



## Missouri Department of Health and Senior Services

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### **A Short Summary of Missouri's Breath Test Rule Changes**

The Missouri Department of Health and Senior Services has been in the process of updating the Code of State Regulations concerning breath and blood alcohol testing (19 CSR 25–30.011 – 0.080) for the past several months. The process is now complete, and the updated rules are available in the CSR and will become effective December 30, 2012.

The list of updates to the Rules is substantial, including changes to every section and to every form within this chapter of the CSR. Some of these changes will invalidate any breath alcohol test performed on or after December 30, 2012 if the new rules are not applied, so please read the following summary of the most pertinent and time sensitive updates carefully.

#### **Updates to 19 CSR 25–30.011 – .080 that must be followed starting on December 30, 2012:**

##### New Operational Checklists:

- All evidential breath alcohol instruments now require an examination of the mouth prior to starting the observation period. This observation can be performed either by a limited visual examination of the subject's mouth or by a denial by a subject that they have any substance in their mouth.
- The observation period prior to starting a breath test must be performed by a current Type 2 or Type 3 permit holder, and the permit holder must remain close enough to the subject to reasonably ensure that the subject does not smoke, vomit, or have any oral intake during the 15 minute observation period. However, direct observation (i.e., staring deeply into their eyes for the entire observation period) is not necessary to ensure the validity of the test result.
- The Alco-Sensor IV with printer operational checklist has been updated to accurately reflect the steps necessary for the operator to successfully capture a subject's breath alcohol concentration without any redundant steps.

##### New Maintenance Report Forms and Application Forms:

- All three of our current evidential breath alcohol instruments have new maintenance report forms that must be used during the performance of any maintenance checks completed on or after December 30, 2012.
- Type 1, Type 2 and Type 3 permit applications received by the Breath Alcohol Program on or after December 30, 2012 must use the updated application forms that are part of the new rules. We will begin accepting applications using the new forms November 30.

##### Blood, urine and saliva sample collection:

- Blood samples shall be collected in commercially-manufactured blood collection tubes that contain sodium fluoride or an equivalent preservative, as well as potassium oxalate, sodium citrate, or an equivalent anticoagulant; or to put simply, officers must use grey-topped tubes.
- Urine samples shall be refrigerated or frozen if not tested within one (1) day of collection.

The new forms are available for download from either the Secretary of State's website, <http://www.sos.mo.gov/adrules/>, or from the DHSS website, <http://health.mo.gov/lab/breathalcohol/>. New Alcohol Influence Reports (DOR form 2389) will be sent to all law enforcement agencies during the month of December that include the updated operational checklists.

#### **Updates to 19 CSR 25–30.011 – .080 that will affect everyone in the coming months:**

- Three new instruments will be available for evidential breath alcohol analysis.
- Compressed ethanol-nitrogen gas mixtures will be allowed when using any of the new instruments or when using the Alco-Sensor IV with printer.
- The definition concerning where instruments can be used is updated.
- Simulators will have to be certified between Jan. 1 – December 31, 2013 and annually thereafter.
- Saliva will be able to be used for the collection of samples for drug analysis.
- Labs performing drug analysis must be nationally accredited by July 1, 2014.

The lists included here are only the most pertinent updates included in the new Regulations. I urge everyone to read the complete changes on either the Secretary of State's website or on the DHSS Breath Alcohol Program's website fully so that everyone can implement the new rules by December 30, 2012.

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