

CASE NO. \_\_\_\_\_

SECOND PARISH COURT

DIVISION \_\_\_\_\_

PARISH OF JEFFERSON

STATE OF LOUISIANA

STATE OF LOUISIANA

VERSUS

WAIVER OF RIGHTS: PLEA OF GUILTY TO D.W.I., 2<sup>nd</sup> OFFENSE

My date of birth is: \_\_\_\_\_

The last four digits of my social security number are: \_\_\_\_ \_ .

My driver's license number is: \_\_\_\_\_ State: \_\_\_\_\_

My educational level is: \_\_\_\_\_

I understand that I am entering a plea of guilty to the following charge(s) and that I (am)(am not) entering this plea under Code of Criminal Procedure Article 894.

I understand that I am charged with the following offense(s) that occurred on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_: Louisiana Revised Statute(s): \_\_\_\_\_

Information on predicate (first) offense:

Court: \_\_\_\_\_ Case No. \_\_\_\_\_

Conviction Date: \_\_\_\_\_ Arrest Date: \_\_\_\_\_

I was stopped for \_\_\_\_\_ Intoxilyzer reading: \_\_\_\_\_ Blood test results: \_\_\_\_\_

I understand that the crime of operating a vehicle while intoxicated is the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when:

- (a) the operator is under the influence of alcoholic beverages; or
- (b) the operator's blood alcohol concentration is 0.08 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood (prior to Sept. 30, 2003, the limit was 0.10 percent); or
- (c) the operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in La. R.S. 40:964; or
- (d) the operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without prescription; or
- (e) the operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without prescription and the influence is caused by the operator knowingly consuming quantities of the drug or drugs which substantially exceed the prescribed or recommended dosage.

I am now telling the Court that I am guilty of driving while intoxicated 2<sup>nd</sup> offense.

I understand that, by pleading guilty to this offense, I am giving up the following rights:

My right to plead not guilty or to pursue the not guilty plea previously entered, and go forward with a trial.

My right to a Judge trial.

My right to require the State to prove my guilt beyond a reasonable doubt.

My right to confront my accuser and cross-examine witnesses called to testify against me.

My right not to be compelled to incriminate myself.

My right to appellate review.

If I enter this plea without the assistance of a lawyer, I am giving up the following rights:

My right to the assistance of a lawyer at all stages of the proceedings.

My right to have a lawyer appointed, if I cannot afford one.

I understand that by pleading guilty I am authorizing the Court to impose up to the maximum sentence provided by law without a trial.

The maximum I could be sentenced to for a second offense D.W.I. is 6 months in parish prison and a fine of \$1,000.00. The minimum I must be sentenced to is 30 days in parish prison and a fine of \$750.00. The 30 days in parish prison can only be suspended if the court sentences me to the driver improvement program, the substance abuse program, 240 hours of community service work, and a minimum of 48 hours in parish prison or a minimum of 48 hours of home incarceration. I understand that I shall not operate a motor vehicle unless that vehicle is equipped with a functioning interlock device, and that this requirement shall remain in effect for a period of not less than six months. In addition, I understand that the interlock device shall remain in effect during any period that my driver's license is suspended and for any additional period as determined by the court. If my blood alcohol concentration was 0.15 grams percent or greater, I will also be ordered to serve a minimum of 96 hours in parish prison without the benefit of parole, probation, or suspension of sentence or a minimum of 96 hours of home incarceration. In addition, if my blood alcohol concentration was 0.20 grams percent or greater, I will be fined \$1,000.00, and my driver's license will be suspended for four years with special provisions for use of the interlock and a restricted driver's license.

I understand if I am convicted or plead guilty to a second offense DWI which is committed within five years of the commission of any prior DWI conviction, the provisions concerning home incarceration do not apply until I have first served a minimum of 48 consecutive hours of imprisonment.

I understand that this plea can be used to multiple-bill me as a third or greater offender and if this happens this plea would seriously affect me under the Habitual Offender Law. I understand that in order to be multiple billed under the Habitual Offender Law, it does not matter whether one offense occurred before or after any other offense. I also understand that the District Attorney's office can go back 10 years in order to use prior offenses for multiple billing purposes.

