

EXPLANATION OF RIGHTS AND DEFERRED SENTENCE PROGRAM

You have been charged with the offense of "Minor in Possession (MIP)." This offense is classified as a "Class B Violation" under Oregon law. This means that a person who is found "guilty" of this charge cannot be sentenced to time in jail. The penalty for MIP is a fine of not less than \$260.00 with a maximum fine of \$1000.00 and the person's driving privileges suspended for a period not to exceed one (1) year.

You have three choices on how to handle this charge. If you have questions about these choices, ask your attorney, if you have one, or you can ask the Judge. Here are the choices and their possible consequences:

1. You may plead "Not Guilty." You will have a trial at a later date or you may change your plea to "Guilty." At trial, a judge will listen to the state's evidence against you and to any relevant information or witnesses you may wish to present. The judge will decide whether you are "Guilty" or "Not Guilty." You have no right to a jury trial or to state-paid counsel for a violation charge. You will not be offered the MIP Diversion Program at a later date if you choose this option.
2. You may plead "Guilty" or "No Contest" and not apply for a deferred sentence. This plea will result in your conviction for the offense. If you wish, you may give the judge an explanation and information you think will help the judge decide what your sentence should be, but by law, your driving privileges will be suspended for a period not to exceed one (1) year.
3. You may apply for the MIP Deferred Sentence Program after pleading "Guilty" or "No Contest." You must be eligible (explained below) to be allowed into the deferral program. If eligible, you must file the petition with the court. The petition is an agreement between you and the Court that you will complete the MIP Deferred Sentence Program. If you complete the one year program, you must file a motion to ask the court to dismiss the charge and sign an additional statement promising that you have not been charged or convicted of any other alcohol or drug related charges since entering the MIP Deferred Sentence Program. If you fail to fulfill the agreement, you will be sentenced on your previously entered plea and the sentence that will be imposed will be the maximum fine of up to \$1000.00 and your driving privileges will be suspended for a period not to exceed one (1) year. The rest of this document describes the deferral program. Before you choose this option, read the entire document.

ELIGIBILITY FOR DEFERRED SENTENCE PROGRAM

You are eligible to participate in this Deferred Sentence Program if:

- a. You meet all of the requirements described in the attached statement and
- b. On the date of the present charge, you did not have another charge of "MIP" pending against you and
- c. You have not been convicted of "MIP" or its equivalent charge in this or any other state and
- d. You have not already pled "Guilty" or "No Contest" to the present charge of MIP, or if you have already pled "Not Guilty" the charge, a trial on that charge has not yet begun and
- e. You appeared in court on the date scheduled for your first appearance on this charge or the court finds you had good reason for not appearing and
- f. You file this petition with the court within thirty (30) days of your first appearance in court, unless the court finds you have a good reason for the delay.

LEGAL RIGHTS WAIVED

- a. The right to speedy trial and sentencing, should the court terminate the deferral agreement.
- b. Former jeopardy rights under the federal and state constitutions and ORS 131.505 to 131.525 in any subsequent action on the charge or on any other offense based on the same criminal episode.
- c. The right to have the MIP charge decided at the same time as certain other charges (former jeopardy). **This paragraph applies to you only if you are charged with another offense in addition to the MIP and the additional charges are from the same alleged episode.** All offense alleged to have been committed at the same time must be prosecuted at the same time. The deferral agreement between you and the court applies only to the MIP charge. Prosecution of this charge **only** will be delayed during the deferral program period. Other charges will be prosecuted separately from the MIP charge and will not be delayed by the deferred sentence agreement.

AGREEMENT WITH THE COURT

To have the court dismiss the MIP charge after completing the deferral program, you agree to do the following:

- a. Pay the court the following fees: Diversion filing fee in the amount of \$200.00. The court will allow you to make payments toward this fee upon signing a Payment Agreement.
- b. Attend and complete the Legacy Emanuel Hospital's Minor in Possession of Alcohol Class and /or the Clackamas County DUII Impact (Youth) Panel as ordered. Once you have completed the class or classes, you are required to provide proof to the court. The fee for each class is \$50.00; you must pay this directly to the agency.
- c. Upon completion of the above class, you must provide in writing to the court what you have learned from the class.
- d. Fully comply with the laws of this state regarding minor in possession of alcohol and all other drug and alcohol related laws.
- e. **Keep the court advised at all times of your current mailing and residential addresses during the diversion period.** This is extremely important because the court will send notices only to the address that you provide.
- f. Attend any "show cause" hearing that the court orders you to attend. If the court believes you have violated this agreement or that you were not eligible for a deferral when you filed your petition, the court will offer you a hearing. At the hearing you can "show cause" why the court should not remove you from the deferred program. If you show the court why the court should let you continue the deferral, the judge may allow you to continue. The court will send notice of the hearing by regular mail. If you fail to appear at the hearing, the court will terminate the deferred sentence agreement and impose a fine and license suspension.
- g. **Ask the court to dismiss the charge at the end of the deferral period by filing a motion to dismiss with the court. If you fail to appear at the end of the deferred sentence program, a judgment for the MIP will be entered against you for the maximum fine of \$1000.00 and your driving privileges suspended for a period not to exceed one (1) year.**

**STATEMENT IN CONNECTION WITH APPLICATION FOR MINOR IN
POSSESSION OF ALCOHOL (MIP) DEFERRED SENTENCING AGREEMENT**

I, _____, with a date of birth of _____,
hereby make the following written statement in connection with the benefit of an MIP diversion program
in the West Linn Municipal Court:

1. I have no prior convictions or juvenile court adjudications for Minor in Possession of an Alcoholic beverage or statutory counterpart in any jurisdiction of this state or any other state;
2. I have no prior convictions or juvenile court adjudications for any drug offenses including violations for Possession of Less than an Ounce of Marijuana in this state or any other state;
3. I have no other pending cases in any courts, including citations or complaints for alcohol related offenses or drug related offenses in this state or any other state on the date that I make this written statement;
4. I have never participated in a DUII diversion program or been convicted of DUII in any court in any state; and
5. I have never participated in any alcohol or drug related diversions or deferred sentencing programs in any court in any state.

I understand that if I knowingly make any false statements, I may face prosecution in the West Linn Municipal Court under ORS 162.085 for unsworn falsification, a class B misdemeanor and that this crime has a maximum penalty of six months in jail and a fine of \$2,500.00.

DATED this _____ day of _____, 20 _____.

Signature

Printed Name

Witnessed by:
