

| | |
|---|---------------------------|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE <input type="checkbox"/> Visalia - 221 S. Mooney Blvd., Visalia, CA 93291 <input type="checkbox"/> South County Justice Center - 300 E. Olive Ave., Porterville, CA 93257 | |
| PEOPLE OF THE STATE OF CALIFORNIA VS. Defendant: _____ DOB: _____ | |
| DUI / DUID ADVISEMENT OF RIGHTS, WAIVER AND PLEA FORM | CASE NUMBER: _____ |

Chemical Test Results

Nature of Charges

(Initial sections you are charged with) I understand that I am charged with a violation(s) of Vehicle Code Section(s):

- ☐ 23152(a): Driving a vehicle while under the influence of any alcohol
- ☐ 23152(b): Driving a vehicle while there was 0.08% or more of alcohol in my blood
- ☐ 23152(c): Driving while addicted to the use of any drug.
- ☐ 23152(d): Driving a commercial vehicle while my blood alcohol level was 0.04% or higher
- ☐ 23152(e): Driving motor vehicle with passenger for hire with blood alcohol level of 0.04% or higher
- ☐ 23152(f): Driving a vehicle while under the influence of any drug
- ☐ 23152(g): Driving a vehicle while under the combined influence of alcohol and drug
- ☐ 23153(a): Driving a vehicle while under the influence of any alcohol causing injury
- ☐ 23153(b): Driving a vehicle while there was 0.08% or more of alcohol causing injury
- ☐ 23153(d): Driving a commercial vehicle while my blood alcohol level was 0.04% or higher causing injury
- ☐ 23152(e): Driving motor vehicle with passenger for hire with blood alcohol level of 0.04% or higher causing injury
- ☐ 23153(f): Driving a vehicle while under the influence of any drug and causing injury
- ☐ 23153(g): Driving a vehicle while under the combined influence of alcohol and drug and alcohol and causing injury
- ☐ 23103: (pursuant to VC23103.5): Reckless driving involving alcohol or drugs.
- ☐ 14601____ 14601.1____ 14601.2____ 14601.5____ driving with suspended, restricted, or revoked license.

Other Offense(s): (*misdemeanor charges carry a maximum of 6 months in jail, unless specified otherwise) (*traffic fines carry fines and fees only)

| Section Number | Jail- Minimum | Maximum | Fine- Minimum | Maximum |
|----------------|---------------|---------|---------------|---------|
| | | | | |
| | | | | |

PRIOR OR SEPARATE CONVICTIONS OR PROBATION VIOLATIONS ALLEGED IN CRIMINAL COMPLAINT TO INCREASE PENALTIES

☐ If applicable, I am also charged with the following prior or separate convictions/Violation of Probation:

Case Number: _____ Offense: _____ Date: _____ Court: _____

Case Number: _____ Offense: _____ Date: _____ Court: _____

Case Number: _____ Offense: _____ Date: _____ Court: _____

Case Number: _____ Offense: _____ Date: _____ Court: _____

Read Carefully - CONSEQUENCES OF PLEA and SENTENCE RANGES

The following driving under the influence of alcohol offenses constitute prior or separate convictions and as a consequence any subsequent similar offense will carry greater punishment, if I commit a subsequent DUI offense within 10 years.

DUI WITH NO PROBATION/ MINIMUM AND MAXIMUM CONSEQUENCES:

23152 - 96 hours to 6 months. Fine \$390 to \$1,000, plus assessments. DL suspended for 6 months. 2nd offense- 90 days to 1 year in jail, Fine - \$390 to \$1,000, plus assessments. DL suspended for two years, optional IID restriction available after completion of 1 year of suspension term. Third Offense- 120 days to 1 year in jail, \$390 to \$1,000, plus assessments fine. Advisement of Habitual Traffic Offender (HTO) status. 3-year license revocation. VC 13550(b). Fourth Offense as misdemeanor- 180 days to 1 year in jail, \$390 to \$1,000 fine plus assessments. Advisement of (HTO) status. 4-year license revocation.

