

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on an emergency basis, due to Congressional review, the District of Columbia Implied Consent Act to clarify and organize provisions related to the chemical testing of breath, blood, and urine with regard to operation of vehicles and watercraft in the District, to clarify and strengthen provisions governing preliminary breath testing, implied consent to chemical testing, and refusal to submit specimens for chemical testing, to limit the persons permitted to withdraw blood for the purposes of chemical testing to medical professionals, to provide immunity from civil liability for medical professionals, law enforcement officers, and persons who assist them when they are engaged in the lawful withdrawal of blood, and to clarify the information related to chemical testing that is to be made available to a defendant; to amend the District of Columbia Traffic Act, 1925 to update definitions, to revise outdated language, to increase fines to make them proportional with the associated incarceration period, to create a new offense of leaving after colliding, and to create a new offense for an object falling or flying from a vehicle; to amend the Anti-Drunk Driving Act of 1982 to organize all impaired driving offenses and operating watercraft while impaired offenses together, to update and clarify definitions and provisions related to impaired driving, to create a new offense for operating a commercial vehicle while intoxicated or impaired, to clarify the provisions that require the imposition of mandatory-minimum sentences for alcohol or drug impairment offenses; to increase the mandatory-minimum sentences for people convicted of an impaired driving offense who have more than a stated level of alcohol concentration or who have prior impaired driving convictions; to amend the offense of operating a vehicle while impaired to allow the District to offer a plea option not only for people who operate a vehicle while impaired by the consumption of alcohol but also for people who are impaired by a drug or a combination of a drug and alcohol; to provide for a penalty for persons convicted of operating a vehicle while impaired when they have prior convictions for alcohol or drug impaired driving offenses; to provide that the alcohol concentration used nationally to revoke a commercial drivers license be used as the level for a per se impaired driving offense for drivers of commercial vehicles and vehicles for hire, and establishing a mandatory-minimum of 5 days incarceration for persons convicted of operating or being in physical control of those vehicles while impaired; to create a mandatory-minimum penalty for a person who is convicted of an impaired driving offense who at the time of the offense had a minor in the vehicle; to amend the

Department of Forensic Sciences Establishment Act of 2011 to clarify and strengthen the District's breath test program; to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to clarify the responsibility for blood and urine testing and to clarify and strengthen the District's breath test program; to amend section 14-307 of the District of Columbia Official Code to permit the release of medical information when a patient is charged with an impaired driving offense and where the patient caused the death of or injury to a human being; and to amend Chapter 10 of Title 25 of the District of Columbia Official Code to move boating while intoxicated to Title 50 and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Comprehensive Impaired Driving and Alcohol Testing Program Second Congressional Review Emergency Amendment Act of 2013".

TITLE I -- COMPREHENSIVE IMPAIRED DRIVING

Sec. 101. 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) Sections 1, 2, 3, and 4 are designated as Title I.
- (b) Sections 5, 6, and 7 are designated as Title II.
- (c) The newly designated Title I is amended as follows:

(1) Section 1 (D.C. Official Code § 50-1901) is amended to read as follows:

"Sec. 1. Definitions.

"For the purposes of this act, the term:

"(1) "Chemical test" or "chemical testing" means any qualitative or quantitative procedure which is designed to demonstrate the existence or absence of a chemical compound or chemical group. Any handheld and portable breath testing instrument, otherwise known as a roadside breath test, is excluded from this definition.

"(2) "Collision" means an impact between the operator's vehicle, or anything attached to or transported by the vehicle, and anything else, regardless of whether it is a person, a wild or domestic animal, real property, or personal property.

"(3) "Commercial vehicle" means a vehicle used to transport passengers or property:

"(A) If the vehicle has a gross vehicle weight rating of greater than 26,000 pounds or a lesser rating as determined by federal regulation but not less than a gross vehicle weight rating of 10,001 pounds;

"(B) If the vehicle is designed to transport more than 15 passengers, including the driver;

"(C) If the vehicle is a locomotive or a streetcar;

"(D) If the vehicle is used to transport a material found to be hazardous by the Mayor in accordance with the D.C. Hazardous Materials Transportation and Motor Carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-

1401 *et seq.*), or by the Secretary of Transportation in accordance with the Hazardous Materials Transportation Act, approved January 3, 1975 (88 Stat. 2156; 49 U.S.C. § 1801 *et seq.*); or

“(E) If the vehicle is a vehicle for hire.

“(4) “Court” means the Superior Court of the District of Columbia, except when used in the definition of “prior offense” when it shall also include courts of other jurisdictions.

“(5) “Drug” means any chemical substance that affects the processes of the mind or body, including but not limited to a controlled substance as defined 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. Official Code § 48-901.02(4)), and any prescription or non-prescription medication.

“(6) “Highway” means any street, road, or public thoroughfare, or the entire width between the boundary lines of every publicly or privately maintained way, when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel.

“(7) “Impaired” means a person’s ability to operate or be in physical control of a vehicle is affected, due to consumption of alcohol or a drug or a combination thereof, in a way that can be perceived or noticed.

“(8) “Intoxicated” means:

“(A) Except as provided in subparagraph (B) of this paragraph, that:

“(i) An alcohol concentration at the time of testing of 0.08 grams or more per 100 milliliters of the person’s blood or per 210 liters of the person’s breath, or of 0.10 grams or more per 100 milliliters of the person’s urine; or

“(ii) Any measurable amount of alcohol in the person’s blood, urine, or breath if the person is under 21 years of age.

“(B) If operating or in physical control of a commercial vehicle, that:

“(i) An alcohol concentration at the time of testing of 0.04 grams or more per 100 milliliters of the person’s blood or per 210 liters of the person’s breath, or of 0.08 grams or more per 100 milliliters of the person’s urine; or

“(ii) Any measurable amount of alcohol in the person’s blood, urine, or breath if the person is under 21 years of age.

“(9) “Law enforcement officer” means a sworn member of the Metropolitan Police Department or a sworn member of any other police force operating in the District of Columbia.

“(10) “License” means any operator’s permit or any other license or permit to operate a motor vehicle issued under the laws of the District, including:

“(A) Any temporary or learner's permit;

“(B) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

“(C) Any nonresident's operating privilege.

“(11) “Mayor” means the Mayor of the District, or his or her designee.

“(12) “Measurable amount” means any amount of alcohol capable of being, but not required to be, measured.

**ENROLLED ORIGINAL**

“(13) “Medical professional” means a physician, registered nurse, licensed practical nurse, or any person who by certification or licensure is qualified to draw blood.

“(14) “Motor vehicle” means all vehicles propelled by internal combustion engines, electricity, or steam. The term “motor vehicle” shall not include personal mobility devices, as defined by section 2(13) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), or a battery-operated wheelchair when operated by a person with a disability.

“(15) “Nonresident” shall include any person who is not a resident of the District.

“(16) “Nonresident’s operating privilege” means the privilege conferred upon a nonresident by the laws of the District relating to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in the District.

“(17) “Prior offense” means any guilty plea or verdict, including a finding of guilty in the case of a juvenile, for an offense under District law or a disposition in another jurisdiction for a substantially similar offense which occurred prior to the current offense regardless of when the arrest occurred. The term “prior offense” does not include an offense where the later of any term of incarceration, supervised release, parole, or probation ceased or expired more than 15 years before the arrest on the current offense.

“(18) “Specimen” means that quantity of a person’s blood, breath, or urine necessary to conduct chemical testing to determine alcohol or drug content. A single specimen may be comprised of multiple breaths into a breath test instrument if such is necessary to complete a valid breath test, or a single blood draw or single urine sample regardless of how many times the blood or urine sample is tested.

“(19) “Vehicle” means any appliance, conveyance, or carrier that moves over a highway on wheels or traction tread, including street cars, draft animals, and beasts of burden.

