Royal Decree 1428/2003 of 21 November 2003, approving the general traffic regulations for the application and implementation of the articulated text of the Ley sobre tráfico, circulación de vehículos a motor y seguridad vial (“Road Safety Act”), enacted by Royal Legislative Decree 339/1990 of 2 March 1990.

CHAPTER IV.
RULES ON ALCOHOLIC BEVERAGES.

Article 20. Levels of alcohol in the blood and on the breath.

Motorists and cyclists with a blood alcohol level exceeding 0.5 grams per litre or a breath alcohol level exceeding 0.25 milligrams per litre may not drive on roads which are subject to the legislation on transit, motor vehicle traffic and road safety.

In the case of vehicles designed to transport goods with a maximum authorised weight exceeding 3,500 kilograms, vehicles designed to transport passengers with more than nine seats, or for public service, school transport and transport of children, hazardous goods or emergency services or special transport, motorists may not drive with a blood alcohol level exceeding 0.3 grams per litre, or a breath alcohol level exceeding 0.15 milligrams per litre.

Motorists of any vehicle may not exceed the blood alcohol level of 0.3 grams per litre or the breath alcohol level of 0.15 milligrams per litre for the two years after the permit or licence qualifying them to drive has been received.

For these purposes, the period that the driving licence has been held shall only be calculated in the case of vehicles for which such licence suffices.

Article 21. Alcohol test. Persons under the duty to be tested.

All motorists and cyclists are under a duty to submit to such tests as may be prescribed to detect possible alcoholic intoxication. Similarly, other road users are under a duty to submit to testing if involved in a traffic accident (article 12.2, first paragraph of the articulated text).

Law enforcement officers engaged in traffic surveillance may conduct such tests on:

a. Any road user or motorist directly involved in a traffic accident and who may be responsible for such accident;
b. Any person driving any vehicle with evident symptoms, signs that indicate, or facts supporting a reasonable presumption that they are under the influence of alcoholic beverages;
c. Any motorist reported to police for committing a breach of the rules laid down in this regulation;
d. Any person who, when driving a vehicle, is so required by the authorities or law enforcement officers within programmes of random testing ordered by such authorities.

Article 22. Breath alcohol level tests.

1. Tests to detect possible alcohol intoxication shall be conducted by law enforcement officers engaged in traffic surveillance and shall normally consist of testing the breath by way of officially approved ethylometers which quantitatively measure the level of alcoholic impregnation in the person concerned.

At the behest of the person concerned or by judicial authority, tests may be repeated for the purposes of comparison. This may consist of an analysis of the blood, urine or similar (article 12.2, second paragraph – in fine – of the articulated text).

2. When a person under a duty to submit to testing has an injury, ailment or illness the severity of which precludes testing, the medical staff at the hospital to which they have been taken shall decide which tests may be performed.
**Article 23.** Performing tests.

1. If the result of a performed test gives a level of alcoholic impregnation exceeding 0.5 grams of alcohol per litre of blood or 0.25 milligrams of alcohol per litre of breath exhaled, or exceeding the level specified for particular motorists in article 20 or, without reaching such limits, the person examined shows evident signs of being under the influence of alcoholic beverages, the officer – having previously informed the person concerned – shall perform a second breath alcohol level test, following a similar procedure to the first test, for further certainty and comparison.

2. Likewise, a person undertaking a test shall be informed of his or her right to check, of his or her own accord or through any of his or her companions or witnesses present, that a minimum interval of 10 minutes elapses between the performance of the first and the second test.

3. Similarly, the person concerned shall be informed of his or her right to make such allegations or observations as he or she sees fit, either for him or herself or through a person accompanying him or her or his or her legal counsel, if any, which shall be officially recorded, and to compare the results obtained by way of analysis of blood, urine or similar, that the medical staff of the hospital to which the person is taken deems most suitable.

4. In the event that the person concerned decides to undertake such analyses, the law enforcement officer shall adopt the most suitable measures to take him or her to the hospital nearest to where the incident took place. If the medical staff at the hospital considers the tests requested by the person concerned to be suitable, they shall adopt measures to comply with the provisions of article 26.

The cost of these analyses shall previously be settled by the person concerned and also in the event that the comparison test is positive. If the test is negative, payment shall be settled by the peripheral bodies of the autonomous body Jefatura Central de Tráfico (the central traffic authority) or of the competent municipal or regional authorities, the deposit being refunded in the latter case.

