

Arizona Department of Transportation

# Admin Per Se / Implied Consent Affidavit



Motor Vehicle Division

MVD Training Academy 1130 N 22nd Ave Phoenix, Arizona 85009

## Admin Per Se / Implied Consent Affidavit Table of Contents

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## **Introduction**

The Affidavit is served by Law Enforcement (LE) to an individual on behalf of the Motor Vehicle Division (MVD). The Affidavit is commonly served at the same time as a citation for a Driving Under the Influence (DUI). The DUI citation is a court action.

The Affidavit form is specifically for MVD.

Once served to the individual, they have the option of requesting an Administrative Hearing or a Summary Review through the Executive Hearing Office (EHO).

The EHO determines if the Affidavit will be upheld based upon the information contained in the Affidavit and the officer's appearance and testimony. When the officer that served the Affidavit to the individual does not appear for the hearing, the EHO will dismiss the Affidavit.

This type of Hearing is similar to a court hearing but differs in that EHO is not determining the guilt or innocence of the individual. The guilt or innocence is determined by the County or Superior Court for the DUI citation that the individual was arrested for.

## **The Affidavit**

An Affidavit, form # 40-5807, is served by the LE Officer to an individual who has been arrested for a DUI:

- May be electronically filed with MVD
  - a. Limited number of LE Departments participating.
  
- May be a multiple part document
  - a. White copy and license are sent to the Division for data entry by the Citations Unit.
  - b. Pink and yellow copies are given to the individual.
    - Yellow is the temporary permit. This allows the individual to drive for the 15 days until the Suspension takes effect
    - Pink is used to request hearing or summary review with the Divisions Executive Hearing office (EHO)
  - c. Blue copy is kept by LE or the officer.

There are two components to the Affidavit:

- The **Front** where the arresting officer records the information about the incident and the suspension information is documented **and**
- The **Back** where the ADMONITIONS are located

Once the ADMONITIONS page is completed, the officer will mark either:

- The Admin Per Se ARS 28-1385 **or**
- The Implied Consent ARS 28-1321 near the bottom of the original (white copy) form

This is the Order of Suspension for the individual.

The Admin Per Se and the Implied Consent are explained on the next page.

## **Penalty of Perjury**

The Affidavit is subject to the penalty of perjury as prescribed by section ARS § 28-1561.

## **Admin Per Se**

### ARS § 28-1385

The Admin Per Se Affidavit may be issued when:

- The results BAC have not been received
- An individual submits to a blood or breath alcohol test as permitted by law, and/or the results indicate any of the following:
  - a. Alcohol concentration in the person's blood or breath of 0.08 or more.
  - b. Alcohol concentration in the person's blood or breath of 0.04 or more, when the person was driving or in actual physical control of a commercial motor vehicle.
  - c. Any drug defined in A.R.S. section §13-3401 or its metabolite is in the person's body except if the person possesses a valid prescription for the drug.

The Admin Per Se (AP) Suspension is an **MVD Action** that takes place 15 days after the Affidavit is served to the individual.

## **Implied Consent**


### ARS § 28-1321

An Implied Consent Affidavit, is served when a person refuses or is unable to consent to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content. At any time, when a driver refuses to submit or is unable to submit, a warrant can be obtained from a judge in order to obtain blood for testing. At that time the person may be additionally cited for DUI.

In cases when a person is deceased, unconscious, or otherwise in a condition where the individual is incapable of refusal, the individual is not considered to have refused or withdrawn their consent.

An Implied Consent (IC) Suspension is a **MVD Action** that takes place 15 days after the Affidavit is served to the individual. The Division shall suspend the person's driving privilege for a period of one year due to a person refusing to consent to a test or tests of the individual's blood, breath, urine.