“(20) “Vehicle for hire” means:

“(A) Any motor vehicle operated in the District by a private concern or individual as an ambulance, funeral car, or sightseeing vehicle, or for which the rate is fixed solely by the hour;

“(B) Any motor vehicle operated in the District by a private concern used for services including transportation paid for by a hotel, venue, or other third party;

“(C) Any motor vehicle used to provide transportation within the District between fixed termini or on a schedule, including vehicles operated by the Washington Metropolitan Area Transit Authority or other public authorities, not including rental cars; or

“(D) Any other vehicle that provides transportation for a fee not operated on a schedule or between fixed termini and operating in the District; including taxicabs, limousines, party buses, and pedicabs.”

(2) Section 2 (D.C. Official Code § 50-1902) is repealed.

(3) Section 3 (D.C. Official Code § 50-1903) is amended to read as follows:

“Sec. 3. (a) Only a medical professional acting at the request of a law enforcement officer may withdraw blood, subject to the provisions of this act, for the purpose of determining the alcohol or drug content thereof. This limitation shall not apply to the taking of breath or urine specimens.

“(b)(1) Except as provided in paragraph (2) of this subsection, the following persons are immune from criminal and civil liability based upon a claim of assault and battery, or any other claim that is not a claim of malpractice, for any act performed in collecting a person’s blood:

“(A) Any law enforcement officer who assists in the collection of specimens from a person pursuant to this section;

“(B) Any medical professional, staff, or security personnel who collects or assists in the collection of specimens from a person pursuant to this section; and

“(C) Any hospital, first-aid station, clinic, or other location where specimens are collected from a person pursuant to this section.

“(2) The immunity provided in this subsection shall not apply to a person who collects or assists in the collection of specimens if that person commits gross negligence or engages in intentionally wrongful conduct.”.

(4) Section 4 (D.C. Official Code § 50-1904) is amended to read as follows:

“Sec. 4. Full information concerning the chemical test results administered under this act, including records as provided in section 7(h)(3) of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.06), shall be made available to the person from whom specimens were obtained pursuant to Rule 16 of the District of Columbia Superior Court Rules of Criminal Procedure.”.

(d) The newly designated Title II is amended as follows:

(1) New sections 4a and 4b are added to read as follows:

“Sec. 4a. (a) When a law enforcement officer has reasonable grounds to believe that a person was operating or in physical control of a vehicle within the District while intoxicated or while the person’s ability to operate a vehicle is impaired by the consumption of alcohol or a drug or a combination thereof, the law enforcement officer may, without making an arrest or issuing a violation notice, request that the person submit to a preliminary breath test, to be administered by the law enforcement officer, who shall use a device which the Mayor has approved by rule for that purpose.

“(b) Before administering the test, the law enforcement officer shall advise the person to be tested that the preliminary breath test is voluntary and that the results of the test will be used to aid in the law enforcement officer's decision whether to arrest the person.

“(c) The results of the preliminary breath test shall be used by the law enforcement officer to aid in the decision whether to arrest the person, and the results of the test shall not be used as evidence by the District in any prosecutions and shall not be admissible in any judicial proceeding except in any judicial or other proceeding in which the validity of the arrest or the conduct of the law enforcement officer is an issue.

“Sec. 4b. (a) Except as provided in subsection (b) of this section, when a law enforcement officer has reasonable grounds to believe that a person was operating or in physical control of a motor vehicle within the District while intoxicated or while the person’s ability to operate a motor vehicle is impaired by the consumption of alcohol or a drug or a combination thereof, after arrest of the person, the person shall:

“(1) Except as provided in paragraph (2) of this subsection, be deemed to have given his or her consent, subject to the provisions of this act, to submitting 2 specimens for chemical testing of the person’s blood, breath, or urine, for the purpose of determining alcohol or drug content; and

“(2) Submit 2 specimens for chemical testing of his or her blood, breath, or urine for the purpose of determining alcohol or drug content when he or she is involved in a collision in the District.

“(b) When a person is required to submit specimens for chemical testing pursuant to subsection (a) of this section, a law enforcement officer shall elect which types of specimens will be collected from the person and the law enforcement officer or a medical professional shall collect the specimen subject to the restriction in section 3(a); provided, that the person may object to a particular type of specimen collection for chemical testing on valid religious or medical grounds. If a person objects to blood collection on valid religious or medical grounds, that person shall only be required to submit breath or urine specimens for collection.

“(c) In addition to submitting specimens for chemical testing as provided in this section, a person may also submit specimens for chemical testing administered to him or her by a medical professional of his or her own choosing. The failure or inability of the person to obtain additional specimens or chemical tests shall not preclude the admission of chemical tests results that were the product of the law enforcement officer’s request under this section.

“(d) Before collecting specimens for chemical testing, the law enforcement officer shall advise the operator of the motor vehicle about the requirements of this act.”.

(2) Section 5 (D.C. Official Code § 50-1905) is amended to read as follows:

“Sec. 5. (a)(1) If a person under arrest refuses to submit specimens for chemical testing as provided in section 4b(a), he or she shall be informed that failure or refusal to submit to chemical testing will result in the revocation of his or her license or privilege to drive in the District of Columbia as provided in this section.

“(2) If a person, after having been informed as provided in paragraph (1) of this subsection, still refuses to submit to chemical testing, no test shall be given, but the Mayor, upon receipt of a sworn report of the law enforcement officer that he or she had reasonable grounds to believe the arrested person had been driving or was in physical control of a motor vehicle upon the highways while the person was intoxicated or while the person’s ability to operate a motor vehicle was impaired by the consumption of alcohol or a drug or a combination thereof, and that the person had refused to submit 2 specimens for chemical testing, shall:

“(A) Revoke his or her license or privilege to drive in the District of Columbia for a period of 12 months; or

“(B) Deny the person the issuance of a license, if the person is without a license to operate a motor vehicle in the District, for a period of 12 months after the date of the alleged violation.

“(b) If a person under arrest refuses to submit specimens for chemical testing as provided in section 4b(a), and the person has had a conviction for a prior offense under sections 3b, 3c, or 3e of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C.

Official Code § 50-2205.02 *et seq.*), there shall be a rebuttable presumption that the person is under the influence of alcohol or a drug or any combination thereof.

“(c) If a person under arrest refuses to submit specimens for chemical testing as provided in section 4b(a), evidence of such refusal shall be admissible in any civil or criminal proceeding arising as a result of the acts alleged to have been committed by the person before the arrest.

“(d)(1) If a person under arrest refuses to submit specimens for chemical testing as provided in section 4b(a) and the person was involved in a collision that resulted in a fatality, except as provided in paragraph (2) of this subsection, a law enforcement officer may employ whatever means are reasonable to collect blood specimens from the person if the law enforcement officer has reasonable grounds to believe that the person was intoxicated or under the influence of alcohol or of any drug or any combination thereof.

“(2) If a person required to submit blood testing under paragraph (1) of this subsection objects on valid religious or medical grounds, that person shall not be required to submit blood specimens but the law enforcement officer may employ whatever means are reasonable to collect breath or urine specimens from the person if the law enforcement officer has reasonable grounds to believe that the person was intoxicated or under the influence of alcohol or of any drug or any combination thereof.”

(3) Section 6(a) (D.C. Official Code § 50-1906(a)) is amended as follows:

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

“(1) Whether a law enforcement officer had reasonable grounds to believe such person had been operating or was in physical control of a motor vehicle upon the highway while intoxicated or while the person's ability to operate a motor vehicle was impaired by alcohol or a drug or any combination thereof; and,”

(B) Paragraph (2) is amended by striking the phrase “submit to the test or tests” and inserting the phrase “submit specimens for chemical testing” in its place.

