



DIRECTIONS FOR COMPLETING ALCOHOL/DRUG TESTING CERTIFICATION FORMS

Table of Contents

| | |
|---|---|
| Section 1 – Preliminary Alcohol Screening Test (PAST) | 1 |
| Section 2 – Implied Consent Refusal | 2 |
| Section 3 – Implied Consent Failure Commercial Motor Vehicle | 3 |
| Section 4 – Instructions for completing Form 36-0200 Alcohol/Drug Testing Advisory..... | 4 |
| Section 5 – Instructions for Form 36-0400 Non-commercial Vehicle Alcohol/Drug Testing Refusal Certification | 5 |
| Section 6 – Instructions for completing Form 36-0100 Commercial Vehicle Alcohol/Drug Testing Refusal Certification | 7 |
| Section 7 – Instructions for completing Form 36-0600 Commercial Vehicle Alcohol/Drug Testing Failure Certification | 9 |

Section 1 – Preliminary Alcohol Screening Test (PAST) (MCA §61-8-409)

A. Standard for Testing

Before requesting a PAST, the officer must have *particularized suspicion* that the driver was driving or in actual physical control of a vehicle upon ways of this state open to the public:

- while under the influence of alcohol, or committing the violation of aggravated driving under the influence;
- while under the age of 21 with an alcohol concentration of .02 or more;
- while committing the offense of aggravated driving under the influence;
- while driving a commercial vehicle with a measured amount or detected presence of alcohol.

B. Procedures

1. Both the officer administering the PAST *and* the preliminary breath testing device (PBT) must be certified by the Department of Justice, Forensic Science Division.
2. The motorist need not be under arrest. The PAST is typically conducted in conjunction with field sobriety tests as part of the investigation at the scene.

3. The officer must read the driver Form 36-0500 Preliminary Alcohol Screening Test Advisory *before* the test is requested. This form advises the driver of a PAST is being requested and outlines the consequences if the driver refuses to submit to the requested test.
4. If the driver refuses the PAST, the officer must complete Form 36-0400 Non-CMV Alcohol/Drug Testing Refusal Certification. See Section 5 for instructions on completing this form.
5. If the driver refuses to submit to the preliminary breath test but is later arrested and submits to the breath or blood test, the officer must:
 - Treat this as a refusal
 - Seize the driver license
 - Submit Form 36-0400
6. A driver's refusal of preliminary breath test results in the same administrative driver license sanction as a refusal to submit to a breath or blood test under Montana's implied consent law.
7. If, during the same incident, a driver refuses both a PAST request and a breath or blood test request under Montana's implied consent law, the administrative driver license sanction is not stacked and the driver faces a 6-month suspension for a first offense and 12-month suspension for a second offense. Commercial drivers face enhanced penalties.

Section 2 – Implied consent refusal: Non-commercial motor vehicle (§62-8-402) and Implied consent refusal: Commercial motor vehicle (§62-8-402, and §61-8-806)

A. Standard for Testing

Before requesting an implied consent breath or alcohol test:

- The driver was arrested 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;
- The driver was arrested 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;
- The officer determined there was probable cause to believe this person was 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) and was involved in a motor vehicle crash resulting in property damage; or
- The officer determined there was 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 (as defined in MCA § 45-2-101) or death.

“(66) (a) "Serious bodily injury" means bodily injury that: (i) creates a substantial risk of death; (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ. (b) The term includes serious mental illness or impairment.” (MCA §45-2-101(66))

B. Procedures

1. Both the officer administering the implied consent tests *and* the breath analyst device must be certified by the Department of Justice, Forensic Science Division.
2. The motorist must meet one of the criteria listed under the Standard for Testing Section.
3. The officer must read the driver Form 36-0200 Alcohol/Drug Testing Advisory *before* the test is requested. This form advises the driver an alcohol/drug test is being requested and outlines the consequences if the driver refuses to submit to the requested test. See Section 4 for directions on completing Form 36-0200.
4. If the driver refuses the implied consent test, the officer must:
 - Treat this as a refusal
 - Seize the driver license
 - Submit Form 36-0400

Section 3 – Implied consent failure: Commercial motor vehicle (§61-8-805)

A. Standard for Testing

Before requesting a breath or alcohol test:

- The driver was arrested for driving or being in actual physical control of a commercial motor vehicle upon the ways of this state open to the public and while under the influence of alcohol and/or drugs;
- The driver was arrested for driving or being in actual physical control of a commercial motor vehicle upon the ways of this state open to the public under the age of 21 with a suspected alcohol concentration of .02 or greater;
- The officer determined there was probable cause to believe this person was driving or in actual physical control of a commercial 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
- The officer determined there was probable cause to believe this person was driving or in actual physical control of a commercial 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 (as defined in MCA § 45-2-101) or death.

