

APPENDIX N

STANDARD DWI REFUSAL STATEMENTS

DIVISION OF MOTOR VEHICLES STANDARD STATEMENT FOR OPERATORS OF A COMMERCIAL MOTOR VEHICLE - N.J.S.A. 39:3-10.24e (Revised eff. Feb. 1, 2001)

THE ARRESTING OFFICER MUST READ THE FOLLOWING TO THE DEFENDANT: FULL TEXT OF STANDARD STATEMENT FOLLOWS:

1. You have been arrested for operating a commercial motor vehicle with an alcohol concentration of 0.04% or more.
2. You are required by law to submit to the taking of samples of your breath for the purposes of making chemical tests to determine your alcohol concentration.
3. A record of the taking of the samples, including the date, time, and results, will be made. Upon your request, a copy of that record will be made available to you.
4. Any warnings previously given to you concerning your right to remain silent and your right to consult with an attorney do not apply to the taking of breath samples and do not give you the right to refuse to give, or to delay giving, samples of your breath for the purposes of making chemical tests to determine your alcohol concentration. You have no legal right to have an attorney, physician, or anyone else present, for the purpose of taking the breath samples.
5. After you have provided samples of your breath for chemical testing, you have the right to have a person or physician of your own selection, and at your own expense, take independent samples and conduct independent chemical tests of your breath, urine, or blood.
6. If you refuse to provide samples of your breath you will be issued a separate summons for this refusal.
7. Any response that is ambiguous or conditional, in any respect, to your giving consent to the taking of breath samples will be treated as a refusal to submit to breath testing.
8. According to N.J.S.A. 39:3-10.24f, if a court of law finds you guilty of refusing to submit to chemical tests of your breath, then your license to operate any motor vehicle will be revoked by the court for a period of no less than six months and no more than two years. The Court will also fine you a sum of no less than \$250 and no more than \$500 for your refusal conviction.
9. If a court of law finds you guilty of refusing to submit to chemical tests of your breath, and you were operating a commercial motor vehicle, then your commercial driver license will be suspended by the court for a period of no less than one and no more than three years. If your refusal conviction is in connection with operating a commercial motor vehicle transporting hazardous material or displaying a hazardous material placard, then your commercial driver license will be suspended for three years. If your refusal conviction is in connection with a second or subsequent violation of any of the offenses specified at N.J.S.A. 39:3-10.20a, the Court will revoke your commercial driver license for life.
10. Any license suspension or revocation for a refusal conviction will be independent of any license suspension or revocation imposed for any related offense.
11. If you are convicted of refusing to submit to chemical tests of your breath, you must also satisfy the requirements of a program of alcohol education or rehabilitation.
12. I repeat, you are required by law to submit to the taking of samples of your breath for the purposes of making chemical tests to determine your alcohol concentration. Now, will you submit the samples of your breath?

Answer: _____

(ADDITIONAL INSTRUCTIONS FOR POLICE OFFICER)

IF THE PERSON: REMAINS SILENT; OR STATES OR OTHERWISE INDICATES THAT HE/SHE REFUSES TO ANSWER ON THE GROUNDS THAT HE/SHE HAS A RIGHT TO REMAIN SILENT, OR WISHES TO CONSULT AN ATTORNEY, PHYSICIAN, OR ANY OTHER PERSON; OR IF THE RESPONSE IS AMBIGUOUS OR CONDITIONAL IN ANY RESPECT WHATSOEVER, THEN THE POLICE OFFICER SHALL READ THE FOLLOWING ADDITIONAL STATEMENT:

FULL TEXT OF ADDITIONAL STATEMENT FOLLOWS:

I have previously informed you that the warnings given to you concerning your right to remain silent and your right to consult with an attorney do not apply to the taking of breath samples and do not give you a right to refuse to give, or to delay giving, samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood. Your prior response, or lack of response, is unacceptable. If you do not unconditionally agree to provide breath samples now, then you will be issued a separate summons charging you with refusing to submit to the taking of samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood.

Once again, I ask you, will you submit to giving samples of your breath?

Answer: _____

APPENDIX N

N.J. ATTORNEY GENERAL'S STANDARD STATEMENT FOR MOTOR VEHICLE OPERATORS (N.J.S.A. 39:4-50.2(e)) (revised & effective July 1, 2012)

Enter Defendant's Name _____

The police officer shall read the following:

