

CHAPTER 157
DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

661—157.1(321J) Approval of devices and methods to test for alcohol or drug concentration. The commissioner, by these rules, approves the following devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

661—157.2(321J) Evidentiary breath testing.

157.2(1) A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

157.2(2) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order within a period of one year immediately preceding use according to procedures specified for that device.

157.2(3) The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner of public safety for collection of breath samples for evidentiary purposes. The current list shall be available upon request to the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or on the Web site of the department of public safety.

157.2(4) The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's Web site.

157.2(5) All certifications of evidentiary breath testing devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

[ARC 7529B, IAB 1/28/09, effective 4/1/09; ARC 0219C, IAB 7/25/12, effective 9/1/12]

661—157.3(321J) Urine collection. A peace officer who collects a sample of a subject's urine for the purpose of determining alcohol or drug concentration shall proceed as follows.

157.3(1) The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

157.3(2) As soon as practicable, the subject shall urinate into a urine alcohol kit-supplied bottle, cup or other suitable container which is clean, dry, and free from any visible contamination. Anticoagulant and antimicrobial substances in a blood or urine kit do not constitute visible contamination.

157.3(3) The peace officer shall collect a second urine void for alcohol testing in a suitable container which is clean, dry, and free from visible contamination. If a second void cannot be collected, the peace officer shall submit a sample from the first void and shall inform the Iowa division of criminal investigation criminalistics laboratory on the laboratory receipt form that the sample is from a first void. It is not necessary that the subject's bladder be completely emptied.

157.3(4) When collection of the sample for alcohol testing has been completed, the peace officer shall cause a portion of the collected sample to be transferred to a test tube containing 100 milligrams of sodium fluoride and anticoagulant.

157.3(5) A listing of test kits known to meet the requirements of subrules 157.3(2), 157.3(3) and 157.3(4) may be found on the criminalistics laboratory Web site. Any peace officer wishing to use a test kit which is not listed should inquire of the criminalistics laboratory as to whether the other test kit meets the requirements. Any provider of test kits may request the addition of a kit to the list by sending a sample kit to the administrator of the criminalistics laboratory with a cover letter requesting that the kit be added to the list of kits known to meet the requirements of this subrule.

NOTE: The current location of information about test kits on the laboratory Web site is: http://www.dps.state.ia.us/DCI/Crime_Lab/Forensic_Toxicology/index.shtml.

157.3(6) If the peace officer requests additional toxicological testing, the remainder of the sample may be retained in a container and sent for analysis to the Iowa division of criminal investigation criminalistics laboratory.

157.3(7) The peace officer shall label the container showing the date and time the sample was collected and identifying the peace officer, the subject, and the person present during the collection of the sample if other than the peace officer.

661—157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory. Any sample of urine or blood may be submitted to the division of criminal investigation criminalistics laboratory or other appropriate laboratory via ordinary mail, private courier, or personal delivery.

661—157.5(321J) Preliminary breath screening test.

157.5(1) A peace officer desiring to perform a preliminary screening test of a person's breath shall use a device approved by the division of criminal investigation criminalistics laboratory. Such devices are approved for accuracy and precision using a dry gas standard or breath simulating device. The division of criminal investigation criminalistics laboratory shall employ scientifically established tests or methods appropriate to a particular device in determining whether the device meets an acceptable standard for operation including accuracy, or the laboratory may, at its discretion, accept test results from another laboratory. The standards shall include the requirement that in all cases the device shall indicate the alcohol concentration on a numerical display. Devices shall be of a type that may be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list of currently approved devices is available on the Web site of the department.

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

- a. The identity of the officer performing the calibration.
- b. The date.
- c. The value and type of standard used.
- d. The unit type and identification number.

661—157.6(123) Chemical test—alcohol concentration—public intoxication. All devices and methods approved in this chapter for the purpose of determining a person's alcohol concentration for evidential purposes under Iowa Code chapter 321J, and the devices otherwise approved in this chapter only for use in performing preliminary breath screening tests, are equally approved for testing to determine alcohol concentration in connection with arrests for public intoxication under Iowa Code section 123.46. The chemical test results shall be expressed in terms of alcohol concentration as defined in Iowa Code section 321J.1.

661—157.7(321J) Detection of drugs other than alcohol.

157.7(1) Adoption of federal standards. Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in “Mandatory Guidelines for Federal Workplace Drug Testing Programs,” 73 FR 71858, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in the division of criminal investigation criminalistics laboratory initial screening for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, opiate metabolites, acetylmorphine, phencyclidine, and amphetamines. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

Substance	Minimum Level (ng/ml) ¹
Marijuana metabolites	50
Cocaine metabolites	150
Opiate metabolites codeine/morphine	2000
Acetylmorphine	10
Phencyclidine	25
Amphetamines ² (amphetamine, methamphetamine, and methylenedioxymethamphetamine)	500

¹ “ng/ml” means “nanograms per milliliter.”

² Either a single initial test kit or multiple initial test kits may be used provided that the single test kit detects each target analyte independently at the specified cutoff.

157.7(2) Reserved.

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These rules are intended to implement Iowa Code section 123.46 and chapter 321J.

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