# 19 CSR 25-30.011-.080 Highlighted Changes Permit Holders Must Understand

Missouri Department of Health and Senior Services

Created: 11/12 (BML) Last Revised: 11/12 (BML)

## What is Changed?

 The Missouri Secretary of State published the newest version of <u>19 CSR 25 – 30.011-.080</u>, <u>Determination of Blood Alcohol by Blood</u>, <u>Breath, Saliva, and Urine Analysis; and</u> <u>Determination for the Presence of Drugs in</u> <u>Blood, Saliva, and Urine</u> November 30, 2012.

# When do the New Rules Go Into Effect?

- The new rules become effective December 30, 2012.
- Any breath alcohol test, operational checklist, maintenance report, permit application, blood or urine sample collected, etc., completed on or after December 30 shall not be considered valid if such tests were not completed in compliance with the rules published in the Code of State Regulations November 30, 2012.

### What Are the Changes?

 This presentation will highlight those changes that are most time sensitive, i.e., that permit holders need to be aware of and implement starting December 30, 2012.

 The complete set of new rules can be found on the Missouri Secretary of State's website at: <u>http://www.sos.mo.gov/adrules/csr/current/19csr/19c25-30.pdf</u>

- All Operational Checklists are being updated to have a new step 1.
  - 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.

#### The 15 minute observation period is now step 2.

2. Subject observed for at least 15 minutes by \_\_\_\_\_\_. No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with the 15 minute observation period.

SIB FOR	'S NAME			DATE OF TEST		
0000001	o text			DATE OF TEST		
	ATIONAL CHECKLIST: D					
SEFIAL N	0.	LOCATION OF INSTRUMEN	т			
□ 1.	Examination of mouth of to be present, the subst starting the 15 minute of	tance observed or inc				
2.	<ol> <li>Subject observed for at least 15 minutes by</li> <li>No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with the 15 minute observation period.</li> </ol>					
□ 3.	3. Assure that the power switch is ON.					
4.	Press RUN button.					
5.	When display requests	INSERT TICKET, ins	ert evidence	ticket.		
6.	Enter subject and officer information.					
□ 7.	7. When display reads PLEASE BLOW and gives audible beep, take subject's breath sample.					
8.	When printer has com printer. Attach printout to		test result, r	remove ticket from		
CERTI	FICATION BY OPERATO	DR	BAC			
Servic	t forth in the rules pror es related to the determin There was no deviation	ation of blood alcoho	by breath ar	nalysis, I certify that:		
2.	To the best of my knowl	ledge the instrument	was function	ing properly.		
аз.	I am authorized to open	ate the instrument.				
4.	No radio transmission being conducted.	occurred inside the	room where	and when this was		
NAME OF	OPERATOR	PERMIT NO.		EXPRIATION DATE		
WITNESS	(F ANY)			DATE		

SUBJECT'S NAME		DATE OF TEST	FORM
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	intake or vomiting di e observation period.		miting occurs, st
3. Make sure printer	is connected to Alco-	Sensor IV.	
4. Turn printer on.			
5. Insert mouthpiece			
<ul> <li>6. Observe temperation</li> <li>and 40°C.</li> </ul>	ure display, make sur	e temperature read	ing is between 10
7. When "BLNK" is d	splayed on Alco-Sen	sor IV, air blank is t	aken.
8. When "TEST" is d	splayed on Alco-Sen	sor IV, take subject	breath sample.
9. When "SET" is dis			
10. When printer has and officer information		st result, tear off ta	pe and fill in subj
11. Press red button to	eject mouthpiece.		
12. Turn printer off.			
13. Attach printout to t	his report.		
CERTIFICATION BY OP	ERATOR	BAC	
As set forth in the rules p related to the determinati			
1. There was no dev	ation from the proce	dure approved by th	e department.
2. To the best of my	knowledge the instru	ment was functionin	g properly.
3. I am authorized to	operate the instrume	ent.	
<ul> <li>4. No radio transmiss conducted.</li> </ul>	ion occurred inside th	ne room where and	when this was be
	PERMIT N	0	PRATION DATE
NAME OF OPERATOR	PERMIT		HALONDAL.

