



Breath Test Operator's Manual

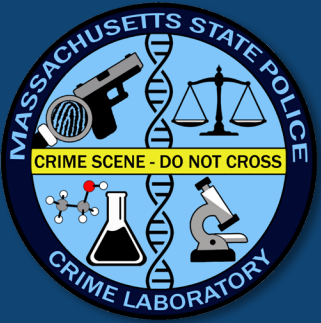


Prepared by the Massachusetts State Police
Office of Alcohol Testing



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



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Training Requirements

Breath Test Operator Certification

- ⦿ Class is taught by Breath Test Instructors.
- ⦿ 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 completion of the BTO Certification training.**
 - Can be certified again any time within the 3-year certification period, but OAT suggests recertification within the six months prior to 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 the completion of the assessment and the Training Test practical, must be successfully completed PRIOR TO the BTO's expiration date.

<https://mspbto certification.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.

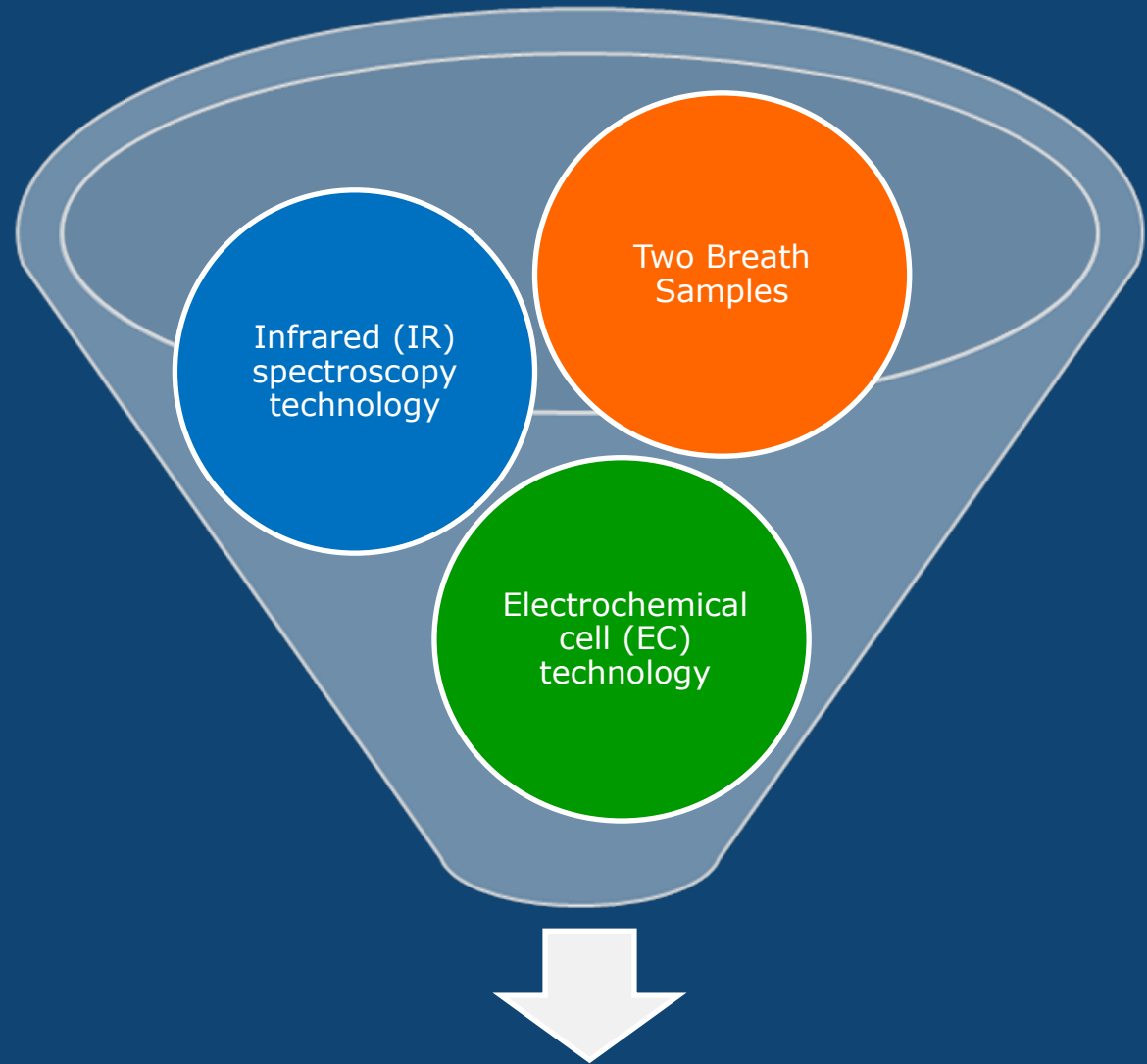
Do NOT use any Operator ID other than your own!

Draeger Alcotest 9510



Draeger Alcotest 9510 BT Technology

- Two breath samples per test.
- Both samples are measured with both the IR and the EC.
- IR is the evidential technology in Massachusetts.
- EC technology is commonly known as a Fuel Cell and is the technology found in PBTs.



Breath Test Measurement

MGL Chapter 90, Section 24K

⊙ 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 Alcotest 9510)
- 3) Approved Methods

MGL Chapter 90, Section 24K

◎ 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 of Chapter 90, Section 24

- ⊙ 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

Motor Vehicle Defined by MGL Chapter 90, Section 1

- ⦿ Chapter 90 Section 1 defines motor vehicle as “all vehicles constructed and designed for propulsion by power other than muscular power”.
- ⦿ Exceptions include railroad and railway cars, trolleys, wheelchairs, and motorized bicycles.
- ⦿ “In doubtful cases, the registrar may determine whether or not any particular vehicle is a motor vehicle as herein defined.”

Operation Defined by

“Criminal model jury instructions for use in the District Court”

- ⊙ “...all of the well-known things that drivers do as they travel on a street or highway..”
- ⊙ “...also when doing any act which directly tends to set the vehicle in motion.”
- ⊙ “...in the vehicle and intentionally manipulates some mechanical or electrical part of the vehicle - like the gear shift or the ignition - which, alone or in sequence, will set the vehicle in motion”
- ⊙ “...it is not necessary that the engine be running.”
- ⊙ “A driver continues to operate his or her motor vehicle when it is stopped in the ordinary course of its operation for some reason that is fairly incidental to the vehicle’s operation.”

Public Way Defined

- ⦿ **Any public way**
 - Main Street or Route 95
- ⦿ **Any place the public has a right of access**
 - City Hall parking lot
- ⦿ **Any place the public has access to as invitees or licensees**
 - Applebee's parking lot at 9pm on a Friday night
 - *Applebee's parking lot at 3am on a Tuesday morning?*

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.

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

“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

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 Case Law Examples

- ⊙ *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.

There is no “Right to a Breath Test”

- © *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:”

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.

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
Failed Test Suspension	30 days	30 days
Additional Suspension	Not Applicable	MGL c.90, s.24P– 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 at a hospital or at a 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”.

Refusal Reports

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

- ⊙ MGL c.90 s.24(1)(f)(1): “The police officer before whom such refusal was made shall, within **24 hours**, prepare a report of such refusal.”
- ⊙ “Each report shall set forth the grounds for the officer's belief that the person arrested had been [OUI] and ... such refusal having been witnessed by another person other than the defendant.”

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 consents to or refuses 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

- ⦿ 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

Breath

Blood

Refusal Sample

Refusal Sample

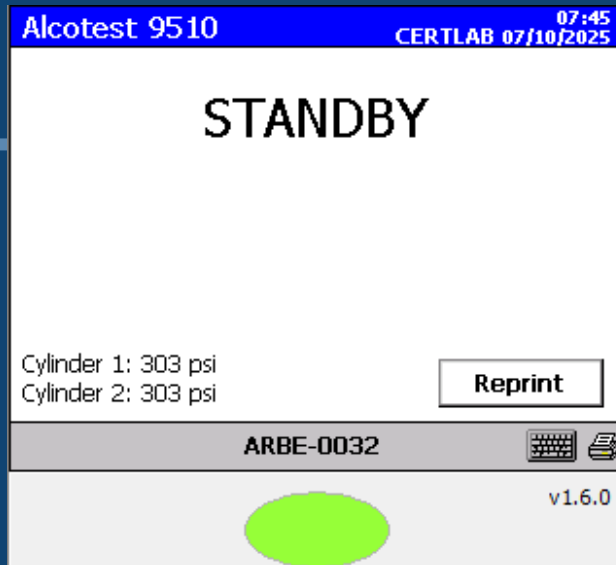


MSPCL
Toxicology Unit

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 BTO certification and login are valid on any Draeger Alcotest 9510 instrument in Massachusetts.

The Main Screen



- ⦿ Instrument is designed to be left on at all times.
- ⦿ Push the green button to start.
- ⦿ 6-8 minute "WARM-UP".

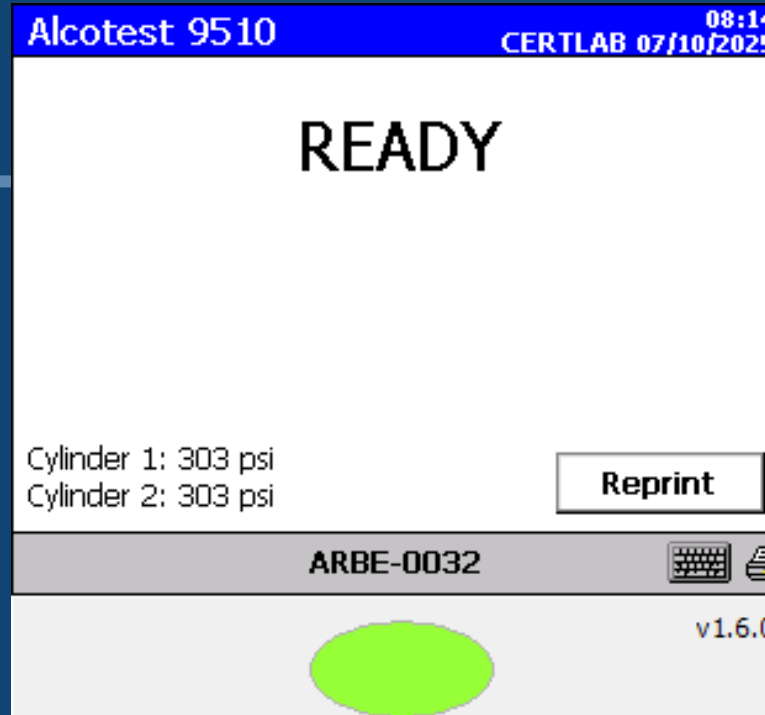
The Main Screen



⦿ If "PER. TEST REQUIRED", "CONTACT OAT", or "DISABLED" is displayed:

- No test can be performed.
- Contact your OIC.
- Transport the subject to neighboring department or barracks to administer the 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 again to start a test.
- ⦿ Follow the prompts on the touch screen display.

