

TITLE 3: HUMAN RESOURCES
DIVISION 5: PUBLIC SAFETY

§ 5435. Presumptions.

(a) The amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath gives rise to the following presumptions:

(1) If at the time the operator had a Blood Alcohol Concentration (BAC) of 0.03 percent or less as measured by a breath or blood test, it shall be presumed that the operator's ability to operate a vessel was not impaired due to the consumption of intoxicating liquor and that the operator was not under the influence of intoxicating liquor.

(2) If at the time the operator had a Blood Alcohol Concentration (BAC) of more than 0.05 percent but less than 0.08 percent as measured by a breath or blood test, it shall be presumed that the operator's ability to operate a vessel was impaired within the provisions of 3 CMC § 5434 due to the consumption of intoxicating liquor.

(3) If at the time defendant had a Blood Alcohol Concentration (BAC) of 0.08 percent or more as measured by a breath or blood test, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(b) Admissible Evidence. A person's refusal to submit to a chemical test is admissible into evidence in any civil or criminal proceedings.

Source: PL 19-05, § 4, modified.

Commission Comment: The Commission substituted "3 CMC §§ 5434" for the phrase "Section 102 (b)" in subsection (a)(2) pursuant to 1 CMC § 3806(d).