


# Breath Test Operator's Manual



Prepared by the Massachusetts State Police  
Office of Alcohol Testing

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

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**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).

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## 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.

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## 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://mspbtocertification.com>

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# 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!**

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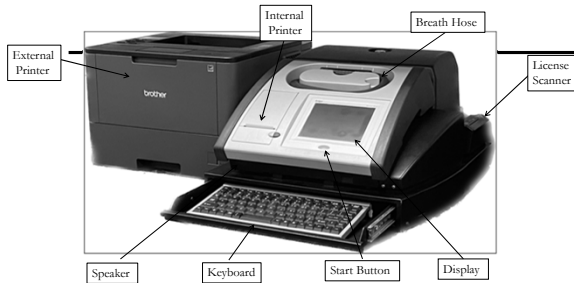
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## Draeger Alcotest 9510



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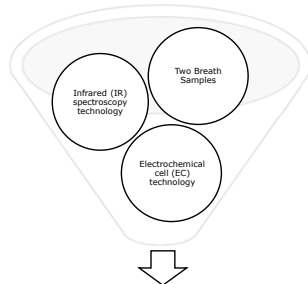
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### Draeger Alcotest 9510 BT Technology

- 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

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### 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 (Dräger Alcotest 9510)
- 3) Approved Methods

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### 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

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### 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

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## 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."

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## 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."

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## 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?*

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### 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.

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### Statutory Rights and Consent Form

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

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

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

- 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

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### Statutory Rights and Consent Form

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

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

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

- 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):"
- You have been arrested for an Operating Under the Influence of Alcohol offense and are guaranteed certain rights.

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## 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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## Right to a Telephone

**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 to 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.

### 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."

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## 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.

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.

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## 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.

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## 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.

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## 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.

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## 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 .02 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 30 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.

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## 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.

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## 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.

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## 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

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## 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.

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## 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.

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## 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.

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## 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.

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## 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.

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## 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".

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## 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."

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## 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.

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## 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.

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## 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.

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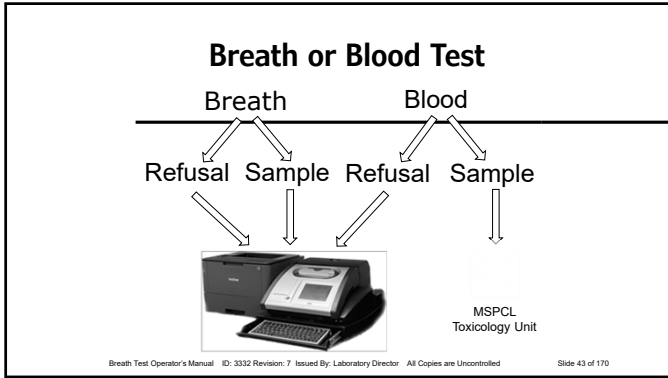
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### Breath Test Instrument Location

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- ⦿ 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.

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### The Main Screen



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

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### 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.

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### 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.

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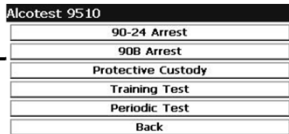
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### Breath Test Sequence



- ⊙ 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.

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## 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.

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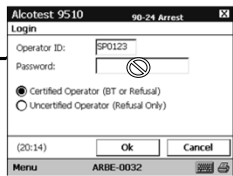
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## Operator ID



- ⊙ 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.

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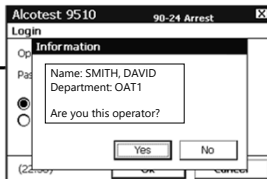
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## Operator Confirmation



- ⊙ 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.

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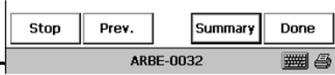
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### Navigation Buttons



- ⊙ 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.

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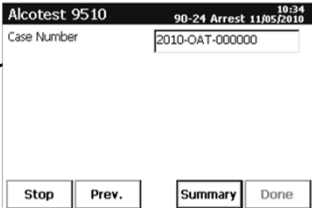
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### Case Number



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

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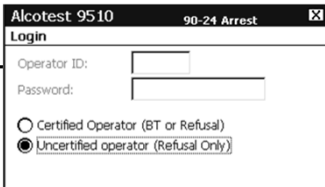
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### Uncertified Operator Login



- ⊙ 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.

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## 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.

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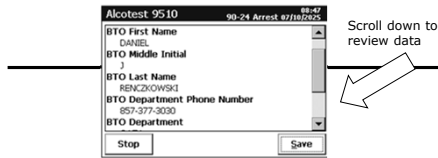
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## BTO Summary Screen



- ⊙ 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.

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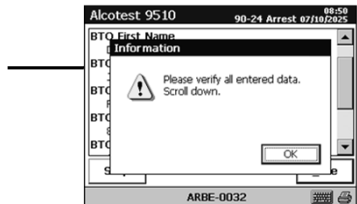
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## Summary Screens



- ⊙ 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.

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### Subject Licensed



⊙ 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.

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### License State



⊙ 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.

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### Scan MA License



⊙ 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.

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### Entering Driver's License Data

**Alcotest 9510** 10:45  
90-24 Arrest 11/05/2010

Subject Last Name

- ⊙ 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.

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### Entering Driver's License Data

**Alcotest 9510** 10:46  
90-24 Arrest 11/05/2010

Subject First Name

**Alcotest 9510** 10:46  
90-24 Arrest 11/05/2010

Subject Middle Initial

- ⊙ Enter the information from the driver's license.

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### Entering Driver's License Data

**Alcotest 9510** 11:18  
Training Test 11/21/2019

Subject Gender  MALE  FEMALE  X

**Alcotest 9510** 10:48  
90-24 Arrest 11/05/2010

Subject Date Of Birth

- ⊙ 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 (/).

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### Entering Driver's License Data

**Alcotest 9510**      90-24 Arrest 11/05/2010      10:48

Subject Street Address

**Alcotest 9510**      90-24 Arrest 11/05/2010      10:49

Subject City

☉ 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.

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### Entering Driver's License Data

**Alcotest 9510**      90-24 Arrest 11/05/2010      10:49

Subject State

**Alcotest 9510**      90-24 Arrest 11/05/2010      10:50

Subject Zip Code

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

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### Entering Driver's License Data

**Alcotest 9510**      90-24 Arrest 11/05/2010      10:50

License Number

☉ 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**      90-24 Arrest 07/10/2025      09:15

License Expires

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### Entering Driver's License Data

**Alcotest 9510** 10:51  
90-24 Arrest 11/05/2010

Restrictions

- ⊙ 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)

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### Entering Driver's License Data

**Alcotest 9510** 10:53  
90-24 Arrest 11/05/2010

License Class

⊙ 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  YES  NO

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### Operating CDL Vehicle

**Alcotest 9510** 10:56  
90-24 Arrest 11/05/2010

Operating CDL Vehicle  YES  NO

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

**Alcotest 9510** 12:17  
90-24 Arrest 08/25/2025

Vehicle Requires Hazmat Placard  YES  NO

**Alcotest 9510** 12:19  
90-24 Arrest 08/25/2025

Operator Placed Out of Service  YES  NO

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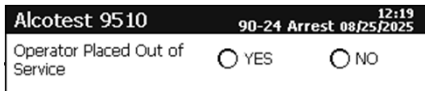
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### Operator Placed Out of Service – CDL Vehicle



- ⊙ 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.

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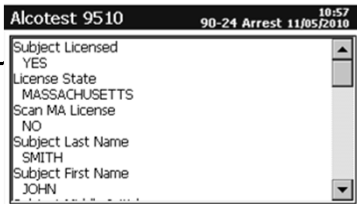
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### Entering Driver's License Data



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

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### Public Way



- ⊙ **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.

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### Operation

**Alcotest 9510** 10:58  
 90-24 Arrest 11/05/2010

Observed Driving  YES  NO

**Alcotest 9510** 10:59  
 90-24 Arrest 11/05/2010

Operation Proven By

**☉ ANOTHER ELEMENT OF THE CRIME**

☉ Actual Observation – select "YES"

☉ Other Proof of Operation – select "NO"

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### Arresting Officer's Observations

**Alcotest 9510** 11:00  
 90-24 Arrest 11/05/2010

Unsteady on Feet  YES  NO

**Alcotest 9510** 11:00  
 90-24 Arrest 11/05/2010

Slurred Speech  YES  NO

**Alcotest 9510** 11:00  
 90-24 Arrest 11/05/2010

Glassy Eyes  YES  NO

**Alcotest 9510** 11:01  
 90-24 Arrest 11/05/2010

Bloodshot Eyes  YES  NO

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### Arresting Officer's Observations

**Alcotest 9510** 11:01  
 90-24 Arrest 11/05/2010

Odor  STRONG  MODER.  SLIGHT  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.

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### Arresting Officer's Observations

**Alcotest 9510** 11:02  
90-24 Arrest 11/05/2010

Crash  YES  NO

**Alcotest 9510** 11:02  
90-24 Arrest 11/05/2010

PBT  PASS  FAIL  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.

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### 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.

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### 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

⊙ Scroll down verifying data for accuracy.

⊙ Once "Save" is selected, no changes can be made.

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### Date & Town of Arrest

**Alcotest 9510**      90-24 Arrest 07/10/2025 10:38

Date of Arrest

**Alcotest 9510**      90-24 Arrest 11/05/2010 11:04

Town of Arrest

⊙ Enter the information and confirm for accuracy.

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### Arresting Officer

**Alcotest 9510**      90-24 Arrest 11/05/2010 11:05

Arresting Officer Same as BTO  YES     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.

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### Arresting Officer

**Alcotest 9510**      90-24 Arrest 11/05/2010 11:06

Arresting Officer ID

**Alcotest 9510**      90-24 Arrest 11/05/2010 11:07

Arresting Officer Department

**Alcotest 9510**      90-24 Arrest 11/05/2010 11:08

Arresting Officer Last Name

**Alcotest 9510**      90-24 Arrest 11/05/2010 11:08

Arresting Officer First Name

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### Refusal Consequences

11:09

Alcotest 9510 90-24 Arrest 11/05/2010

Advised Subject of Refusal Consequences  YES

11:09

Alcotest 9510 90-24 Arrest 11/05/2010

Advised Subject of CDL Refusal Consequences  YES

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

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### Arresting Officer Summary

10:46

Alcotest 9510 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

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

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### Test Type

11:12

Alcotest 9510 90-24 Arrest 11/05/2010

Test Type  BT TEST  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

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### Refusal Questions

**Alcotest 9510** 11:14  
90-24 Arrest 11/05/2010

Refusal Type  BREATH  BLOOD

**Alcotest 9510** 11:14  
90-24 Arrest 11/05/2010

Town of Refusal

**Alcotest 9510** 10:49  
90-24 Arrest 07/10/2025

Date of Refusal

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### Refusal Questions

**Alcotest 9510** 11:16  
90-24 Arrest 11/05/2010

Refusal Witness Last Name

**Alcotest 9510** 11:16  
90-24 Arrest 11/05/2010

Refusal Witness First Name

⊙ 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.

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### 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

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

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### Observation Period

**11:18**

**Alcotest 9510 90-24 Arrest 11/05/2010**

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Subject Observed 15 Minutes  YES  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."

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### Observation Period

**11:18**

**Alcotest 9510 90-24 Arrest 11/05/2010**

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Subject Observed 15 Minutes  YES  NO

**11:19**

**Alcotest 9510 90-24 Arrest 11/05/2010**

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Do You Want a 15 Minute Countdown Timer?  YES  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.

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### Observation Period

**11:18**

**Alcotest 9510 90-24 Arrest 11/05/2010**

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Subject Observed 15 Minutes  YES  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.

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90

### Observation Period

Alcotest 9510
11:18
90-24 Arrest 11/05/2010


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Subject Observed 15 Minutes
 YES
 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."

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### Observation Period

Alcotest 9510
11:18
90-24 Arrest 11/05/2010


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Subject Observed 15 Minutes
 YES
 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.

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### Observation Period

Alcotest 9510
11:18
90-24 Arrest 11/05/2010


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Subject Observed 15 Minutes
 YES
 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.