# Front of the Affidavit

<b>1</b>	 <p>40-5807 R05/16 azdot.gov</p>	Mail Drop 533M Motor Vehicle Division PO Box 2100 Phoenix AZ 85001-2100	<h2>ADMIN PER SE/IMPLIED CONSENT AFFIDAVIT</h2> LE or DR Case Number _____ Complaint Numbers Issued _____																				
<b>2</b>	Charges: <input type="checkbox"/> ARS 28-1381 <input type="checkbox"/> 28-1382 <input type="checkbox"/> 28-1383 <input type="checkbox"/> 4-244.34 <input type="checkbox"/> 13-1201 <input type="checkbox"/> Yes <input type="checkbox"/> No While transporting hazardous material? (ARS 28-101) <input type="checkbox"/> 13-1204 <input type="checkbox"/> Other Title 13, Chapter 11 charge: _____ <input type="checkbox"/> Yes <input type="checkbox"/> No While operating a commercial motor vehicle?																						
<b>3</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">Driver Name (first, middle, last, suffix)</td> <td style="width:15%;">Date of Birth</td> <td style="width:15%;">Driver License Number</td> <td style="width:5%;">Class</td> <td style="width:15%;">State</td> </tr> <tr> <td colspan="2">Address</td> <td>City</td> <td>State</td> <td>Zip</td> </tr> </table>			Driver Name (first, middle, last, suffix)	Date of Birth	Driver License Number	Class	State	Address		City	State	Zip										
Driver Name (first, middle, last, suffix)	Date of Birth	Driver License Number	Class	State																			
Address		City	State	Zip																			
<b>4</b>	On (date) _____, at (time) _____, at (location) _____ <input type="checkbox"/> I had probable cause to believe that the person named caused or was cited for an accident resulting in death or serious physical injury while driving a motor vehicle. (State the probable cause on the lines below.) <input type="checkbox"/> I had reasonable grounds to believe the person named was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs, and I placed the named person under arrest therefor. Among the facts leading to that belief were: _____																						
<b>12</b>	<input type="checkbox"/> The admonitions on the back of the original copy were read to the person. Officer Initials: _____ <input type="checkbox"/> The admonitions were not read because the person was either unconscious or incapable of refusal. <input type="checkbox"/> The person submitted to <input type="checkbox"/> breath <input type="checkbox"/> blood tests Test results: <input type="checkbox"/> Indicated alcohol concentration of: _____ <input type="checkbox"/> Indicated positive for _____ (drug) <input type="checkbox"/> Results not available <input type="checkbox"/> The person refused to take or did not complete the tests in the following manner: _____ <input type="checkbox"/> Yes <input type="checkbox"/> No Did the person cause serious physical injury or death as defined in ARS 13-105 during this incident?																						
<b>13</b>	<b>OFFICER CERTIFICATION</b> I certify that the above is true and correct. I request that any hearing be held in _____ County. <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:40%;">Law Enforcement Officer Name</td> <td style="width:15%;">Badge Number</td> <td colspan="3">Law Enforcement Officer Signature</td> </tr> <tr> <td>Law Enforcement Officer Agency</td> <td>ORI Number</td> <td colspan="3">Law Enforcement Officer Station</td> </tr> <tr> <td colspan="2">Agency Address</td> <td>City</td> <td>State</td> <td>Zip</td> </tr> <tr> <td>Test Operator Name</td> <td>Badge Number</td> <td colspan="3">Test Operator Signature</td> </tr> </table>			Law Enforcement Officer Name	Badge Number	Law Enforcement Officer Signature			Law Enforcement Officer Agency	ORI Number	Law Enforcement Officer Station			Agency Address		City	State	Zip	Test Operator Name	Badge Number	Test Operator Signature		
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Agency Address		City	State	Zip																			
Test Operator Name	Badge Number	Test Operator Signature																					
<b>14</b>	<b>SURRENDER OF ARIZONA DRIVER LICENSE</b>																						
	Pursuant to ARS 28-1321 and 28-1385, the law enforcement officer must require the surrender of all Arizona driver licenses or permits in the person's possession. If no license or permit is attached, state reason: <input type="checkbox"/> Lost <input type="checkbox"/> Destroyed <input type="checkbox"/> Nonresident <input type="checkbox"/> Other: _____																						
<b>15</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"><b>ORDER OF SUSPENSION</b> One box must be checked.</td> <td style="width:15%; text-align:center;">Date Served</td> <td style="width:15%; text-align:center;">Time Served</td> <td style="width:40%;">Please see reverse side to request a Summary Review or Hearing.</td> </tr> <tr> <td colspan="4"> <input type="checkbox"/> Pursuant to ARS 28-1321, your Arizona driving privilege is suspended effective 15 days from Date Served. The suspension is for 12 months, or 2 years if there is a prior implied consent refusal, within the last 84 months, on your record. This order is final unless a hearing is requested online or in writing and received within 15 days from Date Served. This action is a result of your failure to successfully complete or refusal to submit to tests to determine alcohol concentration or drug content. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.                             </td> </tr> <tr> <td colspan="4"> <input type="checkbox"/> Pursuant to ARS 28-1385, your Arizona driving privilege is suspended for not less than 90 consecutive days effective 15 days from Date Served. If a review of your driver record indicates that you have completed alcohol or drug screening and are eligible for a 60-day restricted driving permit, one will automatically be mailed to your address of record within 45 days from Date Served. This order is final unless a summary review or hearing is requested online or in writing and received within 15 days from Date Served. This suspension is a result of tests to which you submitted. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.                             </td> </tr> </table>			<b>ORDER OF SUSPENSION</b> One box must be checked.	Date Served	Time Served	Please see reverse side to request a Summary Review or Hearing.	<input type="checkbox"/> Pursuant to ARS 28-1321, your Arizona driving privilege is suspended effective 15 days from Date Served. The suspension is for 12 months, or 2 years if there is a prior implied consent refusal, within the last 84 months, on your record. This order is final unless a hearing is requested online or in writing and received within 15 days from Date Served. This action is a result of your failure to successfully complete or refusal to submit to tests to determine alcohol concentration or drug content. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.				<input type="checkbox"/> Pursuant to ARS 28-1385, your Arizona driving privilege is suspended for not less than 90 consecutive days effective 15 days from Date Served. If a review of your driver record indicates that you have completed alcohol or drug screening and are eligible for a 60-day restricted driving permit, one will automatically be mailed to your address of record within 45 days from Date Served. This order is final unless a summary review or hearing is requested online or in writing and received within 15 days from Date Served. This suspension is a result of tests to which you submitted. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.											
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<b>16</b>	<b>TEMPORARY DRIVER PERMIT</b> — This entire form will serve as a temporary driver permit that will expire 15 days from the Date Served. However, if you request a summary review or hearing, then this permit will remain valid until the summary review or hearing decision has been made. If your Arizona driver license/permit is currently suspended or revoked, this permit does not authorize you to operate a motor vehicle. <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">Sex</td> <td style="width:10%;">Weight</td> <td style="width:10%;">Height</td> <td style="width:10%;">Eyes</td> <td style="width:10%;">Hair</td> <td style="width:10%;">Class</td> <td style="width:40%;">Restrictions</td> </tr> <tr> <td colspan="5">Permit Not Issued Because</td> <td colspan="2">Licensee Signature</td> </tr> </table>			Sex	Weight	Height	Eyes	Hair	Class	Restrictions	Permit Not Issued Because					Licensee Signature							
Sex	Weight	Height	Eyes	Hair	Class	Restrictions																	
Permit Not Issued Because					Licensee Signature																		

Original - Motor Vehicle Division      Pink and Yellow - Licensee      Blue - Law Enforcement Agency

**Back of the Affidavit**

5  
6  
7  
8  
9  
10  
11



Mail Drop 533M  
Motor Vehicle Division  
PO Box 2100  
Phoenix AZ 85001-2100

**ADMONITIONS**

LE or DR Case Number

Prior to reading the below admonitions, I ensured the suspect had been placed under arrest for at least one of the following charges: ARS 28-1381, ARS 28-1382, ARS 28-1383, ARS 4-244.34, ARS 13-1201, ARS 13-1204, other Title 13, Chapter 11 charge.

