

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: _____

Case Name: _____

Case Number: _____
(if known)

ACKNOWLEDGMENT AND WAIVER OF RIGHTS
DWI – FIRST OFFENSE- CLASS B MISDEMEANOR

I, _____ of _____ have been charged with driving or operating under the influence of drugs or liquor, first offense, a class B misdemeanor.

I understand that I have the right to be represented by a lawyer of my own choosing and at my own expense.

If I am not a citizen of the United States, I understand that conviction of the crime(s) for which I intend to plead GUILTY or NO CONTEST may have immigration consequences, including but not limited to, deportation from the United States, exclusion from admission into the United States, or denial of naturalization pursuant to the laws of the United States.

- I am represented by _____, a lawyer admitted to practice in New Hampshire. I am satisfied with my lawyer and all explanations have been clear.
- I do not want a lawyer. I understand and know what I am doing. I hereby waive being represented by a lawyer.

I understand that I do not have to plead GUILTY or NO CONTEST and that even after signing this form I still do not have to plead GUILTY or NO CONTEST.

I understand that by pleading GUILTY or NO CONTEST to the complaint(s) that I am giving up the following constitutional rights as to the charge(s):

- MY RIGHT** to a speedy and public trial.
- MY RIGHT** to see, hear and question all witnesses. This gives me the opportunity and right to face the witnesses against me and question them myself or through my attorney.
- MY RIGHT** to present evidence and call witnesses in my favor and to testify on my own behalf.
- MY RIGHT** to remain silent and not testify at a trial.
- MY RIGHT** to have the judge *ORDER* into court all evidence and witnesses in my favor.
- MY RIGHT** not to be convicted unless the State proves that I am guilty beyond a reasonable doubt with respect to all elements of the charge, which have been explained to me.
- MY RIGHT** to keep out evidence, including confessions, illegally obtained.
- MY RIGHT** to appeal to the Supreme Court on issues of law.
- I GIVE UP ALL THE ABOVE RIGHTS OF MY OWN FREE WILL.**

I understand that by pleading GUILTY or NO CONTEST I am admitting to or not contesting the truth of the charge(s) against me in the complaint(s) and that upon the judge's acceptance of my GUILTY or NO CONTEST plea, a conviction(s) will be entered against me.

No force has been used upon me, nor have any threats been made to me, by any member of the Prosecutor's Office or anyone else to have me enter this plea of GUILTY or NO CONTEST.

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No promises have been made to me by any member of the Prosecutor's Office or anyone else in an effort to have me enter this plea of GUILTY or NO CONTEST to the charge(s), except as follows:

I understand as a consequence of my plea of GUILTY or NO CONTEST that the judge may impose such sentence as in his/her discretion s/he considers appropriate. If the judge does not accept the terms of the negotiated plea I may withdraw my plea.

I understand that the complaint is one accusing me of DRIVING OR OPERATING UNDER THE INFLUENCE OF DRUGS OR LIQUOR, FIRST OFFENSE, A CLASS B MISDEMEANOR.

I understand that upon the judge accepting my plea, the judge shall enter a finding of guilty and the following sentence will be imposed:

- 1) I shall be fined not less than \$500.00 and not more than \$1,200.00.
- 2) My driver's license or privilege to drive shall be revoked for not less than 9 months nor more than 2 years. The court may suspend up to 6 months of this revocation period provided I comply with the following requirements:
 - a.) I shall be referred to an Impaired Driver Care Management Program (IDCMP) and shall be required to submit to an alcohol and drug abuse screening within **14 days of conviction**.
 - b.) If the screening demonstrates the likelihood of a substance use disorder, I shall be required to submit to a full substance use disorder evaluation **within 30 days of conviction** and shall be required to follow the service plan developed from that evaluation.
 - c.) I shall be required to pay all fees arising from services provided by the IDCMP and its referrals for the service plan if applicable.
 - d.) Along with the alcohol and drug abuse screening and/or substance use disorder evaluation, I shall be required to complete an approved Impaired Driver Education Program (IDEP) prior to the restoration of my driver's license or privilege to drive, unless I have completed such a program within the past 5 years.
 - e.) In addition to the foregoing, I understand that the court may also require the installation of an alcohol ignition interlock device in any vehicle driven by me during the period of sentence reduction. I understand that I shall bear the cost of installation and fees associated with the device, and the court may also re-impose the longer license revocation period if I become non-compliant with the treatment recommendations at any time.

