

**DEPARTMENT OF MOTOR VEHICLES**  
**LICENSING OPERATIONS DIVISION**  
**Driver Safety Branch**  
7677 Oakport Street, Suite 220  
Oakland, CA 94621-1906



Telephone: (510) 563-8900 FAX: (510) 563-8950

**ADMINISTRATIVE PER SE - REFUSAL**  
**NOTIFICATION OF FINDINGS AND DECISION**

[REDACTED]

DRIVER LICENSE OR FILE NO.
[REDACTED]
ARREST DATE
[REDACTED]

The stay of the revocation against your driving privilege has been ended. The revocation will be re-imposed effective [REDACTED]. The revocation will remain in effect through [REDACTED].

[REDACTED] is hereinafter also known as "Respondent."

The following findings and determinations are the results of your hearing on [REDACTED].

**FINDINGS OF FACT**

**Probable Cause:**

[REDACTED]

Consequently, Officer [REDACTED] made contact with Respondent.

Officer [REDACTED] formed the belief that Respondent had been driving a motor vehicle based on the following:

◦ Circumstantial evidence:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Based on the details of the preceding circumstantial evidence of driving, and the details of the indicated investigation into [REDACTED], it is determined that, Officer [REDACTED] had probable cause to contact Respondent.

The evidentiary basis for the finding on the probable cause issue is:

- [REDACTED]

**II**

**Objective Symptoms:**

Subsequent to making contact with Respondent, Officer [REDACTED] formed the belief that Respondent was intoxicated after having observed the following objective symptoms of intoxication:

- Bloodshot and watery eyes.
- Odor of alcoholic beverage.
- Unsteady gait.
- Slurred speech.

The evidentiary basis for the finding on the objective symptoms of intoxication issue is:

- The DS-367 (Officer's Sworn Statement).

III

**Reasonable Cause:**

Based on the preceding findings concerning probable cause, Officer [REDACTED] determination of driving, the Officer's belief that Respondent was intoxicated because of the objective symptom of intoxication, and the additional reported factor that the Officer used to form the belief of intoxication, it is hereby determined that Officer [REDACTED] had reasonable cause to believe that Respondent was driving a motor vehicle while under the influence of alcohol.

IV

**Lawful Arrest:**

On [REDACTED], at [REDACTED] PM Respondent was arrested for violation of Vehicle Code Section 23152, 23153, or 23140.

The determination that Respondent was arrested under the charge of driving under the influence, Vehicle Code Section 23152, 23153, or 23140 is based on:

- ° Explicit statements in DMV's documentary evidence.

The authority to arrest Respondent was lawful based on the following: Authority was granted under Section 40300.5 of the Vehicle Code .

V

**Admonition & Refusal:**

Respondent presented no contentions against the following issues and the findings are based on the Department's evidence associated with this matter.

ISSUE: Was Respondent admonished that his driving privilege would be suspended or revoked if he refused or failed to complete a required chemical test to determine the alcohol content of his blood?

FINDING: Respondent was told that his driving privilege would be suspended or revoked if he refused to complete the required testing.

ISSUE: Did Respondent refuse to take or fail to complete a chemical test or tests after being requested to do so by a peace officer?

FINDING: Respondent did refuse or fail to complete the chemical test or tests after being requested to do so by a peace officer.

VI

**Respondent Denied Driving:**

Respondent testified [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## VII

**Other Findings:**

Counsel contends [REDACTED]

Respondent testified [REDACTED]

° The testimony of Respondent is deemed not credible in that [REDACTED]

**Determination:** Counsel argument [REDACTED]

**As to the refusal of the chemical test** – Weight is given to the sworn DS 367 and accompanied reports that support Respondent refused the chemical test. The lack of a box not check on the DS 367 does not make the document void of all relevant information and is deemed not fatal. Further the back page 1 of the DS 367 details the refusal information along with the arrest report with indicates a Warrant was obtained to complete the forced blood draw.

The totality of the evidence supports the departments issues –

-Officer [REDACTED] had reasonable cause to believe Respondent had been driving in violation 23152 or 23153VC.

- Respondent was lawfully arrested
- Respondent was advise of his license would be suspended or revoked for failure to submit and or complete a chemical test.
- Respondent did fail to submit and or complete a chemical test when requested to do so.

Objections noted are insufficient to rebut the official duty presumption, with no rebuttal evidence presented. All exhibits' were moved into evidence.