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### BT Test Summary

Alcotest 9510      90-24 Arrest 4/16/2025      14:24

Test Type  
BT TEST  
Subject Observed 15 Minutes  
YES

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

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### 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.

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### Changing Minds

Alcotest 9510      90-24 Arrest 4/16/2025      14:24

PLEASE BLOW

Alcotest 9510      90-24 Arrest 4/16/2025      14:24

Please choose:

- ⊙ 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.

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### 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%

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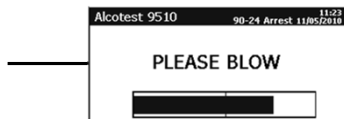
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### Breath Sample



- ⊙ 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.

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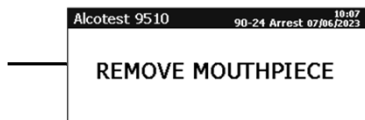
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### Breath Sample



⊙ 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.

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**Please Wait**

Alcotest 9510 11:03  
90-24 Arrest 07/10/2023

PLEASE WAIT

01:00

ARBE-0032

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

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**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).

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**Second Breath Sample**

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

PLEASE BLOW



⊙ The grey bar represents the subject's first breath sample.

⊙ When the rectangular box becomes BOLD, the criteria have been met.

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## Reportable Value

1128  
Alcotest 9510 90-24 Arrest 11/05/2010

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### 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?"

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## Breath Test Results Summary

<b>0.08 %BAC or above</b>	<b>Per Se Impairment for all operators regardless of age and vehicles.</b>
<b>0.07 %BAC</b> <b>0.06 %BAC</b>	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).
<b>Below 0.06 BAC%</b>	No permissible inference of intoxication and released forthwith if OUI Alcohol is the only arrestable charge.
<b>0.04 %BAC or above</b>	Administrative license suspension for CDL operation and CDL vehicles. This applies to the vehicle, not the license. Class D is still active; Class A is not.
<b>0.02 %BAC or above</b>	If operator is under 21 years of age, this will result in an administrative license suspension.

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## Tests Outside Tolerance

Alcotest 9510 90-24 Arrest 11/05/2010

**TESTS OUTSIDE TOL.**

Continue

ARCO-0013

Alcotest 9510 90-24 Arrest 11/05/2010

**Information**

START A NEW TEST WITH PREVIOUSLY ENTERED DATA?

00:50

Yes No

ARCO-0013

- ⊙ 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."

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### 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

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### Finishing the Report

**Alcotest 9510** 11:29  
90-24 Arrest 11/05/2010

Report Prepared By Testing Officer?  YES

**Alcotest 9510** 11:30  
90-24 Arrest 11/05/2010

Under Penalties of Perjury?  YES

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

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### 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.

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### 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

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### 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?

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### 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?

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### 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?

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### 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?

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### 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?

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### Seizing MA Licenses

Alcotest 9510 09:28  
90-24 Arrest 03/29/2023

Did you seize MA license?  YES  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?

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### Seizing MA Licenses

Alcotest 9510 09:28  
90-24 Arrest 03/29/2023

Did you seize MA license?  YES  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!

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### 12 Hour Vehicle Impound

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- ⊙ 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."

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### Citation Number and OBTN

Alcotest 9510      90-24 Arrest 11/05/2010      11:31

Citation Number

Alcotest 9510      90-24 Arrest 11/05/2010      11:31

OBTN

⊙ **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

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### Summary Screen

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

Did you seize MA license?  
YES

Citation Number  
12345

OBTN  
67890

ARBK-0013

⊙ Once "Save" is selected, no changes can be made, and the BATS – Completion Record and the Breath Test Report Form will print.

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### Blank Fields

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

Report Prepared By Testing Officer?  
YES

Under Penalties of Perjury?  
YES

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

Did you seize MA license?  
YES

Citation Number  
12345

OBTN  
67890

⊙ **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.

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### Blank Fields

The image shows two side-by-side BATS forms. The left form is titled 'Massachusetts Office of Public Safety 90-24 Arrest 11/05/2019' and the right form is titled 'Massachusetts Office of Public Safety 90-24 Arrest 11/05/2019'. Both forms have several fields, and two arrows point to blank fields in the 'Arresting Officer Name' section of each form.