Breath Test Sequence

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 MGL c.90, s.24.
- Report a breath test Refusal or blood test Refusal.
- NOTE: This is a “live” breath test and the information is automatically reported to the RMV.

Operator ID

- ⦿ Each OIC has a list of Operator IDs.
- ⦿ Most agency Operator IDs are a combination of your CJIS Agency Code + 4 characters.
- ⦿ Local PD examples: "AUB1234" or "AUB12CS"
- ⦿ State Police examples: "SP1203" or "SP0143"
- ⦿ Boston PD examples: "BP12345" or "BP0123"


- ⦿ Passwords- **NO PASSWORD IS REQUIRED.**

Operator ID

Alcotest 9510 90-24 Arrest

Login

Operator ID: SP0123

Password: 

Certified Operator (BT or Refusal)

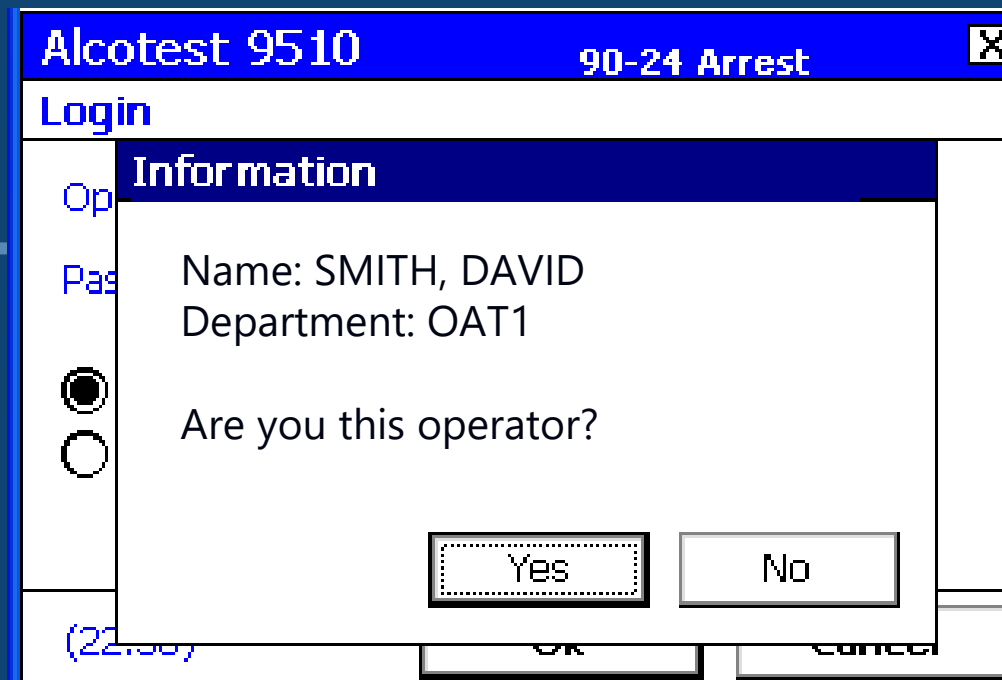
Uncertified Operator (Refusal Only)

(20:14) Ok Cancel

Menu ARBE-0032

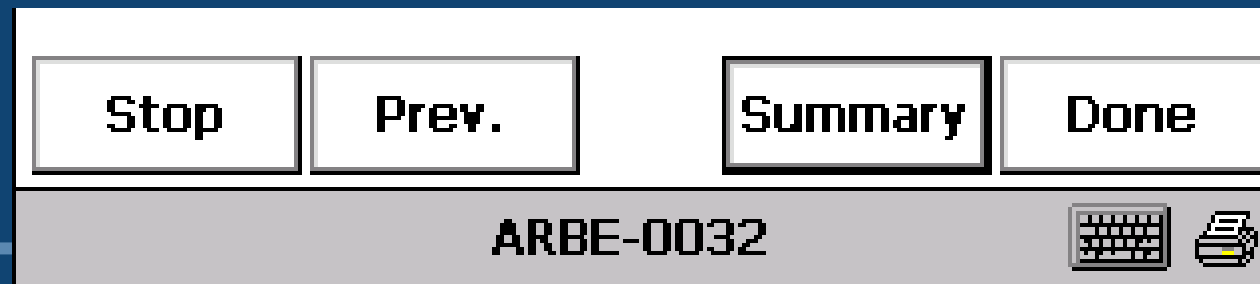
- ⦿ Certified Operator: Access to initiate BT and Refusal tests
 - Enter OAT issued Operator ID
 - **Leave Password field blank**
- ⦿ Uncertified Operator: Access to enter Refusal data only
- ⦿ Select Ok Button to accept.

Operator Confirmation



- ⦿ Information box validates Breath Test Operator (BTO) identification.
- ⦿ "Are you this operator?"
 - If "No" – prompt returns to Login screen.
 - If "Yes" – Breath Test Operator (BTO) data is auto-populated.

Navigation Buttons



- ⦿ Navigation buttons direct the program.
 - Stop – can be used at any time 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 displayed indicating that both are attached and ready to use.

Case Number

The screenshot shows the Alcotest 9510 interface. At the top, a blue header bar contains the text "Alcotest 9510" on the left and "10:34" on the right. Below the header, the text "90-24 Arrest 11/05/2010" is displayed. The main area of the screen is white and contains a label "Case Number" on the left and a text input field on the right containing the value "2010-OAT-000000". At the bottom of the screen, there are four buttons: "Stop", "Prev.", "Summary", and "Done".

- ◎ Optional field – enter if available.
- ◎ State Police should enter ACISS number.
- ◎ Select the “Summary” button to proceed to review screen.

Uncertified Operator Login

Alcotest 9510 90-24 Arrest

Login

Operator ID:

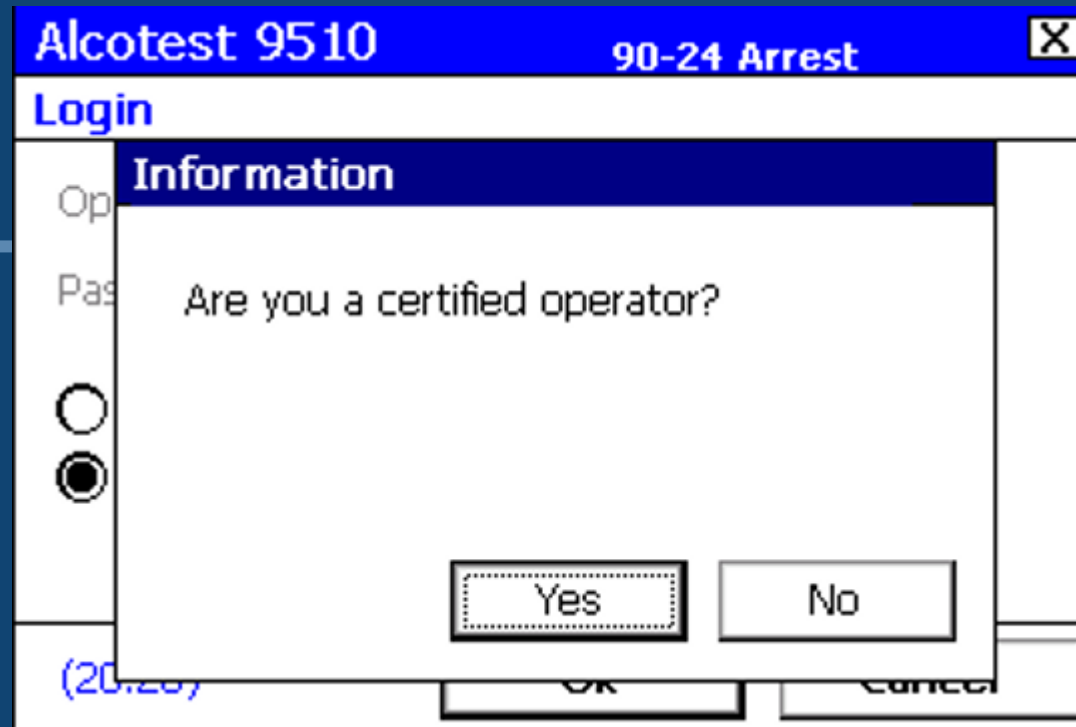
Password:

Certified Operator (BT or Refusal)

Uncertified operator (Refusal Only)

- ⦿ Pursuant to Chapter 90, Section 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 a certified 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 08:47
90-24 Arrest 07/10/2025

BTO First Name
DANIEL

BTO Middle Initial
J

BTO Last Name
RENCZKOWSKI

BTO Department Phone Number
857-377-3030

BTO Department

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 the "Save" button.
- ⦿ Uncertified BTO: Verify manually entered data & select the "Save" button.

Summary Screens



- ⦿ Selecting the "Save" button before verifying all data activates an Information box stating "Please verify all entered data. Scroll down." Click the "OK" button and scroll down to review.

Subject Licensed

Alcotest 9510	90-24 Arrest 11/05/2010	10:41
Subject Licensed	<input checked="" type="radio"/> YES	<input type="radio"/> NO

Ⓞ Does the arrested subject have a license?

- Does not mean “license in possession”.
- Check the 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, "90-24 Arrest 11/05/2010" in the center, and "10:41" on the right. Below the header, the text "License State" is displayed on the left. To its right is a dropdown menu with a blue background and white text that reads "MASSACHUSETTS". A small black downward-pointing arrow is visible on the right side of the dropdown menu.

- ⦿ Defaults to Massachusetts.
- ⦿ Drop-down list for Out-of-State Licenses.
 - Touch the down arrow on the screen.
 - Type a letter key (ex: "C" for Connecticut) and select.
 - "Foreign License" and "No License" options are available in the drop-down list.

Scan MA License

The screenshot shows the Alcotest 9510 interface. At the top, it displays 'Alcotest 9510' and '90-24 Arrest 07/06/2023' with a time of '10:28'. The main prompt is 'Scan MA License'. There are two radio button options: 'YES' (unselected) and 'NO' (selected). Below the options are four buttons: 'Stop', 'Prev.', 'Next', and 'Done'. The 'Next' button is circled in red. At the bottom, it shows 'ARBK-0013' and icons for a keyboard and a printer.

- ⦿ Current MA licenses **will not scan** in the Alcotest 9510.
- ⦿ Select "NO" and then press "Next" to proceed to the next screen.
- ⦿ This prompt does not appear for out-of-state licenses.

Entering Driver's License Data

Alcotest 9510		10:45
90-24 Arrest		11/05/2010
Subject Last Name	<input type="text" value="SMITH-"/>	

- ⦿ Enter the information from the driver's license.
- ⦿ Hyphenated names are accepted; no edits to the name are necessary.
 - Example: Smith-Jones is acceptable.
- ⦿ To make corrections, backspace to delete and enter the new data manually.

Entering Driver's 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="C"/>	

⦿ Enter the information from the driver's license.

Entering Driver's 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 entered as 2-character month; 2-character day; 4-character year (MMDDYYYY).
- ⦿ You do not need to type the forward slashes (/).

Entering Driver's License Data

Alcotest 9510		10:48
90-24 Arrest 11/05/2010		
Subject Street Address	<input type="text" value="12 MEMO LANE"/>	
Alcotest 9510		10:49
90-24 Arrest 11/05/2010		
Subject City	<input type="text" value="DEVENS"/>	

- ⦿ Use the subject's **CURRENT** address.
- ⦿ Do not assume the address on the license is correct.
- ⦿ RMV no longer provides white tape to change address information on the back of licenses.

Entering Driver's License Data

Alcotest 9510		10:49
90-24 Arrest 11/05/2010		
Subject State	MASSACHUSETTS	

Alcotest 9510		10:50
90-24 Arrest 11/05/2010		
Subject Zip Code	01434	

- ⦿ Subject State can be entered using the drop-down box or by entering a letter key to select a different state.

Entering Driver's 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 are 9 characters.
 - Out of State licenses can be up to 20 characters.
- ⦿ Check for RMV assigned "S", "SA", "A", or "X" number.

Alcotest 9510		09:15
90-24 Arrest		07/10/2025
License Expires	<input type="text" value="09/03/2029"/>	

Entering Driver's License Data

Alcotest 9510		10:51
90-24 Arrest		11/05/2010
Restrictions	<input type="text" value="BH"/>	

- ⦿ Enter information if present on the license.
 - Example - Restriction "H" (AKA "Cinderella" licenses).
- ⦿ Two additional prompts appear 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)

Entering Driver's License Data

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

⦿ If license class is not "D" or "M", then the 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

Operating CDL Vehicle

Alcotest 9510		10:56
90-24 Arrest		11/05/2010
Operating CDL Vehicle	<input checked="" type="radio"/> YES	<input type="radio"/> NO

⦿ If "YES", then the following questions are displayed:

Alcotest 9510		12:17
90-24 Arrest		08/25/2025
Vehicle Requires Hazmat Placard	<input type="radio"/> YES	<input type="radio"/> NO

Alcotest 9510		12:19
90-24 Arrest		08/25/2025
Operator Placed Out of Service	<input type="radio"/> YES	<input type="radio"/> NO

Operator Placed Out of Service – CDL Vehicle

Alcotest 9510	12:19
	90-24 Arrest 08/25/2025
Operator Placed Out of Service	<input type="radio"/> YES <input type="radio"/> NO

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

Entering Driver's License Data

The screenshot shows the Alcotest 9510 interface with a blue header bar. The header bar contains the text "Alcotest 9510" on the left and "10:57" on the right. Below the header bar, the text "90-24 Arrest 11/05/2010" is displayed. The main area of the screen is a white box with a black border, containing the following text: "Subject Licensed", "YES", "License State", "MASSACHUSETTS", "Scan MA License", "NO", "Subject Last Name", "SMITH", "Subject First Name", "JOHN". To the right of the text is a vertical scrollbar with a grey background and a white track.

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

Public Way

Alcotest 9510	90-24 Arrest	10:58 11/05/2010
Public Way	<input checked="" type="radio"/>	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	WITNESS STATEMENT	

◎ **ANOTHER ELEMENT OF THE CRIME**

◎ Actual Observation – select “YES”

◎ Other Proof of Operation – select “NO”

Arresting Officer's Observations

Alcotest 9510	90-24 Arrest	11:00
		11/05/2010
Unsteady on Feet	<input checked="" type="radio"/> YES	<input type="radio"/> NO

Alcotest 9510	90-24 Arrest	11:00
		11/05/2010
Slurred Speech	<input checked="" type="radio"/> YES	<input type="radio"/> NO

Alcotest 9510	90-24 Arrest	11:00
		11/05/2010
Glassy Eyes	<input checked="" type="radio"/> YES	<input type="radio"/> NO

Alcotest 9510	90-24 Arrest	11:01
		11/05/2010
Bloodshot Eyes	<input checked="" type="radio"/> YES	<input type="radio"/> 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", and "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" section.
- This is discoverable and must be included in paperwork provided to the ADA.

Arresting Officer's Observations

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

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

- ◎ Additional "Arresting Officer Observations".
- ◎ PBT should be reported in your 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 DOUBLE YELLOW
 - MARKED LANES VIOLATION
- ⦿ Maximum 24 characters 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 14:23
90-24 Arrest 09/05/2025

Public Way
YES

Observed Driving
NO

Operation Proven By
WITNESS STATEMENT

Unsteady on Feet
YES

Slurred Speech
YES

Stop Save

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

Date & Town of Arrest

Alcotest 9510	10:38
	90-24 Arrest 07/10/2025
Date of Arrest	<input type="text" value="07/10/2025"/>

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

© Enter the information and 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 the Arresting Officer is the same as the BTO.
 - Arresting Officer data will auto-populate.
- ⦿ Select "NO" if the 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	<input checked="" type="radio"/> YES

Alcotest 9510	11:09
90-24 Arrest 11/05/2010	
Advised Subject of CDL Refusal Consequences	<input checked="" type="radio"/> YES

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

Arresting Officer Summary

Alcotest 9510 10:46
90-24 Arrest 07/10/2025

Date of Arrest
07/10/2025

Town of Arrest
AYER

Arresting Officer Same as BTO
NO

Arresting Officer ID
C2367

Stop Save

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

Test Type

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

- ◎ Select "BT TEST" to continue with the breath test.
- ◎ Select "REFUSAL" if the subject refuses; then proceed to the Refusal questions.
 - **Refusal Type**
 - **Town of Refusal**
 - **Date of Refusal**
 - **Refusal Witness Name**

Refusal Questions

Alcotest 9510		11:14
		90-24 Arrest 11/05/2010
Refusal Type	<input checked="" type="radio"/> BREATH	<input type="radio"/> BLOOD

Alcotest 9510		11:14
		90-24 Arrest 11/05/2010
Town of Refusal	<input type="text" value="DEVENS"/>	

Alcotest 9510		10:49
		90-24 Arrest 07/10/2025
Date of Refusal	<input type="text" value="07/10/2025"/>	

Refusal Questions

Alcotest 9510	11:16
90-24 Arrest 11/05/2010	
Refusal Witness Last Name	<input type="text" value="KENT"/>

Alcotest 9510	11:16
90-24 Arrest 11/05/2010	
Refusal Witness First Name	<input type="text" value="CLARK"/>

⦿ Refusal Witness must be a third party but can be any sworn officer or civilian.

- Cannot be the Subject or the Refusal Officer.
- The instrument will not allow the witness's name to be the same as the Refusal Officer's name.

Test Type Summary

Alcotest 9510 10:54
90-24 Arrest 07/10/2025

Test Type
REFUSAL

Refusal Type
BREATH

Town of Refusal
DEVENS

Date of Refusal
07/10/2025

Refusal Witness Last Name

Stop Save

- ⦿ 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

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

- ⦿ 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 Period

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

- ⦿ 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."

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

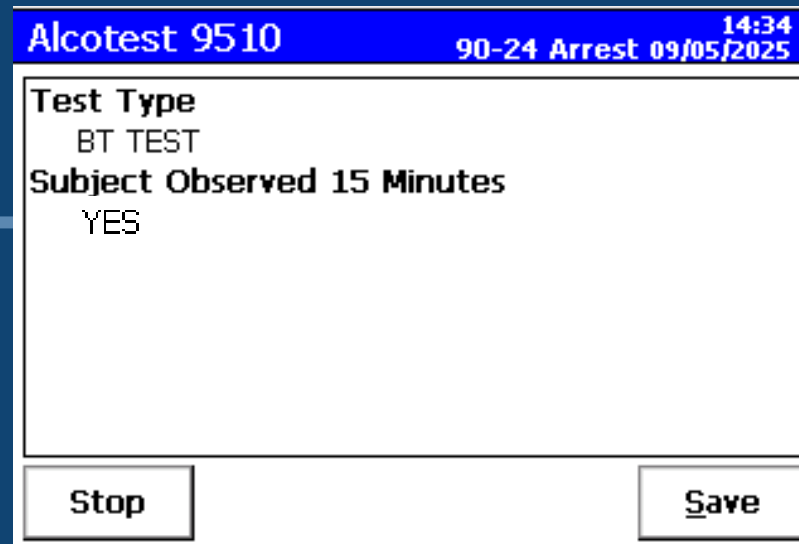
- ⦿ What do you do if a subject burps loudly 10 minutes into the observation period? Do you start the observation period over again or continue?
 - The observation period shall be restarted.
 - Remember to document this new time.

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

- ⦿ 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.

BT Test Summary



Alcotest 9510 14:34
90-24 Arrest 09/05/2025

Test Type
BT TEST

Subject Observed 15 Minutes
YES

Stop Save

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

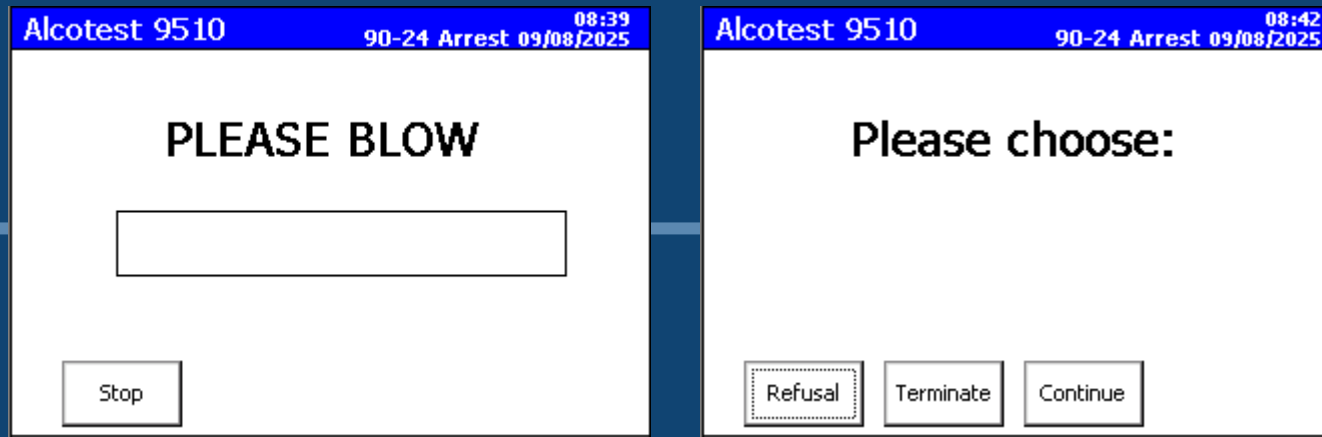
Administering the Breath Test

PLEASE BLOW



- ⦿ This screen appears when the instrument is READY for a breath test.
 - Remove the breath hose from the storage recess.
 - Gently insert a new mouthpiece into the breath hose.
 - Hold the breath hose for the subject.
 - It is not recommended that the subject hold the breath hose themselves.
 - This is to protect the instrument from possibly being damaged by the subject.
 - Instruct subject to inhale, create and maintain a tight seal around the mouthpiece, and then blow.

Changing Minds



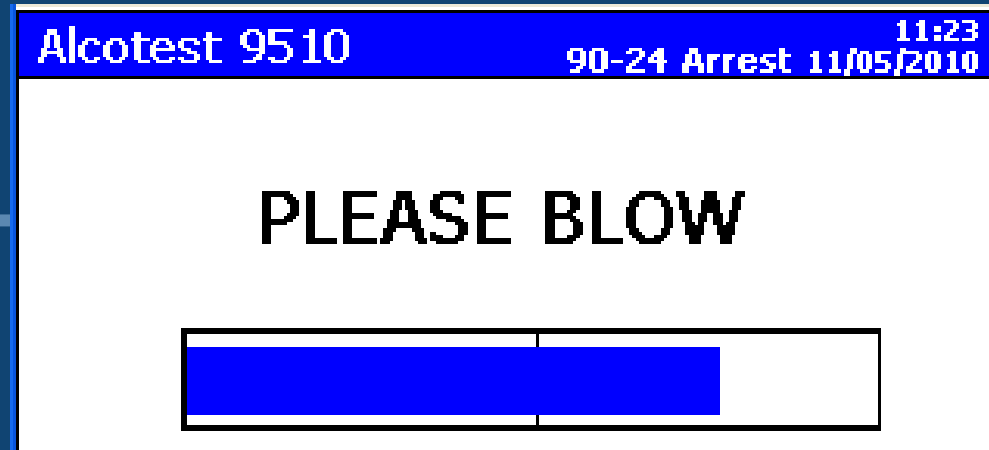
- ⦿ If subject REFUSES at this point, select the “Stop” option and then process the subject’s Refusal.
- ⦿ *Commonwealth v. Curley, 78 Mass. App. Ct. 163 (2010)* states that the introduction of evidence of a failed breathalyzer attempt by the Commonwealth does not violate a defendant’s right against self-incrimination.
- ⦿ *Commonwealth v. Adonsoto 475 Mass. 497 (2016)* reaffirmed Curley.

Breath Test Sequence

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

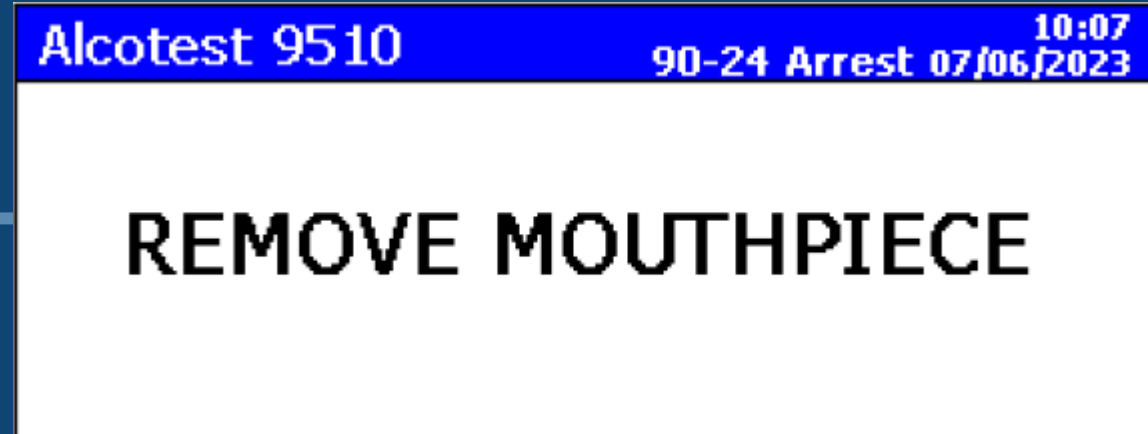
- 1) air blank test of 0.000%
- 2) breath sample 1 supplied by the subject
- 3) air blank test of 0.000%
- 4) calibration check of 0.074% - 0.086%
- 5) air blank test of 0.000%
- 6) breath sample 2 supplied by the subject
- 7) air blank test of 0.000%

Breath Sample



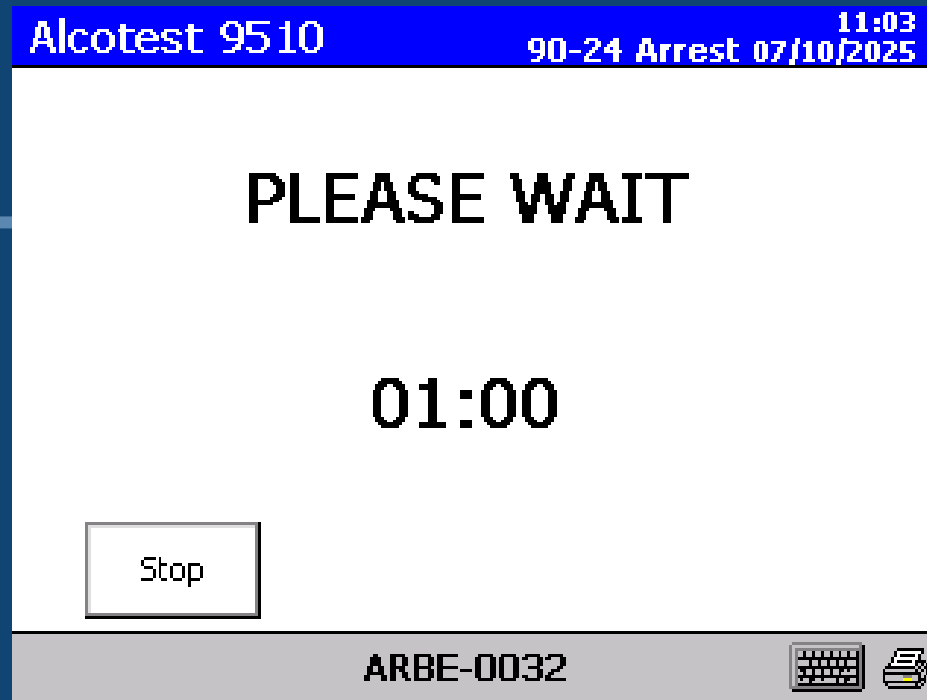
- ⦿ Two of the parameters that must be met:
 - Minimum of 1.5 liters of breath.
 - Minimum 4.5 continuous seconds of breath.
- ⦿ When the rectangular box becomes BOLD, the criteria have been met.

