

COUNTY:

COUNTY OF SAN FRANCISCO

PLAINTIFF:

PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT:

DUI ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM
(First Offense Only - Vehicle Code § 23152 (DUI) or
Vehicle Code § 23103/23103.5 (Wet/Dry Reckless))

CASE NUMBER:

DEPARTMENT:

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial the box for each applicable item only if you understand it, and sign and date the form on page 6. If you have any questions about your case, the possible sentence, or the information on this form, ask your attorney or the judge.

RIGHT TO AN ATTORNEY

- 1. I understand that I have the right to be represented by an attorney throughout the proceedings.
I understand that the Court will appoint a free attorney for me if I cannot afford to hire one, but at the end of the case, I may be asked to pay all or part of the cost of that attorney, if I can afford to.
I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself.
2. I give up my right to an attorney, and I choose to represent myself.
(Does not apply if you have an attorney.)

INITIALS ↓

1.

2.

NATURE OF THE CHARGES (Initial all items you are charged with.)

I understand that I am charged with a violation of Vehicle Code section(s):

- 3. 23152(a) - Driving under the influence of alcohol.
4. 23152(b) - Driving when my blood-alcohol level was .08 percent or higher.
5. 23152(d) - Driving a commercial vehicle when my blood-alcohol level was .04 percent or higher.
6. 23152(e) - Driving under the influence of drugs only
7. 23152(f) - Driving under the influence of drugs and alcohol.
8. 23103, 23103.5 - Reckless driving involving alcohol or drugs, or both.
9. If applicable - I understand that I am also charged with the following other offense(s):

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9.

TYPE OF OFFENSE(S) AND SECTION NUMBER(S)

- 10. I understand the charge(s) against me, and the possible pleas and defenses.

10.

CONSTITUTIONAL RIGHTS/WAIVER OF RIGHTS

- 11. RIGHT TO A JURY TRIAL - I understand that I have the right to a speedy, public jury trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.
12. I give up my right to a jury trial.
13. RIGHT TO CONFRONT WITNESSES - I understand that I have the right to confront and cross-examine all witnesses testifying against me.
14. I give up my right to confront and cross-examine witnesses.

11.

12.

13.

14.

CONSTITUTIONAL RIGHTS/WAIVER OF RIGHTS (Continued)

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| INITIALS ↓ |
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| 15. |
| 16. |
| 17. |
| 18. |

- 15. **RIGHT AGAINST SELF-INCRIMINATION** - I understand that I have the right to remain silent and not incriminate myself, and the right to testify on my own behalf. I understand that by pleading guilty or no contest, I am incriminating myself.
- 16. I give up my right to remain silent and to not incriminate myself.
- 17. **RIGHT TO PRODUCE EVIDENCE** - I understand that I have the right to present evidence and to have the Court issue subpoenas to bring into court all witnesses and evidence favorable to me, at no cost to me.
- 18. I give up my right to produce evidence and witnesses on my own behalf.

| SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (Section 23152) | | | |
|--|--|---|---|
| Offense | Minimum and Maximum Sentences when Probation is Granted (3 to 5 Years Probation Term) | | Minimum and Maximum Sentences without Probation |
| First offense within 10 years | The Court may order a jail term of 48 hours to 6 months. It will impose a fine of \$390 to \$1,000 and order me to complete a 3-month alcohol/drug treatment program. If my blood-alcohol content was .20 % or more, or if I refused a chemical test upon my arrest, I must complete a 9-month treatment program. The DMV will also impose a 6-month driver's license suspension, or a 10-month license suspension if the 9-month program is required. | | 96 hours to 6 months in jail, and a \$390 to \$1,000 fine. The DMV will also impose a 6-month driver's license suspension. |
| Second offense within 10 years | A jail term of either: (a) 10 days to 1 year, or (b) 96-hours to 1 year; a \$390 to \$1,000 fine, and completion of an 18-month alcohol/drug treatment program. The DMV will also impose a 2-year driver's license suspension. | | 90 days to 1 year in jail, and a \$390 to \$1,000 fine. The DMV will also impose a 2-year driver's license suspension. |
| SENTENCES FOR RECKLESS DRIVING (Sections 23103, 23103.5) | | | |
| Offense | Minimum and Maximum Sentences | | Other Consequences |
| Reckless driving reduced from driving under the influence (DUI) | If probation is granted: | A maximum of 90 days in jail, or \$1,000 fine, or both, plus attendance at treatment program. | If alcohol or drugs are involved, this conviction will act as a separate DUI conviction if I commit a subsequent DUI offense within 10 years. |
| | If probation is not granted: | 5 days to 90 days in jail, or \$145 to \$1,000 fine, or both. | |