**ADMONITIONS**

Will you consent to a test or tests of your blood, breath, urine or other bodily substance for the purpose of determining your alcohol concentration or drug content?  Yes  No

**READ ONLY IF THE ARRESTEE CONSENTS TO TESTING**

If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days. Alcohol or drug screening must be completed before your privilege may be reinstated.

Will you consent to the tests?  Yes  No

Arrestee's Comments

**READ ONLY IF THE ARRESTEE ANSWERS NO TO EITHER QUESTION ABOVE OR FAILS TO SUCCESSFULLY COMPLETE THE TESTS**

- If you do not expressly agree to testing or do not successfully complete the tests, your Arizona driving privilege will be suspended for 12 months, or for two years if you've had a prior implied-consent refusal within the last 84 months.
- If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days.
- Alcohol or drug screening must be completed before your privilege may be reinstated.

Will you consent to the tests?  Yes  No

Arrestee's Comments

If the arrestee unreasonably delays the completion of test, read the following to the arrestee:

You are not entitled to further delay before taking the tests. Any additional delay will be considered a refusal to submit to the tests.

Will you consent to the tests?  Yes  No

Arrestee's Comments

Additional Comments

Officer Signature

## Overview

### Section 1

 40-5807 102516 azdot.gov	Mail Drop 533M Motor Vehicle Division PO Box 2100 Phoenix AZ 85001-2100	<b>ADMIN PER SE/IMPLIED CONSENT AFFIDAVIT</b>	
		LE or DR Case Number _____	Complaint Numbers Issued _____

This section is where the officer will enter the citation number in the field provided

### Section 2

Charges: <input type="checkbox"/> ARS 28-1381 <input type="checkbox"/> 28-1382 <input type="checkbox"/> 28-1383 <input type="checkbox"/> 4-244.34 <input type="checkbox"/> 13-1201 <input type="checkbox"/> Yes <input type="checkbox"/> No While transporting hazardous material? (ARS 28-101)
<input type="checkbox"/> 13-1204 <input type="checkbox"/> Other Title 13, Chapter 11 charge: _____ <input type="checkbox"/> Yes <input type="checkbox"/> No While operating a commercial motor vehicle?

This section will be completed after the individual has been placed under arrest – used to indicate the ARS code charged against the individual

### Section 3

Driver Name (first, middle, last, suffix)	Date of Birth	Driver License Number	Class	State
Address	City	State	Zip	

This section is for the individual's information

### Section 4

On (date) _____, at (time) _____, at (location) _____
<input type="checkbox"/> I had probable cause to believe that the person named caused or was cited for an accident resulting in death or serious physical injury while driving a motor vehicle. (State the probable cause on the lines below.)
<input type="checkbox"/> I had reasonable grounds to believe the person named was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs, and I placed the named person under arrest therefor.
Among the facts leading to that belief were: _____

This section is used to log the information about the incident


## Important Information

After completing Sections 1 – 4, the Officer will turn to the back of the white copy (1<sup>st</sup> page) of the affidavit and complete the ADMONITIONS, start of **Section 5**



## Overview – Continued

### Section 5

 40-5907 Revised 05/16	Mail Drop 533M Motor Vehicle Division PO Box 2100 Phoenix AZ 85001-2100	<b>ADMONITIONS</b>	<input type="text" value="LE or DR Case Number"/>
<input type="checkbox"/> Prior to reading the below admonitions, I ensured the suspect had been placed under arrest for at least one of the following charges: ARS 28-1381, ARS 28-1382, ARS 28-1383, ARS 4-244.34, ARS 13-1201, ARS 13-1204, other Title 13, Chapter 11 charge.			

This section is used to record the case number and provides a statement that the individual is under arrest before reading the ADMONITIONS

### Section 6

<b>ADMONITION S</b>
<input type="checkbox"/> Will you consent to a test or tests of your blood, breath, urine or other bodily substance for the purpose of determining your alcohol concentration or drug content? <input type="checkbox"/> Yes <input type="checkbox"/> No

This section the officer will read the question to the individual

- “Yes” – the officer will continue with **Section 7**
- “No” – the officer will go to **Section 8**

### Section 7

<b>READ ONLY IF THE ARRESTEE CONSENTS TO TESTING</b>
<input type="checkbox"/> If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days. Alcohol or drug screening must be completed before your privilege may be reinstated.
Will you consent to the tests? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="text" value="Arrestee's Comments"/>

This section the officer will read the statement to the individual. Then the officer will read the question to the individual:

- “Yes” – the officer will administer the test
  - a. The officer will go to **Section 12**.
- “No” or if the individual is not able to complete the testing
  - a. The officer will go to **Section 8**.

