

Circuit and General Sessions Court Clarksville Tennessee Montgomery County	NOTICE OF DUI PUNISHMENT Page 1 of 2	Case Number _____-_____-CR-_____
State of Tennessee vs. _____		

I understand and have been advised in court by the judge that the punishment of Driving Under the Influence of an Intoxicant in Tennessee in violation of Tenn. Code Ann. § 55-10-401 is as follows:

(a) Any person who is convicted of a **FIRST OFFENSE** shall be fined not less than \$350 nor more than \$1,500; shall be confined in the county jail or workhouse not less than 48 hours nor more than 11 months and 29 days; and shall be prohibited from driving in Tennessee for 1 year; provided, that if at the time of the offense the alcohol concentration in such person’s blood or breath is 0.15% or more, the minimum jail sentence shall be 7 days instead of 48 hours.

(b) Any person who is convicted of a **SECOND OFFENSE** shall be fined not less than \$600 nor more than \$3,500; shall be confined in the county jail or workhouse not less than 45 days nor more than 11 months and 29 days; and shall be prohibited from driving in Tennessee for 2 years.

(c) Any person convicted of a **THIRD OFFENSE** shall be fined not less than \$1,100 nor more than \$10,000; shall be confined in the county jail or workhouse not less than 120 days nor more than 11 months and 29 days; and shall be prohibited from driving in Tennessee for not less than 6 years.

(d) Any person convicted of a **FOURTH OFFENSE** shall be guilty of a Class E felony; shall be fined not less than \$3,000 nor more than \$15,000; shall be confined for not less than 150 consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class E felony; and shall be prohibited from driving in Tennessee for 8 years.

(e) Any person convicted of a **FIFTH OFFENSE** shall be guilty of a Class D felony; shall be fined not less than \$3,000 nor more than \$15,000; shall be confined for not less than 150 consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class D felony; and shall be prohibited from driving in Tennessee for 8 years.

(f) Any person convicted of a **SIXTH OR SUBSEQUENT OFFENSE** shall be guilty of a Class C felony; shall be fined not less than \$3,000 nor more than \$15,000; shall be confined for not less than 150 consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class C felony; and shall be prohibited from driving in Tennessee for 8 years.

(g) Any person convicted of ANY OFFENSE WHILE ACCOMPANIED BY A CHILD under 18 years of age, the person shall be fined \$1,000 in addition to the fine for the DUI offense; and shall be confined for a mandatory minimum period of 30 days, which shall be served in addition to any period of incarceration received for the DUI offense. If the CHILD SUFFERS SERIOUS BODILY INJURY as a proximate result of the DUI offense, the person commits a Class D felony and shall be punished for vehicular assault, as provided in Tenn. Code Ann. § 39-13-106. If the CHILD IS KILLED as a proximate result of the DUI violation, the person commits a Class B felony and shall be punished for vehicular homicide involving intoxication as provided in Tenn. Code Ann. § 39-13-213(b)(2).

FILED _____, 20__ at _____ am/pm
Wendy Davis, General Sessions Court Clerk
BY: _____ DC

(h) In addition to the required sentencing, a judge may order substance abuse treatment, substance abuse assessments, conditions of probation, and/or monitoring with periodic reporting using one (1) or more of the following: transdermal or other alternative alcohol or drug monitoring device; electronic monitoring with random alcohol or drug testing; global positioning monitoring system.

(i) In determining whether a conviction is a second or subsequent offense, it does not matter whether the prior offense occurred in Tennessee or in another state.

(j) In determining whether a conviction is a second or subsequent offense, all prior convictions within the past 10 years from the current conviction shall be considered. If the person's current conviction is within 10 years of the previous conviction, the person shall be considered a multiple offender. If the person is considered a multiple offender, then all convictions within 10 years of the date of the immediately preceding conviction shall also be considered in determining the number of prior offenses.

(k) For purposes of determining if the person is a multiple offender, the state may use a conviction for an offense committed in another state that would constitute the following if committed in this state: DUI, BUI, vehicular assault, aggravated vehicular assault, vehicular homicide, or aggravated vehicular homicide. The state may also consider an offense committed in another state as a prior conviction if the elements of the offense are the same as the elements of the comparable offense in this state.

(l) For purposes of determining if a person convicted of DUI is a multiple offender, a prior conviction for BUI, vehicular assault, aggravated vehicular assault, vehicular homicide, or aggravated vehicular homicide shall be treated the same as a prior conviction for DUI, as long as the person was convicted of the prior offense before committing the instant violation of DUI.

(m) A defendant's automobile may be subject to seizure and forfeiture upon a second or subsequent conviction of a DUI offense.

(n) Unless a person convicted of violating Tenn. Code Ann. § 55-10-401 is determined to be indigent, the minimum applicable fine shall be mandatory and shall not be subject to reduction or suspension. All fines are to be paid on the date sentence is imposed unless the court makes an affirmative finding that the defendant lacks a present ability to pay. The court shall then order a date certain before which payment shall be made. Should the defendant fail to comply with the order of the court, the clerk shall notify the court of the failure for further proceedings.

(o) The payment of restitution to any person suffering physical injury or personal losses as the result of such offense, if such person is economically capable of making such restitution, shall be imposed as a condition of probation under Tenn. Code Ann. § 55-10-410.

I hereby acknowledge receipt of a copy of this written notice of enhancement and state that I fully understand the same as has been explained to me by the sentencing judge. I understand that this form has been provided as a convenience for reference purposes, and it is in no way a substitute for the full language of Tenn. Code Ann. § 55-10-401 et al.

Date: _____

Defendant

Attorney for the Defendant