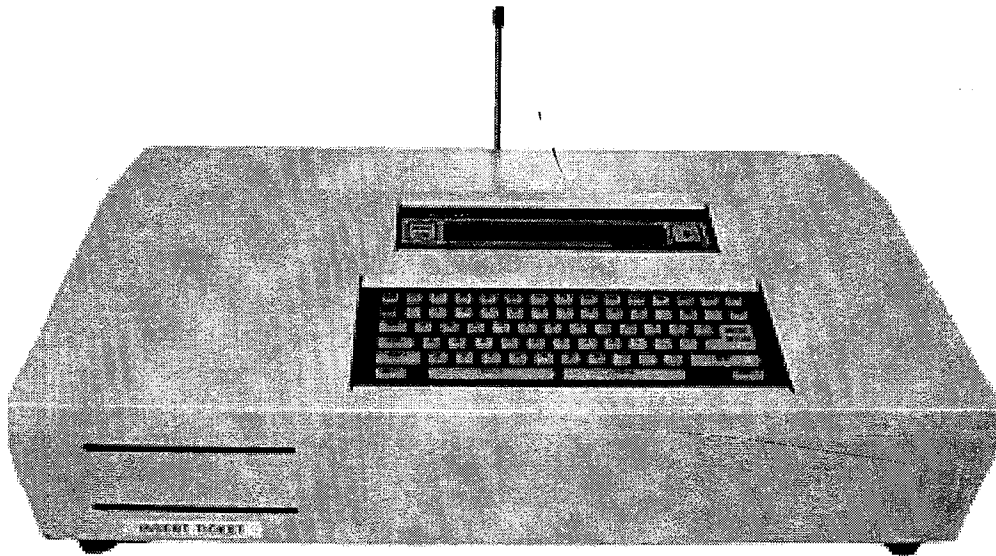


MICHIGAN BREATH TEST OPERATOR 2003 TRAINING MANUAL



**MICHIGAN STATE POLICE
Special Operations Division
Alcohol Enforcement Unit
November 2003**



TABLE OF CONTENTS

| | |
|---|-------------|
| Preface..... | i |
| CHAPTER 1 - INTRODUCTION..... | 1-1 |
| CHAPTER 2 - TRAINING SCHEDULE..... | 2-1 |
| CHAPTER 3 - ADMINISTRATIVE RULES..... | 3-1 |
| CHAPTER 4 - SIMULATOR TEST..... | 4-1 |
| CHAPTER 5 - ADMINISTRATIVE FORMS..... | 5-1 |
| OD-80 Evidence Ticket..... | 5-1 |
| OD-33 Evidential Breath Testing Log | 5-3 |
| CHAPTER 6 - DATAMASTER FUNCTIONAL PARTS | 6-1 |
| DataMaster Exterior Components..... | 6-1 |
| DataMaster Rear Panel..... | 6-3 |
| DataMaster Keyboard | 6-6 |
| CHAPTER 7 - SIMULATOR TEST SEQUENCE..... | 7-1 |
| CHAPTER 8 - SUBJECT TEST SEQUENCE | 8-1 |
| Additional Considerations..... | 8-7 |
| Subject Test Practice Procedures | 8-16 |
| CHAPTER 9 - DATE/TIME MODIFICATIONS | 9-1 |
| CHAPTER 10 - DISPLAY MESSAGES..... | 10-1 |
| Normal Display Messages..... | 10-1 |
| Abnormal Display Messages (Error Messages)..... | 10-2 |
| Reporting DataMaster Incidents..... | 10-3 |
| CHAPTER 11 - RECORD KEEPING - DISTRIBUTION AND RETENTION | 11-1 |
| CHAPTER 12 - DATAMASTER DOS AND DON'TS | 12-1 |
| APPENDIX A - ADMINISTRATIVE RULES - TESTS FOR BREATH ALCOHOL | A-1 |
| APPENDIX B - MICHIGAN DRUNK DRIVING LAWS..... | B-1 |
| APPENDIX C - STATE AND CANADIAN ABBREVIATIONS | C-1 |
| APPENDIX D - COURT TESTIMONY..... | D-1 |
| Index..... | 1 |

PREFACE

The purpose of this manual is to train law enforcement personnel in the proper use of the BAC DataMaster breath alcohol testing instrument.

Upon successful completion of this training program, a certified operator will be able to administer a breath alcohol test on a suspected intoxicated subject in the state of Michigan. The operator will be familiar with the operating principle of the BAC DataMaster; know the exterior components of the instrument; and know the pretest, subject, and simulator test procedures and sequences.

The ease of operation of the BAC DataMaster offers the real possibility to train all road patrol officers in the state of Michigan.

Revised and Reprinted by the Michigan State Police
November 2003

Chapter 1

Introduction

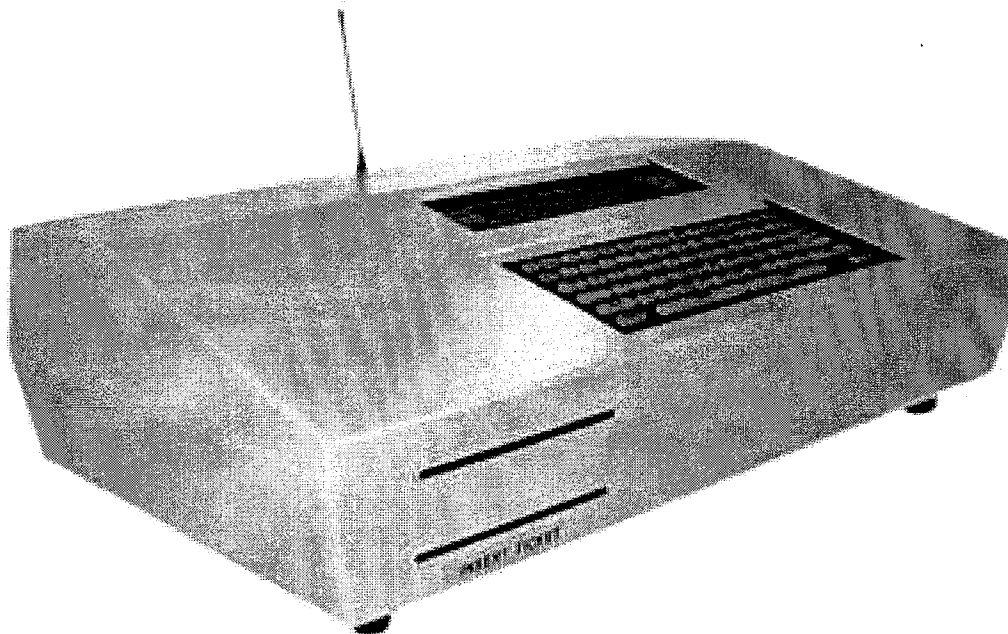
Chapter 1 - INTRODUCTION

The BAC DataMaster is an infrared evidential breath alcohol test instrument manufactured by National Patent Analytical Systems, Inc., Mansfield, Ohio, at (419) 526-6727. The operating principle of the BAC DataMaster is based on infrared absorption.

Infrared technology as applied to breath alcohol analysis had its origin in the early 1980s. This advent of increasing technology prompted the development of an infrared breath alcohol analysis program in Michigan. With their ease of operation, more rapid analysis, and advances in computer technology, infrared devices have taken over the testing for breath alcohol. The BAC DataMaster has evolved through the years to its present state-of-the-art instrument with expanding computer capabilities. Michigan was one of the last few states to enter into the infrared era for breath alcohol testing.

The BAC DataMaster was chosen in Michigan based upon a careful evaluation of all instruments available. A contract was established to cover both the purchases of the test equipment and for the complete maintenance and service of the instruments.

The BAC DataMaster:



Chapter 2

Training Schedule

Chapter 2 - TRAINING SCHEDULE

| | |
|------------|-----------------------------|
| 9:00 a.m. | Administrative Duties |
| 9:30 a.m. | Administrative Rules |
| 10:00 a.m. | Simulator Preparation |
| 11:00 a.m. | Forms |
| 11:30 a.m. | Introduction to DataMaster |
| 12:00 noon | Lunch |
| 1:00 p.m. | DataMaster Operation |
| 3:00 p.m. | Practical and Written Exams |

Chapter 3

Administrative Rules

Chapter 3 - ADMINISTRATIVE RULES

The Michigan Department of State Police has been granted mandatory rule-making power by the drunk driving statute. An administrative rule promulgated under this authority carries the full weight of the law.

Filed with the Secretary of State on September 16, 2003
These rules take effect September 30, 2003

RULE 1 - Definitions

- Class I Operator - PBT Operator
- Class II Operator - Evidential Breath Test Operator
- Class IIIA Operator - Evidential Breath Test Operator plus PBT Operator, PBT instructor, and PBT calibrator
- Class IIIB Operator - Evidential Breath Test Operator plus limited service technician
- Class IV Operator - All of the above plus instructor for all classes of operator and a full-service technician

RULE 2 - Approved Equipment

- All breath alcohol test equipment shall meet federal model specifications and appear on the conforming products list published by the U.S. Department of Transportation in the Federal Register.
- Equipment and accessories shall be approved by the Michigan Department of State Police.

RULE 3 - Equipment Accuracy

- An evidential breath tester shall be verified for accuracy at least once each calendar week.
- Accurate test results shall be 0.076 to 0.084 inclusive.
- A PBT shall be verified for accuracy once each month.
- An evidential breath tester shall be inspected, verified for accuracy, and certified by a Class IV operator or the instrument manufacturer's authorized representative within 120 days of the previous inspection.

RULE 4 - Equipment Maintenance

- Installation, maintenance, and repair of evidential breath test instruments and PBTs are the responsibility of Class IV operators or the instrument manufacturer's authorized representatives approved by the department.

RULE 5 - Techniques and Procedures

- Only certified operators shall operate evidential breath test instruments.
- Prior to testing, a subject shall be observed for at least 15 minutes during which time he/she shall not have smoked, regurgitated, or placed anything in his or her mouth, except the mouthpiece.
- A second breath test shall be requested, but may be refused. This test is used to confirm the first test. The allowable variation is as follows:

| | |
|----------------------|--------|
| 0.00 - 0.14..... | ± 0.01 |
| 0.15 - 0.24..... | ± 0.02 |
| 0.25 - 0.34..... | ± 0.03 |
| 0.35 - or more | ± 0.04 |

- If the variation is more than that allowed, a third test must be requested. If this test does not conform to the allowable variation of either the first or second test, a blood or urine test shall be requested.
- Results of a subject test shall be expressed as grams of alcohol per 210 liters of breath.
- Results of a subject test shall be truncated to the second decimal place.
- If a subject tests at 0.35 or more, medical assistance shall be obtained.

RULE 6 - Operator Certification

- A certification card shall be issued to evidential breath alcohol test instrument operators who successfully complete a course of instruction that is approved by the Department of State Police.

RULE 7 - Recertification of Operators - Rescinded

RULE 8 - Class IV Operators

- Defines the role of the Class IV operator.

Chapter 4

Simulator Test

Chapter 4 - SIMULATOR TEST

A. General Information

1. All simulator tests run by certified operators will be run through the Breath Tube on the instrument.
2. Each instrument shall have a simulator test run on that instrument within each calendar week (Sunday through Saturday) as required by the Administrative Rules.

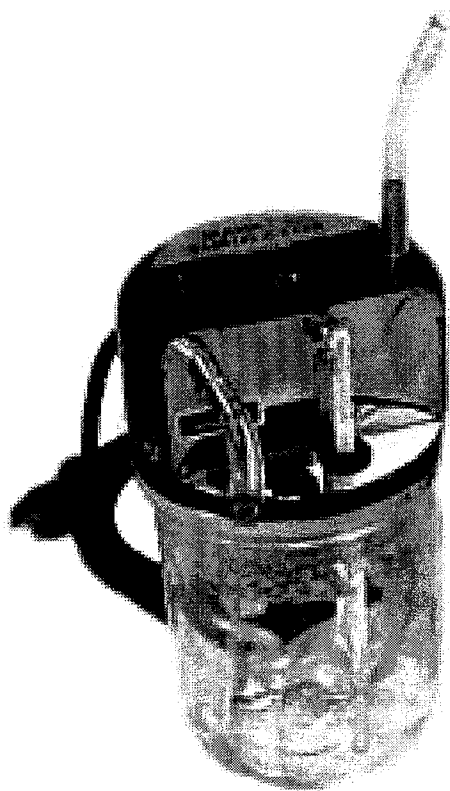
B. Mark IIA Simulator

1. Thermometer scale is from 33.5 to 34.5°C.
2. Inlet tube (top)
3. Outlet tube (front)

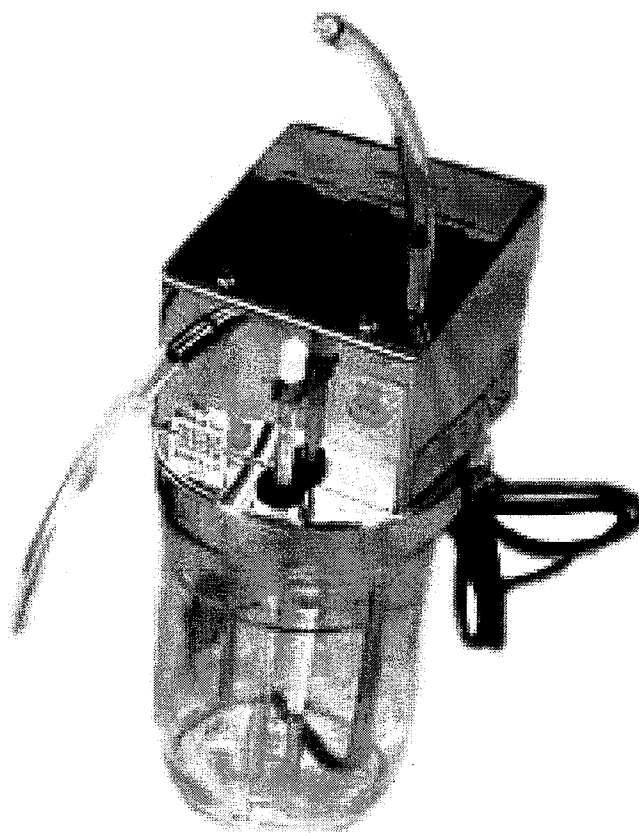
C. Model 10-4 Simulator

1. Thermometer scale is from 33.5 to 34.5°C.
2. Inlet tube (top)
3. Outlet tube (front)

Mark IIA



Model 10-4



Alcoholic Breath Simulator – Preparation and Use

Just as it is necessary to check a speed radar set or the speedometer on a patrol car from time to time to certify its operational accuracy, it is also necessary to check the DataMaster. The Michigan Department of State Police (MSP) requires the DataMaster to be verified at least once per calendar week by a certified operator. The DataMaster is calibrated within a ± 0.004 tolerance on a 0.080 standard solution.

To check the accuracy of the DataMaster, an “artificial drunk” (the Alcoholic Breath Simulator) is used.

The Alcoholic Breath Simulator is especially designed to produce a sample of air equal in temperature to that of the human breath. By properly controlling the amount of alcohol and water in the simulator, we are able to predict the reading that should appear on the DataMaster within a ± 0.004 accuracy level.

A. Equipment and Supplies

1. One simulator
 - a. Cord
 - b. Jar
 - c. Lid
2. Ampoule of alcohol solution
3. 500 milliliter flask (long neck)
4. Distilled water at room temperature (minimum 1 quart)
5. Polyethylene squeeze bottle
6. Two saliva trap mouthpieces

B. Mixing Solution

Following are directions for preparing a simulator solution, including what to do, how to do it, and key points in the procedure. When using the outline, it is necessary to read from left to right across the total page (that is, first A of Step 1 under "What To Do," then B of Step 1 under "How To Do It," and then C of Step 1 under "Key Points").

| Step | What To Do | How To Do It | Key Points |
|------|--|--|---|
| 1. | A. Rinse flask twice with distilled water. | B. Place small amount of distilled water in flask, shake, and empty. | C. Only small amount of distilled water is needed. |
| 2. | A. Opening the ampoule. | B. Place a paper towel around the ampoule. Hold the bottom with one hand and snap the top off with the other hand. The ampoule will break at the narrowest part. | C. If any of the alcohol in the ampoule is lost during the opening process, discard the ampoule and open a new one. Keep the top, as it needs to be rinsed out and poured into the flask. |
| 3. | A. Pour contents of the ampoule into the 500ml flask. | B. Carefully insert the ampoule into the neck of the flask approx. one inch. Hold both tightly and pour the contents into flask. | C. Avoid dropping the ampoule into the flask. If it should fall into the flask, discard the mixture and begin again with Step 1. |
| 4. | A. Rinse out ampoule with distilled water. Pour contents into flask. Rinse twice. | B. Fill ampoule with distilled water using squeeze bottle, and then empty contents into flask. Repeat. | C. Rinse the top of the ampoule by filling it with water from the squeeze bottle. Empty contents into flask. Repeat. |
| 5. | A. Fill flask with room temperature distilled water until you have 500ml of solution. | B. Place bottom of meniscus (concave surface of solution) on etched line around neck of flask. | C. Squeeze bottle (full of distilled water) should be used to control rise of meniscus. If too much distilled water is added and bottom of meniscus rises above etched line, solution is of no value. Process must be begun over again. |
| 6. | A. Mix solution in flask. | B. With hand over stopper, invert flask and shake vigorously. | C. A thorough mixing is important. |

| Step | What To Do | How To Do It | Key Points |
|------|--|---|---|
| 7. | A. Clean and dry simulator jar and head. Clean solution from the breath tube. | B. Wipe dry with clean cloth or toweling. Put a mouthpiece on the inlet tube and blow through it. | C. Use distilled water to rinse if needed. Jar and simulator head should be completely dry. Empty contents into flask. Repeat. |
| 8. | A. Pour contents of flask into simulator jar. | B. | C. Disregard any small amount that may splash out. |
| 9. | A. Moisten rubber gasket inside the simulator. | B. Dip finger into solution and run it around the rubber gasket until gasket is moist. | C. A clean finger will not contaminate solution. |
| 10. | A. Place lid on jar and check for tight seal. | B. While blowing into intake tube of simulator, place finger over outlet tube to denote resistance. | C. Do not apply pressure to intake or outlet tube when tightening. |
| 11. | A. Plug into wall outlet and turn switch on. | B. | C. Make certain head is on jar of solution <u>before</u> plugging into wall outlet. Red light should appear and paddle should turn. |
| 12. | A. Allow simulator to heat to proper temperature, 34°C $\pm 0.2^\circ\text{C}$. | B. Mercury level of the thermometer should be between 33.8° and 34.2°C. Red light should be out. | C. Watch for overheating and mercury separation. |
| 13. | A. Rinse 500ml flask twice with distilled water. | B. Place small amount of distilled water in flask. Shake and discard. Repeat. | C. Only small amount of distilled water is needed. |

C. Taking sample

1. Check the simulator thermometer for proper temperature (33.8° to 34.2°C).
2. Immediately before connecting the simulator to the DataMaster for taking the sample, blow vigorously into the simulator at least twice in order to bring the headspace to complete equilibrium
3. Place a connector between the outlet tube of the simulator and the breath tube of the DataMaster.
4. Blow long and vigorously into the simulator when taking the sample.

