

HORIZONTAL GAZE NYSTAGMUS STATE CHART SUMMARY

(Those states in bold have cases directly addressing the admissibility of HGN evidence. Under Section II, a blank box means that a court has not ruled on the issue.)

	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA
I. Evidentiary admissibility.											
A. Not a scientific test - admissible as a field sobriety test.											
B. A scientific test - scientific standard not applicable.				X						X ¹	
C. A scientific test - meets scientific standard.		X	X		X			X			X
D. A scientific test - does not meet scientific standard.											
E. A scientific test - inadequate evidence presented to determine if HGN meets scientific standard.	X						X				
F. Scientific standard state follows:											
1. <i>Frye</i> (general acceptance)	X	X	X		X						
2. <i>Daubert</i> /FRE (reliability)							X	X			
3. Other											X
II. Police officer may testify about:											
A. HGN's scientific reliability at admissibility hearing.											
B. Correlation between HGN and alcohol at trial.											
C. HGN test results based on training & experience in administration of test.		YES	YES		YES			YES	YES	YES	YES
III. Purpose and limits of HGN test results.											
A. Probable cause determination in criminal hearing.		X	X				X	X			
B. Probable cause determination in civil hearing.								X			
C. Evidence of impairment.		X	X	X	X			X			X
D. Quantify BAC.											
E. Same evidentiary weight as other field tests.				X							

	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA
I. Evidentiary admissibility.											
A. Not a scientific test - admissible as a field sobriety test.					X						
B. A scientific test - scientific standard not applicable.											
C. A scientific test - meets scientific standard.	X	X	X					X	X	X	
D. A scientific test - does not meet scientific standard.											
E. A scientific test - inadequate evidence presented to determine if HGN meets scientific standard.						X					X
F. Scientific standard state follows:											
1. <i>Frye</i> (general acceptance)			X			X				X	
2. <i>Daubert</i> /FRE (reliability)	X	X			X			X	X		X
3. Other											
II. Police officer may testify about:											
A. HGN's scientific reliability at admissibility hearing.											
B. Correlation between HGN and alcohol at trial.		NO									
C. HGN test results based on training & experience in administration of test.	YES	YES	YES	YES	YES			YES	YES	YES	YES
III. Purpose and limits of HGN test results.											
A. Probable cause determination in criminal hearing.	X	X	X	X				X	X		
B. Probable cause determination in civil hearing.			X								
C. Evidence of impairment.		X	X	X	X			X	X		
D. Quantify BAC.											
E. Same evidentiary weight as other field tests.		X			X						

	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY
I. Evidentiary admissibility.											
A. Not a scientific test - admissible as a field sobriety test.											
B. A scientific test - scientific standard not applicable.					X				X		
C. A scientific test - meets scientific standard.	X	X		X							X
D. A scientific test - does not meet scientific standard.			X					X			
E. A scientific test - inadequate evidence presented to determine if HGN meets scientific standard.						X				X	
F. Scientific standard state follows:											
1. <i>Frye</i> (general acceptance)	X	X	X	X		X			X		X
2. <i>Daubert</i> /FRE (reliability)								X		X	
3. Other											
II. Police officer may testify about:											
A. HGN's scientific reliability at admissibility hearing.						NO				NO	
B. Correlation between HGN and alcohol at trial.			NO								
C. HGN test results based on training & experience in administration of test.	YES	YES		YES	YES					YES	
III. Purpose and limits of HGN test results.											
A. Probable cause determination in criminal hearing.			X					X			
B. Probable cause determination in civil hearing.											
C. Evidence of impairment.	X	X		X	X						
D. Quantify BAC.											
E. Same evidentiary weight as other field tests.											

	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX
I. Evidentiary admissibility.											
A. Not a scientific test - admissible as a field sobriety test.		X	X					X	X		
B. A scientific test - scientific standard not applicable.											
C. A scientific test - meets scientific standard.					X						X
D. A scientific test - does not meet scientific standard.											
E. A scientific test - inadequate evidence presented to determine if HGN meets scientific standard.	X			X		X				X	
F. Scientific standard state follows:											
1. <i>Frye</i> (general acceptance)						X					
2. <i>Daubert</i> /FRE (reliability)	X			X	X						X
3. Other										X	
II. Police officer may testify about:											
A. HGN's scientific reliability at admissibility hearing.	NO					NO					
B. Correlation between HGN and alcohol at trial.	YES										
C. HGN test results based on training & experience in administration of test.	YES	YES	YES	YES	YES			YES	YES		YES
III. Purpose and limits of HGN test results.											
A. Probable cause determination in criminal hearing.			X						X		
B. Probable cause determination in civil hearing.											
C. Evidence of impairment.	X	X	X		X			X			X
D. Quantify BAC.											
E. Same evidentiary weight as other field tests.		X	X	X				X			

	UT	VT	VA	WA	WV	WI	WY	US		TOTALS
I. Evidentiary admissibility.										
A. Not a scientific test - admissible as a field sobriety test.	X					X	X			8
B. A scientific test - scientific standard not applicable.										4
C. A scientific test - meets scientific standard.										17
D. A scientific test - does not meet scientific standard.				X						3
E. A scientific test - inadequate evidence presented to determine if HGN meets scientific standard.					X			X		12
F. Scientific standard state follows:										
1. <i>Frye</i> (general acceptance)				X						16
2. <i>Daubert</i> /FRE (reliability)					X			X		16
3. Other										2
II. Police officer may testify about:										
A. HGN's scientific reliability at admissibility hearing.					NO					
B. Correlation between HGN and alcohol at trial.										
C. HGN test results based on training & experience in administration of test.	YES					YES	YES			
III. Purpose and limits of HGN test results.										
A. Probable cause determination in criminal hearing.							X			15
B. Probable cause determination in civil hearing.					X					3
C. Evidence of impairment.					X	X				24
D. Quantify BAC.										
E. Same evidentiary weight as other field tests.	X				X					9

Last update 11/03

For future updates, please contact the National Traffic Law Center, 99 Canal Center Plaza, Suite 510, Alexandria, Virginia, 22314

Phone:(703) 549-4253, Fax: 703-836-319

⁰ The 3rd District found HGN to be a “quasi-scientific” test. The court held HGN was established and generally accepted in the relevant scientific community and, therefore, it did not have to meet the *Frye* standard. *Williams v. State*, 710 So.2d 24 (Fla. 3rd Dist. Ct. 1998).