SUBJECT'S NAME		DATE OF TEST
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SERIAL NUMBER	LOCATION OF INSTRUMENT	
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3. Assure that the p button.	ower switch is ON and th	en press the START TEST
4. Enter test record	card.	
5. Enter subject and	d officer information	
<ul> <li>6. When display rea subject's breath a</li> </ul>		ert mouthpiece and take the
7. When test record this report.	is printed, remove test re	ecord and attach printout to
CERTIFICATION BY OPER	RATOR	BAC
Services related to the certify that:  1. There was no department.  2. To the best of my	determination of blood a deviation from the pro	
4. No radio transmis	ssion occurred inside the	room where and when this
test was being co	onducted.	

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES

#### Full size downloadable copies can be found at http://health.mo.gov/lab/breathalcohol/

- The Department of Revenue is currently revising the AIR form to reflect the changes to the operational checklists.
- They will begin sending the updated AIR forms to departments the week of December 10, 2012.

- New definitions that apply to Operational Checklists (19 CSR 25-30.011):
  - (H) Observation period is the minimum fifteen (15)-minute continuous period that ends when a breath sample has been provided into the approved breath analyzer, during which time the operator shall remain close enough to a subject to reasonably ensure, using the senses of sight, hearing or smell, that a test subject does not smoke, vomit or have any oral intake during the fifteen (15)-minute observation period. Direct observation is not necessary to ensure the validity or accuracy of the test result.

- New definitions that apply to Operational Checklists (19 CSR 25-30.011):
  - (I) Oral intake is the act of placing a substance from outside the body into the mouth during the observation period. The mouthpiece used to provide a breath sample shall not constitute oral intake.
  - (J) Vomiting is the act of ejecting the solid and/or liquid contents of the stomach through the mouth, and does not include belching or burping.

- New definitions that apply to Operational Checklists (19 CSR 25-30.011):
  - (K) Examination is a limited visual examination of a test subject's mouth and/or denial by a subject that he or she has any substance in his or her mouth.
  - (L) Substance is any foreign matter, solid or liquid, not to include dentures, dental work, studs, piercing, or tongue jewelry.

- New definition of the 15 Minute Observation Period (19 CSR 25-30.060):
  - (7) The fifteen (15)-minute observation of the subject, which is the second procedure on the forms in sections (1)–(6) of this rule, shall be done by a current Type II or Type III permit holder. The observation period is intended to ensure that any alcohol in a test subject's mouth has time to dissipate before a breath sample is taken so that mouth alcohol does not affect the accuracy of a test result. A fifteen (15)-minute observation period is deemed to be sufficient for the dissipation of any mouth alcohol to a reasonable degree of scientific certainty.

## **New Permit Applications**

 As of December 30, 2012, any permit application received by the DHSS Breath Alcohol Program must use the new permit application forms.

Full size downloadable copies can be found at <a href="http://health.mo.gov/lab/breathalcohol/">http://health.mo.gov/lab/breathalcohol/</a>

# New Type 1 Application & Permit

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STATE OF MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES BREATH ALCOHOL PROGRAM

> PERMIT TYPE 1

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from a sample of	utilizing approved standard chemical methods.
(TYPE IN "BLOOD,	("SAUVA" OR "URINE")
Permit issued under the provisions of section	ns 577.020 through 577.041, RSMo and 306.111 through 306.119 RSMo.
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	DIRECT OR OF STATE PUBLIC HEALTH LABORATORY
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	DIRECTOR OF DEPARTMENT OF HEALTHAND SENIOR SERVICES
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STATE OF MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES BREATH ALCOHOL PROGRAM

> PERMIT TYPE II

is hereby authorized to instruct and supervise operators, train instructors, inspect, calibrate, perform field service and repairs, and operate the following breath analyzer(s):

for the determination of the alcoholic content of blood from a sample of expired air. Permit issued under the provisions of sections 577.020 through 577.041, RSMo and 306.111 through 306.119 RSMo.

DATE \_\_\_\_\_

DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

EXPIRES \_\_\_\_\_

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DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

# New Type 3 Application & Permit

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STATE OF MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES BREATH ALCOHOL PROGRAM

> PERMIT TYPE III

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EXPIRES \_\_\_\_\_

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DIRECTOR OF DEPARTMENT OF HEALTHAND SENIOR SERVICES LAB-6 (R6-10)

#### New Requirement on All Permit Applications Concerning the Applicant's Social Security Number

#### Social Security Number Disclosure Notice

You must provide your social security number pursuant to state and federal law<sup>1</sup>.

