

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Anti-Drunk Driving Act of 1982 to revise the presumptions that shall be made based upon the amount of alcohol in a person's blood, urine, or breath while in the operation or physical control of a vehicle; Title 25 of the District of Columbia Official Code to revise the presumptions that shall be made based upon the amount of alcohol in a person's blood, urine, or breath while in the operation or physical control of a vessel or watercraft; the District of Columbia Government Comprehensive Merit Personnel Act of 1978; the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996; the Uniform Classification and Commercial Driver's License Act of 1990; the Motor Vehicle Safety Responsibility Act of the District of Columbia; the District of Columbia Traffic Act, 1925; and the District of Columbia Implied Consent Act to update the formula for determining a person's alcohol concentration as it pertains to the offense of driving while under the influence of liquor to reflect the measurements and ratios used by current technology; and to make conforming amendments to the District of Columbia Municipal Regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anti-Drunk Driving Clarification Amendment Act of 2006".

Sec. 2. Section 2 of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2205.02), is amended to read as follows:

Amend
§ 50-2205.02

"Sec. 2. Evidence of intoxication.

"If as a result of the operation or the physical control of a vehicle, a person is tried in any court of competent jurisdiction within the District of Columbia for operating or being in physical control of a vehicle while under the influence of intoxicating liquor in violation of section 10(b) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1124; D.C. Official Code § 50-2201.05(b)), negligent homicide in violation of section 802(a) of An Act To establish a code of law for the District of Columbia, approved June 17, 1935 (49 Stat. 385; D.C. Official Code § 50-2203.01), or manslaughter committed in the operation of a vehicle in violation of section 802 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2105), and in the

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course of the trial there is received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, such evidence:

“(1) Shall, if at the time of testing, defendant's alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, establish a rebuttable presumption that the defendant was not, at the time, under the influence of intoxicating liquor.

“(2) Shall not, if at the time of testing, defendant's alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, 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.”.

Sec. 3. Title 25 of the District of Columbia Official Code is amended as follows:

**Amend
§ 25-1004**

(a) Section 25-1004(a) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

“(1) The person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine; or”.

(2) Paragraph (2) is repealed.

(b) Section 25-1008 is amended as follows:

**Amend
§ 25-1008**

(1) In the introductory language, strike the phrase “the following standards shall apply to competent evidence based upon a chemical test:” and insert the phrase “and in the course of the trial there is received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, such evidence:”.

(2) Paragraphs (1) and (2) are amended to read as follows:

“(1) Shall, if at the time of testing, defendant's alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, establish a rebuttable presumption that the defendant was not, at the time, under the influence of intoxicating liquor.

“(2) Shall not, if at the time of testing, defendant's alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, 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.”.

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Sec. 4. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 2024 (D.C. Official Code § 1-620.24) is amended by striking the phrase “breath contained .08% or more, by weight, of alcohol” and inserting the phrase “alcohol concentration was 0.08 grams or more per 210 liters of breath” in its place.

**Amend
§ 1-620.24**

(b) Section 2033 (D.C. Official Code § 1-620.33) is amended by striking the phrase “breath contains .08 percent or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more per 210 liters of breath” in its place.

**Amend
§ 1-620.33**

Sec. 5. Section 4 of the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996, effective September 20, 1996 (D.C. Law 11-158; D.C. Official Code § 24-211.23), is amended as follows:

**Amend
§ 24-211.23**

(a) Subsection (e) is amended by striking the phrase “breath contained .08% or more, by weight, of alcohol” and inserting the phrase “alcohol concentration was 0.08 grams or more per 210 liters of breath” in its place.

(b) Subsection (f) is amended by striking the phrase “1 milliliter of the employee's breath (consisting of substantially alveolar air) contains .38 micrograms or more of alcohol.” and inserting the phrase “210 liters of the employee's breath contains 0.08 grams or more of alcohol.” in its place.

Sec. 6. Section 7(a)(1) of the Uniform Classification and Commercial Driver’s License Act of 1990, effective September 20, 1990 (D.C. Law 8-161; D.C. Official Code § 50-406(a)(1)), is amended by striking the phrase “a blood alcohol concentration at or above 0.04% as established under 12008(f) of the Commercial Motor Vehicle Safety Act (40 U.S.C.S. § 2707(f)).” and inserting the phrase “an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.” in its place.

