

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210

8.12.2 IMPLIED CONSENT - ADMINISTRATION OF IMPLIED CONSENT BREATH ALCOHOL TESTS

POLICY #: 8.12.2	DATE: 09/01/93	REVISION DATE: 12/13/00
TITLE: IMPLIED CONSENT - ADMINISTRATION OF IMPLIED CONSENT BREATH ALCOHOL TESTS		PAGE 1 OF 2
RESPONSIBLE AUTHORITY: SPECIAL AGENT IN CHARGE OF FORENSIC SERVICES LABORATORY		

RELATED STANDARDS/STATUTES/REFERENCES: S. C. Code of Laws, Section 50-21-112
S. C. Code of Laws, Section 50-21-113
S. C. Code of Laws, Section 50-21-114
S. C. Code of Laws, Section 55-1-100
S. C. Code of Laws, Section 56-1-10
S. C. Code of Laws, Section 56-1-286
S. C. Code of Laws, Section 56-1-2120
S. C. Code of Laws, Section 56-1-2130
S. C. Code of Laws, Section 56-5-2930
S. C. Code of Laws, Section 56-5-2933
S. C. Code of Laws, Section 56-5-2945
S. C. Code of Laws, Section 56-5-2950
S. C. Code of Laws, Section 56-5-2953
S. C. Code of Regulations, Chapter 73, Article 1

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

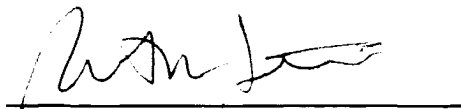
POLICY: The Division will establish guidelines for the request of an implied consent breath alcohol test.

SPECIFIC PROCEDURES:

- A. Any arresting and/or primary investigating officer may direct that a subject under arrest and/or detained for DUI (Section 56-5-2930), Illegal Per Se (Section 56-5-2933), Felony DUI (Section 56-5-2945), BUI (Sections 50-21-112 and 50-21-113), FUI (Section 55-1-100), CDL (Section 56-1-2120), and/or zero tolerance (Section 56-1-286) violations submit to an implied consent test. Any officer (if a certified operator), including the arresting and/or primary investigating officer, may administer the breath test for DUI, Illegal Per Se, Felony DUI, CDL, BUI and/or zero tolerance violations if the observation period is videotaped. The arresting officer may not administer the breath test for FUI violations under any circumstances.

- B. If an implied consent test for a DUI, Illegal Per Se, Felony DUI, BUI, CDL, and/or zero tolerance violation is to be offered to a subject, a physically able subject will first be offered a breath test to determine his/her alcohol concentration. If a subject is physically unable to provide an acceptable breath sample, if he/she has an injured mouth, is unconscious, or dead, a blood sample may be taken. Also, if any other reason is medically established, acceptable to licensed medical personnel, that a person is unable to provide an acceptable breath sample, a blood sample may be taken.
- C. Any person who has been transported to a licensed medical facility for medical treatment and who has been involved in a DUI, Illegal Per Se, Felony DUI, BUI, CDL, and/or zero tolerance violation, may be given a blood test. If, in this case, a test should be performed, a blood test should be administered due to the time element involved.
- D. SLED approved methods do not require that the breath test be administered within any particular time period after the arrest. The test should be administered as soon as practicable without undue delay. However, Sections 56-5-2933 and 56-5-2953 have time frames for the administration of the breath test and videotaping, respectively.
- E. SLED will provide rights advisement forms for implied consent tests. SLED will furnish all forms in the English version, but may also furnish some forms in the Spanish version. Typically, only the English version will be used, but, if the officer deems necessary, he/she may use a Spanish version. In applicable circumstances, a Spanish version may be used in lieu of or in addition to the English version.

BY ORDER OF:



CHIEF OF SLED