Additional Simulator Procedures

The following procedures **shall** be followed in performing simulator tests on evidential breath alcohol test instruments.

1. The operator **shall** mix and run his/her own simulator solution for the required weekly tests.
2. Check simulator for leaks, check simulator temperature, and equilibrate simulator before using.
3. If the first test is high or low, (outside the 0.076 to 0.084 range, inclusive), run a second test using the **same** solution.
4. If the second test is high or low, mix a **new** solution and run a third test.
5. If the third test is high or low, run a fourth test using the **same** solution.
6. If the fourth test is high or low:
 - a. **Notify your supervisor.**
 - b. **Notify service representative at 1-800-800-8143.**
 - c. **Take the unit out of service only if advised to do so by the service representative.**
 - d. **Place a sign on the unit ("OUT OF SERVICE").**
 - e. **Make an entry in the log book ("OUT OF SERVICE") with the date and time.**
 - f. **Notify the Alcohol Enforcement Unit at (517) 336-6171 or send a e-mail message to MSP-AlcoholUnit@michigan .gov**
7. Be sure to record **ALL** simulator results (high, low, or satisfactory) on the OD-33 Evidential Breath Testing Log.

Chapter 5

Administrative Forms

Chapter 5 - ADMINISTRATIVE FORMS

OD-80 EVIDENCE TICKET

USE:

1. Whenever a subject or simulator is performed on the DataMaster, the OD-80 form, Evidence Ticket, shall be used to document the results of that test.

INSTRUCTIONS FOR USE OF EVIDENCE TICKET:

1. Record the time that the 15-minute observation of the subject began on the bottom of the form. Use the time displayed on the instrument panel only and use military time.
2. Insert the Evidence Ticket into the opening labeled "Insert Ticket" on the DataMaster when the command on the display prompts "Insert Ticket."
3. Upon completion of the test, the "Evidence Ticket" will automatically be ejected from the instrument.
4. The operator must sign his/her name on the bottom of the form.
5. Distribution and retention of the forms are described in Chapter 11.

OD-80 Evidence Ticket

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster

Evidence Ticket

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time _____
(Enter if required by regulations)

Operator Signature _____

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

OD-80

OD-33 EVIDENTIAL BREATH TESTING LOG

USE:

1. Whenever a certified operator performs a simulator test, the results shall be entered on the Evidential Breath Testing Log (OD-33).
2. If an instrument is taken out of service, an entry shall be made to that effect.
3. Each log sheet shall contain entries for a one-month period.
4. A new log sheet shall be used for each month.
5. Distribution and retention of the forms are described in Chapter 11.

INSTRUCTIONS FOR RECORDING A SIMULATOR TEST:

All sections of the form must be completed. Specific instructions for each section are given below.

1. Month - Enter current month.
2. Year - Enter current year.
3. Location - Enter name of department where instrument is located.
4. Instrument Number. - Enter the serial number (not the MSP tag number) for the instrument used.
5. ORI No. - Enter seven-digit number assigned to above location.
6. Day - Enter the day of the month (1-31).
7. Operation
 - a. Enter "Simulator" for weekly test.
 - b. Enter "Out of Service" if instrument is taken out of service. CHECK WITH A SUPERVISOR BEFORE MAKING THIS ENTRY. ENTRY REQUIRES A SERVICE CALL.
8. Operator ORI Number. - Enter seven-digit number assigned to the operator's department.
9. Results - Enter the results of the first simulator test using three decimal places. Enter a second result if conditions warrant.

10. Ampoule Control Number. - Enter the lot number appearing on the alcohol bottle.
11. Certification Number. - Enter the five-digit number assigned to the certified Breath Test Operator.
12. Signature - Enter the signature of the certified Breath Test Operator conducting the test.

INSTRUCTIONS FOR SIGNING AT THE END OF THE MONTH:

At the end of each month, a supervisor shall sign directly below the last log entry and enter the date and time.

13. Supervisor's Signature - A supervisor shall sign his/her name after checking for proper log completion.
14. Date - Enter date supervisor's check was completed in month, day, and year order.

AUTHORITY: 1949 P.A. 300
COMPLIANCE: Required
PENALTY: Removal/Decertification of Instrument

EVIDENTIAL BREATH TESTING LOG

| | | | | | | | |
|---------------------|-----------|---------------------------|----|----------------|---|------------------------|----|
| Month | | 1 | | Year | | 2 | |
| Instrument Location | | | | | | | |
| 3 | | | | | | | |
| Instrument Number | | 4 | | ORI Number | | 5 | |
| Day | Operation | Operator ORI Number MI | 8 | Results (1) | 9 | Ampoule Control Number | 10 |
| 6 | 7 | Certification Number | 11 | (2) | | Signature | 12 |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| Day | Operation | Operator ORI Number MI | | Results (1) | | Ampoule Control Number | |
| | | Certification Number | | (2) | | Signature | |
| | | Supervisor Signature | | 13 | | Date | |
| | | | | | | 14 | |

Accurate test results shall be
.076 to .084 inclusive.

DI-93 Officer's Report of Refusal to Submit to Chemical Test

USE:

1. The DI-93, Officer's Report of Refusal to Submit to Chemical Test, is to be filled out by the arresting officer.
2. The Evidential Breath Test Operator is required to fill out only selected portions of the form.

INSTRUCTIONS FOR COMPLETION BY EBT OPERATOR:

The Evidential Breath Test (EBT) Operator will need to fill out four boxes if the refusal deals with the actual breath test on the subject (i.e., technical refusal).

1. Bth Test Opr No - Enter five-digit operator certification number.
2. Breath Test Operator's Name - Enter the name of the operator who attempted to perform the breath test on the subject.
3. Badge Number - Enter the Breath Test Operator's badge number.
4. ORI Number - Enter the Breath Test Operator's ORI number for his/her department.

DI-93 (8/03) By the Authority of P.A. 300 of 1949 as amended

| | | |
|-----------------------------|------------|---------------------|
| BTH TEST OPR NO 1 | LEIN ENTRY | RECORD SEQUENCE NO. |
|-----------------------------|------------|---------------------|

OFFICER'S REPORT OF REFUSAL TO SUBMIT TO CHEMICAL TEST

| | | | | | | | |
|---|--|--|------------------------------|---|--|--|--|
| PERSON'S FULL NAME (AS APPEARS ON MICHIGAN DRIVER LICENSE) | | | | BIRTH DATE (MMDDYY) | | SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | |
| ADDRESS (NUMBER & STREET) | | | | MICHIGAN DRIVER LICENSE NUMBER | | | |
| CITY | | STATE | | ZIP | | OTHER STATE DRIVER LICENSE NUMBER | |
| HEIGHT | | WEIGHT | | EYE COLOR | | HAIR COLOR | |
| | | | | <input type="checkbox"/> OPERATOR <input type="checkbox"/> CHAUFFEUR <input type="checkbox"/> MOPED | | | |
| ARREST DATE (MMDDYY) | | MILITARY TIME | | REFUSAL DATE (MMDDYY) | | MILITARY TIME | |
| COUNTY (OF ARREST) | | | CITY OR TOWNSHIP (OF ARREST) | | | CO/CTY/TWP CODE | |
| | | | | MICHIGAN | | | |
| VEHICLE TYPE | | Was person involved in an accident? | | INSTRUMENT # | | BAC #1 | |
| | | <input type="checkbox"/> YES <input type="checkbox"/> NO | | REFUSED | | N/A | |
| | | | | | | BAC #2 | |
| | | | | | | BAC #3 | |
| | | | | | | UCR CODE | |
| | | | | | | COMPLAINT NUMBER | |
| ARRESTING OFFICER'S NAME | | | | BADGE NUMBER | | ORI NUMBER | |
| BREATH TEST OPERATOR'S NAME, only if not listed above and necessary for hearing | | | | BADGE NUMBER | | ORI NUMBER | |
| 2 | | | | 3 | | 4 | |
| OTHER OFFICER, if necessary for hearing | | | | BADGE NUMBER | | ORI NUMBER | |
| | | | | | | | |

The above named person was arrested for a violation of section 625(1),(3),(4),(5),(6),(7),(8), 625a(5) or 625m of the Michigan Vehicle Code, as amended, or a local ordinance substantially corresponding to section 625(1),(3),(4),(5),(6),(7),(8), 625a(5) or 625m or for the offense of felonious driving, manslaughter, murder, or negligent homicide resulting from the operation of a motor vehicle.

The officer had reasonable grounds to believe that the above named person violated section 625(1),(3),(4),(5),(6),(7),(8), 625a(5) or 625m of the Michigan Vehicle Code, as amended, or a local ordinance substantially corresponding to section 625(1),(3),(4),(5),(6),(7),(8), 625a(5) or 625m or committed the offense of felonious driving, negligent homicide, manslaughter or murder resulting from the operation of a motor vehicle while impaired by or under the influence of alcoholic liquor or a controlled substance, or a combination of alcoholic liquor and a controlled substance, or while having an unlawful bodily alcohol content, or if the person is less than 21 years of age while having any bodily alcohol content. [MCL 257.625c(1)(b)]

The above named person was requested to take a chemical test. The person was advised of the chemical test rights as required under section 625a and refused to take a chemical test.

| | | | | | | | | | | | | | | |
|--------------------------------------|---|--|--|--|--|-----------------------|---|---|---|------------------|-------------|---|---|-------|
| Michigan driver license confiscated? | YES <input type="checkbox"/> NO <input type="checkbox"/> | Michigan driver license destroyed? | YES <input type="checkbox"/> NO <input type="checkbox"/> | Under 21? | YES <input type="checkbox"/> NO <input type="checkbox"/> | LICENSED OUT OF STATE | | | | | | | | |
| Driving status on date of arrest | VALID <input type="checkbox"/> EXPIRED <input type="checkbox"/> | RESTRICTED <input type="checkbox"/> SUSPENDED <input type="checkbox"/> | REVOKED <input type="checkbox"/> DENIED <input type="checkbox"/> | UNLICENSED <input type="checkbox"/> UNKNOWN <input type="checkbox"/> | | | | | | | | | | |
| Licensee | Permit | A | B | C | H | N | X | P | T | CDL restrictions | CY | F | R | Other |
| CDL | | | | | | | | | | | ENDORSEMENT | | | |

| | | | |
|-----------------------|--|------------------------------------|-----------------------------|
| VEHICLE TYPES | MD Med Tr w/wo Trl ovr 10,000# (non CDL) | AP Group A Passenger | BH Group B Hazardous |
| CY Cycle | OR Offroad Vehicle (ATV type) | AT Group A Double/Triple | BN Group B Tank |
| MO Moped | SM Snowmobile | AX Group A Tank & Hazardous | BP Group B Passenger |
| PA Pass Car & Sta Wgn | OO Other | AY Group A Tank & Double/Triple | EX Group B Tank & Hazardous |
| VA Van & Motor Home | AA Group A | AZ Group A Hazardous Double/Triple | CH Group C Hazardous |
| PJ Pickup | AH Group A Hazardous | AL Grp A Hazard Tank Double/Triple | CP Group C Passenger |
| ST Sm Tr (un 10,000#) | AN Group A Tank | BB Group B | CX Group C Tank & Hazardous |

SERVICE OF NOTICE OF SUSPENSION

I certify that I hand delivered a copy of the document containing the Notice of Suspension and Appeal Rights to the person named above.

Officer's Signature _____ Date (MMDDYY) _____

OFFICER'S INSTRUCTIONS

Give two white copies to person
Keep two pink copies

REQUEST FOR HEARING

Driver's Copy to Request Hearing

DI-177 Breath, Blood, Urine Test Report

USE:

1. The DI-177, Breath, Blood, Urine Test Report, is to be filled out by the arresting officer.
2. The Evidential Breath Test (EBT) Operator is required to fill out only selected portions of the form.

INSTRUCTIONS FOR COMPLETION BY EBT OPERATOR:

Eight boxes need to be filled out by the evidential breath test operator.

1. Bth Test Opr No - Enter five-digit operator certification number.
2. Instrument # - Enter the DataMaster serial number (not the MSP tag number).
3. BAC #1 - Enter subject's test result.
4. BAC #2 - Enter second test if provided. If a sample is not obtained, leave blank.
5. BAC #3 - Enter third test if needed. If sample is not obtained, leave blank.
6. Breath Test Operator's Name - Enter the name of the operator performing the breath test.
7. Badge Number - Enter the Breath Test Operator's badge number.
8. ORI Number - Enter the Breath Test Operator's ORI number for his/her department.

BTH TEST OPR NO

LEIN ENTRY

RECORD SEQUENCE NO.

1

BREATH, BLOOD, URINE TEST REPORT**LEIN INPUT PROMPT**

| | | | | | | | |
|---|--|--|--|--------------------------------|--|---|--|
| PERSON'S FULL NAME (AS APPEARS ON MICHIGAN DRIVER LICENSE) | | | | BIRTH DATE (MMDDYY) | | SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | |
| ADDRESS (NUMBER & STREET) | | | | MICHIGAN DRIVER LICENSE NUMBER | | | |
| CITY | | STATE | | ZIP | | OTHER STATE DRIVER LICENSE NUMBER | |
| HEIGHT | | WEIGHT | | EYE COLOR | | HAIR COLOR | |
| ARREST DATE (MMDDYY) | | | | MILITARY TIME | | INCIDENT DATE (MMDDYY) | |
| COUNTY (OF ARREST) | | | | CITY OR TOWNSHIP (OF ARREST) | | CO/CITY/TWP CODE | |
| MICHIGAN | | | | | | | |
| VEHICLE TYPE | | Was person involved in an accident? <input type="checkbox"/> YES <input type="checkbox"/> NO | | INSTRUMENT # | | BAC #1 | |
| | | | | 2 | | 3 | |
| | | | | 4 | | 5 | |
| | | | | 6 | | 7 | |
| ARRESTING OFFICER'S NAME | | | | BADGE NUMBER | | ORI NUMBER | |
| BREATH TEST OPERATOR'S NAME, only if not listed above and necessary for hearing | | | | BADGE NUMBER | | ORI NUMBER | |
| 6 | | | | 7 | | 8 | |

You have been arrested for a crime described in section 825c of the Michigan Vehicle Code and submitted to a chemical test which revealed an unlawful bodily alcohol content or have a blood or urine test pending.

This temporary driving permit is valid only if you have a valid Michigan driver license. If your license was restricted, this permit grants the same restrictions. This permit grants you the same CDL and/or endorsements that are on your Michigan license. You may not apply for a replacement photo license.

