



**Applying Portable
Alcohol Monitoring For
Clients-
Regardless of Alcohol
Risk Level**

Portable Alcohol Monitoring *Features and Benefits*

Portable,
handheld unit

Verizon cellular
network

120-hour
battery life

Alcohol-specific
fuel cell
technology

Camera-
equipped
facial detection

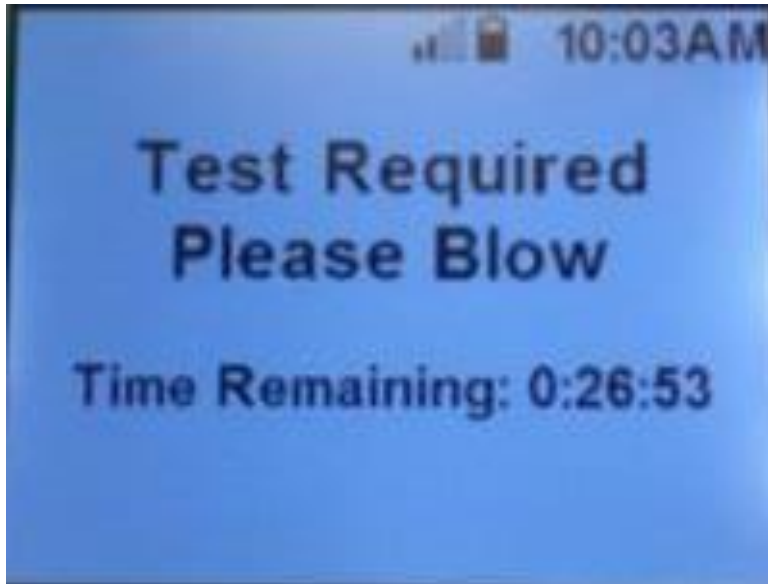
GPS test
location

Client test alert

Immediate
violation
notification

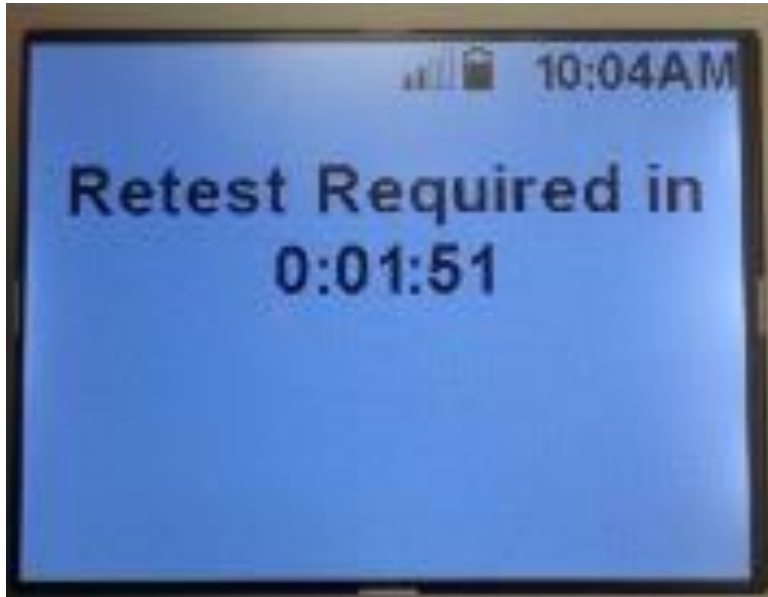
On demand
testing

How Portable Alcohol Monitoring Works



- Scheduled test window mode
 - display “**Test Required – Please Blow**” along with the countdown timer
- Blow for 3 to 4 seconds
- Device captures client photo
- Fuel cell technology measures Breath Alcohol Content (BrAC)
 - Passed/Warning/FAILED/VIOLATION in the display

