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MEMORANDUM

TO: LAW ENFORCEMENT OFFICERS
FROM: TRISHA CONTI, ALCOHOL PROGRAM SUPERVISOR *TTC*
SUBJECT: BREATH TEST PROCEDURE
DATE: OCTOBER 14, 2013

23 V.S.A. § 1202 (d) (5) states: *A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.* If a subject provides a valid breath sample and then requests a second test, the officer must make all reasonable attempts to provide the subject with an accurate and reliable second breath test. If the subject fails to provide an adequate breath sample for the second test (INCOMPLETE), the subject should be informed that he/she did not provide an adequate sample and if they would like a second result, they need to provide a sufficient sample. If there is an error with the DMT that prevents a successful second breath test, the officer should restart the testing sequence with that instrument. If the officer cannot complete a successful second test on the present DMT, the subject should be transported to a new agency for breath testing and the full (two-test) testing sequence, including the fifteen minute observation period, should be repeated.