

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

Court Name: _____
Case Name: _____
Case Number: _____
(if known)

ACKNOWLEDGMENT OF RIGHTS - CLASS A MISDEMEANOR DWI 2ND

I, _____ of _____ have been charged with driving or operating under the influence of drugs or liquor, 2nd offense, a Class A Misdemeanor.

I understand that I have the right to be represented by a lawyer of my own choosing and at my own expense, and that if I am unable to afford a lawyer, the court will appoint one for me, subject to an order of reimbursement based on my ability to pay.

If I am not a citizen of the United States, I understand that conviction of the crimes(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 my right to 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 charge(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 confront my accusers and cross-examine 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(s), which have been explained to me.

MY RIGHT to keep out evidence, including confessions, illegally obtained.

MY RIGHT to a trial before a jury and my right to appeal issues of law to the Supreme Court.

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:

However, I understand that the judge is not bound by the Prosecutor's recommendation as to sentence, and that I may withdraw my plea if the judge exceeds the limits of the negotiated plea.

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 \$750.00 and not more than \$2,000.00.
- 2) My driver's license or privilege to drive shall be revoked for a minimum period of 3 years. My driver's license or privilege to drive shall not be restored unless I have completed the service plan referenced below and paid all relevant fees.
- 3) If my prior conviction was 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, **or**
If my prior conviction was 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.
- 4) A condition of the sentence suspension shall be that upon release from the CCF, I will be required to schedule a full substance use disorder evaluation with an Impaired Driver Care Management Program (IDCMP), specifically I shall be required to:
 - a) schedule a substance use disorder evaluation within 30 days of release,
 - b) complete the required substance use disorder evaluation within 60 days of release, and
 - c) comply with the service plan developed.

The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that evaluation. During the CCF suspension period, any portion of the suspended sentence may be imposed if I do not comply with all of the requirements or if I become noncompliant with the service plan.

- 5) I shall be required to install, after the period of revocation, an alcohol ignition interlock device in any vehicle driven by me. 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 such installation and fees associated with the device.

PENALTIES FOR DRIVING DURING PERIOD OF LICENSE REVOCATION

I understand 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, subsequent offense or for aggravated driving while intoxicated, 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, 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. I shall also 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.

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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 1 to 4 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 5 years.

I understand that if I am convicted of driving or operating under the influence of drugs or liquor 4 times within 10 years, that the fourth conviction would be a FELONY and that I could be sentenced to imprisonment for up to 7 years, fined up to \$4,000.00, and lose my driver's license or privilege to drive for a minimum of 7 years.

I understand the nature of the charge(s) 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, the minimum and maximum penalties, and the possible immigration consequences of entering a plea of guilty or no contest. I believe the defendant fully understands the meaning of this Acknowledgment and Waiver of Rights, that s/he is not under the influence of drugs or alcohol, and that s/he knowingly, intelligently and voluntarily 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(s), the minimum and maximum penalties which may be imposed therefore, and the elements of the offense(s). I find that the defendant is not under the influence of drugs or alcohol, and that the waiver of each right set forth on this form is made intelligently, knowingly and voluntarily. I further find there is a factual basis for the defendant's plea.

Date

Signature of Judge

Printed Name of Judge