This permit is to be used until the criminal charges against you are dismissed or until you are acquitted, or your license or permit is suspended, restricted, or revoked for a conviction. [MCL 257.625g(3)]

| | | | | | | | |
|---|--|---|--|--|--|--|--|
| Michigan driver license confiscated? <input type="checkbox"/> YES <input type="checkbox"/> NO | | Michigan driver license destroyed? <input type="checkbox"/> YES <input type="checkbox"/> NO | | Under 21? <input type="checkbox"/> YES <input type="checkbox"/> NO | | LICENSED OUT OF STATE <input type="checkbox"/> | |
| Driving status on date of arrest | | VALID <input type="checkbox"/> EXPIRED <input type="checkbox"/> | | RESTRICTED <input type="checkbox"/> SUSPENDED <input type="checkbox"/> | | REVOKED <input type="checkbox"/> | |
| License | | Permit | | A | | B | |
| CDL | | | | C | | H | |
| | | | | N | | X | |
| | | | | P | | T | |
| | | | | CDL restrictions | | | |
| | | | | ENDORSEMENT | | CY | |
| | | | | | | F | |
| | | | | | | R | |
| | | | | | | Other | |

Officer's Signature

Date (MMDDYY)

| | | | | | | | |
|-----------------------|--|---|--|------------------------------------|--|-----------------------------|--|
| VEHICLE TYPES | | MD Med Tr w/w Trl ovr 10,000# (non CDL) | | AP Group A Passenger | | BH Group B Hazardous | |
| CY Cycle | | OR Offroad Vehicle (ATV type) | | AT Group A Double/Triple | | BN Group B Tank | |
| MO Moped | | SM Snowmobile | | AX Group A Tank & Hazardous | | BP Group B Passenger | |
| PA Pass Car & Sta Wgn | | OO Other | | AY Group A Tank & Double/Triple | | BX Group B Tank & Hazardous | |
| VA Van & Motor Home | | AA Group A | | AZ Group A Hazardous Double/Triple | | CH Group C Hazardous | |
| PU Pickup | | AH Group A Hazardous | | AL Grp A Hazard Tank Double/Triple | | CP Group C Passenger | |
| ST Sm Tr (un 10,000#) | | AN Group A Tank | | BB Group B | | CK Group C Tank & Hazardous | |

Notice to officer: Complete this form when any alcohol test is given.

Confiscate and destroy the arrested person's Michigan driver license or permit, issue the third copy of this form, and destroy the second copy if a breath test revealed a bodily alcohol content of:

0.08 grams or more per 210 liters of breath while operating a motor vehicle, or
 0.04 grams or more per 210 liters of breath while operating a commercial motor vehicle, or
 0.02 grams or more per 210 liters of breath while operating a vehicle and less than 21 years of age.

When a voluntary blood or urine test is pending, or in special cases involving an unconscious person where a search warrant has been issued, attach the Michigan driver license or permit to the second copy of this form and issue the third copy to the arrested person.

If a chemical test is refused, use the Officer's Report of Refusal to Submit to Chemical Test form (DI-93).

For all of the above, input arrest data into the LEIN F Breath Screen, even if the driver is licensed out of state. (Do not confiscate the out of state license.)

Officer's Copy

Chapter 6

DataMaster Functional Parts

Chapter 6 - DATAMASTER FUNCTIONAL PARTS

DATAMASTER EXTERIOR COMPONENTS

The functional parts of the BAC DataMaster are described as follows:

Display Panel

The display panel provides directions for operation of the instrument. The operator is prompted through each testing procedure step. Any error messages are also displayed.

Ready Light

The ready light is a green light on the left side of the panel indicating, when lit, that the instrument is operational and ready to begin a test.

Keyboard

The keyboard allows the operator to initiate a test sequence and provide input data for subject and simulator testing.

Breath Tube

The breath tube is used to provide test samples into the instrument. A mouthpiece must be attached to the tube before use. The tube is semi-rigid and heated to avoid vapor condensation.

Insert Ticket Slot

This labeled slot provides an entry slot for the Evidence Ticket. Directions are printed on the Evidence Ticket for proper insertion. As the Evidence Ticket is fed into the slot, the printer mechanism is activated, and the ticket is advanced to a predetermined point and ready for printing data at the completion of the test.

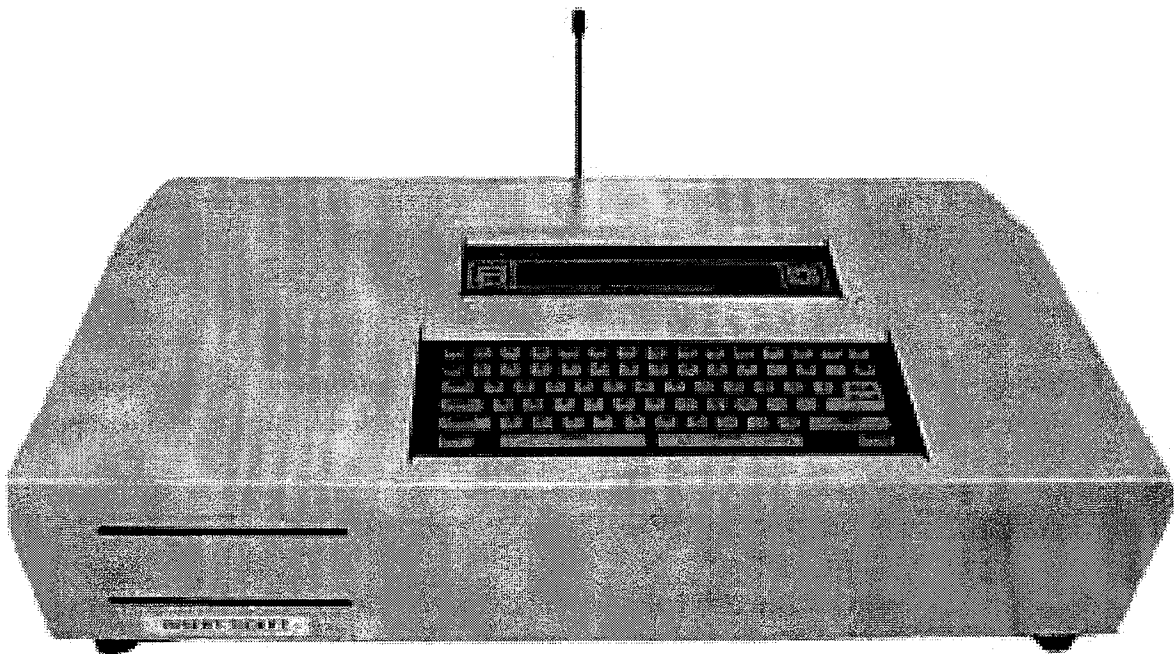
Ticket Out Slot

This unlabeled slot above the Insert Ticket Slot is the exit port for the Evidence Ticket at the completion of the test.

Metal Cover

The metal cover protects the inner workings of the DataMaster and is not to be removed.

BAC DATA MASTER



DATAMASTER REAR PANEL

The functional parts of the BAC DataMaster rear panel are described as follows:

Breath Tube

Two breath tube ports are identified on the rear panel, one in each upper corner. Michigan uses the one to the left side. Other states may prefer the tube on the other side. The breath tube is not to be removed.

Heater Plug

This plug provides a source of heat for the Breath Tube.

Radio Frequency Interference (RFI) Antenna

The antenna will detect the presence of RFI in the vicinity of the instrument.
CAUTION: NO PORTABLE RADIO TRANSMITTERS SHALL BE ALLOWED IN THE AREA DESIGNATED FOR BREATH ALCOHOL TESTING.

On/Off Switch

This toggle switch should be left ON at all times, unless less than six (6) tests are performed per week. **IN THE EVENT OF A SEVERE ELECTRICAL THUNDERSTORM, THE INSTRUMENT MUST BE UNPLUGGED, NOT JUST TURNED OFF, UNTIL WEATHER CONDITIONS IMPROVE.** A battery back-up system will maintain correct time and date.

Power Supply

Use only the grounded power supply cable furnished with the instrument.

Auxiliary AC Receptacle

This outlet is not operational (disconnected at factory).

Telephone Jack

This jack is not currently being used in Michigan.

Keyboard Jack

This jack is not used in Michigan

Exhaust/Calibrate Port

During the “Purge” cycle on the DataMaster, room air is drawn into the sample chamber via the “Breath Tube” and is expelled through this port by means of an internal pump.

Simulator Ports - Vapor In and Pressure Out Ports

These two ports are not used in Michigan.

Dry Gas Port

This port is not used in Michigan.

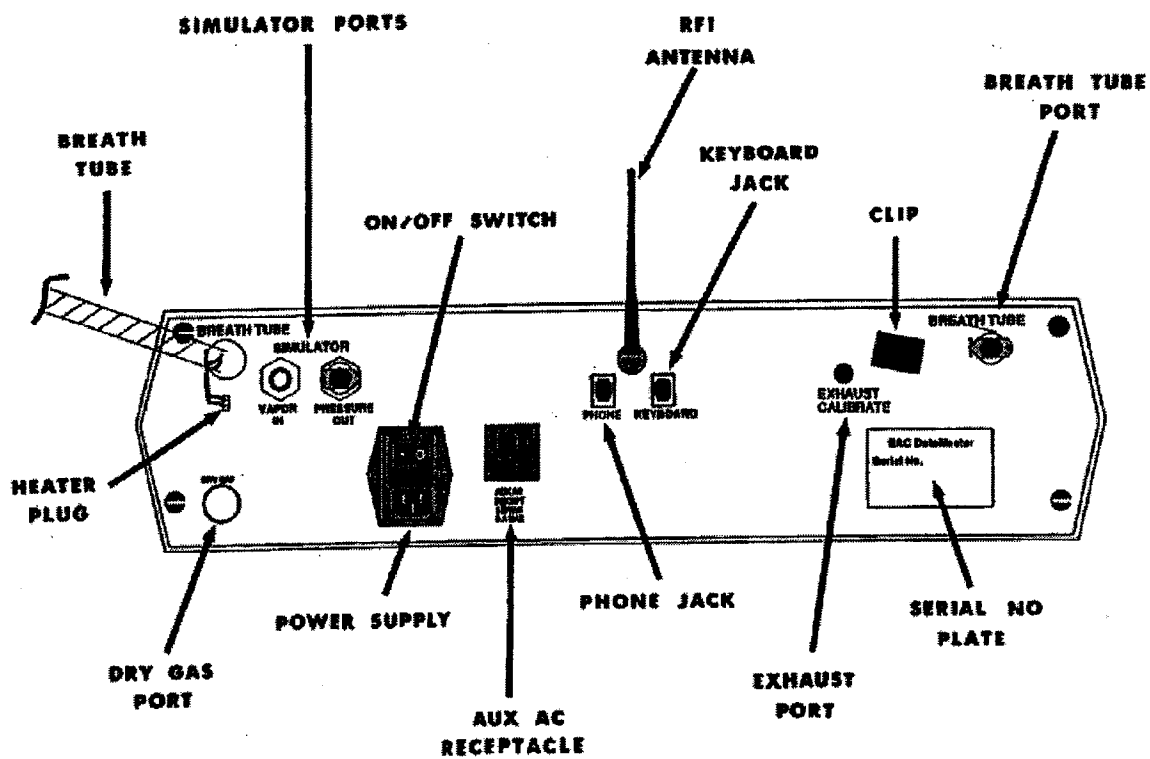
Clip

This clip is to be used only when transporting the unit.

Serial Number Plate

The serial number of the instrument is located on this plate.

DATAMASTER REAR PANEL



DATAMASTER KEYBOARD

The keyboard supplied with the DataMaster is generic. Some of the keys are inactive and have no function. Other keys may be bi-functional. All instrument functions are generated via the keyboard. Data entry is composed of two parts: initial entry and review of entered information. Several keys have different functions depending upon whether data is being entered or being reviewed.

1. **“RUN”** key - Initiates the subject test sequence.
2. **“CLOCK”** key - Inactive.
3. **“P1”** key - Inactive.
4. **“P2”** key - Inactive.
5. **“SET”** key - Password-protected.

“TIME” Password - Allows operator access to change time and date to correct for daylight savings time changes and leap year changes.
6. **“ADV”** key - Dependent upon access to **“SET”** key.

Used for **“TIME”** password ; it allows one to advance the time and date.

This key is inactive if the **“SET”** key is not accessed via a password.
7. **“F1”** key - Password-protected. Only service personnel use this key. If it should be pressed, press **“Enter”** key. The message **“Access Denied”** will appear on the display momentarily, and the normal standby display will reappear.
8. **“F2”** key - Dependent upon access to **“F1”** key.

This key is inactive if the **“F1”** key is not accessed via a password.
9. **“SUP”** key - Initiates the simulator test sequence.
10. **“TST”** key - Password-protected. Only service personnel use this key. If it should be pressed, press **“Enter”** key. The message **“Access Denied”** will appear on the display momentarily, and the normal standby display will reappear.
11. **“MTR”** key - Password-protected. Only service personnel use this key. If it should be pressed, press **“Enter”** key. The message **“Access Denied”** will appear on the display momentarily, and the normal standby display will reappear.
12. **“NV”** key :- Inactive.
13. **“ABT”** key - Inactive.
14. **“CLR”** key - Locks the minute setting (Date/Time Modifications, Chapter 9) and returns to the normal standby display.

15. **“CPY” key** - Allows operator to reprint a copy of the last test report or a copy of a test aborted due to an error message.
16. **“LEFT ARROW” key** - A bi-functional key.

Data Entry - Deletes one character at a time right to left.

Review Data - Moves the cursor one (1) space to the left at a time, but does not delete any characters.
17. **“DEL” key** - A bi-functional key.

Data Entry - Inactive.

Review Data - Deletes the character at the cursor and removes that space.
18. **“TAB” key** - A bi-functional key.

Data Entry - Inactive.

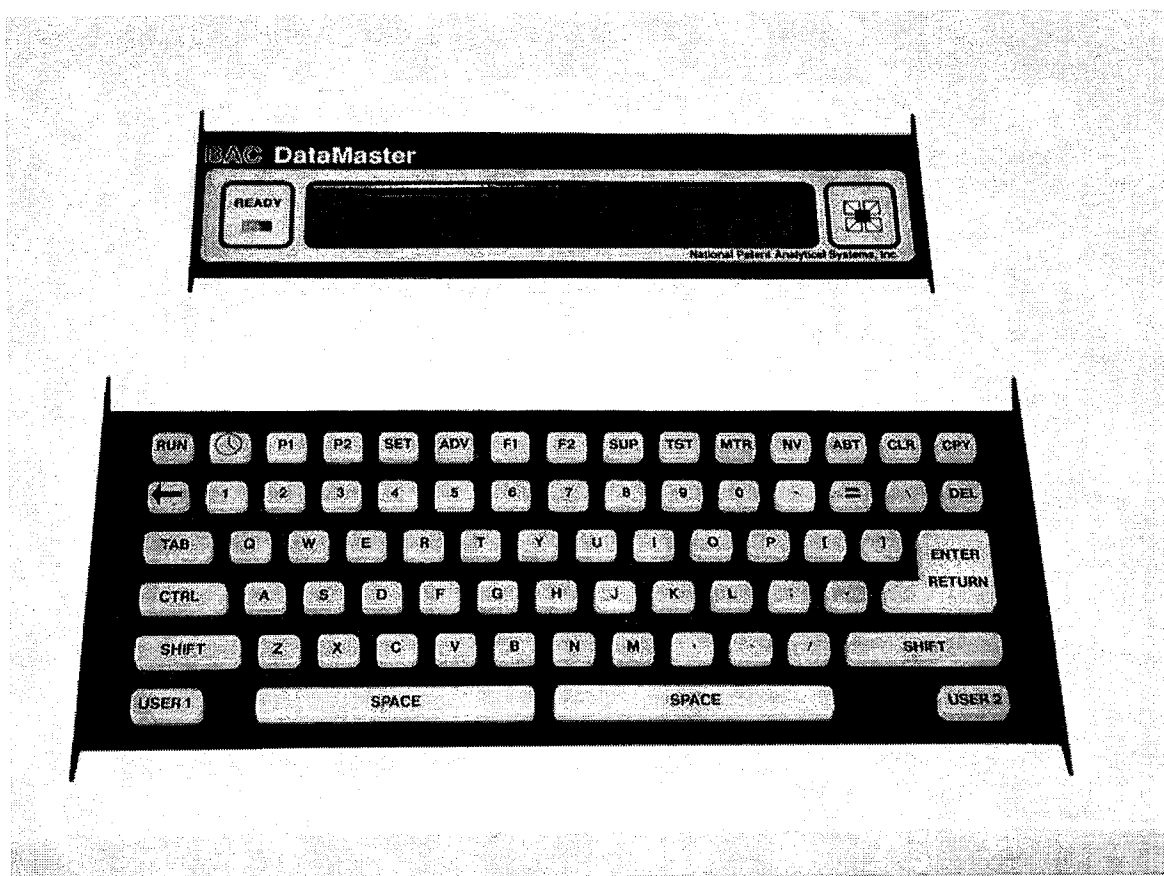
Review Data - Moves the cursor one (1) space to the right at a time, but does not delete any characters.
19. **“CONTROL” key** - Inactive by itself.

“CONTROL-X” – Bi-functional (Hold down **“CONTROL”** key and press **“X”** key).

Data Entry - Deletes the entire entry that the operator is working on.

Review Data - Inactive.
20. **“ENTER/RETURN” key** - Allows computer to accept entered data into memory.
21. **“SHIFT” key** - Inactive (both keys).
22. **“USER 1” key** - Inactive.
23. **“USER 2” key** - Inactive.
24. **“SPACE” key** - Allows spacing in entered data.
25. All other keys (letters, numerals, etc.) - Use will vary depending upon data requested. Some entries accept only letters; others accept only numerals, while others will accept both letters and numerals. This will be covered in a later chapter.

DATA MASTER KEYBOARD



Chapter 7

Simulator Test Sequence

Chapter 7 - SIMULATOR TEST SEQUENCE

Normal standby display: **"MONTH DAY TIME"**
"READY PUSH RUN" (flashing)

Step 1: Prepare a 0.080 ethanol standard solution according to established procedures.

Step 2: Push **"SUP"** key on keyboard.

Step 3: Display: **"OPERATOR'S NAME (L/F/M):"**

Step 4: Type in your last name/first name/middle name.

