, the subject's consent must be obtained in writing. Where a subject's blood was previously drawn independently by a hospital, the subject's consent must still be obtained prior to sending the sample for analysis. *Commonwealth v. Moreau*, 490 Mass. 387 (2022).
- A warrant may be obtained to draw and/or analyze the blood of a person being investigated for homicide by motor vehicle (G.L. c. 90, s. 24G), serious bodily injury by motor vehicle while under influence (G.L. c. 90, s. 24L), or manslaughter (G.L. c. 265, ss. 13 & 13 1/2).

OUI Drugs and Considerations

- No Statutory Rights and Consent Form is issued to an operator charged with OUI Drugs only.
 - Statutory Rights and Consent Form is for an operator in custody charged with OUI alcohol.
- DREs (Drug Recognition Experts) can be consulted.
 - For MSP, the detainee must be under arrest for OUI in order to request a DRE evaluation as per TRF-14.
- If appropriate, “Immediate Threat Form” 90-22(a).
- If appropriate, consider additional charges such as negligent operation.

OUI Alcohol and Drugs

Comm. vs Stathopoulos, 401 Mass 453 (1988)

A defendant may be found guilty of driving under the influence of intoxicating liquor if the defendant's ability to operate a vehicle safely is diminished, and alcohol is one contributing cause. It does not have to be the sole or exclusive cause.

Immediate Threat

- M.V. Homicide c.90 s.29
 - Under 90-29, the operator shall be suspended unless the preliminary investigation indicates one or more operators are not at fault.
- Medical Condition c.90 s.22
 - A medical condition that inhibits driving such as epilepsy.
- Disregard for Public Safety c.90 s.22
 - For example, pursuits.
- Criminal Complaint c.90 s.22
 - For example, a person who has been taken to a medical facility for treatment and is not in custody.

Immediate Threat Form and Medical Evaluation Form



Request for Immediate Threat License Suspension/Revocation

Registry of Motor Vehicles • Driver Control Unit
P.O. Box 55896 • Boston, MA 02205-5896

Download and save this fillable form. Complete all highlighted fields on the form and save the file. Email the completed file, along with any supporting documentation, to DCUImmediateThreat@massmail.state.ma.us

Documentation may also be printed and submitted to the Driver Control Unit
via FAX (857-368-0013) or mail to the address above.

A. Incident and Operator Information

Date of Request (MM/DD/YYYY)	Date of Incident (MM/DD/YYYY)	Incident Location	City	State
Name of Operator		License #	Date of Birth (MM/DD/YYYY)	
Address				
Street Address		City	State	Zip Code

We believe that the above licensed operator has committed a violation of the motor vehicle laws of a nature that give reason to believe that his/her continued operation will be so seriously improper as to constitute him/her an immediate threat to the public safety (MGL c. 90 § 22).

The following incident, event, or circumstance has led us to this belief. (Include a summary of facts and attach all **copies of documentation** to support this request. Please check box below if request is related to a medical incident.)

After reviewing the above facts, we ask you to take whatever action you deem appropriate.

☐ Check box if request is related to a medical incident.

Signed under the penalties of perjury this _____ day of _____, _____

Printed Name as Electronic Signature for Police Chief/Authorized Person: _____

Printed Name as Electronic Signature for Police Officer: _____

Police Department: _____

☐ Check box to confirm that you have attached all copies of documentation to support this request.



Medical Evaluation Form

Medical Affairs • P.O. Box 55899, Boston, MA 02205-5899
Fax: 857-368-0018

I hereby authorize the physician completing this form to discuss and release any or all medical records pertaining to its content with or to representatives of the Registry of Motor Vehicles.

Applicant's Signature: _____ Date: _____

This form must be fully completed by a physician: a medical doctor who is licensed to practice in the Commonwealth of Massachusetts.

A. Patient Information

Last Name	First Name	Middle Name	Suffix
Driver's License #		Date of Birth (MM/DD/YYYY)	
Reported Condition			

The Registry of Motor Vehicles has received information that the patient named above may have a condition which could affect the patient's ability to operate a motor vehicle. Please complete the following:

1. Please describe the patient's medical condition: _____

A. Does the patient have a respiratory disease/disorder? ☐ Yes ☐ No
If so, indicate the patient's O₂ saturation rate at rest or with minimal exertion (with supplemental O₂, if used)

Other comments: _____

B. Does the patient have a cardiovascular condition? ☐ Yes ☐ No
If so, 1) Does the patient have an implanted cardiac defibrillator? ☐ Yes ☐ No

2) Specify the American Heart Association ("AHA") functional class which most appropriately describes the patient's condition (see guidelines on reverse side) and symptoms

2. Please describe the extent, frequency, and control of the symptoms of the patient's condition or disability which may affect the patient's ability to operate a motor vehicle: _____

3. Is the patient's medical condition or disability likely to interfere with the patient's mental or physical ability to operate a motor vehicle safely? ☐ Yes ☐ No

If yes, describe: _____

Office of Alcohol Testing

- Any questions or concerns from officers regarding the Alcotest 9510 should be directed to the Office of Alcohol Testing at 857-377-3030.