DUI WHEN PROBATION IS GRANTED (length of probation -not less than 3 years nor more than 5 years, VC 23600):

- I understand that Court may **impound** my vehicle at my expense upon conviction for 23152 or 23153, or suspended or revoked license, for up to 6 months on the 1st offense and not more than 1-year on any subsequent offense. unless it is in the interests of justice not to do so, when driver is the registered owner. **VC 23592**. The court may order vehicle of registered owner of vehicle used for 23152 or 23153 **impounded** for not less than one day nor more than 30 days for a 1st offense and shall order impoundment for not less than one day nor more than 30 days on a 2nd offense, nor more than 90 days on a 3rd or subsequent offense pled and proven within 5 years, except in an unusual case where interests of justice would be served by not ordering impoundment. **VC 23594**.

Mandatory conditions of probation: Not drive with any measurable amount of alcohol: not refuse to submit to a chemical test: for alcohol content; and not commit any criminal offense. **VC 23600**. Failure to comply with any of these conditions will result in revocation of probation. If while I am on probation I drive with a BAC of .01% or higher, as measured by a preliminary alcohol screening test or other chemical test administered by a peace officer it is a violation of **VC 23154**.

- Court may order installation of **Ignition Interlock device for up to three years. VC Code 23575**. Willful failure to install ignition interlock device can be considered to be a violation of probation when ordered by the Court or DMV.

- If convicted of 3rd or subsequent violation of 23152 or 2nd or subsequent violation of 23153. I understand that if I am the registered owner of the vehicle, it **may** be ordered forfeited as a nuisance by the court. **VC 23596**.

The DMV will impose a 6-month driver's license suspension on a 1st offense, or a 10-month license suspension if a 9-month treatment program is ordered. On a second offense within 10 years the DMV will impose a 2-year driver's license suspension. On a 3rd offense within 10 years the DMV will impose a 3-year license revocation. On a 4th or subsequent offense within 10 years the DMV will impose a 4-year driver's license revocation.

23152 (a), (b), (c), (d), (e), (f) (g): Court **may** order 48 hours to 6 months in jail, shall order a fine of \$390-\$1,000, plus assessments and shall order a 3-month DUI school. When BAC is 0.20% or above, or chemical test is refused, the Court **shall** order a 9-month DUI School. The Court has the authority to order other conditions of probation that are "reasonably related" to the offense(s) for which a plea has been entered. (Examples: self-help alcohol or drug programs, substance abuse treatment programs, residential alcohol /drug treatment / community service work, restitution, etc.).

First Offense - 23152(a), (b), (c), (d), (e), (f) (g): Court **may** order a jail term of 48 hours to 6 months in jail. A fine of \$390 to \$1,000, plus assessments and order completion of a DUI school (3, 6, or 9 months). 9-month DUI school is mandatory for persons who have a BAC of .20% or above, or who have refused to take or complete a chemical test. The DMV will also impose a 6-month driver's license suspension, or a 10-month license suspension if the 9-month program is required. 6-month license suspension also mandatory, if offense occurred in vehicle requiring a Class A or B license. **VC 23538**.

2nd Offense - 23152 (a), (b), (c), (d), (e), (f): **with one prior conviction:** 2 Options: (A) 10 days to 1 year in jail, fine of \$390-\$1,000, plus assessments, driver license suspension for 2 years, (B) 96 hours to 1 year in jail (96 hours served in two increments of a continuous 48 hours each); an 18 month alcohol/ drug program. The DMV will impose a 2-year driver's license suspension. License will be suspended for 2 years if the offense occurred in a vehicle which requires a Class A or B driver's license. **VC 23542**.

3rd Offense - 23152 (a), (b), (c), (d), (e), (f): **with two prior convictions:** 120 days to 1 year in jail, fine of \$390-\$1,000, plus assessments 3 year's driver's license revocation, and 18-month alcohol/drug program if I have not completed one before. **VC 23548**. Habitual Traffic Offender designation for a period of three years. **VC sections 23170(b) and 13350(b)**.

Felony DUI: A fourth and subsequent similar offense can be a felony (16 months, 2, or 3 years in prison) (with probation or as a misdemeanor a minimum of 180 days in jail, \$390-\$1,000 plus assessments fine and a 4-year license revocation). VC 23552 18-month alcohol program, if I have not completed one before.