40 characters are allowed for the entire name. They may be:

1. A letter.
2. A slash (/). Use only to separate last, first, and middle name.
3. A hyphen (-). Use only when part of a name.

Example: SMITH-JONES/LUCILLE/S

4. An apostrophe ('). Use only when part of a name.

Example: O'LEARY/DAN/M

Press **"Enter"** key.

Step 5: Display: **"OPERATOR CERTIFICATE #:"**

Type in your five-digit operator certification number.

20 characters are allowed for this entry. All keys may be used.

Press **"Enter"** key.

Step 6: Display: **"REVIEW DATA? <Y/N>"**

If you want to review each entry, press **"Y."** Each display will reappear for review. The **"Enter"** key will advance to each display. Corrections may be made via the keyboard.

"Left Arrow" key - Moves cursor to the left one space.

"Tab" key - Moves cursor to the right one space.

“Letter or Number” key - Replaces existing character (type over character error).

“Del” key - Deletes character and removes space.

After data is reviewed, display **“REVIEW DATA? <Y/N>”** will reappear. If data is correct, press **“N”** key. The DataMaster will now proceed to the automatic simulator test sequence.

Step 7: **“PURGING”**

All chambers and internal plumbing are cleansed of any residual substances by ambient (surrounding) air, which is pulled through the inlet (Breath) tube and pumped throughout the instrument by an internal pump. **“.000”** will appear on the display if the chamber is clean.

CAUTION: Breath tube can act like a vacuum cleaner and suck in dirt on the counter. Lay breath tube across top of instrument.

Step 8: **“AMBIENT ZEROING”**

After the pump stops, the DataMaster determines a zero reference based on ambient air in the Sample Chamber. During this cycle an interference filter is inserted into the infrared path to check for contaminants in the ambient air sample. Two different filters with unique and known infrared bandwidths are used to separate ethanol from potential interferences such as acetone.

Step 9: **“BLANK TEST”**

A reading is made of the checks conducted during **“Ambient Zeroing.”** **“.000”** will appear on the display if no contaminant was detected. A **“Blank”** test is conducted prior to any subject or simulator test.

Step 10: **“INTERNAL STANDARD CHECK”**

This indicates the internal standard was checked.

During this cycle a quartz plate is inserted into the infrared path to ensure that the accuracy of the DataMaster has not changed since the last calibration. Each DataMaster is programmed to retain in memory the exact infrared absorption value of this quartz standard. The instrument measures the absorption of the quartz plate and compares this measured value with the value obtained at calibration. The two values must agree within prescribed limits or the operation will be aborted due to calibration error.

Step 11: **“EXTERNAL STANDARD”** (flashing)

“.000” will appear in the lower right corner.

This display indicates the instrument is ready to accept a vapor sample from the heated simulator.

Equilibrate the simulator and check the temperature. Attach the simulator **“Outlet Tube”** to the DataMaster **“Breath Tube”** using a mouthpiece as a connector. Provide a vapor sample to the instrument by blowing into the **“Inlet Tube”** on the simulator. The beeping signal will change to a steady sound. If there is no beeping sound after providing a sample, the sample was accepted. (Note: Due to the resistance of blowing through the simulator solution, it is necessary to blow long and vigorously to obtain a sample that is acceptable.)

Step 12: **“TEST RESULTS”**
“ALCOHOL .XXX”

The display will show the results of the simulator test. The results must be within ± 0.004 of 0.080 (0.076 to 0.084 inclusive). **SEE NOTE #2.**

Step 13: **“PURGING”**

Step 7 is repeated.

Step 14: **“BLANK TEST”**

Step 9 is repeated.

Step 15: **“INTERNAL STANDARD CHECK”**

Step 10 is repeated.

Step 16: **“INSERT TICKET”**

Insert an “Evidence Ticket” per instructions on form. Results of the test will automatically be printed on the ticket. Operator must sign the “Evidence Ticket.”

Step 17: Normal standby display will appear.

Step 18: Record test results on MSP form OD-33 Evidential Breath Testing Log per instructions.

Step 19: The white copy of the "Evidence Ticket" is for your police department records.
The yellow copy is for the police department where the instrument is located.
The pink copy may be discarded.

Step 20: Discard contents of simulator and dry thoroughly.

NOTES:

1. Only one test is allowed for this sequence. If repeat testing is required, the test sequence must be initiated a second time.
2. See the "Additional Simulator Procedures" on Page 4-6 for the procedure to be followed if test results do not meet the allowable variation.

| SIMULATOR TEST | | |
|---|----------|-------|
| FACE THIS SIDE DOWN - THIS EDGE IN FIRST | | |
| BAC DataMaster Evidence Ticket | | |
| STATE OF MICHIGAN DEPARTMENT OF STATE POLICE | | |
| INSTRUMENT 930018 | | |
| JULY 23, 2003 | | |
| OPERATOR'S NAME (L/F/M): | | |
| CURTIS/PERRY// | | |
| OPERATOR CERTIFICATE #: | | |
| 11200 | | |
| --- SUPERVISOR MODE --- | | |
| BLANK TEST | .000 | 10:53 |
| INTERNAL STANDARD | VERIFIED | 10:53 |
| EXTERNAL STANDARD | .095 | 10:53 |
| BLANK TEST | .000 | 10:53 |
| INTERNAL STANDARD | VERIFIED | 10:54 |
| ALCOHOL READINGS ARE EXPRESSED AS GRAMS OF ALCOHOL PER 210 LITERS OF BREATH | | |
| Start Observation Time _____ | | |
| Operator Signature <i>Perry Curtis</i> | | |
| Card Stock No. 60023 | | |
| REORDER ALL SUPPLIES FROM NPAS P.O. BOX 1436, MANSFIELD, OH 44901 PHONE: 1-800-800-8143 (NPAS) | | |

AUTHORITY: 1949 PA 300
COMPLIANCE: Required
PENALTY: Removal/Decertification of Instrument

EVIDENTIAL BREATH TESTING LOG

| | | Month | Year |
|-----|-----------|---|--|
| | | Instrument Location | |
| | | Instrument Number | ORI Number MI |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| Day | Operation | Operator ORI Number MI Certification Number | Results (1) (2) Signature Ampoule Control Number |
| | | Supervisor Signature | |
| | | Date | |

Accurate test results shall be
.075 to .084 inclusive.

Chapter 8

Subject Test Sequence

Chapter 8 - SUBJECT TEST SEQUENCE

Step 1: Check mouth of subject for blood, food, gum, tobacco, or any other foreign substances. Observe subject for at least 15 minutes. Record observation start time on Evidence Ticket. Use the time displayed on the instrument panel only.

Step 2: Normal standby display: **"MONTH, DAY, TIME"**
"READY PUSH RUN" (flashing)

Step 3: Push **"RUN"** key on keyboard.

Step 4: Display: **"SUBJECT'S NAME (L/F/M):"**

Type in the subject's last name/first name/middle name.

38 characters are allowed for the entire name. They may be:

1. A letter.
2. A slash (/). Use only to separate last, first, and middle name.
3. A hyphen (-). Use only when part of a name.

Example: SMITH-JONES/LUCILLE/S

4. An apostrophe ('). Use only when part of a name.

Example: O'LEARY/DAN/M

If the subject's name is unknown, type **"UNKNOWN."**

Press **"Enter"** key.

NOTE: If data is not entered for a particular display within two (2) minutes, a tone will be heard and the display will revert back to the normal standby display.

Step 5: Display: **"SUBJECT'S STREET ADDRESS:"**

Type in the subject's street address.

38 characters allowed for street address. All keys may be used for this entry.

If the subject's address is unknown, type **"UNKNOWN."**

Press **"Enter"** key.

See NOTE in Step 4.

Step 6: Display: **“CITY, STATE, ZIP”:**

Type in information.

38 characters allowed for entire entry. All keys may be used for this entry.

If the city, state, zip is unknown, enter **“UNKNOWN.”**

Press **“Enter”** key.

See NOTE in Step 4.

Step 7: Display: **“SUBJECT’S DOB:”**
“mm/dd/yyyy”

Type in the date.

Eight (8) numerals must be entered. Zero-fill if necessary. Four (4) numerals must be entered for the year of birth. Only numerals are acceptable. If an unrealistic date is entered, it will not be accepted. An error beep will result and the display will request new data for DOB. Only the numerals need to be added. The slashes (/) are typed automatically.

Examples:

| <u>Correct</u> | <u>Incorrect</u> |
|----------------|------------------|
| 01/07/1956 | 1/7/1956 |
| 10/05/1942 | 10/5/1942 |
| 10/10/2001 | 15/35/1998 |

If the subject’s DOB is unknown, make no entry.

Press **“Enter”** key.

See NOTE in Step 4.

Step 8: Display: **“LICENSE NUMBER:”**

Type in the license number.

If license number is unknown, type **“UNKNOWN.”**

20 characters allowed for entire entry. All keys may be used for this entry.

Press **“Enter”** key.

See NOTE in Step 4.

Step 9: Display: **“REPORT NUMBER:”**

Type in the report (complaint) number.

If report number is unknown, just press enter. (Not a required field.)

20 characters allowed for entry. All keys may be used for this entry.

Press **“Enter”** key.

See NOTE in Step 4.

Step 10: Display: **“OPERATOR’S NAME:”**

Type in your last name/first name/middle name.

40 characters are allowed for the entire name. They may be:

1. A letter.
2. A slash (/). Use only to separate last, first, and middle name.
3. A hyphen (-). Use only when part of a name.

Example: SMITH-JONES/LUCILLE/S

4. An apostrophe ('). Use only when part of a name.

Example: O’LEARY/DAN/M

Press **“Enter”** key.

Step 11: Display: **“OPERATOR’S CERTIFICATION #:”**

Type in your five-digit operator certification number.

20 characters are allowed for this entry. All keys may be used.

Press **“Enter”** key.

Step 12: Display: **“REVIEW DATA? <Y/N>”**

If you want to review data entered, press **“Y.”** Each display will reappear for review. Pressing the **“Enter”** key will advance the display to the next entry. Corrections can be made via the keyboard.

“Left Arrow” key - Moves cursor to the left one space.

“Tab” key - Moves cursor to the right one space.

“Letter or Number” key - Replaces existing character (type over character error).

“Del” key - Deletes character and removes space.

After data is reviewed, display **“REVIEW DATA? <Y/N>”** will reappear. If the data is correct, press **“N”** key. The DataMaster will now proceed to the automatic test sequence.

Step 13: **“PURGING”**

All chambers and internal plumbing are cleansed of any residual substances by ambient (surrounding) air, which is pulled through the inlet (Breath) tube and pumped throughout the instrument by an internal pump. **“.00”** will appear on the display if the chamber is clean.

CAUTION: Breath tube can act as a vacuum cleaner and suck in dirt on the counter. Lay breath tube across the top of the instrument.

If the subject reeks of ethanol, remove him/her from the immediate test area until this cycle is completed.

Step 14: **“AMBIENT ZEROING”**

After the pump stops, the DataMaster determines a zero reference based on ambient air in the Sample Chamber. During this cycle an interference filter is inserted into the infrared path to check for contaminants in the ambient air sample. Two different filters with unique and known infrared bandwidths are used to separate ethanol from potential interference such as acetone.

Step 15: **“BLANK TEST”**

A reading is made of the checks conducted during **“Ambient Zeroing.”** **“.000”** will appear on the display if no contaminant was detected. A **“Blank”** test is conducted prior to any subject or simulator test.

Step 16: **“INTERNAL STANDARD CHECK”**

This indicates the internal standard was checked.

During this cycle a quartz plate is inserted into the infrared path to ensure that the accuracy of the DataMaster has not changed since the last calibration. Each DataMaster is programmed to retain in memory the exact infrared absorption value of this quartz standard. The instrument measures the absorption of the quartz plate and compares this measured value with the value obtained at calibration. The two values must agree within prescribed limits or the operation will be aborted due to calibration error.

Step 17: **“PLEASE BLOW” (flashing)**

A beeping signal indicates the DataMaster is ready to accept a subject sample.

Step 18: Insert a new mouthpiece into the breath tube.

Each mouthpiece is individually wrapped.

Push one end of the mouthpiece partially through the plastic bag. Check the opening of the mouthpiece for any plastic residue from the plastic bag. Use the plastic bag to avoid touching the mouthpiece as you insert the mouthpiece into the breath tube. Remove bag without touching mouthpiece.

Step 19: Position the subject to the right of the instrument, and, if not handcuffed, have the subject place his or her hands behind his or her back so that the subject will not interfere with the test procedure.

Communicate with the person taking the test.

Give clear instructions so that the subject will understand how to provide an adequate breath sample.

The operator should advise the subject to:

“Place your mouth on the mouthpiece and blow long and steady into the tube until I tell you to stop.”

Once the subject starts to blow through the breath tube, the instrument’s beeping tone will change to a steady tone, which indicates that the instrument is receiving an adequate sample.

Allow the subject to expel all of the air in his/her lungs before telling him or her to stop. If the instrument does not produce a beeping sound after the subject stops blowing, the breath sample has been accepted.

Step 20: **“PURGING”**

Step 13 is repeated.

Step 21: **“AMBIENT ZEROING”**

Step 14 is repeated.

Step 22: **“BLANK TEST”**

Step 15 is repeated.

Step 23: **“PLEASE BLOW” (flashing)**

A beeping signal indicates the DataMaster is ready to accept the second breath sample from the subject.

Repeat Steps 18 and 19.

A new mouthpiece must be used for the second test.

NOTE: If the second breath test result is not within the allowable variation of the first breath test results, the DataMaster will automatically request a third breath test. If so, Steps 20 through 23 will be repeated.

Step 24: **“PURGING”**

Step 13 is repeated.

Step 25: **“AMBIENT ZEROING”**

Step 14 is repeated.

Step 26: **“BLANK TEST”**

Step 15 is repeated.

Step 27: **“INTERNAL STANDARD CHECK”**

Step 16 is repeated.

Step 28: **“TEST RESULTS”
“ALCOHOL .XX”**

The display will show the results of the subject’s last test only (second or third blow).

Step 29: Display: **"INSERT TICKET"**

Insert an **"Evidence Ticket"** into instrument upside down following arrows on ticket. If a ticket is not inserted within one (1) minute, a tone will be heard and the display will revert back to the normal standby display.

The printer is activated and the results of the subject's testing are printed out on the Evidence Ticket.

The Evidence Ticket will be delivered through the slot above the "Insert Ticket" slot. Operator must sign "Evidence Ticket."

Do not attempt to remove the Evidence Ticket before the printer stops. Damage to the printer could result.

Evidence Ticket distribution:

White copy - Attach to original complaint.

Yellow copy - Forward to prosecutor's office.

Pink copy - Give to arrested subject.

ADDITIONAL CONSIDERATIONS

Refusals

Only two types of refusals may result after a subject has been read the chemical test rights and has agreed to provide a breath alcohol test but does not provide an appropriate breath sample into the BAC DataMaster.

A. Operator Refusal - Two-minute time limit on the DataMaster

An operator refusal occurs when the operator decides that the subject is not making a sincere effort to provide a breath sample.

When the display **"PLEASE BLOW"** appears, the subject has two (2) minutes to provide a breath sample. If an inadequate sample or no sample at all is received during that time, the display will indicate:

"SUBJECT REFUSED? <Y/N>"

The operator must decide if the subject should be cited for an "operator refusal" at this time. If a refusal is warranted, the operator will type **"Y,"** the evidence ticket will print out **"Refused,"** and the test is completed. If an "operator refusal" is not warranted at this time, the operator will type **"N."** The instrument will automatically purge, ambient zero, run a blank test, and display:

“PLEASE BLOW” (flashing)

The subject now has additional two (2) minutes to provide a breath sample. If no adequate sample is received within two (2) minutes again, the display will indicate:

“SUBJECT REFUSED? <Y/N>”

The operator must again decide if the subject should be cited for an “operator refusal.” If a refusal is warranted, the operator will type “Y,” the evidence ticket will print out **“Refused,”** and the test is completed. If an “operator refusal” is still not warranted, the operator will type “N.” This time the instrument will purge, run a blank test, run an internal standard, and print out the evidence ticket indicating an **“INCOMPLETE”** subject sample.

When an **“INCOMPLETE”** test is received, the operator will need to start the testing procedure over by pressing **“RUN.”** If the subject again continues to not give an adequate sample after two minutes, the operator should press the **“Y”** at the **“SUBJECT REFUSED? <Y/N>”** display.

IF AN “OPERATOR REFUSAL” IS WARRANTED, WRITE THE WORD **“OPERATOR”** ON THE EVIDENCE TICKET.

B. TECHNICAL REFUSAL - FIVE ATTEMPTS TO BLOW WITHIN TWO MINUTES.

A **“technical refusal”** occurs when the instrument decides that the subject is not making a sincere effort to provide a breath sample.

A subject is allowed five (5) attempts within the two-minute time frame outlined above to provide an adequate breath sample for the DataMaster. After the 5th unsuccessful attempt, the DataMaster will automatically abort the test and print out **“REFUSED”** on the “Evidence Ticket.” The instrument will not wait the entire two minutes before indicating a refusal, but instead will abort the test anytime during the two minutes after the fifth unsuccessful attempt.

Every effort should be made to advise the subject that a refusal is pending after the 1st, 2nd, 3rd, and 4th unsuccessful attempt.

The operator is under no obligation to initiate a new test sequence following this type of refusal.