## Overview - Continued

### Section 8

**READ ONLY IF THE ARRESTEE ANSWERS NO TO EITHER QUESTION ABOVE OR FAILS TO SUCCESSFULLY COMPLETE THE TESTS**

- If you do not expressly agree to testing or do not successfully complete the tests, your Arizona driving privilege will be suspended for 12 months, or for two years if you've had a prior implied-consent refusal within the last 84 months.
- If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days.
- Alcohol or drug screening must be completed before your privilege may be reinstated.

This section the officer will read the statements to the individual when they have refused or have failed to complete the tests or delays in testing. Go to **Section 10**.

### Section 9

Will you consent to the tests?  Yes  No

Arrestee's Comments

This section the officer will read the question to the individual

- "Yes", the officer will administer the test
- "No", the officer will go to **Section 12**

### Section 10

**If the arrestee unreasonably delays the completion of test, read the following to the arrestee:**

- You are not entitled to further delay before taking the tests. Any additional delay will be considered a refusal to submit to the tests.

Will you consent to the tests?  Yes  No

Arrestee's Comments

This section will be used by the officer when the individual is using delay tactics to avoid or delay testing. The officer will ask the question

- "Yes", the officer will administer the test
- "No", the officer will go to **Section 12**

## Overview - Continued

### Section 11

<p>Additional Comments</p> <p>-----</p> <p>-----</p>	<p>Officer Signature</p>
--	--------------------------

This section the officer can make additional comments and will sign the form at the bottom in the field provided

### The officer will now turn back to the front of the paperwork and will continue with the Affidavit

### Section 12

<input type="checkbox"/> The admonitions on the back of the original copy were read to the person. Officer Initials: _____
<input type="checkbox"/> The admonitions were not read because the person was either unconscious or incapable of refusal.
<input type="checkbox"/> The person submitted to <input type="checkbox"/> breath <input type="checkbox"/> blood tests
Test results: <input type="checkbox"/> Indicated alcohol concentration of: _____ <input type="checkbox"/> Indicated positive for _____ (drug) <input type="checkbox"/> Results not available
<input type="checkbox"/> The person refused to take or did not complete the tests in the following manner: _____
_____
<input type="checkbox"/> Yes <input type="checkbox"/> No Did the person cause serious physical injury or death as defined in AR S 13-105 during this incident?

This section one of the **first 2 boxes** will be marked by the officer – indicating that the ADMONITIONS were/were not read:

- When **the 1<sup>st</sup> box is checked**, the officer will initial the line and go to the **3<sup>rd</sup> box**
  - a. The officer will mark which test was used to determine under the influence either breath or blood test.
  - b. Test results will be completed in the appropriate field or mark when the results are not available.
  - c. Go to **Section 14** and indicate that the individual has been served an *Admin Per Se*.
- When **the 2<sup>nd</sup> box is checked**, the officer will go to **Section 14** and indicate that the individual has been served an *Implied Consent*
- The officer will answer the question about “serious physical injury or death...”

### Section 13

OFFICER CERTIFICATION I certify that the above is true and correct. I request that any hearing be held in _____ County.				
Law Enforcement Officer Name	Badge Number	Law Enforcement Officer Signature		
Law Enforcement Officer Agency	ORI Number	Law Enforcement Officer Station		
Agency Address		City	State	Zip
Test Operator Name	Badge Number	Test Operator Signature		

This section the officer is certifying that the affidavit is true and correct. Along with the arresting officers information and the Test Operators information

## Overview – Continued

### Section 14

#### SURRENDER OF ARIZONA DRIVER LICENSE

Pursuant to ARS 28-1321 and 28-1385, the law enforcement officer must require the surrender of all Arizona driver licenses or permits in the person's possession. If no license or permit is attached, state reason:  Lost  Destroyed  Nonresident  Other: \_\_\_\_\_

This section only Arizona driving credentials will be surrendered. Out of State will be kept by the individual

### Section 15

<b>ORDER OF SUSPENSION</b> One box must be checked.	Date Served	Time Served	Please see reverse side to request a Summary Review or Hearing.
<input type="checkbox"/> Pursuant to ARS 28-1321, your Arizona driving privilege is suspended effective 15 days from Date Served. The suspension is for 12 months, or 2 years if there is a prior implied consent refusal, within the last 84 months, on your record. This order is final unless a hearing is requested online or in writing and received within 15 days from Date Served. This action is a result of your failure to successfully complete or refusal to submit to tests to determine alcohol concentration or drug content. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.			
<input type="checkbox"/> Pursuant to ARS 28-1385, your Arizona driving privilege is suspended for not less than 90 consecutive days effective 15 days from Date Served. If a review of your driver record indicates that you have completed alcohol or drug screening and are eligible for a 60-day restricted driving permit, one will automatically be mailed to your address of record within 45 days from Date Served. This order is final unless a summary review or hearing is requested online or in writing and received within 15 days from Date Served. This suspension is a result of tests to which you submitted. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.			

This section the officer will complete the date served and time served boxes. The officer will also mark which suspension applies:

- ARS § 28-1321 Implied Consent
- ARS § 28-1385 Admin Per Se

### Section 16

**TEMPORARY DRIVER PERMIT** — This entire form will serve as a temporary driver permit that will expire 15 days from the Date Served. However, if you request a summary review or hearing, then this permit will remain valid until the summary review or hearing decision has been made. If your Arizona driver license/permit is currently suspended or revoked, this permit does not authorize you to operate a motor vehicle.