Ignition Interlock device (IID) for up to 3 years to prevent vehicle from starting if I am drinking alcohol required to be installed upon a conviction for VC sections 14601.2, 14601.4, or 14601.5. The DMV will notify you of the ignition interlock requirements. **VC 23573(a)**. Failure to install IID shall result in suspension of my driver's license by the DMV; new misdemeanor charge with punishment up to six months in jail (**VC 23573(1)**), or possible probation violation.

Multiple Offenders: I understand that if I am convicted of a third or subsequent violation of Vehicle Code 23152, I must surrender my license to the court. I will also be designated as a habitual traffic offender for a period of three years after my conviction, which will result in an increased jail term and fine if I drive in violation of my license revocation. I am required to sign an affidavit acknowledging my designation as a habitual traffic offender. The court must take any temporary permit or driver's license and send the temporary permit or license along with the affidavit to the DMV within 10 days. **VC 23170(b)**.

23153(a)(b)(c)(d)(f)(g) (misdemeanor) Probation: 5 days to 1 year in jail, fine of \$390-\$1,000 plus assessments, 1 year driver's license suspension. Alcohol program (same as 23152 above). Minimum of 90 days jail if probation is denied as misdemeanor.

Reckless Driving: VC sections 23103 (23103.5) (alcohol related): Up to 90 days in jail. fine of \$145-\$1,000, plus assessments and attendance at treatment program.

Constitutes a prior or separate conviction within 10 years, if alcohol or drugs are involved and as a consequence any subsequent offense of 23152 (a), (b), (c). (d), (e) (f) will carry greater punishment.

Suspended License Sections - Suspended or Revoked Licenses / Penalties: 1st Offense: 14601: 5 days to 6 months in jail, fine of \$300-\$1,000 plus assessments / **14601.1:** up to 6 months in jail, fine of \$300-\$1,000 plus assessments; **14601.2:** 10 days to 6 months in jail, fine \$300-\$1,000 plus assessments; plus assessments **14601.5:** up to 6 months in jail, fine of \$300-\$1,000 plus assessments. **14601.3** (habitual traffic offender): 30 days in jail, fine of \$1,000 plus assessments.

Prior Convictions: 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 with prior conviction(s): When a person drives a motor vehicle on a suspended or revoked license and has a previous misdemeanor conviction for one of these offenses the vehicle is subject to forfeiture as a nuisance by police. **VC 14607.6**.

Penalties: 14601 with prior conviction 10 days to 1 year in jail, fine of \$500-\$2,000 plus assessments; **14601.1** with prior: 5 days to 1 year in jail, fine of \$500-\$2,000 plus assessments; **14601.2** with prior: 30 days to 1 year in jail, fine of \$500-\$2,000 plus assessments; **14601.5** with prior: 10 days to 1 year in jail, fine of \$500-\$2,000, plus assessments. **14601.3**, within 7 years -180 days in jail and a fine of \$2,000 plus assessments.

ADVICE AND WAIVER OF CONSTITUTIONAL RIGHTS (read and put initials in boxes)

RIGHT TO AN ATTORNEY: I understand that I have the right to be represented by an attorney at all stages of this case and that if I cannot afford an attorney, one will be appointed by the Court. A person may represent himself or herself, but there are dangers and disadvantages in doing so. You will face an attorney representing the People and the Court cannot provide legal advice.

☐ **Waiver of Attorney:** If applicable, I give up my right to an attorney and wish to represent myself.

☐ **JURY TRIAL:** I understand that I have the right to a speedy and public trial by a jury. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.

JURY TRIAL: I give up this right by pleading guilty or no contest.

☐ **COURT TRIAL:** I understand that if the prosecution agrees, I may have a court trial before a judge instead of a jury.

COURT TRIAL: I understand that if the prosecution agrees, I may have a court trial instead of a jury and I give up this right by pleading guilty or no contest.

☐ **CONFRONTATION AND CROSS-EXAMINATION:** I understand that I have the right to confront and cross-examine the witnesses against me. I understand I have the right to present and to have the Court issue subpoenas to bring into court all witnesses and evidence favorable to me, at no cost to me.

CONFRONTATION, CROSS-EXAMINATION, AND RIGHT TO PRODUCE EVIDENCE: I give up these rights by pleading guilty or no contest.