In order to verify that the mouthpiece was not obstructed during these five attempts to provide a breath sample, perform the following check:

After the 5th attempt is completed, do not remove the mouthpiece from the breath tube. The instrument will begin the **“Purge”** cycle. During the purge cycle, place a finger over the mouthpiece opening to verify that air is passing through the mouthpiece.

The two-minute time limit will take preference over all other circumstances.

For example, if three unsuccessful attempts are made and the two minutes expire, the display will indicate **“SUBJECT REFUSED? <Y/N>.”** The operator will then need to decide how to proceed as outlined previously under the “operator refusal” rule.

IF A “TECHNICAL REFUSAL” IS WARRANTED, WRITE THE WORD **“TECHNICAL”** ON THE EVIDENCE TICKET

Mouth Alcohol

Mouth alcohol implies the presence of alcohol in the mouth. If this is indicated, it may result from stomach contents containing alcohol having been regurgitated from the stomach up into the mouth. If, while the subject is blowing into the DataMaster, mouth alcohol is detected, the test will be aborted.

Both the display and the printout will indicate **“INVALID SAMPLE.”**

THIS IS NOT A REFUSAL!

The operator should start a new 15-minute observation period and go through the test procedure again. A blood test shall be requested if **“INVALID SAMPLE”** is detected again. If the subject refuses, seek a warrant. Failure of the subject to provide this test cannot be regarded as a refusal as the subject did provide a sample, even though **“INVALID SAMPLE”** was indicated, pursuant to implied consent.

Chemical Interference

If the DataMaster detects a chemical substance other than ethanol, the test will be aborted.

Both the display and the printout will indicate **“INTERFERENCE DETECTED.”**

THIS IS NOT A REFUSAL!

The operator should start a new 15-minute observation period and go through the test procedure again. A blood test shall be requested if **“INTERFERENCE DETECTED”** is indicated again. If the subject refuses, seek a warrant. Failure of the subject to provide this test cannot be regarded as a refusal as the subject did provide a sample, even though **“INTERFERENCE DETECTED”** was indicated, pursuant to implied consent.

Radio Frequency Interference

If the DataMaster detects any radio transmissions in the area that could interfere with a test result, the test will be aborted.

Both the display and the printout will indicate **“RADIO INTERFERENCE.”**

After the interference has been eliminated, press the **“RUN”** key to initiate a new test. A new 15-minute observation period is not necessary.

The display will show **“USE PREVIOUS DATA? <Y/N>.”** Enter **“Y”** or **“N”** and proceed with test.

Testimony at a DLAD Hearing

The following areas should be addressed at a Drivers License Appeal Division hearing:

- State that there was reasonable cause for the arrest by observations, actions, etc.
- State that the subject was placed under arrest for an alcohol-related violation.
- State that the subject was advised of the Chemical Test Rights.
- State that the subject was requested to take a chemical test.
- State that the subject refused to take a chemical test.
- State that the instrument was working properly (required protocol, i.e., weekly simulator tests, 120-day maintenance, etc.).
- Take the pink “Officers Copy for DLAD” Hearing section of the DI-93 with you to the hearing and get it on the record. Take the “Officers Copy” from which to testify.
- Take a copy of your Operator Certification Card to the hearing and get it on the record.
- Take copies of all Evidence Tickets to the hearing and get them on the record.
- Review the operator’s manual regarding instrument operating procedures.
- Prepare for testimony, citing the differences between an “Operator Refusal” and a “Technical Refusal,” and know which applies to the subject in your hearing.

Three Subject Tests

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
JONES/JOHN/PAUL/
SUBJECT'S ADDRESS:
123 EASY ST
LANSING, MI, 48823
SUBJECT'S DOB: 01/01/1953
LICENSE NUMBER: J123456789012
REPORT NUMBER: 00001
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|----------|-------|
| BLANK TEST | .000 | 11:09 |
| INTERNAL STANDARD | VERIFIED | 11:09 |
| SUBJECT SAMPLE | .17 | 11:09 |
| BLANK TEST | .000 | 11:10 |
| SUBJECT SAMPLE | .11 | 11:10 |
| BLANK TEST | .000 | 11:11 |
| SUBJECT SAMPLE | .17 | 11:12 |
| BLANK TEST | .000 | 11:12 |
| INTERNAL STANDARD | VERIFIED | 11:12 |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1054
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

OC

Two Subject Tests

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
JONES/JOHN/PAUL/
SUBJECT'S ADDRESS:
123 HERE ST
LANSING, MI, 48823
SUBJECT'S DOB: 01/01/1953
LICENSE NUMBER: J123456789012
REPORT NUMBER: 000001
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|----------|-------|
| BLANK TEST | .000 | 11:04 |
| INTERNAL STANDARD | VERIFIED | 11:04 |
| SUBJECT SAMPLE | .11 | 11:04 |
| BLANK TEST | .000 | 11:05 |
| SUBJECT SAMPLE | .11 | 11:06 |
| BLANK TEST | .000 | 11:06 |
| INTERNAL STANDARD | VERIFIED | 11:06 |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1049
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

OD-80

First Subject Test Provided
Second Subject Test Refused

Incomplete Test
Following Second Two-Minute
Limit With No Refusal

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster
Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
JONES/PAUL/JOHN/
SUBJECT'S ADDRESS:
456 EASY ST
E. LANSING, MI 48823
SUBJECT'S DOB: 02/02/1954
LICENSE NUMBER: J234567890123
REPORT NUMBER: 00002
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|----------|-------|
| BLANK TEST | .000 | 11:15 |
| INTERNAL STANDARD | VERIFIED | 11:15 |
| SUBJECT SAMPLE | .17 | 11:16 |
| BLANK TEST | .000 | 11:17 |
| SUBJECT SAMPLE | REFUSED | 11:19 |
| BLANK TEST | .000 | 11:19 |
| INTERNAL STANDARD | VERIFIED | 11:19 |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1100
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster
Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
JONES/PAUL/JOHN/
SUBJECT'S ADDRESS:
789 EASY ST
E. LANSING, MI. 48823
SUBJECT'S DOB: 03/03/1955
LICENSE NUMBER: J78901234567
REPORT NUMBER: 00003
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|------------|-------|
| BLANK TEST | .000 | 11:22 |
| INTERNAL STANDARD | VERIFIED | 11:22 |
| BLANK TEST | .000 | 11:25 |
| SUBJECT SAMPLE | INCOMPLETE | 11:27 |
| BLANK TEST | .000 | 11:28 |
| INTERNAL STANDARD | VERIFIED | 11:28 |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1107
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

Operator Refusal

Following Two-Minute Limit

Technical Refusal

Following Five Unsuccessful Attempts in Two-Minute Limit

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
JONES/JOHN/PAUL/
SUBJECT'S ADDRESS:
123 EASY ST
LANSING, MI, 48823
SUBJECT'S DOB: 01/01/1953
LICENSE NUMBER: J123456789012
REPORT NUMBER: 00004
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|----------|-------|
| BLANK TEST | .000 | 11:30 |
| INTERNAL STANDARD | VERIFIED | 11:30 |
| SUBJECT SAMPLE | REFUSED | 11:33 |
| BLANK TEST | .000 | 11:33 |
| INTERNAL STANDARD | VERIFIED | 11:33 |

Operator

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1115
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

OD-80

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
SMITH/JOHN/PAUL/
SUBJECT'S ADDRESS:
123 EASY ST.
E. LANSING, MI. 48823
SUBJECT'S DOB: 01/02/1956
LICENSE NUMBER: S123456789012
REPORT NUMBER: 00005
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|----------|-------|
| BLANK TEST | .000 | 11:36 |
| INTERNAL STANDARD | VERIFIED | 11:36 |
| SUBJECT SAMPLE | REFUSED | 11:36 |
| BLANK TEST | .000 | 11:37 |
| INTERNAL STANDARD | VERIFIED | 11:37 |

Technical

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1121
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

O

**Invalid Sample
Mouth Alcohol**

Chemical Interference

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster
Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
SMITH/PAUL/JOHN/
SUBJECT'S ADDRESS:
123 E. EASY ST.
E. LANSING, MI 48823
SUBJECT'S DOB: 03/03/1954
LICENSE NUMBER: S34567890123
REPORT NUMBER: 00006
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-------------------|----------|-------|
| BLANK TEST | .000 | 12:25 |
| INTERNAL STANDARD | VERIFIED | 12:25 |
| INVALID SAMPLE | | |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1210
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster
Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
SMITH/JOHN/PAUL/
SUBJECT'S ADDRESS:
123 E. EASY ST
OKEMOS, MI 48864
SUBJECT'S DOB: 03/03/1962
LICENSE NUMBER: S67890123456
REPORT NUMBER: 00007
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|-----------------------|----------|-------|
| BLANK TEST | .000 | 12:30 |
| INTERNAL STANDARD | VERIFIED | 12:30 |
| INTERFERENCE DETECTED | | |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 1215
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

Radio Interference

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster Evidence Ticket

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE

INSTRUMENT 930018

JULY 23, 2003
SUBJECT'S NAME (L/F/M):
SMITH/JOHN/PAUL/
SUBJECT'S ADDRESS:
123 E. EASY ST
OKEMOS, MI 48864
SUBJECT'S DOB: 03/03/1962
LICENSE NUMBER: S67890123456
REPORT NUMBER: 00000
OPERATOR'S NAME (L/F/M):
CURTIS/PERRY//
OPERATOR CERTIFICATE #:
11200

--- BREATH ANALYSIS ---

| | | |
|--------------------|----------|-------|
| BLANK TEST | .000 | 12:33 |
| INTERNAL STANDARD | VERIFIED | 12:33 |
| RADIO INTERFERENCE | | |

ALCOHOL READINGS ARE EXPRESSED AS
GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 12:18
(Enter if required by regulations)

Operator Signature Perry Curtis

Card Stock No.
60023

REORDER ALL SUPPLIES FROM N.P.A.S.
P.O. BOX 1435, MANSFIELD, OH 44901 PHONE 1-800-800-8143 (NPAS)

OI

SUBJECT TEST PRACTICE PROCEDURES

1. First "Please Blow." Provide sample through simulator.
Second "Please Blow." Provide sample through simulator.

(Standard two subject tests; example Page 8-11)

2. First "Please Blow." Provide sample through simulator.
Second "Please Blow." Provide own breath sample.
Third "Please Blow." Provide sample through simulator.

(Second subject test outside allowable variance, third test required; example Page 8-11.)

3. First "Please Blow." Provide five quick puffs of own breath.

("Technical Refusal" example Page 8-13.)

4. First "Please Blow." Provide sample through simulator.
Second "Please Blow." Doesn't provide any sample, wait two minutes and press "Y" at "Subject Refused Y/N."

(Valid first subject test, then "Operator Refusal" for second test. Valid overall test for DLAD purposes, as only one test is required; example Page 8-13.)

Chapter 9

Date/Time Modifications

Chapter 9 - DATE/TIME MODIFICATIONS

Twice during the year the time on the DataMaster must be modified to accommodate for daylight savings time changes. In addition, every fourth year the date must be modified to accommodate for leap year. The new computer software will make these changes automatically. If the instrument does not make the changes, the operator can make them via the keyboard by performing the following operation.

Step 1: Normal standby display: **"MONTH DAY TIME"**
"READY PUSH RUN" (flashing)

Step 2: Push **"SET"** key on keyboard.

Step 3: Display: **"PASSWORD"**

Step 4: Type in **"TIME."**
Press **"Enter"** key.

Step 5: Display: **"DAY OF WEEK TIME"**
"READY PUSH RUN" (flashing)

Press the **"ADV"** key to advance to correct day of week.

Press **"SET"** key. Locks the day of week setting and advances to the next entry.

Step 6: Display: **"MONTH DAY NUMBER OF MONTH"**
"READY PUSH RUN" (flashing)

Press the **"ADV"** key to advance the numbers to the correct number of month.

Press **"SET"** key. Locks the number of month setting and advances to the next entry.

Step 7: Display: **"MONTH DAY DAY OF MONTH"**
"READY PUSH RUN" (flashing)

Press the **"ADV"** key to advance the numbers to the correct day of month.

Press **"SET"** key. Locks the day of month setting and advances to the next entry.

Step 8: Display: **"MONTH DAY YEAR"**
"READY PUSH RUN" (flashing)

Press the **"ADV"** key to advance to the correct year (four-digit year).

Press **"SET"** key. Locks the year setting and advances to the next entry.

Step 9: Display: **"MONTH DAY HOUR:"**
"READY *PUSH RUN*" (flashing)

Press the **"ADV"** key to advance to the correct hour (24-hour clock).

Press **"SET"** key. Locks the hour setting and advances to the next entry.

Step 10: Display: **"MONTH DAY :MINUTE"**
"READY *PUSH RUN*" (flashing)

Press the **"ADV"** key to advance to the correct minute.

Press **"CLR"** key. Locks the minute setting and returns to the normal standby display.

Chapter 10

Display Messages

Chapter 10 - DISPLAY MESSAGES

NORMAL DISPLAY MESSAGES

1. **“MONTH DAY TIME”**
“READY *PUSH RUN*” (flashing)
2. **“INSERT TICKET”**
3. **“SUBJECT’S NAME (L/F/M):”**
4. **“SUBJECT’S ADDRESS:”**
5. **“CITY, STATE, ZIP:”**
6. **“SUBJECT’S DOB:”**
“mm/dd/yyyy”
7. **“LICENSE NUMBER:”**
8. **“REVIEW DATA? <Y/N>”**
9. **“PURGING”**
10. **“AMBIENT ZEROING” “.000”**
11. **“BLANK TEST”**
12. **“INTERNAL STANDARD CHECK”**
13. **“PLEASE BLOW” (flashing)**
14. **“TEST RESULTS”**
“ALCOHOL .XX”
15. **“OPERATOR’S NAME:”**
16. **“OPERATOR CERTIFICATE #:”**
17. **“EXTERNAL STANDARD” (flashing)**
18. **“SUBJECT REFUSED? <Y/N>”**
19. **“ACCESS DENIED”** - Will appear if wrong password is entered
20. **“USE PREVIOUS DATA? <Y/N>”**

21. **“INTERFERENCE”**
22. **“RADIO INTERFERENCE”**
23. **“PLEASE WAIT”**
24. **“INVALID SAMPLE”**

ABNORMAL DISPLAY MESSAGES (ERROR MESSAGES)

IF ANY OF THESE MESSAGES APPEAR ON THE DISPLAY, DO NOT TAKE UNIT OUT OF SERVICE. INSTEAD, CONTACT YOUR SUPERVISOR AND SEEK ADVICE FROM THE DATAMASTER SERVICE PERSONNEL BY CALLING 1-800-800-8143. THEY WILL ADVISE IF UNIT SHOULD BE TAKEN OUT OF SERVICE.

1. **“TEMPERATURE LOW”** - May appear after instrument is initially turned on.
2. **“TEMPERATURE HIGH”**
3. **“SYSTEM WON’T ZERO”** - Possible contaminated room air.
4. **“HARDWARE ERROR”**
5. **“FATAL SYSTEM ERROR”**
6. **“CALIBRATION ERROR”**
7. **“PRINTER ERROR”**
8. **“PUMP ERROR”**
9. **“AMBIENT FAIL”** - Possible contaminated room air.
10. **“DETECTOR OVERFLOW”**
11. **“FILTER ERROR”**
12. **“DATA MEMORY BATTERY LOW”**
13. **“RAM ERROR”**

REPORTING DATAMASTER INCIDENTS

If you are having a problem with the DataMaster, please notify:

National Patent Analytical Systems, Inc.
P.O. Box 1435
Mansfield, Ohio 44901
(800) 800-8143

1. Call 1-800-800-8143. If the recorder does not answer, it is busy. Hang up and call again!
2. Leave the following information:
 - A brief description of the difficulty.
 - Was an error code displayed? If so, which one?
 - What was the operator doing at the time?
 - Conducting a subject test?
 - Running a simulator test?
 - Any other pertinent circumstances?
3. Leave a telephone number and a person's name for *National Patent* to call. If the person who experienced the problem or the supervisor is going off duty, please brief someone who can tell *National Patent* about the specific problem. Or, call them as soon as possible during business hours (7:30 a.m. to 5:00 p.m.) and explain the problem.

Remember to blow through the simulator before you connect it to the DataMaster.

The following persons are at *National Patent* to serve you:

1. John Fusco (President)
2. Dave Radomski (Production and Technical)
3. Chris Spayde (Technical)

Chapter 11

Record Keeping Distribution and Retention

Chapter 11 - RECORD KEEPING - DISTRIBUTION AND RETENTION

Distribution

1. Subject print-outs (Evidence Ticket OD-80) - 3 copies
 - a. White copy is attached to the master complaint.
 - b. Yellow copy is to be given to the prosecutor.
 - c. Pink copy is to be given to the arrested subject.
2. Simulator print-outs (Evidence Ticket OD-80) - 3 copies
 - a. White copy is for your police department records.
 - b. Yellow copy is for police department where the instrument is located.
 - c. Pink copy may be discarded.
3. OD-33 Evidential Breath Testing Log
 - a. To be used to record simulator tests only.
 - b. A new sheet shall be used for each calendar month.

Retention

1. Subject printouts
 - a. Retain per your department's retention policy.
2. Simulator printouts
 - a. Current year plus one year.
3. OD-33 Evidential Breath Testing Log
 - a. Current year plus seven years.

