

Superior Court of California, County of San Luis Obispo		FOR COURT USE ONLY	
THE PEOPLE OF THE STATE OF CALIFORNIA			
vs.		Plaintiff,	
		Defendant.	
PLEA OF GUILTY AND WAIVER OF RIGHTS/AND ORDERS – DUI		CASE NUMBER	
STATEMENT OF DEFENDANT (ONLY COMPLETED SPACES AND INITIALED BOXES ARE APPLICABLE)			Defendant's Initial
1. (A) (1) I hereby plead guilty/no contest to the charge of: Vehicle Code §23152(a): Driving under the influence of alcohol or drugs;		1(A)(1)	
(A) (2) I hereby plead guilty/no contest to the charge of: Vehicle Code §23152(b): Driving when my blood-alcohol level was .08 or higher;		1(A)(2)	
(A) (3) I hereby plead guilty/no contest to the charge of: Vehicle Code §23103/23103.5: Alcohol related reckless driving;		1(A)(3)	
(A) (4) I hereby plead guilty/no contest to the charge of:		1(A)(4)	
(A) (5) I admit the allegation that I refused to submit to or complete a chemical test/I was under 21;		1(A)(5)	
(A) (6) I admit the allegation that my blood alcohol level was <input type="checkbox"/> .15 or higher – OR - <input type="checkbox"/> .20 or higher;		1(A)(6)	
(A) (7) I admit all of the other convictions that are alleged.		1(A)(7)	
2. I understand my constitutional right to have a lawyer defend me at all stages of the proceedings and that if I am unable to afford a lawyer, the court will appoint one for me, subject to reimbursement based on ability to pay.		2	
(A) My lawyer is _____ and I authorize him/her to appear for me if I am not present;		2 (A)	
(B) I do not have a lawyer representing me in these proceedings (if this is initialed complete (C) below);		2 (B)	
(C) Having in mind each of the above items, including the possible consequences of a conviction of this offense, and having been advised of the dangers, pitfalls, disadvantages, and possible consequences of representing myself, I knowingly and intelligently GIVE UP (WAIVE) my right to have a LAWYER defend me in these proceedings.		2 (C)	
3. I have been advised, understand, and knowingly, intelligently, expressly and explicitly GIVE UP (WAIVE) , in relation to the present charges as well any prior convictions which may have been alleged and admitted, each of my following trial rights:			
(A) My right to be TRIED BY COURT OR JURY ;		3 (A)	
(B) My right to be confronted by witnesses against me, that is to SEE, HEAR, AND QUESTION ALL WITNESSES AGAINST ME ;		3 (B)	
(C) My right not to incriminate myself, that is, TO REMAIN SILENT AND NOT TO TESTIFY AGAINST MYSELF ;		3 (C)	
(D) My right to PRODUCE EVIDENCE , to have subpoenas issued for witnesses at no cost, and to testify if I want to do so.		3 (D)	
4. My decision to enter this plea has been made freely and voluntarily, without threat or fear to me or to anyone closely related to or associated with me. No promise or inducements have been made to me in connection with this plea, except (specify):		4	
5. I acknowledge that the court (or my attorney if I had one) has told me and I understand the elements of the offenses, the possible defenses to the charges, and the direct consequences of my plea including minimum and maximum sentences set forth on pages 2 and 3.		5	
(A) Also, I have been told that if I am not a citizen, I could be deported, excluded from admission to the United States, or denied naturalization or amnesty.		5 (A)	
6. I am pleading guilty because I am guilty, or no contest because I do not want to contest the charge(s).		6	
7. I have been advised that being under the influence of alcohol or drugs, or both, impairs my 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. I have been advised that 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.		7	
8. I have been advised of and understand that upon successful completion of probation without probation revocation, or after 1 year has elapsed from a terminal judgment in which sentence has been completed, I may be eligible for conviction relief pursuant to PC1203.425.		8	

DATED: _____

(DEFENDANT'S SIGNATURE)