(4) Section 7 (D.C. Official Code § 50-1907) is amended as follows:

(A) Strike the phrase “his license” and insert the phrase “his or her license” in its place.

(B) Strike the phrase “him a license” and insert the phrase “him or her a license” in its place.

(C) Strike the word “Act” and insert the word “title” in its place.

(e) A new Title III is added to read as follows:

“TITLE III.

“Sec. 7a. Definitions.

For the purposes of this title, the term:

“(1) “Collision” means an impact between the operator’s watercraft, or anything attached to or transported by the watercraft, and anything else, regardless of whether it is a person, a wild or domestic animal, real property, or personal property.

“(2) “Watercraft” means a boat, ship, or other craft used for water transportation, as well as water skis, aquaplane, sailboard, or similar vessel.

“Sec. 7b. (a) When a law enforcement officer has reasonable grounds to believe that a person is or has been operating or in physical control of a watercraft within the District while

intoxicated or while the person's ability to operate a watercraft is impaired by the consumption of alcohol or a drug or a combination thereof, the law enforcement officer may, without making an arrest or issuing a violation notice, request that the person submit to a preliminary breath test, to be administered by the law enforcement officer, who shall use a device which the Mayor has approved by rule for that purpose.

“(b) Before administering the test, the law enforcement officer shall advise the person to be tested that the test is voluntary and that the results of the test will be used to aid in the law enforcement officer's decision whether to arrest the person.

“(c) The results of the preliminary breath test shall be used by the law enforcement officer to aid in the decision whether to arrest the person, and the results of the test shall not be used as evidence by the District in any prosecutions and shall not be admissible in any judicial proceeding except in any judicial or other proceeding in which the validity of the arrest or the conduct of the law enforcement officer is an issue.

“Sec. 7c. (a) Except as provided in subsection (b) of this section, any person who operates or who is in physical control of any watercraft within the District and a law enforcement officer has reasonable grounds to believe that the person is operating or in physical control of a watercraft while intoxicated or while the person's ability to operate a watercraft is impaired by the consumption of alcohol or a drug or a combination thereof, after arrest shall:

“(1) Except as provided in paragraph (2) of this subsection, be deemed to have given his or her consent, subject to the provisions of this act, to submitting 2 specimens for chemical testing of the person's blood, breath, or urine, for the purpose of determining alcohol or drug content; and

“(2) Submit 2 specimens for chemical testing of his or her blood, breath, or urine for the purpose of determining alcohol or drug content when he or she is involved in a collision in the District.

“(b) When a person is required to submit specimens for chemical testing pursuant to subsection (a) of this section, a law enforcement officer shall elect which types of specimens will be collected from the person and the law enforcement officer or a medical professional shall collect the specimen subject to the restriction in section 3(a); provided, that the person may object to a particular type of specimen collection for chemical testing on valid religious or medical grounds. If a person objects to blood collection on valid religious or medical grounds, that person shall only be required to submit breath or urine specimens for collection.

“(c) In addition to submitting specimens for chemical testing as provided in this section, a person may also submit specimens for chemical testing administered to him or her by a medical professional of his or her own choosing. The failure or inability of the person to obtain additional specimens or chemical tests shall not preclude the admission of chemical tests results that were the product of the law enforcement officer's request.

“(d) Before collecting specimens for chemical testing, the law enforcement officer shall advise the operator of the watercraft about the requirements of this act.

“Sec. 7d. (a) If a person under arrest refuses to submit specimens for chemical testing as provided in section 7c(a), he or she shall be informed that failure or refusal to submit to chemical



testing will result in his or her inability to operate a watercraft in the District of Columbia as provided in section 7e.

“(b) If a person under arrest refuses to submit specimens for chemical testing as provided in section 7c(a), and the person has a prior offense under sections 3j or 3k of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2205.02 *et seq.*), there shall be a rebuttable presumption that the person is under the influence of alcohol or a drug or any combination thereof.

“(c) If a person under arrest refuses to submit specimens for chemical testing as provided in section 7c(a), evidence of such refusal shall be admissible in any civil or criminal proceeding arising as a result of the acts alleged to have been committed by the person before the arrest.

“(d)(1) If a person under arrest refuses to submit specimens for chemical testing as provided in section 7c(a), and the person was involved in a collision that resulted in a fatality, except as provided in paragraph (2) of this subsection, a law enforcement officer may employ whatever means are reasonable to collect blood specimens from the person if the law enforcement officer has reasonable grounds to believe that the person was intoxicated or was under the influence of alcohol or of any drug or any combination thereof.

“(2) If a person required to submit to blood collection under paragraph (1) of this subsection objects on valid religious or medical grounds, that person shall not be required to submit blood specimens but the law enforcement officer may employ whatever means are reasonable to collect breath or urine specimens from the person if the law enforcement officer has reasonable grounds to believe that the person was intoxicated or was under the influence of alcohol or of any drug or any combination thereof.

“Sec. 7e. If a person refuses to submit to chemical testing under this title, the Superior Court of the District of Columbia shall order the person not to operate any watercraft for at least one year. A refusal to submit to any test as required by this section shall be punishable by a \$500 fine, imprisonment of 90 days, or both.”

Sec. 102. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 50-2201.02) is amended to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) “Alcohol” means a liquid, gas, or solid, containing ethanol from whatever source or by whatever processes produced, whether or not intended for human consumption.

“(2) “All-terrain vehicle” or “ATV” means any motor vehicle with not less than 3 low-pressure tires, but not more than 6 low-pressure tires, designed primarily for off-road use and which has a seat or saddle designed to be straddled by the operator. The terms “all-terrain vehicle” and “ATV” shall not include golf carts, riding lawnmowers, or tractors.

“(3) “Collision” means an impact between the operator’s vehicle, or anything attached to or transported by the vehicle, and anything else, regardless of whether it is a person, a wild or domestic animal, real property, or personal property.

“(4) “Commercial vehicle” means a vehicle used to transport passengers or property:

“(A) If the vehicle has a gross vehicle weight rating of greater than 26,000 pounds or a lesser rating as determined by federal regulation but not less than a gross vehicle weight rating of 10,001 pounds;

“(B) If the vehicle is designed to transport more than 15 passengers, including the driver;

“(C) If the vehicle is a locomotive or a streetcar;

“(D) If the vehicle is used to transport a material found to be hazardous by the Mayor in accordance with the D.C. Hazardous Materials Transportation and Motor Carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*), or by the Secretary of Transportation in accordance with the Hazardous Materials Transportation Act, approved January 3, 1975 (88 Stat. 2156; 49 U.S.C. § 1801 *et seq.*); or

“(E) If the vehicle is a vehicle for hire.

“(5) “Court” means the Superior Court of the District of Columbia, except when used in the definition of “prior offense” when it shall also include courts of other jurisdictions.

“(6) “Dirt bike” means any motorcycle designed primarily for off-road use.

“(7) “Highway” means any street, road, or public thoroughfare, or the entire width between the boundary lines of every publicly or privately maintained way, when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel.

“(8) “Identifying information” means the name, complete address, and telephone number of the operator of the vehicle; if the owner of the vehicle is different from the operator of the vehicle, the name, complete address, and telephone number of the owner of the vehicle operated; the tag number of the vehicle operated or, if no tag number, the vehicle identification number; and insurance information for the vehicle operated.

“(9) “Law enforcement officer” means a sworn member of the Metropolitan Police Department or a sworn member of any other police force operating in the District of Columbia.

“(10) “Mayor” means the Mayor of the District of Columbia or his or her designee.

“(11) “Motor vehicle” means all vehicles propelled by internal-combustion engines, electricity, or steam. The term “motor vehicle” shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, personal mobility devices, as defined in paragraph (13) of this section, or a battery-operated wheelchair when operated by a person with a disability.

“(12) “Park” means to leave any motor vehicle standing on a highway, whether or not attended.

