

# SUPERIOR COURT OF CALIFORNIA COUNTY OF SOLANO

## WAIVER AND PLEA TO DRIVING UNDER THE INFLUENCE; ORDER ACCEPTING PLEA

**NO PRIOR CONVICTIONS** (Veh. Code § 23536)

**CASE NO.** \_\_\_\_\_

I, \_\_\_\_\_, understand that I am charged with driving a vehicle on (date) \_\_\_\_\_ while under the influence of an alcoholic beverage or drugs or both (Veh. Code § 23152(a)), and/or while having 0.08 percent or more, by weight, of alcohol in my blood (Veh. Code § 23152(b)).

I understand I am also charged with an enhancement under Vehicle Code § 23578, namely that I was driving while having 0.15 percent or more blood alcohol level.

I understand I am also charged with an enhancement under Vehicle Code § 23577, namely that I willfully refused to submit to or complete a chemical test.

**I understand the penalties are:**

- A. Maximum:** Fine of \$1,000 plus state-mandated penalty assessments and fees as determined by the court, plus restitution fine of \$1,000 and/or restitution to any victim(s); 6 months in jail; suspension of driving privilege for 6 months; alcohol education program; vehicle impoundment at defendant-owner's expense for not more than 6 months unless defendant was driving another's vehicle or is exempted pursuant to Vehicle Code § 23592; installation of an ignition interlock device on any vehicle that the defendant owns or operates and payment of associated fees pursuant to Vehicle Code § 23575; disallowance of restricted driver's license pursuant to Vehicle Code § 23536(d).
- B. Minimum Without Probation:** Fine of \$390 plus state-mandated penalty assessments and fees as determined by the court, plus restitution to the victim(s) or restitution fund; 96 hours in jail, at least 48 hours of which must be served continuously; alcohol education program; and suspension of driving privilege for 6 months.
- C. Minimum With 3 to 5 Years Probation:** Fine of \$390 plus state-mandated penalty assessments and fees as determined by the court, plus restitution to the victim(s) or restitution fund; alcohol education program; suspension of driving privilege for 6 months; and 48 hours in jail.
- D. Minimum With 3 to 5 Years Probation, If Refused Chemical Test (Veh. Code, § 23577):** Fine of \$390 plus state-mandated penalty assessments and fees as determined by the court, plus restitution to the victim(s) or restitution fund; 48 hours in jail; attend an alcohol education program.

By personally writing **[YES]** in the boxes below, I indicate that I understand the following rights, and I expressly give up and waive each right knowingly, intelligently, and voluntarily as each applies to this charge.

<b>DEFENDANT TO PERSONALLY WRITE [YES] OR [NO] IN EACH BOX:</b>	I understand this right	I give up this right
1. Right to a speedy and public jury trial .....	[ ]	[ ]
2. Right to confront and cross-examine all witnesses against me .....	[ ]	[ ]
3. Right to remain silent and not incriminate myself .....	[ ]	[ ]
4. Right to subpoena and produce evidence .....	[ ]	[ ]
5. Right to be sentenced by a judge: I understand that by giving up this right I stipulate that I may be sentenced by a temporary judge .....	[ ]	[ ]
6. Right to be represented by an attorney at all stages of the proceedings and to have the court appoint one at no charge if I cannot afford my own .....	[ ]	[ ]

**D.U.I. WAIVER - NO PRIORS; ORDER ACCEPTING PLEA**

I further understand:

7. If I am not a citizen of the United States, a plea of guilty could result in my being deported from the United States, excluded from admission to the United States, or denied naturalization as a United States citizen.
8. If I am currently on probation or parole for any other criminal offense, that such probation or parole could be revoked as a result of my plea today.
9. Any driver's license suspension or revocation from DMV administrative proceedings is independent of court-imposed penalties.
10. A conviction for this offense will increase the punishment I receive for any future convictions.
11. A plea of no contest (nolo contendere) will have the same legal effect as a plea of guilty. If I plead no contest the court will find me guilty based on my no contest plea.
12. I am hereby advised pursuant to Vehicle Code § 23593 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 that driving, someone is killed, I can be charged with murder.

**DEFENDANT TO PERSONALLY WRITE [YES] IN ONE OF THE FOLLOWING TWO BOXES:**

I AM NOT REPRESENTED BY AN ATTORNEY, and I give up my right to an attorney.

I AM REPRESENTED BY AN ATTORNEY. I have discussed my case with my attorney. We discussed the rights I am giving up by my plea, the elements of the offense(s) charged, the possible defenses and the consequences of my plea.

**IF THE DEFENDANT IS CHARGED WITH ONE OR MORE ENHANCEMENTS, DEFENDANT TO PERSONALLY WRITE [YES] IN THE APPLICABLE BOX(ES):**

I admit to the enhancement under Vehicle Code § 23578 for driving while having a 0.15 percent or more blood alcohol content ("BAC").

I admit to the enhancement under Vehicle Code § 23577 for willfully refusing to submit to or complete a chemical test.

I have read this document or have had it read for me, and I understand it. I have personally and voluntarily placed the answers in the boxes.

I enter a plea of  guilty  no contest to the charge(s) of violation of Vehicle Code sections

I declare under penalty of perjury that the foregoing is true and correct.

Dated: \_\_\_\_\_

Defendant \_\_\_\_\_

**ATTORNEY'S STATEMENT**

I \_\_\_\_\_ declare that I am the attorney of record for the defendant;  
**that** I have fully discussed this document and the matters herein with the defendant and advised the defendant thereon;  
**that** the representations of the defendant are the defendant's own;  
**that** I believe that the plea and waivers are knowingly, intelligently and voluntarily made;  
**that** the defendant understands the consequences of this plea;  
**that** I join in the plea and waivers; and,  
**that** I stipulate there is a factual basis for the plea and that time is waived for judgment and sentencing.  
**I declare under penalty of perjury that the foregoing is true and correct.**

Dated: \_\_\_\_\_  
\_\_\_\_\_ Attorney for Defendant

**INTERPRETER'S STATEMENT**

I, \_\_\_\_\_, a qualified interpreter, having been sworn, truly translated this form and all the questions therein to the defendant in the \_\_\_\_\_ language. With the exception of the defendant's signature, I have completed the form at the defendant's direction. I then asked the defendant, through his or her attorney if represented, if the defendant understood what the form said, and if (s)he did understand, to sign the form **if, and only if**, (s)he still intended to plead guilty or no contest to the charge(s), and admit the truth of any enhancements or special allegations. The defendant indicated understanding of the contents of the form, and then signed the form.

Dated: \_\_\_\_\_  
\_\_\_\_\_ Interpreter

**PROSECUTOR'S STATEMENT**

I have reviewed this form and understand the terms of the plea agreement. I agree that a factual basis exists for the plea. I  agree  do not agree with the terms of the plea.

Dated: \_\_\_\_\_  
\_\_\_\_\_ Deputy District Attorney / Attorney General

**FINDINGS AND ORDER**

I find that the defendant has been fully informed of his/her constitutional and statutory rights in this case and the consequences of this plea and understands them.

I further find that the defendant has knowingly, intelligently, and voluntarily waived his/her rights and that there is a factual basis for the defendant's plea and any applicable admissions.

IT IS ORDERED that the defendant's plea and any enhancements admitted be accepted and entered in the minutes of this court. This executed waiver of rights form is ordered filed in the records of this court and incorporated in the above-numbered case by reference.

Dated: \_\_\_\_\_  
\_\_\_\_\_ Judicial Officer