**Article 24.** Formalities of the law enforcement officer.

If the result of the second test performed by the officer, or that of the analyses made at the behest of the person concerned, is positive, or when a person driving a motor vehicle shows evident signs of doing so under the influence of alcoholic beverages or appears to be involved in criminal conduct, the law enforcement officer, in addition to observing in any case the provisions of the Ley de Enjuiciamiento Criminal (the “Criminal Procedure Act”), shall:

a. Accurately describe, in the incident report or in the report of the formalities performed, the procedure followed in order to conduct the alcohol detection test or tests, recording the information required to identify the detection device or devices employed, whose general characteristics shall also be described.

b. Record any notifications made to the person concerned, particularly regarding the right to compare the results obtained in the tests to detect alcohol on the breath by way of suitable analyses, and establish in the formalities the tests or analyses performed at the hospital or clinic to which the person concerned was taken.

c. Drive the examined person, or a person refusing to undergo alcohol detection tests, to the relevant court for the purposes of the proceedings, in the case of facts of a criminal nature, pursuant to the provisions the Criminal Procedure Act.

**Article 25.** Immobilisation of the vehicle.

1. If the result of the tests and of the analyses, as appropriate, is positive, the officer shall proceed to the immediate immobilisation of the vehicle by sealing it off or with an alternative effective procedure that impedes its use, unless a duly qualified third party can drive it, and shall do whatever else is necessary in terms of traffic safety, the safety of the general public in transit, particularly where children, the elderly, the sick or disabled people are concerned, and the safety of the vehicle itself and of its contents.

2. The officer may also immobilise the vehicle in the cases of refusal to submit to alcohol detection tests (article 70 – in fine – of the article text).
3. Except if a judicial authority orders the vehicle's impounding or confiscation, in which event the directions of such authority shall apply, the immobilisation of the vehicle shall be rendered ineffective as soon as the cause which motivated such disappears or if the motorist can be replaced by another qualified driver who provides sufficient guarantee to the law enforcement officers and whose intervention is requested by the person concerned.

4. Any costs of immobilisation, removal and impounding of the vehicle shall be settled by the motorist or the person legally liable for him or her.

**Article 26.** Obligations of health workers.

1. Health workers shall be obliged, at all events, to collect samples and send them to the relevant laboratory and to report the result of the tests performed to the judicial authority, the peripheral bodies of the autonomous body *Jefatura Central de Tráfico* and, where appropriate, to the competent municipal authorities (article 12.2, third paragraph of the article text).

The information health workers report to those authorities and bodies, where appropriate, should include the system employed to determine alcohol level, the exact time at which the sample was taken, the storage method used, and the percentage of alcohol in the blood presented by the individual examined.

2. Breaches of the rules in this chapter regarding driving while having consumed alcoholic beverages or the obligation to undergo alcohol detection tests shall be considered very serious offenses pursuant to article 65.5.a and b of the article text.

**CHAPTER V.**

**RULES ON NARCOTICS, PSYCHOTROPICS, STIMULANTS AND OTHER SIMILAR SUBSTANCES.**

**Article 27.** Narcotics, psychotropics, stimulants and other similar substances.

1. Motorists and cyclists who have consumed or incorporated in their body psychotropics, stimulants or similar substances, including, in any case, medicinal products and other substances that alter the physical or mental state appropriate to safe driving may not drive on roads subject to the legislation on transit, vehicular traffic and road safety.

2. Breaches of the rules of this article shall be considered very serious pursuant to article 65.5.a of the article text.

**Article 28.** Tests to detect narcotics, psychotropics, stimulants and other similar substances.

1. The tests to detect narcotics, psychotropics, stimulants and other similar substances, and the persons obliged to undergo them, shall observe the provisions of the following paragraphs:

   a. The tests shall normally consist of the medical examination of a person under a duty to submit to testing and of the clinical analyses that a medical expert or other qualified expert, or health workers at the hospital or medical institute to which the person under such duty is taken, consider most suitable.

   At the behest of the person concerned or upon the directions of a judicial authority, tests may be repeated for the purposes of comparison. This may consist of an analysis of the blood, urine or similar (article 12.2, second paragraph – *in fine* – of the article text).

   a. Any person who finds him or herself in a situation similar to any of those set down in article 21, regarding alcohol level tests, is obliged to undergo the tests described in the foregoing paragraph. In the cases that a person under a duty to undergo testing refuses to undergo such tests, the officer may immobilise the vehicle immediately in the manner set down in article 25.

   b. A law enforcement officer engaging in traffic surveillance who notices evident symptoms or signs that reasonably denote the presence of any of the substances mentioned in the body of the persons referred to in the article above shall observe the provisions of the Criminal Procedure Act and any directions issued by a judicial authority, and shall act, as
far as possible, in line with the provisions in this regulation on the matter of alcohol detection tests.

c. The competent authority shall determine the programmes to implement the preventive measures to test for narcotics, psychotropics, stimulants and other similar substances in the body of any motorist.

2. Breaches of this article regarding driving under the influence of narcotics, psychotropics, stimulants and other similar substances, and breach of the obligation to undergo tests for the detection thereof, shall be considered very serious offences pursuant to article 65.5.a and b of the articed text.