

CITY OF BARSTOW

CALIFORNIA

POLICIES and PROCEDURES MANUAL:

Subject: **ADMINISTRATIVE PER SE**

INTRODUCTION

The following policy defines the proper method for documenting the Administrative Per Se suspension and/or revocation of driving privileges, as a result of driving under the influence of alcohol independent of court action. This process authorizes a peace officer to seize any California license in the possession of the DUI offender (there is no statutory authority to seize out-of-state licenses, immediately serve the driver with order of suspension, and issue a temporary driver's license. This process shall take place when the offender's blood alcohol level is 0.08 % or more (CVC 13353.2), or when the offender refuses to submit to a chemical test, CVC 23612 (a) (1) (A).

PROCEDURE

Members of the Barstow Police Department will administer the Administrative Per Se as follows:

1. Drivers arrested for DUI pursuant to CVC Sections 23140, 23152, and 23153 are subjected to Administrative Per Se regulations when one of the following circumstances occurs.
 - a. Driver refuses to submit or fails to complete the chemical test pursuant to Sections 13353 and 23612 of the Vehicle Code.
 - b. Driver submits to a breath test which shows a BAC of 0.08 % or greater for both breath samples.
 - c. Driver submits to a blood or (if the offense is drug related and/or the breath and blood tests are unavailable) urine test, and the officer believes that the BAC is 0.08 % or greater. If the test results later show a blood alcohol concentration of less than 0.08 % the suspension will be set aside.
 - d. Upon consenting to a breath test, the driver refuses a blood or urine test as required by the drug admonition contained on the DS367 or DS367M (under 21 years) form.

Note: if the subject is arrested for a DUI combination of alcohol and drugs, the arresting officer must have a reasonable belief that the BAC is above 0.08 %. Administrative Per Se provisions apply only to BAC levels and/or refusals, not for DUI of drugs. Therefore, if the subject is arrested solely of DUI of drugs, Admin Per Se is not involved.

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Revision No. 1

Page 1 of 2

Section 911

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2. The officer will note any license restrictions issued by DMV on the Order of Suspension.
3. Clerical personnel and the Evidence Technician will coordinate with the District Attorney and forensic laboratory to insure the chemical test results are obtained in a timely manner. Chemical test results shall be forwarded to the DMV within fifteen (15) calendar days.
4. When a person is taken into custody who is under the age of twenty-one, complete a DS 367M in lieu of the standard adult DS 367 form.
5. The arresting officer shall issue the pink copy of the DS 367 form in all cases, regardless of the driver's driving privilege status or whether or not they possess a California license. The temporary driver's license serves as the 30-day temporary driver license endorsement which clearly specifies the terms and conditions under which the license is valid.
6. The arresting officer shall confiscate the violator's California license and attach it to the DMV's copy of the Officer Statement.
7. Clerical personnel shall photocopy the DS 367, Officer's Statement, and retain the law enforcement copy (yellow) of the DS 367, Suspension/Revocation and Temporary Driver's License, and maintain these documents in file.
8. Clerical personnel shall insure that the original Officer's Statement, original Suspension/Revocation and Temporary Driver's License, the violator's California license (if available), and a copy of the breath test results are forwarded to DMV within five (5) business days. If the violator submitted to a blood or urine test, the chemical test results shall be forwarded to DMV using a Supplement to Officer's Statement Blood/Urine Test Results (DS 367A), or the Department of Justice/County Forensics Chemical Test Results Certification within fifteen (15) calendar days. **REGARDLESS OF THE BLOOD/URINE CHEMICAL TEST RESULTS, ALL TEST RESULTS SHALL BE FORWARDED TO DMV.**

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Page 2 of 2

Section 911