

CASE# _____

NOW COMES _____, affiant, being duly sworn and on oath, deposes and states that I have probable cause to believe that _____, hereinafter referred to as operator and defendant, committed the offense of Driving Under the Influence in violation of 23 V.S.A. § 1201. In support of this charge the affiant states:

- 1. I am a law enforcement officer certified by the Vermont Criminal Justice Training Council. I am trained and certified by the Vermont Criminal Justice Training Council to operate the DMT infrared breath-testing instrument.
- 2. On _____ at _____ hours, the defendant was operating/attempting to operate/in actual physical control, of a (year/make/model) _____, bearing registration _____ on a public highway known as _____ in the town/city of _____ in the county of _____ in the State of Vermont.
- 3. A. My observations of the defendant’s operation that resulted in my making this stop are documented on **Page 1-A**.

OR B. Although I did not observe operation in this case, I was able to determine that the defendant operated the above described vehicle at _____ hours based upon the evidence presented on **Page 1-A** of this affidavit.
(If officer did NOT observe the driving, submit with case statements from witnesses establishing that this accused drove the vehicle, the approximate TIME, and the public highway.)

4. OBSERVATION OF OPERATOR

- Odor of intoxicants Strong Moderate Faint None
- Eyes Watery Bloodshot Normal
- Speech Unintelligible Mumbled Slurred Confused Normal

IF OFFICER DID NOT OBSERVE THE OPERATION (Whether crash or not) ASK:
 Did you drink any alcoholic beverages after driving? No / Yes: How many? _____
 How much did you drink in the 30 minutes before you stopped driving? _____

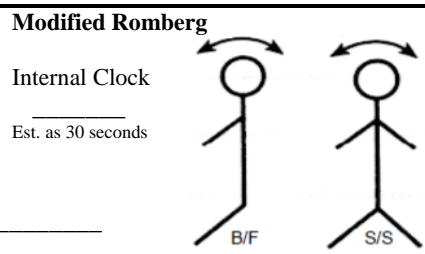
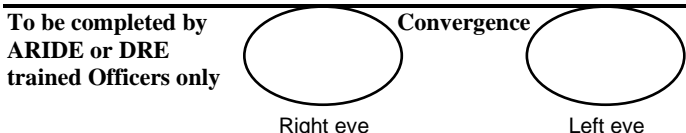
- 1. Have you consumed any alcoholic beverages?
 No Yes: How many? _____
 - 2. What time was your first drink? _____
 - 3. What time was your last drink? _____
 - 4. How much, if anything, have you had to drink in the last 30 minutes? _____
 - 5. Have you consumed any drugs or medications? No Yes: What? _____
 - 6. Other observations (e.g. alphabet, counting, etc.): _____
 - 7. Difficulty getting out of vehicle? No Yes: Describe: _____
- Standing Falling Extreme Sway Slight Sway Unsteady Steady
 Walking Falling Stumbling Unsteady Steady
 Alcoholic containers in vehicle? No Yes # _____ Types: _____ Full Empty None

5. STANDARDIZED FIELD SOBRIETY TESTS

Is there any reason that the operator cannot perform these exercises? No Yes: Explanation (e.g. roadway, health, etc.): _____

	L. EYE	R. EYE	
HGN	<input type="checkbox"/> Lack of smooth pursuit	<input type="checkbox"/>	Total Clues
	<input type="checkbox"/> Distinct jerkiness at maximum deviation	<input type="checkbox"/>	
	<input type="checkbox"/> Onset of distinct jerkiness prior to 45°	<input type="checkbox"/>	
Walk & Turn	<input type="checkbox"/> Can't balance during instructions	<input type="checkbox"/> Starts before instructed	<input type="checkbox"/> Incorrect number of steps
	<input type="checkbox"/> Stops walking to steady self	<input type="checkbox"/> Does not touch heel to toe	<input type="checkbox"/> Cannot do exercise
	<input type="checkbox"/> Loses balance/steps off line	<input type="checkbox"/> Uses arms for balance	(steps off line 3 times)
	<input type="checkbox"/> Loses balance while turning/turns incorrectly		Total Clues
One Leg Stand	<input type="checkbox"/> Sways while balancing	<input type="checkbox"/> Hopping	
	<input type="checkbox"/> Cannot do exercise (puts foot down 3 times)	<input type="checkbox"/> Puts foot down	
	<input type="checkbox"/> Uses arms to balance (raises arms more than 6 inches)		Total Clues

Comments (e.g. shoes, etc.): _____



Officer’s opinion of Impairment
 None Slight Moderate Substantial Extreme

PBT Result _____% BAC at _____ Hrs. Model: _____ Serial # _____

TIME OBSERVATION OF OPERATOR STARTED: _____ Hrs. Timepiece used: _____

6. BEFORE WE GO ANY FURTHER I WANT TO EXPLAIN THESE RIGHTS TO YOU: (Check as read.)

- ☐ You have the right to remain silent.
☐ Anything you say can and will be used against you in a court of law.
☐ You have the right to talk to a lawyer before questioning and to have a lawyer present with you during questioning.
☐ If you cannot afford to hire a lawyer, one will be appointed to represent you at public expense, before any questioning, if you wish.
In Vermont, that is called a public defender.
☐ If you decide to answer questions, you may stop the questioning at any time.
☐ Do you understand each of these rights I have explained to you? Reply: ☐ Yes ☐ No
☐ Do you want to talk to me now? Reply: ☐ Yes ☐ No

If answer is "NO," OFFICER SHOULD STOP, and say the following:

☐ "There will be no questions. I will now go to the subject of evidentiary testing." (OFFICER SHOULD GO IMMEDIATELY TO No. 8 "IMPLIED CONSENT" on page 3).

If answer is "YES," OFFICER SHOULD READ THE WAIVER to defendant and ask if she/he wishes to sign, as follows: WAIVER

☐ I have been advised that I have the right to remain silent, to be represented by a lawyer, to talk with one prior to questioning and to have one present during questioning. Knowing my rights, I agree to waive them and talk to you now. No threats or promises have been made to me.

Date/Time (Specify timepiece used) Operator's Signature (or time of taping)
Comments:

If defendant declines the waiver or requests a lawyer, OFFICER SHOULD STOP, and say the following:

☐ "In that event, you are hereby notified that I will not ask you any questions. We will now go to the subject of evidentiary testing. After that, you will have an opportunity to talk with a lawyer before making your decision whether to take or refuse the test." (OFFICER SHOULD GO IMMEDIATELY TO No. 8. "IMPLIED CONSENT" on page 3).

7. INTERVIEW

- Where were you driving to? _____
Where were you driving from (this time)? _____
How long ago did you drive from that location? _____
What food have you eaten in the last six hours? _____ How long ago did you eat that? _____
What have you been drinking? ☐ Beer ☐ Liquor ☐ Wine – Specific type (brand/name of drink) _____
How many drinks of each kind did you have? _____
What time did you start drinking? _____ What time did you stop drinking? _____
How much if anything did you drink in the 30 minutes before you stopped driving? _____
Who were you drinking with? (obtain names) _____
Where (specific location) were you drinking? _____
How much do you weigh? _____ Are you tired? ☐ No ☐ Yes
Are you ill? ☐ No ☐ Yes, if so describe: _____
Do you have any physical handicaps? ☐ No ☐ Yes, if so describe: _____
Do you limp? ☐ No ☐ Yes Do you have diabetes? ☐ No ☐ Yes Taking insulin? ☐ No ☐ Yes
Do you have epilepsy? ☐ No ☐ Yes
Have you been injured lately? ☐ No ☐ Yes, if so describe: _____
Do you wear glasses? ☐ No ☐ Yes Do you wear contact lenses? ☐ No ☐ Yes
In the last 24 hours have you taken any medications or drugs? ☐ No ☐ Yes
Were the drugs/medications affecting your driving? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Please describe what drug/medication and the dosage/amount consumed? _____
Are you under the influence of drugs right now? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Are you under the influence of alcohol now? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Were you under the influence of drugs while driving the vehicle? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Were you under the influence of alcohol while driving the vehicle? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Were you feeling the effects of the alcohol while driving the vehicle? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Were you feeling the effects of the drug(s) while driving the vehicle? ☐ No ☐ Slightly ☐ Moderately ☐ Substantially
Have you been convicted of Driving Under the Influence in VT or any other State? ☐ No ☐ Yes
If YES, where and when? _____
Are you currently on Probation? ☐ No ☐ Yes Are you currently on Conditions of Release? ☐ No ☐ Yes

OTHER QUESTIONS/ANSWERS (Re: DUI or any OTHER OFFENSES involved) use supplemental page.

8. IMPLIED CONSENT (Check as read).

- I am a law enforcement officer of the State of Vermont.
- I have grounds to believe that you have operated, attempted to operate, or been in actual physical control of a vehicle on a public highway while under the influence of intoxicating liquor, or drugs, or both.
- (FATAL/SERIOUS INJURY ONLY)** I have probable cause to believe that you are the surviving operator of a motor vehicle involved in an accident or collision resulting in death or serious bodily injury to another person. I have reasonable grounds to believe that you have some amount of alcohol or other drug in your system.
- Vermont law authorizes me, as a law enforcement officer, to request an evidentiary test to determine whether you are under the influence of alcohol or other drugs. Before you decide, I will explain your rights.
- If you submit to an evidentiary test, you have the right to have additional tests administered at your own expense by someone of your own choosing. The results will be sent only to you or your lawyer. At this time, I am also providing you with a list of facilities in this area that are available to you for drawing a sample of your blood.
- In addition, if you submit to an evidentiary test administered with an infrared device, following your receipt of the results of that test, you have a right to a second evidentiary test administered by me using the infrared device.
- If the results of the evidentiary test indicate that you are under the influence of alcohol, you will be subject to criminal charges and your license or privilege to operate a motor vehicle will be suspended for at least 90 days.
- If you refuse to provide an evidentiary test, and if you have been previously convicted of Driving Under the Influence of intoxicants (DUI/DWI) in Vermont under Title 23 V.S.A. Section 1201 or in any other jurisdiction which prohibited operating, attempting to operate, or being in actual physical control of a motor vehicle on a highway while under the influence of intoxicating liquor or drugs, or both, or while having .08 percent or more by weight of alcohol in the person’s blood or an alcohol concentration of .08 or more, you may be charged with the crime of criminal refusal.
- If you refuse to provide an evidentiary test and you have been involved in an accident/collision resulting in serious bodily injury or death of another, you may be charged with the crime of criminal refusal.
- If you refuse to provide an evidentiary breath test, your refusal may be offered into evidence against you at trial.

(FATAL/SERIOUS INJURY ONLY) If you refuse to provide an evidentiary test and you have been involved in an accident/collision resulting in serious bodily injury or death to another, the court may issue a search warrant and order you to submit to a blood test. Your refusal to submit to an evidentiary breath test may be offered into evidence against you at trial, whether or not a search warrant is sought, and the results of any blood test ordered by the court may be offered into evidence against you at trial.

- Your privilege to drive shall be suspended for at least six months if you refuse the evidentiary test and the court finds my request is reasonable.
- You have the right to talk with a lawyer before deciding whether or not to submit to an evidentiary test. If you want a lawyer, a Public Defender will be contacted for you at the state’s expense, regardless of your income, or an attempt will be made to contact an attorney of your choice at your expense.
- You must decide whether or not to submit to the evidentiary test within a reasonable amount of time and no later than 30 minutes from the time of the initial attempt to contact an attorney, regardless of whether a consultation takes place.
- Do you understand each of these rights? Yes No
- Do you want to talk to a lawyer before deciding whether or not to submit to a test?
 - Yes Time of first attempt: _____ (per timepiece) # of attempts _____
 - Lawyer contacted: _____ Time Started: _____ Time Finished: _____
 - No

Operator’s Signature

Witness

(If operator refuses to sign you MUST contact an attorney unless a recorded waiver is obtained.)

- Will you give a sample of your breath as evidence Yes No. (IF “No,” OFFICER SHOULD GO TO **Sec. 10**)
 - IF YES, 15 Min OBSERVATION PERIOD started at:** _____ hours Timepiece used: _____
 - The operator has been observed for **15 uninterrupted minutes** during which he/she did not burp, belch, or vomit.
 - Operator was asked: Have you burped, belched, or vomited within the last 15 minutes?** Yes No
 - If Yes, **restart 15 min. observation. Restarted at:** _____ hrs. (per timepiece)
 - Your result is _____% at _____ **per DMT clock AND** _____ (per timepiece) date _____.
 - If result is “INVALID”, officer should rerun evidentiary test by replacing mouthpiece, then RE-STARTING NEW 15 MIN. OBSERVATION period. Restarted at:** _____ hrs. (per DMT Clock)
 - Your result is _____% at _____ **per DMT clock AND** _____ (per timepiece) date _____.
 - Do you want a second infrared test NOW? Yes No
 - I administered the operator’s DMT breath test in accordance with my training and certification.
- The evidentiary ticket(s) is (are) incorporated by reference into this affidavit.

9. READ THE APPROPRIATE ALTERNATIVE TO OPERATOR

A. If operator is being released on their own or to a sober adult: Since you are being released, if you wish additional tests, to be paid for at your own expense, you will have to make your own arrangements. Do you intend to obtain additional tests? Yes No Test Kit Provided Yes No

If, at the completion of processing, the operator, after reasonable efforts, is unable to arrange transportation necessary to obtain an additional test and the operator wants a test, the officer must arrange to provide transportation to a facility that will administer the test.

B. If operator is being taken to detox or held for an extended period of time: Because you are being detained for a short period prior to being released, I will make arrangements for you to have an additional test, at your expense, if you so desire. Do you want me to transport you to obtain an additional test? Yes No Test Kit Provided Yes No Arrangements:

C. If operator is being lodged: Because you are being lodged, you must tell me now if you want an additional test, at your expense, so that I can make the arrangements. Do you want me to transport you to obtain an additional test? Yes No

10. STATUS OF OPERATOR:

Inquired as to the operator's current address and informed him/her that information is required for future mailings Mailing Address Residential Address

Is operator on active duty, or scheduled to go on active duty, in the Armed Forces? Yes No - If yes, Command Unit, Service Branch, and Service #

Operator identified by License Other I.D. Picture I.D. Citation Lodged Released without Citation Complaint # Other

11. DISCLOSURE OF EVIDENCE:

A. OFFICER'S OBSERVATIONS OF OPERATOR

Attitude Excited Talkative Indifferent Profane Combative Insulting Cocky Cooperative Polite Mood Swings

Other: Unusual Actions: Hiccapping Belching Vomiting Fighting Laughing

B. MOTOR VEHICLE RECORD & DUI CONVICTIONS

The DMV RECORD of Operator is attached and incorporated by reference as if fully set forth herein.

Record discloses prior DUI Convictions: No Yes: dates of prior DUI conviction(s):

C. RECORDING: Is there a separate audiotape? Yes No

Video: Cruiser Yes No DUI Processing Room Yes No Other:

D. WITNESSES (Passengers / other persons)

Name: Address: Phone # Passenger Other Describe Condition:

Statement obtained: Yes No

Other witnesses listed on separate page

12. DISPOSITION:

Operator released to: Name/Address: Phone #: OR - Operator taken to: Phone #:

Acknowledged operator is impaired No Yes: Slight Extreme Other:

Signature:

Date & Time processing completed: / / per timepiece.

Disposition of operator's vehicle: Condition of operator's vehicle:

VIN of operator's vehicle:

Name of Registered Owner(s): Address:

Being duly sworn and on oath, I hereby certify that the information contained in this form has been accurately recorded and accurately describes my observations of the actions and statements of the operator identified on page one.

Signature

Date

Subscribed and sworn before me this day of

Notary Public

CASE # _____

NOW COMES _____, affiant, being duly sworn and on oath, deposes and states that I have probable cause to believe that _____, hereinafter referred to as defendant, committed the offense of Driving Under the Influence in violation of 23 V.S.A. § 1201. In support of this charge the affiant states:

- 1. I am a law enforcement officer certified by the Vermont Criminal Justice Training Council. I am trained and certified by the Vermont Criminal Justice Training Council to operate the DMT infrared breath-testing instrument.
- 2. On _____ at _____ the defendant was operating, attempting to operate, in actual physical control, of a _____, on a public highway known as _____ in the town/city of _____ in the county of _____.

3. I made the following observations of defendant’s operation that resulted in my making this stop.

OR

Although I did not observe operation in this case, I was able to determine that the time of operation was _____ hours from the following information (e.g. witnesses, defendant’s statements):