

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210

POLICY #: 8.12.16	DATE: 09/01/93	REVISION DATE:
TITLE: IMPLIED CONSENT - BAC DATAMASTER NON-IMPLIED CONSENT TEST		PAGE 1 OF 1

RESPONSIBLE AUTHORITY: SPECIAL AGENT IN CHARGE OF
FORENSIC SERVICES LABORATORY

RELATED STANDARDS/STATUTES/REFERENCES: S.C. Code of Laws, Section 56-5-2950
S.C. Code of Laws, Section 50-21-114
S.C. Code of Laws, Section 55-1-100
S.C. Code of Laws, Section 56-1-2130

GENERAL PURPOSE: To set forth policies for the administration of implied consent breath alcohol tests.

POLICY: The Division will establish procedures for properly conducting implied consent BAC DataMaster breath alcohol tests.

SPECIFIC PROCEDURES: A non-implied consent BAC DataMaster test is any breath test on a SLED certified device not performed under the authority of the implied consent laws of South Carolina. Non-implied consent tests may only be performed by certified test operators using proper procedures. If "N" and "RETURN" are entered to the question, "SUB ARRESTED DUI/FEL DUI", along with a "Y" followed by a "RETURN" to the question, "ARE YOU SURE?", a non-implied consent test sequence will begin.

After a high reading on an implied consent test is obtained, the operator may perform a non-implied consent test if he/she is concerned about the subject's health. A high reading is defined as any significant reading that gives the operator concern about the subject's welfare. Typically, this reading will be 0.35% or greater. This test is done solely to ensure that the subject's blood alcohol concentration is decreasing, and the results of this second test should not be used for court purposes. Of course, the operator does not have to wait to perform a second test before seeking medical attention for a subject.

For a non-implied consent test, the check for subject under arrest for DUI or Felony DUI and the check for the Implied Consent Warning should not be checked. The checking of the mouth and the use of the minimum twenty minute observation period are recommended to obtain an accurate test. These steps are not necessary if the test is being performed solely for recertification purposes. During a non-implied consent test, only test questions (9) - (11) and (27) - (34) will be prompted. The run sequence procedures will be the same as in an implied consent test. In the event of a refusal to a non-implied consent test, a refusal slip may not be completed. "NA" should be entered for refusal slip number in the test protocol. If a non-implied consent test is performed, the words, "NON-DUI TEST/NO ARREST DUI OR FEL DUI" will be printed out on the evidence ticket. The results of a non-implied consent test should not be used in DUI or Felony DUI prosecutions.