☐ **SELF-INCRIMINATION:** I understand that I have the constitutional right to not incriminate myself and that I may remain silent, and that by pleading guilty or no contest I am incriminating myself.

SELF-INCRIMINATION: I understand that I have the constitutional right to not incriminate myself and that I may remain silent and that by pleading guilty or no contest I am incriminating myself and I give up this right by pleading guilty or no contest

☐ **PROBATION VIOLATIONS:**

I do not have the right to a jury trial, but I have the right to a hearing before a judge as to whether I have violated any condition(s) of my probation. I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case. I also understand that if I am placed on probation, it is unlawful to drive with a blood-alcohol level of .01 percent or greater and my license will be suspended by DMV for up to one year if I do so. **VC23154.**

☐ **DEPORTATION ADVISEMENT- PC1016.5:**

(1) If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States; (2) I understand I have the right to request additional time to consider my plea in light of the advisement in this paragraph; (3) I have discussed my immigration status with my attorney and have had sufficient time to consider and discuss the immigration consequences of my plea with him/her or an immigration attorney,

☐ **FINES/ PENALTY ASSESSMENTS/ RESTITUTION:**

I understand that in addition to the fine imposed, the law requires the Court to add assessments which will significantly increase the amount I must pay. I understand that I may also be ordered (1) to make restitution to the victim, if the offense involved a victim, or to a Restitution Fund, and (2) to pay the expenses incurred by a public agency which responded to any incident caused by my vehicle at the time of my arrest. **PC 1202.4.**

☐ **VEHICLE IMPOUND/IGNITION INTERLOCK DEVICE/VEHICLE NUISANCE FORFEITURE:**

I understand that the Court may order my vehicle impounded at my expense for up to 90 days. It may also require me to install an ignition interlock device (IID) for up to three years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid license. The Court may also declare my vehicle to be a nuisance and order it sold following a hearing, if I have 2 or more other convictions for 23152 (DUI). **VC 23596.** If I am convicted of a second or subsequent violation of driving with a suspended or revoked license (VC 14601 et. seq.) or driving without a license VC 12500(a) my vehicle will be subject to forfeiture as a nuisance.

☐ **HOMICIDE ADMONITION:**

I am advised and understand that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I continue to drive while under the influence of alcohol or drugs, or both and, as a result of that driving, someone is killed, I can be charged with murder.

☐ **PROBATION OR PAROLE ADVICE:**

I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case. I also understand that if I am placed on probation, it is unlawful to drive with a blood-alcohol level of .01 percent or greater and my License will be suspended by DMV for up to one year if I do so. **VC 23154.**

☐ **ACCIDENT / RESTITUTION If applicable:** I understand that Victim restitution for property damage, medical expenses, or other costs related to the accident is mandatory if I caused the accident. I am entitled to a hearing before the Court, if I do not agree with the recommended amount of restitution. In certain cases, restitution to a governmental agency may be ordered if the agency is a direct victim of the offense. **PC 1202.4.**

RESTITUTION TO PUBLIC AGENCY FOR EMERGENCY RESPONSE - Person under the influence of alcohol, drugs, or combination thereof, whose negligent operation of vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response is liable for the expense of an emergency response. **Penal Code sections 1203.1, 1203.1(e) and Govt. Code section 53150.**

☐ **APPEAL RIGHTS:**

I give up my right to appeal the following: (a) denial of my PC1538.5 Motion, (b) issues related to strike priors (under PC Sections 667(b)-(i) and 1170.2), and (c) any stipulated sentence herein.

SPECIAL ALLEGATIONS ENHANCING PUNISHMENT

☐ **SPEED / RECKLESS DRIVING ENHANCEMENT (VC23582) (If applicable):** I understand that if it is alleged that I recklessly drove 30 or more miles above the speed limit on a freeway, or 20 or more miles above the speed limit on any other street or highway, the Court may impose an additional consecutive term or 60 days in the county jail. If this is my first offense, the Court may also order me to complete an alcohol/ drug counseling program.