Chapter 12

DataMaster DOs and DON'Ts

Chapter 12 - DATAMASTER DOS AND DON'TS

Do

1. Do use a new mouthpiece for each subject test.
2. Do check the opening on the mouthpiece for a clear plastic film that may remain from the mouthpiece wrapper.
3. Do observe the subject for at least 15 minutes and record the start time on the Evidence Ticket. Use the time displayed on the instrument panel only.
4. Do start another 15 minute observation period prior to running another subject test after an "Invalid Sample" or Interference Detected" message is received.
5. Do make sure that the subject places nothing into the mouthpiece.
6. Do insert the Evidence Ticket per instructions.
7. Do check that the Breath Tube is warm before using.
8. Do sign the Evidence Ticket.
9. Do store the Evidence Tickets flat to avoid curling.
10. Do turn off and unplug the DataMaster during severe electrical thunderstorms.
11. Do call 1-800-800-8143 for all instrument malfunctions.

Don't

1. Don't allow the DataMaster to be used by unauthorized personnel.
2. Don't remove the instrument's top metal cover.
3. Don't place food or drink on or near the instrument.
4. Don't allow the arrested subject to touch the instrument, breath tube, or mouthpiece.
5. Don't move the instrument without authorization.
6. Don't pull the Evidence Ticket out of the Insert Slot once accepted.
7. Don't use an Evidence Ticket that is wet or spotted with water. The printer will shred the ticket at the wet spots.
8. Don't twist or rotate the breath tube while giving a subject test or removing the mouthpiece.
9. Don't use the auxiliary AC receptacle on the rear panel.
10. Don't cover the instrument or inhibit airflow around the unit.

Appendix A

Administrative Rules Tests for Breath Alcohol

Appendix A - ADMINISTRATIVE RULES - TESTS FOR BREATH ALCOHOL

DEPARTMENT OF STATE POLICE

SPECIAL OPERATIONS DIVISION

TESTS FOR BREATH ALCOHOL

Filed with the Secretary of State on September 16, 2003

These rules take effect September 30, 2003

(By authority conferred on the department of state police by 1945 PA 327, MCL 259.190, 1949 PA 300, MCL 257.625h, and 1994 PA 451, MCL 324.80181 AND MCL 324.82137)

R 325.2651 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" means 1945 PA 327, MCL 259.190, 1949 PA 300, MCL 257.625a, 1993 PA 354, MCL 462.359, 1994 PA 451, MCL 324.80181, MCL 324.81136, AND MCL 324.82137.

(b) "Class I operator" means a person who is trained to administer a preliminary breath alcohol analysis on a preliminary breath alcohol test instrument specified by the department.

(c) "Class II operator" means a person who is certified by the department to administer an evidential breath alcohol analysis on an evidential breath alcohol test instrument specified by the department.

(d) "Class IIIA operator" means a person who is certified by the department to do all of the following:

(i) Administer an evidential breath alcohol analysis on an evidential breath alcohol test instrument specified by the department.

(ii) Administer a preliminary breath alcohol analysis on a preliminary breath alcohol test instrument specified by the department.

(iii) Verify and calibrate, as required, preliminary breath alcohol test instruments.

(iv) Train personnel in the use of preliminary breath alcohol test instruments.

(e) "Class IIIB operator" means a person who is certified by the department to do both of the following:

(i) Administer an evidential breath alcohol analysis on an evidential breath alcohol test instrument specified by the department.

(ii) Provide service on an evidential breath alcohol test instrument as specified by the department.

(f) "Class IV operator" means a person who is certified by the department to do all of the following:

(i) Administer an evidential breath alcohol analysis on an evidential breath alcohol test instrument specified by the department.

(ii) Administer a preliminary breath alcohol analysis on a preliminary breath alcohol test instrument specified by the department.

(iii) Verify, calibrate, and service, as required, evidential and preliminary breath alcohol test instruments.

(iv) Train class I, class II, class IIIA, and class IIIB operators in the use of evidential or preliminary breath alcohol test instruments.

(g) "Department" means the department of state police.

- (h) "Evidential breath alcohol analysis" means chemical analysis of an essentially alveolar breath sample that indicates a specific result in grams of alcohol per 210 liters of breath.
- (i) "Evidential breath alcohol test instrument" means an evidential breath testing device that indicates a specific result in grams of alcohol per 210 liters of breath.
- (j) "Preliminary breath alcohol analysis" means chemical analysis of essentially alveolar breath samples that indicates the presence or absence of alcohol in a person's blood.
- (k) "Preliminary breath alcohol test instrument" means a breath alcohol screening device that indicates the presence or absence of alcohol in a person's blood.
- (2) Terms used in the acts have the same meanings when used in these rules.

R 325.2652 Approved equipment.

- Rule 2. (1) Evidential and preliminary breath alcohol test instruments shall be tested by, and shall meet the existing model specifications for evidential breath alcohol analysis as established by, the United States department of transportation, national highway traffic safety administration. The specifications, identified as "Model Specifications for Evidential Breath Testing Devices," 49 F.R. p 48855 et seq., (December 14, 1984), as amended by 58 F.R. p 48705 et seq., (September 17, 1993), are adopted in these rules by reference. A copy of the specifications and a current conforming products list are available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, or from the Michigan State Police, Special Operations Division, 714 South Harrison Road, East Lansing, Michigan 48823, at a cost as of the time of adoption of these rules of \$5.00.
- (2) If the United States department of transportation discontinues the testing of evidential breath alcohol test instruments or the issuance of model specifications for such testing, only those instruments tested and approved by the department shall be used.
 - (3) Equipment, including accessories and supplies, for determining evidential or preliminary breath alcohol analysis shall be approved by the department before use.
 - (4) An application for equipment approval shall be submitted to the department.

R 325.2653 Equipment accuracy.

- Rule 3. (1) An evidential breath alcohol test instrument shall be verified for accuracy at least once during each calendar week, or more frequently as the department may require, by a class II, class IIIA, or class IIIB operator. The test for accuracy shall be made in a prescribed manner using a standard alcohol solution that is approved by the department. For the instrument to meet the requirements for accuracy, a test result of .076 to .084, inclusive, shall be obtained when using a controlled device that delivers an alcohol vapor concentration of .080 grams of alcohol per 210 liters of vapor. Other vapor concentrations shall show proportionally accurate results.
- (2) A preliminary breath alcohol test instrument shall be verified for accuracy at least monthly, or more frequently as the department may require, by a class IIIA or class IV operator. The test for accuracy shall be made in a prescribed manner using a standard alcohol solution that is approved by the department. For the instrument to meet the requirements for accuracy, a test result of .076 to .084, inclusive, shall be obtained when using a controlled device that delivers an alcohol vapor concentration of .080 grams of alcohol per 210 liters of vapor.
 - (3) Approved evidential breath alcohol test instruments shall be inspected, verified for accuracy, and certified as to their proper working order by a certified class IV operator or the instrument manufacturer's authorized representatives approved by the department within 120 days, inclusive, of the previous inspection.

R 325.2654 Equipment maintenance.

Rule 4. (1) The maintenance and repair of equipment approved by the department for evidential and preliminary breath alcohol analysis shall be at the expense of the agency using the equipment, unless arrangements exist with the department to have this service provided by class IIIB or class IV operators who are certified by the department or provided by the instrument manufacturer's authorized representatives approved by the department.

(2) Subsequent to repair or maintenance, and before being placed in service, preliminary and evidential breath alcohol test instruments shall be verified for accuracy in accordance with the provisions of R 325.2653 and records of verification shall be kept as required by the department.

R 325.2655 Techniques and procedures.

Rule 5. (1) A procedure that is used in conjunction with evidential breath alcohol analysis shall be approved by the department and shall be in compliance with all of the following provisions:

(a) Evidential breath alcohol test instruments shall be operated only by class II, class IIIA, class IIIB, and class IV operators.

(b) All analyses shall be conducted using the department-approved procedures and report forms as required.

(c) Prescribed records of operation, analyses, and results shall be maintained at the instrument location and copies shall be forwarded to the department as required.

(d) The department shall test samples from each lot of ampoules of chemical solution used in the state in conjunction with evidential breath alcohol test instruments. The department shall certify for use those lots of ampoules that are found to be proper in chemical composition.

(e) A person may be administered a breath alcohol analysis on an evidential breath alcohol test instrument only after being observed for 15 minutes by the operator before collection of the breath sample, during which period the person shall not have smoked, regurgitated, or placed anything in his or her mouth, except for the mouthpiece associated with the performance of the test.

(f) A second breath alcohol analysis shall be requested from the person being tested and administered, unless the person refuses to give the second sample or a substance is found in the person's mouth subsequent to the first test that could interfere with the test result. Obtaining the first sample is sufficient to meet the requirements for evidentiary purposes prescribed in 1949 PA 300, MCL 257.625c. The purpose of obtaining a second sample result is to confirm the result of the first sample. A second sample result shall not vary from the first sample result by more than the following values:

Table 1

| Blood alcohol Concentration | Allowable variation of second sample result range from the first |
|--------------------------------|--|
| 0.00 - 0.14 | + / - 0.01 |
| 0.15 - 0.24 | + / - 0.02 |
| 0.25 - 0.34 | + / - 0.03 |
| 0.35 - or more | + / - 0.04 |

If the variation is more than that allowed, a third breath sample shall be requested from the person being tested and a third result may be obtained. If the third result does not conform to the allowable variation of either of the first two tests, as established in table 1, the person shall be requested to submit a blood or urine sample for analysis by an approved laboratory.

(g) The results of a breath alcohol analysis of a person's breath shall be expressed in terms of grams of alcohol per 210 liters of breath, truncated to the second decimal place. For example, 0.237 found shall be reported as 0.23.

(2) A procedure that is used in conjunction with preliminary breath alcohol analysis shall be approved by the department and shall be in compliance with all of the following provisions:

(a) Preliminary breath alcohol test instruments shall be operated only by operators trained by class IIIA or class IV operators to operate such equipment.

(b) A person may be administered a breath test on a preliminary breath alcohol test instrument only after it has been determined that the person has not smoked, regurgitated, or placed anything in his or her mouth for at least 15 minutes.

(c) Prescribed records shall be maintained at the instrument location and copies shall be forwarded to the department as required.

(3) A person's welfare shall be protected by requesting medical assistance if the person has a body alcohol concentration of 0.35 or more.

R 325.2656 Operator certification.

Rule 6. (1) Evidential breath alcohol test instrument operator certification training courses supervised by the department are offered only to authorized police agency personnel.

(2) Certification on evidential breath testing equipment requires an applicant to successfully complete a course of instruction that is approved by the department.

(3) The operation of a preliminary breath testing instrument requires an applicant to successfully complete a course of instruction as approved by the department.

(4) Evidential breath alcohol test instrument operators shall successfully pass the examinations given by the department to obtain certification as an operator. Upon successful completion of the examinations, a person shall be issued a certification card which shall remain the property of the department. In the case of failure to pass a prescribed examination, a second opportunity to take the examination shall be provided as the department may direct. Failure to successfully complete the examination a second time necessitates repeating the operator course of instruction to qualify for certification.

(5) An operator shall comply with all applicable department rules, policies, and procedures or his or her certification may be suspended and his or her certification card forfeited to the department. Requests for reinstatement of operator certification shall be made to the department in writing and, upon approval, may require attendance at, and the successful completion of, a certification school.

R 325.2658 Class IV operator certification.

Rule 8. (1) The department shall certify selected class IIIA and class IIIB operators as class IV operators after the selected operators successfully complete additional department-approved training.

(2) A class IV operator shall serve as an agent of the department to perform the following functions regarding evidential breath alcohol test instruments:

(a) Service, repair, and calibrate equipment.

- (b) Conduct inspections for compliance with applicable department rules, policies and procedures.
- (c) Serve as an instructor at operator certification courses as directed by the department.
- (3) Work assignments and activities regarding the breath alcohol testing program shall be coordinated by the department.

Appendix B

Michigan Drunk Driving Laws

Appendix B - MICHIGAN DRUNK DRIVING LAWS

MICHIGAN OUIL/OUID LAWS

257.625 Operating motor vehicle while intoxicated; operating motor vehicle when visibly impaired; penalties for causing death or serious impairment of a body function; operation of motor vehicle by person less than 21 years of age; requirements; controlled substances; costs; enhanced sentence; guilty plea or nolo contendere; establishment of prior conviction; special verdict; public record; burden of proving religious service or ceremony; ignition interlock device; “prior conviction” defined.

Sec. 625. (1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person is operating while intoxicated. As used in this section, “operating while intoxicated” means either of the following applies:

(a) The person is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2013, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state by a person if any of the following apply:

(a) The person is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate the motor vehicle is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state when, due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person, whether licensed or not, who operates a motor vehicle in violation of subsection (1), (3), or (8) and by the operation of that motor vehicle causes the death of another person is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. The judgment of sentence may impose the sanction permitted under section

625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(b) If, at the time of the violation, the person is operating a motor vehicle in a manner proscribed under section 653a and causes the death of a police officer, firefighter, or other emergency response personnel, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. This subdivision applies regardless of whether the person is charged with the violation of section 653a. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(5) A person, whether licensed or not, who operates a motor vehicle in violation of subsection (1), (3), or (8) and by the operation of that motor vehicle causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(6) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:

(a) An alcohol content of not less than 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2013, the person has an alcohol content of not less than 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(7) A person, whether licensed or not, is subject to the following requirements:

(a) He or she shall not operate a vehicle in violation of subsection (1), (3), (4), (5), or (8) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a crime punishable as follows:

(i) Except as provided in subparagraph (ii), a person who violates this subdivision is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(ii) If the violation occurs within 7 years of a prior conviction or within 10 years of 2 or more prior convictions, a person who violates this subdivision is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(A) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(B) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours

of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(b) He or she shall not operate a vehicle in violation of subsection (6) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:

(i) Except as provided in subparagraph (ii), a person who violates this subdivision may be sentenced to 1 or more of the following:

(A) Community service for not more than 60 days.

(B) A fine of not more than \$500.00.

(C) Imprisonment for not more than 93 days.

(ii) If the violation occurs within 7 years of a prior conviction or within 10 years of 2 or more prior convictions, a person who violates this subdivision shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(c) In the judgment of sentence under subdivision (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (a)(ii) or (b)(ii), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.

(d) This subsection does not prohibit a person from being charged with, convicted of, or punished for a violation of subsection (4) or (5) that is committed by the person while violating this subsection. However, points shall not be assessed under section 320a for both a violation of subsection (4) or (5) and a violation of this subsection for conduct arising out of the same transaction.

(8) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

(9) If a person is convicted of violating subsection (1) or (8), all of the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(i) Community service for not more than 360 hours.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not less than \$100.00 or more than \$500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.

(ii) Community service for not less than 30 days or more than 90 days.

(c) If the violation occurs within 10 years of 2 or more prior convictions, the person is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

- (ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subparagraph shall be served consecutively.
- (d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.
- (e) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (b) or (c), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.
- (f) In the judgment of sentence under subdivision (b) or (c), the court may impose the sanction permitted under section 625n.
- (10) A person who is convicted of violating subsection (2) is guilty of a crime as follows:
 - (a) Except as provided in subdivisions (b) and (c), a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100.00 or more than \$500.00, or both.
 - (b) If the person operating the motor vehicle violated subsection (4), a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,500.00 or more than \$10,000.00, or both.
 - (c) If the person operating the motor vehicle violated subsection (5), a felony punishable by imprisonment for not more than 2 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both.
- (11) If a person is convicted of violating subsection (3), all of the following apply:
 - (a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:
 - (i) Community service for not more than 360 hours.
 - (ii) Imprisonment for not more than 93 days.
 - (iii) A fine of not more than \$300.00.
 - (b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00, and 1 or more of the following:
 - (i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.
 - (ii) Community service for not less than 30 days or more than 90 days.
 - (c) If the violation occurs within 10 years of 2 or more prior convictions, the person is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and either of the following:
 - (i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.
 - (ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subparagraph shall be served consecutively.
 - (d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.
 - (e) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (b) or (c), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.
 - (f) In the judgment of sentence under subdivision (b) or (c), the court may impose the sanction permitted under section 625n.
- (12) If a person is convicted of violating subsection (6), all of the following apply:
 - (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both of the following:

- (i) Community service for not more than 360 hours.
- (ii) A fine of not more than \$250.00.
- (b) If the violation occurs within 7 years of 1 or more prior convictions, the person may be sentenced to 1 or more of the following:
 - (i) Community service for not more than 60 days.
 - (ii) A fine of not more than \$500.00.
 - (iii) Imprisonment for not more than 93 days.
- (13) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.
- (14) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.
- (15) If the prosecuting attorney intends to seek an enhanced sentence under this section or a sanction under section 625n based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendant's prior convictions.
- (16) If a person is charged with a violation of subsection (1), (3), (4), (5), (7), or (8) or section 625m, the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (6) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.
- (17) A prior conviction shall be established at sentencing by 1 or more of the following:
 - (a) An abstract of conviction.
 - (b) A copy of the defendant's driving record.
 - (c) An admission by the defendant.
- (18) Except as otherwise provided in subsection (20), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of alcoholic liquor and a controlled substance in violation of subsection (1) or a local ordinance substantially corresponding to subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of alcoholic liquor and a controlled substance at the time of the violation.
- (19) Except as otherwise provided in subsection (20), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of alcoholic liquor and a controlled substance in violation of subsection (3) or a local ordinance substantially corresponding to subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of alcoholic liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.
- (20) A special verdict described in subsections (18) and (19) is not required if a jury is instructed to make a finding solely as to either of the following:

(a) Whether the defendant was under the influence of a controlled substance or a combination of alcoholic liquor and a controlled substance at the time of the violation.

