

No. U6/51825/2002

Police Headquarters
Kerala, Thiruvananthapuram
Dated:22/10/2009

CIRCULAR No. 44/2009

Sub:- Traffic Control – Drunken Driving - Use of Breath Analyser – reg

Ref:- 1. Executive Directive No. 2/04 dated 19.08.2004
2. Judgment of Hon'ble High Court of Kerala in WP (C) No. 7632 of 2009 dated 17.03.2009

Breath Analysers were purchased and distributed among the districts for detecting and preventing drunken driving. The specifications of Breath Analyser are prescribed as per the Notification S.O. 442(E) dated 12th June 1989. The Central Government has approved four types of devices for the purpose of obtaining an indication of the presence of alcohol in a person's blood by means of a test carried out on one or more specimens of breath provided by that person for the purpose of a breath test.

It may be noted that the Alcometers purchased in this department conform to the relevant provisions of the MV Act.

The newly supplied Breath Analysers contain three distinct parts – body, plastic mouth piece and a disposable straw to be used with mouth piece. The person who is suspected to have consumed alcohol is requested to blow into the straw. At this time the mouth of the person comes in contact with the straw of the Breath Analyser. Hence the straw should be disposed of as soon as the test is over. The same straw should not be used more than once as the use of the same straw by different persons is not desirable.

In order to invoke the offence U/s 185 of MV Act the person who drives the vehicle should have in his blood, alcohol exceeding 30mg per 100ml of blood. This should be detected in a reliable test. Sec 203 authorises a Police Officer to require any person to provide one or more specimens of his breath for a breath test if the Police Officer thinks fit. Sec 205 states that a presumption can be drawn against any person who refuses to cooperate with the breath test.

In pursuance of the judgment dated 17.03.2009 of Hon'ble High Court of Kerala in WP (C) No. 7632 of 2009, all CsP and SsP are directed to properly conduct the breath analyzer test and record the statutory requirement in the file so as to enable the court to understand whether the test has been done properly or not. Hence, a printed copy of the result of the Breath Analyser test shall be obtained then and there and the same should be produced before the court along with the chargesheet so as to sustain the charge.

DIRECTOR GENERAL OF POLICE