**Amend
§ 50-406**

Sec. 7. Section 37(a) of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (69 Stat. 130; D.C. Official Code § 50-1301.37(a)), is amended by striking the phrase “individual’s blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of defendant's breath, consisting substantially of alveolar air, or while defendant's urine contains .10% or more, by weight, of alcohol” and inserting the phrase “person’s alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

**Amend
§ 50-1307.37**

Sec. 8. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *passim*), is amended as follows:

(a) Section 10(b) (D.C. Official Code § 50-2201.05(b)) is amended as follows:

**Amend
§ 50-2201.05**

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(1) Paragraph (1) is amended as follows:

(A) Subparagraph (A) is amended to read as follows:

"(A)(i) No person shall operate or be in physical control of any vehicle in the District:

"(I) When the person's alcohol concentration at the time of testing is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine;

"(II) While under the influence of intoxicating liquor or any drug or any combination thereof; or

"(III) If under 21 years of age, when the person's blood, breath, or urine contains any measurable amount of alcohol.

"(ii) Any person violating any provision of this paragraph upon conviction for the first offense, unless the person has been previously been convicted for a violation of paragraph (2) of this subsection, shall be fined \$300 and may be imprisoned for not more than 90 days. In addition, if the person's alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210 liters of breath, or was at least 0.25 grams per 100 milliliters of urine, but was not more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath, or was not more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for a mandatory minimum period of 5 days, or if the person's alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath or 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional mandatory minimum period of 10 days, which mandatory minimum period shall not be suspended by the court."

(B) Subparagraph (B) is amended by striking the sentences "In addition, if the individual's blood contains at least .20%, but not more than .25%, by weight, of alcohol, the individual shall be imprisoned for an additional mandatory minimum period of 10 days, or if the level is more than .25%, by weight, of alcohol, for an additional mandatory minimum period of 20 days. The additional mandatory minimum period shall not be suspended by the court." and inserting the sentence "In addition, if the person's alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210 liters of breath, or was at least 0.25 grams per 100 milliliters of urine, but was not more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath, or was not more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional minimum mandatory period of 10 days or if the person's alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional mandatory minimum period of 20 days; which additional mandatory minimum periods shall not be suspended by the court." in its place.

(C) Subparagraph (C) is amended by striking the sentences "In addition, if the individual's blood contains at least .20%, but not more than .25%, by weight, of alcohol, the individual shall be imprisoned for an additional minimum mandatory period of 15 days, or if

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the level is more than .25%, by weight, of alcohol volume, for an additional mandatory minimum period of 25 days. The additional mandatory minimum period shall not be suspended by the court." and inserting the sentence "In addition, if the person's alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210 liters of breath, or was at least 0.25 grams per 100 milliliters of urine, but was not more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath, or was not more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional minimum mandatory period of 15 days, or if the person's alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath or 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for a mandatory minimum period of 25 days, which additional mandatory minimum periods shall not be suspended by the court." in its place.

(D) Subparagraph (D) is amended by striking the word "individual" wherever it appears and inserting the word "person" in its place.

(2) Paragraph (2) is amended by striking the word "individual" wherever it appears and inserting the word "person" in its place.

Sec. 9. Section 13(a) (D.C. Official Code § 50-1403.01(a)) is amended by striking the phrase "individual's blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the individual's breath, consisting substantially of alveolar air, or while the individual's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

**Amend
§ 50-1403.01**

Sec. 10. The District of Columbia Implied Consent Act, approved October 21, 1972 (86 Stat. 1016; D.C. Official Code § 50-1901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 50-1902) is amended as follows:

**Amend
§ 50-1902**

(1) Subsection (a) is amended by striking the phrase "blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air, or that person's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

(2) Subsection (b) is amended by striking the phrase "blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air, or that person's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

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(b) Section 5(a) (D.C. Official Code § 50-1905(a)) is amended by striking the phrase “individual’s blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air, or that person's urine contains .10% or more, by weight, of alcohol” and inserting the phrase “person’s alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

