



# National Traffic Law Center State Implied Consent Laws and Refusal Penalties

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This compilation contains legislation, session laws, and codified statutes. All statutes, laws, and bills listed in this compilation have been signed by the pertinent governor and enacted into law. This report was compiled using Westlaw Services & other resources. This compilation is up to date as of the month it was created, but users are encouraged to check case law and current legislation for any possible modifications to the below-listed statutes.

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## Summary Chart

State	Refusal Penalties: Administrative Consequences	Administrative Hearing?	Temporary Permit?	Additional details
AL  Ala.Code 1975 § 32-5-192  Ala.Code 1975 § 32-5A-304  Ala.Code 1975 § 32-5A-307	First Refusal: Within 5-10 years - 90 day DL suspension  Second Refusal: Within 5-10 years - 1 year DL suspension	Must <b>request an administrative hearing within 10 days</b> of the AST-60 notice	Upon refusal, license is seized, and the officer issues an <b>AST-60 temporary permit</b> valid for <b>up to 40–45 days</b>	Administrative license suspension only  If later convicted of DUI, refusal leads to mandatory Ignition interlock device (IID) requirement.
AK  AK § 28.15.181  AK § 28.15.165	1 <sup>st</sup> refusal = not less than 90 days 2 <sup>nd</sup> refusal = 1 year 3 <sup>rd</sup> refusal = 3 years  4 <sup>th</sup> & subs. refusal = 5 years	Receive a <b>30-day temporary license/Notice of Revocation</b> , effective <b>day 8 after arrest</b> , outlining right to a hearing	At arrest, license is confiscated; receive a <b>7-day temporary license</b> (Notice)	
AZ  A.R.S. § 28-1321	First Refusal: - 12M license suspension; and - Required to complete alcohol/drug screening before reinstatement  Second Refusal: - 24M suspension	Must <b>request a review hearing</b> with Arizona MVD <b>within 15 days</b> of the Affidavit/service date	After refusal, the officer serves an <b>Affidavit/Form 40-5807</b> and <b>confiscates license</b> , issuing a <b>temporary 15-day permit</b>	Administrative license suspension only
AR  A.C.A. § 5-65-205	First Refusal: Within 5 years - 180-day license suspension  Second Refusal: Within 5 years - 2 year suspension  Third Refusal: Within 5 years 3 year suspension	Yes, driver must request a hearing in 7 days of suspension order	Upon refusal, the officer confiscates license and issues a <b>temporary receipt</b> , which serves as a <b>30-day temporary permit</b>	Statute indicates refusal is “violation” but only penalties are license suspension/revocation

CA Cal. Veh. Code § 23612	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- Within 1 year license suspension, no restricted license</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 2 year revocation</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 3 year revocation and possible DL disqualification for life</li> </ul>	Must <b>request a DMV refusal hearing</b> within <b>10 days</b> (some sources say 15 days) to <b>stay</b> the suspension	Receive an <b>Affidavit (Form 40-5807)</b> and a <b>15-day temporary permit</b> upon refusal	If convicted of DUI with refusal: <ul style="list-style-type: none"> <li>- Additional jail time added on top of standard DUI;</li> <li>- Longer license suspension;</li> <li>- Mandatory DUI treatment;</li> <li>- \$125 court fee; and</li> <li>- Ignition Interlock Device</li> </ul>
CO C.R.S. § 42-2-126	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year suspension</li> </ul> <p>Second Refusal: Within 10 years</p> <ul style="list-style-type: none"> <li>- 2 year suspension</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 3 year suspension</li> </ul>	Have <b>7 days</b> from arrest to <b>request an Express Consent (ALR) hearing</b> with DMV	Upon refusal, receive a <b>7-day temporary permit</b>	Administrative license suspension only  Any refusal automatically labels driver a Persistent Drunk Driver (PDD)
CT Conn. Gen. Stat. § 14-227b	<p>License is immediately confiscated and a 24-hour temporary permit is issued upon refusal.</p> <p>First Refusal</p> <ul style="list-style-type: none"> <li>- One year Ignition Interlock Device</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- Two year Ignition Interlock Device</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- Three year Ignition Interlock Device</li> </ul>	<p>7 days to request a hearing after DMV sends a Notice of Suspension</p> <p>If no hearing is requested or the DMV upholds it, license is suspended for 45 days</p>	The officer's confiscated license and hold constitute a <b>24-hour temporary permit</b> .	
DE 21 Del. C. § 2742	If <b>refuse</b> after a lawful DUI arrest, license is <b>immediately revoked</b> , with revocation	Have <b>15 days</b> to request a DMV hearing	At refusal, the officer confiscates license and issues a <b>15-day</b>	Administrative license suspension only



	<p>duration based on prior violations within 5 years:</p> <p>First Refusal</p> <ul style="list-style-type: none"> <li>- 12M of revocation</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 18M of revocation</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 24M of revocation</li> </ul>		<b>temporary permit.</b>	
<p>DC</p> <p>DC ST § 50-1905</p>	<p>First or subsequent refusal:</p> <p>12M</p>	<p><b>Hearing must be requested within 10 days</b> if DC-licensed (or 15 days if licensed elsewhere) via DMV Adjudication Services</p>	<p>The <b>pink Order</b> is a temporary permit, valid for <b>10 days</b> (DC-licensed) or <b>15 days</b> (non-resident).</p>	<p>Administrative license suspension only</p>
<p>FL</p> <p>Fla. Stat. § 316.1932</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- License suspension for 1 year</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- License suspension for 18M and refusal becomes a criminal misdemeanor</li> <li>- Punishable by: Up to 1 year in jail, up to 1K fine, and probation</li> </ul>	<p>Must <b>request a DHSMV formal review hearing within 10 days</b> to challenge the suspension</p>	<p>Upon refusal, the arresting officer <b>confiscates license</b> and issues a <b>10-day temporary permit</b></p>	
<p>GA</p> <p>Ga. Code Ann., § 40-5-67.1</p> <p>Ga. Code Ann., § 40-5-67.2</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year suspension of DL</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 3 year suspension</li> </ul> <p>Third refusal</p> <ul style="list-style-type: none"> <li>- 5 year suspension</li> </ul>	<p>30 days to request a ALS hearing</p>	<p>Receive a “<b>DDS-1205</b>” <b>temporary permit</b> valid for <b>45 days</b> on arrest</p>	<p>Administrative license suspension only</p>

HI  HRS § 291E-41	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year suspension</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 2 year suspension</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 4 year suspension</li> </ul>	Must <b>request a hearing within 7 days</b> of the notice to contest the suspension and preserve driving .	After arrest and refusal, the <b>Notice of Administrative Revocation (temporary permit)</b> is issued, typically valid for ~30 days	
ID  Idaho Code § 18-8002	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year, plus civil penalty of \$250 plus ignition interlock for one year following end of period of suspension</li> </ul> <p>-</p> <p>Second refusal</p> <p>w/in 10 years = 2 years, plus civil penalty of \$250 plus ignition interlock for one year following end of period of suspension</p>	Must <b>request an ALR (implied consent) hearing within 10 days</b> of arrest through the BMV or local court	<b>Receive a 10-day temporary driving permit immediately after the refusal</b>	Administrative license suspension plus civil penalty  <b>No probationary or hardship license</b> during refusal suspension— <b>cannot drive</b> for that period unless early termination is granted
IL  625 ILCS § 5/6-208.1	<p>First Refusal:</p> <ul style="list-style-type: none"> <li>- 12M suspension</li> </ul> <p>Second and subsequent:</p> <ul style="list-style-type: none"> <li>- 3 year suspension</li> </ul>	Must <b>request a hearing within 90 days</b> of suspension notice to contest the summary suspension	The <b>temporary permit</b> allows driving until: <ul style="list-style-type: none"> <li>• It expires after <b>46 days</b>, or</li> <li>• Until the hearing decision if requested timely</li> </ul>	Administrative license suspension only
IN  Ind. Code Ann. § 9-30-6-9	<p>No prior DUI</p> <ul style="list-style-type: none"> <li>- Class C infraction</li> <li>- 1 year suspension period</li> </ul> <p>With prior DUI</p> <ul style="list-style-type: none"> <li>- Class A infraction</li> </ul>	Must file an <b>ALR hearing request within 10 days</b> with the BMV or local court .	License is confiscated at arrest, and an official <b>10-day temporary permit</b> is issued	Administrative license suspension only

	<ul style="list-style-type: none"> <li>- 2 year suspension period</li> </ul>			
IA  Iowa Code Ann. § 321J.9	First Refusal <ul style="list-style-type: none"> <li>- 1 year suspension;</li> <li>- \$200; and</li> <li>- Ignition interlock required</li> </ul> Second Refusal: Within 5 years <ul style="list-style-type: none"> <li>- 2 year suspension'</li> <li>- \$200; and</li> <li>- Ignition interlock required</li> </ul>	Have <b>10 days</b> from arrest to <b>request an administrative review hearing</b> with Iowa DOT, BMV, or local court	The arresting officer confiscates license and issues a <b>10-day temporary permit</b>	Administrative license suspension only
KS  KSA § 8-1014	Each refusal results in: <ul style="list-style-type: none"> <li>- 1 year automatic DL suspension;</li> <li>- Ignition interlock restriction after reinstatement; and</li> <li>- Reinstatement fee</li> </ul>	Must <b>request a hearing within 14 calendar days</b> (or 10 business days) via the Department of Revenue to <b>stay the suspension</b>	Issued a <b>DC-27 “Officer’s Certification &amp; Notice of Suspension”</b> and a <b>30-day temporary permit</b> upon refusal or test failure	Administrative license suspension only
KY  KRS § 189A.107  KRS § 189A.070	Refusal triggers immediate license suspension, starting at your arraignment  During suspension, the court may issue an ignition interlock permit allowing you to drive if installed	If DUI charges are dropped, the <b>court will hold a separate hearing</b> to determine refusal by clear and convincing evidence before confirming suspension	Kentucky does not issue a separate temporary permit after refusal; existing license is confiscated at arraignment	<b>Second or third DUI (within 10 years):</b> Minimum jail sentence is <b>doubled</b> if previously refused a test—compared to the standard DUI penalty
LA  La. R. S. § 32:667	First Refusal <ul style="list-style-type: none"> <li>- 1 year suspension;</li> <li>- Interlock required for hardship license</li> </ul> First Refusal w/ crash causing death or serious bodily injury <ul style="list-style-type: none"> <li>- 2 year suspension'</li> <li>- Interlock required</li> </ul>	Must request within 30 days of arrest	Upon arrest and refusal, the officer issues a temporary driving permit: <ul style="list-style-type: none"> <li>- Valid for 30 days from the date of arrest.</li> <li>- Provides the driver time to request a hearing or apply for</li> </ul>	The <b>interlock device</b> is mandatory during any hardship license period following a refusal-related suspension.

	<p>Second Refusal: Within 10 years</p> <ul style="list-style-type: none"> <li>- 2 year suspension'</li> <li>- Interlock required for hardship license</li> </ul>		a hardship license.	
<p>ME</p> <p>9-A M.R.S. § 2521 (</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 275 day administrative license suspension</li> </ul> <p>Second Refusal: Within 10 years</p> <ul style="list-style-type: none"> <li>- 18M suspension</li> </ul> <p>Third Refusal: Within 10 years</p> <ul style="list-style-type: none"> <li>- 4 year suspension</li> </ul> <p>Fourth Refusal: Within 10 years</p> <ul style="list-style-type: none"> <li>- 6 year suspension</li> </ul>		<p>Maine does not automatically issue a temporary driving permit upon refusal of a chemical test. However, after serving part of the administrative suspension, driver may be eligible to apply for a restricted (work/education) license under Title 29-A § 2501 once certain conditions are met</p>	-
<p>MD</p> <p>MD Transportation Code Ann. § 16-205.1 (</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 270 day administrative license suspension</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 2 year suspension</li> </ul>	<p>Request within 30 days of suspension order. However if driver wants to delay the suspension, they must request the hearing within 10 days</p>	<p>Upon refusal, the officer issues a <b>temporary license</b> (driver's license copy) valid for <b>45 days</b></p>	<p>Administrative license suspension only</p> <p><b>Ignition interlock</b> must be installed <b>for one year</b> to reinstate after refusal</p>
<p>MA</p> <p>Mass. Gen. Laws Ann ch. 90, § 24</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 180 day administrative license suspension</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 3 year suspension</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 5 year suspension</li> </ul> <p>Fourth Refusal</p>	<p>Have 15 days from the refusal to request a hearing at the Boston (Haymarket) RMV Service Center</p>	<p>No temporary license is issued upon refusal- license is immediately confiscated and suspended</p>	<p>Administrative license suspension only</p> <p><b>Vehicle impoundment:</b> vehicle will be <b>impounded for at least 12 hours</b> following refusal</p>

	- Lifetime suspension			
MI MCLS § 257.625f (	First Refusal - 1 year administrative license suspension  Second Refusal (within 7 years) - 2 year suspension	Have <b>14 calendar days</b> from refusal to request an Implied Consent Hearing with the Michigan Secretary of State (SOS)	Upon refusal, physical license is <b>confiscated</b> , and driver issued a <b>paper temporary permit</b> (DI-93) valid while the case or hearing is pending	Administrative license suspension only
MN Minn. Stat. § 169A.52	First Refusal - 1 year administrative license revocation  Second Refusal - 2 year suspension  Third Refusal - 3 year revocation  Fourth Refusal - 4 year revocation  Fifth Refusal - 6 years revocation	The request is filed in <b>district court</b> within <b>30 days</b> of notice	Upon refusal, an officer issues a <b>7-day temporary permit</b> while processing begins	Refusal is also a <b>gross misdemeanor</b> (3rd-degree DWI), punished by <b>up to 1 year in jail</b> and/or <b>\$3,000 fine</b>
MS Miss. Code Ann. § 63-11-23	First Refusal - 90 day administrative license revocation  Second Refusal - 1 year suspension	Must request within <b>10 days</b> of receiving the notice from the Department of Public Safety	The arresting officer must issue a <b>temporary driving permit</b> , valid for <b>30 days</b> after arrest, to allow processing and hearing arrangements	Administrative license suspension only
MO § 577.041 R.S.Mo. (	First Refusal - 1 year license revocation  There's no increased revocation for repeat refusals in statute	Hearing request deadline: <b>within 15 days</b> =	The arresting officer <b>confiscates license</b> and issues a <b>15-day temporary permit</b>	Administrative license revocation only  After 90 days of revocation, driver may apply for a court-granted LDP for work, medical, school, and other essential travel— <b>IID installation required</b>

MT  Mont. Code Ann. § 61-8- 1032	First Refusal - 6 month administrative license suspension  Second Refusal (within 5 years) - 1 year suspension	May file a <b>hearing petition in District Court</b> within <b>30 days</b> to contest the suspension	Effective <b>12 hours</b> <b>after issuance</b> , valid for <b>5 days</b>	<b>No restricted/probationary license</b> allowed during refusal suspension—full no-drive period
NE  Neb.Rev.St. § 60-498.01	First Refusal - 90 day administrative license impoundment - Treated as traffic infraction	Can file a <b>petition for administrative hearing</b> (often called ALR) <b>within 10 days</b> of the refusal notice	After confiscating license, driver receives a <b>15-day temporary permit</b> for driving while awaiting administrative actions	Failing a test leads to <b>180- day suspension</b> , while refusal triggers a <b>90-day impoundment</b>
NV  Nev. Rev. Stat. Ann. § 484C.210	First Refusal - 1 year administrative license revocation  Second Refusal (Within 7 years) - 3 year revocation	Have <b>7 days</b> <b>from arrest</b> to request a <b>hearing with Nevada DMV</b> (Office of Administrative Hearings)	Upon refusal, license is confiscated and driver issued a <b>7- day temporary paper permit</b>	<b>PBT vs. evidentiary test:</b> May refuse preliminary breath tests (PBTs) without immediate penalty, but refusal of post-arrest chemical tests triggers the full revocation
NH  N.H. Rev. Stat. § 265-A:14  N.H. Rev. Stat. §265-A:30	First Refusal - 180 day license suspension  Second Refusal (Within 7 years) - 2 year revocation	Have <b>30 days</b> from service of the DMV's refusal notice to <b>request an AML/IC hearing</b>	The arresting officer <b>confiscates license</b> at the time of refusal. While the DMV processes the refusal, <b>no explicit short-term permit</b> is issued	Administrative license suspension only  <b>Forced testing:</b> In cases involving serious bodily injury or prior refusals, officers can seek a <b>warrant</b> to compel a blood draw
NJ  N.J. Stat. § 39:4-50.4a  N.J. Stat. §39:4- 50.17	First Refusal - 7-12M license suspension; - \$300-500 fine; and - Mandatory surcharges and Intoxicated Driver Resource Center (IDRC) attendance; and - IID must be installed for 9- 15M upon reinstatement		No formal DMV “temporary permit”— <b>license is revoked immediately</b> upon conviction.	Further fine enhancements for violations occurring near schools or school crossings

	<p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 2 year revocation;</li> <li>- \$500-1000 fine;</li> <li>- Continued surcharges;</li> <li>- Less than 12 hours IDRC; and</li> <li>- IID for 2-4 years post restoration</li> </ul>			
<p>NM</p> <p>New Mexico Stat. Ann. § 66-8-111</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year license revocation</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 1 year revocation</li> </ul>	<p>Have <b>10 days</b> from receiving the notice of revocation to request a hearing with the <b>Administrative Hearings Office (AHO)</b></p>	<p>Upon refusal and issuance of revocation notice, the officer <b>takes license</b> and gives a <b>temporary permit</b>:</p> <ul style="list-style-type: none"> <li>• <b>Valid for 20 days</b> from notice, or</li> <li>• Extended <b>until the hearing decision</b>, if hearing is requested in time</li> </ul>	
<p>NY</p> <p>NY CLS Veh &amp; Tr § 1194 (</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year license revocation and</li> <li>- \$500 civil fine</li> </ul> <p>Second Refusal</p> <ul style="list-style-type: none"> <li>- 18M revocation and</li> <li>- \$750 fine</li> </ul>	<p>A <b>DMV administrative hearing</b> may be requested following refusal. Driver will receive a <b>Notice of Temporary Suspension and Hearing</b> almost immediately</p>	<p>License is <b>immediately confiscated</b> at the scene. An officer issues a <b>temporary paper permit</b>, valid until DMV refusal hearing decision</p>	<p>Administrative license suspension only</p>
<p>NC</p> <p>N.C. Gen. Stat. § 20-16.2</p>	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 30 day revocation and</li> <li>- 1 year suspension</li> </ul> <p>Second Refusal (Within 7 years)</p> <ul style="list-style-type: none"> <li>- 4 year suspension</li> </ul>	<p>May request a DMV hearing within <b>10 days</b> of the revocation notice</p>	<p>At time of refusal, the officer immediately <b>takes license</b> and provides a <b>temporary permit</b>, valid during the <b>30-day revocation period</b> or <b>until the</b></p>	<p>Administrative license suspension only</p>

			hearing decision, if requested timely	
ND  N.D. Cent. Code §39-20-04	First Refusal - 30 day revocation Minimum 180-day suspension, up to 3 years Second Refusal (Within 7 years) - 2 year revocation Third Refusal (Within 7 years) - 3 year revocation	Upon refusal, receive a <b>Report &amp; Notice</b> and must <b>request a hearing within 10 days</b> to challenge the action	The officer confiscates license and issues a <b>temporary permit valid for 25 days</b>	No suspension imposed if person pleads guilty to underlying charge
OH  ORC Ann. § 4511.191	First Refusal - 1 year administrative license suspension (ALS) Second Refusal (Within 20 years) - 2 year ALS Third Refusal - 3 year ALS Fourth Refusal - 5 year ALS	To appeal the ALS, must <b>notify the court at initial court appearance or within 30 days</b> following arrest	Upon arrest and refusal, <b>license is immediately confiscated</b> and replaced with a <b>BMV Form 2255</b> : <ul style="list-style-type: none"> <li>• <b>No driving</b> for at least <b>30 days</b> (1st refusal);</li> <li>• <b>Limited driving privileges (LDP)</b> may be requested <b>after 30 days</b>, such as for work or medical needs</li> </ul>	Administrative license suspension only
OK  47 Okl.St. Ann. § 753  47 Okl.St. Ann. § 6-205.1	First Refusal - 180 day license revocation (can extend up to 3 years depending on prior DUI history) Second Refusal - 1 year revocation Third Refusal	Must <b>request a hearing with DPS (Service Oklahoma)</b> within <b>30 days</b> of arrest to challenge the revocation	At arrest, license is confiscated and replaced with a <b>30-day temporary permit</b>	<b>Ignition Interlock Device (IID)</b> may be required for 18 months to 5 years—after revocation—before full reinstatement



	- 3 year revocation			
OR ORS § 813.095 ORS § 813.430 ORS § 813.420	First Refusal - 1 year administrative suspension and \$500-1K fine Second Refusal - 3 year suspension and \$500-1K fine	Must request in writing <b>within 10 days</b> of refusal	Officer will <b>confiscate license</b> and issue a <b>30-day temporary permit</b> under ORS 813.110	
PA 75 Pa.C.S. § 1547	First Refusal - 12M license suspension and \$500 reinstatement fee required to get the license back Second Refusal (Within 10 years) - 18M suspension and 1K fine Third Refusal - 18M suspension and 2K fine	May request a <b>PennDOT administrative hearing</b> by submitting a form within <b>30 days</b> of the notice	License is <b>confiscated on-scene</b> at the time of refusal. A <b>temporary permit</b> is issued, valid <b>until the hearing decision</b>	Criminal Penalties: 75 Pa. Cons. Stat. Ann. § 3804
RI R.I. Gen. Laws § 31-27-2.1	First Refusal - 6-12M suspension of license; - \$200-500 fine; - 10-60 hours community service; - Mandatory DUI counseling; - \$500 highway assessment fee; - \$200 Department of Health fee; and - Possible IID-equipped driving restriction during suspension Second Refusal (Within 5 years) - 1-2 years suspension; - \$600-1K fine;	Can request a <b>hearing in Traffic Tribunal or District Court</b> within <b>15 days</b> of suspension notice	No automatic hardship permit upon refusal; <b>license is suspended immediately</b> and confiscated	

	<ul style="list-style-type: none"> <li>- Plus all the other penalties listed above</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 2-5 years suspension;</li> <li>- \$800-1K fine;</li> <li>- Plus all the other penalties listed above</li> </ul>			
SC S.C. Code Ann. § 56-5-2951	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 6M administrative license suspension</li> </ul> <p>Second Refusal (Within 10 years)</p> <ul style="list-style-type: none"> <li>- 9M suspension</li> </ul>	Must <b>request a contested-case hearing</b> with the DMV's Office of Motor Vehicle Hearings (OMVH) <b>within 30 days</b> of receiving the Notice of Suspension	Once a hearing is requested, can obtain a <b>Temporary Alcohol License (TAL)</b> from DMV for <b>\$100</b> , good until the administrative hearing	Administrative license suspension only
SD S.D. Codified Laws § 32-23-11	A refusal to submit to a post-arrest chemical test (breath, blood, or urine) triggers a <b>mandatory 1-year administrative license revocation</b> —the same penalty applies regardless of prior refusals	After refusal, receive a <b>Notice of Revocation</b> and must <b>request a hearing within 10 days</b> to challenge the license revocation	The officer confiscates driver's license and typically issues a <b>temporary permit valid for 25 days</b> while revocation is processed	
TN T.C.A. § 55-10-407	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 1 year administrative license suspension and</li> <li>- Civil offense</li> </ul> <p>Second Refusal (Within 10 years)</p> <ul style="list-style-type: none"> <li>- 2 year revocation</li> </ul>	Entitled to a <b>civil hearing</b> where refusal is determined by the <b>same court handling the DUI</b> , typically at <b>first appearance</b> —no separate DMV hearing .	License is confiscated at the scene; do not receive a formal "hard copy" temporary permit, but <b>driving privileges remain until the court decides</b> the matter.	
TX Tex. Transp. Code § 724.035	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 180 day license suspension</li> </ul> <p>Second Refusal (Within 10 years)</p> <ul style="list-style-type: none"> <li>- 2 year suspension</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 2 year suspension</li> </ul>	Must <b>request an ALR hearing within 15 days</b> of notice/serving to contest the suspension	Upon refusal, the officer confiscates license and issues a <b>40-day temporary permit</b>	Administrative license suspension only
UT U.C.A. 1953 § 41-6a-520	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 18M DL suspension</li> </ul> <p>Second Refusal (Within 10 years)</p>	Have <b>10 days to request a Driver License Division (DLD) hearing</b> after refusal	Upon refusal, official license is seized and replaced with a	

U.C.A. 1953 § 41-6a-521.1	<ul style="list-style-type: none"> <li>- 3 year suspension</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- 5-10 year suspension and</li> <li>- Officers can seek 3 year no alcohol license and mandate IID for 3 years</li> </ul>		<b>temporary permit</b> valid for <b>29 days</b>	
VT  23 V.S.A. § 1205	<p>First Refusal</p> <ul style="list-style-type: none"> <li>- 6M DL suspension</li> </ul> <p>Second Refusal (Within 20 years)</p> <ul style="list-style-type: none"> <li>- 18M suspension</li> </ul> <p>Third Refusal</p> <ul style="list-style-type: none"> <li>- Lifetime license suspension and</li> <li>- Potential reinstatement via total abstinence program</li> </ul>	Must <b>request a hearing within 7 days</b> of receiving the Notice of Intent to Suspend (civil DUI process)	The <b>Notice of Intent</b> serves as <b>temporary license</b> , valid until <b>12:01 AM on suspension day</b> — typically occurring the 11th day unless stayed by a hearing request	23 V.S.A. § 1210 Penalties apply for criminal refusal per 23 V.S.A. § 1201(b)
VA  Va. Code Ann. § 18.2-268.2  Va. Code Ann. § 18.2-268.3	<p>First Refusal (civil offense)</p> <ul style="list-style-type: none"> <li>- 1 year DL suspension and</li> <li>- No restricted license</li> </ul> <p>Second Refusal (Within 10 years)</p> <ul style="list-style-type: none"> <li>- 3 year suspension and</li> <li>- Class 2 misdemeanor (up to 6M in jail + 1K fine)</li> </ul> <p>Third Refusal (Within 10 years)</p> <ul style="list-style-type: none"> <li>- 3 year suspension and</li> <li>- Class 1 misdemeanor (up to 1 year jail + 2.5K fine)</li> </ul> <p>Potential reinstatement via total abstinence program</p>	<b>No filing window</b> is specified for civil refusal; it's resolved as part of the criminal case.	Upon refusal, license is <b>confiscated</b> at the scene. <b>No separate temporary paper permit</b> is issued; drivers stay licensed until the judge rules.	Administrative suspensions Va. Code Ann. § 46.2-391.2:  1st refusal = 7 days  2nd refusal = 60 days  3rd or subs. Refusal = until trial of underlying DUI
WA	<p>First Refusal (Within 7 years)</p> <ul style="list-style-type: none"> <li>- 1 year DL revocation</li> </ul>	May request a <b>formal hearing with the Department of</b>	After refusal, the officer issues a <b>temporary license</b> valid until:	Rev. Code Wash. § 46.61.5055 (1995 as amended 2020).

Rev. Code Wash. § 46.20.308	Second Refusal (Within 7 years) - 2 year revocation	<b>Licensing (DOL)</b> within <b>7 days</b> of notice	- <b>30 days from arrest</b> , or - Until the <b>DOL hearing decision</b> , if timely requested	If convicted on underlying offense, person is subject to enhanced criminal penalties:  1st DUI w/in 7 years w/ refusal = imprisonment for not less than 48 consecutive hours nor more than 364 days plus fine of not less than \$500 or more than \$5000  2nd DUI w/in 7 years w/ refusal = imprisonment for not less than 45 days nor more than 364 days and 90 days of electronic home monitoring (or 6 additional days in jail), fine of not less than \$750 or more than \$5,000  3rd DUI offense w/in 7 years w/ refusal = Imprisonment not less than 120 nor more than 364 days, 6 months 24/7 program, and 150 days of electronic home monitoring (or at least 10 additional days in jail), plus Fine of not less than \$1500 nor more than \$5000
WV  W.Va. Code, § 17C-5-7	First Refusal - 1 year administrative license revocation  Repeat refusals lead to longer suspensions potentially up to lifetime revocation on the 3 <sup>rd</sup>	Must <b>request a refusal-review hearing in writing within 30 days</b> of court appearance under updated 2020 rules	Following refusal, the officer seizes license, but driver entitled to <b>continued driving. No formal paper “temporary permit” is issued— license remains valid until final order</b>	Administrative license suspension only
WI  Wis. Stat. Ann. § 343.305	First Refusal - 1 year administrative license revocation  Second Refusal (Within 5 years)	Must <b>request a “refusal review” hearing within 10 days</b> of receiving the Notice of Intent to Revoke	After refusal, the <b>Notice of Intent functions as a temporary license</b> valid for 30 days. If file a hearing request, this temporary license	Administrative license suspension only

	<ul style="list-style-type: none"> <li>- 2 year revocation and</li> <li>- Mandatory IID installation after revocation ends</li> </ul>		<b>remains in effect until the hearing outcome</b>	
WY  W.S.1977 § 31-7-305	<b>CDL Holders</b> First Refusal <ul style="list-style-type: none"> <li>- Not less than 1 yr</li> </ul> Two or more violations- may be disqualified for life.		.	No penalties for refusal for non- CDL holders.  Officer may apply for search warrant upon refusal per W.S.1977 § 31-6-102(d)

Provisions relating to special driver categories such as commercial motor vehicle drivers, persons under the age of 21 years, and school bus drivers are bolded and highlighted in yellow. General adult drivers are bolded.

## Alabama

### **Ala. Code 1975 § 32-5-192. Implied consent; when tests administered; suspension of license or permit to drive, etc., for refusal to submit to test (1969 as amended 2021).**

(a)(1) Any person who operates a **motor vehicle** on the public highways of this state shall be deemed to have given consent, subject to this division, to a chemical test or tests of his or her blood, breath, or oral fluid for the purpose of determining the content of any impairing substance or substances within a person's system, if lawfully arrested for any offense arising out of acts alleged to have been committed while the person was driving a motor vehicle on the public highways of this state in violation of Section 32-5A-191.

(2) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was in violation of Section 32-5A-191, while driving a motor vehicle on the public highways of this state.

(3) The law enforcement agency that employs the officer shall designate which test or tests shall be administered. The person shall be told that his or her failure to submit to a chemical test or tests will result in the suspension of his or her privilege to operate a motor vehicle for a minimum of 90 days. If the person objects to a blood test, the law enforcement agency shall designate that one of the other tests be administered.

(b) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (a) and the test or tests may be administered, subject to this division.

(c)(1) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test or tests designated by the law enforcement agency as provided in subsection (a), none shall be given, unless a court order has been obtained ordering the person to submit to a chemical test or tests.

### **Ala. Code § 32-6-49.13. Implied consent to take test of blood, breath, etc.; administration of test; refusal to take test; report of a law enforcement officer; sanctions; notice and hearing; review; notification of other states (1989 as amended 2021).**



(a) A person who drives a **commercial motor vehicle** within this state is deemed to have given consent, subject to provisions of Section 32-5-192, to take a test or tests of that person's blood, breath, or oral fluid, or any combination thereof, for the purpose of determining that person's alcohol concentration or the presence of other drugs or any other impairing substance.

(c) A person requested to submit to a test or tests as provided in subsection (a) must be warned by the law enforcement officer requesting the test or tests that a refusal to submit to the test or tests will result in that person being immediately placed out of service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than two years under Section 32-6-49.12.

(d) If the person refuses testing, or submits to a test which discloses an alcohol concentration of 0.04 or more, the law enforcement officer shall submit a sworn report to the agency certifying that the test was requested pursuant to subsection (b) and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of 0.04 or more.

## **Alaska**

### **Alaska Stat. § 28.35.031. Implied Consent (1969 as amended 2002).**

(a) A person who operates or drives a motor vehicle in this state or who operates an aircraft as defined in AS 28.35.030(w) or who operates a watercraft as defined in AS 28.35.030(w) shall be considered to have given consent to a chemical test or tests of the person's breath for the purpose of determining the alcoholic content of the person's blood or breath if lawfully arrested for an offense arising out of acts alleged to have been committed while the person was operating or driving a motor vehicle or operating an aircraft or a watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance or if lawfully arrested under AS 28.35.280 for the offense of minor operating a vehicle after consuming alcohol. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the person was operating or driving a motor vehicle or operating an aircraft or a watercraft in this state while under the influence of an alcoholic beverage, inhalant, or controlled substance or that the person was a minor operating a vehicle after consuming alcohol.

(b) A person who operates or drives a motor vehicle in this state or who operates an aircraft or watercraft shall be considered to have given consent to a preliminary breath test for the purpose of determining the alcoholic content of the person's blood or breath. A law enforcement officer may administer a preliminary breath test at the scene of the incident if the officer has probable cause to believe that a person's ability to operate a motor vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and that the person

(1) was operating or driving a motor vehicle, aircraft, or watercraft that is involved in an accident;



- (2) committed a moving traffic violation or unlawfully operated an aircraft or watercraft; in this paragraph, “unlawfully” means in violation of any federal, state, or municipal statute, regulation, or ordinance, except for violations that do not provide reason to believe that the operator's ability to operate the aircraft or watercraft was impaired by the ingestion of alcoholic beverages; or
- (3) was operating or driving a motor vehicle in violation of AS 28.35.029(a).
- (c) Before administering a preliminary breath test under (b) of this section, the officer shall advise the person that refusal may be used against the person in a civil or criminal action arising out of the incident and that refusal is an infraction. If the person refuses to submit to the test, the test shall not be administered.
- (d) The result of the test under (b) of this section may be used by the law enforcement officer to determine whether the driver or operator should be arrested.
- (e) Refusal to submit to a preliminary breath test at the request of a law enforcement officer is an infraction.
- (f) If a driver or operator is arrested, the provisions of (a) of this section apply. The preliminary breath test authorized in this section is in addition to any tests authorized under (a) of this section.
- (g) A person who operates or drives a motor vehicle in this state shall be considered to have given consent to a chemical test or tests of the person's breath and blood for the purpose of determining the alcoholic content of the person's breath and blood and shall be considered to have given consent to a chemical test or tests of the person's blood and urine for the purpose of determining the presence of controlled substances in the person's blood and urine if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person. The test or tests may be administered at the direction of a law enforcement officer who has probable cause to believe that the person was operating or driving a motor vehicle in this state that was involved in an accident causing death or serious physical injury to another person.

**Alaska Stat. § 28.35.032. Refusal to submit to chemical test (1969 as amended 2022).**

- (g) Upon conviction under this section,
- (1) the court shall impose a minimum sentence of imprisonment of
- (A) not less than 72 consecutive hours, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle



for a minimum of six months, and impose a fine of not less than \$1,500 if the person has not been previously convicted;

(B) not less than 20 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle for a minimum of 12 months, and impose a fine of not less than \$3,000 if the person has been previously convicted once;

(C) not less than 60 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle for a minimum of 18 months, and impose a fine of not less than \$4,000 if the person has been previously convicted twice and is not subject to punishment under (p) of this section;

(D) not less than 120 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle for a minimum of 24 months, and impose a fine of not less than \$5,000 if the person has been previously convicted three times and is not subject to punishment under (p) of this section;

(E) not less than 240 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle for a minimum of 30 months, and impose a fine of not less than \$6,000 if the person has been previously convicted four times and is not subject to punishment under (p) of this section;

(F) not less than 360 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle for a minimum of 36 months, and impose a fine of not less than \$7,000 if the person has been previously convicted more than four times and is not subject to punishment under (p) of this section;

## Arizona

### **Ariz. Rev. Stat. Ann. § 28-1321. Implied consent; tests; refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; special ignition interlock restricted driver license (1997 as amended 2024).**

A. A person who operates a motor vehicle in this state gives consent, subject to § 4-244, paragraph 34 or § 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or § 4-244, paragraph 34 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor as prescribed in § 28-1381 or drugs. The test or tests

chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:

1. While under the influence of intoxicating liquor as prescribed in § 28-1381 or drugs.

2. If the person is under twenty-one years of age, with spirituous liquor in the person's body....

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to § 4-244, paragraph 34 or § 28-1381, 28-1382 or 28-1383.

D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:

1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant. . .

## **Arkansas**

### **Ark. Code Ann. § 5-65-202. Implied Consent (1969 as amended 2021).**

(a) A person who operates a motorboat on the waters of this state or a motor vehicle or is in actual physical control of a motorboat on the waters of this state or a motor vehicle is deemed to have given consent, subject to § 5-65-203, to one (1) or more chemical tests of his or her breath, saliva, or urine for the purpose of determining the alcohol concentration or controlled substance content of his or her breath or blood if:

- (1) The person is arrested for any offense arising out of an act alleged to have been committed while the person was driving or boating while intoxicated or driving or boating while there was an alcohol concentration of eight hundredths (0.08) or more in the person's breath or blood;

- (2) The person is involved in an accident while operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle; or

- (3) At the time the person is arrested for driving or boating while intoxicated, the law enforcement officer has reasonable cause to believe that the person, while operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle, is intoxicated or has an alcohol concentration of eight hundredths (0.08) or more in the person's breath or blood.

(b) A person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided by subsection (a) of this section, and one (1) or more chemical tests may be administered subject to § 5-65-203.

(c) Absent exigent circumstances, a test of a person's blood under this section to determine the person's alcohol concentration, controlled substance content, or other intoxicating substance content in his or her blood requires a warrant based on probable cause that the person was operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle while intoxicated or the person's express consent to the test.

### **Ark. Code Ann. § 5-65-309. Implied Consent (1993 as amended 2019).**

(a) An **underage person** who operates a motorboat on the waters of this state or a motor vehicle or is in actual physical control of a motor vehicle or motorboat in this state is deemed to have given consent, subject to § 5-65-203, to a chemical test of his or her breath, saliva, or urine for the purpose of determining the alcohol concentration or controlled substance content of his or her breath or blood if:

(1) The underage person is arrested for any offense arising out of an act alleged to have been committed while the underage person was driving or boating while under the influence or driving or boating while there was an alcohol concentration of two hundredths (0.02) but less than eight hundredths (0.08) in his or her breath, blood, saliva, or urine;

(2) The underage person is involved in an accident while operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle; or

(3) The underage person is stopped by a law enforcement officer who has reasonable cause to believe that the underage person, while operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle, is under the influence or has an alcohol concentration of two hundredths (0.02) but less than eight hundredths (0.08) in his or her breath or blood.

(b) An underage person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided by subsection (a) of this section, and a chemical test may be administered subject to § 5-65-203.

(c) A test of an underage person's blood under this section to determine the underage person's alcohol concentration, controlled substance content, or other intoxicating substance content in his or her blood requires a warrant based on probable cause that the underage person was operating or in actual physical control of a motorboat on the waters of this state or a motor vehicle while intoxicated

**Ark. Stat. Ann. § 5-65-310. Refusal to submit to a chemical test (1969 as amended 2017).**

(a)(1) If an **underage** person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided for in § 5-65-309:

(A) A chemical test shall not be given;

(B) The underage person's driver's license, driver's permit, or other evidence of driving privilege shall be seized by the law enforcement officer; and

(C) The law enforcement officer shall immediately deliver to the underage person from whom the driver's license, driver's permit, or other evidence of driving privilege was seized a temporary driving permit, as provided by § 5-65-402.

(2) Refusal to submit to a chemical test under this subsection is a strict liability offense and is a violation.

(b)(1) The Office of Driver Services shall suspend or revoke the driving privileges of an arrested underage person who refuses to submit to a chemical test under this subchapter as follows:

(A) Suspension for ninety (90) days for a first offense;

(B) Suspension for one (1) year for a second offense; and

(C) Revocation for a third or subsequent offense.

(2) A revocation issued under this subsection continues until the underage person reaches twenty-one (21) years of age or for a period of three (3) years, whichever is longer.

## **California**

**Cal. Veh. Code § 23612. Chemical blood, breath, or urine tests (1992 as amended 2019).**

(a)(1)(A) A person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) A person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood for the purpose of determining the drug content of his



or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153. If a blood test is unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

(C) The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23140, 23152, or 23153.

(D) The person shall be told that his or her failure to submit to, or the failure to complete, the required breath or urine testing will result in a fine and mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153. The person shall also be told that his or her failure to submit to, or the failure to complete, the required breath, blood, or urine tests will result in (i) the administrative suspension by the department of the person's privilege to operate a motor vehicle for a period of one year, (ii) the administrative revocation by the department of the person's privilege to operate a motor vehicle for a period of two years if the refusal occurs within 10 years of a separate violation of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153 of this code, or of Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code that resulted in a conviction, or if the person's privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 for an offense that occurred on a separate occasion, or (iii) the administrative revocation by the department of the person's privilege to operate a motor vehicle for a period of three years if the refusal occurs within 10 years of two or more separate violations of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153 of this code, or of Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, or any combination thereof, that resulted in convictions, or if the person's privilege to operate a motor vehicle has been suspended or revoked two or more times pursuant to Section 13353, 13353.1, or 13353.2 for offenses that occurred on separate occasions, or if there is any combination of those convictions, administrative suspensions, or revocations.

(2)(A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood or breath and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood or breath, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood test if the officer has reasonable cause to believe that the person was driving under the influence of a drug or the combined influence of an alcoholic beverage and a drug and

if the officer has reasonable cause to believe that a blood test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which those beliefs are based. The officer shall advise the person that he or she is required to submit to an additional test. The person shall submit to and complete a blood test. If the person arrested is incapable of completing the blood test, the person shall submit to and complete a urine test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood or breath, the person has the choice of those tests, including a urine test, that are available at the facility to which that person has been transported. In that case, the officer shall advise the person of those tests that are available at the medical facility and that the person's choice is limited to those tests that are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) A person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. A person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

### **Cal. Veh. Code § 23577. Additional penalties for willful refusal to submit to or willful failure to complete breath or urine test at time of arrest (1998 as amended 2019).**

(a) If a person is convicted of a violation of Section 23152 or 23153, and at the time of the arrest leading to that conviction that person willfully refused a peace officer's request to submit to, or willfully failed to complete, the breath or urine tests pursuant to Section 23612, the court shall impose the following penalties:

(1) If the person is convicted of a first violation of Section 23152, notwithstanding any other provision of subdivision (a) of Section 23538, the terms and conditions of probation shall include the conditions in paragraph (1) of subdivision (a) of Section 23538.

(2) If the person is convicted of a first violation of Section 23153, the punishment shall be enhanced by an imprisonment of 48 continuous hours in the county jail, whether or not probation is granted and no part of which may be stayed, unless the person is sentenced to, and incarcerated in, the state prison and the execution of that sentence is not stayed.

(3) If the person is convicted of a second violation of Section 23152, punishable under Section 23540, or a second violation of Section 23153, punishable under Section 23560, the punishment shall be enhanced by an imprisonment of 96 hours in the county jail, whether or not probation is granted and no part of which may be stayed, unless the person is sentenced to, and incarcerated in, the state prison and execution of that sentence is not stayed.

(4) If the person is convicted of a third violation of Section 23152, punishable under Section 23546, the punishment shall be enhanced by an imprisonment of 10 days in the county jail, whether or not probation is granted and no part of which may be stayed.

(5) If the person is convicted of a fourth or subsequent violation of Section 23152, punishable under Section 23550 or 23550.5, the punishment shall be enhanced by imprisonment of 18 days in the county jail, whether or not probation is granted and no part of which may be stayed....

## Colorado

### **Colo. Rev. Stat. § 42-4-1301.1. Expressed consent for the taking of blood, breath, urine, or saliva sample—testing—fund—rules—appeal (2002 as amended 2019).**

(1) Any person who drives any motor vehicle upon the streets and highways and elsewhere throughout this state shall be deemed to have expressed such person's consent to the provisions of this section.

(2)(a)(I) A person who drives a motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to take and complete, and to cooperate in the taking and completing of, any test or tests of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood or breath when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of the prohibitions against DUI, DUI per se, DWAI, or UDD. Except as otherwise provided in this section, if a person who is twenty-one years of age or older requests that the test be a blood test, then the test shall be of his or her blood; but, if the person requests that a specimen of his or her blood not be drawn, then a specimen of the person's breath shall be obtained and tested. A person who is under twenty-one years of age shall be entitled to request a blood test unless the alleged violation is UDD, in which case a specimen of the person's breath shall be obtained and tested, except as provided in subparagraph (II) of this paragraph (a).



(II) Except as otherwise provided in paragraph (a.5) of this subsection (2), if a person elects either a blood test or a breath test, the person shall not be permitted to change the election, and, if the person fails to take and complete, and to cooperate in the completing of, the test elected, the failure shall be deemed to be a refusal to submit to testing. If the person is unable to take, or to complete, or to cooperate in the completing of a breath test because of injuries, illness, disease, physical infirmity, or physical incapacity, or if the person is receiving medical treatment at a location at which a breath testing instrument certified by the department of public health and environment is not available, the test shall be of the person's blood.

(III) If a law enforcement officer requests a test under this paragraph (a), the person must cooperate with the request such that the sample of blood or breath can be obtained within two hours of the person's driving....

(b)(I) Any person who drives any motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to submit to and to complete, and to cooperate in the completing of, a test or tests of such person's blood, saliva, and urine for the purpose of determining the drug content within the person's system when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of the prohibitions against DUI or DWAI and when it is reasonable to require such testing of blood, saliva, and urine to determine whether such person was under the influence of, or impaired by, one or more drugs, or one or more controlled substances, or a combination of both alcohol and one or more drugs, or a combination of both alcohol and one or more controlled substances.

(II) If a law enforcement officer requests a test under this paragraph (b), the person must cooperate with the request such that the sample of blood, saliva, or urine can be obtained within two hours of the person's driving.

(3) Any person who is required to take and to complete, and to cooperate in the completing of, any test or tests shall cooperate with the person authorized to obtain specimens of such person's blood, breath, saliva, or urine, including the signing of any release or consent forms required by any person, hospital, clinic, or association authorized to obtain such specimens. If such person does not cooperate with the person, hospital, clinic, or association authorized to obtain such specimens, including the signing of any release or consent forms, such noncooperation shall be considered a refusal to submit to testing. No law enforcement officer shall physically restrain any person for the purpose of obtaining a specimen of such person's blood, breath, saliva, or urine for testing except when the officer has probable cause to believe that the person has committed criminally negligent homicide pursuant to section 18-3-105, C.R.S., vehicular homicide pursuant to section 18-3-106(1)(b), C.R.S., assault in the third degree pursuant to section 18-3-204, C.R.S., or vehicular assault pursuant to section 18-3-205(1)(b), C.R.S., and the person is refusing to take or to complete, or to cooperate in the completing of, any test or tests, then, in such event, the law enforcement officer may require a blood test.



(4) Any driver of a commercial motor vehicle requested to submit to a test as provided in paragraph (a) or (b) of subsection (2) of this section shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test shall result in an out-of-service order as defined under section 42-2-402(8) for a period of twenty-four hours and a revocation of the privilege to operate a commercial motor vehicle for one year as provided under section 42-2-126....

## Connecticut

### **Conn. Gen. Stat. § 14-227b. Implied consent to test operator's blood, breath or urine and to nontestimonial portion of drug influence evaluation. Testing procedures. License suspension. Hearing ((1963, as amended 2025)).**

(a) Any person who operates a motor vehicle in this state shall be deemed to have given such person's consent to: (1) A chemical test of such person's blood, breath or urine; and (2) a nontestimonial portion of a drug influence evaluation conducted by a drug recognition expert. If such person is a minor, such person's parent or parents or guardian shall also be deemed to have given their consent for such test or evaluation. As used in this section, "motor vehicle" includes a snowmobile and all-terrain vehicle, as such terms are defined in section 14-379.

(b) (1) A police officer who has placed a person under arrest for a violation of section 14-227a, 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n may request that such person submit to a blood, breath or urine test at the option of the police officer, a drug influence evaluation conducted by a drug recognition expert, or both, after such person has been (A) apprised of such person's constitutional rights; (B) afforded a reasonable opportunity to telephone an attorney prior to the performance of such test or evaluation; (C) informed that evidence of any refusal to submit to such test or evaluation shall be admissible in accordance with subsection (e) of section 14-227a and may be used against such person in any criminal prosecution, except that refusal to submit to the testimonial portions of a drug influence evaluation shall not be considered evidence of refusal of such evaluation for purposes of any criminal prosecution; and (D) informed that such person's license or operating privilege may be suspended in accordance with the provisions of this section if (i) such person refuses to submit to such test or the nontestimonial portion of a drug influence evaluation, (ii) such person submits to such test and the results of such test indicate that such person has an elevated blood alcohol content, or (iii) the officer concludes, through investigation, that such person was operating a motor vehicle under the influence of intoxicating liquor or any drug, or both.

(2) If the person refuses to submit to any test or drug influence evaluation, the test or evaluation shall not be given, except if the person refuses or is unable to submit to a blood test, the police officer shall designate another test to be taken. If a person submits to a breath test and the police officer, for reasonable cause, requests an additional chemical test of a different type to detect the presence of a drug or drugs other than or in addition to alcohol, the officer may administer such test, except that if such person refuses or is unable to submit to a blood test, the officer shall designate a urine test to be

taken. The police officer shall make a notation upon the records of the law enforcement unit, as defined in section 7-294a, that such officer informed the person that such person's license or operating privilege may be suspended if (A) such person refused to submit to such test or nontestimonial portion of a drug influence evaluation; (B) such person submitted to such test and the results of such test indicated that such person had an elevated blood alcohol content; or (C) the officer concludes, through investigation, that such person was operating a motor vehicle under the influence of intoxicating liquor or any drug, or both.

(c) If the person arrested refuses to submit to such test or nontestimonial portion of a drug influence evaluation or submits to such test, commenced within two hours of the time of operation, and the results of such test indicate that such person has an elevated blood alcohol content, the police officer, acting on behalf of the Commissioner of Motor Vehicles, shall immediately revoke and take possession of the motor vehicle operator's license or, if such person is not licensed or is a nonresident, suspend the operating privilege of such person, for a twenty-four-hour period. The police officer shall prepare a report of the incident not later than six business days after such arrest and thereafter, shall mail or otherwise transmit in accordance with this subsection the report and a copy of the results of any chemical test to the Department of Motor Vehicles. The report shall contain such information as prescribed by the Commissioner of Motor Vehicles and shall be subscribed and sworn to under penalty of false statement as provided in section 53a-157b by the arresting officer. If the person arrested refused to submit to such test or evaluation, the report shall be endorsed by a third person who witnessed such refusal. The report shall set forth the grounds for the officer's belief that there was probable cause to arrest such person for a violation of section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n and shall state that such person had refused to submit to such test or evaluation when requested by such police officer to do so or that such person submitted to such test, commenced within two hours of the time of operation, and the results of such test indicated that such person had an elevated blood alcohol content. A drug influence evaluation need not be commenced within two hours of the time of operation. The Commissioner of Motor Vehicles may accept a police report under this subsection that is prepared and transmitted as an electronic record, including electronic signature or signatures, subject to such security procedures as the commissioner may specify and in accordance with the provisions of sections 1-266 to 1-286, inclusive. In any hearing conducted pursuant to the provisions of subsection (g) of this section, it shall not be a ground for objection to the admissibility of a police report that it is an electronic record prepared by electronic means.

(d) If a police officer who has placed a person under arrest for a violation of section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n does not request that such person submit to a blood, breath or urine test under subsection (b) of this section, or obtains results from a test administered under subsection (b) of this section that indicate that the person does not have an elevated blood alcohol content, such officer shall:

(1) Advise such person that such person's license or operating privilege may be suspended in accordance with the provisions of this section if such police officer concludes, through investigation, that such person was operating a motor vehicle under the influence of intoxicating liquor or any drug, or both; and

(2) Submit a report to the commissioner in accordance with the procedure set forth in subsection (c) of this section and, if such report contains the results of a blood, breath or urine test that does not show an elevated blood alcohol content, such report shall conform to the requirements in subsection (c) of this section for reports that contain results showing an elevated blood alcohol content. In any report submitted under this subdivision, the officer shall document (A) the basis for the officer's belief that there was probable cause to arrest such person for a violation of section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n, and (B) whether the officer concluded, through investigation, that the person was operating a motor vehicle under the influence of intoxicating liquor or any drug, or both. With such report, the officer may submit other supporting documentation indicating the person's intoxication by liquor or any drug, or both. If the officer concludes, through investigation, that the person was operating a motor vehicle under the influence of intoxicating liquor or any drug, or both, the officer shall immediately revoke and take possession of the motor vehicle operator's license or, if such person is not licensed or is a nonresident, suspend the operating privilege of such person for a twenty-four-hour period.

## **Delaware**

### **Del. C. § 2740. Consent to submit to chemical test; probable cause; test required (1969 as amended 1995).**

(a) Any person who drives, operates or has in actual physical control a vehicle, an off-highway vehicle, or a moped within this State shall be deemed to have given consent, subject to this section and §§ 4177 and 4177L of this title to a chemical test or tests of that person's blood, breath and/or urine for the purpose of determining the presence of alcohol or a drug or drugs. The testing may be required of a person when an officer has probable cause to believe the person was driving, operating or in physical control of a vehicle in violation of §§ 4177 and 4177L or § 2742 of this title, or a local ordinance substantially conforming thereto.

(b) The testing shall be required of a person when an officer has probable cause to believe the person was driving, operating or in physical control of a vehicle in violation of § 4177 or § 2742 of this title or a local ordinance substantially conforming thereto and was involved in an accident which resulted in a person's death. In the event of a fatal accident if the officer does not believe that probable cause exists to require testing, then the officer shall file a written report outlining the reasons for that determination.

## **Del. C. § 2614. Implied consent requirements for commercial motor vehicle drivers (1990 as amended 1995).**

- (a) A person who drives a commercial motor vehicle within this State is deemed to have given consent, subject to provisions of this title, to take a test or tests of that person's blood or breath for the purpose of determining that person's alcohol concentration, or the presence of other drugs.
- (b) A test or tests may be administered at the direction of a law-enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in the driver's system.
- (c) A person requested to submit to a test as provided in subsection (a) of this section must be warned by the law-enforcement officer requesting the test, that a refusal to submit to the test will result in that person being immediately placed out of service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than 1 year under § 2612 of this title.
- (d) If the person refuses testing, or submits to a test which discloses an alcohol concentration of 0.04 or more, the law-enforcement officer must submit a sworn report to the Division of Motor Vehicles certifying that the test was requested pursuant to subsection (a) of this section and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of 0.04 or more.
- (e) Upon receipt of the sworn report of a law-enforcement officer submitted under subsection (d) of this section, the Division of Motor Vehicles must disqualify the driver from driving a commercial motor vehicle under § 2612 of this title.

## **District of Columbia**

### **D.C. Code Ann. § 50-1904.02. Chemical testing after arrest (1972 as amended 2013).**

- (a) Except as provided in subsection (b) of this section, when a law enforcement officer has reasonable grounds to believe that a person was operating or in physical control of a motor vehicle within the District while intoxicated or while the person's ability to operate a motor vehicle is impaired by the consumption of alcohol or a drug or a combination thereof, after arrest of the person, the person shall:
  - (1) Except as provided in paragraph (2) of this subsection, be deemed to have given his or her consent, subject to the provisions of this chapter, to submitting 2 specimens for chemical testing of the person's blood, breath, or urine, for the purpose of determining alcohol or drug content; and

(2) Submit 2 specimens for chemical testing of his or her blood, breath, or urine for the purpose of determining alcohol or drug content when he or she is involved in a collision in the District.

(b) When a person is required to submit specimens for chemical testing pursuant to subsection (a) of this section, a law enforcement officer shall elect which types of specimens will be collected from the person and the law enforcement officer or a medical professional shall collect the specimen subject to the restriction in § 50-1903(a); provided, that the person may object to a particular type of specimen collection for chemical testing on valid religious or medical grounds. If a person objects to blood collection on valid religious or medical grounds, that person shall only be required to submit breath or urine specimens for collection....

## Florida

### **Fla. Stat. Ann. § 316.1932. Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal (1982 as amended 2021).**

(1)(a) 1. a. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test....

(c) A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. A person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. A blood test may be administered whether or not the person is told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle upon the public highways of this state and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. A person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of the person has been suspended previously or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327. The refusal to submit to a blood test upon the request of a law enforcement officer is admissible in evidence in any criminal proceeding....



(e) 1. By applying for a driver license and by accepting and using a driver license, the person holding the driver license is deemed to have expressed his or her consent to the provisions of this section....

3. A warning of the consent provision of this section shall be printed on each new or renewed driver license...

### **Fla. Stat. Ann. § 316.1939. Refusal to submit to testing; penalties (2002 as amended 2021).**

(1) A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, and whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327, and:.....

(d) Who was informed that a refusal to submit to a lawful test of his or her breath or urine, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and...

## **Georgia**

### **Ga. Code Ann. § 40-5-55. Implied consent to tests to determine presence of alcohol or other drugs (1968 as amended 2001).**

(a) The State of Georgia considers that any person who drives or is in actual physical control of any moving vehicle in violation of any provision of Code Section 40-6-391 constitutes a direct and immediate threat to the welfare and safety of the general public. Therefore, any person who operates a motor vehicle upon the highways or elsewhere throughout this state shall be deemed to have given consent, subject to Code Section 40-6-392, to a chemical test or tests of his or her blood, breath, urine, or other bodily substances for the purpose of determining the presence of alcohol or any other drug, if arrested for any offense arising out of acts alleged to have been committed in violation of Code Section 40-6-391 or if such person is involved in any traffic accident resulting in serious injuries or fatalities. The test or tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe that the person has been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state in violation of Code Section 40-6-391. The test or tests shall be administered as soon as possible to any person who operates a motor vehicle upon the highways or elsewhere throughout this state who is involved in any traffic accident resulting in serious injuries or fatalities. Subject to Code Section 40-6-392, the requesting law enforcement officer shall designate which of the test or tests shall be administered, provided a blood test with drug screen may be

administered to any person operating a motor vehicle involved in a traffic accident resulting in serious injuries or fatalities.

(b)Any person who is dead, unconscious, or otherwise in a condition rendering such person incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (a) of this Code section, and the test or tests may be administered, subject to Code Section 40-6-392. **[This provision was effectively declared unconstitutional by *Williams v. State*, 296 Ga. 817 (2015); *Bailey v. State*, 338 Ga. App. 428 (2016).]**

(c)As used in this Code section, the term "traffic accident resulting in serious injuries or fatalities" means any motor vehicle accident in which a person was killed or in which one or more persons suffered a fractured bone, severe burns, disfigurement, dismemberment, partial or total loss of sight or hearing, or loss of consciousness.

**Ga. Code Ann. § 40-5-67.1. Tests to determine presence of alcohol or other drugs; implied consent notice; suspension of license; refusal to submit to testing; hearing; judicial review; attendance of law enforcement officers at implied consent hearings; certification of breath-testing instruments (1992 as amended 2024).**

(a) The test or tests required under Code Section 40-5-55 shall be administered as soon as possible at the request of a law enforcement officer having reasonable grounds to believe that the person has been driving or was in actual physical control of a moving motor vehicle upon the highways or elsewhere throughout this state in violation of Code Section 40-6-391 and the officer has arrested such person for a violation of Code Section 40-6-391, any federal law in conformity with Code Section 40-6-391, or any local ordinance which adopts Code Section 40-6-391 by reference or the person has been involved in a traffic accident resulting in serious injuries or fatalities. Subject to Code Section 40-6-392, the requesting law enforcement officer shall designate which test or tests shall be administered initially and may subsequently require a test or tests of any substances not initially tested.

(b) At the time a chemical test or tests are requested, the arresting officer shall select and read to the person the appropriate implied consent notice from the following:

(1) Implied consent notice for suspects under age 21:

“The State of Georgia has conditioned your privilege to drive upon the highways of this state upon your submission to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing, your Georgia driver's license or privilege to drive on the highways of this state will be suspended for a minimum period of one year. Your refusal to submit to blood or urine testing may be offered into evidence against you at trial. If you submit to testing and the results indicate an alcohol concentration of 0.02 grams or more, your Georgia driver's



license or privilege to drive on the highways of this state may be suspended for a minimum period of one year. After first submitting to the requested state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which test)?”

(2) Implied consent notice for suspects age 21 or over:

“The State of Georgia has conditioned your privilege to drive upon the highways of this state upon your submission to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing, your Georgia driver's license or privilege to drive on the highways of this state will be suspended for a minimum period of one year. Your refusal to submit to blood or urine testing may be offered into evidence against you at trial. If you submit to testing and the results indicate an alcohol concentration of 0.08 grams or more, your Georgia driver's license or privilege to drive on the highways of this state may be suspended for a minimum period of one year. After first submitting to the requested state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which test)?”

(3) Implied consent notice for commercial motor vehicle driver suspects:

“The State of Georgia has conditioned your privilege to drive upon the highways of this state upon your submission to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing, you will be disqualified from operating a commercial motor vehicle for a minimum period of one year. Your refusal to submit to blood or urine testing may be offered into evidence against you at trial. If you submit to testing and the results indicate the presence of any alcohol, you will be issued an out-of-service order and will be prohibited from operating a commercial motor vehicle for 24 hours. If the results indicate an alcohol concentration of 0.04 grams or more, you will be disqualified from operating a commercial motor vehicle for a minimum period of one year. After first submitting to the requested state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which test)?”

If any such notice is used by a law enforcement officer to advise a person of his or her rights regarding the administration of chemical testing, such person shall be deemed to have been properly advised of his or her rights under this Code section and under Code Section 40-6-392 and the results of any chemical test, or the refusal to submit to a test of

such person's blood or urine, shall be admitted into evidence against such person. Such notice shall be read in its entirety but need not be read exactly so long as the substance of the notice remains unchanged.

## **Hawaii**

### **Haw. Rev. Stat. Ann. § 291E-11. Implied consent of operator of vehicle to submit to testing to determine alcohol concentration and drug content (2000 as amended 2006).**

(a) Any person who operates a vehicle upon a public way, street, road, or highway or on or in the waters of the State shall be deemed to have given consent, subject to this part, to a test or tests approved by the director of health of the person's breath, blood, or urine for the purpose of determining alcohol concentration or drug content of the person's breath, blood, or urine, as applicable.

### **Haw. Rev. Stat. Ann. § 286-243. Implied consent requirements for commercial motor vehicle drivers (1989 as amended 2011).**

(a) A person who drives a commercial motor vehicle within this State is deemed to have given consent to submit to a test or tests, approved by the director of health, of that person's blood or breath for the purpose of determining that person's alcohol concentration or the presence of controlled substances, or both.

### **Haw. Rev. Stat. Ann. § 291E-65. Refusal to submit to testing for measurable amount of alcohol; district court hearing; sanctions; appeals; admissibility (2000 as amended 2011).**

(c) If the district judge finds the statements contained in the affidavit are true, the judge shall suspend the arrested person's license and privilege to operate a vehicle as follows:

- (1) For a first suspension, or any suspension not preceded within a five-year period by a suspension under this section, for a period of twelve months; and
- (2) For any subsequent suspension under this section, for a period not less than two years and not more than five years.

## **Idaho**

### **Idaho Code Ann. § 18-8002. Tests of driver for alcohol concentration, presence of drugs or other intoxicating substances—Penalty and suspension upon refusal of tests (1984 as amended 2021).**



(1) Any person who drives or is in actual physical control of a motor vehicle in this state shall be deemed to have given his consent to evidentiary testing for concentration of alcohol as defined in section 18-8004, Idaho Code, and to have given his consent to evidentiary testing for the presence of drugs or other intoxicating substances, provided that such testing is administered at the request of a peace officer having reasonable grounds to believe that person has been driving or was in actual physical control of a motor vehicle in violation of the provisions of section 18-8004 or 18-8006, Idaho Code.

(2) Such person shall not have the right to consult with an attorney before submitting to such evidentiary testing. . .

(7) "Actual physical control" as used in this section and section 18-8002A, Idaho Code, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving. . . .

## Illinois

### **625 Ill. Comp. Stat. Ann. § 5/11-501.1. Suspension of drivers license; statutory summary alcohol, other drug or drugs, or intoxicating compound or compounds related suspension or revocation; implied consent (1971 as amended 2025).**

(a) Any person who drives or is in actual physical control of a motor vehicle upon the public highways of this State shall be deemed to have given consent, subject to the provisions of Section 11-501.2, to a chemical test or tests of blood, breath, other bodily substance, or urine for the purpose of determining the content of alcohol, other drug or drugs, or intoxicating compound or compounds or any combination thereof in the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket, for any offense as defined in Section 11-501 or a similar provision of a local ordinance, or if arrested for violating Section 11-401. If a law enforcement officer has probable cause to believe the person was under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, the law enforcement officer shall request a chemical test or tests which shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. Up to 2 additional tests of urine or other bodily substance may be administered even after a blood or breath test or both has been administered....

(b) Any person who is dead, unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section and the test or tests may be administered, subject to the provisions of Section 11-501.2...

## Indiana



## **Ind. Code Ann. § 9-30-6-1. Chemical test for intoxication; implied consent (1991).**

Sec. 1. A person who operates a vehicle impliedly consents to submit to the chemical test provisions of this chapter as a condition of operating a vehicle in Indiana.

## **Ind. Code Ann. § 9-30-7-2. Implied consent to portable breath test or chemical test (1991 as amended 2001).**

Sec. 2. A person who operates a vehicle impliedly consents to submit to the portable breath test or chemical test under this chapter as a condition of operating a vehicle in Indiana. A person must submit to each portable breath test or chemical test offered by a law enforcement officer under this chapter to comply with this chapter.

## **Iowa**

### **Iowa Code § 321J.6. Implied consent to test (1986 as amended 2003).**

1. A person who operates a motor vehicle in this state under circumstances which give reasonable grounds to believe that the person has been operating a motor vehicle in violation of section 321J.2 or 321J.2A is deemed to have given consent to the withdrawal of specimens of the person's blood, breath, or urine and to a chemical test or tests of the specimens for the purpose of determining the alcohol concentration or presence of a controlled substance or other drugs, subject to this section. The withdrawal of the body substances and the test or tests shall be administered at the written request of a peace officer having reasonable grounds to believe that the person was operating a motor vehicle in violation of section 321J.2 or 321J.2A, and if any of the following conditions exist:

- a. A peace officer has lawfully placed the person under arrest for violation of section 321J.2.
- b. The person has been involved in a motor vehicle accident or collision resulting in personal injury or death.
- c. The person has refused to take a preliminary breath screening test provided by this chapter.
- d. The preliminary breath screening test was administered and it indicated an alcohol concentration equal to or in excess of the level prohibited by section 321J.2.
- e. The preliminary breath screening test was administered to a person operating a commercial motor vehicle as defined in section 321.1 and it indicated an alcohol concentration of 0.04 or more.

f. The preliminary breath screening test was administered and it indicated an alcohol concentration less than the level prohibited by section 321J.2, and the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug.

g. The preliminary breath screening test was administered and it indicated an alcohol concentration of .02 or more but less than .08 and the person is under the age of twenty-one.

2. The peace officer shall determine which of the three substances, breath, blood, or urine, shall be tested. Refusal to submit to a chemical test of urine or breath is deemed a refusal to submit, and section 321J.9 applies. A refusal to submit to a chemical test of blood is not deemed a refusal to submit, but in that case, the peace officer shall then determine which one of the other two substances shall be tested and shall offer the test. If the peace officer fails to offer a test within two hours after the preliminary screening test is administered or refused or the arrest is made, whichever occurs first, a test is not required, and there shall be no revocation under section 321J.9.

3. Notwithstanding subsection 2, if the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug, a blood or urine test shall be required even after another type of test has been administered. Section 321J.9 applies to a refusal to submit to a chemical test of urine or blood requested under this subsection.

## Kansas

**Kan. Stat. Ann. § 8-1001. Tests for alcohol or drugs; request by officer, grounds; administration of tests, when; procedures; immunity from liability; duty to provide driver notice; refusal to comply or test result exceeding limit, license suspension; admissibility and availability of test result; remedial nature of law (1955 as amended 2019).**

(a) Any person who operates or attempts to operate a vehicle within this state may be requested, subject to the provisions of this article, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing shall include all quantitative and qualitative tests for alcohol and drugs. The test must be administered at the direction of a law enforcement officer, and the law enforcement officer shall determine which type of test is to be conducted or requested.

(b)(1) One or more tests may be required of a person when, at the time of the request, a law enforcement officer has probable cause to believe the person has committed a violation of K.S.A. 8-1567(a), and amendments thereto, or to believe the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments

thereto, while having alcohol or other drugs in such person's system, or to believe the person is under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system; and one of the following conditions exists: (A) The person has been arrested or otherwise taken into custody for any violation of any state statute, county resolution or city ordinance; or (B) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury or death....

(m) If a law enforcement officer has probable cause to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145, and amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has probable cause to believe that the person has been operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto. Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.

(n) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(o) If a law enforcement officer had probable cause to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of 0.04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had probable cause to believe the person had been driving any motor vehicle, the person fails a test, as defined in K.S.A. 8-1013(h), and amendments thereto, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(p) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

## Kentucky

**Ky. Rev. Stat. Ann. § 189A.103. Consent to tests for alcohol concentration or substance which may impair driving ability; test procedures; who may administer; personal testing (1991 as amended 2023).**

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He or she has given his or her consent to one (1) or more tests of his or her blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred;

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given;....

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test;...

**Ky. Rev. Stat. § 189A.105. Effect of refusal to submit to tests; information required to be provided when tests requested; court-ordered testing; withdrawal of blood sample; right to consult attorney before submitting to tests; personal testing option (1991 as amended 2023).**

(1) A person's refusal to submit to tests under KRS 189A.103 shall result in suspension of his or her driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests:

a. The fact of this refusal may be used against him or her in court as evidence of violating KRS 189A.010 and will result in suspension of his or her driver's license by the court at the time of arraignment; and

b. Is subsequently convicted of violating KRS 189A.010(1):

i. For a second or third time within a ten (10) year period, he or she will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he or she submits to the tests; and

ii. His or her license will be suspended by the Transportation Cabinet;

2. That, if a test is taken:



- a. The results of the test may be used against the person in court as evidence of violating KRS 189A.010(1); and
  - b. The person has the right to have a test or tests of his or her blood performed by a person of his or her choosing described in KRS 189A.103 within a reasonable time of his or her arrest at the expense of the person arrested; and
3. That although his or her license will be suspended, he or she may be eligible immediately for an ignition interlock license allowing him or her to drive during the period of suspension and, if he or she is convicted, he or she will receive a credit toward any other ignition interlock requirement arising from this arrest....

## **Louisiana**

### **La. Rev. Stat. Ann. § 32:661. Operating a vehicle under the influence of alcoholic beverages or illegal substance or controlled dangerous substances; implied consent to chemical tests; administering of tests and presumptions (1968 as amended 2024).**

A. (1) Any person, regardless of age, who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily substance for the purpose of determining the alcoholic content of his blood, and the presence of any drug in his blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while believed to be under the influence of alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs.

(2)(a) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person, regardless of age, to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of either alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs. The law enforcement agency by which such officer is employed shall designate in writing and under what conditions which of the aforesaid tests shall be administered....

(3) If the person is under twenty-one years of age, the test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state after having consumed alcoholic beverages. The law enforcement agency by which the officer is employed shall designate in writing and under what conditions which of the tests shall be administered....

### **La. Rev. Stat. Ann. § 32:666. Refusal to submit to chemical test; submission to chemical tests; exception; effects (1968 as amended 2024)**





A. (1)(a)(i) When a law enforcement officer has probable cause to believe that a person has violated R.S. 14:98, 98.6, or any other law or ordinance that prohibits operating a vehicle while intoxicated, that person may not refuse to submit to a chemical test or tests if the person has refused to submit to such test or tests on two previous and separate occasions of any previous such violation or in any case wherein a fatality has occurred or a person has sustained serious bodily injury in a crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of conveyance. Serious bodily injury means bodily injury which involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death. The law enforcement officer shall direct that a chemical test or tests be conducted of a person's blood, urine, or other bodily substance, or perform a chemical test of such person's breath, for the purpose of determining the alcoholic content of his blood and the presence of any drug, or combination of drugs, in his blood in such circumstances. The officer may direct a person to submit to a breath test, and if indicated, an additional blood test for the purpose of testing for the presence of alcohol, any drug, or combination of drugs. A refusal of any such test or tests shall result in the suspension of driving privileges as provided by the provisions of this Part. A physician, physician assistant, registered nurse, licensed practical nurse, emergency medical technician, chemist, nurse practitioner, or other qualified technician shall perform a chemical test in accordance with the provisions of R.S. 32:664 when directed to do so by a law enforcement officer....

(c) Any person who refuses to submit to a chemical test as required by the provisions of this Paragraph shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence shall not be suspended unless:

(i) The offender is placed on probation with a minimum condition that he serve two days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program; or

(ii) The offender is placed on probation with a minimum condition that he perform four eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender who participates in a litter abatement or collection program pursuant to this Subparagraph shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

(2) In all cases other than those in Paragraph (1) of this Subsection, a person under arrest for a violation of R.S. 14:98, 98.1, or other law or ordinance that prohibits operating a vehicle while intoxicated may refuse to submit to such chemical test or tests, after being advised of the consequences of such refusal as provided for in R.S. 32:661(C), subject to the following:

(a) His license shall be seized under the circumstances provided in R.S. 32:667.

(b) If he is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to such person for a period of six months after the date of the alleged violation.

(c) Evidence of his refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person, regardless of age, was driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of alcoholic beverages or any drug, or combination of drugs. Additionally, evidence of his refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person under twenty-one years of age was driving or in actual physical control of a motor vehicle upon the public highways of this state after having consumed alcoholic beverages. However, such evidence shall not be admissible in a civil action or proceeding other than to suspend, revoke, or cancel his driving privileges.

(3) In all cases where a person is under arrest for a violation of R.S. 14:98, 98.6, or other law or ordinance that prohibits operating a vehicle while intoxicated who refuses to submit to a chemical test or tests if he has refused to submit to a chemical test on two previous and separate occasions of any previous such violation shall be advised that the consequences of such refusal shall be subject to criminal penalties under the provisions of R.S. 14:98.7....

## Maine

### **Me. Rev. Stat. Ann. tit. 29-A § 2521. Implied consent to chemical tests (1993 as amended 2022).**

1. Mandatory submission to test. If there is probable cause to believe a person has operated a motor vehicle while under the influence of intoxicants, that person shall submit to and complete a test to determine an alcohol level and the presence of a drug or drug metabolite by analysis of blood, breath or urine.

2. Type of test. A law enforcement officer shall administer a breath test unless, in that officer's determination, a breath test is unreasonable.

If a breath test is determined to be unreasonable, another chemical test must be administered in place of a breath test.



For a blood test the operator may choose a physician, if reasonably available...

**Me. Rev. Stat. Ann. tit. 29-A § 2411. Criminal OUI (1993 as amended 2017).**

1-A. Offense. A person commits OUI if that person:

A. Operates a motor vehicle:

- (1) While under the influence of intoxicants; or
- (2) While having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;...

C. Violates paragraph A, failed to submit to a test at the request of a law enforcement officer and:

- (1) Has no previous OUI offenses within a 10-year period;
- (2) Has one previous OUI offense within a 10-year period;
- (3) Has 2 previous OUI offenses within a 10-year period; or
- (4) Has 3 previous OUI offenses within a 10-year period; or...

5. Penalties. Except as otherwise provided in this section and section 2508, violation of this section is a Class D crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The following minimum penalties apply and may not be suspended:

A. For a person having no previous OUI offenses within a 10-year period:

- (1) A fine of not less than \$500, except that if the person failed to submit to a test, a fine of not less than \$600;
- (2) A court-ordered suspension of a driver's license for a period of 150 days; and
- (3) A period of incarceration as follows:...

(b) Not less than 96 hours when the person failed to submit to a test at the request of a law enforcement officer;

B. For a person having one previous OUI offense within a 10-year period:

- (1) A fine of not less than \$700, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$900;
- (2) A period of incarceration of not less than 7 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 12 days;...

C. For a person having 2 previous OUI offenses within a 10-year period, which is a Class C crime:

- (1) A fine of not less than \$1,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$1,400;
- (2) A period of incarceration of not less than 30 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 40 days;...

D. For a person having 3 or more previous OUI offenses within a 10-year period, which is a Class C crime:

- (1) A fine of not less than \$2,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$2,500;
- (2) A period of incarceration of not less than 6 months, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 6 months and 20 days;...

## Maryland

### **Md. Code Ann., Transp. § 16-205.1. Tests for drugs or controlled dangerous substance content; refusal to take test; administration of test (1977 as amended 2019).**

(a)(1)(i) In this section the following words have the meanings indicated...

(2) Any person who drives or attempts to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309, inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person should be detained on suspicion of driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title.

(b)(1) Except as provided in subsection (c) of this section, a person may not be compelled to take a test....

(h)(1) An initial refusal to take a test that is withdrawn as provided in this subsection is not a refusal to take a test.

(2) A person who initially refuses to take a test may withdraw the initial refusal and subsequently consent to take the test if the subsequent consent:

- (i) Is unequivocal;
- (ii) Does not substantially interfere with the timely and efficacious administration of the test; and
- (iii) Is given by the person:
  - 1. Before the delay in testing would materially affect the outcome of the test; and
  - 2. A. For the purpose of a test for determining alcohol concentration, within 2 hours of the person's apprehension; or
  - B. For the purpose of a test for determining the drug or controlled dangerous substance content of the person's blood, within 4 hours of the person's apprehension....

## **Massachusetts**

**Mass. Gen. Laws Ann. Ch. 90 § 24. Driving while under influence of intoxicating liquor, etc.; second and subsequent offenses; punishment; treatment programs; reckless and unauthorized driving; failure to stop after collision (1906 as amended 2021).**

.....

(f) (1) Whoever operates a motor vehicle upon any way or in any place to which the public has right to access, or upon any way or in any place to which the public has access as invitees or licensees, shall be deemed to have consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested for operating a motor vehicle while under the influence of intoxicating liquor, provided, however, that no such person shall be deemed to have consented to a blood test unless such person has been brought for treatment to a medical facility licensed under the provisions of section 51 of chapter 111; and provided, further, that no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Such test shall be administered at the direction of a police officer, as defined in section 1 of chapter 90C, having reasonable grounds to believe that the person arrested has been operating a motor vehicle upon such way or place while under the influence of intoxicating liquor....

## **Michigan**

**Mich. Comp. Laws Ann. § 257.625c. Consent to chemical tests of blood, breath, or urine; circumstances exceptions (1991 as amended 2015).**

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 other intoxicating substance, or any combination of them, 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),<sup>1</sup> section 625a(5),<sup>2</sup> or section 625m<sup>3</sup> 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 a violation of section 601d,<sup>4</sup> section 626(3) or (4),<sup>5</sup> or 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)...

## Minnesota

### **Minn. Stat. Ann. § 169A.51. Chemical tests for intoxication (2000 as amended 2024).**

Subdivision 1. Implied consent; conditions; election of test. (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol; a controlled substance or its metabolite; cannabis flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product, artificially derived cannabinoids, or tetrahydrocannabinols; or an intoxicating substance. The test must be administered at the direction of a peace officer.

(b) The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169A.20 or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169A.41 (preliminary screening test); or

(4) the screening test was administered and indicated an alcohol concentration of 0.08 or more.

(c) The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

### **Minn. Stat. Ann. § 169A.20. Driving while impaired (2000 as amended 2023).**

....

Subd. 2. Refusal to submit to chemical test crime. It is a crime for any person to refuse to submit to a chemical test:

(1) of the person's breath under section 169A.51 (chemical tests for intoxication), or 169A.52 (test refusal or failure; revocation of license); or

(2) of the person's blood or urine as required by a search warrant under sections 171.177 and 626.04 to 626.18.

Subd. 3. Sentence. A person who violates this section may be sentenced as provided in section 169A.24 (first-degree driving while impaired), 169A.25 (second-degree driving while impaired), 169A.26 (third-degree driving while impaired), or 169A.27 (fourth-degree driving while impaired).

## **Mississippi**

### **Miss. Code Ann. § 63-11-5. Implied consent to tests; driving under influence; sanctions (1971 as amended 2024).**

(1)(a) Any person who operates a motor vehicle upon the public highways, public roads or streets of this state shall be deemed to have given his consent, subject to the provisions of this chapter, to a chemical test or tests of his breath, blood or urine for the purpose of determining alcohol concentration. A person shall give his consent to a chemical test or tests of his breath, blood or urine for the purpose of determining the presence in his body of any other substance which would impair a person's ability to operate a motor vehicle.

(b) The test or tests shall be administered at the direction of any authorized officer, when such officer has reasonable grounds and probable cause to believe that the person was driving or had under his actual physical control a motor vehicle upon the public streets or highways of this state while under the influence of intoxicating liquor or any other substance which had impaired such person's ability to operate a motor vehicle....



## Missouri

### **Mo. Rev. Stat. § 577.020. Chemical tests for alcohol content for blood—consent implied, when administered, when, how—information available to person tested, contents—videotaping of chemical or field sobriety test admissible evidence (1977 as amended 2014).**

1. Any person who operates a vehicle upon the public highways of this state, a vessel, or any aircraft, or acts as a flight crew member of an aircraft shall be deemed to have given consent, subject to the provisions of sections 577.019 to 577.041, to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was operating a vehicle or a vessel while in an intoxicated condition;

(2) If the person is detained for any offense of operating an aircraft while intoxicated under section 577.015 or operating an aircraft with excessive blood alcohol content under section 577.016;

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was operating a vehicle or a vessel with a blood alcohol content of two-hundredths of one percent or more by weight;

(4) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater;

(5) If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater; or

(6) If the person, while operating a vehicle, has been involved in a collision or accident which resulted in a fatality or a readily apparent serious physical injury as defined in section 556.061, or has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any state law or county or municipal ordinance with the exception of equipment violations contained in chapters 306 and 307, or similar provisions contained in county or municipal ordinances.



The test shall be administered at the direction of the law enforcement officer whenever the person has been stopped, detained, or arrested for any reason....

## Montana

### **Mont. Code Ann. § 61-8-1016. Implied consent--blood or breath tests for alcohol, drugs, or both--refusal to submit to test--administrative license suspension. (2021 as amended 2023).**

(1)(a) A person who operates or is in actual physical control of a vehicle or commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to a test or tests of the person's blood or breath for the purpose of determining any measured amount or detected presence of alcohol or drugs in the person's body.

(b) The tests in subsection (1)(a) include but are not limited to a preliminary alcohol screening test of the person's breath for the purpose of estimating the person's alcohol concentration.

(c) A preliminary alcohol screening test may not be conducted or requested under this section unless both the peace officer and the instrument used to conduct the test have been certified by the department pursuant to rules adopted under the authority of 61-8-1019(5).

(d) The person's obligation to submit to a test in subsection (1)(a) is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section.

(2)(a) The test or tests must be administered at the direction of a peace officer when:

(i) the peace officer has particularized suspicion to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been detained for a violation of driving under the influence as provided in 61-8-1002 or an offense that meets the definition of aggravated driving under the influence in 61-8-1001;

(ii) the person is under the age of 21 and the peace officer has particularized suspicion to believe that the person has been driving or in actual physical control of a vehicle in violation of 61-8-1002(1)(e); or

(iii) the peace officer has probable cause to believe that the person was driving or in actual physical control of a vehicle or commercial motor vehicle:

(A) in violation of driving under the influence, as provided in 61-8-1002, and the person has been placed under arrest;



(B) in violation of driving under the influence as provided in 61-8-1002, and the person has been involved in a motor vehicle crash or collision resulting in property damage;

(C) and the person has been involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in 45-2-101, or death; or

(D) in violation of driving under the influence as provided in 61-8-1002 and meets the definition of aggravated driving under the influence in 61-8-1001.

(b) A peace officer may designate which test or tests are administered....

(4)(a) If an arrested person refuses to submit to one or more tests requested and designated by the peace officer, the refused test or tests may not be given unless the person has refused to provide a breath, blood, urine, or other bodily substance in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the arrested person has a prior conviction or pending offense for a violation of 45-5-104, 45-5-106, 45-5-205, or driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or a similar statute in another jurisdiction...

## Nebraska

### **Neb. Rev. Stat. Ann. § 60-6,197. Driving under influence of alcohol liquor or drugs; implied consent to submit to chemical test; when test administered; refusal; advisement; effect; violation; penalty (1959 as amended 2011).**

(1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of section 60-6,196.

(3) Any person arrested as described in subsection (2) of this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. . . Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative license revocation procedures provided in sections 60-498.01 to 60-498.04 and shall be guilty of a crime and upon conviction punished as provided in sections 60-6,197.02 to 60-6,197.08.

(4) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test or tests of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection (3) of this section and sections 60-498.01 to 60-498.04 upon return...

**Neb. Rev. Stat. Ann. § 60-6,197.03. Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties (2004 as amended 2016).**

Any person convicted of a violation of section 60-6,196 or 60-6,197 shall be punished as follows:

(1) Except as provided in subdivision (2) of this section, if such person has not had a prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of six months from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to section 60-6,211.05 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of sixty days from the date ordered by the court. The court shall order that during the period of revocation the person apply for an ignition interlock permit pursuant to section 60-6,211.05. Such order of probation or sentence suspension shall also include, as one of its conditions, the payment of a five-hundred-dollar fine;...

(5) If such person has had one prior conviction and, as part of the current violation,...or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class I misdemeanor, and the court shall, as part of the judgment of conviction, order payment of a one-thousand-dollar fine and revoke the operator's license of such person for a period of at least eighteen months but not more than fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ninety days' imprisonment in the city or county jail or an adult correctional facility.

(6) If such person has had two prior convictions and, as part of the current violation,...or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility....

(8) If such person has had three prior convictions and, as part of the current violation,...or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIA felony, with a minimum sentence of one year of imprisonment, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked....

## Nevada

### **Nev. Rev. Stat. Ann. § 484C.150. Implied consent to preliminary test of person's breath; effect of failure to submit to test; prohibited use of test results in criminal action ((1983, as amended 2021).**

1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the test is administered at the request of a police officer at the scene of a vehicle crash or where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was:

- a. Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; or
  - b. Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.
2. If the person fails to submit to the test, the officer shall, if reasonable grounds otherwise exist, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 484C.160.
3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

**Nev. Rev. Stat. Ann. § 484C.160. Implied consent to evidentiary test; exemption from blood test choice of test; when blood test may be requested; when other tests may be used; reasonable force authorized to obtain test in certain circumstances; notification of parent, guardian or custodian or minor requested submit to test (1969 as amended 2019).**

1. Except as otherwise provided in subsections 4 and 5, any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the request of a police officer having reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430....

3. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person to be tested....

5. If the concentration of alcohol in the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is

subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses whose testimony in court or an administrative hearing is necessary because of the use of the blood test. The expenses of such a witness may be assessed at an hourly rate of not less than:

(1) Fifty dollars for travel to and from the place of the proceeding; and

(2) One hundred dollars for giving or waiting to give testimony.

(c) Except as otherwise provided in NRS 484C.200, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.

6. Except as otherwise provided in subsection 7, if the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may request that the person submit to a blood or urine test, or both.

7. If the presence of marijuana in the blood of the person is in issue, the officer may request that the person submit to a blood test.

8. Except as otherwise provided in subsections 4 and 6, a police officer shall not request that a person submit to a urine test.

9. If a person to be tested fails to submit to a required test as requested by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430,

the officer may apply for a warrant or court order directing that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested.

10. If a person who is less than 18 years of age is requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.

## New Hampshire



## **N.H. Rev. Stat. Ann. § 265-A:4. Implied Consent of Driver of Operator to Submit to Testing to Determine Alcohol Concentration (2006 as amended 2017).**

Any person who drives, operates, or attempts to operate an OHRV, drives or attempts to drive a vehicle upon the ways of this state, or operates or attempts to operate a boat upon the public waters of the state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether such person is under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive and to a chemical, infrared molecular absorption, or liquid or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath, for the purpose of determining the controlled drug, prescription drug, over-the-counter drug, or any other chemical substance, natural or synthetic, which impairs a person's ability to drive content of such person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving, operating, attempting to operate, or in actual physical control of an OHRV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or while having an alcohol concentration in excess of the statutory limits contained in RSA 265-A:2 or RSA 265-A:3. The test or tests shall be administered at the direction of a law enforcement officer, peace officer, or authorized agent having reasonable grounds to believe the person to have been driving, operating, attempting to operate, or in actual physical control of an OHRV, driving or in actual physical control of a vehicle, or operating or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265-A:16, the prerequisites of RSA 265-A:8 shall not apply. Properly trained personnel of the United States Coast Guard may arrest and conduct tests on persons who are believed to be under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or a combination thereof, and who are in physical control of a boat operating upon the public coastal waters of this state.

## **New Jersey**





**N.J. Rev. Stat. § 39:4-50.2. Consent to taking samples of breath; record of test; independent test; prohibition of use of force; informing accused (1966 as amended 2008).**

a) Any person who operates a motor vehicle on any public road, street or highway or quasi-public area in this State shall be deemed to have given his consent to the taking of samples of his breath for the purpose of making chemical tests to determine the content of alcohol in his blood; provided, however, that the taking of samples is made in accordance with the provisions of this act [C.39:4-50.1 et seq.] and at the request of a police officer who has reasonable grounds to believe that such person has been operating a motor vehicle in violation of the provisions of R.S.39:4-50 or section 1 of P.L.1992, c.189 (C.39:4-50.14)...

(e) No chemical test, as provided in this section, or specimen necessary thereto, may be made or taken forcibly and against physical resistance thereto by the defendant. The police officer shall, however, inform the person arrested of the consequences of refusing to submit to such test in accordance with section 2 of this amendatory and supplementary act.1 A standard statement, prepared by the chief administrator, shall be read by the police officer to the person under arrest.

## **New Mexico**

**N.M. Stat. Ann. § 66-8-107. Implied consent to submit to chemical test (1978 as amended 1993).**

A. Any person who operates a motor vehicle within this state shall be deemed to have given consent, subject to the provisions of the Implied Consent Act [66-8-105 to 66-8-112 NMSA 1978], to chemical tests of his breath or blood or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978 as determined by a law enforcement officer, or for the purpose of determining the drug or alcohol content of his blood if arrested for any offense arising out of the acts alleged to have been committed while the person was driving a motor vehicle while under the influence of an intoxicating liquor or drug.

B. A test of blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle within this state while under the influence of intoxicating liquor or drug.

## **New York**

**N.Y. Veh. & Traf. § 1194. Arrest and testing (1988 as amended 2018).**

....



2. Chemical tests. (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer:

(1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation,

(2) within two hours after a breath test, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member;

(3) for the purposes of this paragraph, “reasonable grounds” to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage in or around the vehicle driven by the operator, or any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol at the time of the incident; or

(4) notwithstanding any other provision of law to the contrary, no person under the age of twenty-one shall be arrested for an alleged violation of section eleven hundred ninety-two-a of this article. However, a person under the age of twenty-one for whom a chemical test is authorized pursuant to this paragraph may be temporarily detained by the police solely for the purpose of requesting or administering such chemical test whenever arrest without a warrant for a petty offense would be authorized in accordance with the provisions of section 140.10 of the criminal procedure law or paragraph (a) of subdivision one of this section...

## North Carolina



**N.C. Gen. Stat. § 20-16.2. Implied consent to chemical analysis; mandatory revocation of license in event of refusal; right of driver to request analysis (1963 as amended 2021).**

(a) Basis for Officer to Require Chemical Analysis; Notification of Rights.--Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if charged with an implied-consent offense. Any law enforcement officer who has reasonable grounds to believe that the person charged has committed the implied-consent offense may obtain a chemical analysis of the person...

(a1) Meaning of Terms.--Under this section, an “implied-consent offense” is an offense involving impaired driving, a violation of G.S. 20-141.4(a2), or an alcohol-related offense made subject to the procedures of this section. A person is “charged” with an offense if the person is arrested for it or if criminal process for the offense has been issued....

(c) Request to Submit to Chemical Analysis.--A law enforcement officer or chemical analyst shall designate the type of test or tests to be given and may request the person charged to submit to the type of chemical analysis designated. If the person charged willfully refuses to submit to that chemical analysis, none may be given under the provisions of this section, but the refusal does not preclude testing under other applicable procedures of law....

## **North Dakota**

**N.D. Cent. Code § 39-20-01. Implied consent to determine alcohol concentration and presence of drugs (1959 as amended 2021).**

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, oral fluid, or urine. As used in this chapter, the word “drug” means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words “chemical test” or “chemical analysis” mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual under arrest for violation of section 39-08-01 or an equivalent offense. For the purposes of this chapter, the taking into custody of a child under section 27-20.4-05 or an individual under twenty-one years of age satisfies the

requirement of an arrest. The law enforcement officer shall determine which of the tests is to be used.....

**N.D. Cent. Code § 39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle—Penalty (1923 as amended 2025).**

.....

2. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests, required under section 39-06.2-10.2 or 39-20-01, is guilty of an offense under this section....

5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.

a. (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program...

b. For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.

c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least three hundred sixty days' supervised probation; and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.

d. For a fourth or subsequent offense within fifteen years, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation....

## Ohio



**Ohio Rev. Code Ann. § 4511.191. Chemical tests for alcohol content; refusal to submit to test; seizure of license; indigent driver funds (1969 as amended 2025).**

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance....

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma...

## **Oklahoma**



**47 O.S. § 751. Implied consent to breath test, blood test or other test for determining presence or concentration of alcohol or other intoxicating substance (2002 as amended 2019).**

A. 1. Any person who operates a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings within this state shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in Section 756 of this title, and such person's blood, saliva or urine for determining the presence or concentration of any other intoxicating substance therein as defined in this section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a traffic accident that resulted in the immediate death or serious injury of any person and is removed from the scene of the accident to a hospital or other health care facility outside the State of Oklahoma before a law enforcement officer can effect an arrest.

2. A law enforcement officer, having reasonable grounds to believe that such person was operating or in actual physical control of a motor vehicle while under the influence may direct the administration of or administer the test or tests.

As used in this title, the term “other intoxicating substance” shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act<sup>1</sup> and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. The law enforcement agency by which the arresting officer is employed may designate, in accordance with the rules of the Board of Tests for Alcohol and Drug Influence, hereinafter referred to as the Board, whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence or concentration of any other intoxicating substance therein...

## **Oregon**

**Or. Rev. Stat. § 813.100. Implied consent to tests; penalty for refusal or failure, confiscation of license (1983 as amended 2019).**

(1) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the implied

consent law, to a chemical test of the person's breath, or of the person's blood if the person is receiving medical care in a health care facility immediately after a motor vehicle accident, for the purpose of determining the alcoholic content of the person's blood if the person is arrested for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. A test shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. Before the test is administered the person requested to take the test shall be informed of consequences and rights as described under ORS 813.130...

(4) Nothing in this section precludes a police officer from obtaining a chemical test of the person's breath or blood through any lawful means for use as evidence in a criminal or civil proceeding including, but not limited to, obtaining a search warrant.

**Or. Rev. Stat. § 813.131. Implied consent; privacy; laboratories (1995 as amended 2023).**

(1) A person may be asked to provide a urine sample under ORS 813.140 or subsection (2) of this section.

(2) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the Motorist Implied Consent Law, to a chemical test of the person's urine for the purpose of determining the presence of an intoxicant other than intoxicating liquor in the person's body if the person is arrested for driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and either:

(a) The person takes the breath test described in ORS 813.100 and the test discloses a blood alcohol content of less than 0.08 percent; or

(b) The person is involved in an accident resulting in injury or property damage. A urine test may be requested under this paragraph regardless of whether a breath test has been requested and regardless of the results of a breath test, if one is taken.

(3) A police officer may not request a urine test unless the officer is certified by the Department of Public Safety Standards and Training as having completed at least eight hours of training in recognition of drug impaired driving and the officer has a reasonable suspicion that the person arrested has been driving while under the influence of an intoxicant other than intoxicating liquor or a combination of intoxicants.

(4) A person asked to give a urine sample shall be given privacy and may not be observed by a police officer when producing the sample.

(5)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicants, a valid chemical analysis of a person's urine is admissible as evidence and may be used with other evidence, if any, to determine whether the person was driving while under the influence of intoxicants.

(b) A chemical analysis of a person's urine is valid if analysis is performed in an accredited or licensed toxicology laboratory.

**Or. Rev. Stat. § 813.135. Implied consent, field sobriety tests (1989 as amended 2020).**

Any person who operates a vehicle upon premises open to the public or the highways of the state shall be deemed to have given consent to submit to field sobriety tests upon the request of a police officer for the purpose of determining if the person is under the influence of intoxicants if the police officer reasonably suspects that the person has committed the offense of driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance. If the person refuses to consent to field sobriety tests, the person shall be asked to provide only physical cooperation to submit to nontestimonial field sobriety tests, and the person shall be informed of the consequences of failing to physically submit to those tests under ORS 813.136.

## **Pennsylvania**

**75 Pa. Cons. Stat. Ann. § 1547. Chemical testing to determine amount of alcohol or controlled substance (1976 as amended 2017).**

(a) General rule.--Any person who drives, operates or is in actual physical control of the movement of a vehicle in this Commonwealth shall be deemed to have given consent to one or more chemical tests of breath or blood for the purpose of determining the alcoholic content of blood or the presence of a controlled substance if a police officer has reasonable grounds to believe the person to have been driving, operating or in actual physical control of the movement of a vehicle in violation of section 1543(b)(1.1) (relating to driving while operating privilege is suspended or revoked), 3802 (relating to driving under influence of alcohol or controlled substance) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock)...

(b) Civil penalties for refusal....

(2) It shall be the duty of the police officer to inform the person that:

(i) the person's operating privilege will be suspended upon refusal to submit to chemical testing and the person will be subject to a restoration fee of up to \$2,000; and



(ii) if the person refuses to submit to chemical breath testing, upon conviction or plea for violating section 3802(a)(1), the person will be subject to the penalties provided in section 3804(c) (relating to penalties)...

(e) Refusal admissible in evidence.--In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section 3802 or any other violation of this title arising out of the same action, the fact that the defendant refused to submit to chemical testing as required by subsection (a) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence but it may be considered along with other factors concerning the charge....

## **75 Pa. Cons. Stat. Ann. § 3804. Penalties (2003 as amended 2022).**

.....

**(c) Incapacity; highest blood alcohol; controlled substances.**--An individual who violates section 3802(a)(1) and refused testing of breath under section 1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or testing of blood pursuant to a valid search warrant or an individual who violates section 3802(c) or (d) shall be sentenced as follows:

(1) For a first offense, to:

- (i) undergo imprisonment of not less than 72 consecutive hours;
- (ii) pay a fine of not less than \$1,000 nor more than \$5,000;
- (iii) attend an alcohol highway safety school approved by the department;  
and
- (iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(2) For a second offense or a first offense for a violation of section 3802(h)(1), to:

- (i) undergo imprisonment of not less than 90 days;
- (ii) pay a fine of not less than \$1,500;
- (iii) attend an alcohol highway safety school approved by the department;  
and
- (iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.



(3) For a third or subsequent offense or a second or subsequent offense following a conviction for violating section 3802(h)(1), to:

- (i) undergo imprisonment of not less than one year;
- (ii) pay a fine of not less than \$2,500; and
- (iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

## **Rhode Island**

### **R.I. Gen. Laws § 31-27-2.1. Refusal to submit to chemical test (1966 as amended 2024).**

(a) Any person who operates a motor vehicle within this state shall be deemed to have given his or her consent to chemical tests of his or her breath, blood, saliva and/or urine for the purpose of determining the chemical content of his or her body fluids or breath. No more than two (2) complete tests, one for the presence of intoxicating liquor and one for the presence of toluene or any controlled substance, as defined in § 21-28-1.02, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle within this state while under the influence of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any combination of these. The director of the department of health is empowered to make and file, with the secretary of state, regulations that prescribe the techniques and methods of chemical analysis of the person's body fluids or breath and the qualifications and certification of individuals authorized to administer the testing and analysis.

(b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the person may file an affidavit with the division of motor vehicles stating the reasons why he or she cannot be required to take blood tests and a notation to this effect shall be made on his or her license. If that person is asked to submit to chemical tests as provided under this chapter, the person shall only be required to submit to chemical tests of his or her breath, saliva or urine. When a person is requested to submit to blood tests, only a physician or registered nurse, or a medical technician certified under regulations promulgated by the director of the department of health, may withdraw blood for the purpose of determining the alcoholic content in it. This limitation shall not apply to the taking of breath, saliva or urine specimens. The person tested shall be permitted to have a physician of his or her own choosing, and at his or her own expense, administer chemical tests of his or her breath, blood, saliva and/or urine in addition to the tests administered at the direction of a law enforcement officer. If a person, having been placed under arrest, refuses upon the request of a law enforcement officer to submit to the tests, as provided in § 31-27-2, none shall be given.

(1) At the initial traffic tribunal appearance, the magistrate shall review the incident, action, and/or arrest reports submitted by the law enforcement officer to determine if there exists reasonable grounds to believe that the person had been driving a motor vehicle while under the influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination thereof. The magistrate shall also determine if the person had been informed of the penalties incurred as a result of failing to submit to a chemical test as provided in this section and that the person had been informed of the implied consent notice contained in subsection (c)(10) of this section. For the purpose of this subsection only, “driving a motor vehicle while under the influence of any controlled substance as defined in chapter 28 of title 21” shall be indicated by the presence or aroma of a controlled substance on or about the person or vehicle of the individual refusing the chemical test or other reliable indicia or articulable conditions that the person was impaired due to their intake of a controlled substance.

(2) If the magistrate determines that subsection (b)(1) of this section has been satisfied they shall promptly order that the person's operator's license or privilege to operate a motor vehicle in this state be immediately suspended. Said suspension shall be subject to the hardship provisions enumerated in § 31-27-2.8.

(c) A traffic tribunal judge or magistrate, or a district court judge or magistrate, pursuant to the terms of subsection (d) of this section, shall order as follows:

(1) Impose, for the first violation, a fine in the amount of two hundred dollars (\$200) to five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of public community restitution. The person's driving license in this state shall be suspended for a period of six (6) months to one year. The traffic tribunal judge or magistrate shall require attendance at a special course on driving while intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for the individual. The traffic tribunal judge or magistrate may prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-2.8.

(2) Every person convicted of a second violation within a five-year (5) period, except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall be imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred dollars (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of public community restitution; and the person's driving license in this state shall be suspended for a period of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug treatment for the individual. The sentencing judge or magistrate shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-2.8.

(3) Every person convicted for a third or subsequent violation within a five-year (5) period, except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; and shall be imprisoned for not more than one year; fined eight hundred dollars (\$800) to one thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of public community restitution; and the person's operator's license in this state shall be suspended for a period of two (2) years to five (5) years. The sentencing judge or magistrate shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-2.8. The judge or magistrate shall require alcohol or drug treatment for the individual. Provided, that prior to the reinstatement of a license to a person charged with a third or subsequent violation within a three-year (3) period, a hearing shall be held before a judge or magistrate. At the hearing, the judge or magistrate shall review the person's driving record, his or her employment history, family background, and any other pertinent factors that would indicate that the person has demonstrated behavior that warrants the reinstatement of his or her license.

(4) For a second violation within a five-year (5) period with respect to a case of a refusal to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand dollars (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public community restitution; and the person's driving license in this state shall be suspended for a period of two (2) years. The judicial officer shall require alcohol and/or drug treatment for the individual. The sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8. Such a violation with respect to refusal to submit to a chemical blood test shall be a civil offense.

(5) For a third or subsequent violation within a five-year (5) period with respect to a case of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of public community restitution; and the person's driving license in this state shall be suspended for a period of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8. The judicial officer shall require alcohol and/or drug treatment for the individual. Such a violation with respect to refusal to submit to a chemical test of blood shall be a civil offense. Provided, that prior to the reinstatement of a license to a person charged with a third or subsequent violation within a three-year (3) period, a hearing shall be held before a judicial officer. At the hearing, the judicial officer shall review the person's driving record, his or her employment history, family background, and any other pertinent factors that would indicate that the person has demonstrated behavior that warrants the reinstatement of their license.

(6) For purposes of determining the period of license suspension, a prior violation shall constitute any charge brought and sustained under the provisions of this section or § 31-27-2.

(7) In addition to any other fines, a highway safety assessment of five hundred dollars (\$500) shall be paid by any person found in violation of this section, the assessment to be deposited into the general fund. The assessment provided for by this subsection shall be collected from a violator before any other fines authorized by this section.

(8) In addition to any other fines and highway safety assessments, a two-hundred-dollar (\$200) assessment shall be paid by any person found in violation of this section to support the department of health's chemical testing programs outlined in §§ 31-27-2(f) and 31-27-2(g), that shall be deposited as general revenues, not restricted receipts.

(9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on driving while intoxicated or under the influence of a controlled substance, or public community restitution provided for under this section can be suspended.

(10) Implied consent notice for persons **eighteen (18) years of age** or older: “Rhode Island law requires you to submit to a chemical test of your blood, breath, or urine for the purpose of determining the chemical content of your body fluids or breath. If you refuse this testing, certain penalties can be imposed and include the following: for a first offense, your Rhode Island driver's license or privilege to operate a motor vehicle in this state can be suspended for six (6) months to one year or modified to permit operation in connection with an ignition interlock device for a period specified by law; a fine from two hundred dollars (\$200) to five hundred dollars (\$500) can be imposed; and you can be ordered to perform ten (10) to sixty (60) hours of community service and attend a special course on driving while intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment. If you have had one or more previous offenses within the past five (5) years, your refusal to submit to a chemical test of breath or urine at this time can have criminal penalties, including incarceration up to six (6) months for a second offense and up to one year for a third or subsequent offense, and can carry increased license suspension or ignition interlock period, fines, and community service. All violators shall pay a five hundred dollar (\$500) highway safety assessment fee, a two hundred dollar (\$200) department of health chemical testing programs assessment fee, and a license reinstatement fee. Refusal to submit to a chemical test of blood shall not subject you to criminal penalties for the refusal itself, but if you have one or more previous offenses other civil penalties may increase. You have the right to be examined at your own expense by a physician selected by you. If you submit to a chemical test at this time, you have the right to have an additional chemical test performed at your own expense. You will be afforded a reasonable opportunity to exercise these rights. Access to a

telephone will be made available for you to make those arrangements. You may now use a telephone.”

Use of this implied consent notice shall serve as evidence that a person's consent to a chemical test is valid in a prosecution involving driving under the influence of liquor, controlled substances, and/or drugs...

## South Carolina

### **S.C. Code Ann. § 56-5-2950. Implied Consent to Testing for Alcohol or Drugs; Procedures; Inference of DUI (1962 as amended 2014)**

(A) A person who drives a motor vehicle in this State is considered to have given consent to chemical tests of the person's breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or the combination of alcohol and drugs, if arrested for an offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs. A breath test must be administered at the direction of a law enforcement officer who has arrested a person for driving a motor vehicle in this State while under the influence of alcohol, drugs, or a combination of alcohol and drugs. At the direction of the arresting officer, the person first must be offered a breath test to determine the person's alcohol concentration. If the person is physically unable to provide an acceptable breath sample because the person has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by the licensed medical personnel, the arresting officer may request a blood sample to be taken. If the officer has reasonable suspicion that the person is under the influence of drugs other than alcohol, or is under the influence of a combination of alcohol and drugs, the officer may order that a urine sample be taken for testing. A breath sample taken for testing must be collected within two hours of the arrest. Any additional tests to collect other samples must be collected within three hours of the arrest...

(B) No tests may be administered or samples obtained unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

- (1) the person does not have to take the test or give the samples, but that the person's privilege to drive must be suspended or denied for at least six months with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person refuses to submit to the test, and that the person's refusal may be used against the person in court;
- (2) the person's privilege to drive must be suspended for at least one month with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person takes the test or gives the samples and has an alcohol concentration of fifteen one-hundredths of one percent or more;

(3) the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense;

(4) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and

(5) if the person does not request a contested case hearing or if the person's suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program...

(H) A person who is unconscious or otherwise in a condition rendering the person incapable of refusal is considered to be informed and not to have withdrawn the consent provided by subsection (A) of this section...

## **South Dakota**

### **S.D. Codified Laws § 32-23-1.2. Submission to requested breath or chemical tests (1973, as amended 2006).**

Every person operating a vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a law enforcement officer, submit to a breath test to be administered by such officer. If such test indicates that such operator has consumed alcohol, the law enforcement officer may require such operator to submit to a chemical test in the manner set forth in this chapter.

### **S.D. Codified Laws § 32-23-10. Operation of vehicle as consent to withdrawal of bodily substances and chemical analysis—Submission to withdrawal or analysis following arrest (1959 as amended 2006).**

Any person who operates any vehicle in this state is considered to have given consent to the withdrawal of blood or other bodily substance and chemical analysis of the person's blood, breath, or other bodily substance to determine the amount of alcohol in the person's blood and to determine the presence of marijuana or any controlled drug or substance or any substance ingested, inhaled, or otherwise taken into the body as prohibited by § 22-42-15 or any other substance that may render a person incapable of safely driving. The arresting law enforcement officer may, subsequent to the arrest of any operator for a violation of § 32-23-1, require the operator to submit to the withdrawal of blood or other bodily substances as evidence.

## **Tennessee**



**Tenn. Code Ann. § 55-10-406. Tests to determine alcohol or drug content; when authorized; implied consent; admissibility of results; refusal, prevention, or obstruction of testing (1969 as amended 2025).**

(a) A law enforcement officer who has probable cause to believe that the operator of a motor vehicle is driving while under the influence of any intoxicant, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof as prohibited by § 55-10-401, or committing the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218, may request that the operator of the vehicle submit to test or tests for the purpose of determining the alcohol or drug content, or both, of that operator's blood.

(b)(1) Breath tests may be administered under the following circumstances:

- (A) The operator's implied consent to submit to breath tests pursuant to subdivision (d)(1);
- (B) The operator's consent to submit to breath tests;
- (C) A search warrant;
- (D) Incident to a lawful arrest for any of the offenses set out in subsection (a); or
- (E) When breath tests are required to be administered pursuant to subdivision (c)(1).

(2) Blood tests may be administered under the following circumstances:

- (A) The operator's implied consent to submit to blood tests pursuant to subdivision (d)(1);
- (B) The operator's consent to submit to blood tests;
- (C) A search warrant;
- (D) Without the consent of the operator if exigent circumstances to the search warrant requirement exist; or
- (E) When blood tests are required to be administered pursuant to subdivision (c)(2) and with a search warrant or without a warrant, if exigent circumstances to the search warrant requirement exist.

(3) Oral fluid tests may be administered under the following circumstances:

- (A) The operator's consent to submit to oral fluid tests;
- (B) A search warrant;
- (C) Incident to a lawful arrest for any of the offenses set out in subsection (a); or
- (D) Without the consent of the operator if exigent circumstances to the search warrant requirement exist.

(c)(1)(A) A law enforcement officer shall administer or cause to be administered breath tests for the purpose of determining the alcohol content of the operator's blood if the officer has appropriate testing equipment available and has probable cause to believe that one (1) or more of the events in subdivision (c)(2)(A) have occurred;



(B) A law enforcement officer shall administer or cause to be administered blood tests for the purpose of determining the alcohol or drug content of the operator's blood if one (1) or more of the requirements for blood tests set out in subdivision (b)(2) are present and the officer has probable cause to believe that one (1) or more of the events in subdivision (c)(2)(A) have occurred; and

(C) A law enforcement officer administering breath or blood tests shall decide whether to administer or cause to be administered breath tests, blood tests, or both tests, for determining the alcohol or drug content of the operator's blood.

(2)(A) A law enforcement officer shall administer or cause to be administered breath tests, blood tests, or both tests, pursuant to subdivision (c)(1) if the operator:

(i) Has been involved in a collision resulting in the injury or death of another and the operator of the vehicle has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401;

(ii) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; and a passenger in the motor vehicle is a child under eighteen (18) years of age; or

(iii) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; and has a prior conviction of a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; or an offense committed in another state or territory that, if committed in this state, would constitute the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), aggravated vehicular homicide under § 39-13-218, or driving under the influence of an intoxicant under § 55-10-401.

(B) The blood tests required to be administered under subdivision (c)(1)(B) shall be performed in accordance with the procedure set forth in this section and § 55-10-408, and shall be performed, pursuant to a search warrant as described in subdivision (b)(2)(C) or if exigent circumstances to the search warrant requirement exist as described in subdivision (b)(2)(D), regardless of whether the operator consents to the tests.

(C) The results of breath or blood tests required by subdivision (c)(2)(A) may be offered as evidence by either the state or the operator of the vehicle in any court, administrative hearing, or official proceeding relating to the collision or offense, subject to the Tennessee Rules of Evidence.

(d)(1) The operator of a motor vehicle in this state is deemed to have given implied consent to breath tests, blood tests, or both tests, for the purpose of determining the alcohol or drug content of that operator's blood. However, no such tests may be administered pursuant to this section unless conducted at the direction of a law

enforcement officer having probable cause to believe the operator was in violation of one (1) or more of the offenses set out in subsection (a) and the operator signs a standardized waiver developed by the department of safety and made available to law enforcement agencies.

(2) Any law enforcement officer who requests that the operator of a motor vehicle submit to breath tests, blood tests, or both tests, authorized pursuant to subsection (a), shall, prior to conducting the test, advise the operator that refusal to submit to the tests:

(A) Will result in the suspension by the court of the operator's driver license; and

(B) May result, depending on the operator's prior criminal history, in the operator being required to operate only a motor vehicle equipped with a functioning ignition interlock device, if the operator is convicted of a violation of § 55-10-401, as described in § 55-10-405.

(3) If the operator is not advised of the consequences of the refusal to submit to breath tests, blood tests, or both tests, the court having jurisdiction over the offense for which the operator was placed under arrest shall not have the authority to suspend the license of an operator or require the operator to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-417 for a violation of this subsection (d).

(4) If the operator is placed under arrest, requested by a law enforcement officer to submit to breath tests, blood tests, or both tests, advised of the consequences for refusing to do so, and refuses to submit, the operator shall be charged with violating subdivision (d)(1). The operator's refusal is a violation of subdivision (d)(1), even if the operator's blood sample is obtained pursuant to a search warrant, court order, exigent circumstances, or other lawful means. The determination as to whether an operator violated subdivision (d)(1) shall be made:

(A) At the same time and by the same court as the court disposing of the offense for which the operator was placed under arrest, upon an oral or written motion of the state; or

(B) At the operator's first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, if the state does not make a motion pursuant to subdivision (d)(4)(A).

### **Tenn. Code Ann. § 55-10-407. Refusal to submit to tests (1969 as amended 2019).**

.....

(d) Any person who violates § 55-10-406 by refusing to submit to either test or both tests, pursuant to § 55-10-406(d)(4), shall be charged by a separate warrant or citation that does not include any charge of violating § 55-10-401 that may arise from the same occurrence.

## Texas

### **Tex. Penal Code Ann. § 724.011. Consent to Taking of Specimen (1995 as amended 1997).**

(a) If a person is arrested for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in a public place, or a watercraft, while intoxicated, or an offense under Section 106.041, Alcoholic Beverage Code, the person is deemed to have consented, subject to this chapter, to submit to the taking of one or more specimens of the person's breath or blood for analysis to determine the alcohol concentration or the presence in the person's body of a controlled substance, drug, dangerous drug, or other substance.

(b) A person arrested for an offense described by Subsection (a) may consent to submit to the taking of any other type of specimen to determine the person's alcohol concentration.

### **Tex. Penal Code Ann. § 724.014. Person Incapable of Refusal (1995).**

(a) A person who is dead, unconscious, or otherwise incapable of refusal is considered not to have withdrawn the consent provided by Section 724.011.

## Utah

### **Utah Code Ann. § 41a-6a-520. Implied consent to chemical tests for alcohol or drug—Number of tests—Refusal—Warning, report (2005 as amended 2013)**

(1)(a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c)(i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d)(i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2)(a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b)(i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

- (ii) the person had refused to submit to a chemical test or tests under Subsection (1).
- (3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.
- (4)(a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.
- (b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.
- (c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.
- (5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.
- (6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

**Utah Code Ann. § 41-6a-520.1. Refusing a chemical test (2023 as amended 2024).**

- (1) An actor commits refusing a chemical test if:
  - (a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);
  - (b) a court issues a warrant to draw and test the blood; and
  - (c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's blood.
- (2)(a) A violation of Subsection (1) is a class B misdemeanor.
- (b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:
  - (i) has a passenger younger than 16 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;
  - (ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(iii) also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

(B) the commission of the offense upon which the current conviction is based.

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions, each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the current conviction is at any time after:

(A) a felony conviction; or

(B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under Section 76-3-402.

(3) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than is required under Section 41-6a-505;

(b) any fine imposed shall be \$100 more than is required under Section 41-6a-505; and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual, in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring, in accordance with Section 41-6a-506.

(4)(a) The offense of refusing a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

(b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

(5) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time the officer had grounds to believe the actor was driving under the influence.

## Vermont

### **Vt. Stat. Ann. tit. 23 § 1202. Consent to taking of tests to determine blood alcohol content or presence of other drug (1969 as amended 2025).**

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a



fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as limited in this subsection to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes after the time of the initial attempt to contact the attorney. The person must make a decision about whether to submit to the test or tests at the expiration of the 30 minutes, regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in a crash or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

(e) In any proceeding under this subchapter, a law enforcement officer's testimony that he or she is certified pursuant to section 20 V.S.A. § 2358 shall be prima facie evidence of that fact.

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in a crash or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. Pursuant to subdivision (d)(6) of this section, if a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to ensure that adequate legal services are available to persons entitled to consult an attorney under this section.

**Vt. Stat. Ann. tit. 23 § 1201. Operating vehicle under the influence of alcohol or other substance; criminal refusal; enhanced penalty for BAC of 0.16 or more (1969 as amended 2025).**

....

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

## Virginia

### **Va. Code Ann. § 18.2-268.2. Implied consent to post-arrest testing to determine drug or alcohol content of blood (1992, as amended 2005).**

A. Any person, whether licensed by Virginia or not, who operates a motor vehicle upon a highway, as defined in § 46.2-100, in the Commonwealth shall be deemed thereby, as a condition of such operation, to have consented to have samples of his blood, breath, or both blood and breath taken for a chemical test to determine the alcohol, drug, or both alcohol and drug content of his blood, if he is arrested for violation of § 18.2-266, 18.2-266.1, or subsection B of § 18.2-272 or of a similar ordinance within three hours of the alleged offense.

B. Any person so arrested for a violation of clause (i) or (ii) of § 18.2-266 or both, § 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance shall submit to a breath test. If the breath test is unavailable or the person is physically unable to submit to the breath test, a blood test shall be given. The accused shall, prior to administration of the test, be advised by the person administering the test that he has the right to observe the process of analysis and to see the bloodalcohol reading on the equipment used to perform the breath test. If the equipment automatically produces a written printout of the breath test result, the printout, or a copy, shall be given to the accused.

C. A person, after having been arrested for a violation of clause (iii), (iv), or (v) of § 18.2-266 or § 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance, may be required to submit to a blood test to determine the drug or both drug and alcohol content of his blood. When a person, after having been arrested for a violation of § 18.2-266 (i) or(ii) or both, submits to a breath test in accordance with subsection B or refuses to take or is incapable of taking such a breath test, he may be required to submit to tests to determine the drug or both drug and alcohol content of his blood if the law-enforcement officer has reasonable cause to believe the person was driving under the influence of any drug or combination of drugs, or the combined influence of alcohol and drugs.

### **Va. Code Ann. § 18.2-268.3. Refusal of tests; penalties; procedures (1992 as amended 2020)**

A. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his breath taken for chemical tests to determine the alcohol content of his blood as required by § 18.2-268.2, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:

1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment of conviction. This revocation period is in addition to the suspension period provided under § 46.2-391.2.

B. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § 18.2-268.2 and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:

1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment. This revocation period is in addition to the suspension period provided under § 46.2-391.2....

C. When a person is arrested for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance and such person refuses to permit blood or breath or both blood and breath samples to be taken for testing as required by § 18.2-268.2, the arresting officer shall advise the person, from a form provided by the Office of the Executive Secretary of the Supreme Court (i) that a person who operates a motor vehicle upon a highway in the Commonwealth is deemed thereby, as a condition of such operation, to have consented to have samples of his blood and breath taken for chemical tests to determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, (iii) that the unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of the Commonwealth, (iv) of the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken, and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor. The form from which the arresting officer shall advise the person arrested shall contain a brief statement of the law requiring the taking of blood or breath samples, a statement that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, and the penalties for refusal.

The Office of the Executive Secretary of the Supreme Court shall make the form available on the Internet and the form shall be considered an official publication of the Commonwealth for the purposes of § 8.01-388.....

## Washington

### **Wash. Rev. Code Ann. § 46.20.308. Implied consent—Test refusal—Procedures (1969 as amended 2022).**

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath for the purpose of determining the alcohol concentration in his or her breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. Prior to administering a breath test pursuant to this section, the officer shall inform the person of his or her right under this section to refuse the breath test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath is 0.08 or more; or

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or more; or

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested exercises the right, granted herein, by refusing upon the request of a law enforcement officer to submit to a test or tests of his or her breath, no test shall be given except as otherwise authorized by law.

(4) Nothing in subsection (1), (2), or (3) of this section precludes a law enforcement officer from obtaining a person's blood to test for alcohol, cannabis, or any drug, pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. Any blood drawn for the purpose of determining the person's alcohol, cannabis levels, or any drug, is drawn pursuant to this section when the officer has reasonable grounds to believe that the person is in physical control or driving a vehicle under the influence or in violation of RCW 46.61.503.

(5) If, after arrest and after any other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:...

## West Virginia

### **W. Va. Code Ann. § 17C-5-7. Refusal to submit to tests; revocation of license or privilege; consent not withdrawn if person arrested is incapable of refusal; hearing (1968 as amended 2020).**

(a) If any person under arrest, as specified in § 17C-5-4 of this code, refuses to submit to a secondary chemical test, the test shall not be given.

(b) Upon requesting that a person submit to the secondary test, designated pursuant to § 17C-5-4 of this code, the person shall be given the written and verbal warnings set forth in § 17C-5-4(e) of this code. After the person under arrest is given the required written and verbal warnings, the person shall have the opportunity to submit to, or refuse to submit to, the secondary test. A refusal to submit to the secondary test is considered final after 15 minutes have passed since the refusal: *Provided*, That during the 15 minutes





following the refusal, the arresting officers shall permit the person under arrest to revoke his or her refusal and shall provide the person with the opportunity to submit to the test upon request. After the 15 minutes have passed following a refusal to submit to the secondary test, the arresting officer has no further duty to provide the person with an opportunity to take the secondary test.

(c) The officer shall, within 48 hours of the refusal, sign and submit to the Commissioner of the Division of Motor Vehicles and the court having jurisdiction over the charge filed against the person pursuant to § 17C-5-2 of this code, a written statement that: (1) He or she had probable cause to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances, or drugs; (2) the person was lawfully placed under arrest for an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances, or drugs; (3) the person refused to submit to the secondary chemical test designated in the manner provided in § 17C-5-4 of this code; and (4) the person was given the verbal warnings and the written statement required by subsection (b) of this section and § 17C-5-4 of this code. An officer, by signing the statement required by this subsection, makes an oath or affirmation that the information contained in the statement is true and that any copy of the statement that he or she files is a true copy. The form for the written statement required by this section shall contain, upon its face, a warning to the officer signing that to willfully sign a statement containing false information is false swearing and is a misdemeanor....

## Wisconsin

### **Wis. Stat. § 343.305. Tests for intoxication; administrative suspension and court-ordered revocation (1987 as amended 2021).**

....

(2) Implied consent. Any person who is on duty time with respect to a commercial motor vehicle or drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, is deemed to have given consent to one or more tests of his or her breath, blood or urine, for the purpose of determining the presence or quantity in his or her blood or breath, of alcohol, controlled substances, controlled substance analogs or other drugs, or any combination of alcohol, controlled substances, controlled substance analogs and other drugs, when requested to do so by a law enforcement officer under sub. (3)(a) or (am) or when required to do so under sub. (3)(ar) or (b). Any such tests shall be administered upon the request of a law enforcement officer. The law enforcement agency by which the officer is employed shall be prepared to administer, either at its agency or any other agency or facility, 2 of the 3 tests under sub. (3)(a), (am), or (ar), and may designate which of the tests shall be administered first.

(3) Requested or required. (a) Upon arrest of a person for violation of s. 346.63(1), (2m) or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63(2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or upon arrest subsequent to a refusal under par. (ar), a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose



specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample.

(am) Prior to arrest, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) whenever a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person is violating or has violated s. 346.63(7). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. For the purposes of this paragraph, “law enforcement officer” includes inspectors in the performance of duties under s. 110.07(3).

(ar)1. If a person is the operator of a vehicle that is involved in an accident that causes substantial bodily harm, as defined in s. 939.22(38), to any person, and a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, the law enforcement officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subdivision and one or more samples specified in par. (a) or (am) may be administered to the person. If a person refuses to take a test under this subdivision, he or she may be arrested under par. (a).

2. If a person is the operator of a vehicle that is involved in an accident that causes the death of or great bodily harm to any person and the law enforcement officer has reason to believe that the person violated any state or local traffic law, the officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subdivision and one or more samples specified in par. (a) or (am) may be administered to the person. If a person refuses to take a test under this subdivision, he or she may be arrested under par. (a).

(b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63(1), (2m) or (5) or a local ordinance in conformity therewith, or s. 346.63(2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or detects any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof,

on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person has violated s. 346.63(7), one or more samples specified in par. (a) or (am) may be administered to the person.

(c) This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means....

## Wyoming

### **Wyo. Stat. Ann. § 31-6-102. Test to determine alcoholic or controlled substance content of blood; suspension of license (1971 as amended 2025).**

(a) If arrested for an offense as defined by W.S. 31-5-233:

(i) Any person who drives or is in actual physical control of a motor vehicle upon a public street or highway in this state is deemed to have given consent, subject to the provisions of this act, to a chemical test or tests of his blood, breath or urine for the purpose of determining the alcohol concentration or controlled substance content of his blood. The test or tests shall be:

(A) Incidental to a lawful arrest;

(B) Given as promptly as possible after the arrest;

(C) Administered at the direction of a peace officer who has probable cause to believe the person was driving or in actual physical control of a motor vehicle upon a public street or highway in this state in violation of W.S. 31-5-233(b) or any other law prohibiting driving under the influence as defined by W.S. 31-5-233(a)(v). The peace officer who requires a test for alcohol concentration pursuant to this section may direct that the test shall be of blood, breath or urine. However, if the officer directs that the test be of the person's blood or urine, the person may choose whether the test shall be of blood or urine. The person shall not have the option if the peace officer has probable cause to believe there is impairment by a controlled substance which is not subject to testing by a breath test in which case a blood or urine test may be required, as directed by the peace officer....

(c) Any person dead, unconscious or otherwise in a condition rendering him incapable of cooperating with the administration of the tests is deemed to have given his consent provided by subsection (a) of this section and the tests may be administered subject to the provisions of this act.

(d) If a person under arrest refuses upon the request of a peace officer to submit to a chemical test designated by the agency employing the peace officer as provided in subsection (a) of this section, none shall be given except in cases where serious bodily injury or death has resulted or upon issuance of a search warrant. A test of the agency's choice may be administered upon issuance of a warrant, including a remotely

communicated search warrant, when reasonable under the circumstances and as provided in this subsection. A remotely communicated search warrant may be issued upon sworn or affirmed testimony of the peace officer who is not in the physical presence of a judicial officer, provided the judicial officer is satisfied that probable cause exists for the issuance of the warrant. All communication between the judicial officer and the peace officer or prosecuting attorney requesting the warrant may be remotely transmitted by voice, image, text or any combination thereof, or by other means and shall be recorded. The testimony and content of the warrant shall be recorded by writing or mechanical, magnetic, electronic, photographic storage or by other means. Upon approval, the judicial officer may direct a peace officer or the prosecuting attorney requesting a warrant from a remote location to sign the judicial officer's name on a warrant at a remote location. A remotely communicated search warrant shall be valid only for purposes specified in this subsection....

**END DOCUMENT**

