

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

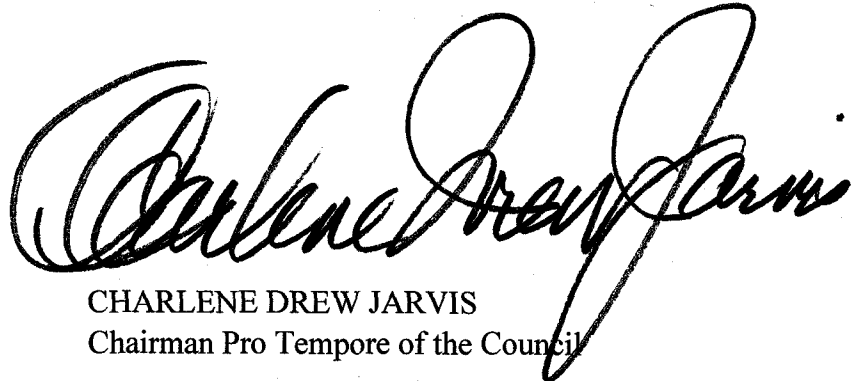
NOTICE

D.C. LAW 11-201

"Boating While Intoxicated Temporary Act of 1996".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 11-804, on first and second readings, July 3, 1996 and July 17, 1996, respectively. Following the signature of the Mayor on July 26, 1996, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-364, and published in the August 16, 1996, edition of the D.C. Register (Vol. 43 page 4390) and transmitted to Congress on January 15, 1997 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 11-201, effective April 9, 1997.



CHARLENE DREW JARVIS
Chairman Pro Tempore of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb.	3,4,5,6,7,10,11,12,13,24,25,26,27,28
Mar.	3,4,5,6,10,11,12,13,14,17,18,19,20,21
Apr.	7,8

AN ACT
D.C. ACT 11-364

*Codification
District of
Columbia
Code
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 26, 1996

To prohibit, on a temporary basis, the operation of any watercraft while under the influence of, or intoxicated by, alcohol or any controlled substance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Boating While Intoxicated Temporary Act of 1996".

Sec. 2. Prohibition on use of watercraft under certain conditions.

(a) No person shall, when the person's blood contains .10 % or more, by weight, of alcohol (or .48 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air), when the person's urine contains .13 % or more, by weight, of alcohol, or when the person is under the influence of intoxicating liquor or any controlled substance or combination thereof, operate or be in physical control of any vessel or watercraft, including but not limited to water skis, aquaplane, surfboard, personal water craft, or similar device in the District of Columbia ("District").

(b) No person under 21 years of age shall, when the person's blood, breath, or urine contains any measurable amount of alcohol, operate or be in physical control of any vessel or watercraft listed in subsection (a) of this section.

(c) No person shall operate or be in physical control of any vessel or watercraft while the person is impaired by the consumption of intoxicating liquor.

(d) For the purposes of this act, the term "controlled substance" has the same meaning as in section 102(4) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code § 33-501(4)).

*Note,
New Section
25-127a.1*

Sec. 3. Consent to testing.

(a) Any person operating or in physical control of any vessel or watercraft while under the influence of, or intoxicated by, alcohol or a controlled substance, as cited in section 2, shall be deemed to have given that person's consent for 2 chemical tests of the person's blood, urine, or breath for the purpose of determining the person's blood-alcohol or drug content.

(b) The arresting police officer or any other appropriate law enforcement official shall

*Note,
New Section
25-127a.2*

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elect which chemical test shall be administered to the person, provided that the person may object to a particular test on valid religious or medical grounds.

(c) The test shall be administered at the direction of a police officer or other appropriate law enforcement official.

Sec. 4. Preliminary testing; admissibility of test results.

Note,
New Section
25-127a.3

(a) A law enforcement officer who has reasonable grounds to believe that a person is or has been violating any provision of section 2, without making an arrest or issuing a citation, may request the person to submit to a preliminary breath test, to be administered by the officer, who shall use a device which the Mayor has by rule approved for that purpose. Before administering the test, the officer shall advise the person to be tested that the results of the test will be used to aid in the officer's decision whether to arrest the person.

(b) The results of a preliminary test shall not be used as evidence by the District in any prosecution and shall not be admissible in any judicial proceedings.

(c) The results of the test may be used, and shall be admissible, in any judicial proceeding in which the validity of the arrest or the conduct of the officer is an issue.

(d) The admissibility of all test results shall be governed according to the provisions of section 3 of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Code § 40-717.2).

Sec. 5. Penalties.

Note,
New Section
25-127a.4

(a) Any person violating any provision of section 2(a) or (b) shall, upon conviction for the 1st offense, be fined an amount not to exceed \$500, imprisoned for not more than 90 days, or both; upon conviction for a 2nd offense within a 15-year period, the person may be fined an amount not to exceed \$5,000, imprisoned for not more than 1 year, or both; and, upon conviction for a 3rd or subsequent offense within a 15-year period, the person may be fined an amount not to exceed \$10,000, imprisoned for not more than 1 year, or both.

(b) Any person violating any provision of section 2(c) shall, upon conviction for the 1st offense, be fined an amount not to exceed \$300, imprisoned for not more than 30 days, or both; upon conviction for a 2nd offense within a 15-year period, be fined an amount not to exceed \$1,000, imprisoned for not more than 90 days, or both; and, upon conviction for the 3rd or subsequent offense within a 15-year period, be fined an amount not to exceed \$5,000, imprisoned for not more than 1 year, or both.

Sec. 6. Prima facie evidence of intoxication.

