



Chairman Phil Mendelson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, 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be made available to a defendant; to amend the District of Columbia Traffic Act, 1925 to update definitions, to revise outdated language, to increase fines to make them proportional with the associated incarceration period, to create a new offense of leaving after colliding, and to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

1 revoke a commercial drivers license be used as the level for a per se impaired driving
2 offense for drivers of commercial vehicles and vehicles for hire, and establishing a
3 mandatory-minimum of 5 days incarceration for persons convicted of operating or being
4 in physical control of those vehicles while impaired; to create a mandatory-minimum
5 penalty for a person who is convicted of an impaired driving offense who at the time of
6 the offense had a minor in the vehicle; to amend the Department of Forensic Sciences
7 Establishment Act of 2011 to clarify and strengthen the District's breath test program; to
8 amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to
9 clarify the responsibility for blood and urine testing and to clarify and strengthen the
10 District's breath test program; to amend Title 14 to permit the release of medical
11 information when a patient is charged with an impaired driving offense and where the
12 patient caused the death of or injury to a human being; and to amend Title 25 of the
13 District of Columbia Code to move boating while intoxicated to Title 50 and to make
14 conforming amendments.
15

16 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
17 act may be cited as the "Comprehensive Impaired Driving and Alcohol Testing Program
18 Emergency Amendment Act of 2012".

19 TITLE I -- COMPREHENSIVE IMPAIRED DRIVING

20 Sec. 101. The District of Columbia Implied Consent Act, approved October 21, 1972 (86
21 Stat. 1016; D.C. Official Code § 50-1901 *et seq.*), is amended as follows:

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

23 "For the purposes of this chapter, the term:

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

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

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

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

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

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

7 “(D) If the vehicle is used to transport a material found to be hazardous by the
8 Mayor in accordance with Chapter 14 of Title 8 , or by the Secretary of Transportation in
9 accordance with the Hazardous Materials Transportation Act, approved January 3, 1975 (88
10 Stat. 2156; 49 U.S.C. § 1801 *et seq.*); or

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

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

14 “(5) “Drug” means any chemical substance that affects the processes of the mind or
15 body, including but not limited to a controlled substance as defined in section 102(4) of the
16 District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981
17 (D.C. Law 4-29; D.C. Official Code § 48-901.02(4)), and any prescription or non-prescription
18 medication.

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

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

4 “(8) “Intoxicated” means:

5 “(A) Except as provided in subparagraph (B), that:

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

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

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

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

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

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

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

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

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

1 “(C) Any nonresident's operating privilege.

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

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

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

7 “(14) “Motor vehicle” means all vehicles propelled by internal combustion engines,
8 electricity, or steam. The term “motor vehicle” shall not include personal mobility devices, as
9 defined by section 2(12) of the District of Columbia Traffic Act, 1925, approved March 3, 1925
10 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), or a battery-operated wheelchair when
11 operated by a person with a disability.

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

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

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

22 “(18) “Specimen” means that quantity of a person’s blood, breath, or urine necessary to
23 conduct chemical testing to determine alcohol or drug content. A single specimen may be

1 comprised of multiple breaths into a breath test instrument if such is necessary to complete a
2 valid breath test, or a single blood draw or single urine sample regardless of how many times the
3 blood or urine sample is tested.

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

6 (b) Sections 2 (D.C. Official Code § 50-1902) is repealed.

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

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

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

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

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

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

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

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

5 “(a) Full information concerning the chemical test results administered under this
6 chapter, including records as provided in section 7(h)(3) of the Department of Forensic Sciences
7 Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-
8 1501.06), shall be made available to the person from whom specimens were obtained pursuant to
9 Rule 16 of the District of Columbia Superior Court Rules of Criminal Procedure.”.

10 (e) Sections 1, 3, and 4 are designated as Part A.

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

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

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

22 “(c) The results of the preliminary breath test shall be used by the law enforcement
23 officer to aid in the decision whether to arrest the person, and the results of the test shall not be

1 used as evidence by the District in any prosecutions and shall not be admissible in any judicial
2 proceeding except in any judicial or other proceeding in which the validity of the arrest or the
3 conduct of the law enforcement officer is an issue.

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

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

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

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

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

6 “(d) Prior to collecting specimens for chemical testing the law enforcement officer shall
7 advise the operator of the motor vehicle about the requirements of this chapter.”.

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

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

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

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

1 “(B) Deny the person the issuance of a license, if the person is without a
2 license to operate a motor vehicle in the District, for a period of 12 months after the date of the
3 alleged violation, subject to review as hereinafter provided.

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

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

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

19 “(2) If a person required to submit blood testing under paragraph (1) of this
20 subsection objects on valid religious or medical grounds, that person shall not be required to
21 submit blood specimens but the law enforcement officer may employ whatever means are
22 reasonable to collect breath or urine specimens from the person if the law enforcement officer

1 has reasonable grounds to believe that the person was intoxicated or under the influence of
2 alcohol or of any drug or any combination thereof.”.

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

4 (A) Paragraph (1) is amended to read as follow

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

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

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

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

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

16 (C) Strike the word “chapter” and insert the word “Part” in its place.

17 (j) Sections 4a, 4b, 5, 6, and 7 are designated as Part B.

18 (k) New sections 7a, 7b, 7c, 7d, and 7e are designated as Part C and added to read as
19 follows:

20 “PART C.

21 “Sec. 7a. For purposes of this part, the term:

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

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

6 “Sec. 7b. (a) When a law enforcement officer has reasonable grounds to believe that a
7 person is or has been operating or in physical control of a watercraft within the District while
8 intoxicated or while the person’s ability to operate a watercraft is impaired by the consumption
9 of alcohol or a drug or a combination thereof, the law enforcement officer may, without making
10 an arrest or issuing a violation notice, request that the person submit to a preliminary breath test,
11 to be administered by the law enforcement officer, who shall use a device which the Mayor has
12 approved by rule for that purpose.

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

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

21 “Sec. 7c. (a) Except as provided in subsection (b) of this section, any person who
22 operates or who is in physical control of any watercraft within the District and a law enforcement
23 officer has reasonable grounds to believe that the person is operating or in physical control of a

1 watercraft while intoxicated or while the person's ability to operate a watercraft is impaired by
2 the consumption of alcohol or a drug or a combination thereof, after arrest shall:

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

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

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

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

22 “(d) Prior to collecting specimens for chemical testing the law enforcement officer shall
23 advise the operator of the watercraft about the requirements of this chapter.

1 “Sec. 7d. (a) If a person under arrest refuses to submit specimens for chemical testing as
2 provided in section 7b(a) of this act, he or she shall be informed that failure or refusal to submit
3 to chemical testing will result in his or her inability to operate a watercraft in the District of
4 Columbia as provided in section 7e of this part.

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

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

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

20 “(2) If a person required to submit to blood collection under paragraph (1) of this
21 subsection objects on valid religious or medical grounds, that person shall not be required to
22 submit blood specimens but the law enforcement officer may employ whatever means are
23 reasonable to collect breath or urine specimens from the person if the law enforcement officer

1 has reasonable grounds to believe that the person was intoxicated or was under the influence of
2 alcohol or of any drug or any combination thereof.

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

7 Sec. 102. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat.
8 1119; D.C. Official Code § 50-2201.02 *et seq.*), is amended as follows:

9 (a) Section 2 (D.C. Official Code § 50-2201.01) is amended to read as follows:

10 “Definitions.

11 “Sec. 2. For purposes of this part, the term:

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

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

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

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

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

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

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

4 “(D) If the vehicle is used to transport a material found to be hazardous by the
5 Mayor in accordance with Chapter 14 of Title 8 , or by the Secretary of Transportation in
6 accordance with the Hazardous Materials Transportation Act, approved January 3, 1975 (88
7 Stat. 2156; 49 U.S.C. § 1801 *et seq.*); or

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

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

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

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

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

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

21 “(10) “Motor vehicle” means all vehicles propelled by internal-combustion engines,
22 electricity, or steam. The term “motor vehicle” shall not include traction engines, road rollers,

1 vehicles propelled only upon rails or tracks, personal mobility devices, as defined in paragraph
2 (11) of this section, or a battery-operated wheelchair when operated by a person with a disability.

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

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

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

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

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

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

1 “(17) “Vehicle conveyance fee” shall have the same meaning as provided in section
2 102(9) of the District of Columbia Traffic Adjudication Act of 1978, effective September 12,
3 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.02(9)).

4 “(18) “Vehicle for hire” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 and

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

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

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

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

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

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

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

17 (5) Subsection (k) is amended by striking the word “officer” and inserting in its
18 place the phrase “law enforcement officer” wherever it appears.

19 (c) Section 9 (D.C. Official Code § 50-2201.04) is amended by striking the phrase
20 “\$1,000” and inserting the phrase “\$2,500” in its place.

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

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

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

2 "Sec. 10c. Leaving after colliding.

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

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

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

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

19 "(b) It is an affirmative defense to a violation of subsection (a) of this section, which the
20 defendant must show by a preponderance of the evidence, that the defendant's failure to stop or
21 his or her failure to remain on the scene was based on a reasonable belief that his or her personal
22 safety, or the safety of another, was at risk and that he or she called 911, or otherwise notified
23 law enforcement, as soon as it was safe to do so, provided identifying information, provided a

1 description of the collision, including the location of the collision or event, and followed the
2 instructions of the 911 operator or a law enforcement officer.

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

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

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

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

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

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

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

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

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

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

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

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

14 “(b) It is an affirmative defense to a violation of subsection (a) of this section, which the
15 defendant must show by a preponderance of the evidence, that the defendant’s failure to stop or
16 his or her failure to remain on the scene was based on a reasonable belief that his or her personal
17 safety, or the safety of another, was at risk and that he or she called 911, or otherwise notified
18 law enforcement, as soon as it was safe to do so, provided identifying information, provided a
19 description of the event, including the location of the event, and followed the instructions of the
20 911 operator or a law enforcement officer.

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

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

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

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“(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.”.

(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) 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; and
- (2) Strike the word “his” and inserting 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 (D.C. Official Code § 50-2205.02) and 3 (D.C. Official Code § 50-2205.03) are designated as 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) Title I is amended to read as follows:

“TITLE I -- IMPAIRED OPERATING OR DRIVING
“PART A.

1 "Sec. 2. Definitions.

2 "Definitions.

3 "Sec. 2. For purposes of this Title the term:

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

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

8 "(3) "Court" means the Superior Court of the District of Columbia, except when used in
9 the definition of "prior offense" when it shall also include courts of other jurisdictions.

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

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

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

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

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

21 "(D) If the vehicle is used to transport a material found to be hazardous by the
22 Mayor in accordance with Chapter 14 of Title 8 , or by the Secretary of Transportation in

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

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

4 “(6) “Drug” means any chemical substance that affects the processes of the mind or
5 body, including but not limited to a controlled substance as defined in section 102(4) of the
6 District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981
7 (D.C. Law 4-29; D.C. Official Code § 48-901.02(4)), and any prescription or non-prescription
8 medication.

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

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

15 “(9) “Intoxicated” means:

16 “(A) Except as provided in subparagraph (B), that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(22) “Vehicle for hire” means:

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

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

4 “(1) A 10-day mandatory-minimum term of incarceration shall be imposed if the
5 person’s alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210
6 liters of breath, or was at least 0.25 grams per 100 milliliters of urine; or

7 “(2) A 15-day mandatory-minimum term of incarceration shall be imposed if the
8 person’s alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210
9 liters of breath or 0.32 grams per 100 milliliters of urine; or

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

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

18 “(b) A person violating any provision of section 3 or section 3a of this Title when the
19 person has a prior offense under section 3, section 3a, or section 3c of this Title and is being
20 sentenced on the current offense shall be fined not less than \$2,500 and not more than \$5,000, or
21 incarcerated for not more than one year, or both; provided that, a 10-day mandatory-minimum
22 term of incarceration shall be imposed, and in addition :

1 “(1) A 15-day mandatory-minimum term of incarceration shall be imposed if the
2 person’s alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210
3 liters of breath, or was at least 0.25 grams per 100 milliliters of urine; or

4 “(2) A 20-day mandatory-minimum term of incarceration shall be imposed if the
5 person’s alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210
6 liters of breath or more than 0.32 grams per 100 milliliters of urine; or

7 “(3) A 25-day mandatory-minimum term of incarceration shall be imposed if the
8 person’s alcohol concentration was more than 0.30 grams per 100 milliliters of blood or per 210
9 liters of breath or 0.039 grams per 100 milliliters of urine; and

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

15 “(c) A person violating any provision of section 3 or section 3a of this Title when the
16 person has two or more prior offenses under section 3, section 3a, or section 3c of this Title and
17 is being sentenced on the current offense shall be fined not less than \$2,500 and not more than
18 \$10,000, or incarcerated for not more than one year, or both; provided that, a 15-day mandatory-
19 minimum term of incarceration shall be imposed, and in addition :

20 “(1) A 20-day mandatory-minimum term of incarceration shall be imposed if the
21 person’s alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210
22 liters of breath, or was at least 0.25 grams per 100 milliliters of urine; or

1 “(2) A 25-day mandatory-minimum term of incarceration shall be imposed if the
2 person’s alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210
3 liters of breath or 0.32 grams per 100 milliliters of urine; or

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

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

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

16 “Sec. 3c. Operating a vehicle while impaired.

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

20 “Sec. 3d. Penalty for operating a vehicle while impaired.

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

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

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

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

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

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

15 “(c) Civil penalties and fees may be imposed as alternative sanctions for any violation of
16 this section in accordance with the procedures under Chapter 18 of Title 2.

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

19 “A person violating any provision of section 3a of this Title shall, in addition to any
20 applicable penalty under section 3b of this Title, be subject to an additional 5 day mandatory-
21 minimum term of incarceration.

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

1 "A person convicted of any offense under this Part who, at the time of operation or
2 physical control of the vehicle had a minor, other than him or her self, in the vehicle, shall, in
3 addition to any applicable penalty under this Part:

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

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

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

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

10 "PART C.

11 "Sec. 3h. Operating under the influence of alcohol or a drug; watercraft.

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

13 "(1) While the person is intoxicated; or

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

16 "Sec. 3i. Penalties for operating watercraft under the influence of alcohol or a drug.

17 "(a) Except as provided under subsections (b) and (c) of this section, a person violating
18 any provision of section 3h of this Title shall upon conviction for the first offense be fined
19 \$1,000, or incarcerated for not more than 180 days, or both.

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

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

5 “Sec. 3j. Operating a watercraft while impaired.

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

9 “Sec. 3k. Penalties for operating watercraft while impaired.

10 “(a) Except as provided under subsections (b) and (c) of this section, a person violating
11 any one or more provisions of section 3j of this Title shall upon conviction for the first offense
12 be fined \$250, or incarcerated for not more than 30 days, or both.

13 “(b) A person violating any one or more provisions of section 3j of this Title when the
14 person has a prior offense under section 3h or 3j of this Title and is being sentenced on the
15 current offense shall be fined not more than \$2,500, or incarcerated for not more than 180 days,
16 or both.

17 “(c) A person violating any one or more provisions of section 3j of this Title when the
18 person has two or more prior offenses under section 3h or 3j of this Title and is being sentenced
19 on the current offense shall be fined not less than \$2,500 and not more than \$5,000, or
20 incarcerated for not more than one year, or both.

21 “Sec. 3l. Harbor Master public awareness campaign.

1 “(2) If the defendant’s alcohol concentration at the time of testing was 0.05
2 grams or more per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams of
3 per 100 milliliters of urine, but less than 0.08 grams of per 100 milliliters of blood or per 210
4 liters of breath or less than 0.10 grams of per 100 milliliters of urine, constitute prima facie proof
5 that the person was, at the time, under the influence of alcohol.

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

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

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

10 or

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

12 “Sec. 30. Admissibility of chemical test results.

13 An official copy of the results of any blood, urine, or breath test performed on a person
14 by a technician or by a police officer shall be admissible as substantive evidence, without the
15 presence or the testimony of the technician or of the police officer who administered the test, in
16 any proceeding in which that person is charged with a violation of D.C. Official Code § 50-
17 2201.05(b); provided, that the police officer or the technician certifies that the breath test was
18 conducted in accordance with the manufacturer's specifications, and that the equipment on which
19 the breath test was conducted has been tested within the past 3 months and has been found to be
20 accurate or, in the case of a blood or urine specimen, that the test of the specimen has been
21 certified to be accurate by the chief toxicologist, Office of the Chief Medical Examiner or his or
22 her designee; provided, further, that the person on whom any blood, urine, or breath test has been
23 performed, or that person's attorney, may seek to compel the attendance and the testimony of the

1 technician or of the police officer in any proceeding by stating, in writing, the reasons why the
2 accuracy of the test result is in issue and by requesting, in writing, at least 15 days in advance of
3 the proceeding, that such technician or such police officer appear and testify in the proceeding.
4 Any such person upon whom a blood, urine, or breath test is performed, shall be informed, in
5 writing, of the provisions of this section at the time that such person is charged. After having
6 been informed, failure to give timely and proper notice shall constitute a waiver of the person's
7 (on whom the test has been performed) right to the presence and testimony of the technician or
8 the police officer.

9 "Sec. 3p. Prosecution and diversionary program.

10 "(a) The Attorney General of the District of Columbia, or his or her assistants, shall
11 prosecute violations of this Title, in the name of the District of Columbia.

12 "(b) The Attorney General is authorized to request that a person who is charged with a
13 violation of any provision of this Title, as a condition to acceptance into a diversion program in
14 lieu of prosecution, to pay the District of Columbia or its agents a reasonable fee for the costs to
15 the District of the person's participation in the diversion program; provided, that:

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

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

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

23 "Sec. 3q. Assessment of alcohol or drug abuse and treatment.