Sex	Weight	Height	Eyes	Hair	Class	Restrictions
Permit Not Issued Because					Licensee Signature	


Original – Motor Vehicle Division      Pink and Yellow – Licensee      Blue – Law Enforcement Agency

This section when the individual is eligible for a temporary driver permit, the officer will complete the vital information, including any restrictions. When the individual is not eligible for a temporary driver permit the officer will indicate why. The individual will sign the form as an acknowledgement of the information, not as an admonition of guilt

# Breakdown of the Affidavit

## The Front of the Affidavit

### Section 1

 <p><b>ADOT</b> Motor Vehicle Division 40-5807 R05/16 azdot.gov</p> <p style="text-align: center;"><b>1</b></p>	<p>Mail Drop 533M Motor Vehicle Division PO Box 2100 Phoenix AZ 85001-2100</p>	<p style="text-align: center;"><b>ADMIN PER SE/IMPLIED CONSENT AFFIDAVIT</b></p> <p>LE or DR Case Number <u>2</u></p> <p>Complaint Numbers Issued <u>3</u></p>
--	--	--

Description		Information
<b>1</b>	ADOT Form number Revision Date	The current revision date to be used is May 2016. All other forms that have a revision date prior to 05/2016 will be returned to the Officer to correct and re-submit
<b>2</b>	LE or DR Case Number	LE – Law Enforcement number DR Case Number – Department Record for the courts
<b>3</b>	Complaint Number	This is the number from the citation for the DUI

## The Charges

### Section 2

<p><b>4</b></p>	<p><b>Charges:</b> <input type="checkbox"/> ARS 28-1381 <input type="checkbox"/> 28-1382 <input type="checkbox"/> 28-1383 <input type="checkbox"/> 4-244.34 <input type="checkbox"/> 13-1201</p> <p><input type="checkbox"/> 13-1204 <input type="checkbox"/> Other Title 13, Chapter 11 charge: _____</p>
-----------------	--

Description		Information
<b>4</b>	Charges	Identifies the ARS code that the individual is cited for  Each charge will be marked that applies to the individuals violation

**The Charges - Continued**

5	<input type="checkbox"/> Yes <input type="checkbox"/> No While transporting hazardous material? (ARS 28-101)
6	<input type="checkbox"/> Yes <input type="checkbox"/> No While operating a commercial motor vehicle?

Description		Information
5	Transporting Hazardous Material	<p>Informs MVD when the individual violated statute while transporting hazardous material</p> <p>Only used when the individual holds a CDL</p>
6	Operating a Commercial Motor Vehicle	<p>Informs MVD when the individual violated statute when they have a CDL</p> <p>Only used when the individual holds a CDL</p>

**The Driver's Information**

**Section 3**

Driver Name (first, middle, last, suffix) <b>7</b>	Date of Birth	Driver License Number	Class	State
Address <b>8</b>	City	State	Zip	

Description		Information
7	Driver Name, Date of Birth, Driver License Number, Class, State	Ensure that all boxes are filled out with the individuals information
8	Address	Ensure that all boxes are filled out with the individuals address information

**Note:** The Records Unit will receive the Affidavit form from LE, they will look up the individual in the MVD database. When it is determined that the individual does not have a “customer record” with the Motor Vehicle Division (MVD) the Records Unit will then create the record based upon the information contained in this field.

**Electronically Filed Affidavits**

When the LE Department submits the Affidavit electronically and the individual does not have a record with MVD, the Affidavit will be put into “rejected” file data file. A customer record will then be created by the Records Unit. The Unit will then hold the Affidavit for 2-3 days to check that the Affidavit has been electronically entered successfully into our database. When the individual’s record does not show that an Affidavit has been received, the Unit will enter the Affidavit manually and the individual will receive a notice thru the mail about the impending suspension.

## Incident Report

### Section 4

This information is used in conjunction with the citation that is sent to the court. If a discrepancy occurs, the Records Unit will compare both forms for accuracy and information.

On (date) <b>9</b> _____, at (time) <b>10</b> _____, at (location) <b>11</b> _____
--

Description		Information
<b>9</b>	On (date) _____,	To record the date that the Officer had probable cause to arrest the individual for a DUI
<b>10</b>	At (time) _____,	To record the time that the Officer had probable cause to arrest the individual for a DUI
<b>11</b>	At (location) _____	To record the location where the Officer had probable cause to arrest the individual for a DUI

### Officers Statement

<b>12</b>	<input type="checkbox"/> I had probable cause to believe that the person named caused or was cited for an accident resulting in death or serious physical injury while driving a motor vehicle. (State the probable cause on the lines below.)
<b>13</b>	<input type="checkbox"/> I had reasonable grounds to believe the person named was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs, and I placed the named person under arrest therefor.
<b>14</b>	Among the facts leading to that belief were: _____

Description		Information
<b>12</b>	I had probable cause to believe that the person named caused or was cited for an accident resulting in death or serious physical injury...	This field is marked by Law Enforcement, it is the notification to MVD that the individual caused serious physical injury* or death to another person  When an individual killed or caused serious physical injury* the person will be suspended with MVD for 2 yrs.
<b>13</b>	I had reasonable grounds to believe the person named was driving or in actual physical control of a motor vehicle ...	The officer either witnessed the person driving or based on evidence, is willing/able to identify that the person was driving
<b>14</b>	Among the facts leading to that belief were:	Any additional information that the officer feels is necessary to support the serving of the Affidavit to the individual

\*ARS § 13-105 – 39. "Serious physical injury" includes physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

### Important Information

The ADMONITIONS on the back of the form will need to be read to the individual and marked according to the answers and compliance from the individual.

# ADMONITIONS

## Section 5

The ADMONITIONS are questions and statements that work in conjunction with the front of the form to insure that the individual understands what action is currently taking place. The ADMONITIONS can be read in order and when a particular area does not apply the officer has the option of skipping that part of the ADMONITIONS.