Violations



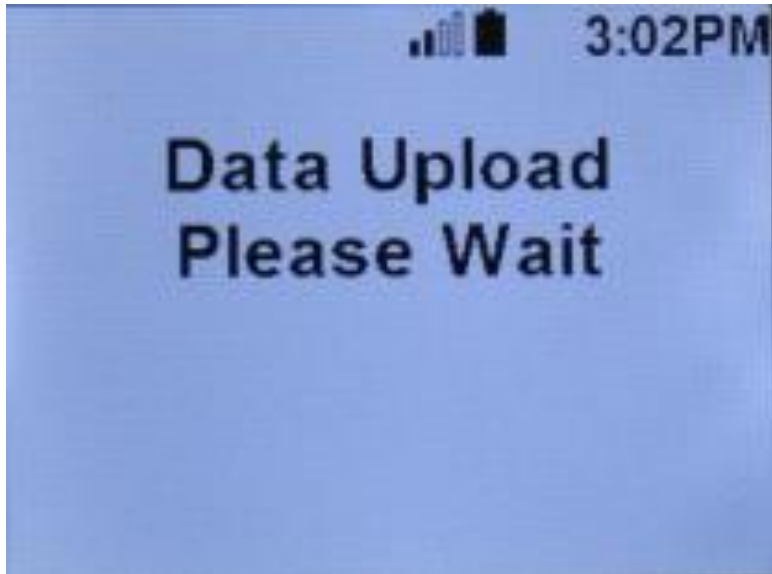
- If violation occurs (BrAC level at .02 or greater) temporary wait. Device does **NOT** accept test during 2 minute wait while fuel cell clears
- Positive BrAC test requires 2 default re-tests
- Display may show "**Retest Required**" or "***Please Wait***" if in scheduled test window or out of schedule test window



Violation Re-test

- Wait time clears alcohol for next test
- After “wait” time, S.M.A.R.T. Mobile requests new re-test
- Purpose of Re-tests
 - allow validation of original test
 - allows clients to rinse mouth if environmental based and retake test
- Re-test loop ends after second re-test with a pass, skip, or fail

Data Upload



- S.M.A.R.T. Mobile calls in AFTER each test window closes
 - All relevant information uploaded
- Test window close
- All logs, pictures and GPS data uploaded
- No tests during data upload (~ 2 minutes)

Facial Detection

- S.M.A.R.T. Mobile detects person's face
- Client required to re-test if S.M.A.R.T. Mobile does NOT detect a face
- Client must pass **BEFORE** any breath test officially completed (BrAC still recorded)
- Message displays facial detection fail



GPS Locations



THE ADMISSIBILITY OF ALCOHOL TEST RESULTS FROM SMART START SMART MOBILE DEVICE IN PROBATION VIOLATION HEARINGS

OCTOBER 2017

MARC PICKER, ESQ., JUDGE PEGGY HORA (RET.), DAVID WALLACE, ESQ., AND JUDGE BRIAN MACKENZIE (RET.)

EXECUTIVE SUMMARY

This paper explores the evidentiary standards regarding the admissibility of alcohol test results from the Smart Start SMART Mobile Device. Our research establishes that the test results are admissible as evidence of alcohol use in a probation violation proceeding.

Probationers do have a diminished set of constitutional rights dependent upon the observance of special conditions. As a result, there have been no successful constitutional challenges to alcohol and other drug testing and abstinence requirements when set as a reasonable term of probation.

The more generally accepted legal rule regarding scientific testing and expert opinion is provided in FRE 702 as interpreted by *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) and *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993). These cases provide guidelines for determining the admissibility of expert witnesses' testimony.

In *People v. Bohrer*, 37 Misc 3rd 370, (July 13, 2012) the court held, "In New York, the admissibility of scientific evidence is governed by the Frye rule" and it noted "is that expert testimony based on scientific principles is admissible but only if the procedure has gained general

acceptance." The court generally accepts the Smart Start ignition interlock device as reliable, and therefore, a Frye hearing was unnecessary before accepting it into evidence.

