

§2521. Implied consent to chemical tests

1. Mandatory submission to test. If there is probable cause to believe a person has operated a motor vehicle while under the influence of intoxicants, that person shall submit to and complete a test to determine an alcohol level and the presence of a drug or drug metabolite by analysis of blood, breath or urine.

[PL 2013, c. 459, §7 (AMD).]

2. Type of test. A law enforcement officer shall administer a breath test unless, in that officer's determination, a breath test is unreasonable.

If a breath test is determined to be unreasonable, another chemical test must be administered in place of a breath test.

For a blood test the operator may choose a physician, if reasonably available.

[PL 2013, c. 459, §8 (AMD).]

3. Warnings. Neither a refusal to submit to a test nor a failure to complete a test may be used for any of the purposes specified in paragraph A, B or C unless the person has first been told that the refusal or failure will:

A. Result in suspension of that person's driver's license for a period up to 6 years; [PL 1995, c. 368, Pt. AAA, §28 (AMD).]

B. Be admissible in evidence at a trial for operating under the influence of intoxicants; and [PL 1995, c. 368, Pt. AAA, §28 (AMD).]

C. Be considered an aggravating factor at sentencing if the person is convicted of operating under the influence of intoxicants that, in addition to other penalties, will subject the person to a mandatory minimum period of incarceration. [PL 1995, c. 368, Pt. AAA, §29 (NEW).]

[PL 1997, c. 357, §1 (AMD).]

4. Exclusion as evidence. A test result may not be excluded as evidence in a proceeding before an administrative officer or court solely as a result of the failure of the law enforcement officer to comply with the notice of subsection 3.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

5. Suspension for refusal. The Secretary of State shall immediately suspend the license of a person who fails to submit to and complete a test.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

6. Period of suspension. Except when a longer period of suspension is otherwise provided by law, the suspension is for a period of 275 days for the first refusal, 18 months for a 2nd refusal, 4 years for a 3rd refusal and 6 years for a 4th refusal.

[PL 1995, c. 645, Pt. B, §21 (AMD); PL 1995, c. 645, Pt. B, §24 (AFF).]

6-A. Suspension for refusal when probable cause exists to believe death has occurred or will occur. Except when a longer period of suspension is otherwise provided by law, if, in addition to the probable cause set forth in subsection 1, there is also probable cause to believe that death occurred or will occur, the suspension is for a period of one year for a first refusal.

[PL 2021, c. 608, Pt. A, §4 (NEW).]

7. Decision. A suspension must be removed if, after hearing pursuant to section 2483, it is determined that the person would not have failed to submit but for the failure of the law enforcement officer to give the warnings required by subsection 3.

[PL 1995, c. 368, Pt. AAA, §31 (AMD).]

8. Issues. If a hearing is requested in accordance with section 2483, in addition to specific issues required by a specific offense, the scope of the hearing must include whether:

A. There was probable cause to believe the person operated a motor vehicle while under the influence of intoxicants; [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

A-1. For the purposes of subsection 6-A, there is probable cause to believe that death has occurred or will occur; [PL 2021, c. 608, Pt. A, §5 (NEW).]

B. The person was informed of the consequences of failing to submit to a test; and [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

C. The person failed to submit to a test. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]
[PL 2021, c. 608, Pt. A, §5 (AMD).]

9. Results of test. On request, full information concerning a test must be made available to the person tested or that person's attorney by the law enforcement officer.
[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

SECTION HISTORY

PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 368, §§AAA28-31 (AMD). PL 1995, c. 645, §B21 (AMD). PL 1995, c. 645, §B24 (AFF). PL 1997, c. 357, §1 (AMD). PL 2009, c. 447, §66 (AMD). PL 2013, c. 459, §§7, 8 (AMD). PL 2021, c. 608, Pt. A, §§4, 5 (AMD).

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