Breath Sample



- ⦿ Remove the mouthpiece and only return the mouthpiece to the breath hose when prompted “PLEASE BLOW” for the next sample.
 - It is the BTO’s discretion whether to use a new mouthpiece for the second sample, but 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

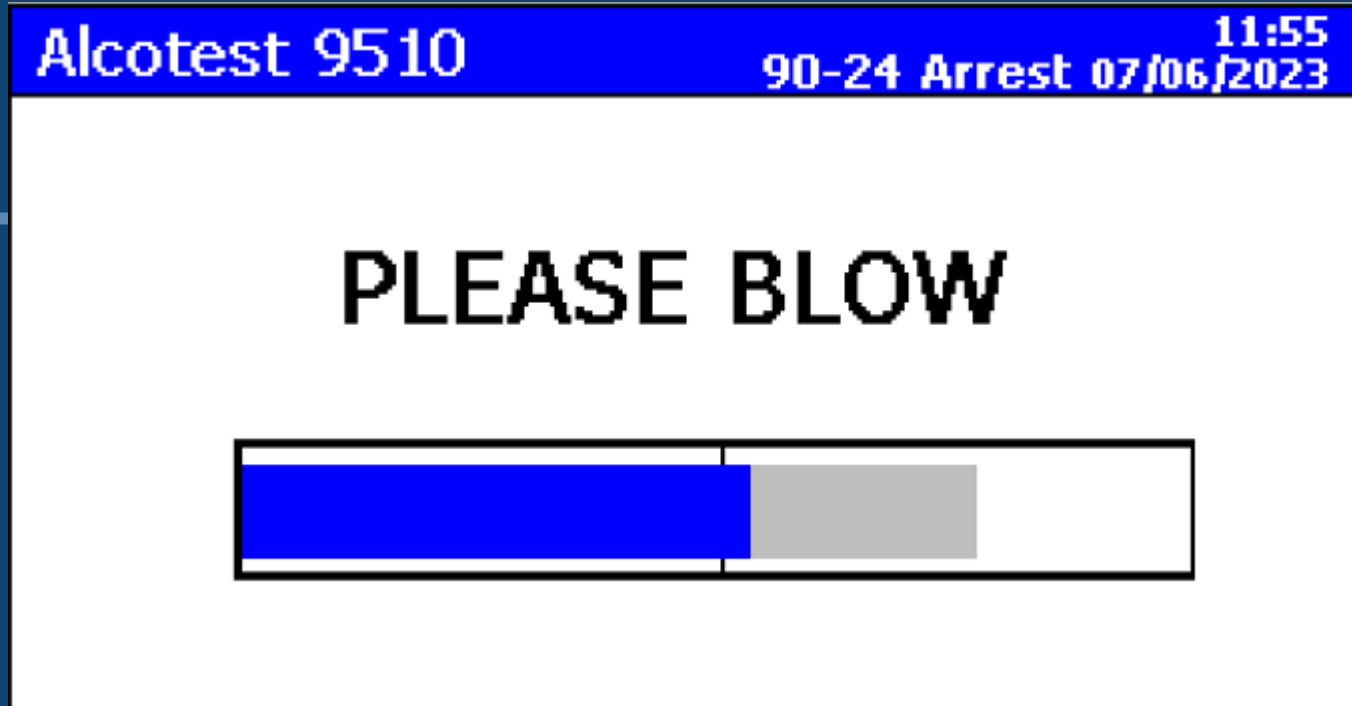
Alcotest 9510

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.
 - This utilizes 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).

Second Breath Sample



- ⦿ The grey bar represents the subject's first breath sample.
- ⦿ When the rectangular box becomes BOLD, the criteria have been met.

Reportable Value

Alcotest 9510

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

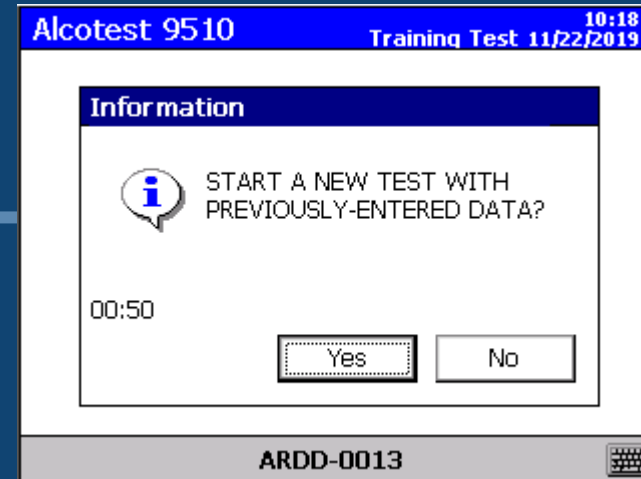
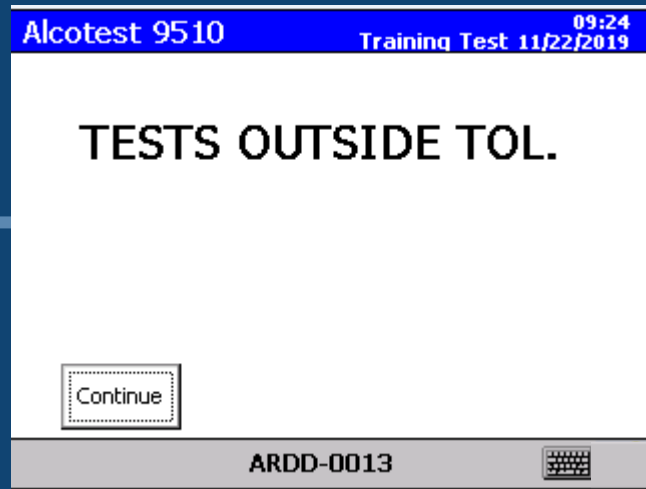
**REPORTABLE VALUE:
0.17 %BAC**

- ⦿ The first breath sample and the 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 upcoming prompt:
"Did you seize 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 the 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 valid breath tests?

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 Report

Alcotest 9510	11:29
90-24 Arrest 11/05/2010	
Report Prepared By Testing Officer?	<input checked="" type="radio"/> YES

Alcotest 9510	11:30
90-24 Arrest 11/05/2010	
Under Penalties of Perjury?	<input checked="" type="radio"/> YES

- ⦿ Verifies that the BTO completed the breath test under penalties of perjury.
- ⦿ For a “Refusal”, the first question will ask: “Report Prepared By Refusal Officer?”

Finishing the Report

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 MA 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 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

Seizing MA Licenses

- ⦿ A 20-year-old operator of a passenger vehicle is arrested for OUI, brought to a BT, consents to a breath test, and produces 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 MA Licenses

- ⦿ An individual with a Class A license is operating a tractor trailer and is arrested for OUI, brought to a BT, consents to a breath test, and produces 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 MA Licenses

- ⦿ A Class B licensed operator is operating a passenger vehicle and is arrested for OUI, brought to BT, consents to a breath test, and produces 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 MA Licenses

- ⦿ A Class B licensed operator is operating a passenger vehicle and is arrested for OUI, brought to BT, consents to a breath test, and produces 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 MA Licenses

- ⦿ A 45-year-old with a Class DM license is operating a passenger vehicle and is arrested for OUI, brought to BT, consents to a breath test, and produces 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?

Seizing MA Licenses

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

- ⦿ When do you seize a Massachusetts 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 MA Licenses

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

- ◎ 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 c.90, s.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 Number and OBTN

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

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 [Keyboard Icon] [Printer Icon]

- © Once “Save” is selected, no changes can be made, and the BATS – Completion Record and the Breath Test Report Form 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:	07/08/2023	Seq. Test #:	2051
Dept. Case #:	12345	Citation #:	
Model #:	ALCOTEST 9510	Firmware:	8322232 0.7.1
Serial #:	ARBE-0032	License #:	900276722
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__

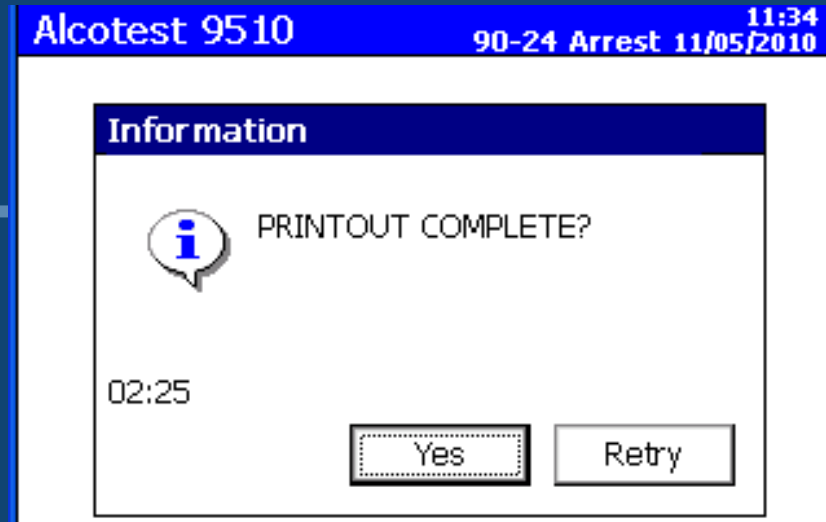
(Officer's Signature)

Revised 2/15/2023

25 Minute Timeouts

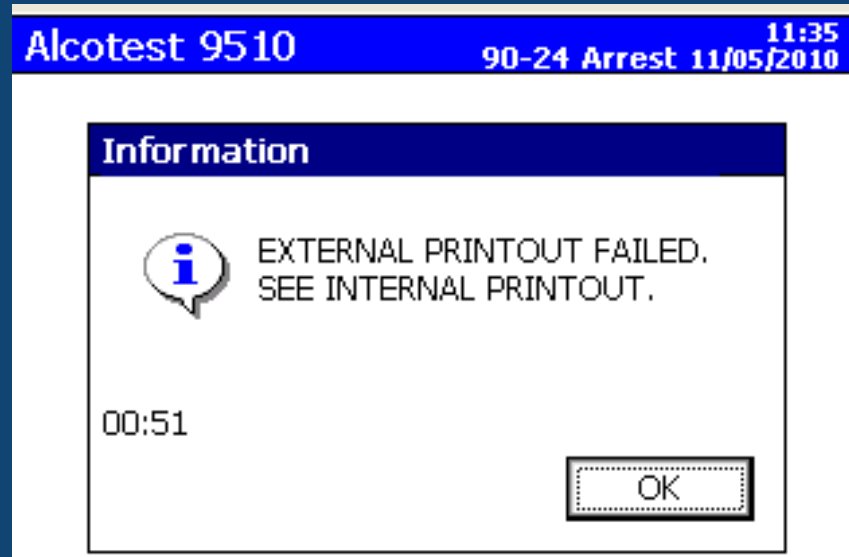
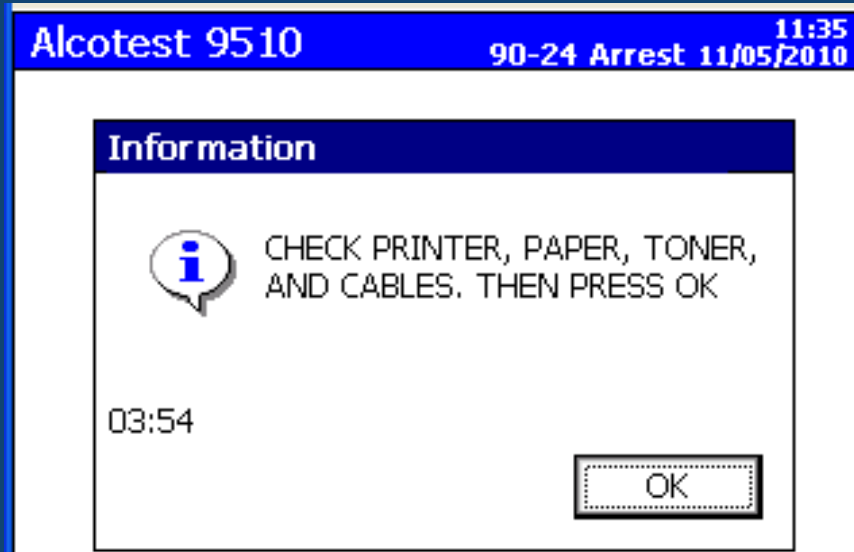
- If you are aware of a time out during any of these 5 questions, fill out a BATS Data Correction Form.
- Email or fax the Form directly to the RMV.
- Forward any BATS Data Correction Forms to the prosecuting agency.

