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To: All Chief Law Enforcement Officers

From: Theresa Hilton, Director, Division of Criminal Justice

Date: July 10, 2025

Subject: Interim Guidance on Refusal Prosecutions with Alcotest 9510 Instruments for Females Ages 60 Years and Over

The following instructions are for police agencies using the breath-testing instrument, Alcotest 9510, to determine an individual's blood alcohol content ("BAC") for driving while intoxicated investigations and prosecutions.

Refusal Charges for Females Ages 60 and Over

Firmware for the Alcotest 9510 is presently being updated to correctly use a minimum volume of 1.2 liters for females ages 60 and over, rather than the requirement of 1.5 liters for the general population.

Until the firmware update is completed and installed on the Alcotest 9510 instruments, females ages 60 and over should not be charged with refusal when, in the same breath testing sequence, two or more breath sample attempts, or a breath sample attempt in combination with an accepted sample, resulted in an error message of "Minimum volume not achieved" when a volume of 1.2 liters or greater was provided. This Interim Guidance affects only Refusal charges under N.J.S.A. 39:4-50.4a.

The interim guidance dated June 27, 2024 regarding the calculation of acceptance criteria as well as the use of the lowest value for prosecution remains in effect pending the firmware update.