

CERTIFICATE OF REFUSAL – BREATH/BLOOD TEST (COMMERCIAL MOTOR VEHICLE)

Commonwealth of Virginia Va. Code § 46.2-341.26:3

INFORMATION ABOUT CONSEQUENCES OF REFUSALS

The Code of Virginia provides that if you, whether licensed by Virginia or not, operate a commercial motor vehicle upon a highway in the Commonwealth and are arrested for a drug or alcohol-related driving offense in violation of §§ 46.2-341.24 or 46.2-341.31, if arrested within three hours of the alleged offense, you shall be deemed to have agreed, as a condition of such operation, to consent to have a sample of breath, blood, or both breath and blood taken for chemical testing to determine the alcohol and/or drug content of your blood. You shall submit to a breath test. If the breath test is unavailable, a blood test shall be given. If the arresting officer has reasonable cause to believe that you were driving under the influence of drugs or a combination of drugs and alcohol, you may be required to allow the taking of a blood sample for chemical testing to determine the drug content of your blood, even if a breath sample was previously provided.

If you refuse to permit the taking of a required sample of breath, blood, or both breath and blood, and your refusal is unreasonable, your refusal constitutes a separate offense that will result in the immediate issuance of an out-of-service order prohibiting you from driving a commercial vehicle for a period of 24 hours and disqualification from operating a commercial motor vehicle. A first offense of refusal to permit the taking of breath, blood, or both breath and blood samples is a civil offense.

A finding of a first offense of unreasonable refusal shall result in the revocation of your privilege of operating a motor vehicle upon the highways of the Commonwealth for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

Subsequent violations of unreasonable refusal to permit the taking of breath samples may be criminal offenses. A conviction of unreasonable refusal to permit the taking of breath samples within 10 years of you being found guilty previously of driving while intoxicated or unreasonable refusal will result in finding you guilty of a Class 1 misdemeanor, which is punishable by confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both, and will also result in the court suspending your privilege to drive for a period of 3 years.

Subsequent violations of unreasonable refusal to permit the taking of blood samples within 10 years of you being found guilty previously of driving while intoxicated or unreasonable refusal will result in the court suspending your privilege to drive for a period of 3 years.

If it is found that you unreasonably refused to consent to a breath test or blood test, that finding may be admitted as evidence in a criminal trial for a violation of §§ 46.2-341.24 or 46.2-341.31 for the purpose of explaining the absence at trial of a chemical test of such sample or for the purpose of rebuttal. When admitted in a criminal trial for a violation of §§ 46.2-341.24 or 46.2-341.31 this evidence will not be considered as evidence of your guilt.

DECLARATION AND ACKNOWLEDGMENT OF ARRESTING OFFICER

I, _____, an arresting officer in the City/County/Town of _____

NAME

_____, Virginia, do hereby certify that I have read this form to

_____, who has been arrested pursuant to Virginia

PERSON ARRESTED

Code §§ 46.2-341.24 or 46.2-341.31, and who, after having this form read to him has refused to permit the taking of a [] breath sample and/or [] blood sample.

[] The person arrested has been convicted of _____ violation(s) of §§ 46.2-341.26:3, any offense

NUMBER OF CONVICTIONS

described in 18.2-270 (E), 46.2-341.24 or 46.2-341.31 within the last 10 years.

DATE

SIGNATURE OF ARRESTING OFFICER

The arresting officer acknowledged under oath before me that he or she had read this form to the person named above.

DATE

MAGISTRATE