1. You have been arrested for driving while intoxicated, N.J.S.A. 39:4-50.
2. The law requires you to submit samples of your breath for the purpose of testing to determine alcohol content.
3. A record of the taking of the breath samples, including the test results, will be made. Upon your request, a copy of that record will be made available to you.
4. After you have provided samples of your breath for testing, you have the right, at your own expense, to have a person or physician of your own selection take independent samples of your breath, blood or urine for independent testing.
5. If you refuse to provide samples of your breath, you will be issued a separate summons for the refusal. A court may find you guilty of both refusal and driving while intoxicated.
6. If a court finds you guilty of the refusal, you will be subject to various penalties, including license revocation of up to 20 years, a fine of up to \$2000, installation of an ignition interlock, and referral to an Intoxicated Driver Resource Center. These penalties may be in addition to penalties imposed by the court for any other offense of which you are found guilty.
7. You have no legal right to have an attorney, physician or anyone else present for the purpose of taking the breath samples. You have no legal right to refuse to give, or delay giving, samples of your breath.
8. Any response from you that is ambiguous or conditional, in any respect, to my request that you provide breath samples, will be treated as a refusal to submit to breath testing. Even if you agree to take the test, but then do not follow my instructions, do not properly perform the test, or do not provide sufficient breath samples, I will charge you with refusal to submit to breath testing.
9. I repeat, the law requires you to submit samples of your breath for testing. Will you submit the samples of your breath?

Answer _____

If the arrested person does not respond, or gives any ambiguous or conditional answer short of an unequivocal "yes," the police officer shall read the following.

Your answer is not acceptable. The law requires that you submit samples of your breath for breath testing. If you do not answer, or answer with anything other than "yes," I will charge you with refusal. Now, I ask you again, will you submit to breath testing?

Answer _____

STANDARD DWI REFUSAL STATEMENTS

NEW JERSEY MOTOR VEHICLE COMMISSION STANDARD STATEMENT FOR OPERATORS OF VESSELS - N.J.S.A. 12:7-55e (Revised & effective, July 2, 2004)

THE ARRESTING OFFICER MUST READ THE FOLLOWING TO THE DEFENDANT: FULL TEXT OF STANDARD STATEMENT FOLLOWS:

1. You have been arrested for operating a vessel while under the influence of intoxicating liquor or drugs or with a blood alcohol concentration at, or above, that permitted by law.
2. The law requires you to submit to the taking of samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood.
3. A record of the taking of the samples, including the date, time, and results, will be made. Upon your request, a copy of that record will be made available to you.
4. Any warnings previously given to you concerning your right to remain silent, and your right to consult with an attorney, do not apply to the taking of breath samples, and do not give you the right to refuse to give, or to delay giving, samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood. You have no legal right to have an attorney, physician, or anyone else present, for the purpose of taking the breath samples.
5. After you have provided samples of your breath for chemical testing, at your own expense, you have the right to have a person or physician of your own selection, take independent samples and conduct independent chemical tests of your breath, urine, or blood.
6. If you refuse to provide samples of your breath you will be issued a separate summons for this refusal.
7. Any response from you that is ambiguous or conditional, in any respect, to your giving consent to the taking of breath samples will be treated as a refusal to submit to breath testing.
8. If a court of law finds you guilty of refusing to submit to chemical tests of your breath, then the court will: revoke your right to operate a power vessel or a vessel with a length of 12 feet or more for a period of no less than 1 year and no more than 10 years; revoke your license to operate a motor vehicle for a period of no less than 7 months, but no more than 10 years; and require you to complete a boat safety course before your boating privilege can be restored. Failure to complete the boat safety course will result in the immediate or continued revocation of your boating privilege. The Court will also fine you a sum of no less than \$300 and no more than \$1,000 for your refusal conviction.
9. Any suspension or revocation of your boating privilege for a refusal conviction may be independent of any suspension or revocation imposed for any related offense.
10. If you are convicted of refusing to submit to chemical tests of your breath, you will be referred, by the Court, to an Intoxicated Driver Resource Center, and you will be required to satisfy the requirements of that Center in the same manner as if you had been convicted of a violation of N.J.S.A. 12:7-46, or you will be subject to penalties for your failure to do so.
11. I repeat, you are required by law to submit to the taking of samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood. Now, will you submit the samples of your breath?

Answer: _____

(ADDITIONAL INSTRUCTIONS FOR POLICE OFFICER)

IF THE PERSON: REMAINS SILENT; OR STATES, OR OTHERWISE INDICATES, THAT HE/SHE REFUSES TO ANSWER ON THE GROUNDS THAT HE/SHE HAS A RIGHT TO REMAIN SILENT, OR WISHES TO CONSULT AN ATTORNEY, PHYSICIAN, OR ANY OTHER PERSON; OR IF THE RESPONSE IS AMBIGUOUS OR CONDITIONAL, IN ANY RESPECT WHATSOEVER, THEN THE POLICE OFFICER SHALL READ THE FOLLOWING ADDITIONAL STATEMENT:

FULL TEXT OF ADDITIONAL STATEMENT FOLLOWS:

I previously informed you that the warnings given to you concerning your right to remain silent and your right to consult with an attorney, do not apply to the taking of breath samples and do not give you a right to refuse to give, or to delay giving, samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood. Your prior response, silence, or lack of response, is unacceptable. If you do not agree, unconditionally, to provide breath samples now, then you will be issued a separate summons charging you with refusing to submit to the taking of samples of your breath for the purpose of making chemical tests to determine the content of alcohol in your blood.

Once again, I ask you, will you submit to giving samples of your breath?

Answer: _____