Printing



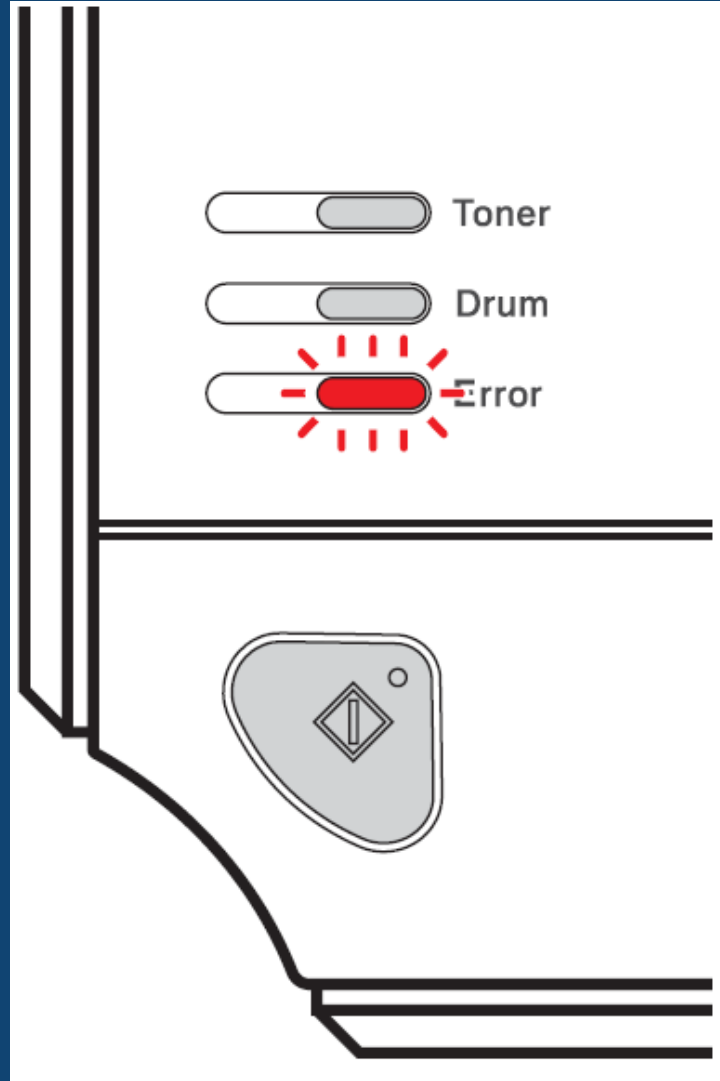
- ⦿ A prompt will appear: “Printout Complete?”
 - This prompt should be answered, but if it is not, then the sequence will still complete automatically.
- ⦿ Check the printed documents for accuracy as well as to ensure the results COMPLY with the current CMRs.
- ⦿ If a “Notice of Suspension” has printed,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

Printer Problems



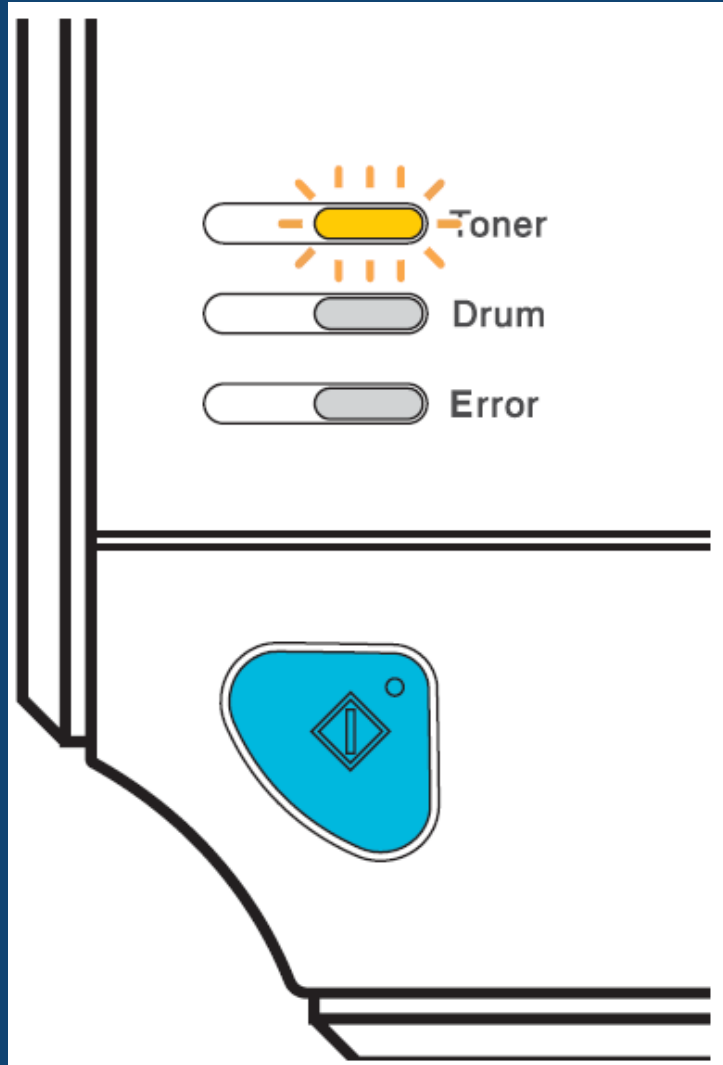
- If a printer problem exists, a box will display: "CHECK PRINTER, PAPER, TONER, AND CABLES. THEN PRESS OK".
- Follow the instructions to attempt to remedy the problem.
- After a 3rd failed attempt, a box will display: "EXTERNAL PRINTOUT FAILED. SEE INTERNAL PRINTOUT."
- In this case, use the "Reprint" button on the main screen.

Printer Error Light



- A **flashing** Error light means there is a paper jam.
- A **solid** Error light means the printer is out of paper.
- Add paper or remove jam and press the GO button to ready printer. Reprint if needed.

Printer Toner Light



- A **flashing** Toner light means printer is running low on toner.
- A **solid** Toner light means the printer is out of toner.
- Advise OIC to replace the toner in the printer.

Replacing Toner

<p>TN-760 Toner Cartridge</p> 	<p>DR-730 Drum Unit</p> 	<p>TN-760 Toner Cartridge Installed into a DR-730 Drum Unit</p> 
<p>Brother toner cartridge Replace</p>	<p>Brother drum unit Keep</p>	<p>Toner cartridge installed into the drum unit. This is how the toner / drum will look when you remove it from the printer.</p>

⦿ Do Not discard the drum unit for the toner.

Reprint Function

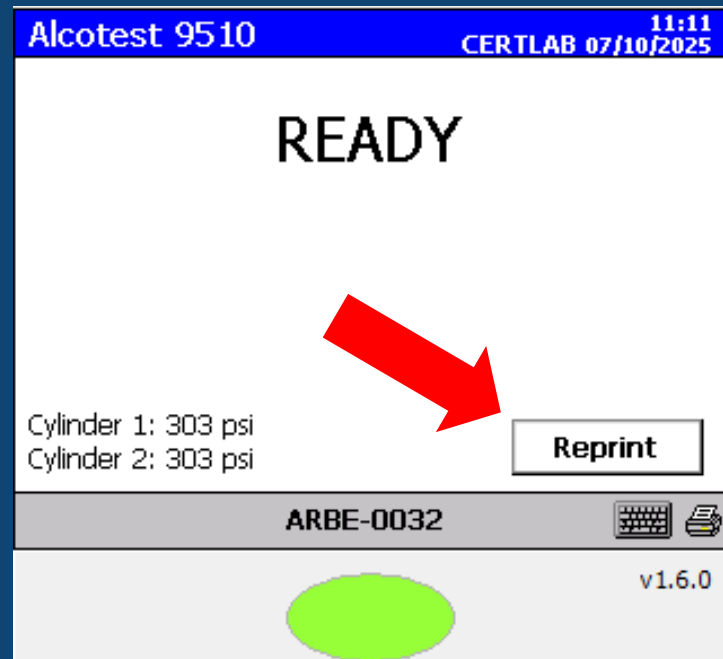
- ⦿ Circumstances that may require use of the “Reprint” function:
 - An officer needs to retrieve a past test or Power Loss test.
 - An officer encounters a printer problem after completing the test.
 - An OIC needs to look up statistics for the agency.
- ⦿ Power Loss tests do not automatically print. The BTO must go into the “Reprint” function and reprint the test manually to include with your report.