PENALTIES AND OTHER CONSEQUENCES FOR MISDEMEANORS		
THE MAXIMUM FINE FOR A MISDEMEANOR IS IMPRISONMENT IN THE COUNTY JAIL FOR UP TO 6 MONTHS AND UP TO A \$1,000 FINE, UNLESS OTHERWISE SPECIFIED.		
EFFECTIVE JANUARY 1, 2005 Penalties for Driving Under the Influence, §§ 23152(a) and 23152(b) of the Vehicle Code		
OFFENSE	MINIMUM AND MAXIMUM SENTENCES WHEN PROBATION IS GRANTED (5 YEARS)	MINIMUM AND MAXIMUM SENTENCES WITHOUT PROBATION
FIRST OFFENSE WITHIN 10 YEARS	Two options, both requiring alcohol program attendance, a \$390 to \$1,000 fine, plus penalty assessment and fees, plus either: (A) 48 hours to 6 months in jail and 6 months license suspension; or (B) A 90 day license restriction allowing driving for work and alcohol program only. Consecutive to Administrative (per se) suspension by DMV. Proof of insurance must be shown to DMV.	96 hours to 6 months in jail 48 hours of which must be continuous, \$390 to \$1,000 fine, plus penalty assessment and fees, and a 6 month license suspension. No alcohol program ordered.
SECOND OFFENSE WITHIN 10 YEARS	Two options, both carrying a fine of \$390 to \$1,000, plus penalty assessment and fees, plus either: (A) 10 days to 1 year in jail, and a 2 year license suspension: or (B) 96 hours to 1 year in jail, an 18 month alcohol program, and an 18 month license restriction allowing driving for work and alcohol program only. [To receive Option B, proof of insurance must be shown to DMV and maintained for 3 years.]	90 days to 1 year in jail, \$390 to \$1,000 fine, plus penalty assessment and fees, and a 2 year license suspension. No alcohol program ordered.
THIRD OFFENSE WITHIN 10 YEARS	120 days to 1 year in jail, \$390 to \$1,000 fine, plus penalty assessment and fees, a 3 year license revocation, and an 18 month alcohol program if not completed before. Designation as habitual traffic offender.	120 days to 1 year in jail, \$390 to \$1,000 fine, plus penalty assessment and fees, and a 3 year license revocation. Designation as habitual traffic offender.
FOURTH OR SUBSEQUENT OFFENSE WITHIN 10 YEARS	180 days to 1 year in jail, \$390 to \$1,000 fine, plus penalty assessment and fees, a 4 year license revocation, and an 18 month alcohol program if not completed before. Designation as habitual traffic offender.	16 months, 2 or 3 years in state prison or 180 days to 1 year in jail, \$390 to \$1,000 fine, plus penalty assessment and fees, and a 4 year license revocation. Designation as habitual traffic offender.
PENALTIES FOR RECKLESS DRIVING (§ 23103 UNDER 23103.5)		
NATURE OF OFFENSE	MINIMUM AND MAXIMUM SENTENCES	OTHER
RECKLESS DRIVING REDUCED FROM DRIVING UNDER THE INFLUENCE	If probation is <u>NOT</u> granted: 5 days to 90 days in jail, or \$145 to \$1,000 fine, plus penalty assessment and fees, or both; If probation is granted: A maximum of 90 days in jail, or \$1,000 fine, plus penalty assessment and fees, or both, and attend alcohol program.	Increased penalties are required for a subsequent conviction of driving under the influence within 10 years. Court can suspend license for up to 30 days.

ADDITIONAL INFORMATION

Added Assessments

In addition to the fine imposed, the law requires the court to add assessments which will substantially increase the amount the defendant must pay. A restitution fine of at least \$100 and up to \$1,000 is also added to the fine amount unless compelling and extraordinary reasons not to impose it are shown.

Restitution

The court must also order restitution either to the victim, if the offense involved damages, or to the Restitution Fund of the State, and he/she may be required to pay the expense of an emergency response incurred by a public agency which responded to an incident caused by the defendant's negligent operation of a vehicle.

Impoundment of Vehicle

For a first offense of §23152, the court may impound the vehicle at the defendant's expense for up to 30 days. For a second or subsequent offense of §23152 within 5 years, the court shall impound the vehicle at the defendant's expense for up to 90 days unless it determines that it is in the interests of justice not to do so. These provisions are applicable if the defendant is the registered owner of the vehicle. The court may declare the vehicle a nuisance and order it sold, after a hearing, if there have been 2 or more convictions of VC 23152, 23153, PC 191.5, or 192(c)(3) in the past 10 years.

Greater Penalties for Higher Blood Alcohol

If the defendant's blood-alcohol content was .20% or above, or if (s)he refused to take a chemical test, the court must consider this in determining whether to enhance the penalties imposed, whether to grant probation, or whether to impose additional terms and conditions of probation (VC 23206.5) a 6 month, rather than 4 month, alcohol program must be attended.