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

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| INITIALS ↓ |
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| 19. |
| 20. |
| 21. |
| 22. |
| 23. |
| 24. |

- 19. I have read and understood the above charts which list the minimum and maximum penalties for the offense(s) I am charged with. (See item No. 34 for the offenses not listed in the charts.) . . .
- 20. I understand that in addition to the fine, **the Court will add assessments which will significantly increase the amount I must pay.** I will also be ordered to make restitution and to pay a restitution fine of \$150 to \$1,000 unless the Court finds compelling and extraordinary reasons not to do so. . .
- 21. I understand that if I was under the age of 21 at the time of my arrest, my driver's license will also be suspended for 1 year, and I must surrender my license to the Court.
- 22. I understand that if my blood-alcohol level was .15 percent or above, or if I refused to submit to a chemical test, the Court will consider this in determining whether to enhance the penalties, grant probation, or impose additional terms of probation.
- 23. I understand that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I continue to drive while under the influence of alcohol or drugs, or both, and as a result of my driving, someone is killed, I can be charged with murder.
- 24. I understand that the Court may order my vehicle impounded at my expense for up to 30 days. It may also require me to install an ignition interlock device (IID) for up to three years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid license.

SENTENCE

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| INITIALS ↓ |
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| 37A. |
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| 37B. |
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| a. |
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| b. |

37A. JAIL: I understand the maximum penalty for a first offense is six (6) months in the county jail and a mandatory minimum sentence of 96 hours on a first offense, a fine of up to \$1,000.00 plus penalty assessments, and [suspension of my driving privilege for [6 months] [2 years]][revocation of my driving privilege for [3 years][4 years]. I understand that if I plead guilty (or no contest), the imposition of the six (6) months in the county jail will be suspended, **AND**

37B. PROBATION: I will be placed on FORMAL SUPERVISED PROBATION for ____ years and I will have to pay probation costs of up to \$50.00 per month. These probation costs are not a condition of my probation, but failure to pay may result in a civil liability. My probation will have the following terms and conditions:

(OR)

I will be **CONDITIONALLY RELEASED** into the community for ____ years on the following terms and conditions:

- a. I must serve ____ days/months in the county jail, credit for having served ____ days. [____ days of this sentence apply to the enhancement provisions.]
- b. I must pay a fine: Circle the corresponding amounts below.

| CHARGES | BASE FINE | COUNTY GC76000 | STATE PC1464 | STATE SUR. PC1465.7 | STATE PENALTY GC70372 | DNA PEN. GC76104.6 | DNA PEN. GC76104.7 | EMS Maddy GC76000.5 | SUBTOTAL (Penalties & assessments) | TOTAL (base fine + subtotal) |
|----------------------------|--------------|-------------------|-----------------|------------------------|--------------------------|-----------------------|-----------------------|------------------------|---------------------------------------|---------------------------------|
| 23103VC Or 23103.5VC | \$145 | \$105 | \$150 | \$29 | \$75 | \$15 | \$60 | \$30 | \$464 | \$609 |
| 23152VC FOP | \$390 | \$273 | \$390 | \$78 | \$195 | \$39 | \$156 | \$78 | \$1209 | \$1599 |



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| INITIALS ↓ |
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| c. |
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| d. |
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| e. |
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| f. |

In addition:

- c. I must pay a \$40 Court Operations Assessment per convicted charge pursuant to PC 1465.8a1. \$40 X _____ convictions = \$ _____.
- d. I must pay a \$30 Criminal Conviction Assessment per convicted charge pursuant to GC 70373(a)(1). \$30 X _____ convictions = \$ _____.
- e. I must pay (choose one):
 - a Citation Processing Fee of \$10 **OR**
 - an Own Recognizance Administrative Screening Fee of \$25 pursuant to PC 1463.07.
- f. I must pay a \$135 Booking Fee pursuant to GC 29550.2

INITIALS
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SENTENCE (Continued)

