



**STATE OF OKLAHOMA  
BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE**

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**ACTION NO. 04-01 BY THE STATE DIRECTOR OF TESTS FOR ALCOHOL AND DRUG  
INFLUENCE**

Under authority of 47 O.S. Supp., 2003 Section 751-761 and OAC 40:1-1-3, OAC 40:30-1-3. (c) (1), promulgated by the Board of Tests for Alcohol and Drug Influence, the following official ACTION is hereby taken by the State Director of Tests for Alcohol and Drug Influence.

**THE INTERPRETED MEANING OF A FOREIGN OBJECT WITHIN THE MOUTH OF A  
BREATH-ALCOHOL TESTED INDIVIDUAL**

**40: 30-1-3. (c) (1)** Continuous observation of the subject whose breath is to be tested, for a period of at least fifteen (15) minutes prior to the collection of the first breath specimen, during which observation period the subject shall not have ingested alcohol or alcoholic beverages, regurgitated, vomited, eaten, or smoked. Such continuous observation may be carried out by the breath-alcohol analysis Operator or Supervisor or by any other qualified person.

The State Director of Tests, complying with his duties as prescribed in OAC 40:1-1-3., State Director of Tests duties, responsibilities and authority; provides the interpreted meaning of a foreign object within the mouth of a breath-alcohol tested individual.

Quoting the peer reviewed forensic evaluation of B.K. Logan and R.G. Gullberg on "Lack of Effect of Tongue Piercing on an Evidential Breath-Alcohol Test." This document printed in the Journal of Forensic Science in 1998; 43 (1): 239-240.

*"Defendants in several driving under the influence cases have asserted that the presence in the mouth of a metal stud through a hole in the tongue invalidates the breath alcohol test because of the prohibition against foreign substances in the mouth, and because of the potential for the jewelry to retain alcohol and interfere with the breath test. Rates of mouth alcohol elimination were evaluated in two subjects with piercings and in two control subjects. No difference in mouth alcohol eliminated pattern were observed. A one minute deprivation period prior to the test ensures no effect from residual mouth alcohol. In the absence of breath alcohol testing, oral jewelry should be treated in the same manner as dental work and should be in place during the test without affecting its outcome."*



The State Director concurs with this evaluation and its results and defines for the record that only loose, porous or absorbent material such as gum, tobacco, mouth fresheners, liquids or solid food, candy or any other unattached porous material would be considered as foreign substances.

In conclusion the State Director of Tests proclaims dentures or any denture work of any kind and tongue piercing or other facial jewelry are not to be considered as foreign substances as they will not affect the test results.

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McBeth Sample, Jr.  
State Director of Tests for  
Alcohol and Drug Influence

