

<b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF MERCED</b> <input type="checkbox"/> Superior Courts Building <input type="checkbox"/> Los Banos Division 2260 N Street                              1159 G Street Merced, CA 95340                        Los Banos, CA 93635 (209) 725-4100                              (209) 725-4124		<i>Reserved for Clerk's File Stamp</i>
People of the State of California  v.  Defendant:		
<b>MISDEMEANOR</b> <b>ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM</b> <b>Vehicle Code §§ 14601, 23152, 23153, 23103/23103.5</b>		Case No.
<b>INITIALS</b>	<b>DECLARATIONS</b>	
1.	By placing my initials in the space to the left, I declare I fully understand each declaration and waiver.	
2.	I stipulate to a court commissioner acting as temporary judge until final determination of the cause.	
3.	I have been informed of the charge(s)/enhancement(s) against me, and each charge/enhancement was fully explained to me by my attorney or the judge, and I understand the nature and the possible consequences of the charge(s)/enhancement(s).	
4.	<b>Right to an attorney:</b> 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 it. 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.	
5.	I have had enough time to discuss my case and all possible defenses with my attorney. My attorney has explained the elements of the charged offense(s), any enhancement(s) and/or allegation(s) against me. I have told my attorney all the facts that are known to me about my case and we have discussed my rights, waiver of those rights, and all possible consequences of this plea.	
6.	<b>[Leave blank if you have an attorney]</b> I am proceeding without an attorney though the Court has advised me of the dangers of doing so.	
7.	<b>Right to a jury trial:</b> I understand I have a constitutional right to a speedy trial by the court or jury open to the public. I must be tried within 30 days of my arraignment if I am in custody or within 45 days if I am not in custody. I understand that a jury is composed of twelve members of the community, that I may participate in the selection of jurors, and that the verdict of the jury must be unanimous.	
8.	<b>Right to confront and cross-examine witnesses:</b> I understand that I have the right to confront and cross-examine all witnesses testifying against me.	
9.	<b>Right against self-incrimination:</b> 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, or admitting prior conviction(s) or probation violation(s), I am incriminating myself.	
10.	<b>Right to produce evidence:</b> I understand that I have the constitutional right to have the Court use its power to subpoena witnesses and documents on my behalf and to present evidence, at no cost to me.	
11.	<b>Parole/Probation:</b> I understand that if I am now on parole, post-release community supervision, mandatory supervised release, or probation, my plea of guilty or no contest will constitute a violation of my probation.	
12.	<b>Immigration:</b> If you are not a citizen of the United States, you are hereby advised that a conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. I understand this. I have had sufficient time to discuss the potential immigration consequences of my plea with my attorney, and I am willingly, knowingly, and voluntarily choosing to enter my plea of guilty or no contest, rather than go to trial.	
13.	I understand that I have a right to wait a minimum of 6 hours, and up to 5 days, to be sentenced after entering my plea. However, I understand the Court may extend this time if it orders a pre-sentencing probation report.	
14.	I understand that a plea of no contest has the same effect as a plea of guilty in this proceeding, but may not be used against me in a civil action out of this incident.	
<b>INITIALS</b>	<b>WAIVER OF RIGHTS</b>	
15.	I understand the word "waive" means that I give up the rights I have.	
16.	<b>[Leave blank if you have an attorney]</b> I hereby waive my right to have an attorney represent me.	
17.	I hereby waive my right to a jury trial and my right to a court trial.	
18.	I hereby waive my right to confront and cross-examine any witnesses against me.	
19.	I hereby waive my right to have witnesses and documents subpoenaed on my behalf and my right to present evidence.	
20.	I hereby waive my right to remain silent and to not incriminate myself.	
21.	I hereby waive time for sentencing so the Court may sentence me now.	
<b>INITIALS</b>	<b>ENTRY OF PLEA</b>	
22.	I am freely and voluntarily entering a plea. No one has threatened me or anyone close to me to make this plea. No one has made any other promises to me, such as a lighter sentence, reward, immunity or anything not discussed in this form.	
23.	I am not under the influence of any drugs, alcohol, or medication.	
24.	I freely and voluntarily plead guilty or no contest to: <input type="checkbox"/> Vehicle Code section 23152(a) – "driving under the influence of alcohol/drugs" <input type="checkbox"/> Vehicle Code section 23152(b) – "driving with a blood alcohol of .08 or above" <input type="checkbox"/> Vehicle Code section 23152(f) <input type="checkbox"/> Vehicle Code section 23152(g) <input type="checkbox"/> Vehicle Code section 23103 – "dry reckless driving" <input type="checkbox"/> Vehicle Code section 23103.5 – "wet reckless driving" <input type="checkbox"/> Vehicle Code section <input type="checkbox"/> 14601 <input type="checkbox"/> 14601.1 <input type="checkbox"/> 14601.2 <input type="checkbox"/> 14601.5 - "driving with a suspended/revoked license" <input type="checkbox"/> Other: _____ <input type="checkbox"/> Enhancements: _____	

INITIALS	ENTRY OF PLEA <i>(continued)</i>	
	25.	I admit my prior conviction(s):
	26.	I understand the charge(s) carry a maximum of _____ in county jail.
	27.	I understand that in addition to the fine imposed, the law requires the Court to add assessments which will increase the amount I must pay. I understand that I may also be ordered: (1) to make restitution to the victim, if the offense involved a victim, or to a Restitution Fund and/or battered women's shelter; and (2) to pay the expenses incurred by a public agency which responded to any incident caused by my vehicle at the time of my arrest.
	28.	<b>Factual Basis:</b> I admit the facts as stated in the police report constitute a factual basis for my plea.
	29.	<b>Arbuckle Waiver:</b> I understand that I have the right to be sentenced by the same judge or court commissioner who takes my plea. I give up that right and agree that any judge or court commissioner may sentence me.
	30.	<b>Harvey Waiver:</b> The sentencing judge or court commissioner may consider the entire factual background of the case, including any dismissed or stricken charges or allegations or cases, and any charges the District Attorney agrees not to file, when granting probation, ordering restitution or imposing sentence.
	31.	I understand that the Department of Motor Vehicles (DMV) may restrict, suspend, or revoke my license under a procedure which is separate from this criminal action. I understand that the DMV's action, if any, will be in addition to the Court's sentence and that I must obey it.
	32.	I understand that if the Court orders my license restricted, and the DMV orders my license suspended, the restricted license does not allow me to drive until the DMV's suspension has been completed or set aside. The restriction shall begin upon reinstatement of my privilege to drive.
	33.	I understand that I must successfully complete an alcohol/drug program in order to be eligible for a driver's license following my license restriction, suspension, or revocation.
	34.	I understand that a subsequent conviction for a like offense (driving under the influence and/or driving with a suspended/revoked license) will carry increased penalties.
	35.	<b>Ignition interlock Device:</b> I understand that I may be ordered to install a certified ignition interlock device on any vehicle that I own or operate, for up to three years from the date of my conviction.
	36.	<b>Murder Liability Advisement:</b> I have been advised of and warned that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle. Therefore, it is extremely dangers 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. (Vehicle Code section 23593)
	37.	Other consequences:

**DEFENDANT'S STATEMENT**

I have read or have had this form read to me. I understood all items above and personally initialed each item that applies to my case. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant's Signature

**ATTORNEY'S STATEMENT**

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained to the defendant each of his/her rights and answered all of the defendant's questions with regard to this plea. I have discussed the facts of the case with the defendant, and explained the consequences of this plea, including the immigration consequences, the elements of the offense(s), and the possible defense(s). I concur with this plea and the defendant's decision to waive his/her constitutional right and stipulate to a factual basis.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Signature

**INTERPRETER'S STATEMENT (if applicable)**

I, \_\_\_\_\_, having been duly sworn or having a written oath on file, certify that I truly interpreted this form to the defendant in the \_\_\_\_\_ language. The defendant stated that he/she understood the contents in the form and then he/she initialed and signed the form.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Interpreter's Signature, # \_\_\_\_\_

**PROSECUTING ATTORNEY'S STATEMENT**

I stipulate there is a factual basis for this plea. I have reviewed this plea form and do not believe any further statement of consequences or advisement of rights are necessary. If applicable, I stipulate to a court commissioner acting as temporary judge until final determination of the cause.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Signature

**COURT'S FINDINGS AND ORDER**

The Court, having reviewed this form and having questioned the defendant, finds that (a) the defendant has read or has had this form read to him/her and understands each of the initialed terms on this form; (b) the defendant understands the nature of the crimes and allegations listed and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives his/her constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily and there is a factual basis for the plea.

The Court accepts the defendant's plea, admissions, and waiver of rights and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the Court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this Court.

Date

Signature of the Court

**SENTENCES FOR RECKLESS DRIVING WITH ALCOHOL OR DRUGS  
(VEH. CODE SECTION 23103 UNDER 23103.5)**

Offense	Minimum and Maximum Sentence	Additional Consequences
<b>Veh. Code section 23103 under section 23103.5 ("reckless driving")</b>	<p><u><b>If probation is granted:</b></u></p> <ul style="list-style-type: none"> <li>Maximum probationary period of 3 years,</li> <li>Jail term up to 90 days, and/or</li> <li>Fine of up to \$1,000 plus penalty assessments, and</li> <li>DUI program.</li> </ul> <p><u><b>If probation is not granted:</b></u></p> <ul style="list-style-type: none"> <li>Jail term of 5 to 90 days, and/or</li> <li>Fine of between \$145 to \$1,000 plus penalty assessments.</li> </ul>	<ul style="list-style-type: none"> <li>The resulting conviction will be considered a prior offense for any future DUI offenses in the next 10 years.</li> <li>DUI offenses include:                             <ul style="list-style-type: none"> <li>Reckless driving (Veh. Code section 23103/23103.5).</li> <li>DUI (Veh. Code section 23152).</li> <li>DUI with Injury (Veh. Code section 23153).</li> </ul> </li> </ul>

**SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS  
(VEH. CODE SECTION 23152)**

Offense	Minimum and Maximum Sentence/Conditions if Probation Is Granted 3-5 year probation term per Veh. Code section 23600	Minimum and Maximum Sentences without Probation
<b>First Offense within 10 years</b> (No prior convictions for Veh. Code section 23103 under 23103.5, 23152 or 23153 within the preceding 10 years.)	<ul style="list-style-type: none"> <li>Mandatory fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of 48 hours to 6 months.</li> <li>3-month or 6-month DUI program if my blood-alcohol content was .15% or more, or a 9-month program if my blood-alcohol content was .20 % or more or if I refused a chemical test.</li> <li>6-month driver's license suspension or a 10-month suspension if a 9-month DUI program is ordered.</li> </ul>	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of 98 hours to 6 months (at least 48 hours in jail must be continuous).</li> <li>6-month driver's license suspension.</li> </ul>
<b>Second Offense within 10 years</b> (One prior conviction for Veh. Code section 23103 under 23103.5, 23152 or 23153 within 10 years.)	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of either 10 days to 1 year or 96 hours (two 45-hour terms) to 1 year.</li> <li>8- or 30-month DUI program.</li> <li>2-year driver's license suspension.</li> </ul>	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of 90 days to 1 year.</li> <li>2-year driver's license suspension.</li> </ul>
<b>Third Offense within 10 years</b> (Two prior separate convictions for any combination of Veh. Code section 23103 under 23103.5, 23152 or 23153.)	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of at least 120 days to 1 year or a term of 30 days to 1 year and participation in a 30-month DUI program.</li> <li>18- or 30-month DUI program.</li> <li>3-year driver's license revocation.</li> <li>Designation as a habitual offender for 3 years. (Veh. Code section 23550).</li> </ul>	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of at least 120 days to 1 year.</li> <li>3-year driver's license revocation.</li> <li>Designation as a habitual offender for 3 years. (Veh. Code section 23550).</li> </ul>

**WILLFULL REFUSAL TO SUBMIT TO OR COMPLETE CHEMICAL TEST  
AT TIME OF ARREST FOR VEH. CODE SECTION 23152 OR 23153**

**Any person who is convicted of a violation of Veh. Code section 23152 or 23153 and at the time of arrest leading to the conviction willfully refused a peace officer's request to submit to, or willfully failed to complete, a chemical test or test(s) will be required to attend a 6-month drug/alcohol program in addition to the following penalties:**

First Violation of Veh. Code section 23152	A fine of \$390 to \$1,000, mandatory jail term of 48 hours to 6-months, <b>and</b> 1-yr driver's license suspension. (Veh. Code sections 23538, 23577, & 23612).
First Violation of Veh. Code section 23153	An additional 48 continuous hours in jail (mandatory, even if probation is granted), fine, <b>and</b> 1-year driver's license suspension. (Veh. Code sections 23577 & 25612).
Second Violation of Veh. Code section 23152 <b>or</b> 23153	An additional 96 hours in jail (cannot be stayed even if probation is granted), <b>and</b> 2-year driver's license suspension. (Veh Code sections 23577 & 23612).
Third Violation of Veh. Code section 23152	An additional 10 days in jail (cannot be stayed even if probation is granted).

**SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS WITH BODILY INJURY  
(VEH. CODE SECTION 23153)**

Offense	Minimum and Maximum Sentences/Conditions if Probation Term is Granted (3-5 year probation term per Veh. Code section 23600)	Minimum and Maximum Sentences without Probation
<b>First Offense within 10 years</b> (No prior convictions for Veh. Code section 23103 under 23103.5, 23152 or 23153 within the preceding 10 years.)	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Jail term of 5 days to 1 year.</li> <li>1-year driver's license suspension.</li> <li>Attendance and completion of an alcohol/drug education and counseling program.</li> <li>If my blood-alcohol content was less than .20%, a 3 month (or longer) DUI program.</li> <li>If my blood-alcohol content was .20% or more or if I refused to take a chemical test when arrested, a 9 month (or longer) alcohol/drug education and treatment program.</li> <li>1-year driver's suspension.</li> </ul>	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$1,000 plus penalty assessments.</li> <li>Misdemeanor: 90 days to 1 year in jail.</li> <li>Felony: prison for 16 months, 2 or 3 years.</li> <li>1-year driver's license suspension.</li> </ul>

**SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS WITH BODILY INJURY (cont'd)  
(VEH. CODE SECTION 23153)**

Offense	Minimum and Maximum Sentences/Conditions if Probation Term is Granted (3-5 year probation term per Veh. Code section 23600)	Minimum and Maximum Sentences without Probation
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<p><b>Second Offense within 10 years</b> (One prior conviction for Veh. Code section 23103 under 23103.5, 23152 or 23153 within 10 years.)</p>	<p>Two Options:</p> <ul style="list-style-type: none"> <li>(1) Fine of between \$390 to \$5,000 plus penalty assessment, jail term of 120 days to 1 year, and 3 year driver's license revocation.</li> <li><u>or</u></li> <li>(2) Fine of between \$390 to \$1,000, jail term of 30 days to 1 year, 18- or 30-month DUI program, and 3-year driver's license revocation.</li> </ul>	<ul style="list-style-type: none"> <li>Fine of between \$390 to \$5,000 plus penalty assessments.</li> <li>Misdemeanor: 120 days to 1 year in jail.</li> <li>Felony: prison for 16 months, 2 or 3 years.</li> <li>3-year driver's license revocation.</li> </ul>
<p><b>Third Offense (or more) within 10 years</b> (Two prior separate convictions for any combination of Veh. Code section 23103 under 23103.5, 23152 or 23153.)</p>	<ul style="list-style-type: none"> <li>Fine of between \$390 and \$5,000 plus penalty assessments.</li> <li>Jail term of at least 1 year.</li> <li>18- or 30-month DUI program.</li> <li>5-year driver's license revocation.</li> </ul>	<ul style="list-style-type: none"> <li>Fine of between \$1,015 and \$5,000 plus penalty assessments.</li> <li>Prison for 2, 3, or 4 years.</li> <li>Alcohol and drug program while in prison.</li> <li>5-year driver's license revocation.</li> <li>Designation as a habitual offender for 5 years.</li> <li>If the offense caused great bodily injury to anyone other than the driver, and the offense occurred within 10 years of 4 or more separate DUI offenses, the Court will impose a consecutive 3-year prison term.</li> <li>Additional 1 year of imprisonment for each injured (or deceased) victim (3 years max).</li> </ul>

**DUI ADDITIONAL PENALTY FOR EXCESSIVE SPEED OR RECKLESS DRIVING  
(VEH. CODE SECTION 23582)**

**Any person who drives a vehicle 30 m.p.h. over the maximum on a freeway or 20 m.p.h. over the maximum on any other street or highway with willful or wanton disregard to the safety of people or property (i.e., reckless driving) during the commission of a DUI offense (Veh. Code sections 23152 and 23153) will be punished by the additional and consecutive terms.**

First Offense	Additional 60 days in jail (even if probation is granted or sentence is suspended), a drugs/alcohol education program, and/or a counseling program.
Second or additional offenses	Additional 60 days in jail (even if probation is granted or sentence is suspended).

**VIOLATING VEH. CODE SECTION 23152 WITH PASSENGER UNDER 14 IN THE VEHICLE  
ENHANCEMENT: PUNISHMENT CANNOT BE STAYED**

First Offense	Additional 48 continuous hours in jail (even if probation is granted).
Second Offense	Additional 10 days in jail (even if probation is granted).
Third Offense	Additional 60 days in jail (even if probation is granted).
Fourth Offense	Additional 90 days in jail (even if probation is granted).

**PENALTIES FOR DRIVING WHILE LICENSE IS SUSPENDED, REVOKED, OR RESTRICTED**

Vehicle Code Section	First Conviction	Second or Additional Offenses Within 5 years of a prior conviction for Veh. Code sections 14601.1, 14601.2, 14601.5	Additional Consequences
14601	5 days to 6 months in jail plus a fine of \$300 to \$1,000 plus penalty assessments.	10 days to 1 year in jail and a fine of \$500 to \$2,000 plus penalty assessment <u>or</u> at least 10 days in jail (if probation is granted).	<b>Ignition Interlock Device ("IID")</b> If the plea to this charge is in satisfaction of, or as a substitute for, an original charge of Veh. Code section 14601.2, an order to install an IID for 3 years will be made.
14601.1	Up to 6 months in jail <u>or</u> a fine of \$300 to \$1,000 plus penalty assessments <u>or</u> both.	5 days to 1 year in jail <u>and</u> a fine of \$500 to 2,000 plus penalty assessments.	<b>Ignition Interlock Device ("IID")</b> If the plea to this charge is in satisfaction of, or as a substitute for, an original charge of Veh. Code section 14601.2, an order to install an IID for 3 years will be made.
14601.2 & 14601.4 (Same penalties except for the release restriction in section 14601.4.)	10 days to 6 months in jail <u>and</u> fine of \$300 to \$1,000 plus penalty assessments.  If probation is granted, jail term of at least 10 days.  <b>Mandatory</b> installation of an ignition interlock device.	30 days to 1 year in jail <u>and</u> a fine of \$500 to \$2,000 plus penalty assessments.  If probation is granted, jail term of at least 30 days.  Mandatory installation of an ignition interlock device.	<b>Habitual Offender:</b> A person who has been designated as a habitual offender will be punished by an additional 180 days in jail and \$2,000 fine.  <b>14601.4:</b> A person who violates Veh. Code section 14601.4 is ineligible for work release, community service or any other program until the minimum jail term has been served (even if probation is granted).
14601.3	30 days in jail <u>and</u> \$1,000 fine plus penalty assessments.	For a second or subsequent offense within 7 years 180 days in jail <u>and</u> \$2,000 fine plus penalty assessments.	<b>Habitual Offender:</b> A person who has been designated as a habitual offender will be punished by an <b>additional</b> 180 days in jail <u>and</u> \$2,000 fine plus penalty assessments.
14601.5	Up to 6 months in jail or fine of \$300 to \$1,000 plus penalty assessments <u>or</u> both.	10 days to 1 year in jail <u>and</u> fine of \$500 to \$2,000 plus penalty assessments.	<b>Ignition Interlock Device ("IID")</b> If the plea to this charge is in satisfaction of, or as a substitute for, an original charge of Veh. Code section 14601.2, an order to install an IID for 3 years will be made.

**DEFENDANT'S STATEMENT**

I have read or have had the above chart read to me setting forth the minimum and maximum sentences. I understand them. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Defendant's Signature**