

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part IX. Boating Safety

Chapter 80: Boating Safety Act of 2021

§ 4210.8. Operation or control of vessel under influence of alcohol or other intoxicating substance

Cite as: 21 CNCA § 4210.8

A. It shall be unlawful for any person to operate or be in actual physical control of a vessel upon the waters of this Nation, except privately owned waters, who:

1. Has a blood or breath alcohol concentration of eight-hundredths (0.08) or more at the time of a test of the person's blood or breath;
2. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely operating a vessel upon the waters of this Nation; or
3. Is under the influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely operating a vessel upon the waters of this Nation.

As used in this section, "other intoxicating substance" means any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. 1. Any person operating a vessel upon the waters of this Nation, except privately owned waters, shall be deemed to have given consent to a test or tests of such person's blood, breath, saliva or urine for the purpose of determining the presence and concentration of alcohol or any other intoxicating substance. Such tests shall be performed within two (2) hours of an arrest and in the same manner as provided for in 47 CNCA § 752.

2. Evidence that the person has refused to submit to a test or tests as required by this section shall be admissible upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed in violation of the provisions of this section.

3. Any person refusing to submit to such test or tests shall be in violation of this section and subject to the fines provided for herein.

C. Any person convicted of a violation of this section shall be guilty of a misdemeanor and fined in an amount not to exceed One Thousand Dollars (\$1,000.00). Any second or subsequent conviction shall be punishable by a fine in an amount of not less than One

Thousand Dollars (\$1,000.00), nor more than Two Thousand Five Hundred Dollars (\$2,500.00).

Historical Data

LA 18-21, eff. May 17, 2021.