(b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of alcoholic liquor and a controlled substance at the time of the violation.

(21) If a jury or court finds under subsection (18), (19), or (20) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an alcoholic liquor, the court shall do both of the following:

(a) Report the finding to the secretary of state.

(b) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under section 625n or 904d.

(22) Except as otherwise provided by law, a record described in subsection (21)(b) is a public record and the department of state police shall retain the information contained on that record for not less than 7 years.

(23) In a prosecution for a violation of subsection (6), the defendant bears the burden of proving that the consumption of alcoholic liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.

(24) The court may order as a condition of probation that a person convicted of violating subsection (1) or (8), or a local ordinance substantially corresponding to subsection (1) or (8), shall not operate a motor vehicle unless that vehicle is equipped with an ignition interlock device approved, certified, and installed as required under sections 625k and 625l.

(25) Subject to subsection (27), as used in this section, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Except as provided in subsection (26), a violation or attempted violation of any of the following:

(i) This section, except a violation of section 625(2), or a violation of any prior enactment of this section in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(ii) Section 625m.

(iii) Former section 625b.

(b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(26) Except for purposes of the enhancement described in subsection (12)(b), only 1 violation or attempted violation of subsection (6), a local ordinance substantially corresponding to subsection (6), or a law of another state substantially corresponding to subsection (6) may be used as a prior conviction.

(27) If 2 or more convictions described in subsection (25) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

257.625a Arrest without warrant; circumstances; preliminary chemical breath analysis; operator ordered out-of-service; refusal of commercial motor vehicle operator to submit to

breath analysis as misdemeanor; provisions applicable to chemical tests and analysis; evidence; availability of test results; admissibility of refusal to submit to chemical test.

Sec. 625a. (1) A peace officer may arrest a person without a warrant under either of the following circumstances:

(a) The peace officer has reasonable cause to believe the person was, at the time of an accident in this state, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625 or a local ordinance substantially corresponding to section 625.

(b) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 625 or a local ordinance substantially corresponding to section 625.

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state and that the person by the consumption of alcoholic liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the state while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of alcoholic liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state while the person had any bodily alcohol content as that term is defined in section 625(6), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered under this subsection:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing for 1 or more of the following purposes:

(i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(ii) As evidence of the defendant's breath alcohol content, if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that the defendant's breath alcohol content was higher at the time of the charged offense than when a chemical test was administered under subsection (6).

(iii) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered under subsection (6).

(c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 625c, 625d, 625e, and 625f for purposes of chemical tests described in those sections.

(d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under section 319d.

A peace officer shall order out-of-service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out-of-service under section 319d.

(4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and will result in the issuance of a 24-hour out-of-service order.

(5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding and is presumed to be the same as at the time the person operated the vehicle.

(b) A person arrested for a crime described in section 625c(1) shall be advised of all of the following:

(i) If he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests.

(ii) The results of the test are admissible in a judicial proceeding as provided under this act and will be considered with other admissible evidence in determining the defendant's innocence or guilt.

(iii) He or she is responsible for obtaining a chemical analysis of a test sample obtained at his or her own request.

(iv) If he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain a court order.

(v) Refusing a peace officer's request to take a test described in subparagraph (i) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, 1978 PA 368, MCL 333.16215, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in

section 625c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and shall be considered with other admissible evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to the department of state police.

(g) The department of state police shall promulgate uniform rules in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved under rules promulgated by the department of state police.

(7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other admissible evidence bearing upon any of the following questions:

(a) Whether the person was impaired by, or under the influence of, alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(b) Whether the person had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) If the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this subdivision, "any bodily alcohol content" means either of the following:

(i) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person had an alcohol content of 0.02 grams or more but less than 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(ii) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than the consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(8) If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney upon written request to the prosecution,

with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

(9) A person's refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 625c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.

257.625b Arraignment of person arrested for misdemeanor violation; pretrial conference; advising accused of maximum penalty before acceptance of plea; screening, assessment, and rehabilitative services; action by secretary of state pending appeal.

Sec. 625b. (1) A person arrested for a misdemeanor violation of section 625(1), (3), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m shall be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The time limit does not apply to a violation of section 625(1) or (3) or section 625m punishable as a felony or a violation of section 625(1), (3), (6), or (7) or section 625m joined with a felony charge.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1), (3), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. If the court has only 1 judge who sits in more than 1 location in that district, the pretrial conference shall be held not more than 42 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 42 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The 35- and 42-day time limits do not apply to a violation of section 625(1) or (3) or section 625m punishable as a felony or a violation of section 625(1), (3), (6), or (7) or section 625m joined with a felony charge. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1), (3), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The 77-day time limit does not apply to a violation of section 625(1) or (3) or section 625m

punishable as a felony or a violation of section 625(1), (3), (6), or (7) or section 625m joined with a felony charge.

(4) Before accepting a plea of guilty or nolo contendere under section 625 or a local ordinance substantially corresponding to section 625(1), (2), (3), or (6), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state under section 204a.

(5) Before imposing sentence for a violation of section 625(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 625(1), (3), or (6), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. Except as otherwise provided in this subsection, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence. If the person has 1 or more prior convictions, the court shall order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(6) If the judgment and sentence are appealed to circuit court, the court may ex parte order the secretary of state to stay the suspension, revocation, or restricted license issued by the secretary of state pending the outcome of the appeal.

257.625c Consent to chemical tests; persons not considered to have given consent to withdrawal of blood; administration of tests.

Sec. 625c. (1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood or urine or the amount of alcohol in his or her breath in all of the following circumstances:

(a) If the person is arrested for a violation of section 625(1), (3), (4), (5), (6), (7), or (8), section 625a(5), or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8), section 625a(5), or section 625m.

(b) If the person is arrested for felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe the person was operating the vehicle in violation of section 625.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 625a(6).

257.625d Refusal to submit to chemical test; court order; report to secretary of state; form.

Sec. 625d. (1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 625a(6), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1), and that the person had refused to submit to the

test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

257.625e Refusal to submit to chemical test pursuant to § 257.625d; request for hearing; notice.

Sec. 625e. (1) If a person refuses to submit to a chemical test pursuant to section 625d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 625f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

257.625f. Effect of failure to request hearing; hearing procedure; notice; authority of hearing officer; scope of hearing; finding; record; licensing sanctions; judicial review; notice to motor vehicle administrator of another state.

Sec. 625f. (1) If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days after the date of notice pursuant to section 625e, the secretary of state shall impose the following license sanctions:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 1 year or, for a second or subsequent refusal within 7 years, for 2 years.

(b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for 1 year.

(c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from and within 10 years of a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than 10 years and until the person is approved for the issuance of a vehicle group designation.

(d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322. Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 625d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a

reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit.

(4) The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1).

(b) Whether the person was placed under arrest for a crime described in section 625c(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of the rights under section 625a(6).

(5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d).

(6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review pursuant to section 323 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.

(b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.

(c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanctions described in subdivisions (a) and (b).

(8) If the person who requested the hearing prevails, the peace officer who filed the report under section 625d may, with the consent of the prosecuting attorney, file a petition in the circuit court

of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323.

(9) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he or she has a license to operate a motor vehicle.

257.625g Duties of peace officer if person refuses chemical test or if test reveals unlawful alcohol content; test results; duration of temporary license or permit; "unlawful alcohol content" defined.

Sec. 625g. (1) If a person refuses a chemical test offered pursuant to section 625a(6), or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

(3) A temporary license or permit issued under this section is valid for 1 of the following time periods:

(a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to section 625f, whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.

(b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(4) As used in this section, "unlawful alcohol content" means any of the following, as applicable:

(a) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) If the person tested is not a person described in subdivision (a) or (b), 0.08 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2013, 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

257.625h Drunk driving prevention equipment and training fund; drunk driving caseflow assistance fund.

Sec. 625h. (1) The drunk driving prevention equipment and training fund is created as a separate fund in the state treasury. Money in the fund shall be expended only as provided in subsection (2). The state treasurer shall credit to the fund all money received for that purpose under section 320e, and as otherwise provided by law. The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 143 of 1855 PA 105, MCL 21.143.

Earnings from the fund shall be credited to the fund. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.

(2) The department of state police shall administer the fund. Money in the fund shall be used only to administer the fund, to purchase and maintain breath alcohol testing equipment, and to provide training to law enforcement personnel of this state in the use of that breath alcohol testing equipment.

(3) The department of treasury shall, before November 1 of each year, notify the department of state police of the balance in the fund at the close of the preceding fiscal year.

(4) The department of state police shall promulgate rules to implement subsection (2).

(5) The drunk driving caseflow assistance fund is created as a separate fund in the state treasury. The purpose of the fund is to promote the timely disposition of cases in which the defendant is charged with a violation of any of the following or a local ordinance substantially corresponding to any of the following:

(a) Section 625 or 625m.

(b) Section 80176, 81134, 81135, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, 324.81135, and 324.82127.

(6) Money in the fund shall be expended only as provided in subsection (8).

(7) The state treasurer shall credit the drunk driving caseflow assistance fund with deposits of proceeds from the collection of revenue from license reinstatement fees as provided for in section 320e, and all income from investment credited to the fund by the state treasurer. The state treasurer may invest money contained in the drunk driving caseflow assistance fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment. Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

(8) The state court administrator, at the direction of the supreme court and upon confirmation of the amount by the state treasurer, shall distribute from the drunk driving caseflow assistance fund the total amount available in a fiscal year to each district of the district court and each municipal court as provided in this section. The state court administrator, after reimbursement of costs as provided in this subsection, shall distribute the balance of the drunk driving caseflow assistance fund annually to each district of the district court and each municipal court in an amount determined by multiplying the amount available for distribution by a fraction, the numerator of which is the number of cases in which the defendant was charged with a violation enumerated in subsection (5) in the prior calendar year in that district of the district court or that municipal court as certified by the state court administrator and the denominator of which is the total

number of cases in all districts of the district court and all municipal courts in which the defendant was charged with a violation enumerated in subsection (5) in the calendar year. The state court administrative office shall be reimbursed annually from the drunk driving caseflow assistance fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

257.625i Michigan annual drunk driving audit; preparation; contents; report; evaluation of 1998 legislation.

Sec. 625i. (1) The department of state police shall prepare an annual report that shall be designated the Michigan annual drunk driving audit. The secretary of state, circuit court, district court, family division of circuit court, municipal courts, and local units of government in this state shall cooperate with the department of state police to provide information necessary for the preparation of the report. A copy of the report prepared under this subsection shall be submitted to the governor, the secretary of the senate, the clerk of the house of representatives, and the secretary of state on July 1 of each year. The report shall contain for each county in the state all of the following information applicable to the immediately preceding calendar year:

- (a) The number of alcohol related motor vehicle crashes resulting in bodily injury, including a breakdown of the number of those injuries occurring per capita of population and per road mile in the county.
 - (b) The number of alcohol related motor vehicle crashes resulting in death, including the breakdown described in subdivision (a).
 - (c) The number of alcohol related motor vehicle crashes, other than those enumerated in subdivisions (a) and (b), including the breakdown described in subdivision (a).
 - (d) The number of arrests made for violations of section 625(1) or local ordinances substantially corresponding to section 625(1).
 - (e) The number of arrests made for violations of section 625(3) or local ordinances substantially corresponding to section 625(3).
 - (f) The number of arrests made for violations of section 625(6) or local ordinances substantially corresponding to section 625(6).
 - (g) The number of arrests made for violations of section 625(4) or (5).
 - (h) The number of arrests made for violations of section 625(7).
 - (i) The number of arrests made for violations of section 625(8).
 - (j) The number of operator's or chauffeur's licenses suspended pursuant to section 625f.
 - (k) The number of arrests made for violations of section 625m or local ordinances substantially corresponding to section 625m.
- (2) The secretary of state shall compile a report of dispositions of charges for violations of section 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or local ordinances substantially corresponding to section 625(1), (3), (6), or (8) or section 625m or section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, or section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, by each judge for inclusion in the annual report. The report compiled by the secretary of state shall include information regarding all of the following:
- (a) The number of dismissals granted.
 - (b) The number of convictions entered.
 - (c) The number of acquittals entered.
 - (d) The average length of imprisonment imposed.

- (e) The average length of community service imposed in lieu of imprisonment.
- (f) The average fine imposed.
- (g) The number of vehicles ordered immobilized under section 904d.
- (h) The number of vehicles ordered forfeited under section 625n.
- (3) The secretary of state shall include in the compilation under subsection (2) the number of licenses suspended, revoked, or restricted for those violations.
- (4) The department of state police shall enter into a contract with the university of Michigan transportation research institute, under which the university of Michigan transportation research institute shall evaluate the effect and impact of the 1998 legislation addressing drunk and impaired driving in this state and report its findings to the governor and the legislature not later than October 1, 2002.

257.625k Ignition interlock device; approval; certification; list of manufacturers; rules; cost; notice to department by certifying laboratory; unlawful conduct; penalties.

Sec. 625k. (1) The department shall approve an ignition interlock device certified by a department-approved laboratory as complying with the national highway traffic safety administration's model specifications for breath alcohol ignition interlock devices (BAIID), 57 F.R. p. 11772, April 7, 1992. Subject to subsection (5), the department shall publish a list of all manufacturers of approved certified devices.

(2) The secretary of state shall promulgate rules to implement this section in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The manufacturer of an ignition interlock device shall bear the cost of that device's certification.

(4) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.

(5) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published under subsection (1) unless the manufacturer complies with all of the following:

(a) The manufacturer has filed copies of all of the following with the department:

(i) A bond executed as provided in section 625o or a letter of credit.

(ii) Evidence of insurance as described in section 625l.

(iii) An affidavit that the ignition interlock device is all of the following:

(A) An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.

(B) Calibrated to render the motor vehicle incapable of being started if the device detects an alcohol content of 0.025 grams or more per 210 liters of breath of the person who offers a breath sample.

(C) Set to periodically take samples while the vehicle is in operation and to do 1 or both of the following:

(I) Emit a warning signal when the device detects an alcohol content of 0.025 grams or more per 210 liters of breath in the person who offers a breath sample.

(II) If it detects an alcohol content of 0.04 grams or more per 210 liters of breath of the person who offers the breath sample, render the vehicle inoperable as soon as the vehicle is no longer being operated.

(b) The manufacturer of ignition interlock devices provides a list of installers who are authorized to install and service its ignition interlock devices to the secretary of state.

(c) Agrees to have service locations within 50 miles of any location within this state.

(d) Agrees to provide an ignition interlock device without cost to a person whose gross income for the immediately preceding tax year based on his or her state income tax return was less than 150% of the official poverty line for that same tax year established in the poverty guidelines issued by the secretary of health and human services under authority of section 673(2) of the community services block grant act, subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902. A person in whose vehicle an ignition interlock device is installed without cost under this subdivision shall pay a maintenance fee to the installer of not more than \$1.00 per day.

(e) Agrees to periodically monitor installed ignition interlock devices and if monitoring indicates that the device has been circumvented, to communicate that fact to the secretary of state or to the court, as appropriate.

(6) A manufacturer that has made a filing under subsection (5) shall immediately notify the department if the device no longer meets the requirements of subsection (5).

(7) A person who knowingly provides false information to the department under subsection (4) or (5) is guilty of a felony punishable by imprisonment for not less than 5 years or more than 10 years or a fine of not less than \$5,000.00 or more than \$10,000.00, or both, together with costs of the prosecution.

(8) A person who negligently provides false information to the department under subsection (4) or (5) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both, together with costs of the prosecution.

(9) A person who knowingly fails to comply with subsection (6) is guilty of a felony punishable by imprisonment for not less than 5 years or more than 10 years or a fine of not less than \$5,000.00 or more than \$10,000.00, or both, together with costs of the prosecution.

(10) A person who negligently fails to comply with subsection (6) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both, together with costs of the prosecution.

257.6251 Ignition interlock device; warning label; prohibited conduct; violation as misdemeanor; penalty; definition; liability; insurance; servicing.

Sec. 6251. (1) The manufacturer of an ignition interlock device shall design a warning label, and the person who has an ignition interlock device shall promptly affix that label to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.

(2) A person who has an ignition interlock device installed and whose driving privilege is restricted shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.

(3) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privilege is restricted.

(4) A person shall not tamper with or circumvent the operation of an ignition interlock device.

(5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$5,000.00, or both.

(6) As used in this act, "ignition interlock device" or "device" means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level. The system shall be

calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.025 grams per 210 liters of breath.

(7) The state, or the department, its officers, employees, or agents, or a court, its officers, employees, or agents are not liable in any claim or action that may arise, directly or indirectly, out of any act or omission by a manufacturer, installer, or servicing agent of an ignition interlock device that results in damage to persons or property.

(8) A person shall not sell, lease, install, or monitor in a vehicle in this state an ignition interlock device unless the ignition interlock device manufacturer and provider carries liability insurance covering product liability, including, but not limited to, insurance to indemnify the department and any person injured as a result of a design defect or the calibration or removal of the ignition interlock device or a misrepresentation about the ignition interlock device. The insurance required by this subsection shall be in an amount of not less than \$1,000,000.00 per incident.

