

CIRCULAR



DISTRICT OF COLUMBIA

Title	Comprehensive Impaired Driving Act of 2012
Number	CIR-12-14
Effective Date	September 21, 2012
Expiration Date	September 21, 2014
Related to:	General Order 502.2 (Handling Cases Involving Persons Suspected of "Driving While Intoxicated (<i>per se</i>) or "Operating While Under the Influence")

I. PURPOSE

The purpose of this circular is to inform members of changes to the D.C. Code that relate to "impaired driving", "leaving after colliding" and "object falling or flying from a vehicle".

II. ENHANCED PENALTIES FOR MINORS BEING TRANSPORTED BY IMPAIRED DRIVERS

- A. Members shall be aware of the newly-created, enhanced penalty for impaired drivers found to have a minor [i.e., under the age of eighteen (18)] in their vehicle at the time of their arrest. There are further penalties if the minor is not in an age-appropriate child safety restraint and each minor in the vehicle creates an additional penalty.
- B. Members making an arrest for Driving Under the Influence (DUI) or Driving While Intoxicated (DWI), in which a minor [under the age of eighteen (18)] is a passenger in the vehicle, shall document on the PD Form 163A (Prosecution Report – DUI) and the Gerstein:
 - 1. The minor's age;
 - 2. The minor's location in the vehicle;
 - 3. The type of restraint used by the minor; and
 - 4. How the age of the minor was determined.

III. DWI CHARGE FOR DRIVERS OF COMMERCIAL VEHICLES AND/OR VEHICLES FOR HIRE

- A. Members stopping persons operating a commercial vehicle (e.g., tractor trailers, charter bus, cement truck), or vehicles for hire (e.g., taxi-cabs, pedi-

cabs, limousines, or buses) and determine that the operator is impaired, shall charge the operator with DWI if they have an alcohol concentration of 0.04 grams or more of either 100 milliliters of blood or 210 liters of breath, or 0.08 grams or more of 100 milliliters of urine.

- B. Even when collecting urine and an alcohol content score is not possible, members shall document the type of commercial vehicle, or vehicle for hire and, when possible, take photographs in order for the operator to be appropriately charged.
- C. Members shall document all the pertinent details regarding the signs of impairment, and any pertinent facts, such as the presence of controlled substances, or other evidence in the body of the PD Form 163A.

IV. IMPLIED CONSENT

- A. Members need to be aware of a substantive change in the language and definitions regarding who can draw blood in the case of a suspected impaired driver. The law no longer requires the person drawing the blood be a “Doctor or Registered Nurse.” The changes allow for a “Medical Professional” to draw the evidentiary blood sample. These include physicians, registered nurses, licensed practical nurses, and any person who is certified to draw blood, such as a phlebotomist.
- B. As blood draws will be conducted at a hospital, the change includes an immunity provision that protects the person drawing the sample from any criminal or civil liability as a result of drawing blood at the direction of a member who has reason to believe an operator is impaired.
- C. Members investigating crashes in which a suspected impaired driver has been transported to a hospital, shall request that a blood sample be drawn (Districts have a supply of NIK blood Kits) and ensure they have informed the operator under the Implied Consent law.

V. REFUSING A CHEMICAL TEST: BREATH, BLOOD OR URNIE

- A. Members are reminded that refusals to submit to testing shall be thoroughly documented and extra steps shall be taken to properly record the behavior and signs of impairment that lead to the arrest.
- B. If the person refuses a particular test on religious grounds, members shall document this in the PD Form 163A.
- C. When possible, members should attempt to ascertain if this is the defendant’s first arrest (anywhere) for impaired driving, as a refusal to submit to chemical testing by a person who has had a previous impaired driving offense can be used as “rebuttable presumption” under the new Act.

- D. The refusal and the nature of the refusal (refusal or if the defendant would not provide sufficient breath) shall be documented by the member in the body of the PD Form 163A and in the Gerstein.

VI. LEAVING AFTER COLLIDING

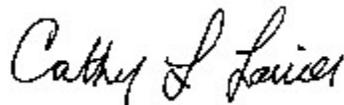
The new Leaving After Colliding (LAC) statute does not require substantial damage in order to charge LAC. LAC requires that the operator must know or have reason to believe that his/her vehicle has been in a collision. In such cases, the operator must stop immediately, regardless of whether or not they are at fault. This also applies in cases where an operator has struck a domestic animal. They must stop immediately, and make themselves known to the owner of the damaged property or injured animal. If they cannot locate the owner of the damaged property or animal they must notify the police. The operator of the vehicle must call 911, and remain on the scene if there are injuries. The operator must also call 911 if the damaged object or injured animal poses a risk to others.

Members shall examine the nature of the damage to the vehicle, and any witness statements when determining if the vehicle operator must have known or had reason to know that they damaged property or injured an animal.

VII. OBJECT FALLING OR FLYING FROM A VEHICLE

There is a new offense under the statute, "Object falling or flying from a vehicle." The operator of a vehicle in which material has fallen off of into the roadway, and/or has caused damage to any real or personal property or domestic animal must immediately stop and make his/her identity known. The operator of the vehicle must call 911 in cases where the falling or flying object has caused injuries, or the result of the falling or flying material poses a risk to others.

Members investigating such cases in which a vehicle operator has failed to stop and provide identifying information or make proper notification shall be specific as to the nature of the property that was damaged, or type of animal that was killed or injured, and shall ensure the pertinent facts are in the PD Form 163 (Prosecution Report) and Gerstein.



Cathy L. Lanier
Chief of Police