Your application for a permit from the Department of Health and Senior Services as listed in 19 CSR 25 30.011 – .080, <u>Determination of Blood Alcohol by Blood</u>, <u>Breath</u>, <u>Saliva and Urine Analysis</u>; <u>and Determination for the Presence of Drugs in Blood</u>, <u>Saliva and Urine</u> must include your social security number. Your social security number, along with other relevant information (name, department or troop, etc.) will be transmitted to the Division of Child Support Enforcement of the Department of Social Services to be used in a database for the following purposes:

- Locating individuals who are under an obligation to pay child support or provide child custody or visitation rights;
- (2) Identifying whether an individual who owes overdue child support or who has failed to comply with a subpoent relating to paternity or child support proceedings holds a professional or occupational license.

The Missouri Department of Health and Senior Services will not disclose your social security number as taken from your permit application for any reason other than those listed above<sup>2</sup>.

If you fail or refuse to provide your social security number, we will consider your application or renewal incomplete and return it to you. Continued failure or refusal to provide your social security number is grounds for denial of your application.

<sup>1</sup>Missouri Revised Statutes, Section 324.024, <u>Applications to contain Social Security numbers, exceptions</u>; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

<sup>2</sup>Missouri Revised Statutes, Section 610.035, <u>State entity not to disclose Social Security number, exceptions.</u>

# New Maintenance Report Forms

 As of December 30, 2012, any maintenance check performed must use the new maintenance report forms.

Full size downloadable copies can be found at <a href="http://health.mo.gov/lab/breathalcohol/">http://health.mo.gov/lab/breathalcohol/</a>

# New Maintenance Report Forms

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#### 19 CSR 25-30.070 and 30.080 Determination of Blood Alcohol Content From Samples of Blood, Saliva or Urine, and the Analysis of Blood, Saliva and Urine for the Presence of Drugs

- (1) (A) Blood samples shall be collected in commerciallymanufactured blood collection tubes that contain sodium fluoride or an equivalent preservative, as well as potassium oxalate, sodium citrate, or an equivalent anticoagulant; and
- (1) (B) Urine specimens shall be collected in clean, dry containers. If a preservative, such as sodium fluoride, is employed, a comment stating the type and amount of preservative used should accompany the specimen. Specimens shall be refrigerated or frozen if not tested within one (1) day of collection

# **Additional Changes**

- The following changes will begin to effect everyone in the coming months as well:
  - New Evidential Breath Alcohol Instruments
  - New Standards for Calibrating and Checking Instrument Accuracy

# New Breath Alcohol Instruments

- Three new breath alcohol instruments will be available for evidential use
  - DataMaster DMT
  - Intox EC/IR II
  - Intoxilyzer 8000

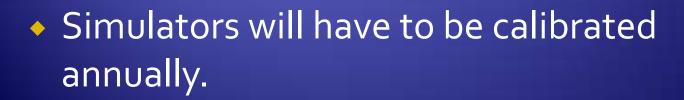






#### New Standards for Calibrating and Checking Instrument Accuracy

 Departments will now be able to use compressed gas cylinders as well as simulator solutions to perform maintenance checks on some of the instruments.







# **Additional Rule Changes**

 It cannot be stressed enough that every permit holder needs to review the new rules in their entirety to ensure that they are doing everything correctly come December 30.

http://www.sos.mo.gov/adrules/csr/current/19csr/19c25-30.pdf

 Remember, <u>Any breath alcohol test, operational checklist,</u> <u>maintenance report, permit application, blood or urine</u> <u>sample collected, etc., completed on or after December 30</u> <u>shall not be considered valid if such tests were not</u> <u>completed in compliance with the rules published in the</u> <u>Code of State Regulations November 30, 2012.</u>

**Please Contact Our Office With Any Additional Questions ♦**(573) 840-9140 Brian.Lutmer@health.mo.gov Carol Day, Senior Assistant ♦(573) 840-9734 Carol.Day@health.mo.gov

http://health.mo.gov/lab/breathalcohol/