

COUNCIL OF THE DISTRICT OF COLUMBIA

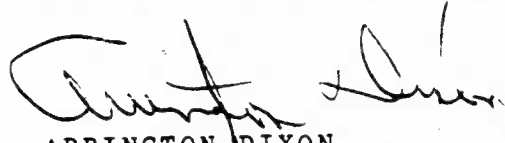
NOTICE

D.C. LAW 4-145

"Anti-Drunk Driving Act of 1982".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-389 on first and second readings, June 8, 1982 and June 22, 1982, respectively. Following the signature of the Mayor on July 12, 1982, this legislation was assigned Act No. 4-213, published in the July 23, 1982, edition of the D.C. Register, (Vol. 29 page 3138) and transmitted to Congress on July 16, 1982 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-145, effective September 14, 1982.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July 16,19,20,21,22,23,26,27,28,29,30
August 2,3,4,5,6,9,10,11,12,13,16,17,18,19,20
September 8,9,10,13

D.C. LAW 4-145

AN ACT

EFFECTIVE
DATE SEP 14 1982D.C. ACT 4-21 3

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUL 12 1982

To strengthen the law against drunk driving in the District of Columbia, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anti-Drunk Driving Act of 1982".

Sec. 2. If as a result of the operation of a vehicle, any person is tried in any court of competent jurisdiction within the District of Columbia for operating such vehicle while under the influence of any intoxicating liquor or while the ability to operate a vehicle is impaired by the consumption 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. Code, sec. 40-716(b)), as amended by section 5(a), 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. Code, sec. 40-713), or manslaughter committed in the operation of such vehicle in violation of section 802 of An Act to To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321;

CODIFICATION

New

D.C. Code,
sec. 40-717
(1981 ed.)

D.C. Code, sec. 22-2405) and in the course of such trial there is received in evidence, based upon a chemical test, competent proof to the effect that at the time of such operation:

(1) Defendant's blood contained less than .05 percent by weight, of alcohol, or that an equivalent quantity of alcohol was contained in at least 2,000 cubic centimeters of his or her breath (true breath or alveolar air having 5 1/2 per centum of carbon dioxide) such proof shall be deemed prima facie proof that the defendant was, at such time, not under the influence of any intoxicating liquor; and

(2) Defendant's blood contained .05 percent or more, by weight, of alcohol, or that an equivalent quantity of alcohol was contained in at least 2,000 cubic centimeters of his or her breath (true breath or alveolar air having 5 1/2 per centum of carbon dioxide) such proof shall constitute prima facie proof that the defendant was, at such time, under the influence of intoxicating liquor and that the defendant was operating a vehicle while the ability to operate a vehicle was impaired by the consumption of intoxicating liquor.

Sec. 3. An official copy of the results of any blood, urine, or breath test performed on a person by a technician or by a police officer shall be admissible as substantive evidence, without the presence or the testimony of the technician or of the police officer who administered the test, in any proceeding in which that person is charged with

New
D.C. Code,
sec. 40-7
(1981 ed.)

a violation of section 10(b) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1124; (D.C. Code, sec. 40-716(b))), as amended by section 5(a):
PROVIDED, That the police 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:

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 police 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 police 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 police officer.

Sec. 4. The District of Columbia Implied Consent Act, approved October 21, 1972 (86 Stat. 1016; D.C. Code, sec. 40-501 et seq.) is amended as follows:

(a) Section 1(7) (D.C. Code, sec. 40-501(7)) is amended to read as follows:

D.C.Code,
sec. 40-501
(1981 ed.)

"(7) The term 'specimen' means that quantity of a person's blood, urine, or breath necessary to conduct a chemical test to determine blood-alcohol content or the blood-drug content."

(b) Section 2 (D.C. Code, sec. 40-502) is amended to read as follows:

"(a) Any person, other than one described in subsection (b) of this section, who operates a motor vehicle within the District shall be deemed to have given his or her consent, subject to the provisions of this Act, to 2 chemical tests of the person's blood, urine, or breath, for the purpose of determining blood-alcohol content or the blood-drug content. The arresting police officer or any other appropriate law enforcement officer shall elect which chemical test shall be administered to the person:

D.C.Code,
sec. 40-502
(1981 ed.)

PROVIDED, That the person may object to a particular test on valid religious or medical grounds. The tests shall be administered at the direction of a police officer who, having arrested such person for violation of law, has reasonable grounds to believe the person to have been operating or in physical control of a motor vehicle within the District while that person's blood contains .10 percent or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the person's ability to operate a motor vehicle is impaired by the consumption of intoxicating

The Council of the District of Columbia

liquor.

"(b) Any person who operates or who is in physical control of a motor vehicle within the District and who is involved in a motor vehicle accident shall submit, subject to the provisions of this Act, to 2 chemical tests of the person's blood, urine, or breath for the purpose of determining blood-alcohol content or blood-drug content whenever a police officer arrests such person for a violation of law and has reasonable grounds to believe such person to have been operating or in physical control of a motor vehicle within the District while that person's blood contains .10 percent or more, by weight, of alcohol, or while under the influence of an intoxicating liquor or any drug or any combination thereof, or while the ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor. The arresting police officer or other appropriate law enforcement officer shall elect which chemical test shall be administered to the person: PROVIDED, That the person may object to a particular test on valid religious or medical grounds."

(c) Section 3 (D.C. Code, sec. 40-503) is amended by inserting after the phrase "alcoholic content" the phrase "or the drug content".

D.C.Code,
sec. 40-503
(1981 ed.)

(d) Section 5 (D.C. Code, sec. 40-505) is amended as follows:

(1) by striking the phrase "while under the influence of intoxicating liquor" and inserting the phrase "while the individual's blood contains .10 or more, by

D.C.Code,
sec. 40-505
(1981 ed.)

weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the person's ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor" in lieu thereof;

(2) by striking the phrase "six months" and inserting the phrase "12 months" in lieu thereof; and

(3) by adding a new subsection (c) to read as follows:

"(c) If the person under arrest refuses to submit to the test, or subsequently exercises the right to object to the use of the test results pursuant to subsection (b) of this section, 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 prior to the arrest."

(e) Section 6 (D.C. Code, sec. 40-506) is amended by striking the phrase "under the influence of intoxicating liquor" and inserting the phrase "the person's blood contains .10 percent or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the person's ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor" in lieu thereof.

(f) By striking the words "two", "five", and "six", and inserting the figures "2", "5", and "6", respectively in lieu thereof.

Sec. 5. Section 10 of the District of Columbia Traffic

D.C. Code,
sec. 40-506
(1981 ed.)

D.C. Code,
sec. 40-503,
-505
& -506
(1981 ed.)

Act, 1925, approved March 3, 1925 (43 Stat. 1124; D.C. Code, sec. 40-716) is amended as follows:

(a) Subsection (b) (D.C. Code, sec. 40-716(b)) is amended to read as follows:

D.C. Code,
sec. 40- 5
(1981 ed.)

"(b)(1) No individual shall, when the individual's blood contains .10 percent or more, by weight, of alcohol (or when an equivalent quantity of alcohol is contained in at least 2,000 cubic centimeters of his breath (true breath or alveolar air having 5 1/2 per centum of carbon dioxide)), or under the influence of intoxicating liquor or any drug or any combination thereof, operate or be in physical control of any vehicle in the District. Any individual violating any provision of this paragraph shall, upon conviction for the 1st offense, be fined an amount not to exceed \$300 or imprisoned for not more than 90 days or both; upon conviction for the 2nd offense within a 15 year period, be fined an amount not to exceed \$5000 or imprisoned for not more than 1 year or both; and upon conviction for the 3rd or any subsequent offense within a 15 year period, be fined an amount not to exceed \$10,000 or imprisoned for not more than 1 year, or both.

"(2) No individual shall, while the individual's ability to operate a vehicle is impaired by the consumption of intoxicating liquor, operate or be in physical control of any vehicle in the District. Any individual violating any provision of this paragraph shall, upon conviction for the 1st offense, be fined an amount not to exceed \$300 or imprisoned for not more than 30 days or both; upon

conviction for the 2nd offense within a 15 year period, be fined an amount not to exceed \$300 or imprisoned for not more than 90 days or both; and upon conviction for the 3rd or any subsequent offense within a 15 year period, be fined an amount not to exceed \$5000 or imprisoned for not more than 1 year or both.

"(3) All fines imposed pursuant to this subsection shall be used exclusively for the enforcement and prosecution of the District traffic alcohol laws.

"(4) Convictions under this subsection prior to the effective date of the Anti-Drunk Driving Act of 1982 shall constitute a prior offense under paragraph (1) if the individual's previous conviction occurred within 15 years of the conviction pursuant to this Act.

"(5) The Corporation Counsel of the District of Columbia, or his assistants, shall prosecute violations of this subsection, in the name of the District of Columbia."

(b) Subsection (d) (D.C. Code, sec. 40-716(d)) is amended as follows:

(1) Paragraph (1) (D.C. Code, sec. 40-716(d)(1)) is amended to read as follows:

"(1) Operating or being in control of a vehicle while the individual's blood contains .10 percent or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof."; and

(2) Paragraph (4) (D.C. Code, sec. 40-716(d)(4)) is amended to read as follows:

The Council of the District of Columbia

"(4) Reckless driving or operating or being in physical control of a vehicle while the ability to operate is impaired by the consumption of intoxicating liquor involving bodily injury."

Sec. 6. Section 13 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1125; D.C. Code, sec. 40-302) is amended as follows:

D.C. Code, sec. 40-302 (1981 ed.)

(a) Subsection (a) (D.C. Code, sec. 40-302(a)) is amended by striking the phrase "under the influence of liquor or narcotic drugs" and inserting the phrase "while the individual's blood contains .10 percent or more by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the ability to operate a vehicle is impaired by the consumption of intoxicating liquor" in lieu thereof.

(b) Subsection (e) (D.C. Code sec. 40-302(e)) is amended to read as follows:

"(e) Any individual found guilty of operating a motor vehicle in the District during the period for which the individual's license is revoked or suspended, or for which his right to operate is suspended or revoked, shall, for each such offense, be fined not to exceed \$5000 or imprisoned for not more than 1 year, or both."

Sec. 7. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D. C. Code, sec. 40-701 et seq.) is amended by striking the words "one", "two", "three", "four", "five", "six", "ten", "twenty-four", "thirty", "sixty", "ninety", "two thousand", "first", and

D.C. Code, sec. 40-701 et seq. (1981 ed.)

"second" and the phrases "ten one-hundredths of 1 per centum" and "eleven one-hundredths of 1 per centum" and inserting the figures "1", "2", "3", "4", "5", "6", "10", "24", "30", "60", "90", "2,000", "1st", and "2nd" and the phrases ".10 percent" and ".11 percent" respectively in lieu thereof.

Sec. 8. 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. Code, sec. 40-713) is amended by striking the phrase "one year or by a fine of not more than \$1000," and inserting the phrase "five years or by a fine of not more than \$5000," in lieu thereof.

D.C.Code,
sec. 40-713
(1981 ed.)

Sec. 9. Section 37(a) of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 130; D.C. Code, sec. 40-437(a)) is amended by striking the phrase "under the influence of any intoxicating liquor or narcotic drug" and inserting the phrase "while the individual's blood contains ten one-hundredths of 1 or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the ability to operate a vehicle is impaired by the consumption of intoxicating liquor" in lieu thereof.

D.C.Code,
sec. 40-437
(1981 ed.)

Sec. 10. 18 DCMR is amended as follows:

(a) Subsection 301.1(a) is amended to read as follows:

"(a) Operating a motor vehicle while the person's blood contains ten one-hundredths of one percent (0.10%) or more, by weight, of alcohol, or under the influence of

D.C. Municipi
Regulation
(DCMR)

intoxicating liquor or any drug or any combination thereof;".

Subsection 301.1(d) is amended to read as follows:

"(d) Reckless driving or operating a motor vehicle while the ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor involving personal injury; or";

(c) Subsection 302.7 is amended by striking the phrase "paragraphs (c), (d) or (e) of";

(d) Subsection 303.1(m) is amended to read as follows:

"(m) Operating a motor vehicle while the person's blood contains ten one-hundredths of one percent (0.10%) or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the ability to operate a vehicle is impaired by the consumption of intoxicating liquor.....12 points";

(e) Subsection 306.1 is amended to read as follows:

"The suspension shall be from two (2) to ninety (90) days, at the discretion of the Director, based upon the seriousness of the case.";

(f) Subsection 306.8 is amended by striking the phrase "driving under the influence of intoxicating beverages or drugs" and by inserting the phrase "operating a vehicle while the person's blood contains ten one-hundredths of one percent (0.10%) or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the ability to operate a vehicle is impaired by the consumption of intoxicating

liquor" in lieu thereof.

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

"If the operator's blood contained less than .05 percent, by weight, of alcohol, or that an equivalent quantity of alcohol was contained in at least 2,000 cubic centimeters of his breath (true breath or alveolar air having 5.5 percent of carbon dioxide) it shall be deemed prima facie proof that the operator at such time was not under the influence of intoxicating liquor.";

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

"If the operator's blood contained .05 percent or more, by weight, of alcohol, or an equivalent quantity of alcohol was contained in at least 2,000 cubic centimeters of his breath (true breath or alveolar air having 5.5 percent of carbon dioxide) it shall be deemed prima facie proof that the operator at such time was under the influence of intoxicating liquor."; and

(i) Subsection 1034.4 is repealed.

Sec. 11(a). An Act To prescribe the weight to be given to evidence of tests of alcohol in the blood, urine, or breath of persons tried in the District of Columbia for certain offenses committed while operating vehicles, approved October 21, 1972 (86 Stat. 1018; D. C. Code, sec. 40-717) is repealed.

D.C.Code,
sec. 40-717
(1981 ed.)
repealed

(b) Section 73 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 138; D.C. Code, sec. 40-473) is repealed.

D.C.Code,
sec. 40-473
(1981 ed.)
repealed

Sec. 12. The Mayor shall issue rules to implement the

The Council of the District of Columbia

Note,
D.C. Code,
sec. 40-302,
-473, & -506
(1981 ed.)

provisions of this act.

Sec. 13. If any provision of this act or the application of any provision to any person or circumstance shall be held unconstitutional or otherwise invalid, the constitutionality or validity of the remainder of this act and the applicability of the provision to other persons or other circumstances shall not be affected thereby.

Sec. 14(a). This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).

(b) This act shall be applicable to those individuals arrested or apprehended after 10 days after the effective date of this act.

DCMR
&
Note,
D.C. Code,
secs. 40-302,
-437, -502,
-503, -505,
-506, -713,
-716, -716.1,
& -717
(1981 ed.)

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED: July 12, 1982



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Four
Second Session

DOCKET NO: B 4-389

Item on Consent Calendar

ACTION: Adopted First Reading, 6-8-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

William R. Cunningham 6/29/82
Secretary to the Council Date

Item on Consent Calendar

ACTION: Adopted Final Reading, 6-22-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

William R. Cunningham 6/29/82
Secretary to the Council Date

Item on Consent Calendar

ACTION: _____

VOICE VOTE: _____

Absent: _____

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

Secretary to the Council Date