(9) The provider of insurance described in this section may cancel the insurance upon 30 days' written notice to the department and is not liable for a claim arising from an event that occurs after the effective date of a cancellation made in compliance with this section.

(10) An ignition interlock device shall be serviced according to manufacturer's standards. Service shall include, but not be limited to, physical inspection of the device and vehicle for tampering, calibration of the device, and monitoring of the data contained within the device's memory. Only authorized employees of the manufacturer or the department, or other persons approved by the court, may observe the installation of a device. Reasonable security measures must be taken to prevent the customer from observing the installation of a device or obtaining access to installation materials.

257.625m Operation of commercial motor vehicle by person with certain alcohol content; arrest without warrant; violation as misdemeanor; sentence; "prior conviction" defined.

Sec. 625m. (1) A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2013, an alcohol content of 0.04 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, shall not operate a commercial motor vehicle within this state.

(2) A peace officer may arrest a person without a warrant under either of the following circumstances:

(a) The peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section or a local ordinance substantially corresponding to this section.

(b) The person is found in the driver's seat of a commercial motor vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of this section or a local ordinance substantially corresponding to this section.

(3) Except as otherwise provided in subsections (4) and (5), a person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.

(4) A person who violates this section or a local ordinance substantially corresponding to this section within 7 years of 1 prior conviction may be sentenced to imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(5) A person who violates this section or a local ordinance substantially corresponding to this section within 10 years of 2 or more prior convictions is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(a) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(b) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subdivision shall be served consecutively.

(6) A term of imprisonment imposed under subsection (4) or (5) shall not be suspended.

(7) Subject to subsection (9), as used in this section, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Except as provided in subsection (8), a violation or attempted violation of any of the following:

(i) This section.

(ii) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(iii) Former section 625b.

(b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(8) Only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.

(9) If 2 or more convictions described in subsection (7) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

257.625n Forfeiture of vehicle or return to lessor.

Sec. 625n. (1) Except as otherwise provided in this section and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of section 625(1) described in section 625(8)(b) or (c), a violation of section 625(3) described in section 625(10)(b) or (c), a violation of section 625(4), (5), or (7), or a violation of section 904(4) or (5) may require 1 of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

(a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.

(b) Return of the vehicle to the lessor if the defendant leases the vehicle.

(2) The vehicle may be seized pursuant to an order of seizure issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

(3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

(4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the lessor. The prosecuting attorney shall give notice by first-class mail or other process to the defendant and his or her attorney, to all owners of the

vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

(5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within 7 days after the motion is filed. If the defendant establishes at the hearing that he or she holds the legal title to the vehicle or that he or she has a leasehold interest and that it is necessary for him or her or a member of his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.

(6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court shall hold a hearing to determine the legitimacy of any claim, the extent of any co-owner's equity interest, the liability of the defendant to any co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under section 625 or a local ordinance substantially corresponding to section 625, or multiple suspensions, restrictions, or denials under section 904, or both. If the defendant has multiple convictions under section 625 or multiple suspensions, restrictions, or denials under section 904, or both, that factor shall weigh heavily in favor of forfeiture.

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle and dispose of the proceeds in the following order of priority:

(a) Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.

(b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to the commission of the violation.

(c) Satisfy any order of restitution entered in the prosecution for the violation.

(d) Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.

(e) Pay any outstanding lien against the property that has been imposed by a governmental unit.

(f) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(g) The balance remaining after the payment of items (a) through (f) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws and 25% of the money shall be used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

- (8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.
- (9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights or the defendant's obligations under the lease.
- (10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.
- (11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.
- (12) The forfeiture provisions of this section do not preclude the prosecuting attorney from pursuing a forfeiture proceeding under any other law of this state or a local ordinance substantially corresponding to this section.

257.625o Ignition interlock device; sale, lease, or installation in vehicle; surety bond.

Sec. 625o. (1) A person shall not sell, lease, or install in a vehicle in this state an ignition interlock device unless the manufacturer of the device has obtained an executed bond described in subsection (2) or a renewal certificate for that bond.

(2) The bond required under subsection (1) shall be in the amount of \$50,000.00 with a surety approved by the department and shall be conditioned to indemnify or reimburse a person who has an ignition interlock device installed on his or her vehicle for monetary loss caused by the manufacturer's fraud, cheating, misrepresentation, or defaulting on a contractual obligation, whether the fraud, cheating, misrepresentation, or defaulting was done by the manufacturer or by an employee or agent of the manufacturer.

(3) The surety on the bond described in subsection (2) is required to make indemnification or reimbursement for a monetary loss only after final judgment has been entered in a court of record against the manufacturer or an employee or agent of the manufacturer. The surety on the bond may cancel the bond upon 30 days' written notice to the department and is not liable for a loss arising from an event that occurs after the effective date of the cancellation.

Appendix C

State and Canadian Abbreviations

Appendix C - STATE AND CANADIAN ABBREVIATIONS

State/Territory:

Alabama AL
Alaska AK
Arizona..... AZ
Arkansas..... AR

California CA
Colorado..... CO
Connecticut CT

Delaware DE
District of Columbia DC

Florida..... FL

Georgia..... GA

Hawaii and American Samoa..... HI

Idaho ID
Illinois IL
Indiana..... IN
Iowa..... IA

Kansas KS
Kentucky KY

Louisiana..... LA

Maine ME
Maryland..... MD
Massachusetts MA
Michigan MI
Minnesota..... MN
Mississippi MS
Missouri MO
Montana MT

Nebraska NE
Nevada NV
New Hampshire NH
New Jersey NJ
New Mexico..... NM
New York..... NY
North Carolina NC
North Dakota..... ND

Ohio..... OH
Oklahoma..... OK
Oregon..... OR

Pennsylvania PA
Puerto Rico..... PR

Rhode Island RI

South Carolina SC
South Dakota..... SD

Tennessee..... TN
Trust Territories and Guam..... TT
Texas TX

Utah..... UT

Vermont VT
Virginia VA
Virgin Islands..... VI

Washington WA
West Virginia..... WV
Wisconsin..... WI
Wyoming..... WY

Canadian Province:

Alberta..... AB
British Columbia..... BC
Labrador..... LB
Manitoba MB
New Brunswick..... NB
Newfoundland..... NF
Northwest Territories NT
Nova Scotia..... NS
Ontario ON
Prince Edward Island PE
Quebec PQ
Saskatchewan..... SK
Yukon Territory YT

Appendix D

Court Testimony

Appendix D - COURT TESTIMONY

1. What is your name?
2. Where are you employed?
3. How long have you been an officer/deputy with _____?
4. What is your assignment/duty?
5. Was this your assignment/duty on _____?
6. How long have you been a DataMaster operator?
 - What was your previous assignment? (Breathalyzer Operator?)
 - How long?
7. Have you had any specialized training in administering tests on the DataMaster?
8. When did you receive the training?
9. Where did you receive this training?
10. How long did you attend?
11. What did your training consist of?
 - Laboratory and classroom exercises.
12. Were you tested to determine your degree of proficiency in the operation of the DataMaster instrument?
13. Did you pass the examination(s) given as part of the course?
14. Were you issued a certification card for passing this course?
15. Do you have that certification card with you?
16. Since the completion of the DataMaster training course, how many occasions have you had to test people arrested for operating a motor vehicle under the influence of intoxicating liquor as part of your police duties?
17. Did all of these tests indicate that the persons tested were under the influence of intoxicating liquor?
18. Have you testified previously in court concerning your operation of the DataMaster?

19. Approximately how many times have you testified concerning DataMaster Breathalyzer results?
20. As a certified DataMaster operator, could you tell the jury what the DataMaster instrument is?
 - Infrared evidential breath alcohol test instrument manufactured by National Patent Analytical Systems, Inc. of Mansfield, Ohio.
21. Are you trained as a doctor?
22. Are you trained as a chemist?
23. Do you claim any expertise today beyond expertise in operating the DataMaster?
24. What safeguards are required to ensure the accuracy of a test?
 - Only certified operators may conduct tests on a subject.
 - The instrument is checked at least once a week with a test sample containing a known amount of alcohol.
 - A tested subject cannot have anything in his/her mouth for 15 minutes prior to the test.
 - Two breath specimens from each subject are analyzed in succession.
 - The instrument itself and the procedures that are followed in operating it are designed so that almost any malfunction will be to the advantage of the tested subject.
25. Are there any records/logs kept concerning the use of the DataMaster instrument?
26. Where are those records/logs kept?
27. Do you have the records with you that were kept on the instrument that was used to test the defendant on trial today?
28. Do they reflect whether or not the DataMaster instrument has been given its weekly accuracy checks?
29. Do the records reflect whether or not the instrument has been given its inspection every 120 days as required?
30. Is there a prescribed method followed in performing a DataMaster test?
31. What is this method?

32. Do you know _____, the defendant in this case?
33. Do you see him/her in the courtroom?
34. Would you describe and point him/her out for the jury/court?
35. On _____, did you administer a breath test to the defendant on the DataMaster instrument?
36. Prior to giving the test to the defendant, did you advise the defendant of anything?
37. What did you advise the defendant?
- Chemical test rights.
 - The test will require two breath samples.
 - Place your mouth on the mouthpiece and blow long and steady into the tube until I tell you to stop.
38. When and where did you give the defendant this test?
39. How long was the defendant under your observation before you administered the test?
40. During that time, did the defendant have anything to eat, drink, or smoke?
41. Did you ask the defendant any questions?
42. What were they?
- Are you sick?
 - Do you have a fever?
43. How did the defendant answer?
44. How many tests did you give the defendant on the DataMaster?
45. Did you follow the prescribed method in testing the defendant?
46. Let me show you a document that has been marked as People's Proposed Exhibit _____. Can you identify it for the jury/court?
- Evidence ticket.
47. Is this the document you kept regarding the test results of the defendant?
48. What was the result of the first breath alcohol test that you conducted on this defendant?

49. What was the result of the second breath alcohol test that you conducted on this defendant?
- Move for admission of the document indicating the test results of the defendant.
50. As a result of these tests, do you have an opinion as to the condition of the defendant at the time you administered them?
51. Will you state this opinion to the jury/court?
52. Based on your observation of the defendant's behavior prior to and during the time of the test, do you have an opinion as to the sobriety of the defendant?
53. On what do you base that conclusion?

Index

INDEX

A

ABT key, 6-6
ACCESS DENIED display, 6-6, 10-1
Administrative Rules, 3-1, A-1
ADV key, 6-6
AMBIENT ZEROING display, 7-2, 8-4, 8-6, 10-1

B

Battery, 6-3
BLANK TEST display, 7-2, 7-3, 8-4, 8-6, 10-1
Blood Alcohol Concentration, 3-2, B-1
Breath Alcohol Concentration, 3-2, B-1
Breath tube, 6-1, 6-3
Breath, Blood, Urine Test Report, 5-8

C

Canadian abbreviations, C-1
Chemical interference, 8-9, 8-14
CITY, STATE, ZIP, 8-2, 10-1
Clip, 6-4
CLOCK key, 6-6
CLR key, 6-6, 9-2
CONTROL key, 6-7
CPY key, 6-7

D

Date change, 9-1
DEL key, 6-7
DI-177, 5-8
DI-93, 5-6
Display
 ACCESS DENIED, 6-6, 10-1
 AMBIENT ZEROING, 7-2, 8-4, 8-6, 10-1
 BLANK TEST, 7-2, 7-3, 8-4, 8-6, 10-1
 CITY, STATE, ZIP, 8-2, 10-1
 EXTERNAL STANDARD, 7-3, 10-1
 INSERT TICKET, 7-3, 8-7, 10-1
 INTERNAL STANDARD CHECK, 7-2, 7-3, 8-5, 8-6, 10-1
 INVALID SAMPLE, 8-9, 10-2
 LICENSE NUMBER, 8-2, 10-1
 OPERATOR CERTIFICATE #, 7-1, 10-1
 OPERATOR'S NAME, 7-1, 8-3, 10-1
 PLEASE BLOW, 8-5, 8-6, 8-7, 8-8, 10-1
 PLEASE WAIT, 10-2
 PURGING, 7-2, 7-3, 8-4, 8-6, 10-1
 RADIO INTERFERENCE, 8-10, 10-2
 REVIEW DATA? <Y/N>, 7-1, 7-2, 8-4, 10-1
 SUBJECT REFUSED? <Y/N>, 8-7, 8-8, 8-9, 10-1
 SUBJECT'S ADDRESS, 10-1
 SUBJECT'S NAME, 8-1, 10-1
 SUBJECT'S DOB, 8-2, 10-1
 TEST RESULTS, 7-3, 8-6, 10-1
Display panel, 6-1
Distribution, forms, 11-1
DLAD hearing, 8-10

E

Electrical storm, 6-3, 12-1
ENTER/RETURN key, 6-7
Equilibration, 4-6
Evidence ticket
 distribution, 11-1
 observation time, 5-1, 8-1
 operator's signature, 5-1, 8-7
 retention, 11-1
 Simulator test, 7-4
 subject test, 8-11, 8-12
Evidential Breath Testing Log
 completion, 5-3
 distribution, 11-1
 retention, 11-1
Exhaust port, 6-4
EXTERNAL STANDARD display, 7-3, 10-1

F

F1 key, 6-6
F2 key, 6-6
Forms
 DI-177, 5-8
 DI-93, 5-6
 OD-33, 5-3, 11-1
 OD-80, 5-1, 11-1

H

Heater plug, 6-3

I

INCOMPLETE test, 8-8, 8-12
INSERT TICKET display, 7-3, 8-7, 10-1
Insert ticket slot, 6-1
Interference
 chemical, 8-9, 8-14
 radio, 8-10, 8-15
INTERNAL STANDARD CHECK display, 7-2, 7-3, 8-5, 8-6, 10-1
INVALID SAMPLE display, 8-9, 10-2

K

Keyboard, 6-1, 6-6
Keyboard jack, 6-3

L

Laws, B-1
LEFT ARROW key, 6-7
LICENSE NUMBER display, 8-2, 10-1

M

Manufacturer, 1-1
Meniscus, 4-4

Michigan laws, B-1
Mouth alcohol, 8-9, 8-14
MTR key, 6-6

N

Normal standby, 7-1, 8-1, 9-1
NV key, 6-6

O

Observation, 15 min, 3-2, 5-1, 8-1, 8-9, 8-10, 12-1
OD-33, 5-3, 11-1
OD-80, 5-1, 11-1
Officer's Report of Refusal to Submit to Chemical Test, 5-6
On/Off switch, 6-3
Operator
 Class I, 3-1, A-1
 Class II, 3-1, A-1
 Class IIIA, 3-1, A-1
 Class IIIB, 3-1, A-2
 Class IV, 3-1, 3-2, A-2
OPERATOR CERTIFICATE # display, 7-1, 10-1
Operator refusal, 5-6, 8-7, 8-8, 8-10, 8-13
OPERATOR'S NAME display, 7-1, 8-3, 10-1

P

P1 key, 6-6
P2 key, 6-6
Password, time, 6-6, 9-1
PLEASE BLOW display, 8-5, 8-6, 8-7, 8-8, 10-1
PLEASE WAIT display, 10-2
Power outage, 6-3, 12-1
Power supply, 6-3
PURGING display, 7-2, 7-3, 8-4, 8-6, 10-1

R

RADIO INTERFERENCE display, 8-10, 8-15
Ready light, 6-1
Receptacle, AC auxiliary, 6-3, 12-1
Refusal, operator, 5-6, 8-7, 8-8, 8-10, 8-13
Refusal, technical, 5-6, 8-8, 8-9, 8-10, 8-13
Retention, forms, 11-1
REVIEW DATA? <Y/N> display, 7-1, 7-2, 8-4, 10-1
RFI antenna, 6-3
Run key, 6-6, 8-1, 8-8, 8-10

S

Serial number, 5-3, 5-8, 6-4
Service telephone number, 10-2, 10-3, 12-1
SET key, 6-6, 9-1, 9-2
SHIFT key, 6-7
Simulator
 accuracy, 3-1, 4-3, 4-6
 evidence ticket, 7-3, 7-4
 inlet tube, 4-1
 leaks, 4-5
 Mark IIA, 4-1
 meniscus, 4-4
 Model 10-4, 4-1
 outlet tube, 4-1, 7-3
 preparation, 4-3
 temperature, 4-3, 4-5, 7-3
 thermometer scale, 4-1
Simulator test
 weekly, 3-1, 4-1
SPACE key, 6-7
State abbreviations, C-1
SUBJECT REFUSED? <Y/N> display, 8-7, 8-8, 8-9, 10-1
Subject test
 allowable variations, 3-2
 first, 8-5
 second, 8-6
 third, 8-6
SUBJECT'S ADDRESS display, 10-1
SUBJECT'S NAME display, 8-1, 10-1
SUBJECT'S DOB display, 8-2, 10-1
SUP key, 6-6, 7-1

T

TAB key, 6-7
Technical refusal, 5-6, 8-8, 8-9, 8-10, 8-13
Telephone jack, 6-3
Temperature
 breath, 4-3
 simulator, 4-5
TEST RESULTS display, 7-3, 8-6, 10-1
Time change, 9-1
TST key, 6-6
Two-minute limit, 8-7, 8-8, 8-9

U

USER 1 key, 6-7
USER 2 key, 6-7