Reprint Function

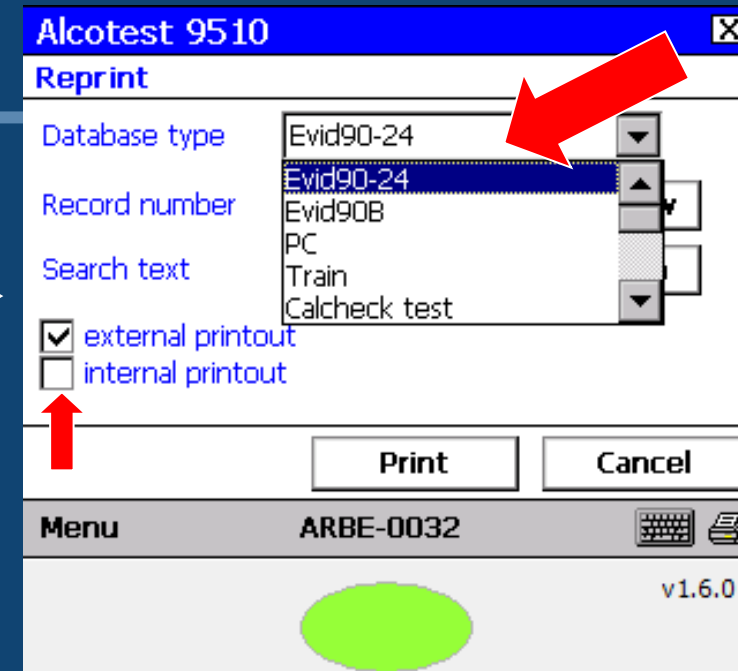
- ⦿ The BT can only hold a certain number of tests in its memory and may be cleared during the annual certification at OAT or during repair.

Do NOT wait to reprint!

Retrieving and Reprinting Breath Test Records



⦿ Press "Reprint" to print tests.



⦿ Highlight desired test type from drop-down box.

⦿ Unselect "internal printout".

Three Ways to Retrieve Records

Alcotest 9510

Reprint

Database type: Evid90-24

Record number: [] Preview

Search text: [] Search

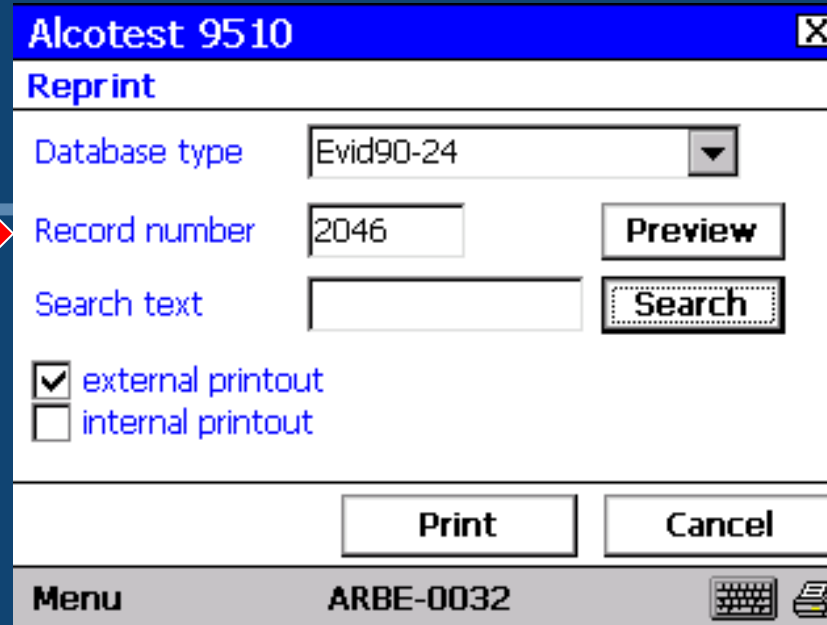
external printout
 internal printout

Print Cancel

Records can be retrieved by:

- ⦿ Entering in the Record number (Sequential Test #)
- ⦿ Search text (BTO name, subject data, or any other text)
- ⦿ General Search

Retrieving Records by Record Number



Alcotest 9510

Reprint

Database type: Evid90-24

Record number: 2046

Search text:

external printout
 internal printout

Print Cancel

Menu ARBE-0032

- ◎ Enter Sequential Test # in the "Record number" field.
- ◎ Select "Print" and a copy of the selected test will be printed.

Retrieving Records Using Search Text

Alcotest 9510

Reprint

Database type: Evid90-24

Record number: [] Preview

Search text: ren Search

external printout
 internal printout

Print Cancel

Alcotest 9510

Search Result

Record: 02367 - 07/10/2025 09:19
RENCZKOWSKI,,
Record: 02369 - 07/10/2025 10:01
RENCZKOWSKI,-,-
Record: 02370 - 07/10/2025 10:14
RENCZKOWSKI,DINGLE,12/12/1955
Record: 02371 - 07/10/2025 11:06
RENCZKOWSKI,DINGLE,12/12/1955

Save Cancel

⊙ Search by:

- BTO name
- Subject data
- Any text related to the test record

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

Retrieving Records Using Search Text

Alcotest 9510

Search Result

Record: 02367 - 07/10/2025 09:19
RENCZKOWSKI,,
Record: 02369 - 07/10/2025 10:01
RENCZKOWSKI,-,
Record: 02370 - 07/10/2025 10:14
RENCZKOWSKI,DINGLE,12/12/1955
Record: 02371 - 07/10/2025 11:06
RENCZKOWSKI,DINGLE,12/12/1955

Save Cancel

Alcotest 9510

Reprint

Database type Evid90-24
Record number 2370
Search text ren

external printout
 internal printout

Print Cancel

- ⦿ Highlight the desired Record number you wish to retrieve.
- ⦿ Select "Save".

- ⦿ The Record number will then auto-populate.
- ⦿ Select "Print".

Retrieving Records By General Search

Alcotest 9510

Reprint

Database type: Evid90-24

Record number: []

Search text: []

external printout
 internal printout

Buttons: Preview, Search, Print, Cancel

Alcotest 9510

Search Result

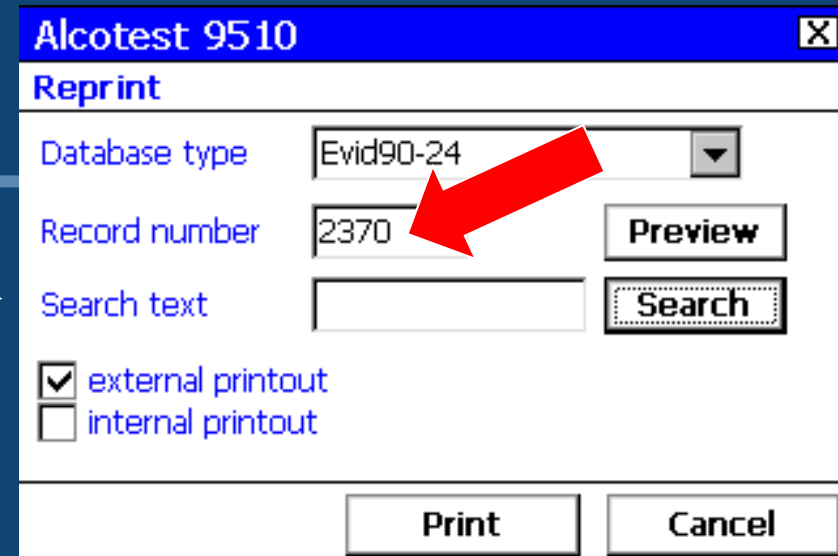
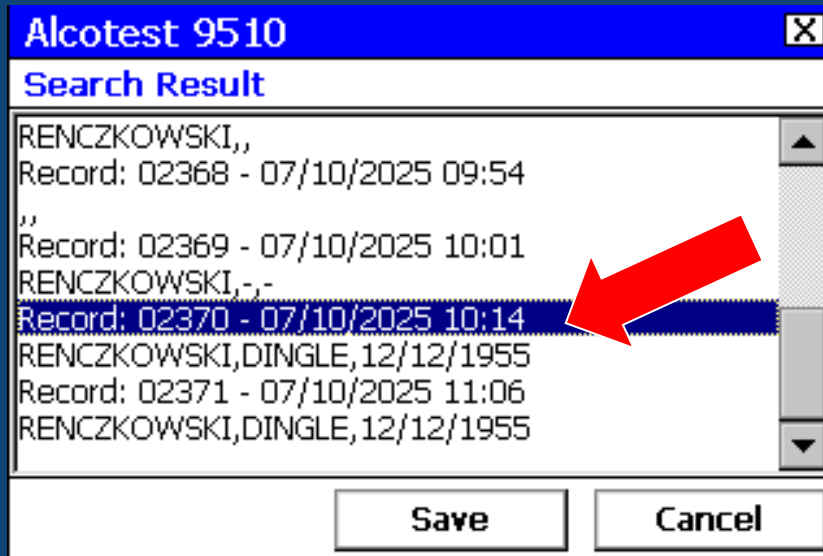
RENCZKOWSKI,,
Record: 02368 - 07/10/2025 09:54
,,
Record: 02369 - 07/10/2025 10:01
RENCZKOWSKI,-,
Record: 02370 - 07/10/2025 10:14
RENCZKOWSKI,DINGLE,12/12/1955
Record: 02371 - 07/10/2025 11:06
RENCZKOWSKI,DINGLE,12/12/1955

Buttons: Save, Cancel

⦿ Select "Search" to display all breath test records.

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

Retrieving Records By General Search



- ⦿ Highlight the desired Record number you wish to retrieve.
- ⦿ Select "Save".