PENALTIES FOR DWI OFFENSE OCCURRING UNDER THE AGE OF 21

- 3) I shall be fined not less than \$500.00 and not more than \$1,200.00.
- 4) My driver's license or privilege to drive shall be revoked for not less than 12 months nor more than 2 years.
- 5) I shall schedule a substance use disorder evaluation with an Impaired Driver Care Management Program (IDCMP) service provider within **30 days of conviction**
- 6) I shall complete the substance use disorder evaluation within **60 days of conviction** and shall be required to follow the service plan developed from that evaluation.
- 7) I shall be required to pay all fees arising from services provided by the IDCMP and its referrals for the service plan if applicable.
- 8) Along with the substance use disorder evaluation, I shall be required to complete an approved Impaired Driver Education Program (IDEP) prior to the restoration of my driver's license or privilege to drive, unless I have completed such a program within the past 5 years.

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9) In addition to the foregoing, I understand that the court may also require, after the period of revocation, the installation of an alcohol ignition interlock device in any vehicle driven by me, until I turn the age of 21 or for not less than 12 months, whichever is longer. I understand that I shall bear the cost of installation and fees associated with the device. The court may also re-impose the longer license revocation period if I become non-compliant with the treatment recommendations at any time.

ENHANCED PENALTIES FOR PRIOR DWI OFFENSE WITHIN THE PAST 10 YEARS

I understand that if I am convicted of driving or operating under the influence of drugs or liquor, first offense and the conviction is not based upon a complaint which alleges prior convictions, and I am found, upon examination of my motor vehicle record, to have had 1 or more prior convictions in the State of New Hampshire or any other state within 10 years preceding the date of the current offense, I shall be subject to enhanced penalties that include revocation of my driver's license or privilege to drive for not less than 1 year nor more than 3 years. I shall be referred to an Impaired Driver Care Management Program (IDCMP) to schedule a full substance use disorder evaluation and I shall be required to comply with the service plan that is developed from that evaluation. The court may suspend up to 6 months of this revocation period conditioned upon my scheduling of the required evaluation within 30 days of conviction or release, completing the evaluation within 60 days of conviction or release, compliance with the service plan developed from that evaluation, and payment of all relevant fees.

PENALTIES FOR DWI 2ND OFFENSE WITHIN 10 YEARS FROM DATE OF CONVICTION

If I am convicted of a second offense of driving or operating under the influence of drugs or liquor and the prior conviction occurred within 10 years preceding the date of the second offense, the court will convict me of a CLASS A MISDEMEANOR and impose a mandatory sentence to the county correctional facility (see below). Additionally I shall be fined not less than \$750.00 and I shall lose my driver's license or privilege to drive for not less than 3 years and will not be eligible for restoration of my driver's license or privilege to drive until I have completed the service plan referenced below and paid all relevant fees. The court shall refer me to an Impaired Driver Care Management Program (IDCMP) to schedule a full substance use disorder evaluation. The IDCMP shall administer the substance user disorder evaluation and shall develop a service plan from that evaluation.

