


Impaired Driving

503.1 POLICY HEADER

Original Effective Date:	Revised Date:
September 1, 2021	January 4, 2023
<p>Authorization:</p>  <p>Jason Haberman Chief of Police</p>	

503.2 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence of alcohol or drugs (DUI).

503.3 POLICY

The Mt. Lebanon Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Pennsylvania's impaired driving laws.

503.4 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic Lieutenant will maintain report forms and may develop checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.

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- (f) Any prior related convictions in Pennsylvania or another jurisdiction.

503.5 FIELD TESTS

The Traffic Lieutenant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

503.5.1 PRELIMINARY BREATH TEST

An officer having reasonable suspicion to believe a person is driving or in actual physical control of a vehicle while under the influence of alcohol may, prior to arrest, request the person submit to a preliminary breath test (PBT) on an approved device. The PBT shall be in addition to any other test and the person does not have a right to expect or demand a PBT (75 Pa.C.S. § 1547; 28 Pa. Code § 5.104).

503.6 CHEMICAL TESTS

A person implies consent under Pennsylvania law to a chemical test or tests of his/her breath or blood, and to providing the associated chemical sample, when the officer has probable cause to believe:

- (a) The person was driving, operating or in actual physical control of the movement of a vehicle in violation of any provision of 75 Pa.C.S. § 3802 (DUI) (75 Pa.C.S. § 1547).
- (b) The person was driving, operating or in physical control of a school vehicle or commercial motor vehicle (CMV) while having alcohol in his/her system (75 Pa.C.S. § 1613).
- (c) The person was driving while his/her operating privilege was suspended or revoked in violation of 75 Pa.C.S. § 1543 (b) (1) (i); (75 Pa.C.S. § 1547).
- (d) The person was operating a vehicle without a required ignition interlock in violation of 75 Pa.C.S. § 3808 (75 Pa.C.S. § 1547).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

503.6.1 STATUTORY NOTIFICATIONS

A person placed under arrest for DUI, driving with a suspended or revoked license, or operating a vehicle without a required ignition interlock shall be informed that his/her operating privilege will be suspended and he/she will be subject to a restoration fee of up to \$2,000 if chemical testing is refused (75 Pa.C.S. § 1547).

If the arrestee was operating a CMV, the person shall be informed that he/she will be disqualified from operating a CMV if he/she refuses to submit to testing (75 Pa.C.S. § 1613).

503.6.2 BREATH SAMPLES

Breath samples should not be utilized in the processing of DUI suspects. However, should no other alternative be available, due to unforeseen circumstances, the nearest available certified intoxilyzer shall be utilized by authorized personnel.

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503.6.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (75 Pa.C.S. § 1547). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test shall not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

503.6.4 ADDITIONAL REQUIREMENTS

Approved equipment and procedures are used for chemical testing (75 Pa.C.S. § 1547):

- (a) Blood samples shall be taken using the procedures and equipment approved by DOH or the Pennsylvania State Police (PSP).
- (b) Breath samples shall be taken using devices approved by DOH using the procedures established by DOH and PennDOT.

503.7 REFUSALS

When an arrestee refuses to provide a chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (75 Pa.C.S. § 1547; 75 Pa.C.S. § 1613).
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report ([PennDOT DL-26 form](#)).

503.7.1 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses to submit to a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

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503.7.2 FORCED BLOOD SAMPLE

If a search warrant has been obtained and if an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer), and attempt to persuade the individual to submit to providing such a sample without physical resistance.
 1. This dialogue should be recorded on audio and/or video when practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure that the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform the duties of a supervisor, as set forth above.

503.8 ARREST AND INVESTIGATION

503.8.1 ACCIDENTS

Officers having probable cause to believe that a person was involved in a DUI accident may request the results of a blood sample taken from a person who is transported to a hospital (75 Pa.C.S. § 3755).