I understand that if I was charged and convicted in the future with a 3rd offense D.W.I., it would no longer be a misdemeanor, but would be a felony charge. The maximum I could be sentenced to would be 5 years with or without hard labor and a fine of \$2,000.00. The minimum I must be sentenced to would be 1 year with or without hard labor and a fine of \$2,000.00. At least 1 year of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence. After a mandatory evaluation, I would be required to undergo substance abuse treatment at an inpatient facility for a minimum of four weeks up to a maximum of twelve months. I will then be sentenced to home incarceration for a minimum time frame that is equal to the remainder of my suspended sentence. Upon failure to complete the substance abuse treatment program or failure to comply with the home incarceration program, I shall be imprisoned for the original term of the suspended sentence with no credit for time served under home incarceration. Under certain circumstances the Court shall order that the vehicle being driven at the time of the offense be seized and sold at auction. I understand that I shall not operate a motor vehicle until the completion of the substance abuse treatment program and the home incarceration program unless that vehicle is equipped with a functioning interlock device.

I understand that if I was charged and convicted in the future with a 4th offense D.W.I., it would be a felony. The maximum I could be sentenced to is 30 years at hard labor and a fine of \$5,000.00. The minimum I must be sentenced to would be 10 years at hard labor and a fine of \$5,000.00. At least 2 years of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence. After a mandatory evaluation, I would be required to undergo substance abuse treatment at an inpatient facility for a minimum of four weeks up to a maximum of twelve months. I will then be sentenced to home incarceration for not less than one year nor more than five years and shall be fined \$5,000.00. Upon failure to complete the substance abuse treatment program or failure to comply with the home incarceration program, I shall be imprisoned for the original term of the suspended sentence with no credit for time served under home incarceration. Under certain circumstances, the court shall order that the vehicle being driven at the time of the offense be seized and sold at auction. I understand that I shall not operate a motor vehicle until the completion of the substance abuse treatment

program and the home incarceration program unless that vehicle is equipped with a functioning interlock device.

I understand that if I plead guilty under C.Cr.P. Art. 894, then the plea is held in abeyance until my probation period is successfully completed. The effect then is that the record is not available to and cannot be used by the general public if appropriate legal documents are filed after the probation period is successfully completed. However, the state has the right to keep a private record of the charge for the proper law enforcement agency to use for multiple billing purposes.

I understand that the Louisiana Department of Public Safety may suspend my driving privileges.

I understand that if I refuse to submit to a chemical test on two previous and separate occasions, it is a criminal offense to refuse a third time. If convicted, I would then be sentenced in the same manner as if convicted of a D.W.I. first offense. (R.S. 14:98.2).

I understand that if I am not a citizen of the United States of America that this plea may have a negative impact on any deportation proceedings.

I understand that if I am convicted of three D.W.I.s or bond forfeitures within five years from the date of the first offense to the date of the third offense, my license will be suspended for a period of 24 months. (R.S. 32:414(D)).

I and/or my attorney had a conference with the Assistant District Attorney and he/she has agreed to reduce and/or dismiss the following charges:\_\_\_\_\_.

I acknowledge that my act of Pleading Guilty is a knowing, intelligent, free and voluntary act on my part. I also acknowledge that no promises or threats have been made to encourage me to enter a guilty plea to the above charge.

|   |                                    |
|---|------------------------------------|
| I will be sentenced as follows:         |                                    |
| _____ days in parish prison, suspended  | _____ months of active probation   |
| _____ driving programs                  | _____ substance abuse program      |
| _____ hours of community service        | _____ attend victim's impact panel |
| _____ continuous hours in parish prison | _____ days of home incarceration   |
| _____ substance abuse evaluation        | _____ months of interlock          |
| _____ months suspended driver's license | _____ fine; and cost               |

My rights have been thoroughly explained to me by the trial judge, and I understand them. The trial judge has asked me if I have any questions and has given me an opportunity to ask questions. I have no further questions to ask.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Attorney for Defendant

I have read and reviewed the above with the defendant in open court. I have asked the defendant if he has any questions of me and have given him an opportunity to ask me questions. Any questions the defendant may have asked me I have answered. I find that the defendant has made a knowing, intelligent, free and voluntary act on his or her part; and that no promises or threats have been made to encourage the defendant to enter this plea. I now accept the defendant's plea.

\_\_\_\_\_  
Date

\_\_\_\_\_  
J U D G E