The department concludes substantial evidence and reasonable inferences support the finding Respondent did fail to submit to a chemical test when requested to do so by a peace officer and Respondent was told his driver license would be suspended for 1 year or revoked for 2 to 3yrs.

- Re-imposing the revocation is warranted.

**DETERMINATION OF ISSUES**

- 1) The peace officer had reasonable cause to believe you were driving a motor vehicle in violation of Vehicle Code Section 23140, 23152, or 23153.
- 2) You were placed under lawful arrest.
- 3) You were told that your driving privilege would be suspended or revoked if you refused to complete the required testing.
- 4) You did refuse or fail to complete the chemical test or tests after being requested to do so by a peace officer.

**DECISION**

As a result of the preceding Findings & Determination, revocation of your driving privilege is re-imposed as specified here in these documents.

Dated: [REDACTED] \_\_\_\_\_ [REDACTED]  
 [REDACTED] - Driver Safety Officer

***THIS ACTION IS INDEPENDENT OF ANY OTHER ACTION TAKEN BY THE COURT OR THIS DEPARTMENT***

Before a driver license can be issued or returned to you after [REDACTED], you must complete the following:  
**A \$125.00 reissue fee must be paid to DMV.**  
**You must file proof of financial responsibility as provided in §16430 VC. (See attached or reverse.)**  
**You must maintain proof of financial responsibility for three years.**

**NOTE: If you drive while your driving privilege is suspended or revoked, you may be arrested and, if convicted, jailed and/or fined.**

Appeal Rights

You are entitled to a departmental review of this decision. A request for the departmental review does not stay the action. The review shall be limited to an examination of these findings and determination, and any documentary evidence submitted at the hearing. It will not include a personal interview nor a review of evidence not presented at the hearing. To have this review, you must submit your written request with \$120 for any action taken pursuant to §13353 VC or §13353.2 VC to the address shown above within 15 days of the effective date of the decision.

You may also request a court review of this action by contacting the superior court in your county of residence within 34 days from the date shown below.

Certificate of Service

I hereby certify under penalty of perjury under the laws of the State of California, that on the date below, I deposited in the United States mail at the address shown above, a true copy of this document; that I am over the age of eighteen years; an employee of the Department of Motor Vehicles at the business address shown above in the county where the office is located; and that I am not a party to the cause herein mentioned.

DATE [REDACTED]	SIGNATURE OF AUTHORIZED DMV EMPLOYEE [REDACTED]
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California Relay Telephone Service for the deaf or hearing impaired from TDD Phones: 1-800-735-2929; From Voice Phones: 1-800-735-2922

CC: [REDACTED]  
[REDACTED]

## PROOF FILING INFORMATION

The usual method of showing **proof** of financial responsibility is to provide a California Insurance Proof Certificate (form SR-22/SR-1P) from an insurance company authorized to do business in California. The **types** of coverage on the form SR-22/SR-1P are listed below:

**SR-22** ~ A motor vehicle liability policy may be provided to cover only vehicles registered in your name (owner's policy), only to vehicles you do not own (operator's policy), or all vehicles whether you own them or not (broad coverage). This certificate is acceptable for all DMV actions requiring proof of responsibility.

**SR-1P** ~ An automobile liability policy or a liability policy may be provided to cover vehicles with less than four wheels. This certificate is used after an accident without insurance, for negligent operator sanctions per §12810.5 VC, or for an application by a minor requiring proof.

**NOTE: THE SR-1P PORTION IS NOT ACCEPTABLE FOR ADMINISTRATIVE PER SE ACTIONS.**

To obtain a California Insurance Proof Certificate, contact an insurance agent or broker. **DO NOT SUBMIT** a copy of your policy or application as neither can be accepted in place of the California Insurance Proof Certificate. If necessary, persons unable to obtain this insurance coverage through their regular insurance company may have any insurance agent or broker make an application to the California Automobile Assigned Risk Plan. The Plan may be contacted directly for information at:

California Automobile Assigned Risk Plan  
P.O. Box 7917  
San Francisco, CA 94120-7917

Proof of financial responsibility may be met by a \$35,000 cash deposit or \$35,000 surety bond. Proof may also be filed by a self-insurer on behalf of an employee to permit driving vehicles owned by the self-insurer within the scope of employment. Bond information must be obtained from a surety bond company authorized in California. For information on the cash deposit or self-insurance, you may call (916) 657-6421, or write to:

DMV, Financial Responsibility Area  
P.O. Box 942884 Mail Station J-237  
Sacramento, CA 94284-0884