Designation as Habitual Traffic Offender

If this conviction is for a third violation or more of VC §23152, the defendant's drivers license must be surrendered to the court and the defendant will be designated an habitual traffic offender for a period of 3 years after conviction, which will result in an enhanced jail term and fine if convicted of driving in violation of his/her license revocation. (VC 14601.3(e)(3))

Return of Driver's License

If this conviction is for a first violation of VC §23152, the defendant must complete a 4 month alcohol education program in order to obtain return of the administratively suspended license. If this conviction is for a second or more violation of VC §23152, the defendant must complete an 18 month alcohol treatment program and provide proof of insurance to DMV in order to be eligible for a drivers license at the end of the revocation period, and proof of insurance must be maintained for three years thereafter. Proof of insurance is required for reinstatement of driving privilege for many suspensions, and particularly is required when suspension or revocation was due to a DUI conviction. Proof must be maintained for 3 years. The DMV considers uncharged convictions for suspension purposes. Court restriction orders do not begin until any DMV suspensions have been completed or set aside.

Class 1 & 2 Driver's License Penalties

If the violation of VC §23152 occurred while the defendant was driving a vehicle which requires a Class 1 or 2 (or Class A or B) drivers license, the defendant's drivers license shall be suspended for a period of six months upon first conviction, or for 2 years upon a second conviction within 10 years, even if probation is granted under Option B. A 6 month alcohol program is required on first conviction.

Point Count

Convictions of VC §23152, 14601 et. Seq., and 23103 count as 2 points on DMV record (VC 12810(b)).

Violation of Probation/Parole

This conviction may be grounds for finding a violation of probation or parole which was previously imposed in any other case.

Administrative License Suspension by DMV

The DMV must suspend a driver's license for 120 days when it receives information that the driver drove with .08% alcohol in blood. The suspension is for 2 years if the driver refused a test or on a second occasion of such driving. Early reinstatement is available after 12 months of suspension with installation of an IID. This suspension is not related to whether the driver is convicted of a crime. It is done administratively. Such suspensions are in addition to suspensions resulting from convictions. Completion of an alcohol education or alcohol treatment program is required before the DMV will return the license.

ADDITIONAL INFORMATION (CONTINUED)

Ignition Interlock Devices (IID)

- A. Installation of an ignition interlock device can be ordered as a condition of probation for up to 3 years.
- B. DMV requires installation of an IID as a condition of giving a restricted license on a second and third DUI suspension/revocation.
- C. Upon conviction of driving with a suspended license, suspended due to multiple DUI convictions, §14601.2 VC, the court must order installation of an IID for up to 3 years.

Penalty Enhancements for Willful Refusal to Submit to or Complete Chemical Breath Test (VC§23159)

- A. First offense if probation is granted – sentence will include 48 hours to 6 months in jail, a fine of \$390 to \$1,000, plus attendance at a 6 month alcohol program. Not be eligible for the 90 day license restriction under Option (B).
- B. Second offense within 10 years – sentence will be enhanced by imprisonment of 96 hours in the county jail, whether or not probation is granted.
- C. Third offense within 10 years – sentence will be enhanced by imprisonment of 10 days in the county jail, whether or not probation is granted.
- D. Fourth or subsequent offense within 10 years – sentence will be enhanced by imprisonment of 18 days in the county jail, whether or not probation is granted.

Penalty Enhancement If Under Age 21 At Time of Arrest

- A. The defendant's driver's license shall be **suspended for one year** and must be surrendered to the court.
- B. If defendant does not have a valid driver's license the Department of Motor Vehicles will be ordered to **delay issuing** a license for one year after defendant becomes eligible. The court can be petitioned to modify such delay if there is no further conviction for alcohol/drug related offenses in a 12 month period after this conviction.
- C. For each **successive offense** of an alcohol/drug related offense, the court shall suspend the defendant's driving privilege for those possessing a license of delay the eligibility for those not in possession of a license at the time of their conviction for **an additional year**.
- D. The court may modify the suspension to a restriction if a critical need to drive is shown by a petition.

Penalty Enhancement If Minor is Passenger (VC§23572)

- If child under the age of 14 is a passenger in the vehicle at the time of the offense
- First offense – the court shall impose 48 continuous hours in jail.
 - Second offense within 10 years – 10 days in jail.
 - Third offense within 10 years – 30 days in jail.
 - Fourth offense within 10 years – 90 days in jail.