**15**  Prior to reading the below admonitions, I ensured the suspect had been placed under arrest for at least one of the following charges: ARS 28-1381, ARS 28-1382, ARS 28-1383, ARS 4-244.34, ARS 13-1201, ARS 13-1204, other Title 13, Chapter 11 charge.

Description		Information
<b>15</b>	<b>Check box:</b> Prior to reading the below admonitions, I ensured the suspect had been placed under arrest for at least one of the following charges: ARS 28-1381, 28-1382, 28-1383...	Signifies that the LE Officer read the statement and has arrested the individual for one of the listed ARS codes  When no arrest has been made, this form cannot be used  The various statutes that an individual can be cited for and in addition receive an Affidavit



## ADMONITIONS – Continued

### Section 6

18

#### ADMONITIONS

- Will you consent to a test or tests of your blood, breath, urine or other bodily substance for the purpose of determining your alcohol concentration or drug content?  Yes  No **19**

Description		Information
18	<b>Check box:</b> Will you consent to a test or tests of your blood, breath, urine or other bodily substance for the purpose of determining your alcohol concentration or drug content?	Once the Officer has asked the question of the individual, the Officer will check the box, signifying that this line is complete  When the individual agrees or refuses to submit, they will have to comply with the testing, either voluntarily or by warrant
19	Yes or No	When the individual "Consents", the officer will read the next check box to the individual, this is to provide additional information to the individual

The next two areas will be completed based upon how the individual answered the ADMONITIONS question. Either the "Arrestee" (individual) has:

- "Yes" Consented to the testing – go to **Consent – Admin Per Se** section
- "No" Did not consent to the testing and/or failed to successfully complete the test – go to **Does Not Consent – Implied Consent** section

**Consent – Admin Per Se**

**Section 7**

**READ ONLY IF THE ARRESTEE CONSENTS TO TESTING**

**20**  If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days. Alcohol or drug screening must be completed before your privilege may be reinstated.

Description		Information
<b>20</b>	<b>Check box:</b> If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined as ARS 13-3401 or its metabolite ...	<p>Signifies that the LE officer read the statement to the individual</p> <p>The results of the bodily fluid test may not have been processed, which will give the officer conclusive information to the BAC of the individual</p> <p>As far as MVD is concerned we do not need the BAC test for the Affidavit to be completed and the individual to receive the suspension</p> <p>The BAC would be a DUI and this is a court issue</p> <p>At this point the individual should completely understand what is taking place and what the consequences will be</p>

Will you consent to the tests?  Yes  No **21**

Arrestee's Comments

**22**

Description		Information
<b>21</b>	Will you consent to the tests? Yes or No	<p>This is the second time this question is asked of the individual</p> <p>When the question is read to the individual, the LE Officer will check off how the individual answered</p>
<b>22</b>	Arrestee's Comments	Any statements or comments made by the individual will be placed in this area. When more space is needed there is another Comment box at the bottom of the form

Unless the individual delays the completion of the field sobriety testing, the Officer will stop the ADMONITIONS here and turn to the front of the form to complete the Affidavit.

When the individual is delaying/stalling/failing to complete the testing, the Officer will continue reading the ADMONITIONS statements to the person. This may turn into an Implied Consent situation.

## Does Not Consent – Implied Consent

### Section 8

**READ ONLY IF THE ARRESTEE ANSWERS NO TO EITHER QUESTION ABOVE OR FAILS TO SUCCESSFULLY COMPLETE THE TESTS** **23**

If you do not expressly agree to testing or do not successfully complete the tests, your Arizona driving privilege will be **24** suspended for 12 months, or for two years if you've had a prior implied-consent refusal within the last 84 months.

Description		Information
<b>23</b>	Read Only If The Arrestee Answers No To Either Question Above Or Fails To Successfully Complete The Tests	LE instructions
<b>24</b>	<b>Check box:</b> If you do not expressly agree to testing or do not successfully complete the tests, your Arizona driving privilege will be suspended for 12 months, or for two years if you've had a prior implied-consent refusal within the last 84 months.	Signifies that the LE officer read the statement to the individual  Read by the officer to inform the individual of the consequences of not agreeing to the test

If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days.

**26**  Alcohol or drug screening must be completed before your privilege may be reinstated.

Description		Information
<b>25</b>	If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite ...	The results of the bodily fluid test may not have be processed, which will give the officer conclusive information to the BAC of the individual  As far as MVD is concerned we do not need the BAC test for the Affidavit to be completed and the individual to receive the suspension  The BAC would be a DUI and this is a court issue
<b>26</b>	Alcohol or drug screening must be completed before your privilege may be reinstated.	This is notifying the individual of the requirement put into place by legislation for the screening

**Does Not Consent - Implied Consent - Continued**

**Section 9**

Will you consent to the tests?  Yes  No **27**

Arrestee's Comments **28**

Description		Information
<b>27</b>	Will you consent to the tests?  Yes or No	This is the second time this question is be asked after the first refusal  When the question is read to the individual, the LE Officer will check off how the individual answered  The individual may now consent to the tests, in which case the officer would then start the test
<b>28</b>	Arrestee's Comments	Any statements or comments made by the individual will be placed in this area  When more space is needed there is another Comment box at the bottom of the form

## Unreasonable Delay in Testing

### Section 10

When the individual (arrestee) is causing a delay in the testing protocol to try and change or modify the testing results the officer will read the following statement from the ADMONITIONS.

