I.M.C.R. 9.2. Suspension of Driver's License for Failure to Take Alcohol Test.

Idaho Misdemeanor Criminal Rule 9.2. Suspension of Driver's License for Failure to Take Alcohol Test.

(a)(1)Sworn Statement of Officer. The court shall not accept a license seized under Section 18-8002, Idaho Code, without an accompanying affidavit of the officer in substantially either of the following forms:

Click here [1] for form.

or in the alternative:

(a)(2)

Click here [2] for form.

(b) Suspension by Court. After being presented with a sworn statement of an officer under this rule, if the person whose license was seized does not request a hearing within 7 days from the date of seizure of his license, as allowed by Section 18-8002, Idaho Code, the judge shall thereupon enter an order suspending the driver's license of the defendant for 180 days pursuant to Section 18-8002, Idaho Code, without further notice to the party. The order suspending driving privileges and driver's license shall be effective upon execution and shall apply to all driving privileges of the person, including those granted by any temporary license or permit issued by a police officer. The duty of the judge to enter such an order is a ministerial duty in which the judge has no discretion as to whether the order is to be entered.

(c) Show Cause Hearing. If a show cause hearing is timely requested by the defendant, the court shall notice it for hearing within the time provided by law. The hearing shall be limited to those issues provided by Section 18-8002(4)(b), Idaho Code. If the court enters an order of suspension, it shall cause copies of the suspension order to be filed with the Department of Transportation and served upon the defendant by personal delivery or mailing to the address indicated on the driver's license or other address furnished by the defendant. If the court makes the determination that there is not grounds for suspension of driving privileges and driver's license under this rule, it shall enter an order to that effect and return the license to the defendant.

(d) Form of Suspension Order. An order suspending driving privileges under Section 18-8002, Idaho Code shall be in substantially the following form:

Click here [3] for form.

(e)Procedure and Evidence. A hearing under Idaho Code Section 18-8002 described above is a civil hearing and will be governed by the Idaho Rules of Civil Procedure except that the discovery rules, Rules 26 through 37 I.R.C.P., will not apply and Rule 16 of the Idaho Criminal Rules will govern all discovery. Provided, there shall be no right to a jury trial in these hearings.

(Adopted April 3, 1984, effective March 1, 1984; amended March 20, 1985, effective July 1, 1985; amended June 15, 1987, effective November 1, 1987; amended March 30, 1988, effective July 1, 1988; amended February 10, 1993, effective July 1, 1993; amended February 26, 1997, effective July 1, 1997; amended March 28, 2000, effective July 1, 2000.)

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