

DISTRICT OF COLUMBIA

JURISDICTION:

General References:

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D.C. Code and Weil's Code of D.C. Municipal Regulations (CDCR)

Basis for a DWI Charge:

Standard DWI Offense:

I. Under the influence of intoxicating liquor²³⁸ §50-2201.05(b)(1)

II. Impaired by the consumption of intoxicating liquor §50-2201.05(b)(2)

Illegal Per Se Law (BAC/BrAC):

≥ **.08**^{239and240} §50-2201.05(b)(1)

For Persons Under 21 Years Old-Operating a Vehicle with Any Measurable Amount of Alcohol in the Blood, Breath or Urine²⁴¹ §50-2201.05(b)(1)

Types of Drugs/Drugs and Alcohol:

Driving under the influence of (1) Any Drug or (2) a Combination of Any Drug and Alcohol §50-2201.05(b)(1)

Presumption (BAC):

No presumption resulting from defendant's blood containing less than **.03 percent**, by weight of alcohol, or defendant's urine contained less than **.04 percent**, by weight of alcohol, or that at the time of the test less than .14 micrograms of alcohol were contained in 1 milliliter of his or her breath – but may be considered with other competent evidence in determining whether the defendant was under the influence of intoxicating liquor.

§ 50-2205.02 (1)

A BAC ≥ **.05**, a UrAC of ≥ .06 grams per deciliter or a BrAC of ≥ 0.24 micrograms of alcohol in 1 milliliter of breath constitutes *prima facie* evidence of either driving while under the influence or driving while impaired §50-2205.02(2)

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Law:

Yes²⁴² §50-2201.05(b-1)

Implied Consent Law:

Yes §50-1902

Arrest Required (Yes/No):

Yes §50-1902(a)

Implied Consent Law Applies to

Drugs (Yes/No):

Refusal to Submit to Chemical Test

Yes (Criminal and Civil Cases) §50-1905(c)

Admitted into Evidence:

A person is required to submit to a chemical test if involved in an accident (regardless of whether there has been an injury) and arrested for any DWI

Other Information:

²³⁸ The driving while impaired offense applies only to the use of alcohol. The driving while under the influence offense applies to the use of either alcohol or drugs.

²³⁹ This jurisdiction's illegal per se law also makes it an offense to operate a motor vehicle with either (1) a BrAC of 0.38 micrograms or more of alcohol in 1 milliliter of breath or (2) a UrAC of .10 or more ("percent by weight").

²⁴⁰ The BAC standard is "percent by weight" of alcohol in the blood. §§50-2201.05(b)(1) and 50-2205.02

²⁴¹ The sanctions (criminal and administrative) against persons under 21 years old who are convicted of operating a motor vehicle with any amount of alcohol in the system are the same as for the offenses of illegal per se and driving while under the influence.

²⁴² The PBT and Implied Consent Laws also apply to persons under 21 years old who operate a vehicle with any measurable amount of alcohol in the blood, breath or urine.

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offense. §50-1902(b) and *Marshall v. District of Columbia*, 498 A.2d 190 (D.C. App. 1985)

Chemical Tests of Other Substances for Alcohol Concentration Which Are Authorized Under the Implied Consent Law:

Blood: **Yes** §50-1902
Urine: **Yes** §50-1902
Other: **None**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **No**
Anti-Plea-Bargaining Statute (Yes/No): **No**
Pre-Sentencing Investigation Law (PSI) (Yes/No): **Yes** Subsequent offenders of ANY drunk driving must complete an alcohol/drug abuse assessment. §50-2201.05(b)(6)

Sanctions for Refusal to Submit to a Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): **None**
Administrative Licensing Action (Susp/Rev): **None**
Refusal to Take Implied Consent Chemical Test:
Criminal Sanction (Fine/Jail): **None**
Administrative Licensing Action (Susp/Rev): **Suspension – 12 months** §50-1905(a) (Mandatory – No occupational hardship license shall be issued. CDCR 18-310.7(a))

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:
Imprisonment: I. Illegal per se/Under the Influence: first offense – Not more than **90 days**; second Offense within 15 years)²⁴³ – Not more than **1 year**; third and subsequent offenses within 15 years²⁴⁴ – Not more than **1 year**
II. Impaired: first offense – Not more than **30 days**; second Offense²⁴⁵ (within 15 years) – Not more than **1 year**; third or sub. offense²⁴⁶ (within 15 years) – Not more than **1 year** §50-2201.05(b)(1) and (2)
I. Illegal per se/Under the Influence: first offense – If BAC ≥ 0.20 but < 0.25-**5 days**; if BAC > 0.25-**10 days**; second Offense – (within 15 years) – **5 days**; if BAC ≥ 0.20 but < 0.25-**10 days**; if BAC > 0.25-**20 days**; third and subsequent offenses (within 15 years) – **10 days**;

if BAC ≥ 0.20 but < 0.25-**15 days**; if BAC > 0.25-**25 days**

Mandatory Minimum Term:

²⁴³ or a first offense where there has been a previous impaired offense within 15 years.

²⁴⁴ or a second offense where there has been a previous impaired offense within 15 years.

²⁴⁵ or a first offense where there has been previous illegal per se/under the influence offense within 15 years.

²⁴⁶ or a second offense where there has been previous illegal per se/under the influence offense within 15 years.

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<p>Fine: Amount (\$ Range):</p>	<p>II. Impaired: first offense – None; second <u>Offense</u> (within 15 years) – 5 days; third <u>or subsequent offense</u> (within 15 years) – 10 days §50-2201.05(b)(1) and (2) I. Illegal per se/Under the Influence: <u>first Offense</u> – \$300; second <u>Offense</u> (within 15 years) – \$1000 to \$5,000; third <u>and subsequent offenses</u> (within 15 years) – \$2,000 to \$10,000</p>
<p>Mandatory Minimum Fine (\$): Other Penalties: Community Service:</p>	<p>II. Impaired: first offense – \$200 to \$300; second <u>Offense</u> (within 15 years) – \$300 to \$500; third <u>or sub. offense</u> (within 15 years) – \$1,000 to \$5,000 None I. Illegal per se/Under the Influence: first offense – None; second <u>Offense</u> – (within 15 years) – at least 30 days; third <u>and subsequent offenses</u> (within 15 years) – at least 60 days</p>
<p>Restitution (e.g., Victim’s Fund)</p>	<p>II. Impaired: first offense – None; second <u>Offense</u> (within 15 years) – at least 30 days; third <u>or sub. offense</u> (within 15 years) – at least 60 days §50-2201.05 Yes I. A Victim’s Compensation Fund §4-501 et seq. Awards are limited to a maximum amount of \$25,000. §4-507 II. A defendant may be required to pay restitution to a victim. §16-711 Other: Assessments. Offenders are required to pay the following assessments which are used to finance the Crime Victim’s Compensation Fund: (1) Violations of §50-2201.05 (drunk driving offenses) – \$100 (mand); serious traffic and misdemeanor offenses – \$50 (mand) to \$250; and, felony offense – \$100 (mand) to \$5,000 §4-516(a) <i>Parrish v. District of Columbia</i>, 718 A.2d 133 (D.C. 1998) Child Endangerment. For <u>any</u> drunk driving offense conviction where there was a passenger ≤ 17 years old, the driver is subject to an <u>additional</u> fine of \$500 to \$1,000 and 48 hrs (80 hrs if a subsequent off) of community service benefiting children. §50-2201.05(b)(1)(D) Ignition Interlock. The District of Columbia Government is authorized to establish an “ignition interlock” program for persons who have been convicted of <u>any</u> subsequent drunk driving offense. §50-2201.05a</p>
<p>Administrative Licensing Actions: <u>Pre-DWI Conviction</u> Licensing Action: Administrative Per Se Law:</p>	<p>Under the Influence of Intoxicating Liquor or Drugs²⁴⁷ first violation– suspension 2 to 90 days or Revocation for 6 months; <u>sub. violation</u>–</p>

²⁴⁷ Either (1) a blood alcohol concentration > .05 “percent by weight” of alcohol in the blood, (2) a urine alcohol concentration of ≥ .06 by weight of alcohol in the urine or (3) a breath alcohol concentration ≥ 0.24 micrograms of alcohol per 1 milliliter of breath is considered *prima facie* evidence of driving while under the influence of intoxicating liquor §50-2205.02 and CDCR 18-1034.3

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suspension **from 2 to 90 days or revocation** where the time period is discretionary but must be for definitive period of time.²⁴⁸ At the discretion of the licensing agency, the suspension may be from 2 to 90 days “based upon the seriousness of the case.” CDCR 18-302.5, 18-306.1 and 18-306.4

Post DWI Conviction Licensing Action:
Type of Licensing Action
(Susp/Rev):

I. Driving under the influence/illegal per se:
Revocation for all offenses §§50-1403.01(a) and 50.1403.02, 50-2201.05(d)(l) and CDCR 18-301.1
II. Driving while impaired: Either **suspension or revocation** at the discretion of D.C. officials §50-1403.01
12 points are assigned to a person’s driving record for a violation of either I or II above. CDCR 18-303.2(n).

Term of License Withdrawal
(Days, Months, Years, etc.):

I. Driving under the influence/illegal per se²⁴⁹: first offense – 6 months; second offense – 1 year; third and subsequent offenses – 2 years §§50-1403.01 and 50-2201.05(d) and CDCR 18-301.1 and 18-306.5
II. Driving while impaired: first offense – Suspension from 2 to 90 days²⁵⁰ or Revocation for 6 months; sub. offense – Suspension from 2 to 90 days²⁵¹ or Revocation where the time period is discretionary but must be for definitive period of time §50-1403.01 and CDCR 18-306.1 and 18-306.4

Mandatory Minimum Term
of Withdrawal:

I. Driving under the influence/illegal per se): first offense – 6 months; second offense – 1 year; third and subsequent offenses – 2 years No occupational hardship licenses shall be issued. CDCR 18-310.7(a)
II. Driving while impaired: **None** Either a limited license (CDCR 18-309.1 et seq.) or a limited occupational hardship license (CDCR 18-310.1 et seq.) may be issued.

Other:

²⁴⁸ These licensing actions are not mandatory. A person is eligible for either limited or occupational driving privileges. CDCR 18-309.1 et seq. and 18-310

²⁴⁹ Sec. 50-2201-05(d) authorizes license revocation for driving while under the influence/illegal per se offenses.

However, this section does not authorize such action against persons under 21 years old who are convicted of operating a motor vehicle with any measurable amount of alcohol in the body. Nevertheless, via legislation, CDCR 18-301.1 was amended to authorize such action against young persons. §7 D.C. Act 10-214 of 1994

²⁵⁰ At the discretion of the licensing agency, the suspension may be from 2 to 90 days “based upon the seriousness of the case.” CDCR 18-3-306.1

²⁵¹ Neither the CMV law nor the general code provisions concerned with driving while suspended or revoked provide specific sanctions for operating a CMV during a CDL disqualification. However, the following fines appear to apply to CMV operators if they violate Federal regulations (49 CFR Part 391) regarding CDL disqualification: first violation – \$500; second violation (within 2 years) – \$1,000; third or subsequent violation (within 2 years) – \$1,500. It also appears that a CMV operator is subject to a fine of \$1,000 for violating an out-of-service order issued under Federal regulations. CDCR 18-14-1408.2(a)

Rehabilitation:
 Alcohol Education:
 Alcohol Treatment:
 Vehicle Impoundment/Confiscation:
 Authorized by Specific
 Statutory Authority: Yes, limited. §50-2201.05(c-1)
 Terms Upon Which Vehicle
 Will Be Released:

Other: **Limited Impoundment.** Under §50-2205.01(c-1), a vehicle driven by a person arrested for any drunk driving offense may be impounded for a limited time (24 hrs). However, a licensed registered owner of the vehicle, who was with the offender at the time of their arrest, may take immediate possession of the vehicle. Also, after authorization by the arrested person, the vehicle may be released to an individual who is a licensed driver.
Limited Registration Suspension. The registrations of all vehicles owned by a person, who has been convicted of any drunk driving offense, must be suspended until the offender gives and maintains proof of financial responsibility. §§50-1301.37 and 50-1301.38

DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver’s Licenses (CDL): A person is “disqualified” from operating a CMV for 1 mandatory year if convicted of driving a CMV while under the influence of alcohol or a controlled substance. Under the influence of alcohol is defined to mean having a blood alcohol concentration $\geq .04$. For a second violation, the “disqualification” is from 10 years to life. For a third violation, the “disqualification” is for life (mand). A CMV operator must be placed out-of-service for 24 hours if found (1) to have consumed alcohol, (2) to have any measurable or detectable amount of alcohol or (3) to be under the influence of an intoxicating beverage. §§50-401(3) and (4), and 50-406 and CDCR 18-1306.1(a), 18-1306.5 and 18-1322.1 and 18-1322.2 I. Alcohol concentration standards for CMV operations are not specifically provided for in the D.C. Code. However, the code does make reference to the Federal CMV law on this subject. Federal regulations promulgated pursuant to this law provided that the standards for alcohol concentration are grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. 49 CFR 383.5. II. D.C. regulations have two provisions that define “driving under the influence of alcohol”. The general definitions provision for the entire chapter on CMV operators, includes implied consent refusal as such an offense. However, the definition of this term, specifically related to the disqualification provision, does not. Compare CDCR 18-1306.12(a) with CDCR 18-1399.1 III. The following fines apply to CMV operators if they violate Federal regulations (49 CFR Parts 383 and 392) regarding alcohol use and CMV operation: first violation – \$500; second violation (within 2 years) – \$1,000; third or subsequent violation (within 2 years) – \$1,500. CDCR 18-1408.2(a)

Other Criminal Actions Related to DWI:

Homicide by Vehicle:
 Jurisdiction Has Such a Law: Yes – felony Negligent Homicide §50-2203.01
 Sanctions:
 Criminal Sanction:
 Imprisonment (Term): Not more than **5 years**
 Mandatory Minimum Term: **None**
 Fine (\$ Range): Not more than **\$5,000**

Mandatory Minimum Fine: **None**
Administrative Licensing Action:
Licensing Authorized and
Type of Action:
Length of Term of
Licensing Withdrawal:

First offense – **6 months**; second offense – **1 year**;
third and subsequent offenses – **2 years**

Mandatory Action--Minimum Length of License
Withdrawal:
Other:

Driving While License Suspended or Revoked
Where the Basis Was a DWI Offense:

There is no specific statutory provision on this subject. The sanctions given are for the general offense of operating a motor vehicle while driving privileges are either suspended or revoked

Sanction:
Criminal:
Imprisonment (Term):
Mandatory Minimum Term
of Imprisonment:
Fine (\$ Range):
Mandatory Minimum Fine:
Administrative Licensing Actions:
Type of Licensing Action
(Susp/Rev):
Length of Term of License
Withdrawal Action:

Not more than **1 year** §50-1403.01(e)

None
Not more than **\$5,000** §50-1403.01(e)
None.

Revocation/Suspension

Extend the period of suspension or revocation for an additional period of time that is equal to the length of the original suspension or revocation period. CDCR 18-305.1 and 18-305.5

Mandatory Term of License
Withdrawal Action:

Licensing action is mandatory; no occupational license can be granted. CDCR 18-310.7(c)

Habitual Traffic Offender Law:

Jurisdiction Has Such a Law (Yes/No):
Grounds for Being Declared an
Habitual Offender:
Term of License Rev While
Under Habitual Offender Status:
Type of Criminal Offense if
Convicted on Charges of
Driving While on Habitual
Offender Status

No

Sanctions Following a Conviction of
Driving While on Habitual Offender Status:
Imprisonment (Term):
Mandatory Minimum Term of
Imprisonment:
Fine (\$ Range):
Mandatory Minimum Fine (\$):
Licensing Actions (Specify):

Other Laws Related To Alcohol Use:

Laws Requiring BAC Chemical Tests on

Persons Killed in Traffic Accidents:

State Has Such a Law (Yes/No): **No**

BAC Chemical Test Is Given to the
Following Persons:

Driver:

Vehicle Passengers:

Pedestrian:

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverage:

Minimum Age (Years) Sale/Purchase: **21** §25-1002(a)

Minimum Age (Years) Possession: **21** §25-1002(a)

Minimum Age (Years) Consumption: **21** §25-1002(a)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): **No**

“Dram Shop Law” Concept Has Been
Adopted Via a Change to the Common
Law Rule by Action of the Highest
Court of Record in the Jurisdiction
Citation):

Yes *Rong Yao Zhou v. Jennifer Mall Rest., Inc.*, 534
A.2d 1268

(D.C. App. 1987), and *Marusa v. D.C.*, 484 F.2d
828 (D.C.Cir.1973)

Dram Shop Actions-Social Hosts:

No (No appellate court cases²⁵²)

Other:

A licensee may be liable for either the injuries or
death of an intoxicated minor patron. *Jarrett v.*
Woodward Bros., Inc., 751 A.2d 972 (D.C. 2000)

Criminal Action Against Owner or Employees
of Establishments that Serve Alcoholic Beverages
to Intoxicated Patrons:

Type of Criminal Action:

Unspecified but would probably be considered to be
a misdemeanor.

Term of Imprisonment:

Not more than **1 year**

Fine (\$ Range):

Not more than **\$1,000** §§25-781, 25-831 See
Assessments.

Administrative Actions Against Owners
of Establishments that Serve Alcoholic
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes Suspension or revocation §25-823

Length of Term of License Withdrawal:

For revocation, no new license shall be issued for **1
year.**

²⁵² However, the U.S. District Court for the District of Columbia has noted that the District of Columbia does not recognize social host liability. *Cartwright v. Hyatt Corp.*, 460 F. Supp. 80 (1978) and *Wadley v. Aspillogn* 163 F. Supp. 1 (D.D.C. 2001)

Criminal Actions Against Owners or Employees
of Establishments that Serve Alcoholic Beverages
or the Wrong Type of Alcoholic Beverage to
Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Unspecified but would probably be considered to be a misdemeanor. ²⁵³ §§25-121 and 25-132
Term of Imprisonment:	180 days – 1 year
Fine (\$ Range):	\$5,000

Administrative Actions Against Owners
of Establishments That Serve Alcoholic
Beverages to Those Persons Under the
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes Suspension or revocation §25-823
Length of Term License Withdrawal:	For revocation, no new license shall be issued for 1 year.

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession
of Open Containers of Alcoholic Beverages
and (2) the Consumption of Alcoholic Beverages
in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes Drivers and passengers §25-1001(a) and CDCR 18-2224
Anti-Consumption Law (Yes/No):	Yes Driver and passengers. §25-1001(a)

²⁵³ Anyone who offers, gives, provides or otherwise makes available alcoholic beverages to a person under 21 years old and the person under 21 is subject not only to the criminal penalties noted but also to the following administrative sanctions: (1) a fine of from \$100 to \$300 and (2) suspension of the driving privilege (first offense – 90 consecutive days; second offense – 180 days; third and subsequent offense – 1 year). §25-785 and 25-1002