“(66) (a) "Serious bodily injury" means bodily injury that: (i) creates a substantial risk of death; (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily

member or organ; or (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ. (b) The term includes serious mental illness or impairment.” (MCA §45-2-101(66))

B. Procedures

1. Both the officer administering the implied consent tests *and* the breath analyst device must be certified by the Department of Justice, Forensic Science Division.
2. The motorist must meet one of the criteria listed under the Standard for Testing Section.
3. The officer must read the driver Form 36-0200 Alcohol/Drug Testing Advisory *before* the test is requested. This form advises the driver an alcohol/drug test is being requested and outlines the consequences if the driver refuses to submit to the requested test. See Section 4 for directions completing Form 36-0200.
4. If the driver fails the test with a result of .04 or greater, the officer must:
 - Treat this as a refusal.
 - Seize the driver license.
 - Submit Form 36-0400.

Section 4 – Instructions for completing Form 36-0200 Alcohol/Drug Testing Advisory

A. General Directions

1. Complete the form in its entirety.
2. Select all appropriate paragraphs to read to the driver:
 - Paragraphs 1, 2, 3, 4, 7, 8, 9 and 10 must be read to all driver.
 - Paragraph 5 must be read to drivers holding a commercial driver license or who are driving a commercial motor vehicle.
 - Paragraph 6 must be read to drivers holding a non-Montana driver license.
3. Retain the completed form in your case file.

B. Specific Directions

1. Complete top of the form:
 - Name.
 - Date of birth.
 - Driver license number.
 - Driver license state.

- Whether the driver holds a commercial driver license.
- Whether the driver was operating a commercial motor vehicle.

2. Select conditional choices:

- Paragraph 1: Probable cause- select the most appropriate option.
- Paragraph 2: Select the appropriate test requested.
- Paragraph 3: Drivers do not have the right to a lawyer.
- Paragraph 4: Non-commercial privilege. If they refuse, their license will be suspended.
- Paragraph 5: Commercial privilege. Read only when the driver holds a commercial driver license or was operating a commercial motor vehicle. Check and read *all* sub-parts.
- Paragraph 6: Non-Montana driver license. Read only when the driver holds a non-Montana driver license. Check and read the sup-part.
- Paragraph 7: The driver is not eligible for probationary license during the mandatory suspension period.
- Paragraph 8: The test results or refusal may be used at the criminal trial.
- Paragraph 9: Right to an independent test.
- Paragraph 10: Select the appropriate test you are requiring.

3. Complete the bottom of the form:

- The date and time the advisory was read to the driver.
- The officer's name and signature.
- Optional: witness name and signature.

Section 5 – Instructions for completing Form 36-0400 Non-commercial Vehicle Alcohol/Drug Testing Refusal Certification

A. General Directions

1. Complete the form in its entirety.
2. Give the second page of the completed form to the driver.
3. Seize the driver license.

4. Submit a copy of the completed form to MVD and the seized driver license, if applicable, as soon as practical by mail to:

Montana Department of Justice – Motor Vehicle Division
Record and Driver Control
PO Box 201430
Helena, MT 59620-1430

B. Specific Directions

1. Complete top of form:
 - Officer name.
 - Officer agency.
 - Driver name.
 - Driver date of birth.
 - Driver mailing address and state.
 - Driver license number.
 - Driver license state.
 - Whether the driver holds a commercial driver license.
 - SSN, if known.
 - Driver license status; valid, suspended or revoked, or no license.
 - MC endorsement.
 - Restrictions: non, corrective lens, or other.
2. Paragraph 2: enter the date, time and county
Select all appropriate options.
 - Refusal of PAST.
 - Refusal of implied consent breath or blood test.
3. Paragraph 3: no requirement to check
4. Paragraph 4:
Select all appropriate options
 - Whether the driver license was seized.
 - Whether a temporary driving permit was issued.
5. Paragraph 5: sign and date

6. Temporary Driving Permit:

- This permit does not give the driver any privileges if they did not have a valid driver license or if their privilege to drive is suspended, revoked, canceled, or denied.
- This permit is for *noncommercial* use only.
- Effective 12 hours after issuance and expires 5 days from the date and time of issuance.
- The driver and officer must both sign the permit for it to be valid.
- The officer must record the date and time of issuance.