- g. I must pay a \$150 minimum Restitution Fine per misdemeanor count and/or a \$300 minimum Restitution Fine per felony count pursuant to PC 1202.4(b).
- h. [I must pay a processing fee of \$35.00 to establish a monthly payment plan.] pursuant to PC 1205(d).
- i. For alcohol related Vehicle Code § 23152 (DUI) offenses only:**
I must pay a \$50 Alcohol Lab Fee pursuant to PC 1463.14(b)
- j. I must pay \$4 per convicted vehicle code violation pursuant to GC 76000.10
- k. My total fines, fees, and assessments are \$_____.
[This amount is the total of the FINE (BASE FINE + SUBTOTAL), the RESTITUTION FINE, Court Operations Assessment(s) (per charge/count), Criminal Conviction Assessment (per charge/count), CITATION PROCESSING FEE OR OWN RECOGNIZANCE ADMIN SCREENING FEE, BOOKING FEE, ALCOHOL LAB FEE pursuant to PC 1463.14(b), GC76000.10, and PROCESSING/PAYMENT PLAN FEE.]
- l. I must complete a [3 month] [9 month] licensed first offender alcohol/drug education and counseling program in my county of residence or employment.
- m. I must pay full restitution to any victim(s) in an amount determined by [D.A.] [APD] [Pre-Trial Diversion] payable in a manner as determined by the [CCU] [Pre-Trial Diversion Office]. If there is a disagreement as to the amount of restitution, the matter will be resolved by the Court at a hearing.
- n. [I must complete a live-in/residential treatment program for a period of _____ days/months in lieu of my jail sentence; however if I fail to complete the residential treatment program I will receive no credits towards my jail sentence.]
- o. [My vehicle will be impounded and stored at my expense for _____ days.]
- p. My driving license will be [suspended for six (6) months] [suspended for 10 months if my BAC was .15% or more or if I refused the test]. I must surrender my license to the court. I must successfully complete an alcohol/drug program licensed by the Calif. DMV, and file proof of that completion with the DMV in order to have my driving privilege reinstated, even if I am not ordered to attend such a program by the Court. I have been informed today that my license [suspension][revocation] is effective today.
- q. [My commercial driving privilege (Class A,B,C-Taxi)is suspended for [1 year for a 1st offense or refusal] [a lifetime ban]. I have been informed today that my license [suspension][lifetime ban] is effective today.]
- r. I cannot drive without a valid California driver's license in my possession.
- s. I cannot refuse to take a chemical test to determine my blood alcohol level if requested by a peace officer after a DUI arrest.
- t. I cannot drive with any measurable amount of alcohol in my blood.
- u. I must pay a probation revocation restitution fine of [\$150] [\$_____], which is stayed unless I am found to have violated my probation.
- v. I must obey all laws.

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| w. |
| x. |

w. I understand that my fine is due now and that I must go the Collections Unit in Room 101, Window 7 at 850 Bryant St, SF CA 94103 to make arrangements to pay my fines and other court ordered debt.

x. _____

IN ADDITION: This court must inform you that being under the influence of alcohol or drugs, or both, impairs a person's ability to safely operate a motor vehicle, and it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of your driving, someone is killed, you can be charged with murder.

PLEA(S)

38. I hereby freely and voluntarily plead _____ to:

GUILTY OR NO CONTEST

LIST CHARGE(S)

39. I understand that I have the right to a delay of from 6 hours to 5 days prior to being sentenced. I give up this right and agree to be sentenced at this time.

40. **If applicable** - I understand that I have the right to enter my plea before, and to be sentenced by, a judge. I give up this right and agree to enter my plea before, and to be sentenced by:

TEMPORARY JUDGE'S NAME

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| INITIALS ↓ |
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| 38. |
| 39. |
| 40. |

**** DEFENDANT'S SIGNATURE: _____ DATE: _____**

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed the form and any addenda with my client. I have explained each of the defendant's rights to the defendant and answered all of the defendant's questions with regard to this plea. I have also discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and in the defendant's decision to waive his or her constitutional rights.

SIGNATURE OF DEFENDANT'S ATTORNEY

DATE

INTERPRETER'S STATEMENT (if applicable)

I, having been sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below. The defendant stated that (s)he understood the contents of the form, and then (s)he initialed and signed the form. Language: Spanish Other (specify): _____

COURT INTERPRETER'S SIGNATURE

TYPE OR PRINT NAME

DATE

COURT'S FINDINGS AND ORDER

The Court, having reviewed this form and any addenda, and having questioned the defendant concerning the defendant's constitutional rights, finds that the defendant has expressly, knowingly, understandingly and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea is freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea and orders this form filed and incorporated in the docket by reference as though fully set forth therein.

Judge of the Superior Court

DATE