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NEW WEAPON TO FIGHT DRUNKEN DRIVERS

VIOLATORS MAY BE LEFT WITHOUT BREATH OF A CHANCE

Senta Scarborough, The Arizona Republic

Testing DUI suspects is getting a lot easier for Arizona law officers, who have begun packing a smaller, lightweight Intoxilyzer that can be taken on the road and operated with the power from a vehicle's cigarette lighter.

The state Department of Public Safety and the Governor's Office of Highway Safety have teamed to replace nearly 250 breath-testing devices statewide in a three-year, \$1.8 million project.

Arizona is one of four states using the top-of-the-line tools, which replace older, heavier machines that must be carted around in vans.

"Instead of taking the subject to the instrument, we are taking the instrument to the subject," said Paul White, a detention officer with the Maricopa County Sheriff's Office. "I love that the public sees us doing it along the side of the road ... We have had cars pull over and the drivers switched."

The Game and Fish Department hopes to have them on lakes for boating DUI patrols by Memorial Day weekend.

"We are trying to move the breath testing into the next level and make it better," said Todd Griffith, DPS crime lab supervisor.

The new hand-held portable testing machines, the Intoxilyzer 8000, looks like an oversized gray lunchbox.

Officers can swipe a driver's license and their own identification, downloading the officer and suspect data.

DPS has trained 2,500 officers on the new device, which costs \$7,180.

The East Valley DUI task force used the new machines last holiday season, and sheriff's deputies at the Salt River Recreation Area used them Easter weekend.

The machines, produced by CMI Inc. of Owensboro, Ky., was approved by the U.S. Department of Transportation three years ago and placed into service last year.

Toby Dyas, the company's western regional manager, said advances in electronics helped reduce moving parts to create the portable tool.

In 1999, several thousand Arizona DUI cases were called into question after defense attorneys claimed DPS and Phoenix police lab technicians withheld practice-test errors. The controversy was dubbed the "data dump." Attorneys claimed the errors meant suspects were denied due process.

The DPS cases held up in court, but the agency later worked with the breath-test device manufacturers to design a "foolproof" system consisting of two equipment checks, two test checks, and two suspect checks.

Dyas said the sequence of checks is considered to be the best in the nation. Florida, New York, and West Virginia have modeled their performance tests on the protocol.

"DUIs are highly litigated in this state more than other states. Defense attorneys raise every potential issue and do their job," Griffith said. "The citizens can be very assured they are getting a good breath tests and it is accurate."

Craig Penrod, a Tempe attorney who specializes in DUI cases, said one of the reasons for that is that Arizona has some of the stiffest penalties in the country for drunken driving, including first-time mandatory jail time and steep fines.

"The consequences are so far reaching to the average guy. It has such a life impact that people want to make sure their rights are protected," he said.

Penrod said he has just begun evaluating the Intoxilyzer now that a few of the cases involving them have landed on his desk. He said he is excited that the machines hold more internal memory data that can be tracked to see how well and accurate the machine is working over time.

But he said the question is whether police agencies will preserve that data because some currently don't keep data from older machines.

Penrod said he is looking forward to seeing how well it works.

"I don't worship at the altar of the Intoxilyzer," **Penrod** said. "It is still a machine and it is not always right."