Penalty Enhancement For Excessive Speed (VC§23582)

- If during the commission of the crime of driving while under the influence or with .08% alcohol or more, the defendant drove
1. 30 MPH or more over the maximum speed limit or 20 MPH or more over the posted speed limit and
 2. Recklessly, as defined by VC 23103
- the court shall impose 60 days in jail consecutive and additional to any other jail sentence and shall require participation in an alcohol or drug education and counseling program.

PENALTIES FOR DRIVING WITH A SUSPENDED, REVOKED, OR RESTRICTED LICENSE (§§ 14601, 14601.1, 14601.2, 14601.3 AND 14601.5)		
OFFENSE	FIRST OFFENSE:	SECOND OR SUBSEQUENT OFFENSE: PRIOR CONVICTION(S) IN PAST 5 YEARS OF §§ 14601, 14601.1, 14601.2 OR 14601.5
VEHICLE CODE §14601	5 days to 6 months in jail, and a fine of \$300 to \$1,000, plus penalty assessment and fees.	10 days to 1 year in jail, and a fine of \$500 to \$2,000, plus penalty assessment and fees. If probation is granted: A minimum of 10 days in jail.
VEHICLE CODE §14601.1	Up to 6 months in jail, or a fine of \$300 to \$1,000, plus penalty assessment and fees, or both.	5 days to 1 year in jail, and a fine of \$500 to \$2,000, plus penalty assessment and fees.
VEHICLE CODE §14601.2	10 days to 6 months in jail, and a fine of \$500 to \$1,000, plus penalty assessment and fees. If probation is granted: A minimum of 10 days in jail. Installation of an ignition Interlock Device for up to 3 years.	30 days to 1 year in jail, and a fine of \$500 to \$2,000, plus penalty assessment and fees; If probation is granted: A minimum of 30 days in jail. Installation of an Ignition Interlock Device for up to 3 years.
VEHICLE CODE §14601.3	30 days in jail, and a fine of \$1,000, plus penalty assessment and fees.	180 days in jail, and a fine of \$2,000, plus penalty assessment and fees. (Including prior convictions of §14601.3 within 10 years.)
VEHICLE CODE §14601.5	Up to 6 months in jail, or a fine of \$500 to \$1,000, plus penalty assessment and fees, or both.	10 days to 1 year in jail, and a fine of \$500 to \$2,000, plus penalty assessment and fees. §14601.3 also constitutes a prior conviction for this.
<p>Impoundment and Forfeiture of Vehicle</p> <p>The court can order that the defendant's vehicle be impounded on: First Offense --- for 6 months; Second Offense --- for 12 months. A motor vehicle is subject to forfeiture as a nuisance if driven by a driver who is not licensed or whose privilege is suspended or revoked, is the registered owner, and has a previous misdemeanor conviction for violation of §§ 12500 (a), 14601, 14601.1, 14601.2, 14601.3, 14601.4 or 14601.5.</p>		

INTERPRETER'S STATEMENT

I have been duly sworn. I have truly translated this form to the defendant in the Spanish/ _____ language. The defendant said (s)he understood the contents of this form, and (s)he then initialed and signed the form.

DATED: _____

(COURT INTREPETER SIGNATURE)

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have gone over this form with my client. I have explained each of the defendant's rights to the defendant, and answered all of the defendant's questions with regards to this plea. I have discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and the defendant's decision to waive constitutional rights, the defendant's signature and initials are genuine.

DATED: _____

(SIGNATURE OF ATTORNEY FOR DEFENDANT)

FINDINGS AND ORDERS

- 1. (A) Defendant has appeared in open court and entered his/her plea(s) after personal questioning by the court. (Strike if inapplicable.)
- (B) Defendant appeared through counsel who presented this form. (Strike if inapplicable.)
- (C) Defendant appeared with counsel and presented this form. (Strike if inapplicable.)

2. Defendant has been advised of and understands the elements of the offenses, the possible defenses to the charges, and the consequences of his/her plea(s), including effect of any other convictions alleged. Defendant has expressly, knowingly, intelligently, and understandingly waived his/her right to court or jury trial, his/her right to confront witnesses against him/her, and his/her right against self-incrimination as they relate to the charged offenses and any other convictions alleged. There is a factual basis for the plea(s). Defendant's waivers of his/her rights, and his/her plea(s) are free and voluntary.

- 3. Defendant has knowingly and intelligently waived his/her right to counsel including court appointed counsel. (Strike when inapplicable.)

It is ordered that: Defendant's plea(s) of (guilty)(no contest) be entered.
Defendant found guilty on plea.
This form be filed and incorporated in the docket as though fully set forth therein.

DATED: _____

(JUDGE'S SIGNATURE)