“(13) “Personal mobility device” or “PMD” means a motorized propulsion device designed to transport one person or a self-balancing, two non-tandem wheeled device, designed to transport only one person with an electric propulsion system, but does not include a battery-operated wheelchair.

“(14) “Prior offense” means any guilty plea or verdict, including a finding of guilty in the case of a juvenile, for an offense under District law or a disposition in another jurisdiction for a substantially similar offense which occurred before the current offense regardless of when the arrest occurred. The term “prior offense” does not include an offense where the later of any term of incarceration, supervised release, parole, or probation ceased or expired more than 15 years prior to the arrest on the current offense.

“(15) “This act” includes all lawful regulations issued thereunder by the Council of the District of Columbia and all lawful rules issued thereunder by the Mayor of the District of Columbia or his designated agent.

“(16) “Traffic” includes not only motor vehicles but also all vehicles, pedestrians, and animals, of every description.

“(17) “Vehicle” includes any appliance moved over a highway on wheels or traction tread, including street cars, draft animals, and beasts of burden.

“(18) “Vehicle conveyance fee” shall have the same meaning as provided in section 102(9) of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.02(9)).

“(19) “Vehicle for hire” means:

“(A) Any motor vehicle operated in the District by a private concern or individual as an ambulance, funeral car, sightseeing vehicle, or for which the rate is fixed solely by the hour;

“(B) Any motor vehicle operated in the District by a private concern used for services including transportation paid for by a hotel, venue, or other third party;

“(C) Any motor vehicle used to provide transportation within the District between fixed termini or on a schedule, including vehicles operated by the Washington Metropolitan Area Transit Authority or other public authorities, not including rental cars; or

“(D) Any other vehicle that provides transportation for a fee not operated on a schedule or between fixed termini and operating in the District, including taxicabs, limousines, party buses, and pedicabs.

“(20) “Work zone” means the area of a highway or roadway that is affected by construction, maintenance, or utility work activities, including the area delineated by and within all traffic control devices erected or installed to guide vehicular, pedestrian, and bicycle traffic.”.

(b) Section 6 (D.C. Official Code § 50-2201.03) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Strike the word “he” and insert the phrase “he or she” in its place.

(B) Strike the word “his” and insert the phrase “his or her” in its place.

(2) Subsection (d) is amended as follows:

(A) Strike the word “he” and insert the phrase “he or she” in its place.

(B) Strike the word “his” and insert the phrase “his or her” in its place.

(C) Strike the word “him” and insert the phrase “him or her” in its place.

(D) Strike the phrase “\$1,000” and insert the phrase “\$2,500” in its place.

(3) Subsection (f) is amended by striking the phrase “\$300” and inserting the phrase “\$500” in its place.

(4) Subsection (j) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Strike the word “his” and insert the phrase “his or her” in its place.

(ii) Strike the word “he” and insert the phrase “he or she” in its place.

(B) Paragraph (3)(E) is amended by striking the word “his” and inserting the phrase “his or her” in its place.

(5) Subsection (k) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “an officer” and inserting the phrase “a law enforcement officer” in its place.

(B) Paragraph (2) is amended by striking the word “officer” and inserting the phrase “law enforcement officer” in its place.

(c) Section 9(c) (D.C. Official Code § 50-2201.04(c)) is amended by striking the phrase “\$1,000” and inserting the phrase “\$2,500” in its place.

(d) Section 9b(c) (D.C. Official Code § 50-2201.04b(c)) is amended by striking the phrase “\$1,000” and inserting the phrase “\$250” in its place.

(e) Section 10 (D.C. Official Code § 50-2201.05) is repealed.

(f) Section 10b(b)(2) (D.C. Official Code § 50-2201.05b(b)(2)) is amended by striking the phrase “\$5,000” and inserting the phrase “\$12,500” in its place.

(g) New sections 10c and 10d are added to read as follows:

“Sec. 10c. Leaving after colliding.

“(a) Any person who operates or who is in physical control of a vehicle within the District who knows or has reason to believe that his or her vehicle has been in a collision shall immediately stop and:

“(1) Where another person is injured, call or cause another to call 911 or call or cause another to call for an ambulance or other emergency assistance if necessary, remain on the scene until law enforcement arrives, and provide identifying information to law enforcement and to the injured person;

“(2) Where real or personal property belonging to another is damaged or a domestic animal is injured, provide identifying information to the owner or operator of the property or the owner of the domestic animal or, where the owner or operator of the property or the owner of the domestic animal is not present, provide or cause another to provide identifying information and the location of the collision, to law enforcement or 911; or

“(3) Where real or personal property or a wild or domestic animal, as a result of the collision, poses a risk to others, call or cause another to call 911 and provide identifying information, the location of the collision, and a description of the nature of the risk posed to others.

“(b) It is an affirmative defense to a violation of subsection (a) of this section, which the defendant must show by a preponderance of the evidence, that the defendant’s failure to stop or

his or her failure to remain on the scene was based on a reasonable belief that his or her personal safety, or the safety of another, was at risk and that he or she called 911, or otherwise notified law enforcement, as soon as it was safe to do so, provided identifying information, provided a description of the collision, including the location of the collision or event, and followed the instructions of the 911 operator or a law enforcement officer.

“(c) It is not a defense to a violation of this section that the defendant:

“(1) Was intoxicated, impaired in any way, or distracted; or

“(2) Was not at fault for the collision.

“(d)(1)(A) A person violating subsection (a)(1) of this section shall upon conviction for the first offense be fined not more than \$1,000, or incarcerated for not more than 180 days, or both.

“(B) A person violating subsection (a)(1) of this section when the person has a prior offense under subsection (a)(1) of this section and is being sentenced on the current offense shall be fined not more than \$2,500, or imprisoned not more than one year, or both.

“(2)(A) A person violating subsection (a)(2) or (a)(3) of this section shall upon conviction for the first offense be fined not more than \$250, or incarcerated for not more than 30 days, or both.

“(B) A person violating subsection (a)(2) or (3) of this section when the person has a prior offense under subsection (a)(2) or (a)(3) of this section and is being sentenced on the current offense shall be fined not more than \$500, or imprisoned not more than 90 days, or both.

“Sec. 10d. Object falling or flying from vehicle.

“(a) Any person who operates or who is in physical control of a vehicle within the District who knows or has reason to believe that an object likely to cause damage has detached from, fallen, or flown from his or her vehicle shall immediately stop and:

“(1) Where another person is injured, call or cause another to call 911 or call or cause another to call for an ambulance or other emergency assistance if necessary, remain on the scene until law enforcement arrives, and provide identifying information to law enforcement and to the injured person;

“(2) Where real or personal property belonging to another is damaged or a domestic animal is injured, provide identifying information to the owner or operator of the property or the owner of the domestic animal or, where the owner or operator of the property or the owner of the domestic animal is not present, provide or cause another to provide identifying information and the location of the event, to law enforcement or 911; or

“(3) Where real or personal property or a wild or domestic animal, as a result of the event, poses a risk to others, call or cause another to call 911 and provide identifying information, the location of the collision, and a description of the nature of the risk posed to others.

“(b) It is an affirmative defense to a violation of subsection (a) of this section, which the defendant must show by a preponderance of the evidence, that the defendant’s failure to stop or his or her failure to remain on the scene was based on a reasonable belief that his or her personal safety, or the safety of another, was at risk and that he or she called 911, or otherwise notified

law enforcement, as soon as it was safe to do so, provided identifying information, provided a description of the event, including the location of the event, and followed the instructions of the 911 operator or a law enforcement officer.

“(c) It is not a defense to a violation of this section that the defendant:

“(1) Was intoxicated, impaired in any way, or distracted; or

“(2) Was not at fault for the object falling from or flying from the vehicle.