**Amend
§ 50-1905**

(c) Section 6(a)(1) (D.C. Official Code § 50-1906(a)(1)) is amended by striking the phrase “blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air, or that person's urine contains .10% or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

**Amend
§ 50-1906**

Sec. 11. Chapter 39 of Title 6 of the District of Columbia Municipal Regulations is amended as follows:

(a) Section 3902.2(d) is amended by striking the phrase “breath contains .08 percent or more, by weight, of alcohol” and inserting the phrase “alcohol concentration was 0.08 grams or more per 210 liters of breath” in its place.

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(b) Section 3905.4 is amended by striking the phrase “breath contains .08 percent or more, by weight, of alcohol” and inserting the phrase “alcohol concentration was 0.08 grams or more per 210 liters of breath” in its place.

Sec. 12. Title 18 of the District of Columbia Municipal Regulations is amended as follows:

(a) Chapter 3 is amended as follows:

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(1) Section 301.1(a) is amended by striking the phrase “blood contains eight one-hundredths of one percent (.08%) or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person's breath, consisting substantially of alveolar air, or while the person's urine contains ten one-hundredths of one percent (.10%) or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

(2) Section 303.2(n) is amended by striking the phrase “blood contains eight one-hundredths of one percent (.08%) or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person's breath, consisting substantially of alveolar air, or while the person's urine contains ten one-hundredths of one percent (.10%) or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

(3) Section 306.8 is amended by striking the phrase “blood contains eight one-

hundredths of one percent (.08%) or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person's breath, consisting substantially of alveolar air, or while the person's urine contains ten one-hundredths of one percent (.10%) or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

(4) Section 307.4 is amended by striking the phrase “individual’s blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person's breath, consisting substantially of alveolar air, or while the person's urine contains .10% or more, by weight, of alcohol” and inserting the phrase “person’s alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

(b) Section 1034 of Chapter 10 is amended as follows:

(1) Subsection 1034.1 is amended as follows:

(A) Strike the phrase “blood alcohol content” and insert the phrase “alcohol concentration” in its place.

(B) Add the sentence “These presumptions shall be rebuttable.” after the first sentence.

(2) Subsection 1034.2 is amended to read as follows:

“1034.2 If at the time of testing, the operator’s alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, this evidence shall establish a presumption that the operator was not, at the time, under the influence of intoxicating liquor.”

(3) Subsection 1034.3 is amended to read as follows:

“1034.3 If at the time of testing, the operator’s alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, this evidence shall not establish a presumption that the operator 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 operator was under the influence of intoxicating liquor.”

(c) Chapter 13 is amended as follows:

(1) Section 1306.1(b) is amended to read as follows:

“(b) Having an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine while operating a commercial vehicle;”

(2) Section 1319.3 is amended by striking the phrase “blood alcohol content was determined to be less than four hundredths of one percent (0.04%).” and inserting “alcohol concentration was determined to be less than 0.04 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.” in its place.

(3) Section 1320.3 is amended to read as follows:

“1320.3 If the person refuses testing in § 1320.1, or submits to a test that discloses an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the authorized law enforcement officer who has stopped or detained the driver shall submit a sworn report to the Department of Motor Vehicles certifying that the test was requested pursuant to § 1320.1 and that the person refused to submit to testing, or submitted to a test that disclosed an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”.

(4) Subsection 1399.1 is amended by striking the sentence “Chemical Test - a test of a person's blood urine or breath for the purpose of determining the blood-alcohol-content or blood-drug-content in accordance with D.C. Official Code §§ 50-1902 and 50-1903, except the blood-alcohol-content shall be four hundredths of one percent (0.04%) instead of one tenth percent (0.10%).” and inserting the sentence “Chemical Test – a test of a person's blood, urine, or breath for the purpose of determining the alcohol concentration or blood-drug-content in accordance with D.C. Official Code §§ 50-1902 and 50-1903, except the alcohol concentration shall be 0.04 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine instead of 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.” in its place.

Sec. 13. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 14. Effective date.

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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia