

(i) For a first offense, shall be subject to a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both;

(ii) For a second offense, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than 2 years, or both; and

(iii) For a third or subsequent offense, shall be subject to a fine of not more than \$3,000, or imprisonment for not more than 3 years, or both.

(2) For the purpose of second or subsequent offender penalties for violation of § 21-902(a) of this article provided under this subsection, a prior conviction of § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation of § 21-902(a) of this article, shall be considered a conviction of § 21-902(a) of this article.

Article - Courts and Judicial Proceedings

10-307.

(a) (1) In a proceeding in which a person is charged with a violation of Article 27, § 388 or § 388A of the Code, or with driving or attempting to drive a vehicle in violation of § 16-113(a)(2), § 16-813, or § 21-902 of the Transportation Article, the amount of alcohol in the person's breath or blood shown by analysis as provided in this subtitle is admissible in evidence and has the effect set forth in subsections (b) through (e) of this section.

(2) Alcohol concentration as used in this section shall be measured by:

(i) Grams of alcohol per 100 milliliters of blood; or

(ii) Grams of alcohol per 210 liters of breath.

(b) If at the time of testing a person has an alcohol concentration of 0.05 or less, as determined by an analysis of the person's blood or breath, it shall be presumed that the defendant was not intoxicated and that the defendant was not driving while under the influence of alcohol.

(c) If at the time of testing a person has an alcohol concentration of more than 0.05 but less than 0.07, as determined by an analysis of the person's blood or breath, this fact may not give rise to any presumption that the defendant was or was not intoxicated or that the defendant was or was not driving while under the influence of alcohol, but this fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(d) If at the time of testing a person has an alcohol concentration of AT LEAST 0.07 [or more] BUT LESS THAN 0.10, as determined by an analysis of the person's blood or breath, it shall be prima facie evidence that the defendant was driving while under the influence of alcohol.

[(e) If at the time of testing a person has an alcohol concentration of 0.10 or more, as determined by an analysis of the person's blood or breath, it shall be prima facie evidence that the defendant was driving while intoxicated.]