

# Participant Manual

# DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 3 - The Legal Environment

1 Hour 10 Minutes

## Session 3

### The Legal Environment



DWI Detection and Standardized Field Sobriety Testing

## Learning Objectives

Become familiar with:

- Elements of DWI offenses
- Implied consent
- Chemical test evidence
- Case law



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An understanding of impaired driving laws that apply in your jurisdiction is critical to successful DWI enforcement.

All states (and many local jurisdictions) have their own impaired driving laws. While the specific language of these laws may vary significantly, most include the following provisions:

- DWI Law
- Per Se law
- Implied Consent
- Preliminary Breath Testing

At the conclusion of this session, participants will be familiar with:

- Elements of DWI offenses
- Provisions of implied consent
- The relevance of chemical test evidence
- Precedents established through case law

In this session impaired driving laws are discussed in detail. The illustrations provided are drawn from the Uniform Vehicle Code. You are responsible for learning whether and how each law applies in your jurisdiction.

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## Per Se and DWI

Each defines a separate offense:

- **DWI – driving while under influence**
  - Chemical test is some evidence
- **Per Se – operate while having more than legal percent of alcohol in blood or breath**
  - Chemical test is conclusive evidence



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The Per Se law does not replace every other DWI statute. Rather, the two can be prosecuted at the same time. Each defines a separate offense:

- The DWI law makes it an offense to drive while under the influence of alcohol and/or any drug.
- The Per Se law makes it an offense to drive while having more than a certain percentage of alcohol in the blood or breath.

For the DWI offense, the chemical test result is some evidence. For the Per Se offense, the chemical test result is conclusive evidence.

The principal purpose of the Per Se law is to aid in prosecution of DWI offenders. It is not necessary for the prosecutor to show that the driver was "under the influence." It is sufficient for the state to show that the driver's BAC was at or above the state's level.

Important to remember, an officer must still have probable cause to believe that the driver is impaired before making an arrest. Implied consent usually requires that the driver be arrested before the request of a chemical test. The law also requires that the arrest be made for "acts alleged to have been committed while operating a vehicle while under the influence." Therefore, the officer usually must establish probable cause that the offense has been committed and make a valid arrest before the chemical test can be requested.

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## Elements of Implied Consent

- Operates or controls motor vehicle
- Operator shall be deemed to have given consent to chemical test to determine blood alcohol and/or drug content
- When arrested for DWI
- Drivers who refuse may be subject to license sanctions



Implied consent states drivers must submit to a chemical test(s). The law provides penalties for refusal to submit to the test. The law may also provide that the individual's driver's license may be suspended or revoked if the refusal is found to be unreasonable. The purpose of implied consent is to encourage those arrested for DWI to submit to a chemical test so that valuable evidence may be obtained.















Session 3 – The Legal Environment

## Test Your Knowledge

1. If DWI is a criminal offense, the standard of proof is \_\_\_\_\_.
2. The purpose of implied consent is \_\_\_\_\_.




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## Test Your Knowledge

3. For the Per se offense, chemical test result is \_\_\_\_\_ evidence.
4. The Per Se law makes it unlawful to \_\_\_\_\_.




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Session 3 – The Legal Environment

## Test Your Knowledge

5. The PBT law permits a police officer to request a driver suspected of DWI to \_\_\_\_\_.
6. PBT results are used to help determine \_\_\_\_\_.




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**INSTRUCTIONS: Complete the following sentences.**

1. If DWI is a criminal offense, the standard of proof is \_\_\_\_\_.

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2. The purpose of implied consent is \_\_\_\_\_.

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3. For the Per se offense, chemical test result is \_\_\_\_\_ evidence.

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4. The Per Se law makes it unlawful to \_\_\_\_\_.

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5. The PBT law permits a police officer to request a driver suspected of DWI to \_\_\_\_\_.

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6. PBT results are used to assist in determining \_\_\_\_\_.

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