Note,
New Section
25-127a.5

If, as a result of the operation of any vessel or watercraft, any person is tried in any court of competent jurisdiction within the District for operating such vessel or watercraft while under the influence of intoxicating liquor or while the ability to operate a vessel is impaired by the consumption of intoxicating liquor in violation of section 2, or manslaughter committed in the operation of such vessel or watercraft in violation of section 802 of An Act To establish a code

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of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Code § 22-2405), and in the course of such trial there is received in evidence, based upon a chemical test, competent proof to the effect that at the time of such operation:

(1) Defendant's blood contained less than .05 percent by weight, of alcohol, defendant's urine contained less than .06 percent, by weight, of alcohol, or that at the time of the test less than .24 micrograms of alcohol were contained in 1 milliliter of his or her breath, consisting of substantially alveolar air, this evidence shall not establish a presumption that the defendant was or was not, at the time, under the influence of intoxicating liquor, but it may be considered with other competent evidence in determining whether the defendant was under the influence of intoxicating liquor; and

(2) Defendant's blood contained .05 percent or more, by weight of alcohol, defendant's urine contained .06 percent or more, by weight or alcohol, or that at the time of the test, 24 micrograms or more of alcohol were contained in 1 milliliter of his or her breath, consisting of substantially alveolar air, this evidence shall constitute prima facie proof that the defendant was, at the time, under the influence of intoxicating liquor and that the defendant was operating or in control of a vessel, or the defendant's ability to operate a vessel was impaired by the consumption of intoxicating liquor.

Sec. 7. Refusal to submit to testing; prosecution of violations.

(a) The refusal to submit to either of the 2 tests required in this act shall be admissible in any civil or criminal proceeding arising as a result of the acts alleged to have been committed by the person prior to arrest. Any refusal to submit to any test as required by this act shall constitute a separate offense, punishable, upon conviction, by a \$500 fine, imprisonment of 90 days, or both.

(b) The Corporation Counsel of the District of Columbia, or his or her assistants, shall prosecute violations of this act, in the name of the District of Columbia.

(c) The Harbor Master shall be directly responsible for enforcing this act and shall ensure that the public is made aware of the District's aggressive enforcement policy through a continual public awareness campaign.

Note,
New Section
25-127a.6

Sec. 8. Conforming amendments.

(a) Section 27(a) of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 333; D.C. Code § 25-127(a)), is amended by striking the phrase "watercraft,".

Note, Section
25-127

(b) Chapter 10 of Title 19 of the District of Columbia Municipal Regulations (Amusements and Recreation) (19 DCMR Chapter 10) is amended as follows:

DCMR

(1) Subsection 1002.13 is amended as follows:

(A) Subsection 1002.13(a) is amended by striking the phrase "ten dollars (\$10)" and inserting the phrase "fifteen dollars (\$15)" in its place.

(B) Subsection 1002.13(b) is amended by striking the phrase "twenty

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dollars (\$20)" and inserting the phrase "twenty-five dollars (\$25)" in its place.

(C) Subsection 1002.13(c) is amended by striking the phrase "thirty dollars (\$30)" and inserting the phrase "thirty-five dollars (\$35)" in its place.

(D) Subsection 1002.13(d) is amended by striking the phrase "forty dollars (\$40)" and inserting the phrase "forty-five dollars (\$45)" in its place.

(E) Subsection 1002.13(e) is amended by striking the phrase "five dollars (\$5)" and inserting the phrase "ten dollars (\$10)" in its place.

(F) Subsection 1002.13(f) is amended by striking the phrase "three dollars (\$3)" and inserting the phrase "five dollars (\$5)" in its place.

(2) Section 1027.4 is amended by adding 2 sentences to the end to read as follows: "No operator of any personal watercraft while underway and within 100 yards of another vessel shall jump any other vessel's wake while operating or in physical control of watercraft while on the Potomac River between the Arlington Memorial Bridge to the 14th Street Bridge, in the Washington Channel from Hains Point, or in the Anacostia River from Green Leaf Point to the Benning Road Bridge. When 2 or more personal water operators are operating at a speed greater than 10 miles per hour, the operators shall steer their craft so as to be at least 25 yards apart from any vessel to include any other personal watercraft."

Sec. 9. Fiscal impact statement.

(a) The Department of Corrections has consulted with the Metropolitan Police Department ("MPD") and has determined the following fiscal impact. There are no records existing pertaining to MPD detention for violations of the present boating legislation. Therefore, the number of arrests is estimated at 2 for the past 3 years.

(b) Based upon MPD data, the Department of Corrections estimates a projected 5-year impact for the emergency legislation to cost \$33,546 based on FY 1994 actual per man day cost. These costs are based on the maximum allowable time an individual can be incarcerated under the emergency act.

(c) The Department of Corrections further stated that there is no capital cost associated with this legislation and operational costs can be absorbed within existing and future Department of Corrections budgets.

Sec. 10. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-

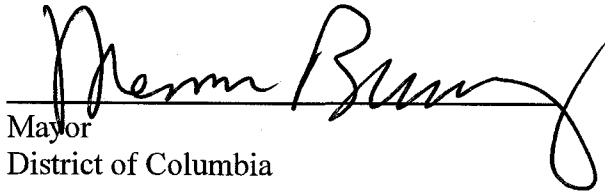
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Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: JULY 26, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-804

Docket No. _____

[] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE

ADOPTED FIRST READING, 7-3-96

[X] VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

ABSENT

CHAVOUS, EVANS, LIGHTFOOT, RAY AND THOMAS

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Quayle
Secretary to the Council

July 19, 1996
Date

[] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE

ADOPTED FINAL READING, 7-17-96

[X] VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

ABSENT

CHAVOUS AND SMITH

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Quayle
Secretary to the Council

July 19, 1996
Date

[] ITEM ON CONSENT CALENDAR

[] ACTION & DATE

[] VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date