Section 6 – Instructions for completing Form 36-0100 Commercial Vehicle Alcohol/Drug Testing Refusal Certification

A. General Directions

1. Complete the form in its entirety.
2. Keep the original 1st page in law enforcement file.
3. Seize the driver license.
4. Give the second page of the completed form to the driver.
5. Submit a copy of the completed form and the seized driver license, if applicable, to MVD as soon as practical by mail to:

Montana Department of Justice – Motor Vehicle Division
Record and Driver Control
PO Box 201430
Helena, MT 59630-1430

B. Specific Directions

1. Complete top of form
 - Officer name.
 - Officer agency.
 - Driver name.
 - Driver date of birth.
 - Driver mailing address and state.
 - Driver license number.
 - Driver license state.

- Whether the driver holds a commercial driver license.
 - SSN, if known.
 - Class of CDL.
 - Type.
 - Endorsements.
 - Driver license status: valid, suspended or revoked, or no license.
 - Whether the vehicle has hauling hazardous materials.
 - Restrictions: non, corrective lens, or other.
2. Paragraph 2: enter the date, time, and county
Select all appropriate options
- Refusal of PAST.
 - Refusal of implied consent breath or blood test.
3. Paragraph 3: no requirement to check. Inform driver of rights and notice of suspension of driver privileges.
4. Paragraph 4:
Select all appropriate options
- Whether the driver license was seized.
 - Whether a temporary driving permit was issued.
5. Paragraph 5: Select if there was a measured amount or detected presence of alcohol in the driver's body while operating a CMV and declare the driver is Out-of-Service for 24 hours.
6. Paragraph 6: sign and date
7. Temporary Driving Permit:
- This permit does not give the driver any privileges if they did not have a valid driver license or if their privilege to drive is suspended, revoked, canceled, or denied.
 - This permit is for *noncommercial* use only.
 - Effective 12 hours after issuance and expires 5 days from date and time of issuance.
 - The driver and officer must both sign the permit for it to be valid.
 - The officer must record the date and time of issuance.

Section 7 – Instructions for completing Form 36-0600 Commercial Vehicle Alcohol/Drug Testing Failure Certification

A. General Instructions

1. Complete the form in its entirety.
2. Keep the original 1st page in the law enforcement file.
3. *Do not* seize the driver license. A failure only suspends the commercial driver license of privilege to drive. When MVD receives the completed forms, we will direct the driver to obtain a replacement Class D license only.
4. Give the second page of the completed form to the driver.
5. Submit a copy of the completed form to MVD as soon as practical by mail to:

Montana Department of Justice – Motor Vehicle Division
Record and Driver Control
PO Box 201430
Helena, MT 59630-1430

B. Specific Directions

1. Complete top of form
 - Officer name
 - Officer agency
 - Driver name
 - Driver date of birth
 - Driver mailing address and state
 - Driver license number
 - Driver license state
 - Whether the driver holds a commercial driver license
 - SSN, if known
 - Class of CDL
 - Type
 - Endorsements
 - Driver license status: valid, suspended or revoked, or no license
 - Whether the vehicle was hauling hazardous materials
 - Restrictions: none, corrective lens, or other

2. Paragraph 2: enter the date, time, county and BAC
 - Driver submitted to the test; however, was over a .04 BAC (not PAST)
3. Paragraph 3: no requirement to check. Informed driver of rights and notice of suspension of driver privileges.
4. Paragraph 4: no requirement to check. Informed driver of rights and notice of suspension of commercial driving privileges.
5. Paragraph 5: Select all appropriate options
 - Whether the driver license was seized
 - Whether a temporary driving permit was issued
6. Paragraph 6: Declared the driver is Out-of-Service for 24 hours.
7. Paragraph 7: sign and date
8. Temporary driving permit:
 - This permit does not give the driver any privileges if they did not have a valid driver license or if their privilege to drive is suspended, revoked, canceled, or denied.
 - This permit is for *noncommercial* use only.
 - Effective 12 hours after issuance and expires 5 days from date of time of issuance.
 - The driver and officer must both sign the permit for it to be valid.
 - The officer must record the date and time of issuance.