If my prior conviction occurred within 2 years preceding the date of the second offense, I shall be sentenced to a mandatory sentence of not less than 60 consecutive days in the county correctional facility (CCF), of which 30 days shall be suspended. If my prior conviction occurred more than 2 years, but less than 10 years preceding the date of the second offense, I shall be sentenced to a mandatory sentence of not less than 17 consecutive days in the CCF of which 12 days shall be suspended. A condition of any suspended CCF sentence in connection with a DWI 2nd conviction shall be that I schedule a substance use disorder evaluation within 30 days of my release from the CCF and that I complete the evaluation within 60 days of my release from the CCF. In addition, I must comply with the service plan developed. Any portion of the suspended CCF sentence may be imposed if I do not comply with all requirements or if I become noncompliant with the service plan during the period of suspension.

ALCOHOL IGNITION INTERLOCK DEVICE

Should I be convicted of aggravated, second, or subsequent offense driving while under the influence of drugs or liquor, the court shall require me to install, after the period of revocation, an alcohol ignition interlock device in any vehicle driven by me on a regular basis. The device shall be required for a period of not less than 12 months nor more than 2 years. I understand that I shall bear the cost of installation and fees associated with the device.

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PENALTIES FOR DRIVING DURING PERIOD OF LICENSE REVOCATION

If I am convicted of driving/attempting to drive a motor vehicle or operating/attempting to operate an OHRV or snowmobile in this state during the period of revocation of my driver's license or privilege to drive for driving or operating under the influence of drugs or liquor, first offense, I shall be guilty of a CLASS A MISDEMEANOR, shall be sentenced to imprisonment for a period of not less than 7 consecutive 24 hour periods and may be sentenced to imprisonment for up to a maximum period of 1 year, shall be fined not more than \$1,000.00 (RSA 263:64, (IV)) and shall have my driver's license or privilege to drive revoked for an additional year. NOTE: I understand that I remain under revocation until such time as my driver's license or privilege to drive is restored to me in writing by the Director of the Division of Motor Vehicles. In addition, I shall be required by the court to install an alcohol ignition interlock device in any vehicle driven by me for the remaining period of revocation plus an additional period of not less than 12 months nor more than 2 years. I understand that I shall bear the cost of such installation and fees associated with the device.

HABITUAL OFFENDER

I further understand that the complaint against me represents a major motor vehicle conviction that will count against me should the Director of the Division of Motor Vehicles review my driving record for Habitual Offender status. Three major convictions or a combination of major and minor convictions over a 5 year period are necessary to certify a person as a Habitual Offender. As a consequence of being certified a Habitual Offender, I would lose my driver's license or privilege to drive for a period of one to four years and understand that it is my responsibility, at the end of that period, to petition the Director of the Division of Motor Vehicles to restore my driver's license or privilege to drive. I understand that if I were to operate a motor vehicle during that period, or at any time before my driver's license or privilege to drive is restored, I would be subjecting myself to a mandatory prison term of not more than five years.

I understand the nature of the charge against me, and the maximum punishment that may be imposed. I am not under the influence of alcohol or drugs.

I understand the entire contents of this Acknowledgment of Rights, and I freely and voluntarily sign this form below. I also understand that I may have a copy of this form upon request.

Highest Educational Grade Completed _____

Date

Defendant

As counsel for the defendant, I have thoroughly explained to the defendant all the above, including the nature of the charge, the elements of the offense which the State must prove beyond a reasonable doubt, and the minimum and maximum penalties. I believe the defendant fully understands the meaning of this Acknowledgment of Rights, that s/he is not under the influence of drugs or alcohol, and that s/he knowingly and intelligently waives all of his/her rights as set forth in this form.

Date

Counsel for the Defendant

I hereby certify that I have examined the defendant concerning the plea entered in this case. Based upon that examination, I find that the defendant understands the nature of the charge made against him/her, the minimum and maximum penalties which may be imposed therefore, and the elements of the offense. I find that the defendant is not under the influence of drugs or alcohol, and that s/he intelligently, knowingly and voluntarily has waived each of the rights set forth on this form. I further find there is a factual basis for the defendant's plea.

Date

Signature of Judge

Printed Name of Judge