If the arrestee unreasonably delays the completion of test, read the following to the arrestee: **29**

You are not entitled to further delay before taking the tests. Any additional delay will be considered a refusal to submit to the tests. **30**

Description		Information
<b>29</b>	If the arrestee unreasonably delays the completion of test, read the following to the arrestee:	Individuals will attempt to modify or possibly change the results of the test by delaying or stalling, when the officers believes that this is taking place the officer will read the following
<b>30</b>	<b>Check box:</b> You are not entitled to further delay before taking the tests. Any additional delay will be considered a refusal to submit to the tests.	Signifies that the LE officer read the statement to the individual  This is to inform the individual that the officer(s) recognize that the individual is using tactics to delay

Will you consent to the tests?  Yes  No **31**

Arrestee's Comments

**32**

Description		Information
<b>31</b>	Will you consent to the tests?  Yes or No	When the question is read to the individual, the LE Officer will check off how the individual answered  The individual may now consent to the tests, in which case the officer would then start/continue with the test
<b>32</b>	Arrestee's Comments	Any statements or comments made by the individual will be placed in this area  When more space is needed there is another Comment box at the bottom of the form

**Additional Comments**

**Section 11**

Additional Comments <div style="border: 1px solid black; height: 80px; margin-top: 5px; position: relative;"> <span style="position: absolute; top: -20px; left: 50%; transform: translate(-50%, -50%); font-weight: bold;">33</span> </div>	Officer Signature <div style="border: 1px solid black; height: 30px; margin-top: 5px; display: flex; align-items: center; justify-content: center;"> <span style="font-weight: bold;">34</span> </div>
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Description		Information
33	Additional Comments	Expanded or additional information that LE feels may be important to MVD or EHO
34	Officer Signature	Based upon the information completed in the Admonition and with the Officers signature on the page; the EHO will be able to uphold the Affidavit when the officer appears for a hearing

**The officer will now turn back to the front of the paperwork and will continue with the Affidavit.**

**Section 12**

<b>35</b>	<input type="checkbox"/> The admonitions on the back of the original copy <b>were</b> read to the person. Officer Initials: <u>  36  </u>
<b>37</b>	<input type="checkbox"/> The admonitions <b>were not</b> read because the person was either unconscious or incapable of refusal.

Description		Information
35	The admonitions on the back of the original copy were read to the person.	This is a verification that the ADMONITIONS have been read to the individual
36	Officer Initials	Compliance with the verification of the ADMONITIONS
37	The admonitions were not read because the person was either unconscious or incapable of refusal.	To inform MVD that the ADMONITIONS have not been read to the individual

## Results of the ADMONITION

<input type="checkbox"/> The person submitted to <input type="checkbox"/> breath <input type="checkbox"/> blood tests	<b>38</b>	<b>41</b>
<b>39</b> Test results: <input type="checkbox"/> Indicated alcohol concentration of: _____ <input type="checkbox"/> Indicated positive for _____ (drug) <input type="checkbox"/> Results not available	<b>40</b>	
<input type="checkbox"/> The person refused to take or did not complete the tests in the following manner: _____	<b>42</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No Did the person cause serious physical injury or death as defined in ARS 13-105 during this incident?	<b>43</b>	

Description		Information
<b>38</b>	The person submitted to Breath Blood tests	Indicate which test was administered to the individual
<b>39</b>	Test results: Indicated alcohol concentration of: _____	When the test results for BAC are available, the Officer will write the information in this field
<b>40</b>	Indicated positive for _____ (drug)	When the test results for positive for drugs, the Officer will write the information in this field
<b>41</b>	Results not available	To inform MVD that the results of the test are not available. The individual will still receive the Affidavit
<b>42</b>	The person refused to take or did not complete the tests in the following manner:	To make note of that the individual did not complete the test
<b>43</b>	Yes or No Did the person cause serious physical injury or death as defined in ARS 13-105 during this incident?	When the individual has caused an injury as defined by the ARS code, the officer will mark the "Yes" box, otherwise the "No" box will be marked

ARS § 13-105 – 39. "Serious physical injury" includes physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

## Officer Certification

### Section 13

OFFICER CERTIFICATION I certify that the above is true and correct. I request that any hearing be held in <u>44</u> County.				
Law Enforcement Officer Name	<b>45</b>	Badge Number	Law Enforcement Officer Signature	
Law Enforcement Officer Agency		ORI Number	Law Enforcement Officer Station	
Agency Address		City	State	Zip
Test Operator Name	<b>46</b>	Badge Number	Test Operator Signature	

Description		Information
<b>44</b>	Officer Certification	The Officer is stating that the form is true and correct. In addition to requesting that any hearing be held in a specific county
<b>45</b>	Law Enforcement Officer Name and Information	The Officer that arrested the individual and served the Affidavit
<b>46</b>	Test Operator Name and Signature	Used when the testing Officer is different than the Officer serving the Affidavit

### Section 14

<b>47</b>	SURRENDER OF ARIZONA DRIVER LICENSE
Pursuant to ARS 28-1321 and 28-1385, the law enforcement officer must require the surrender of all Arizona driver licenses or permits in the person's possession. If no license or permit is attached, state reason: <input type="checkbox"/> Lost <input type="checkbox"/> Destroyed <input type="checkbox"/> Nonresident <input type="checkbox"/> Other: _____	

