

# Georgia Department of Public Safety

## Policy Manual

<b>SUBJECT</b> <b>DUI ENFORCEMENT</b>	<b>POLICY NUMBER</b> <b>11.05</b>
<b>DISTRIBUTION</b> <b>ALL SWORN MEMBERS</b>	<b>REVISED DATE</b> <b>6/22/2012</b>

### 11.05.1 Purpose

To give members guidance in reducing impaired driving related offenses by training personnel to detect, apprehend and prosecute impaired drivers.

### 11.05.2 Policy

It is the policy of Georgia Department of Public Safety (DPS) to apprehend and prosecute all impaired drivers.

### 11.05.3 Definitions

- A. Standard Field Sobriety Tests (SFST) - used to help officers determine whether the driver is impaired, includes the walk and turn test, one-leg stand test, and horizontal gaze nystagmus, which involves checking for an involuntary movement of the eyes.
- B. Standard Field Sobriety Class (SFSC) - This is a 24-hour P.O.S.T. certified class on the apprehension and prosecution of impaired drivers.
- C. Preliminary Breath Screening - This is a breath screening performed at the roadside with an approved portable breath screening device (Alco-Sensor).
- D. Implied Consent - This is the warning read to all suspects arrested for DUI involving their rights as to a chemical test, O.C.G.A. § 40-5-67.1.
- E. State Administered Test – This is the official state administered chemical test or tests requested by the arresting officer.
- F. Additional Tests - Once the suspect has agreed to and indeed performs the requested state administered chemical test or tests, the suspect may be entitled to another test performed by qualified personnel of their own choosing at their own expense.
- G. ALS Form - The Administrative License Suspension Form (DPS 1205 & 1205 S) to be filled out on all suspects arrested for DUI.
- H. BAC- Blood Alcohol Concentration

## 11.05.4 The Law

Alcohol Presumptions  
O.C.G.A. § 40-6-392

- A. If there was at the time an alcohol concentration of .05 grams or less the presumption is that a person is not under the influence of alcohol, unless the person is under 21.
- B. If there is at the time an alcohol concentration in excess of .05 but less than .08 grams there is no presumption of impairment but impairment can be proved with other competent evidence.
- C. If there is a BAC of .08 (over 21), .02 (under 21), .04 (commercial driver in commercial vehicle) the presumption is that a person is impaired.
- D. It shall be the policy of the DPS that all sworn personnel shall be familiar with all traffic codes dealing with DUI (O.C.G.A. § § 40-6-391, 40-6-392, 40-5-55, 40-5-67.1)

## 11.05.5 Procedures - DUI Traffic Stops

- A. When a sworn member observes erratic or illegal driving and suspects the driver may be impaired, the member should note the actions of the driver and initiate a traffic stop.
- B. When the member suspects the driver's ability to operate a motor vehicle is impaired, the member shall do a thorough investigation to determine if the suspect is impaired.
- C. This investigation shall include appropriate questions about drinking (how much, what kind, where and when), medications that the subject may be taking and also how the impairing substance is affecting them. These questions may include any health problems the violator might have which could mimic intoxication (e.g. diabetes which causes a strong breath odor when the blood sugar falls very low or heart problems, which might cause weakness and staggering).
- D. The investigation shall also include the use of SFST. All three evaluations should be used unless circumstances do not allow this use. If all three evaluations are not used it should be noted in the member's incident report why. In the event a member has not attended the SFSC then the member should use other appropriate field tests (e.g. ABC test or the finger to nose test).
- E. If after conducting field sobriety evaluations it is determined that the driver is unable to safely operate the vehicle the driver shall be placed under arrest for DUI.
- F. The member then makes arrangements for the vehicle in compliance with the DPS Removing Vehicles Policy #17.06 and Wrecker Qualifications Policy #7.05.
- G. The member shall then read the appropriate Implied Consent Card to the driver (over 21, under 21, commercial driver) and designate which type chemical tests are requested.
- H. The member shall arrange for the transport of the suspect to a facility for testing. Tests shall be administered by qualified personnel and witnessed by a law enforcement officer.
- I. If the arrestee submits to a breath test and registers .08 (age 21 or over), .02 (under age 21), or .04 (commercial motor vehicle driver), then the member shall fill out an Administrative License Suspension (DDS 1205) form and personally serve it to the

arrestee. If the arrestee refuses the requested state test, then the member shall fill out a 1205 form and personally serve the arrestee.

- J. If the requested test is other than a breath test, then the member shall complete a DDS 1205S form once the test results are received if the results indicate a BAC that meets the per se standards as set out in the above paragraph. All original 1205 and 1205S forms must be signed by the member and mailed to the Administrative License Suspension Unit at the Department of Driver Services (DDS).
- K. If the arrestee has a driver's license, the license shall be seized by the member. If a 1205 form is filled out, then the license shall be sent to DDS with the 1205 form. If a 1205 form is not issued, then the license shall be sent to the court with the citation.
- L. If the arrestee has a valid license, then a temporary driving permit shall be issued. If a 1205 form is issued and the arrestee has a valid license, then the member must sign the 30 day temporary driving permit at the bottom of the 1205 form. If a 1205 form is not issued and the arrestee has a valid license, then the member shall affix a 180-day permit to the bottom of the arrestee's copy of the DUI citation.
- M. If a member receives a subpoena for an Administrative License Suspension Hearing (ALS Hearing) they shall attend the hearing. If the member is unable to attend, the member shall notify their supervisor and the administrative law judge presiding over the case and request a continuance.
- N. The member shall complete a DUI incident report within five-working days of the incident on all suspects charged with DUI. The submitted report shall be approved and signed/initialed by a supervisor in accordance with the Records, Forms and Reports Policy #13.02.
- O. The member shall document the results of the state administered breath test on the uniform traffic citation in the following manner; results in grams (gms), refusal or pending. If another type test is administered, the name, employer and qualifications of the administering person shall be indicated on the citation.

### **11.05.6 Training**

- A. Every Trooper Cadet shall successfully complete a P.O.S.T. certified 24-hour training course on DUI Detection and Standardized Field Sobriety Testing before being approved for graduation from Trooper School.
- B. Every sworn member shall be trained to administer all SFSTs in the prescribed order (i.e. HGN, Walk and Turn and One Leg Stand) on every suspected impaired driver unless circumstances do not allow it. In this case it shall be documented in the officer's report the reasons why the tests were not done. Reasons for not administering the tests may include but are not limited to injured in a motor vehicle accident, physical handicaps, too impaired to follow instructions, location not safe or practical, unsafe for the member or the subject involved, environmental conditions, etc.
- C. The preliminary breath screenings shall not be used as the only evidence for arrest. Other evidence includes speech, odor of an intoxicant, SFSTs, or other indicators of impairment.