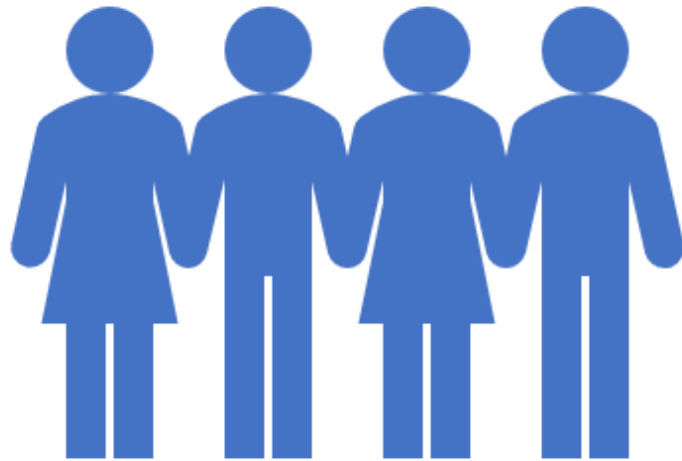
As the *Bohrer* court noted, the Smart Start ignition interlock device meets the National Highway Traffic Safety Administration (NHTSA) standards established for evidentiary and non-evidentiary BAC testing devices. NHTSA has tested the Smart Start technology and found it exceeds their standards.

The Smart Start SMART Mobile Device is identical to the equipment contained in the Smart Start ignition interlock, but in a different format. It is a portable, handheld unit that is lightweight and easy to use with a 120-hour battery life and it has an alcohol-specific fuel cell that delivers accuracy at a level that meets the 2013 NHTSA standards. It can be used to monitor all risk-levels of participants based on the number of test windows (custom and/or random), and it is camera-equipped for facial detection. It will also provide a GPS location at the time of the test.

Our research conclusively establishes the results of the Smart Start SMART Mobile Device are generally accepted by the scientific community under FRE 702.

Frye Paper

Who Would Benefit from Portable Alcohol Monitoring?



- Children and parents in visitation situations
- High Risk Clients
- Medium Risk Clients
- Low Risk Clients

Portable Alcohol Monitoring Application in Child Visitation

Testing Times easily
changed/modified

More affordable to
client

Average testing 4 - 10x
daily or more

Can test anywhere

Reports sent to
whomever is designated
as a monitor within
minutes

Portable Monitoring a Solution for Child Visitation Issues?



- **750 ILCS 5/603.10(a)(5)**
- allows the court to place restrictions on parenting time after a finding:
- “that a parent engaged in any conduct that seriously endangered the child's mental, moral, or physical health or that significantly impaired the child's emotional development[.]”
- Including “requiring a parent to abstain from possessing or consuming alcohol or non-prescribed drugs while exercising parenting time with the child and within a specified period immediately preceding the exercise of parenting time[.]”

What is a continuum of Sanctions?

Punishment should be proportional to the severity of the offense, along with individual culpability and circumstances.

A sentencing system should treat similarly situated defendants similarly while retaining the flexibility to account for relevant differences among particular offenders.

High Risk

Moderate Risk

Low Risk

Continuum of Sanctions

- **The High-Risk Client**

- Continuous alcohol for maximum level of testing
- 24 hours per day, 7 days per week
- Portable alcohol monitoring – maximum tests per day
- Recommended: 60-90 days

The Low-Risk Client

- Minimal testing
- Typically a color code, daily call-in system
- Single test per day
- Same time of day
- Administered by a PO
- Usually business and/or some evening hours, possibly limited weekend hours
- Clients know once test is completed they are free for at least 24 hours (exception EtG)

Why S.M.A.R.T. Mobile?

Reporting & Monitoring...The Need to Know NOW!

- Impose immediate sanctions
- Hold client accountable
- Change client behavior

Cost Factor

Less than CAM or EtG testing

All Risk Levels

Applicable for high, medium or low-risk clients based on number of test windows

Passive vs. Active Engagement

Client is actively engaged in changing his or her behavior



Contact

Client 24/7 Bilingual Help Line:
844-366-9725

Sydney Coleman
847-450-3831

Sydney.Coleman@smartstartinc.com

Susan Harrod
217-899-5323

Susan.harrod@smartstartinc.com