

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part IX. Boating Safety

Chapter 80: Boating Safety Act of 2021

§ 4210.13. Criminal trials--Use of alcohol or drug tests as evidence

Cite as: 21 CNCA § 4210.13

A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while operating or in actual physical control of a vessel while under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the blood or breath of the person performed in accordance with the provisions of Section 4 of this act and 47 CNCA § 759 or evidence of the presence or concentration of any other intoxicating substance as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of Section 4 of this act and 47 CNCA § 759 shall be admissible. Evidence that the person has refused to submit to either of said analyses is also admissible. For the purpose of this section, when the person is under the age of twenty-one (21) years, evidence that there was, at the time of the test, any measurable quantity of alcohol is prima facie evidence that the person was under the influence of alcohol in violation of Section 3 of this act. For persons twenty-one (21) years of age or older:

1. Evidence that there was, at the time of the test, an alcohol concentration of seven-hundredths (0.07) or less is prima facie evidence that the person was not under the influence of alcohol; and
2. Evidence that there was, at the time of the test, an alcohol concentration of eight-hundredths (0.08) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

B. For purposes of this section, "alcohol concentration" means grams of alcohol per one hundred (100) milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

C. To be admissible in a proceeding, the evidence shall first be qualified by establishing that the test was administered to the person within two (2) hours after the arrest of the person.

Historical Data

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