

MONTANA DEPARTMENT OF JUSTICE ALCOHOL/DRUG TESTING ADVISORY

Driver Name \_\_\_\_\_ Date of Birth \_\_\_\_\_  
DL Number \_\_\_\_\_ CDL Holder:  Yes  No CMV:  Yes  No

1. Check and read appropriate action:

You are under arrest for driving or being in actual physical control of a motor vehicle upon ways of this state open to the public while under the influence of alcohol and/or drugs;

You are under arrest for driving or being in actual physical control of a motor vehicle upon ways of this state open to the public under the age of 21 with a suspected alcohol concentration of .02 or greater;

I determined there is probable cause to believe you were driving or in actual physical control of a motor vehicle upon the ways of this state open to the public while under the influence of alcohol (and/or drugs) and was involved in a motor vehicle crash resulting in property damage; or

I determined there is probable cause to believe this person was driving or in actual physical control of motor vehicle upon the ways of this state open to the public and was involved in a motor vehicle crash resulting in serious bodily injury or death;

2. Montana law (§ 61-8-1016 and § 61-8-806, MCA) considers you to give consent to test for alcohol or drugs. I have the right to decide the type of test or tests you will be asked to take. I am going to ask you to take a  breath or  blood or  oral fluids test. Later, I may ask you to take a different test.

3. You do not have a right to a lawyer under *Miranda*. You must decide to take or refuse to take the test without talking to a lawyer.

4. **Noncommercial privilege (read under all situations)**

If you refuse these tests, I will seize any driver license you have and your noncommercial driver license or privilege to drive will be suspended.

If this is your only refusal in the past 5 years, the suspension is for **6 months**. If this is your second or subsequent refusal, the suspension is for **1 year**.

5. **Commercial privilege (read if the driver holds a CDL or was operating a commercial motor vehicle)**

If you hold a commercial driver license and refuse these tests or if you were driving a commercial motor vehicle and your test results indicate an alcohol content of .04 or greater, it is a major offense.

If this is your first major offense, the suspension of your commercial driver license or privilege is **1 year**. If you have a hazardous material endorsement, the suspension of your commercial driver license or privilege to drive is **3 years**. If this is your second major offense in your entire driving history, the suspension of your commercial driver license or privilege is a **lifetime suspension**.

If you were driving a commercial motor vehicle and you have a measurable or detectable presence of alcohol, you will be declared out-of-service for a period of 24 hours.

6. **Non-Montana Driver License (read if the driver hold a non-Montana driver license)**

If you have a driver license issued by another jurisdiction, and you refuse to take the tests, or you were driving a commercial vehicle and your test results were .04 or greater, Montana will suspend your driving privileges for the same time periods.

7. You cannot receive a probationary license while your license is suspended for either refusing to test or if operating a commercial motor vehicle the test results were .04 or greater.

8. Your test results or testing refusal may be used as evidence in a criminal trial. At a criminal trial, the jury or judge-in a nonjury trial, may use your refusal to infer that you were under the influence of alcohol and/or drugs. You may rebut this inference at your trial.

9. After you either complete the requested testing or refuse to test, you may have a medical professional administer an independent blood test for alcohol or drugs. You must pay for any independent tests you want. If you refuse testing now, taking an independent test will not change the suspension of your driving privileges.

10. A breath test requires you to blow a proper sample of air into this instrument. It will analyze your breath sample for alcohol concentration. Will you take a breath test?  Yes  No

11. I am requesting a blood test to analyze your blood for alcohol concentration and/or drugs. Will you take a blood test?  Yes  No

12. I am requesting an oral fluids test to analyze your blood for alcohol concentration and/or drugs. Will you take an oral fluids test?  Yes  No

This advisory was read to the driver on (date) \_\_\_\_\_ (time) \_\_\_\_\_

Advising Officer Name: \_\_\_\_\_

Advising Officer Signature: \_\_\_\_\_

Optional:

Witness Name: \_\_\_\_\_

Witness Signature: \_\_\_\_\_