

**Reprint
as at 16 February 2015**



**Land Transport (Breath Tests)
Notice 2009**

(SR 2009/386)

Land Transport (Breath Tests) Notice 2009: revoked, on 16 February 2015, by clause 10 of the Land Transport (Breath Tests) Notice 2015 (LI 2015/16).

Pursuant to section 2 of the Land Transport Act 1998, the Minister of Police gives the following notice.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the New Zealand Police.

Notice

1 Title

This notice is the Land Transport (Breath Tests) Notice 2009.

2 Commencement

This notice comes into force on 3 February 2010.

3 Interpretation

In this notice,—

Dräger 6510 means a Dräger Alcotest 6510 and includes any device having the trade name Dräger, Drager, or Draeger, and associated with the number 6510 or the expression 6510NZ

Dräger 9510NZ means a Dräger Alcotest 9510NZ and includes any device having the trade name Dräger, Drager, or Draeger and associated with the number 9510NZ or with an expression containing the number 9510NZ

Intoxilyzer 5000 means an Intoxilyzer® 5000 breath analysis instrument and includes an Intoxilyzer® 5000EN breath analysis instrument and any other device having the trade name Intoxilyzer and associated with the number 5000 or with an expression containing the number 5000

officer means the enforcement officer who is conducting the test

Seres means a Seres Ethylometre model 679T or a Seres Ethylometre model 679ENZ and includes any device having the trade name Seres and associated with the number 679.

4 Approval of passive breath-testing device

The Dräger 6510 device is approved as a kind of passive breath-testing device.

5 Approval of breath screening device

The Dräger 6510 device is approved as a kind of breath screening device for the purpose of breath screening tests.

6 Manner of carrying out breath screening tests by means of Dräger 6510

Breath screening tests carried out by means of a Dräger 6510 device must be carried out in the following manner:

- (a) Step 1: Preliminary action
 - (i) The officer must observe the display panel showing **READY**. If the display panel does not show **READY**, the officer must depress the **OK** button briefly and repeat this Step 1(i).
 - (ii) The officer must, before or after Step 1(i), attach a mouthpiece to the breath inlet port of the device.
- (b) Step 2: Breath screening test
 - (i) The person being tested must blow through the mouthpiece at a pressure and for a period to provide a specimen of breath sufficient for analysis, when instructed by the officer.
 - (ii) After the person being tested stops blowing, the officer must observe the display panel of the device.
 - (iii) If the display panel shows **Insufficient Volume**, it means that no specimen of breath sufficient for analysis has been provided. In that case, the officer may depress the **OK** button on the device, and repeat Step 1(i) and this Step 2, unless the officer believes the person being tested has failed or refused and will continue to fail or refuse to undergo the test without delay.
 - (iv) If the display panel shows **NO ALCOHOL** or **ALCOHOL**, during or after the purported breath screening test, it means the **OK** button has been depressed during the test. In that case the officer must depress the **OK** button on the device, and repeat Step 1(i) and this Step 2.
- (c) Step 3: Results of test
 - (i) If the display panel shows **Pass**, the result indicates that the test is negative. As a confirmation, the indicator light will be a steady green for

- a short time (approximately 20 seconds or such shorter time as the officer may permit).
- (ii) If the display panel shows **Under 250**, the result indicates that the person's breath contains alcohol but the proportion of alcohol in the person's breath does not exceed 249 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady amber for a short time (approximately 20 seconds or such shorter time as the officer may permit).
 - (iii) If the display panel shows **250+Over**, the result indicates that the proportion of alcohol in the person's breath equals or exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will flash red and amber alternately for a short time (approximately 20 seconds or such shorter time as the officer may permit).
 - (iv) If the display panel shows **Over 400**, the result indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady red for a short time (approximately 20 seconds or such shorter time as the officer may permit).

Clause 6(c): substituted, on 7 August 2011, by clause 4 of the Land Transport (Breath Tests) Amendment Notice 2011 (SR 2011/241).

7 Approval of evidential breath-testing devices

The following devices are approved as kinds of evidential breath-testing devices for the purpose of evidential breath tests:

- (a) Dräger 9510NZ:
- (b) Intoxilyzer 5000:
- (c) Seres.

8 Manner of carrying out evidential breath tests by means of Dräger 9510NZ, Intoxilyzer 5000, or Seres

Evidential breath tests carried out by means of a Dräger 9510NZ, an Intoxilyzer 5000, or a Seres must be carried out in the following manner:

- (a) Step 1: Start of testing sequence
The officer must depress the button for starting the test.
- (b) Step 2: Evidential breath test
The officer must carry out the testing sequence in accordance with the instructions appearing on the display panel on the device, and—
 - (i) the officer must attach a new mouthpiece to the breath inlet tube and instruct the person being tested to blow through the mouthpiece; and
 - (ii) the person being tested must blow through the mouthpiece to provide a subject breath specimen sufficient for analysis, when instructed by the officer; and
 - (iii) Step 2(i) and Step 2(ii) must be repeated, as required, until the testing sequence is completed.
- (c) Step 3: Results of test
 - (i) The results of the various steps in the testing sequence will be shown on the result card or print-out, including the Evidential Breath Test Result (which must be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested).
 - (ii) If the Evidential Breath Test Result is “Incomplete Test”, the test has been unable to be carried out.

9 Revocation

The Transport (Breath Tests) Notice (No 2) 1989 (SR 1989/389) is revoked.

Dated at Wellington this 7th day of December 2009.

Judith Collins,
Minister of Police.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 17 December 2009.

Reprints notes

1 General

This is a reprint of the Land Transport (Breath Tests) Notice 2009 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 Amendments incorporated in this reprint

Land Transport (Breath Tests) Notice 2015 (LI 2015/16): clause 10
Land Transport (Breath Tests) Amendment Notice 2011 (SR 2011/241)
