

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.