Description		Information
<b>47</b>	<p>ARS 28-1321 and 28-1385, the law enforcement officer must require the surrender of all Arizona driver licenses or permits in the person's possession.</p> <p>If no license or permit is attached, state reason:</p> <p><b>Check box:</b> Lost, Destroyed, Nonresident, or Other</p>	<p>ARS reference</p> <p>The Records unit will be looking for the credential, if it is not attached the Officer will need to indicate why.</p> <p>Signifies that the LE officer is marking which of the following apply</p> <p>The individual has an Arizona driver license but is stating that the license is either lost or destroyed</p> <p>The individual is not an Arizona driver and has an out of state license. The out of state license is not confiscated</p> <p>Any other reason that does not apply to Lost, Destroyed, or Nonresident</p>



## Order of Suspension

### Section 15

ORDER OF SUSPENSION <b>48</b> One box must be checked.	Date Served <b>49</b>	Time Served <b>50</b>	Please see reverse side to request a Summary Review or Hearing.
<b>51</b>	<input type="checkbox"/> Pursuant to ARS 28-1321, your Arizona driving privilege is suspended effective 15 days from Date Served. The suspension is for 12 months, or 2 years if there is a prior implied consent refusal, within the last 84 months, on your record. This order is final unless a hearing is requested online or in writing and received within 15 days from Date Served. This action is a result of your failure to successfully complete or refusal to submit to tests to determine alcohol concentration or drug content. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.		
<b>52</b>	<input type="checkbox"/> Pursuant to ARS 28-1385, your Arizona driving privilege is suspended for not less than 90 consecutive days effective 15 days from Date Served. If a review of your driver record indicates that you have completed alcohol or drug screening and are eligible for a 60-day restricted driving permit, one will automatically be mailed to your address of record within 45 days from Date Served. This order is final unless a summary review or hearing is requested online or in writing and received within 15 days from Date Served. This suspension is a result of tests to which you submitted. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.		

Description		Information
<b>48</b>	Order of Suspension	This area informs the individual of the type of suspension that will take place, depending on how the individual answered the ADMONITIONS and if the individual completed the testing
<b>49</b>	Date Served	The date served should match the incident portion of the Affidavit
<b>50</b>	Time Served	The time served will be indicated in this box
<b>51</b>	ARS 28-1321	When this box is marked, indicating an Implied Consent Suspension will take place. The individual will be suspended for a minimum of 1 year
<b>52</b>	ARS 28-1385	When this box is marked, indicating an Admin Per Se suspension will take place. The individual will be suspended for a minimum of 90 days

## Temporary Driver Permit

### Section 16

**TEMPORARY DRIVER PERMIT** — This entire form will serve as a temporary driver permit that will expire 15 days from the Date Served. However, if you request a summary review or hearing, then this permit will remain valid until the summary review or hearing decision has been made. If your Arizona driver license/permit is currently suspended or revoked, this permit does not authorize you to operate a motor vehicle. **53**

Sex <b>54</b>	Weight	Height	Eyes	Hair	Class	Restrictions <b>55</b>
Permit Not Issued Because <b>56</b>					Licensee Signature <b>57</b>	

Description		Information
<b>53</b>	Temporary Driver Permit	To explain to the individual what can and will take place, including the summary review or hearing with the EHO  Allows the individual to drive unless the <i>Permit Not Issued Because</i> box is completed by the officer
<b>54</b>	Physical Description	Licenses and permits require a physical description of the driver, including Class  Is used to comply with licensing requirements
<b>55</b>	Restrictions	Any restrictions listed on the individuals license or permit will be listed in this box
<b>56</b>	Permit Not Issued Because	To indicate that the individual is not a licensed driver and/or does not hold a permit  When the individual has not been issued a license or permit from the state of AZ, the individual is not given a Temporary Driver Permit
<b>57</b>	Licensee Signature	That the individual understands that they are receiving a Temporary Driver Permit or not receiving a permit  The individuals acknowledgement of the information/form  This is not an admission of guilt

**Note:** There will be times when an individual will “refuse to sign” or be “unable to sign”, in those instances, the officer will make note of it on the Affidavit.

## Form Distribution

Original – Motor Vehicle Division <b>58</b>	Pink and Yellow – Licensee	Blue – Law Enforcement Agency
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Description		Information
<b>58</b>	<p>Original – Motor Vehicle Division</p> <p>Pink and Yellow – Licensee</p> <p>Blue – Law Enforcement Agency</p>	<p>Original Affidavit:</p> <ul style="list-style-type: none"> <li>Is sent to the MVD for data entry by the Records Unit. The ADMONITIONS are on the back of the original form with the officer's signature</li> </ul> <p>The individual receives the two middle carbonless copies</p> <p><b>Pink Copy</b></p> <ul style="list-style-type: none"> <li>Can be used by the individual to request a Hearing or a Summary Review through the EHO</li> <li>When the individual does not request a Hearing or Summary Review nothing will be done with the page</li> </ul> <p><b>Yellow Copy</b></p> <ul style="list-style-type: none"> <li>Is used by the individual to drive for 15 days from the date served</li> <li>When a hearing or Summary Review has been requested, the individual will continue to drive on the Yellow Copy until a decision is made by EHO</li> </ul> <p><b>Blue Copy</b></p> <ul style="list-style-type: none"> <li>For LE or officer's record of the incident</li> </ul>

## **Contact Information**

For question, please contact MVD Records Services at:

[CriminalCivil@azdot.gov](mailto:CriminalCivil@azdot.gov)

or

ADOT/Motor Vehicle Division  
Criminal/Civil Processing Unit  
P.O. Box 2100, Mail Drop 533M  
Phoenix, AZ. 85001

602-712-8933

## **Additional Resources**

Can be found at:

<https://www.azdot.gov/mvd/professional-services/CommercialServices/law-enforcement-officer-admin-per-se-IMPLIED-consent-affidavit>