“(d)(1) A person violating any provision of subsection (a) of this section shall upon conviction for the first offense be fined not more than \$500, or incarcerated for not more than 60 days, or both.

“(2) A person violating any provision of subsection (a) of this section when the person has a prior offense under subsection (a) of this section and is being sentenced on the current offense shall be fined not more than \$500, or imprisoned not more than 90 days, or both.”.

(h) Section 16(b) (D.C. Official Code § 50-2201.07) is amended as follows:

(1) Strike the word “he” and insert the phrase “he or she” in its place,

(2) Strike the word “his” and insert the phrase “his or her” in its place.

Sec. 103. The Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2205.02 *et seq.*), is amended as follows:

(a) Sections 2 and 3 are designated as Subtitle A of Title I.

(b) Sections 4 through 11 are designated as Title II.

(c) Section 12 and 13 are designated as Title III.

(d) Section 14 is designated as Title IV.

(e) The newly designated Title I is amended as follows:

(1) A title heading is added to read as follows:

“TITLE I -- IMPAIRED OPERATING OR DRIVING”.

(2) The newly designated Subtitle A is amended as follows:

(A) Section 2 (D.C. Official Code § 50-2205.02) is repealed.

(B) Section 3 (D.C. Official Code § 50-2205.03) is repealed.

(C) A new section 3a is added to read as follows:

“Sec. 3a. Definitions.

“For the purposes of this title, the term:

“(1) “Active metabolite” means an active form of a drug after it has been processed by the body.

“(2) “Alcohol” means a liquid, gas, or solid, containing ethanol from whatever source or by whatever processes produced, whether or not intended for human consumption.

“(2) “Chemical test” or “chemical testing” means any qualitative or quantitative procedure which is designed to demonstrate the existence or absence of a chemical compound or chemical group. Any handheld and portable breath testing instrument, otherwise known as a roadside breath test, is excluded from this definition.

“(3) “Commercial vehicle” means a vehicle used to transport passengers or property:

“(A) If the vehicle has a gross vehicle weight rating of greater than 26,000 pounds or a lesser rating as determined by federal regulation but not less than a gross vehicle weight rating of 10,001 pounds;

“(B) If the vehicle is designed to transport more than 15 passengers, including the driver;

“(C) If the vehicle is a locomotive or a streetcar;

“(D) If the vehicle is used to transport a material found to be hazardous by the Mayor in accordance with the D.C. Hazardous Materials Transportation and Motor Carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*), or by the Secretary of Transportation in accordance with the Hazardous Materials Transportation Act, approved January 3, 1975 (88 Stat. 2156; 49 U.S.C. § 1801 *et seq.*); or

“(E) If the vehicle is a vehicle for hire.

“(5) “Court” means the Superior Court of the District of Columbia, except when used in the definition of “prior offense” when it shall also include courts of other jurisdictions.

“(6) “Drug” means any chemical substance that affects the processes of the mind or body, including but not limited to a controlled substance as defined 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. Official Code § 48-901.02(4)), and any prescription or non-prescription medication.

“(7) “Highway” means any street, road, or public thoroughfare, or the entire width between the boundary lines of every publicly or privately maintained way, when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel.”

“(8) “Impaired” means a person’s ability to operate or be in physical control of a vehicle is affected, due to consumption of alcohol or a drug or a combination thereof, in a way that can be perceived or noticed.

“(9) “Intoxicated” means:

“(A) Except as provided in subparagraph (B) of this paragraph, that:

“(i) An alcohol concentration at the time of testing of 0.08 grams or more per 100 milliliters of the person’s blood or per 210 liters of the person’s breath, or of 0.10 grams or more per 100 milliliters of the person’s urine; or

“(ii) Any measurable amount of alcohol in the person’s blood, urine, or breath if the person is under 21 years of age.

“(B) If operating or in physical control of a commercial vehicle, that:

“(i) An alcohol concentration at the time of testing of 0.04 grams or more per 100 milliliters of the person’s blood or per 210 liters of the person’s breath, or of 0.08 grams or more per 100 milliliters of the person’s urine; or

“(ii) Any measurable amount of alcohol in the person’s blood, urine, or breath if the person is under 21 years of age.

“(10) “Law enforcement officer” means a sworn member of the Metropolitan Police Department or a sworn member of any other police force operating in the District of Columbia.

“(11) “Mandatory-minimum term of incarceration” means a term of incarceration which shall be imposed and cannot be suspended by the court. The person shall not be released or granted probation, or granted suspension of sentence before serving the mandatory-minimum sentence.

“(12) “Mayor” means the Mayor of the District of Columbia or his or her designee.

“(13) “Measurable amount” means any amount of alcohol capable of being, but not required to be, measured.

“(14) “Minor” means a person under the age of 18 years.

“(15) “Motor vehicle” means all vehicles propelled by internal-combustion engines, electricity, or steam. The term “motor vehicle” shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, personal mobility devices, as defined by paragraph (16) of this section, or a battery-operated wheelchair when operated by a person with a disability.

“(16) “Personal mobility device” or “PMD” means a motorized propulsion device designed to transport one person or a self-balancing, 2 non-tandem wheeled device, designed to transport only one person with an electric propulsion system, but does not include a battery-operated wheelchair.

“(17) “Prior offense” means any guilty plea or verdict, including a finding of guilty in the case of a juvenile, for an offense under District law or a disposition in another jurisdiction for a substantially similar offense which occurred before the current offense regardless of when the arrest occurred. The term “prior offense” does not include an offense where the later of any term of incarceration, supervised release, parole, or probation ceased or expired more than 15 years before the arrest on the current offense.

“(18) “Specimen” means that quantity of a person’s blood, breath, or urine necessary to conduct chemical testing to determine alcohol or drug content. A single specimen may be comprised of multiple breaths into a breath test instrument if necessary to complete a valid breath test, or a single blood draw or single urine sample regardless of how many times the blood or urine sample is tested.

“(19) “This title” includes all lawful regulations issued thereunder by the Council of the District of Columbia and all lawful rules issued thereunder by the Mayor of the District of Columbia or his designated agent.

“(20) “Traffic” includes not only motor vehicles but also all vehicles, pedestrians, and animals, of every description.

“(21) “Vehicle” includes any appliance moved over a highway on wheels or traction tread, including street cars, draft animals, and beasts of burden.

“(22) “Vehicle for hire” means:

“(A) Any motor vehicle operated in the District by a private concern or individual as an ambulance, funeral car, sightseeing vehicle, or for which the rate is fixed solely by the hour;

“(B) Any motor vehicle operated in the District by a private concern used for services including transportation paid for by a hotel, venue, or other third party;



“(C) Any motor vehicle used to provide transportation within the District between fixed termini or on a schedule, including vehicles operated by the Washington Metropolitan Area Transit Authority or other public authorities, not including rental cars; or

“(D) Any other vehicle that provides transportation for a fee not operated on a schedule or between fixed termini and operating in the District, including taxicabs, limousines, party buses, and pedicabs.

“(23) “Watercraft” means a boat, ship, or other craft used for water transportation, as well as water skis, an aquaplane, a sailboard, or a similar vessel.

(3) New Subtitles B, C, and D are added to read as follows:

“SUBTITLE B.

“Sec. 3b. Driving under the influence of alcohol or a drug.

“No person shall operate or be in physical control of any vehicle in the District:

“(1) While the person is intoxicated; or

“(2) While the person is under the influence of alcohol or any drug or any combination thereof.

“Sec. 3c. Driving under the influence of alcohol or a drug; commercial vehicle.

“No person shall operate or be in physical control of any commercial vehicle in the District:

“(1) While the person is intoxicated; or

“(2) While the person is under the influence of alcohol or any drug or any combination thereof.

“Sec. 3d. Penalties for driving under the influence of alcohol or a drug.