☐ **MINOR PASSENGER IN VEHICLE ENHANCEMENT (VC23572) (If applicable):** I understand that it is alleged that there was a minor passenger under the age of 14 years in vehicle when I was driving under the influence in violation of VC 23152. If admitted my sentence will be enhanced by 48 continuous hours in the county jail on a first offense, 10 days in the county jail on a second offense, 30 days in jail on a third offense, and 90 days in jail on a 4th offense.

☐ **WILLFUL REFUSAL ENHANCEMENT (VC 23577) (If applicable):** I understand that it is alleged that I refused to submit to taking a chemical test to determine blood alcohol content. I understand that as a result of my admission, the sentence set forth in the penalty chart on the DUI Advisement, Waiver, and Plea form will be enhanced as follows: **First Offense** (applies only if probation is granted) -1 shall be ordered to serve a jail term of between 48 hours and six months (this otherwise discretionary jail term becomes mandatory). b.

Second Offense -My sentence will be increased by 96 hours in the county jail. c. **Third Offense** -My sentence will be increased by 10 days in the county jail. **Fourth or Subsequent Offense** -My sentence will be increased by 18 days in the county jail.

☐ **EXCESSIVE BAC OR REFUSAL ADMONITION (VC 23578): If applicable** -I understand that if my blood-alcohol content was .15 percent or above, or if I refused to submit to a chemical test, the Court shall consider this in determining whether to enhance the penalties imposed on me, whether to grant probation, or whether to impose additional terms and conditions of probation.

☐ **MINOR DRIVER CONSEQUENCES: If applicable** - I understand that if I was under the age of 21 at the time of my arrest, in addition to the penalties in the above chart, my driver's license shall be suspended for 1 year and I must surrender my license the Court. If I do not have a valid driver's license at the time of my conviction, the Court shall order the DMV to delay issuing a license to me for one year after I become eligible to drive.

☐ I have read, considered and understood the above Consequences of Plea and Sentence Ranges and other consequences contained herein and I am aware of the consequences of my plea and any defenses.

☐ I hereby freely and voluntarily plead **(GUILTY) or (NO CONTEST)** to the charge(s):
(circle one)

Specify Charge(s): _____

☐ I understand that a plea of No Contest is the same as a plea of Guilty for all purposes.

ADMISSION OF PRIOR CONVICTIONS/ AND/ OR PROBATION VIOLATION(S) (If applicable):

☐ I understand that I have the same rights as explained above, except I would not be entitled to a jury trial when charged with a violation of probation but would only be entitled to a hearing before a judge where the violation would have to be proven by a preponderance of the evidence. I admit the other prior conviction(s) / probation violation(s) listed on this form

☐ **SENTENCING ADMONITIONS:**

I understand that I have the right to a delay of 6 hours to 5 days prior to being sentenced on a misdemeanor and up to 20 days for a felony offense. I give up this right and agree to be sentenced at this time. I understand that the Court will take payments on fines and can permit weekends, or other alternative jail programs upon request. The Court, in its discretion, can deny alternative jail programs such as the electronic monitor in lieu of incarceration. A person who wishes to apply for a program as an alternative to incarceration must make an application to the program. The alternative sentencing programs have their own criteria and guidelines for determining whether to accept an applicant. The Court can recommend but cannot require an alternative program to accept an applicant.

Date: _____ Signature of Defendant _____

ATTORNEYS STATEMENT (If applicable)

I am the attorney of record for the defendant. I have reviewed the form and any addenda with my client. I have explained each of the defendant's rights to the defendant and answered all the defendant's questions regarding this plea. I have also discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), any immigration/ deportation issues, and possible defenses. I concur with this plea and the defendant's decision to waive his or her constitutional rights.

Date: _____ Signature of Attorney _____

INTERPRETER'S STATEMENT (if applicable)

I _____ having been sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below.

☐ Spanish Language ☐ Other language

Date: _____ Signature of Interpreter _____

COURT'S FINDINGS AND ORDER

The Court finds that the Defendant knowingly, intelligently, understandingly, and explicitly waived defendant's rights. The court finds that the defendant's plea and admission are freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea(s) and admission(s), and violations(s) of probation, if any, and the defendant is convicted on his or her plea. The Court orders this form filed and incorporated in the docket by reference fully set forth therein.

Date: _____ Signature of Judge _____

Judge of the Tulare County Superior Court
Visalia / South County (circle one)