

1987/222



THE TRANSPORT (BREATH TESTS) NOTICE 1987

PURSUANT to section 57A of the Transport Act 1962 (as enacted by section 7 of the Transport Amendment Act (No. 3) 1978), the Minister of Transport hereby gives the following notice.

ANALYSIS

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NOTICE

1. Title and commencement—(1) This notice may be cited as the Transport (Breath Tests) Notice 1987.

(2) This notice shall come into force on the 1st day of August 1987.

2. Interpretation—In this notice,—

“Alcosensor II” means an Alcosensor II with a 4 digit readout:

“Draeger Alcotest” includes Draeger Normalair Alcotest ® 80, Draeger Safety Alcotest ® 80, and Alcotest ® 80/A:

“Enforcement officer” means the enforcement officer conducting the test:

“Intoxilyzer 5000” means an Intoxilyzer-Alcohol Analyzer, Model 5000:

“Lion Alcolmeter” means a Lion Alcolmeter E.B.A.

3. Approval of breath screening devices—The following devices are hereby approved as kinds of breath screening devices for the purposes of breath screening tests:

- (a) Draeger Alcotest:
- (b) Alcolyser.

4. Manner of carrying out breath screening tests by means of Draeger Alcotest—Breath screening tests carried out by means of a Draeger Alcotest device shall be carried out in the following manner:

- (a) *Step 1*: The sealed tips of both ends of the tube shall be broken off:
- (b) *Step 2*: The green end of the tube shall be inserted into the collar of the empty measuring bag, so that the arrow marked on the tube points towards the bag:
- (c) *Step 3*: The white end of the tube shall be pushed firmly into the mouthpiece:
- (d) *Step 4*: The person being tested shall blow through the mouthpiece and the tube until the bag is fully inflated. As far as possible, this should be done with one single breath in 10 to 20 seconds:
- (e) *Step 5*: The enforcement officer shall within 5 minutes examine the tube by daylight, or by the light of a torch or of any motor-vehicle headlight or internal light, or by any other artificial light except mercury or sodium-vapour street lighting:
- (f) *Step 6 (results of test)*:
 - (i) If the yellow crystals are stained a green colour and this green stain extends from the end of the crystals closest to the arrow marked on the tube to and beyond the yellow ring marked around the middle of the portion of the tube containing the crystals, the test shall be taken to indicate that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath:
 - (ii) If any of the yellow crystals are stained a green colour, the test shall be taken to indicate that there is some alcohol in the person's breath.

5. Manner of carrying out breath screening tests by means of Alcoyser—Breath screening tests carried out by means of an Alcoyser device shall be carried out in the following manner:

- (a) *Step 1*: The sealed tips of both ends of the tube shall be broken off:
- (b) *Step 2*: The red end of the tube shall be inserted into the collar of the empty measuring bag, so that the arrow marked on the tube points towards the bag:
- (c) *Step 3*: The end of the tube nearest the arrow shall be pushed firmly into the mouthpiece:
- (d) *Step 4*: The person being tested shall blow through the mouthpiece and the tube until the bag is fully inflated. As far as possible, this should be done with one single breath in 10 to 20 seconds:
- (e) *Step 5*: The enforcement officer shall within 5 minutes examine the tube by daylight, or by the light of a torch or of any motor-vehicle headlight or internal light, or by any other artificial light except mercury or sodium-vapour street lighting:
- (f) *Step 6 (results of test)*:
 - (i) If the yellow crystals are stained a green colour and this green stain extends from the end of the crystals closest to the arrow marked on the tube to or beyond the red line marked on the middle of the portion of the tube containing the crystals, the test shall be taken to indicate that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath:

(ii) If any of the yellow crystals are stained a green colour, the test shall be taken to indicate that there is some alcohol in the person's breath.

6. Approval of evidential breath-testing devices—The following devices are hereby approved as kinds of evidential breath-testing devices for the purposes of evidential breath tests:

- (a) Alcosensor II;
- (b) Intoxilyzer 5000;
- (c) Lion Alcolmeter.

7. Manner of carrying out evidential breath tests by means of Alcosensor II—Evidential breath tests carried out by means of an Alcosensor II device shall be carried out in the following manner:

- (a) *Step 1 (first zero test)*: The enforcement officer shall depress the SET button, and shall then depress the READ button for approximately 10 seconds and observe the resulting digital reading, which must be 0000 before the standardisation test (*step 2*) may proceed;
- (b) *Step 2 (standardisation test)*: The enforcement officer shall—
 - (i) Depress the SET button; and
 - (ii) Introduce into the device alcohol vapour from a container marked with the words "Breath Test Standard Alcohol Vapour supplied by the Department of Scientific and Industrial Research"; and
 - (iii) Depress the READ button while the vapour is being introduced and observe the maximum digital reading. If this reading is equal to or less than the level indicated on the Breath Test Standard Alcohol Vapour container, the second zero test (*step 3*) may proceed;
- (c) *Step 3 (second zero test)*: The enforcement officer shall depress the SET button, and shall then depress the READ button for approximately 10 seconds and observe the resulting digital reading, which must be 0000 before the evidential breath test (*step 4*) may proceed;
- (d) *Step 4 (evidential breath test)*:
 - (i) The enforcement officer shall depress the SET button and attach the mouthpiece; and
 - (ii) The person being tested shall blow through the mouthpiece; and
 - (iii) The enforcement officer shall depress the READ button while the person is blowing through the mouthpiece and observe the maximum digital reading; and
 - (iv) The enforcement officer shall record the maximum digital reading in writing;
- (e) *Step 5 (result of test)*: The maximum digital reading so recorded shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested.

8. Manner of carrying out evidential breath tests by means of Intoxilyzer 5000—Evidential breath tests carried out by means of an Intoxilyzer 5000 device shall be carried out in the following manner:

- (a) *Step 1 (start of testing)*: The enforcement officer shall—
 - (i) Depress the START TEST button; and
 - (ii) Insert a blank result card into the device;

- (b) *Step 2 (automatic checks)*: The device will automatically perform airblank checks and a calibration check. A failed airblank check or a failed calibration check will be indicated by the device not being able to proceed further, in which event the test cannot be carried out:
- (c) *Step 3 (evidential breath test)*:
- (i) The enforcement officer shall attach a new mouthpiece to the breath inlet tube; and
 - (ii) The enforcement officer shall instruct the person being tested to blow through the mouthpiece to provide a subject breath specimen sufficient for analysis; and
 - (iii) The person being tested shall blow through the mouthpiece to provide a subject breath specimen sufficient for analysis; and
 - (iv) The device will automatically perform an airblank check; and
 - (v) The enforcement officer shall instruct the person being tested to blow again through the mouthpiece to provide a subject breath specimen sufficient for analysis; and
 - (vi) The person being tested shall blow through the mouthpiece to provide a subject breath specimen sufficient for analysis:
- (d) *Step 4 (automatic checks)*: The device will automatically perform an airblank check and a calibration check:
- (e) *Step 5 (results of test)*:
- (i) If the message INCOMPLETE TEST is printed on the result card, the test has been unable to be carried out:
 - (ii) If 2 subject test result readings are printed on the result card, the lower of those 2 readings shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested:
 - (iii) If only 1 subject test result reading is printed on the result card, that reading shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested.

9. Manner of carrying out evidential breath tests by means of Lion Alcolmeter—Evidential breath tests carried out by means of a Lion Alcolmeter device shall be carried out in the following manner:

- (a) *Step 1 (start of testing sequence)*: The enforcement officer shall—
- (i) Depress the RETURN key; and
 - (ii) Type the passcode; and
 - (iii) Depress the B key (breath):
- (b) *Step 2 (entering of identification details)*: The enforcement officer shall enter sequentially by means of the keyboard—
- (i) The name of the person being tested; and
 - (ii) The officer's own name; and
 - (iii) The number of printout copies required.
- The enforcement officer may make corrections to entries by depressing the DELETE key and correcting:
- (c) *Step 3 (start of test, and automatic checks)*: The enforcement officer shall depress the S key (start) to start the test.

The device will automatically perform airblank checks and a calibration. A failed airblank test or a failed calibration will be indicated by the device not being able to proceed further, in which event the test cannot be carried out:

(d) *Step 4 (evidential breath test):*

(i) The enforcement officer shall attach a new mouthpiece to the breath inlet tube; and

(ii) The enforcement officer shall instruct the person being tested to blow through the mouthpiece to provide a subject breath specimen sufficient for analysis; and

(iii) The person being tested shall blow through the mouthpiece to provide a subject breath specimen sufficient for analysis; and

(iv) The device will automatically perform an airblank check; and

(v) The enforcement officer shall instruct the person being tested to blow again through the mouthpiece to provide a subject breath specimen sufficient for analysis; and

(vi) The person being tested shall blow through the mouthpiece to provide a subject breath specimen sufficient for analysis:

(e) *Step 5 (automatic checks):* The device will automatically perform an airblank check and a calibration check:

(f) *Step 6 (results of test):*

(i) If the message INCOMPLETE TEST appears on the printout, the test has been unable to be carried out:

(ii) If 2 subject test result readings (indicated by the expression "SUBJ") appear on the printout, the lower of these 2 readings shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested:

(iii) If only 1 subject test result reading (indicated by the expression "SUBJ") appears on the printout, that reading shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested.

10. Revocation—The Transport (Breath Tests) Notice 1978* is hereby revoked.

Dated at Wellington this 21st day of July 1987.

R. W. PREBBLE,
Minister of Transport.

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice revokes and replaces, as from 1 August 1987, the Transport (Breath Tests) Notice 1978. The 2 main changes from the provisions of the 1978 notice are as follows:

- (a) Consequent upon the enactment of the Transport Amendment Act 1987 and the Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1987, provision is made for the lower level of alcohol required per litre of breath in the case of persons holding learner or restricted licences, or persons who do not apparently hold a licence entitling them to drive the vehicle in question.
- (b) The Intoxilyzer 5000 and the Lion Alcolmeter are now approved for use as evidential breath-testing devices, and the procedures for carrying out evidential breath-testing with those devices are prescribed.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 July 1987.

This notice is administered in the Ministry of Transport.