“(a) Except as provided in subsections (b) and (c) of this section, a person violating any provision of section 3b or 3c shall upon conviction for the first offense be fined \$1,000, or incarcerated for not more than 180 days, or both; provided, that:

“(1) A 10-day mandatory-minimum term of incarceration shall be imposed 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; or

“(2) A 15-day mandatory-minimum term of incarceration shall be imposed 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; or

“(3) A 20-day mandatory-minimum term of incarceration shall be imposed if the person’s alcohol concentration was more than 0.30 grams per 100 milliliters of blood or per 210 liters of breath or 0.39 grams per 100 milliliters of urine; and

“(4) A 15-day mandatory-minimum term of incarceration shall be imposed if the person’s blood or urine contains a Schedule I chemical or controlled substance as listed in section 204 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.04), Phencyclidine, Cocaine, Methadone, Morphine, or one of its active metabolites or analogs.

“(b) A person violating any provision of section 3b or 3c when the person has a prior offense under section 3b, 3c, or 3e and is being sentenced on the current offense shall be fined not less than \$2,500 and not more than \$5,000, or incarcerated for not more than one year, or

both; provided, that a 10-day mandatory-minimum term of incarceration shall be imposed, and in addition :

“(1) A 15-day mandatory-minimum term of incarceration shall be imposed 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; or

“(2) A 20-day mandatory-minimum term of incarceration shall be imposed 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; or

“(3) A 25-day mandatory-minimum term of incarceration shall be imposed if the person’s alcohol concentration was more than 0.30 grams per 100 milliliters of blood or per 210 liters of breath or 0.39 grams per 100 milliliters of urine; and

“(4) A 20-day mandatory-minimum term of incarceration shall be imposed if the person’s blood or urine contains a Schedule I chemical or controlled substance as listed in section 204 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.04), Phencyclidine, Cocaine, Methadone, Morphine, or one of its active metabolites or analogs.

“(c) A person violating any provision of section 3b or 3c when the person has 2 or more prior offenses under section 3b, 3c, or 3e and is being sentenced on the current offense shall be fined not less than \$2,500 and not more than \$10,000, or incarcerated for not more than one year, or both; provided, that a 15-day mandatory-minimum term of incarceration shall be imposed, and in addition:

“(1) A 20-day mandatory-minimum term of incarceration shall be imposed 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; or

“(2) A 25-day mandatory-minimum term of incarceration shall be imposed 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; or

“(3) A 30-day mandatory-minimum term of incarceration shall be imposed if the person’s alcohol concentration was more than 0.30 grams per 100 milliliters of blood or per 210 liters of breath or 0.39 grams per 100 milliliters of urine; and

“(4) A 25-day mandatory-minimum term of incarceration shall be imposed if the person’s blood or urine contains a Schedule I chemical or controlled substance as defined in section 204 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.04), Phencyclidine, Cocaine, Methadone, Morphine, or one of its active metabolites or analogs.

“(d) An additional 30-day mandatory-minimum term of incarceration shall be imposed for each additional violation of any one or more provisions of section 3b or 3c if the person has 3 prior offenses under section 3b, 3c, or 3e and is being sentenced on the current offense.

“Sec. 3e. Operating a vehicle while impaired.

“No person shall operate or be in physical control of any vehicle in the District while the person’s ability to operate or be in physical control of a vehicle is impaired by the consumption of alcohol or any drug or any combination thereof.

“Sec. 3f. Penalty for operating a vehicle while impaired.

“(a) Except as provided in subsections (b) and (c) of this section, a person violating section 3e shall upon conviction for the first offense be fined \$500, or incarcerated for not more than 90 days, or both.

“(b) A person violating any provision of section 3e when the person has a prior offense under section 3b, 3c, or 3e and is being sentenced on the current offense shall be fined not less than \$1,000 and not more than \$2,500, or incarcerated for not more than one year, or both; provided, that a 5-day mandatory-minimum term of incarceration shall be imposed.

“(c) A person violating any provision of section 3e when the person has 2 or more prior offenses under section 3b, 3c, or 3e and is being sentenced on the current offense shall be fined not less than \$1,000 and not more than \$5,000, or incarcerated for not more than one year, or both; provided, that a 10-day mandatory-minimum term of incarceration shall be imposed.

“Sec. 3g. Operating under the influence of alcohol or a drug; horse-drawn vehicle.

“(a) No person shall operate or be in the physical control of any horse-drawn vehicle while under the influence of alcohol or any drug or any combination thereof.

“(b) A person violating the provisions of this section shall, upon conviction, shall be fined \$500, or be incarcerated for not more than 90 days, or both.

“(c) Civil penalties and fees may be imposed as alternative sanctions for any violation of this section in accordance with the procedures under the D.C. Hazardous Materials Transportation and Motor Carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*).

“Sec. 3h. Additional penalty for driving under the influence of alcohol or a drug; commercial vehicle.

“A person violating any provision of section 3c shall, in addition to any applicable penalty under section 3d, be subject to an additional 5 day mandatory-minimum term of incarceration.

“Sec. 3i. Additional penalty for impaired driving with a minor in vehicle.

“A person convicted of any offense under this subtitle who, at the time of operation or physical control of the vehicle had a minor, other than him or herself, in the vehicle, shall, in addition to any applicable penalty under this subtitle:

“(1) Be fined a minimum of \$500 and not more than \$1,000 per minor; and

“(2) Be incarcerated for a mandatory-minimum term of incarceration of:

“(A) 5 days per minor if the minor or minors are restrained in, or by, an age-appropriate child passenger-safety restraint; or

“(B) 10 days per minor if the minor or minors are not restrained in, or by, an age-appropriate child passenger-safety restraint.

“SUBTITLE C.

“Sec. 3j. Operating under the influence of alcohol or a drug; watercraft.

“No person shall operate or be in physical control of any watercraft in the District:

“(1) While the person is intoxicated; or

“(2) While the person is under the influence of alcohol or any drug or any combination thereof.

“Sec. 3k. Penalties for operating watercraft under the influence of alcohol or a drug.

“(a) Except as provided in subsections (b) and (c) of this section, a person violating any provision of section 3j shall upon conviction for the first offense be fined \$1,000, or incarcerated for not more than 180 days, or both.

“(b) A person violating any provisions of section 3j when the person has a prior offense under section 3j or 3l and is being sentenced on the current offense shall be fined not less than \$2,500 and not more than \$5,000, or incarcerated for not more than one year, or both.

“(c) A person violating any one or more provisions of section 3j when the person has 2 or more prior offenses under section 3j or 3l and is being sentenced on the current offense shall be fined not less than \$2,500 and not more than \$10,000, or incarcerated for not more than one year, or both.

“Sec. 3l. Operating a watercraft while impaired.

“No person shall operate or be in physical control of any watercraft in the District while the person’s ability to operate a watercraft in the District is impaired by the consumption of alcohol or any drug or any combination thereof.

“Sec. 3m. Penalties for operating watercraft while impaired.

“(a) Except as provided in subsections (b) and (c) of this section, a person violating section 3l shall upon conviction for the first offense be fined \$250, or incarcerated for not more than 30 days, or both.

“(b) A person violating section 3l when the person has a prior offense under section 3j or 3l and is being sentenced on the current offense shall be fined not more than \$2,500, or incarcerated for not more than 180 days, or both.

“(c) A person violating section 3l when the person has 2 or more prior offenses under section 3j or 3l and is being sentenced on the current offense shall be fined not less than \$2,500 and not more than \$5,000, or incarcerated for not more than one year, or both.

“Sec. 3n. Harbor Master public awareness campaign.

“The Harbor Master shall be directly responsible for enforcing this subtitle and shall ensure that the public is made aware of the District’s aggressive enforcement policy through a continual public awareness campaign.