503.8.2 ARRESTEE TESTING

If an arrestee makes a request for his/her own chemical testing, officers should make reasonable attempts to accommodate the request, when practicable. This may include giving the arrestee reasonable opportunity to arrange for a physician or other qualified person to administer a test. The chemical test given by the officer shall not be delayed by the person's attempt to obtain an additional test (75 Pa.C.S. § 1547).

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503.9 RECORDS DEPARTMENT RESPONSIBILITIES

The Investigative Services Unit secretary will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

503.10 ADMINISTRATIVE HEARINGS

The Records Clerk will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to PennDOT.

Any officer who receives notice of required attendance at an administrative license suspension hearing shall attend the hearing as required.

An officer called to testify at an administrative hearing should document the hearing date and the PennDOT file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

Attachments

Penndot DL26.pdf

**pennsylvania**

DEPARTMENT OF TRANSPORTATION

CHEMICAL TESTING WARNINGS AND REPORT OF REFUSAL TO SUBMIT TO A BLOOD TEST AS AUTHORIZED BY SECTION 1547 OF THE VEHICLE CODE IN VIOLATION SECTION 3802 (relating to driving under the influence of Alcohol or Controlled Substance)**Side 1**

NAME			SEX	DATE OF BIRTH		
FIRST	MIDDLE	LAST		MONTH	DAY	YEAR
ADDRESS: A P.O. Box number may be used in addition to the actual residence address, but cannot be used as the only address.			CITY	STATE	ZIP CODE	
CDL Holder	DRIVER NUMBER	STATE	CHEM TEST REQUEST DATE			SOCIAL SECURITY NUMBER
<input type="checkbox"/> YES <input type="checkbox"/> NO			MONTH	DAY	YEAR	

SECTION 1547 - BLOOD TESTING WARNINGS

NOTE TO OFFICER: Please read *all* of these warnings *in their entirety* to the operator even if the operator is not listening, is talking over you or is otherwise disruptive. An officer's duty to read these warnings is excused only in rare instances where the operator's actions make reading this form impossible. You must still give the operator an opportunity to take the blood test after you finish reading these warnings to the operator. The refusal of the operator to sign this form is not a refusal to submit to the blood test. If the operator was operating a commercial motor vehicle while having any alcohol or a controlled substance in his/her system, you must also read the warnings on the reverse side of this form and complete the form.

It is my duty as a police officer to inform you of the following:

1. You are under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code.
2. I am requesting that you submit to a chemical test of blood.
3. If you refuse to submit to the blood test, your operating privilege will be suspended for at least 12 months. If you previously refused a chemical test or were previously convicted of driving under the influence, you will be suspended for up to 18 months.
4. You have no right to speak with an attorney or anyone else before deciding whether to submit to testing. If you request to speak with an attorney or anyone else after being provided these warnings or you remain silent when asked to submit to a blood test, you will have refused the test.

I certify that I have READ the above warnings to the operator regarding the suspension of his/her operating privilege and gave the operator an opportunity to submit to blood test.

Signature of Officer: _____ Date: _____

I have been advised of the above.

Signature of Operator: _____ Date: _____

Operator refused to sign, after being advised.

Signature of Officer: _____ Date: _____

AFFIDAVIT

1. The above operator was placed under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code, and there were reasonable grounds to believe that the above operator had been driving, operating or in actual physical control of the movement of a vehicle while in violation of Section 3802.
2. The above operator was requested to submit to a blood test as authorized by Section 1547 of the Vehicle Code.
3. The above operator was **read** by a police officer the chemical test warnings contained in paragraphs 1 through 4 above.
4. The above operator refused to submit to a blood test after having been read the above warnings.

I certify that all the information given in this form is true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities:

Officer Signature: _____

Officer Name: _____

Badge Number: _____ Jurisdiction: _____

Mailing Address: _____

Phone: (_____) _____

PLEASE LIST NAME, BADGE NUMBER, AND PHONE NUMBER OF ARRESTING OFFICER IF NOT THE SAME OFFICER WHO WITNESSED THE REFUSAL: _____

Note: Any pertinent facts not covered by the affidavit should be submitted on a separate sheet and attached hereto. That sheet should include the names of additional witnesses necessary to prove the elements to which you have attested.

Forward to: Department of Transportation, Bureau of Driver Licensing, P.O. Box 60037, Harrisburg PA 17106-0037

THIS FORM MAY BE DUPLICATED

**pennsylvania**

DEPARTMENT OF TRANSPORTATION

CHEMICAL TESTING WARNINGS AND REPORT OF REFUSAL TO SUBMIT TO A BLOOD TEST AS AUTHORIZED BY SECTION 1613 OF THE VEHICLE CODE (COMMERCIAL MOTOR VEHICLE)**Side 2**

NAME			SEX	DATE OF BIRTH		
FIRST	MIDDLE	LAST		MONTH	DAY	YEAR
ADDRESS: A P.O. Box number may be used in addition to the actual residence address, but cannot be used as the only address.			CITY	STATE	ZIP CODE	
CDL Holder	DRIVER NUMBER	STATE	CHEM TEST REQUEST DATE			SOCIAL SECURITY NUMBER
<input type="checkbox"/> YES <input type="checkbox"/> NO			MONTH	DAY	YEAR	

Was a CMV Being Driven: _____ (Check if applicable) Were Hazardous Materials Being Carried: _____ (Check if applicable)

SECTION 1613 - BLOOD TESTING WARNINGS

It is my duty as a police officer to inform you of the following:

- I am requesting that you submit to a blood test.
- Because you were operating a commercial motor vehicle, if you refuse to submit to the blood test your commercial driving privilege will be disqualified for at least one year, and it could be disqualified for life. In addition, if you are arrested for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code and you refuse a blood test, your operating privilege will be suspended for at least 12 months. If you previously refused a chemical test or were previously convicted of driving under the influence, your operating privilege will be suspended for up to 18 months.
- You have no right to speak with an attorney or anyone else before deciding whether to submit to testing. If you request to speak with an attorney or anyone else after being provided these warnings or you remain silent when asked to submit to a blood test, you will have refused the test.

I certify that I have READ the above warning to the operator regarding the disqualification of his/her operating privilege and gave the operator an opportunity to submit to chemical testing.

Signature of Officer: _____ Date: _____

I have been advised of the above.

Signature of Operator: _____ Date: _____

Operator refused to sign, after being advised.

Signature of Officer: _____ Date: _____

NOTE TO OFFICER: The refusal of the operator to sign this form is not a refusal to submit to the chemical test. You must still give the operator an opportunity to take the chemical test after reading this form to the operator.

AFFIDAVIT

- The above commercial motor vehicle driver was stopped by a police officer who, after stopping the driver, had reasonable grounds to believe that the driver had been operating a commercial motor vehicle while having any alcohol in his/her system.
- The above commercial driver was requested to submit to a blood test as authorized by Section 1613 of the Vehicle Code.
- The above commercial driver was read by a police officer the chemical test warnings contained in paragraph 2 and 3 above.
- The above named commercial driver refused to submit to a blood test after having been read the above warnings.

I certify that all information given in this form is true and correct:

Officer Signature: _____

Officer Name: _____

Badge Number: _____ Jurisdiction: _____

Mailing Address _____

Phone: (_____) _____

PLEASE LIST NAME, BADGE NUMBER, AND PHONE NUMBER OF ARRESTING OFFICER IF NOT THE SAME OFFICER WHO WITNESSED THE REFUSAL: _____

Note: Any pertinent facts not covered by the affidavit should be submitted on a separate sheet and attached hereto. That sheet should include the names of additional witnesses necessary to prove the elements to which you have attested.

Forward to: Department of Transportation
Bureau of Driver Licensing
P.O. Box 60037
Harrisburg PA 17106-0037

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