- ⦿ The Record number will then 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 include:
 - “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-OAT 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
Dry Gas Cylinder: <u>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 result 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 Failed

Massachusetts Office of Alcohol Testing
Breath Test Report Form
MASSACHUSETTS

Test Date: 09/12/2011 Sequential Test #: 326
Dept. Case #: 2011-OAT 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
<u>Alcotest 9510</u>	<u>ARBA-0001</u>	<u>02/09/2011</u>	<u>02/09/2012</u>

- ⦿ This result occurs when the control standard is outside of the acceptable range of **0.074%-0.086%**.
- ⦿ Review the Breath Test Report Form Calibration Check 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 direct observation 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
<u>Alcotest 9510</u>	<u>ARBA-0001</u>	<u>02/09/2011</u>	<u>02/09/2012</u>

- ⦿ The result occurs when the instrument is detecting a possible interfering substance on the subject's breath.
- ⦿ 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 **after** the time recorded for the last test on the Breath Test Report Form 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 #: _____

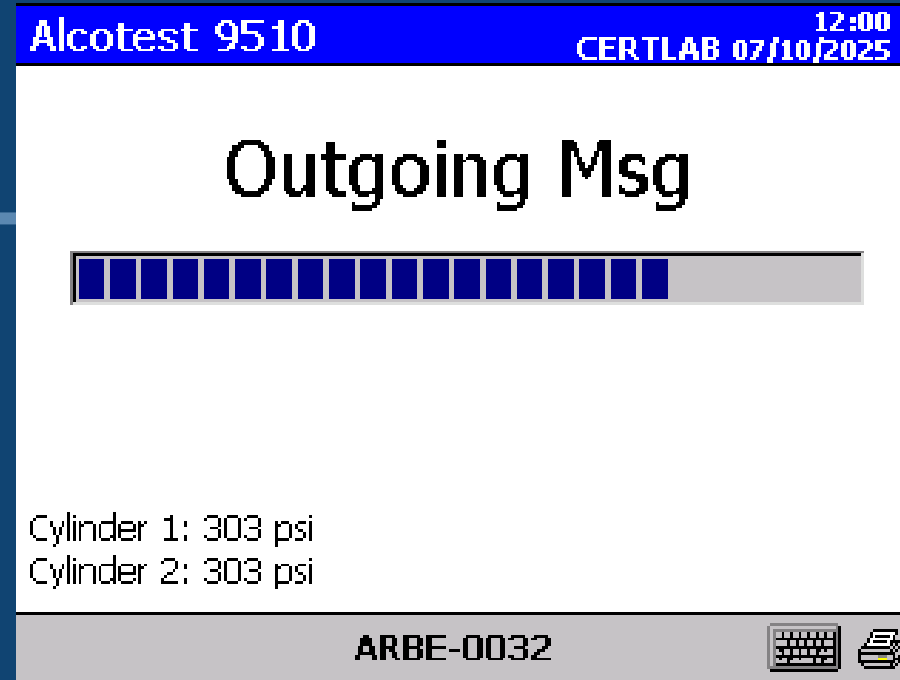
Test Results: Test Not Completed: CAL GAS SUPPLY

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
<u>Alcotest 9510</u>	<u>ARBC-0006</u>	<u>09/06/2011</u>	<u>09/06/2012</u>

- ⦿ 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 Alcotest 9510 transmits the test data promptly to CJIS and the RMV when the breath test sequence is complete.
- © Look for the “Outgoing Msg” 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 this form and email it along with the corresponding breath test documents to OATnotifications@mass.gov or send them to OAT’s fax number listed on the form.

BATS – Completion Record

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

- MGL c.90, s.24K
 - Uniform Forms
 - Sequentially Numbered
- “Breath Test - Arresting Officer Observation Report”
- Arresting Officer and BTO names
- List of Associated Documents
- Ensure this BATS – Completion Record corresponds to the observations in your written report as it may be scrutinized in a court of law.

Breath Test Report Form

Subject Result

Subject Refusal

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

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

⦿ Only the BTO may sign the report.

⦿ Time indicated in the "Breath Test Sequence Details" is when the instrument completed its IR measurement.

Notice of Suspension for a Chemical Test Failure or 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

Driver History (KQ)

Run Another KQ

Print KQ

Save Query

Original Query: OLN: S26097825 DEST. STATE: MA

MASSACHUSETTS REGISTRY OF MOTOR VEHICLES 08/26/20 1059
----- DRIVER HISTORY -----

OLN: S26097825 ST: MA
NAME L: SAMPLE F: HAYLEY M: M DOB: 02/10/1958
CORP/CO NAME:
STATUS: SUS FOLDER:

ENTRY DATE	INCIDENT DATE	DESCRIPTION	CRT FINDINGS DATE
08/26/20	08/26/20	SUSPENSION ADMIN PER SE 30 DAYS	08/26/20
08/26/20	08/26/20	ADMIN PER SE CHICOPEE	
09/18/16	08/20/16	SURCHARGEABLE ACCID SPRINGFIELD	09/18/16
04/12/15	03/08/15	SURCHARGEABLE ACCID OTHER	04/12/15
02/15/15	02/03/15	SPEEDING CHICOPEE R	03/11/15
01/20/15	01/20/15	EXPIRATION PAYMENT DEFAULT RLS HOLYOKE	01/20/15
12/28/14	12/28/14	SUSPENSION PAYMENT DEFAULT INDEFINITE	02/06/15
12/13/14	11/22/14	MINOR TRAFFIC HOLYOKE R	12/28/14
12/13/14	11/22/14	SEAT BELT VIOLATION HOLYOKE R	12/28/14

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

- For both subject tests and Refusals, run a "KQ" on the next business day.
- If the subject's license was suspended, no further action is necessary.
- If the subject's license has not been suspended, contact OAT with the following documentation:
 - BATS - Completion Record
 - Breath Test Report Form

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

For administrative changes:

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

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 a BAC of 0.080% or greater exist.

Do You Know?

- ◎ MGL c.90, s.24 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 question of whether such defendant was at such time under the influence of intoxicating liquor..”.

Three Hour Rule

- ◎ *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.

Breath Test Documents

⦿ Statutory Rights and Consent Form

- Proves Defendant Consented

⦿ BATS - Completion Record

- Officer's Observation Report is DISCOVERABLE

⦿ Breath Test Report Form

- Instrument and Operator are Certified
- Breath Test is VALID

Breath Test Documents

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

- ⦿ Statutory Rights and Consent Form
- ⦿ BATS – Completion Record
- ⦿ Breath Test Report Form (including Power Loss tests)
- ⦿ Notice of Suspension for a Chemical Test Failure
- ⦿ Notice of Suspension for a Chemical Test Refusal
- ⦿ BATS Data Correction Form
- ⦿ Periodic Test Reports (maintained by the instrument's OIC)
- ⦿ Any and all Breath Test reports resulting in status messages
 - example: 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 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 with 24 hours.
- ⦿ 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 a Blood Test Refusal

Alcotest 9510 10:26
Training Test 10/26/2011

Refusal Type BREATH 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 Draws and Consent

- ⦿ *Commonwealth v. Bohigian*, 486 Mass. 209 (2020) - A search warrant is not an alternative if the defendant fails to give actual voluntary consent to draw blood for the purpose of analyzing it for BAC in an OUI prosecution.
 - “If the person arrested refuses to submit to such test or analysis...no such test or analysis shall be made.”
- ⦿ *Commonwealth v. Moreau*, 490 Mass. 387 (2022) - The police must first obtain the defendant's consent to the ‘chemical test or analysis’ of his blood regardless of whether the blood was first drawn by or at the direction of police or independently by a third party.
- ⦿ *Commonwealth v. Zucchini*, 493 Mass. 747 (2024) - The defendant is not required to give consent for the testing of his/her blood for BAC when charged with “aggravated” OUI offenses, including Manslaughter while OUI or OUI SBI, for the results to be admissible in court.

Additional Considerations

- ⦿ Subjects arrested for OUI and being treated at a medical facility licensed under MGL c.111, s.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 analyze the blood of a person being investigated for homicide by motor vehicle (MGL c.90, s.24G), serious bodily injury by motor vehicle while under influence (MGL c.90, s.24L), or manslaughter (MGL c.265, ss. 13 & 13 1/2).

Blood Tests at a Hospital

- ⦿ Under Arrest, at Medical Facility, Charged with OUI Alcohol c.90, s.24, and Consents to an Evidentiary Blood Draw and Test.
- ⦿ Medical conditions that exempt a subject from a blood test:
 - Hemophilia
 - Diabetes
 - 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 prepare 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 (do 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.

Blood Submissions

- ◎ 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 that contain a serum or plasma alcohol level can be introduced by the ADA at trial after the 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 the operator was hospitalized.
 - The DA's office can summons the hospital for medical records and request a serum conversion from the MSPCL Toxicology Unit.

OUI Drugs 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.
 - Familiarize yourself with regional Law Enforcement Councils and area agencies with DREs.
 - You may also contact the MSP Troop Duty Office to “page out” a municipal or MSP DRE.
 - For MSP, the detainee must be under arrest for OUI in order to request a DRE evaluation as per TRF-14.
- ⦿ If appropriate, the “Immediate Threat Form” pursuant to MGL c.90, s.22(a) is available from the RMV.
- ⦿ 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

⊙ Motor Vehicle Homicide MGL 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 MGL c.90, s.22

- A medical condition that inhibits driving such as epilepsy.


⊙ Disregard for Public Safety MGL c.90, s.22

- For example, pursuits.

⊙ Criminal Complaint MGL 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.

1 LE100_0318



Medical Evaluation Form
 Medical Affairs • P.O. Box 55889, Boston, MA 02205-5889
 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:

- 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: _____
- Does the patient have a cardiovascular condition? Yes No
 If so,
 - Does the patient have an implanted cardiac defibrillator? Yes No
 - Specify the American Heart Association ("AHA") functional class which most appropriately describes the patient's condition (see guidelines on reverse side) and symptoms

- 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:

- 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: _____

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OAT Discovery

- ⦿ Documents generated by OAT are available through the eDiscovery Portal at the following website:

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

- ⦿ Requests for all other OAT discovery should be sent to the MSPCL Case Management Unit at:

OATDiscoveryRequest@mass.gov

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.

Training Test

- ⦿ Use only the Training Test mode.
- ⦿ Use your current **FULL LEGAL NAME**, including all suffixes, hyphens, apostrophes, and middle initials.
- ⦿ If you sign in as a Certified Operator and your information is not correct, take the test as an Uncertified Operator with your correct information.
- ⦿ For the “Test Type” screen, select “BT TEST” only. Do not enter a Refusal.
- ⦿ Your name on the Training Test in the “Breath Test Operator” field must match your name on the roster **EXACTLY** as well as all signatures. This name will be entered into the BTO Database. Make corrections on the roster or retake the test if needed.
- ⦿ Sign both pages of the Training Test printout.