

SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL

People v. _____ Case No. _____

Advisement of Rights, Waiver, and Plea Form

Vehicle Code §23152

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial each applicable item only if you understand it. If you have any questions about your case, the possible sentence, or the information on this form, ask your lawyer or the judge.

RIGHT TO A LAWYER

1. I understand that I have the right to be represented by a lawyer throughout the proceedings. I understand that the Court will appoint a free lawyer for me if I cannot afford to hire a lawyer, but at the end of the case I may be asked to pay all or part of the cost of that lawyer, if I can afford to. I understand that there are dangers and disadvantages to giving up my right to a lawyer and that it is almost always unwise to represent myself. []

2. I give up my right to a lawyer, and I choose to represent myself. (Does not apply if you have a lawyer). []

NATURE OF THE CHARGES (Initial all sections you are charged with.)

I understand that I am charged with a violation of Vehicle Code section(s):

3. 23152(a) – Driving under the influence of alcohol or drugs, or both []

4. 23152(b) – Driving when my blood-alcohol level was .08 percent or higher []

5. 23103 under 23103.5 – Reckless driving involving alcohol or drugs, or both. I understand that this means that if, in the next ten years, I am arrested for driving under the influence or driving when my blood-alcohol level was .08 percent or higher, and I am convicted of that charge, I will be sentenced under the increased penalties the law provides for subsequent convictions. []

6. Check if applicable – 14601 _____ or 14601.1 _____ or 14601.2 Driving in knowing violation of a license suspension, revocation, or restriction. []

7. If applicable – Other charges (including non-Vehicle Code sections) – I understand that I am also charged with the following other offense(s): []

8. If applicable – I am also charged with having the following other conviction(s) []

9. If applicable – I am also charged with violating the probation imposed on me in the following case(s): []

10. I understand the charge(s) against me, and the possible pleas and defenses. []

CONSTITUTIONAL RIGHTS

11. RIGHT TO A JURY TRIAL – I understand that I have the right to a speedy, public trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt. []

12. RIGHT TO CONFRONT WITNESSES – I understand that I have the right to confront and cross-examine all witnesses testifying against me. []

13. RIGHT AGAINST SELF-INCRIMINATION – I understand that I have the right to remain silent and not incriminate myself, and the right to testify in my own behalf. I understand that by pleading guilty or no contest, or admitting other conviction(s) or probation violation(s), I am incriminating. []

14. RIGHT TO PRODUCE EVIDENCE – I understand that I have the right to present evidence and to have the Court issue subpoenas to bring into Court all witnesses and evidence favorable to me, at no cost to me. []

See reverse side

RIGHTS ON CHARGES OF OTHER CONVICTION(S) AND PROBATION VIOLATION(S)

15. **If applicable** – I understand that I have the right to a lawyer, the right to a jury trial, the right to confront witnesses, the right to against self-incrimination, and the right to produce evidence and witnesses for **all** of the charges against me, including any other alleged conviction(s) or probation violation(s). However, for a charge of violating probation, I do not have the right to a jury trial although I do have the right to a hearing before a judge.

WAIVER OF RIGHTS

16. I give up my right to a lawyer, and I choose to represent myself. (Does not apply if you have a lawyer.)

17. I give up my right to a jury trial.

18. I give up my right to confront and cross-examine witnesses.

19. I give up my right to remain silent and to not incriminate myself.

20. I give up my right to produce evidence and witnesses in my own behalf.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

21. I understand that if I am **not a citizen**, of the United States, I have the right to seek the advice and assistance of the consulate of the country of my citizenship. I am further advised that conviction of any crime may adversely affect my immigration status, and could result in deportation or exclusion from the United States, denial of admission to the United States, or denial of naturalization, amnesty, or certain federal appeals.

21.a I understand that being under the influence of alcohol or drugs, or both, impairs the 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.

22. I understand that a plea of **no contest** (nolo contendere) will have exactly the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit unless the offense is punishable as a felony.

23. I understand that my plea entered in this case may be grounds for **revoking probation or parole** that has been previously imposed on me in any other case.

24. I understand that in addition to the fine imposed, the law requires the Court to add **assessments** that will **significantly 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 (2) to pay the **expenses** incurred by a public agency that responded to any incident caused by my vehicle at the time of my arrest.

25. I understand that the DMV may consider any of my **prior convictions** for driving under the influence or reckless driving that are **not charged** in this proceeding and impose a more severe license restriction, suspension, or revocation as a result of my uncharged conviction(s).

26. **If applicable** – I understand that if my blood-alcohol content was **20 percent** or above, or if I **refused to** submit to a chemical test, the Court shall consider this in determining whether to enhance the penalties imposed on me, to grant probation, or to impose additional terms and conditions of probation.

27. **If applicable-** I understand that if I am convicted of Vehicle Code **§23152**, and I am the **registered owner** of the vehicle used in the offense:

A. The Court shall **impound** my vehicle at my expense for up to 90 days, unless it determines that it is in the interests of justice not to do so; **and**

B. The Court may declare my vehicle to be a **nuisance** and order it **sold** following a hearing if I have **two or more** other convictions of driving under the influence (Vehicle Codes §§23152 or 23153), or vehicular manslaughter (Penal Code §§191.5 or 192(c)(3)), or any combination thereof, in the past ten years.

Sentences for Driving Under the Influence of Alcohol and/or Drugs (Section 23152)

Offense	Minimum and maximum sentences when probation is granted (3 to 5 year probation term)	Minimum and maximum sentences without probation
First offense within 10 years (See Nos. 27-31)	Two options, both requiring attendance at an alcohol/drug program, a fine of \$390 to \$1,000, plus either: (A) 48 hours to 6 months in jail; <i>or</i> (B) A 90-day license restriction allowing driving for work and alcohol/drug program only	96 hours to 6 month in jail; \$390 to \$1,000 fine, and a 6-month license suspension.
Under either option, the Court <i>may</i> also suspend my license for 6 months.		
Second offense within 10 years (See Nos. 27-31)	Two options, both carrying a fine of \$390 to \$1,000, plus either: (A) 10 days to 1 year in jail and an 18-month license suspension; <i>or</i> (B) 48 continuous hours to 1 year in jail, an 18-month or 30-month alcohol/drug program, and a 1-year license restriction allowing driving for work and alcohol/drug program only.	90 days to 1 year in jail, \$390 to \$1,000 fine, and an 18-month license suspension .
Third Offense within 10 years (See No . (See Nos.27-32, 32.)	If probation is <i>not</i> granted: 5 days to 90 days in jail, <i>or</i> 45 to \$1,000 If probation <i>is</i> granted: a maximum of 90 days in jail or both.	If alcohol or drugs are involved, this conviction will act as a separate conviction for driving under the influence (DUI) if I commit a subsequent DUI offense within seven years.
Fourth or subsequent offense within 10 years (See Nos. 27-30, 32.)	180 days to 1 year in jail, \$390 to \$1,000 fine, a 4-year license revocation, and an 18-month alcohol/drug program if I have not completed one before.	16 months, or 2 or 3 years in state prison, or 180 days to 1 year in county jail; \$390 to \$1,000 fine, and a 4-year license revocation .

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ADDITIONAL PENALTIES FOR A VIOLATION OF §23152

- 28. I understand that the DMV may restrict, suspend, or revoke my license under an administrative procedure that is separate from this criminal action. If such a procedure used, the DMV may also require me to attend an alcohol/drug program before my license will be restored. I understand that the DMV’s action, if any, will be **in addition** to the Court’s sentence and that I must obey it.
- 29. I understand that the DMV may consider any of my **prior convictions** for driving under the influence or reckless driving that are **not charged** in this proceeding and impose a more severe license restriction, suspension, or revocation as a result of my uncharged conviction(s).
- 30. I understand that if it is alleged that I recklessly drove **30** or more miles above the speed limit on a **freeway**, or **20** or more miles above the limit on any other **street or highway**, the Court may impose an **additional consecutive term of 60 days in the county jail**. If this is my **first** offense, the Court may also order me to complete an alcohol/drug and counseling program.
- 31. **If applicable-** I understand that if I was **under** the age of **21** at the time of my arrest, in addition to the penalties in the above chart, my driver’s license shall be **suspended for one year** and I must **surrender** my license to the Court. If I do not have a valid license at the time of my conviction, the Court shall order the DMV to **delay** issuing a license to me for **one year** after I become eligible to drive.

FIRST OR SECOND VIOLATON OF §23152

- 32. **If applicable** – I understand that if the offense occurred in a vehicle that requires a **class 1 or class 2** (or **Class A** or **Class B**) driver’s license, my license **shall be suspended** for **six months** upon a **first** conviction, or for **18 months** upon a **second** conviction, even if probation is granted.

THIRD OR SUBSEQUENT VIOLATIONS OF §23152

- 33. **If applicable** – I understand that if I am convicted of a **third or subsequent** violation of Vehicle Code §23152:
 - A. I must surrender my license to the Court. I will also be designated as a **habitual traffic offender** for a period of **three years** after my conviction, and I will receive an enhanced jail term and fine if I drive in violation of my license revocation.
 - B. I must successfully complete an alcohol/drug program in order to be eligible for a driver’s license following my license revocation.
 - C. If **probation** is granted, I may request to participate in a **30-month treatment program**. This program includes a total of between 120 and 300 hours of community service. If the Court grants my request, I will be sentenced to the county jail for **at least 30 days but not more than one year** as a condition of probation instead of the jail term specified in the above chart.

See reverse side

Sentences for Reckless Driving (Section 23103 under Section 23105.5)

<i>Nature of offense</i>	<i>Minimum and maximum sentences</i>	<i>Other</i>
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Reckless driving reduced from driving under the influence	If probation is not granted: 5 days to 90 days in jail, or \$145 to \$1,000 fine, or both. If probation is granted: a maximum of 90 days in jail, or \$1,000 fine, or both.	If alcohol or drugs are involved, this conviction will act as a separate conviction for driving under the influence (DUI) if I commit a subsequent DUI offense within ten years
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Sentences for Driving with a Suspended, Revoked, or Restricted License (Sections 14601.1, or 14601.2)

Offense	<i>First offense within 5 years</i>	<i>Second or subsequent offenses: Prior conviction(s) in past 5 years of Sections 14601, 14601.1, 14601.2</i>
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Vehicle Code Section 14601	5 days to 6 months in jail, and a fine of \$300 to \$1,000	10 days to 1 year in jail, and a fine of \$500 to \$2,000.
Vehicle Code Section 14601.1	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	5 days to 1 year in jail, and a fine of \$500 to \$2,000
Vehicle Code Section 14601.2	10 days to 6 month in jail, or a fine of \$300 to \$1,000	If probation is <i>not</i> granted: 30 days to 1 year in jail, and a fine of \$500 to \$2,000. If probation <i>is</i> granted: a minimum of 10 to 30 days in jail, and \$500 to \$2,000 fine, depending on whether prior conviction was in past 7 or 5 years. (Note: a previous conviction under §14601.1 constitutes a prior conviction under this section only if that conviction occurred between 5 and 7 years ago.)

*If I have been designated as an **habitual traffic offender** within three years of this conviction, I will in addition be sentenced to serve **180 days in jail and pay a \$2,000 fine.**

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34. I have read and understood the applicable charts on pages 3 and 4 which list the minimum and maximum sentences for the offense(s)

I am charged with. (See No. 35 for the offenses not listed in the charts)

PENALTIES FOR OTHER CHARGES

35. **If applicable** – I understand that the **possible consequences** for the offense(s) charged that are **not listed** on the penalty charts on pages 3 and 4 include the following:

Section Number	Jail	Max.	Min.	Fine	Max.	Min.
Other Consequences _____						

Section Number	Jail	Max.	Min.	Fine	Max.	Min.
Other Consequences _____						

PLEA(S)

36. I hereby freely and voluntarily plead _____ to _____
 (guilty or no contest)

 (list charge (s))

37. **If applicable** - I freely and voluntarily admit the **other conviction(s)** I listed on this form. I understand that this admission will increase the penalties that are imposed on me.

38. **If applicable** - I freely and voluntarily admit the **probation violation(s)** listed on this form and give up my right to a hearing before a judge regarding the probation violation(s).

39. I understand that I have the right to wait from **six hours to five days** prior to being sentenced. I give up this right and agree to be sentenced at this time.

40. **If applicable** - I understand that I have the right to enter my plea before, and be sentenced by a judge. I give up this right and agree to enter my plea before, and be sentenced by _____
 Temporary Judge

_____ Date _____ Defendant's Signature

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have gone over the form with my client. I have explained each of the defendant's rights to the defendant, and answered all of the defendant's questions with regard to this plea. I have discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, *including immigration consequences*, the elements of the offense(s), and the possible defenses. I concur in this plea and the defendant's decision to waive constitutional rights.

DATE: _____ **SIGNED:** _____
Attorney for Defendant

INTERPRETER'S STATEMENT (IF APPLICABLE)

I, _____, having been duly sworn, truly translated this form to the defendant
in
the _____ language. The defendant indicated that (s)he understood the contents of the form, and (s)he
then
initialed the form.

DATE: _____ **SIGNED:** _____
Court Interpreter

COURT FINDINGS AND ORDER

The Court, having reviewed this form and having questioned the defendant concerning the defendant's constitutional rights, finds that the defendant has expressly, knowingly, understandingly and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea is freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea and the defendant is convicted on his or her plea.

The Court orders this form filed and incorporated in the docket by reference as though fully set forth therein.

DATE: _____ **SIGNED:** _____
Judge of the Superior Court

SIGNED: _____
Temporary Judge of the Superior Court