“Sec. 3o. Additional penalty for impaired operating with a minor in the watercraft.

“A person convicted of any offense under this subtitle who, at the time of operation or physical control of the watercraft had a minor, other than him or herself, in the watercraft, shall, in addition to any applicable penalty under this subtitle, be fined a minimum of \$500 and not more than \$1,000 per minor, and be incarcerated a mandatory-minimum term of incarceration of 5 days per minor.

“SUBTITLE D.

“Sec. 3p. Evidence of impairment.

“(a) If as a result of the operation or the physical control of a vehicle, or a watercraft, 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, or a watercraft, while under the influence of alcohol in violation of section 3b, 3c, or 3j, 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 course of the trial there is received, based upon chemical tests, evidence of alcohol in the defendant's blood, breath, or urine, such evidence shall:

“(1) If the defendant’s alcohol concentration at the time of testing was less than 0.05 grams 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 person was not, at the time, under the influence of alcohol.

“(2) If the defendant’s alcohol concentration at the time of testing was 0.05 grams or more per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams of 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, constitute prima facie proof that the person was, at the time, under the influence of alcohol.

“(b) The rebuttable presumption contained in subsection (a)(1) of this section shall not apply if:

“(1) There is evidence that the person is impaired by a drug;

“(2) The defendant was operating or in physical control of a commercial vehicle;

or

“(3) The defendant, at the time of arrest, was under the age of 21.

“Sec. 3q. Admissibility of chemical test results.

An official copy of the results of any blood, urine, or breath test performed on a person by a technician or by a law enforcement officer shall be admissible as substantive evidence, without the presence or the testimony of the technician or of the law enforcement officer who administered the test, in any proceeding in which that person is charged with a violation of section 3b, 3c, or 3e; provided, that the law enforcement officer or the technician certifies that the breath test was conducted in accordance with the manufacturer's specifications, and that the equipment on which the breath test was conducted has been tested within the past 3 months and has been found to be accurate or, in the case of a blood or urine specimen, that the test of the specimen has been certified to be accurate by the chief toxicologist, Office of the Chief Medical Examiner or his or her designee; provided further, that the person on whom any blood, urine, or breath test has been performed, or that person's attorney, may seek to compel the attendance and the testimony of the technician or of the law enforcement officer in any proceeding by stating, in writing, the reasons why the accuracy of the test result is in issue and by requesting, in writing, at least 15 days in advance of the proceeding, that such technician or such law enforcement officer appear and testify in the proceeding. Any such person upon whom a blood, urine, or breath test is performed, shall be informed, in writing, of the provisions of this section at the time that such person is charged. After having been informed, failure to give timely and proper notice shall constitute a waiver of the person's (on whom the test has been performed) right to the presence and testimony of the technician or the law enforcement officer.

“Sec. 3r. Prosecution and diversionary program.

“(a) The Attorney General of the District of Columbia, or his or her assistants, shall prosecute violations of this title, in the name of the District of Columbia.

“(b) The Attorney General may request that a person who is charged with a violation of any provision of this title, as a condition to acceptance into a diversion program in lieu of prosecution, pay the District of Columbia or its agents a reasonable fee for the costs to the District of the person’s participation in the diversion program; provided, that:

“(1) The Attorney General shall set the fee by rule and at a level which the Attorney General determines will not unreasonably discourage persons from entering the diversion program;

“(2) The Attorney General may reduce or waive the fee if the Attorney General finds that the person is indigent; and

“(3) The Mayor shall determine the provider, the content, and eligibility requirements for any diversion program.

“Sec. 3s. Assessment of alcohol or drug abuse and treatment.

“Any person convicted of violating sections 3b, 3c, 3e, 3g, 3j, or 3l who has prior offense under sections 3b, 3c, 3e, 3g, 3j, or 3l, shall have his or her alcohol or drug abuse history assessed and a treatment program prescribed as appropriate.

“Sec. 3t. Revocation of permit or privilege to drive.

“(a) The Mayor or his or her designated agent shall revoke the operator’s permit or the privilege to drive a motor vehicle in the District of Columbia, or revoke both such permit and privilege, of any person who is convicted or adjudicated a juvenile delinquent as a result of the commission in the District of any of the following offenses:

“(1) A violation of sections 3b, 3c, 3e, or 3g;

“(2) A homicide committed by means of a motor vehicle;

“(3) A violation of section 10c or 10d of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50–2201.02 *et seq.*);

“(4) Reckless driving;

“(5) Operating or being in physical control of a vehicle while intoxicated or impaired by the consumption of alcohol or a drug or any combination thereof where such operation or physical control leads to bodily injury; or

“(6) Any felony in the commission of which a motor vehicle is involved.

“(b) Whenever a judgment of conviction of any offense set forth in subsection (a) of this section has become final, the clerk of the court in which the judgment was entered shall certify such conviction to the Mayor or his or her designated agent, who shall thereupon take the action required by subsection (a) of this section. A judgment of conviction shall be deemed to have become final for the purposes of this subsection if:

“(1) No appeal is taken from the judgment, upon the expiration of the time within which an appeal could have been taken; or

“(2) An appeal is taken from the judgment, the date upon which the judgment, having been sustained, can no longer be appealed from or reviewed on a writ of certiorari.

“Sec. 3u. Impounding of vehicle; release of vehicle; liability.

“(a)(1) Except as provided in paragraph (2) of this subsection, when a law enforcement officer arrests a person for a violation of section 3b, 3c, or 3e, the law enforcement officer shall cause the motor vehicle which the arrested person operated or controlled to be impounded.

“(2) The law enforcement officer shall not cause the vehicle to be impounded if:

“(A) A registered owner of the vehicle authorizes the law enforcement officer to release the vehicle to a person:

“(i) Who is in the company of the arrested person;

“(ii) Who has in his or her immediate possession a valid permit to operate a motor vehicle; and

“(iii) Whom the law enforcement officer determines to be in physical condition to operate the vehicle without violating section 3b, 3c, or 3e;

“(B) A registered owner of the vehicle:

“(i) Is present to take custody of the vehicle;

“(ii) Has in his or her immediate possession a valid permit to operate a motor vehicle; and

“(iii) Is determined by the law enforcement officer to be in physical condition to operate the vehicle without violating section 3b, 3c, or 3e; or

“(C) The arrested person authorizes the law enforcement officer to release the vehicle to a person:

“(i) Who is not in the company of the arrested person;

“(ii) Who has in his or her immediate possession a valid permit to operate a motor vehicle;

“(iii) Whom the law enforcement officer determines to be in physical condition to operate the vehicle without violating section 3b, 3c, or 3e; and

“(iv) Who shall take possession of the vehicle within a reasonable period of time from a public parking space to be determined by the arresting law enforcement officer.

“(b)(1) Except as provided in paragraph (2) of this subsection or in subsection (c) of this section, an impounded vehicle shall be released:

“(A) At any time to a registered owner of the vehicle, other than the arrested person; or

“(B) 24 hours after the arrest, to the arrested person.

“(2) No vehicle shall be released to a person unless a law enforcement officer determines that the person is in physical condition to operate a motor vehicle without violating section 3b, 3c, or 3e.

“(3) If the law enforcement officer has a reasonable suspicion that the person is not in the physical condition required by paragraph (2) of this subsection, the law enforcement officer may direct that the person submit specimens for chemical testing to determine whether the person is impaired. The results of the tests may not be used as evidence in any criminal proceeding. If the person refuses to submit specimens for chemical tests, the law enforcement officer may determine that the person does not meet the condition of paragraph (2) of this subsection.

“(c) Any motor vehicle that is impounded shall be subject to an impoundment charge of \$50, which shall be paid before the release of the motor vehicle. Any motor vehicle that remains impounded and unclaimed for more than 72 hours shall be processed and handled as an abandoned vehicle, and shall be subject to any other charges and costs, including storage fees and relocation costs, as provided and assessed by the Mayor.

