

CHAPTER 7
PRELIMINARY ALCOHOL SCREENING DEVICE
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CHAPTER 7

PRELIMINARY ALCOHOL SCREENING DEVICE

1. GENERAL. Preliminary alcohol screening (PAS) devices may be used by departmental members to augment or complement an officer's probable cause to arrest for driving under the influence (DUI) related offenses. The PAS device is a hand-held breath testing device designed to analyze a person's blood alcohol concentration (BAC). The PAS devices used by the Department are accurate and highly reliable instruments, which meet stringent federal guidelines for evidentiary breath-testing instruments. Preliminary alcohol screening devices are useful tools for the enforcement of, and detection of, DUI violations (Sections 23152/23153 of the California Vehicle Code [CVC]), commercial vehicle drivers in violation of 0.04 percent BAC (Sections 23152[d]/23153[d] CVC), commercial vehicle drivers in violation of 0.01 percent BAC (24-hour out-of-service), and zero tolerance violations of drivers under 21 years of age. Preliminary alcohol screening devices are also used to refute or negate a driver's contention that their impairment is based upon alcohol consumption whenever they are suspected of being under the influence of an illegal drug. A PAS device test is one of the Department's approved field sobriety tests (FST). In addition to the requirements of this manual, officers should familiarize themselves with their PAS device operator manual prior to using the device.

2. LEGAL CONSIDERATIONS.

a. Section 23612 California Vehicle Code. The CVC specifically authorizes law enforcement officers to administer a PAS device test during a DUI investigation.

(1) Pursuant to Section 23612(h) CVC, a PAS device test that indicates the presence or concentration of alcohol based on a breath sample in order to establish reasonable cause to believe the person driving was in violation of Section 23140 CVC, 23152 CVC, or 23153 CVC is an FST and may be used by an officer as a further investigative tool.

(2) If the officer decides to use a PAS device test, the officer shall advise the person that they are requesting that person take a PAS device test to assist the officer in determining if that person is under the influence of alcohol or drugs, or a combination of alcohol and drugs.

(a) The person's obligation to submit to a breath, blood, or in some specified cases urine test, as required by Section 23612 CVC, for the purposes of determining the alcohol or drug content of that person's blood, is not satisfied by the person submitting to a PAS device test. The

officer shall advise the person of that fact and of the person's right to refuse to take a PAS device test.

(b) This admonishment does not apply to drivers under 21 years of age who are suspected of being in violation of zero tolerance (i.e., having a BAC of 0.01 percent or greater). Refer to Chapter 4 of this manual for zero tolerance violation procedures.

b. Title 17, California Code of Regulations. Published by the Department of Health Care Services, Title 17, California Code of Regulations (CCR) sets forth requirements which govern forensic alcohol analysis and breath alcohol analysis. Title 17 does not apply to PAS devices; however, departmental policy regarding the use and maintenance of PAS devices is closely modeled after Title 17 requirements to increase the weight of the PAS device evidence in court.

c. Admissibility in Court.

(1) In January 1996, the Second District Court of Appeals, in the case *People v. Bury* (41 Cal.App.4th 1194 [1996]), held that the results of a PAS device test are admissible in court. The court found that PAS device test evidence may be relevant not only to establish cause to arrest, but also to prove intoxication as an essential element of the crime.

(2) In July 2002, the California Supreme Court, in the case *People v. Williams* (Cal. 4th S098552 [2002]), ruled that the results of a PAS device test are admissible as evidence in a criminal prosecution. To gain admissibility, there must be a showing of either compliance with Title 17 CCR or the following three foundational elements:

(a) Properly Functioning Equipment. This can be established through testimony provided by the testing officer and/or Area/Division PAS device coordinator regarding the following:

1 The Lifeloc FC20, Intoximeter Alco-Sensor IV, and the Intoximeter Alco-Sensor FST PAS devices are listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List of approved evidential breath testing devices (published in the Federal Register).

2 The accuracy of the PAS device is checked every ten calendar days or 150 tests (whichever comes first) by the Area/Division PAS device coordinator.

3 A diagnostic check was performed prior to testing to ensure there was no residual alcohol in the fuel cell (also referred to as "zero

setting”). This check occurs automatically when the device is activated, and a sample cannot be obtained if residual alcohol is detected.

4 The PAS device was operating within the proper temperature range (otherwise a sample could not be obtained).

5 The testing officer determined the display lights were functioning properly, there was no evidence of a low battery, and no evidence of radio frequency interference (RFI) prior to or during the test.

NOTE: A sample cannot be obtained if external interference (such as RFI) is detected by the device.

(b) A Properly Administered Test. This can be established through testimony provided by the testing officer and/or Area/Division PAS device coordinator regarding the following:

1 The proper admonition was given to the subject prior to testing.

2 The subject was observed for at least 15 minutes prior to testing. In rare cases in which a subject could not be observed for at least 15 minutes prior to testing, the testing officer may be able to offer testimony regarding investigative questions that were asked in lieu of the 15-minute waiting period (e.g., have you had anything to drink in the past 15 minutes, have you regurgitated in the past 15 minutes).

3 The testing officer performed the proper testing procedures while administering the test.

a A deep lung air sample was obtained from the subject (an automatic sample will ensure that deep lung air is obtained).

b Two separate samples were obtained within 0.02 percent.

NOTE: In order to help ensure the admissibility of PAS device results in court, officers should obtain two breath samples which do not differ from each other by more than 0.02 percent. If the results differ by more than 0.02 percent, the officer should take a third sample from the subject. Officers should allow two minutes to elapse between tests.

c The arresting officer properly recorded the test results on the CHP 202, Driving Under the Influence Arrest – Investigation Report, and on other appropriate documents.

(c) A Competent and Qualified Operator (Officer). This can be established through testimony provided by the testing officer and/or Area/Division PAS device coordinator regarding the following:

- 1 The officer administering the test has received sufficient training on the theory of operation and detailed procedures of operation. For departmental PAS devices, theory of operation entails a basic understanding that a PAS device is a fuel cell-based instrument. The CHP Impaired Driving Section (IDS) trains all Academy cadets in PAS device theory of operation. In addition, a brief description of fuel cell technology and how it relates to the operation of a PAS device is contained in paragraph 8 of this chapter.
- 2 The officer administering the test has practical experience in using the make/model of PAS device in question.
- 3 The officer properly administered the test.

d. Burden of Proof—Introduction of Preliminary Alcohol Screening Device Evidence. According to Section 115 of the Evidence Code, the burden of proof in establishing each of the three foundational items outlined above is a preponderance of evidence (i.e., that the evidence is more likely than not to be reliable). The *Bury* and *Williams* decisions also reaffirmed that noncompliance with Title 17 CCR goes toward the weight of the evidence and not its admissibility.

e. Constitution of the United States, Fourth Amendment. The use of PAS devices constitutes a search or seizure within the meaning of the Fourth Amendment. The use of PAS devices is legal, and is considered another FST. Asking a person to blow into a PAS device is no more intrusive than asking a person to perform FSTs (Attorney General’s Opinion 88-1102, 23612[h] CVC).

f. Incident Reporting. Impaired Driving Section should be notified by e-mail at PAS-PDS@chp.ca.gov or by telephone at (916) 843-4360, of any adverse and/or favorable reactions or constitutional challenges to the use of PAS devices. If a telephone call is made, a follow-up e-mail or memorandum may be requested.

3. COURT TESTIMONY.

a. Preliminary Alcohol Screening Device Operators. Officers should familiarize themselves with the foundational requirements outlined in paragraph 2. of this chapter and be prepared to articulate specific information about their training and experience. Possible questions include the following:

(1) Classroom and practical (in-field) training they have received on alcohol detection/DUI and the use of PAS devices (e.g., number of hours, location[s] of training, instructor's credentials/title, training date[s]).

(2) A general explanation of what a PAS device is, its theory of operation, and the procedures involved in properly administering a test.

(3) An explanation of how the officer determined that the PAS device was operating properly during the test(s) in question.

b. Preliminary Alcohol Screening Device Coordinators. A PAS device coordinator shall be a uniformed member of the Department. In addition to the elements mentioned above, PAS device coordinators should also be prepared to act as departmental PAS device experts when called upon to do so in court. As such, they should also be prepared to testify regarding:

(1) The types of PAS devices used by the Department.

(2) The fact that departmental PAS devices are listed on NHTSA's Conforming Products List (published in the Federal Register) of approved evidential breath testing devices.

(3) The specific duties and responsibilities of a departmental PAS device coordinator (e.g., training of Area personnel, maintaining the accuracy/calibration of departmental PAS devices, maintaining pertinent PAS device records, tracking PAS equipment, coordinating timely repairs of equipment when necessary).

(4) The extent of training they have received in alcohol detection/DUI, PAS device operating procedures, theory of operation, and accuracy check/calibration procedures.

(5) The proper steps/procedures involved in performing a PAS device test on a subject.

(6) The proper steps/procedures involved in performing an accuracy check and/or calibration on a PAS device using a wet-bath alcohol simulator or dry gas cylinder and regulator.

(7) The difference between a PAS device accuracy check and a PAS device calibration.

(8) The frequency of PAS device accuracy checks (i.e., every ten calendar days or 150 tests, whichever comes first), and the circumstances in which a PAS device calibration is required (i.e., when the PAS device accuracy check is not within 0.01 percent of the known simulator solution value).

(9) The documentation and maintenance of PAS device accuracy check/calibration records (i.e., CHP 202K, Preliminary Alcohol Screening [PAS] Device Accuracy Check/Calibration Log), PAS out/in usage logs (i.e., CHP 202J, Preliminary Alcohol Screening [PAS] Out/In Usage Log), and departmental training records.

(10) The extent of PAS device training provided to Area/Division personnel.

(11) Their basic knowledge of Title 17 CCR, as it relates to evidential breath testing in California. (PAS device coordinators should also be familiar with the fact that noncompliance with Title 17 goes toward the weight of the evidence as opposed to its admissibility.)

(12) Other issues surrounding the proper use of PAS devices and/or pertinent departmental policies and statutes surrounding their usage.

4. USE OF PRELIMINARY ALCOHOL SCREENING DEVICES FOR ENFORCEMENT.

a. Sections 23152/23153 California Vehicle Code Enforcement. Departmental personnel may use a PAS device for the purpose of determining the existence of ethyl alcohol in a person's blood. The results of such tests may be used in making preliminary determinations of sobriety prior to an arrest for DUI. Any reading above 0.00 percent indicates the existence of ethyl alcohol in a person's blood. Combined with an evaluation of driving behavior, personal observations, and other FSTs, officers may use the PAS device test results to make a determination of whether to arrest for DUI and require a chemical test pursuant to Section 23612 CVC.

b. Section 23136 California Vehicle Code Enforcement. It is unlawful for a person under 21 years of age with a BAC of 0.01 percent or greater to drive a motor vehicle. The determination of 0.01 percent is through the use of a PAS device test or other chemical test if a PAS device is not immediately available. Refer to Chapter 4 of this manual for the complete policy on the enforcement of Section 23136 CVC.

c. Section 23140 California Vehicle Code Enforcement. It is unlawful for a person under 21 years of age with a BAC of 0.05 percent or greater to drive a motor vehicle. Departmental personnel may use a PAS device for the purpose of

enforcing this section. Refer to Chapter 4 of this manual for the complete policy on the enforcement of Section 23140 CVC.

d. Section 34501.15 California Vehicle Code Commercial Driver Out-of-Service Orders Enforcement. It is unlawful for a person who has 0.01 percent or more, by weight, of alcohol in their blood to operate specified commercial motor vehicles. Refer to Chapter 4 of this manual for the complete policy on the enforcement of Section 34501.15 CVC.

5. DEPLOYMENT. Area commanders should ensure that the maximum available number of PAS devices are deployed during every shift according to operational needs and are responsible for evaluating deployment needs within their command. Preliminary alcohol screening devices are a departmental resource. If it is determined that an Area has more PAS devices than are needed to meet their operational needs, commanders are encouraged to contact IDS to determine if the excess PAS devices could be better utilized in another Area. **Preliminary alcohol screening devices shall not be transferred between Areas without first coordinating the transfer with IDS.**

6. RESPONSIBILITIES.

a. Commanders.

(1) Areas shall assign a PAS device coordinator to provide for the security, accountability, accuracy, timely repair, and use of PAS devices.

(2) Areas shall establish a Standard Operating Procedure (SOP) for using PAS devices. The SOP shall address local concerns for deploying PAS devices within the guidelines of this chapter.

(3) Area commanders shall discuss the Department's policy and procedures concerning the utilization of PAS devices as a DUI-related enforcement tool with local district attorneys and court(s). Commanders are encouraged to meet with local district attorneys to discuss admissibility of PAS device results. Commanders who need additional background information may contact IDS for assistance.

(4) Area commanders shall ensure uniformed personnel are properly trained prior to using a PAS device.

b. Area Preliminary Alcohol Screening Device Coordinator.

(1) Maintaining the devices and related equipment.

(2) Conducting PAS device accuracy checks every ten calendar days or 150 tests, whichever comes first, and calibrating the device if the accuracy check indicates it is required.

(3) Conducting an inventory check every ten calendar days (during accuracy check/calibration of PAS devices) and immediately reporting any missing PAS devices to the Area commander, who will initiate an investigation.

(4) Maintaining the calibration simulators and related equipment.

(5) Maintaining the accuracy check/calibration logs and ensuring the out/in usage logs are completed.

(6) Ensuring that appropriate training is provided on the use of the devices.

(7) Documenting PAS device training in the Employee Training Records System.

(8) Coordinating the repair and/or maintenance of PAS related equipment.

(9) Ensuring that lost/stolen/destroyed equipment is reported in accordance with departmental policy.

(10) Testifying in court and providing necessary documentation to establish reliability in court (calibration records, training records, maintenance records).

7. PRELIMINARY ALCOHOL SCREENING DEVICE DESCRIPTION.

a. Preliminary Alcohol Screening Devices. The Department uses three models of PAS devices. They are:

(1) The Lifeloc FC20.

(2) The Intoximeters Alco-Sensor IV Black Dot (4797) software version.

(3) The Intoximeters Alco-Sensor FST.

b. The PAS devices utilized by the Department are on NHTSA's Conforming Products List for evidential breath measurement devices.

8. THEORY OF OPERATION. The PAS devices utilized by the Department contain a fuel cell sensor and a sampling system. When activated, the sampling system draws a small portion of the deep lung breath sample into the fuel cell for analysis. The fuel cell is a porous disk coated with a thick layer of platinum black on both faces and saturated with an electrolyte. The cell is supported at its outer edge in the fuel cell case. When the breath sample is drawn across the top surface of the cell, the alcohol is quickly absorbed and is subsequently converted to acetic acid plus electrons. The resulting electric current is converted to a BAC and digitally displayed.

9. REPORTING REQUIREMENTS.

a. The preliminary alcohol screening section of the CHP 202, Driving Under the Influence Arrest – Investigation Report, page 2, shall be completed every time a PAS device is used and the subject has been arrested.

(1) Reports shall be reviewed by a supervisor for completeness and accuracy.

(2) When a PAS device is used for a zero-tolerance violation (Sections 23136/13388 CVC), the procedures set forth in Chapter 4 of this manual shall be followed.

b. CHP 202J, Preliminary Alcohol Screening (PAS) Device Out/In Usage Log. A CHP 202J, Preliminary Alcohol Screening (PAS) Device Out/In Usage Log, shall be completed whenever a PAS device is checked out or in. The number of tests performed with the device shall be recorded on the CHP 202J. Officers shall note any operational problems that cannot be resolved on the CHP 202J and contact their Area PAS device coordinator as soon as practical.

(1) Areas may use alternative methods to track PAS devices, including assigning PAS devices to specific officers using a locally developed memorandum. In these cases, the officer is still required to log tests using a CHP 202J which shall be accessible to the Area PAS device coordinator in order to track device usage.

(2) The Area PAS device coordinator is responsible for reviewing the CHP 202J to determine if a device is subject to calibration or repair.

(3) The CHP 202J shall be retained at the Area office for two years plus the current year, from the date of the last test on the log.

c. CHP 202K, Preliminary Alcohol Screening (PAS) Device Accuracy Check/Calibration Log. A CHP 202K, Preliminary Alcohol Screening (PAS) Device Accuracy Check/Calibration Log, shall be completed whenever a PAS device is checked for accuracy and when calibrated.

- (1) The PAS device coordinator is responsible for completing the log.
- (2) A separate log shall be kept for each device.
- (3) The logs for PAS devices shall be retained at the Area for two years plus the current year, from the date of the last calibration listed on the log.

10. ACCURACY CHECK/CALIBRATION.

- a. Responsibility. Accuracy checks and calibration of PAS devices shall be performed by the Area PAS device coordinator.
- b. Frequency. The PAS devices shall be checked for accuracy every ten calendar days or 150 tests, whichever occurs first, and calibrated when the accuracy check indicates calibration is required. The PAS device coordinator shall check the CHP 202J in order to determine when a PAS device is due for an accuracy check. The PAS device coordinator is responsible for maintaining and completing the CHP 202K whenever a device is checked for accuracy and when calibrated.
- c. Alcohol Breath Test Simulator. Each Area/Division is issued a simulator to conduct accuracy checks and calibrate PAS devices.

(1) The Department utilizes four types of breath alcohol simulators, the Draeger Mark IIA, the Guth 10-4, the Guth 10-4D, and the Guth 12V500. These simulators are known as wet bath simulators and consist of a glass jar which holds 500 ml of a water/alcohol solution and a jar head which contains a heater thermostat, stirrer, thermometer, and inlet and outlet ports for sampling head space gas standing above the solution. A simulator containing a known BAC value must be at the operating temperature of 34°C (mouth temperature) with a variation of $\pm 0.2^\circ\text{C}$. The head space is equilibrated with, and will be representative of, the alcohol concentration in the solution. This is a simulation of the equilibrium of the alcohol in the deep lung air (alveolar air) and the alcohol in the pulmonary bloodstream of the lungs. In addition to the requirements below, officers should familiarize themselves with the operator manual for the wet bath simulator device being used.

(2) It is critical to follow precautions in the use of the simulator to ensure accurate results. Commonly, when a PAS device is not within calibration range, it is due to problems with the simulator or the solution.

- (a) An alcohol/water solution having a known value should be stored in a tightly capped bottle at room temperature out of direct sunlight or refrigerated. Do not freeze the solution.

(b) Check the simulator for damage or wear, especially for cracking or loose-fitting hoses. Check the large diameter gasket at the bottom of the heating unit and make sure it is seated properly in the unit.

(c) Pour the solution (approximately 500 ml) into the simulator and hand-tighten the heating unit onto the jar, making sure they are not cross-threaded. Make sure the intake and exhaust ports are capped or the hoses are connected to each other. It is recommended the date that the solution is put into use be recorded on the CHP 202K. As a result of testing performed by the Department of Justice, it has been determined the solution may be sampled up to 50 times or a maximum of four weeks, whichever is less. Each time a solution is used for an accuracy check or a calibration, it loses a small quantity of alcohol. If it is used an excessive number of times or is left in the simulator for an extended period of time, the concentration of the alcohol in the solution may begin to decrease. During calibration, this could produce slightly raised BAC readings on the PAS device, ultimately resulting in an over estimation of a subject's BAC. **If there is any doubt regarding the current value of previously used solution, replace it with fresh solution.**

(d) Plug up the exhaust port or hose with a finger and insert a mouthpiece to the intake hose. Blow into the simulator and check for air leaks at the hoses, especially around the mouth of the jar. A resistance to airflow should be obvious and bubbles of air should not rise rapidly through the solution if the top is secure. If there is a leak, make the necessary corrections to ensure a proper seal exists. A leaking simulator will result in lower BAC readings on the PAS device.

(e) Switch on the simulator in a draft-free room at normal room temperature. Wait until the solution has reached the appropriate temperature range. Once the solution reaches the correct temperature, record the temperature from the thermometer on the CHP 202K and proceed with the accuracy check(s). If more than one PAS device is to be checked, wait at least two minutes between testing each unit to allow the simulator a chance to equilibrate.

(3) Areas shall use a standard alcohol solution (generally between 0.10 to 0.30 percent) certified by an accredited laboratory. The value (strength) of the alcohol solution shall be noted on the CHP 202K.

(4) Areas are responsible for arranging with accredited laboratories to obtain the standard alcohol solution. In those cases where the local accredited laboratory cannot provide an Area with simulator solution, it can be requisitioned from CHP Supply Services Unit (SSU).

d. Accuracy Check.

(1) Record the date and time of each accuracy check on a CHP 202K. A separate CHP 202K shall be maintained for each PAS device.

(2) Ensure that a wet bath simulator containing an alcohol solution of a known BAC value is at operating temperature (34°C with a variation $\pm 0.2^\circ\text{C}$). Record the alcohol solution temperature, alcohol solution lot number, and the alcohol solution standard (solution value) in the appropriate sections of the CHP 202K.

(3) Conduct initial accuracy check of PAS device (for specific instructions refer to operator's manuals).

NOTE: Preliminary alcohol screening device coordinators in possession of dry gas canisters designed for alcohol testing (e.g., those supplied by the Department of Justice or other crime laboratory for use with portable evidential breath testing equipment) may use them to conduct accuracy checks of PAS devices provided they have received appropriate training.

(4) If the reading is within ± 0.01 percent of the actual value of the alcohol solution, no calibration is required. For example, if a 0.10 percent solution is utilized, an acceptable reading would range from 0.09 to 0.11 percent. Record the PAS device test results on the CHP 202K. Check the "NO" box under "CALIBRATION REQUIRED" and complete the required operator information.

(5) If procedures regarding obtaining a second breath sample from a subject have been discussed with the local district attorney and deemed desirable by the Area, a second accuracy check may be conducted after a two-minute wait. Enter the results of the second accuracy check on the CHP 202K in the column entitled "PAS ACCURACY CHECK RESULTS, TEST #2."

(6) If the reading is not within ± 0.01 percent of the actual value of the alcohol solution, the device may be out of calibration.

NOTE: Prior to making any adjustments to the PAS device itself, try to ensure there are no problems with the simulator or solution first. If an external cause of the variance cannot be identified (e.g., inadequate wet bath simulator seal, inaccurate or old solution), document the PAS device test results on the CHP 202K, check the "YES" box under "CALIBRATION REQUIRED," and perform a calibration of the device.

e. Calibration.

(1) Calibration of PAS devices shall only be performed by an Area/Division PAS device coordinator who has been properly trained.

(2) Prior to changing/modifying the calibration of any departmental PAS device, the PAS device coordinator shall ensure an accuracy check has been performed.

(3) Perform calibration in accordance with the instructions contained in the operator's manuals.

(4) After a two-minute wait, use a new mouthpiece to check the accuracy again. Record the "PAS RETEST RESULTS" on the CHP 202K and complete the required operator information. If applicable, record any additional comments (repairs/problems/comments) in the space provided.

11. TRAINING.

a. The quality of PAS device training provided to personnel is an essential element for ensuring the admissibility and credibility of the instruments in court. The following is an overview of Academy, Division, and Area training responsibilities:

(1) Impaired Driving Section. The Impaired Driving Section is responsible for training cadets and PAS device coordinators in the theory and use of the PAS device.

(2) Division. Division PAS device coordinators are responsible for ensuring that Area PAS device coordinators within their Division are properly trained in the calibration and maintenance of the PAS devices. Training will be conducted on an as-needed basis. Contact IDS for further information on PAS device coordinator training.

(3) Area. Area PAS device coordinators are responsible for ensuring that Area personnel are trained in the use of PAS devices. If needed, Area PAS device coordinators may provide this training or coordinate with their respective Division coordinator to provide training.

b. All PAS training shall be documented appropriately on each uniformed member's training record.

12. ADMINISTERING A PRELIMINARY ALCOHOL SCREENING DEVICE TEST.

a. Preliminary Alcohol Screening Device Admonishment—Section 23612(i) California Vehicle Code.

(1) The officer is required to obtain consent from a subject prior to testing with the device. All persons, 21 years of age or older, subject to a PAS device test shall be admonished prior to the test. The officer shall either read verbatim or informally admonish the following:

(a) **“I am requesting that you take a preliminary alcohol screening test to further assist me in determining whether you are under the influence of alcohol.**

(b) **You may refuse to take this test.**

(c) **This is not an implied consent test.**

(d) **If arrested, you will be required to submit to another test of either your blood, breath or urine (if applicable) to determine the alcoholic and/or drug content of your blood.”**

(2) Generally, a verbatim admonishment is preferred. However, if providing a verbatim admonishment would compromise officer safety, an informal admonishment may be given.

(a) Officers giving an informal admonishment shall ensure that all provisions of the admonishment are provided and that the subject **clearly** understands all of the provisions.

(b) Officers should be prepared to substantiate (in court proceedings and/or DMV hearings) that the admonishment was properly provided and clearly understood by the subject.

(c) This admonishment does not apply to zero tolerance violations. Refer to Chapter 4 of this manual for zero tolerance violation procedures.

b. Pre-Test Procedures.

(1) A precautionary checklist with basic operating instructions is located on the back plate of the Lifeloc FC20 and Intoximeters Alco-Sensor IV PAS devices. A Basic Operation Checklist card is located inside the Intoximeters FST PAS device storage case. Refer to operator’s manuals for more specific and detailed operating instructions, including an explanation of display legends and messages.

(2) Departmental PAS devices will not allow a test to be taken when the device is not in the proper operating temperature range. If needed, remove the mouthpiece and place the unit in your pocket or other warm place to raise the temperature (or in a cool place to lower the temperature). The PAS device will come to an acceptable operating temperature in a short period of time.

(3) When activated, departmental PAS devices automatically check for residual alcohol on the fuel cell (also known as “auto zeroing”). Once the device confirms the fuel cell is clean, it will allow the operator to proceed with a test.

c. Obtaining Breath Sample. The amount of alcohol in a properly collected breath sample is governed by the amount of alcohol in the blood of the lungs. Care must be taken to eliminate residual mouth alcohol before a test is conducted.

(1) The subject should normally be observed for at least 15 minutes prior to the test. This will ensure that the subject has not ingested any food or liquid, smoked, vomited, or regurgitated.

(2) If the subject cannot be observed for at least 15 minutes under normal circumstances, officers should ask the subject questions relating to the time of their last drink and whether they have ingested any food or liquid, smoked, vomited, or regurgitated. This may help to qualify the 15-minute observation period. Note the duration of the subject’s last drink and the responses to any questions relating to that issue on page 2 of the CHP 202.

(3) Tobacco smoke shall not be blown into any PAS device. The smoke will damage the fuel cell.

(4) The subject should be told to keep their hands down and away from the device. The subject shall not be permitted to handle the device. The officer will administer the test, not the subject.

(5) Instruct the subject to blow steadily into the mouthpiece for as long as possible. Observe carefully to ensure the subject is blowing properly. An automatic sample will be taken once a deep lung air sample is given.

(6) In the event a person is unable to or refuses to provide a sufficient breath sample, a manual sample may be obtained. This is accomplished by depressing the MANUAL button on the Alco-Sensor IV, the EXECUTE button on the FC20, or the index finger button of the Alco-Sensor FST as the subject is blowing into the device (refer to operator’s manuals for more detailed information). However, the strength of the sample may affect the accuracy of the reading (a light sample may result in a slightly low reading).

(7) Officers are encouraged to indicate whether an automatic (“AUTO”) or manual (“MAN”) sample was obtained by recording that information on page 2 of the CHP 202.

(8) The following actions may prevent an adequate sample:

- (a) Tongue over mouthpiece.
- (b) Poor lip seal around the mouthpiece.
- (c) Sucking instead of blowing.
- (d) Puffing.

(9) A sample with no alcohol will result in a “.000” display almost instantaneously. On a breath sample that contains alcohol, a three-digit display appears in 10-20 seconds.

(10) Second Breath Test. In order to help ensure the admissibility of PAS device results in court, officers should obtain two breath samples which do not differ from each other by more than 0.02 percent. When conducting two tests, officers should allow two minutes to elapse between tests.

(11) Officers should not advise the subject of the actual digital results at the time of the test. If the subject asks about the results, merely advise the subject that the PAS device did detect the presence of alcohol. This may avoid any physical or verbal conflict that may arise prior to arrest. The results may be revealed to the subject after arrest and the evidentiary test has been administered.

(12) Discarding the Mouthpiece. The mouthpieces are individually wrapped. The wrapper should be used to handle the mouthpiece. The mouthpiece should be placed in a litter bag or other waste receptacle. Officers shall not discard the mouthpiece on the ground. Mouthpieces shall be handled and disposed of in a manner that will minimize the possibility of communicable disease transmittal.

13. TEST MEMORY.

a. Departmental PAS devices have a test memory that includes the test number, date/time, and result(s).

(1) With the Alco-Sensor IV Black Dot version, a total of 168 tests can be stored in the PAS device memory. If more than 168 tests are administered, the

oldest tests in memory are lost. For example, when test number 0169 is administered, test number 0169 is stored to memory, and test 0001 is removed from memory.

(2) With the Lifeloc FC20, a total of 500 tests will always be stored in memory. When test number 501 is administered, test 001 is removed from memory.

(3) The Alco-Sensor FST can store 800 tests on the device.

b. Erasing PAS device memory shall only be performed by an Area/Division PAS device coordinator who has been properly trained.

c. There is a lithium battery backup built into the memory component of departmental PAS devices. This battery backup allows the PAS device to retain test memory, date, and time when the batteries are removed or fail.

d. Test memory can be retrieved by downloading to a printer or to a personal computer using software developed for this purpose. For additional information on test memory, refer to the operator's manuals or contact IDS.

14. SETTING DATE AND TIME. Setting the date and time on PAS devices shall only be performed by an Area/Division PAS device coordinator who has been properly trained. Refer to the operator's manuals for specific instructions.

15. PRELIMINARY ALCOHOL SCREENING DEVICE PRINTER. A Model DP1012 printer can be used with Alco-Sensor IV PAS devices. Printer components consist of the DP1012 printer, a serial connector cable, and a nine-volt adapter. The printer is powered by rechargeable NiCad batteries and can also be connected to a direct power source via the nine-volt adapter. The printer is turned on by depressing the "1" button and turned off by depressing the "0" button. Refer to respective operator's manuals for specific device printing capabilities and instructions.

16. REFUSAL TO TAKE A PRELIMINARY ALCOHOL SCREENING DEVICE TEST.

a. The PAS device test, for purposes of Sections 23152/23153 CVC (for a person 21 years of age or older), is voluntary. If a subject refuses to take a PAS device test, the significance of the test and of their refusal should be explained and documented on the CHP 202 Report.

b. Drivers under the age of 21 years, who are suspected to be in violation of Section 23136 CVC, zero tolerance, are required to submit to a PAS device test,

or other chemical test if a PAS device is not immediately available, and are subject to Administrative Per Se sanctions for refusals (refer to Chapter 4 of this manual).

c. The use of a PAS device does not conflict with Implied Consent laws since the PAS device test is conducted prior to an arrest. Implied Consent is only applicable after a person has been arrested on suspicion of DUI. The California Department of Motor Vehicles will suspend the driving privilege of individuals who refuse to take a chemical test after submitting to a pre-arrest PAS device test.

17. OFFICER SAFETY CONSIDERATIONS. During the time the test is being given to a subject, the officer could be vulnerable to an assault. The test, therefore, should be administered at a safe distance from the flow of traffic and at a place that is most advantageous to the officer. The officer should maintain a position of advantage throughout contact with the subject. The device should be utilized in the officer's support hand. The subject shall not handle the device.

18. STORAGE CASE. The PAS device shall be stored in its case when not in use. Storage in cold or moderately hot environments will not harm the device. However, avoid extreme humidity or extreme heat for prolonged periods. Storage cases may have adhesive-backed magnetic strips affixed to the bottom side of the exterior. This will help minimize the loss of PAS cases/devices inadvertently left on the exterior of a patrol vehicle. Magnetic strips affixed in this manner will not affect the performance or operation of the PAS devices. Magnetic strips shall not be affixed directly to a PAS device.

19. EQUIPMENT TROUBLESHOOTING.

a. Should officers experience operational problems with a PAS device or simulator, they shall discontinue its use and shall notify the Area PAS device coordinator. No attempt shall be made to repair any part of the equipment except by those individuals authorized to calibrate the instruments.

b. Battery Replacement. Replacing the batteries may solve some operational problems. Refer to respective operator's manual for instructions on battery replacement.

c. Radio Frequency Interference.

(1) All PAS devices are sensitive to RFI, especially in the Very High Frequency (VHF) range. If a reading is taken and there is a simultaneous

transmission with the police radio VHF, it may cause an error code to be displayed on the device.

(2) Departmental PAS devices are RFI protected. If an interference signal is received which could influence the test results, the test will be voided, and an error message will be displayed (no result will be available).

20. LOST, STOLEN, DAMAGED, OR DESTROYED PRELIMINARY ALCOHOL SCREENING DEVICES.

a. Highway Patrol Manual (HPM) 11.2, Materials Management Manual, Chapter 8, Equipment, provides instructions regarding the reporting of lost, stolen, damaged, or destroyed state equipment.

b. In addition to the requirements provided in HPM 11.2, Chapter 8, the reporting command shall ensure IDS receives a copy of the memorandum prepared. The command may coordinate the repair of the device with IDS (if practical) or the replacement of the device (IDS inventory permitting).

21. REPAIRS.

a. If the Area/Division PAS device coordinator determines a PAS device or accessory equipment needs repair, they should contact IDS through e-mail at PAS-PDS@chp.ca.gov or by telephone at (916) 843-4360 for specific repair instructions and/or warranty period information. A CHP 202L, Preliminary Alcohol Screening Device Repair Transmittal, shall be completed for all PAS device (and related equipment) repairs.

b. Warranty Repairs. Manufacturers will provide warranty-related repairs of PAS devices for five years from the date of distribution. This warranty does not cover damage which has been the result of misuse, alteration, accident, or abnormal conditions of operation or handling. For warranty periods and specific instructions on warranty-related repairs contact IDS.

c. Non-Warranty Repairs.

(1) The Department has executed agreements with Lifeloc Technologies Inc. to complete all non-warranty related PAS device repairs.

(2) Non-warranty PAS device repairs include the repair of equipment no longer under warranty, or damaged due to misuse, alteration, accident or abnormal operating conditions or handling.

d. Repair Procedures. A CHP 202L shall be completed for each item in need of repair as follows:

(1) In the upper-right corner, indicate if the repair is a warranty-related repair or non-warranty related repair (contact IDS for assistance).

(2) Complete Section A, Requester Identification.

(3) Complete Section B, Equipment Identification. "Type" indicates the type of equipment being repaired, (e.g., PAS device, simulator, printer).

(4) Complete Section C, Description of Problem. **Be as complete and specific as possible in describing the nature of the problem.** Use additional sheets if necessary.

(5) Complete Section D, Area Shipping Information. Each instrument sent for repair must be insured as follows:

- | | |
|--|--------------|
| (a) Lifeloc FC20 PAS device: | \$500 each |
| (b) Intoximeters Alco-Sensor IV PAS device: | \$500 each |
| (c) Intoximeters Alco-Sensor FST PAS device: | \$500 each |
| (d) DP1012 PAS device printer: | \$800 each |
| (e) Wet Bath Alcohol Simulator: | \$1,000 each |

(6) Retain a copy of CHP 202L and replace it with a copy of the completed CHP 202L when returned from the vendor. All documentation relating to the repair, refurbishment, or upgrade of a PAS device is to be retained for the life of the PAS device.

(7) If a PAS device is being sent for a reoccurring problem or if extensive reconstruction has recently been completed, PAS device coordinators shall include a copy of any previously sent CHP 202L relating to the problem.

(8) Place the defective item and the original CHP 202L inside the storage case and ship to IDS.

NOTE: PAS devices shall not be sent directly to the repair station or service vendor without IDS approval.

(9) The Area should have no more than two PAS devices out for repair at any time. This will ensure the Area can appropriately track their PAS device

inventory and IDS does not become overwhelmed with processing PAS device repairs.

NOTE: The Area may send additional PAS devices for repair with prior coordination and approval from IDS.

(10) All PAS devices needing repair shall be sent to: California Highway Patrol, Impaired Driving Section, 601 North 7th Street, Sacramento, California 95811.

(11) Upon shipping a PAS device to IDS, the Area PAS device coordinator shall notify IDS by e-mail at PAS-PDS@chp.ca.gov and provide the serial number of the device, description of the problem, and other relevant information.

e. Payment of Invoices. Upon completion of repairs, the item will be returned to IDS who will process the invoice and ship the device to the CHP command which requested the service.

(1) Impaired Driving Section will approve and forward all PAS device repair invoices to Fiscal Management Section for payment. If the Area receives an invoice, it should be immediately forwarded to IDS for processing.

22. SUPPLIES AND FORMS.

a. Supplies. Mouthpieces, storage cases, batteries, foam case inserts, battery covers, printer ribbon, printer paper, replacement wet bath alcohol simulator jars, and solution for wet bath alcohol simulator jars may be requisitioned from the CHP SSU Catalog.

b. Forms. All forms related to the PAS device are available in the CHP forms library. Additionally, forms may be requisitioned from SSU by completing a CHP 41, Supply Requisition, or they may be photocopied locally in accordance with HPM 11.2, Materials Management Manual.

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ANNEX A

SAMPLE CHP 202L, PRELIMINARY ALCOHOL SCREENING DEVICE REPAIR TRANSMITTAL

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL PRELIMINARY ALCOHOL SCREENING DEVICE REPAIR TRANSMITTAL CHP 202L (Rev. 8-22) OPI 086	INSTRUCTIONS ON NEXT PAGE	CHECK ONE OF THE FOLLOWING: <input type="checkbox"/> Warranty Related Repair <input type="checkbox"/> Non-Warranty Related Repair		
TO BE COMPLETED BY CHP				
SECTION A. REQUESTER IDENTIFICATION				
NAME (LAST, FIRST, M.I.) Woida, Dustin		ID NUMBER 21427		
AREA NAME (DIVISION, AREA, UNIT) Napa Area	LOCATION CODE 325	TELEPHONE NUMBER (916) 843-4391		
AREA ADDRESS (STREET) 975 Golden Gate Dr.				
CITY Napa	STATE CA	ZIP CODE 94558		
SECTION B. EQUIPMENT IDENTIFICATION				
TYPE (PAS, PRINTER, SIMULATOR) PAS	MAKE/MODEL Alco-Sensor IV	SERIAL NUMBER 018284		
		CHP/FEDERAL NO. XRR0439		
SECTION C. DESCRIPTION OF PROBLEM (BE AS DESCRIPTIVE AS POSSIBLE; USE ADDITIONAL SHEETS, IF NECESSARY) The device will not return a sample. I changed the batteries and the problem persisted.				
SECTION D. AREA SHIPPING INFORMATION				
SHIPPED TO IDS, 601 N 7th Street, Sacramento, CA 95811	SHIPPED VIA UPS	DATE 03/03/2023		
TO BE COMPLETED BY SERVICE VENDOR				
SECTION E. SERVICE VENDOR INFORMATION				
SERVICE VENDOR COMPANY NAME	SERVICED BY	DATE RECEIVED BY VENDOR		
		VENDOR PROCESSING NUMBER		
SECTION F. DESCRIPTION OF REPAIRS/SERVICE PERFORMED (USE ADDITIONAL SHEETS, IF NECESSARY)				
<input type="checkbox"/> Warranty-related repair, no charge to CHP				
SECTION G. ITEMIZATION OF REPAIR COSTS (USE ADDITIONAL SHEETS, IF NECESSARY)				
	SHIPPING	PARTS COST	LABOR	TOTAL CHARGES
TOTALS				
SECTION H. SERVICE VENDOR SHIPPING INFORMATION				
SHIPPED TO	SHIPPED VIA	DATE		

Use previous editions until depleted.

Chp202L_0822.pdf

ANNEX A

SAMPLE CHP 202L, PRELIMINARY ALCOHOL SCREENING DEVICE REPAIR TRANSMITTAL (*continued*)

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

PRELIMINARY ALCOHOL SCREENING DEVICE REPAIR TRANSMITTAL

CHP 202L (Rev. 8-22) OPI 088

[PRINT INSTRUCTIONS](#)

INSTRUCTIONS: Use the CHP 202L for processing preliminary alcohol screening (PAS) devices (Intoxometers Alco-Sensor IV, Intoxometers Alco-Sensor FST, and Lifeloc FC20), printers, and wet bath alcohol simulators which need repair. Follow the steps below to process the equipment. See HPM 70.4, Driving Under the Influence Enforcement Manual, Chapter 7, Preliminary Alcohol Screening Device, for additional information.

CHP INSTRUCTIONS

1. Complete Section A, Requester Identification.
2. Complete Section B, Equipment Identification.
3. Complete Section C, Description of Problem. **Be as complete and specific as possible in describing the nature of the problem. Use additional sheets if necessary.**
4. Complete Section D, Area Shipping Information. Note: Each instrument sent for repair must be insured as follows:

LifeLOC FC 20 PAS device	\$500 each
Alco-Sensor IV PAS device	\$500 each
Alco-Sensor FST PAS device	\$500 each
DP1012 Printer	\$800 each
Wet Bath Alcohol Simulator	\$1,000 each

5. Make a copy of CHP 202L for the Area file.
6. Ship the item to be repaired (in the carrying case) with the original of CHP 202L to the following location:

California Highway Patrol
Impaired Driving Section
601 North 7th Street
Sacramento, CA 95811
(916) 843-4360

SERVICE VENDOR INSTRUCTIONS

1. Complete Section E, Service Vendor Information.
2. Complete Section F, Description of Repairs/Service Performed. If the repair is covered under the warranty, check the "Warranty-related repair, no charge to CHP" box.
3. Complete Section G, Itemization of Repair Costs. List all parts replaced and the cost.
4. Complete Section H, Service Vendor Shipping Information.
5. Return a copy of CHP 202L with the repaired item to the CHP Area office listed in Section A.
6. Submit an itemized invoice for payment to CHP Impaired Driving Section.

Use previous editions until depleted.

Chp202L_0822.pdf