⊙ 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.

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### BATS DATA CORRECTION FORM

Email To: DCIM.rpa@dof.state.ma.us  
OR Fax To: 857.366.0019

**TO:** DRIVER CONTROL UNIT  
REGISTRY OF MOTOR VEHICLES

**FROM:** \_\_\_\_\_  
(Name of Agency)

**RE:** Sequential Test Number: \_\_\_\_\_  
(From a BATS Completion Record)

Defendant: \_\_\_\_\_  
(From a BATS Completion Record)

Correction(s) needed:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed under the pains and penalties of perjury this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
(Signature of Agency Representative)

Form 01/08/03

### BATS Data Correction Form

**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.

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### Printing

The image shows a close-up of an Alcotest 9510 screen. The screen displays 'Alcotest 9510' at the top, followed by '90-24 Arrest 11/05/2019'. Below that, it says 'Information' and 'PRINTOUT COMPLETE?' with a small 'i' icon. At the bottom, there are two buttons: 'Yes' and 'Retry'. The time '02:25' is also visible.

⊙ 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.

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	<h3>Printer Problems</h3>
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	<h3>Printer Error Light</h3>
<ul style="list-style-type: none"> <li>• A flashing Error light means there is a paper jam.</li> <li>• A solid Error light means the printer is out of paper.</li> <li>• Add paper or remove jam and press the GO button to ready printer. Reprint if needed.</li> </ul>	
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	<h3>Printer Toner Light</h3>
<ul style="list-style-type: none"> <li>• A flashing Toner light means printer is running low on toner.</li> <li>• A solid Toner light means the printer is out of toner.</li> <li>• Advise OIC to replace the toner in the printer.</li> </ul>	
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### Replacing Toner




Brother toner cartridge

**Replace**



Brother drum unit

**Keep**



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

⊙ Do Not discard the drum unit for the toner.

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### Reprint Function

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⊙ 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.

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### Reprint Function

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⊙ 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!**

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### Retrieving and Reprinting Breath Test Records

◉ Press "Reprint" to print tests.  
 ◉ Highlight desired test type from drop-down box.  
 ◉ Unselect "internal printout".

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### Three Ways to Retrieve Records

Records can be retrieved by:

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

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### Retrieving Records by Record Number

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

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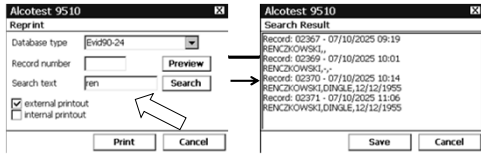
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### Retrieving Records Using Search Text



- 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.

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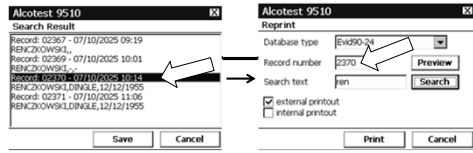
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### Retrieving Records Using Search Text



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

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

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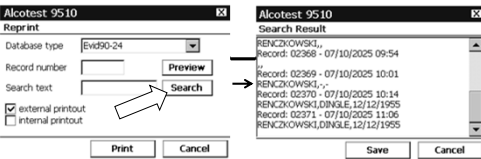
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### Retrieving Records By General Search



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

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

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### Calibration Standard Failed



- 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.

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### Interferent Detected



- 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.

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### Mouth Alcohol



- 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.

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# Cal Gas Supply



- ⊙ 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.

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# Data Transfer

Alcotest 9510 CERTLAB 47/10/2025

## Outgoing Msg



Cylinder 1: 303 psi  
Cylinder 2: 303 psi

ARBE-0032

- ⊙ 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.

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# Data Not Transmitted



- ⊙ 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.

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### 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..."

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### 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.

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### 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

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## 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

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## 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!

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## 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.

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## 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.

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## Blood Draws and Consent

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- ⊙ *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.

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## Additional Considerations

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- ⊙ 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).

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### 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.**

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### 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.

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### 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.

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### 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.

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### 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.

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### 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.

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### 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.

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### 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.

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