“(d) Except as provided in paragraph (2)(B) of this subsection, the District of Columbia and its employees may not be liable for damage to property which results from any act or omission in the implementation of any provisions of this section.

“(2)(A) The District of Columbia and its employees may be liable for injury to persons which results from any act or omission in the implementation of any provisions of this section.

“(B) An employee of the District of Columbia may be liable for injury to persons or damage to property which results from the gross negligence of the employee. The District of Columbia may also be liable for the resulting injury to persons or damage to property if the act or omission of the employee which constitutes gross negligence occurred while the employee was engaged in furthering the governmental interest of the District of Columbia.

“Sec. 3v. Mandatory-minimum periods.

“(a) A mandatory-minimum term of incarceration as provided in this title shall be proven to the court by a preponderance of the evidence.

“(b) A person sentenced for an offense under this title may be subjected to multiple mandatory-minimum terms of incarceration. Each mandatory-minimum term of incarceration must be served consecutively, except that no combination of mandatory-minimum terms of incarceration shall exceed the maximum penalty for the offense, including any applicable enhancements.

“Sec. 3w. Fines.

“Notwithstanding any other provision of law, all fines imposed and collected pursuant to this title during fiscal year 2006 and each succeeding fiscal year shall be transferred to the General Fund of the District of Columbia.

“Sec. 3x. Effect of later repeal or amendment.

“Any violation of any provision of law or regulation issued hereunder which is repealed or amended by this title, and any liability arising under such provisions or regulations may, if the violation occurred or the liability arose prior to such repeal or amendment, be prosecuted to the same extent as if this title had not been enacted.”

## TITLE II -- ALCOHOL TESTING PROGRAM

Sec. 201. Section 8 of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.07), is amended to read as follows:

“Sec. 8. Impaired driving program; certification and testing of breath alcohol equipment.

“(a) The Department shall be responsible for testing and certifying the accuracy of any District instrument utilized by District law enforcement personnel to test the alcohol content of breath. A District breath test instrument shall only be used by District law enforcement



personnel if it has been certified by the Department, or the Department's designee, to be accurate. Certification of the accuracy of each breath test instrument shall occur at least once every 3 months.

“(b) In addition to the requirements under subsection (a) of this section, the Department shall:

“(1) Develop a program for District law enforcement personnel to become trained and certified as a breath test instrument operator;

“(2) Develop policies and procedures for the operation and maintenance of all breath test instruments utilized by District law enforcement personnel; and

“(3) Develop policies and procedures for the maintenance of records demonstrating that the breath test instruments utilized by District law enforcement personnel are in proper operating condition.

“(c) The Department shall issue regulations to meet the requirements of this section.

“(d) The Director may delegate by memorandum of agreement some or all of the responsibilities of this section, as well as some or all of the responsibilities for providing forensic science services pertaining to breath testing as provided by section 9(a)(1) to the Office of the Chief Medical Examiner.

“(e) This section shall apply as of October 1, 2012.”.

Sec. 202. The Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 5-1401 *et seq.*), is amended by adding a new section 2918b to read as follows:

“Sec. 2918b. Impaired driving program; chemical testing.

“(a) The CME shall be responsible for ensuring the accuracy of blood and urine testing for the District's impaired driving program. The CME may test or authorize the testing of specimens, as defined by section 1(18) of the District of Columbia Implied Consent Act, approved October 21, 1972 (86 Stat. 1016; D.C. Official Code § 50-1901(18)), for the purposes of determining if specimens contain alcohol or a drug.

“(b) Until October 1, 2012, and after October 1, 2012 if authorized under section 8(d) of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.07(d)), the CME shall be responsible for testing and certifying the accuracy of any District instrument utilized by District law enforcement personnel to test the alcohol content of breath. A District breath-test instrument shall only be used by District law enforcement personnel if it has been certified by the CME to be accurate. Certification of the accuracy of each breath test instrument must occur at least once every 3 months.

“(c) In addition to the requirements under subsection (a) of this section, the CME shall:

“(1) Develop a program for District law enforcement personnel to become trained and certified as a breath test instrument operator;

“(2) Develop policies and procedures for the operation and maintenance of all breath test instruments utilized by District law enforcement personnel; and

“(3) Develop policies and procedures for the maintenance of records demonstrating that the breath test instruments utilized by District law enforcement personnel are in proper operating condition.”.

TITLE III -- CONFORMING AMENDMENTS

Sec. 301. Section 14-307(b) of the District of Columbia Official Code is amended as follows:

- (a) Paragraph (3) is amended by striking the word “or” after the semicolon.
- (b) Paragraph (4) is amended by striking the period and inserting the phrase “; or” in its place.
- (c) A new paragraph (5) is added to read as follows:  
“(5) evidence in a criminal or delinquency proceeding where a person is charged with an impaired driving offense and where the person caused the death of or injury to a human being, and the disclosure is required in the interest of public justice.”.

Sec. 302. Chapter 10 of Title 25 of the District of Columbia Official Code is amended by repealing sections 25-1004 through 25-1009.

Sec. 303. Section 9 of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.08), is amended as follows:

- (a) A new subsection (a-1) is added to read as follows:  
“(a-1) The Mayor shall provide for the orderly transfer to the Department all of the authority, responsibilities, duties, assets, and functions of the Department of Health pertaining to public health laboratory services, including:
  - “(1) Disease prevention, control and surveillance testing;
  - “(2) Emergency preparedness testing;
  - “(3) Food surveillance and testing;
  - “(4) Reference and specialized testing;
  - “(5) Integrated data management;
  - “(6) Education, training and partnerships;
  - “(7) Special research; and
  - “(8) The ability to seek grants pertaining to public health laboratory services from government agencies, including the Center for Disease Control.”.

(b) Subsection (b) is amended by striking the phrase “transfer set forth in subsection (a)” and inserting the phrase “transfers set forth in subsections (a) and (a-1)” in its place.

Sec. 304. 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 “employee’s alcohol concentration was 0.08 grams or more per 210 liters of breath” and inserting the phrase “employee is intoxicated as defined by section 3a(9) of the Anti-Drunk Driving Act of 1982, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957)” in its place.

(b) Section 2033 (D.C. Official Code § 1-620.33) is amended by striking the phrase “person’s alcohol concentration was 0.08 grams or more per 210 liters of breath” and inserting the phrase “person is intoxicated as defined by section 3a(9) of the Anti-Drunk Driving Act of 1982, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957)” in its place.

Sec. 305. 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:

(a) Subsection (e) is amended by striking the phrase “person’s alcohol concentration was 0.08 grams or more per 210 liters of breath” and inserting the phrase “person was intoxicated as defined by section 3a(9) of the Anti-Drunk Driving Act of 1982, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957)” in its place.

(b) Subsection (f) is amended by striking the phrase “210 liters of the employee’s breath contains 0.08 grams or more of alcohol” and inserting the phrase “the alcohol concentration of the employee’s breath meets the definition of intoxicated as defined by section 3a(9) of the Anti-Drunk Driving Act of 1982, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957)” in its place.

Sec. 306. 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 “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” and inserting the phrase “person is intoxicated as defined by section 3a(9) of the Anti-Drunk Driving Act of 1982, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957)” in its place.

Sec. 307. Section 13(a) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1125; D.C. Official Code § 50-1403.01(a)), is amended by striking 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” and inserting the phrase “person is intoxicated as defined by section 3a(9) of the Anti-Drunk Driving Act of 1982, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957)” in its place.

#### **TITLE IV -- FISCAL IMPACT; EFFECTIVE DATE**

Sec. 401. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012, signed

**ENROLLED ORIGINAL**

by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957), 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. 402. 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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia