

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 770

(Delegates Schmidt and Simmons)

Environment and Transportation

Rules

Operating a Vessel While Under the Influence of Alcohol - Enforcement (Nick's Law)

This bill authorizes a court to prohibit a person from operating a vessel on the waters of the State for up to *two years* (instead of at most *one year* under existing law) if the person is convicted of operating or attempting to operate a vessel while under the influence of alcohol. If a person's violation resulted in the death of another, a court may prohibit the person, upon conviction, from operating a vessel on the waters of the State for up to five years. The bill subjects a person who operates or attempts to operate a vessel on the waters of the State, while prohibited from doing so, to specified criminal penalties. Additionally, the bill requires the Department of Natural Resources (DNR), in coordination with the Natural Resources Police Force (NRP), to establish and maintain a database of persons prohibited from operating a vessel on the waters of the State. The database must be established by October 1, 2025, and must be accessible to an NRP officer in any patrol vehicle or vessel. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund revenues and expenditures may increase minimally due to the bill's criminal penalty provisions. General fund expenditures for the Judiciary increase by \$37,600 in FY 2025 only for programming changes; otherwise, the Judiciary and DNR can implement the bill's requirements with existing budgeted resources.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: If a court prohibits a person from operating a vessel on the waters of the State – for any amount of time – due to a conviction for operating or attempting to operate a vessel while under the influence of alcohol, the court must electronically notify DNR of the prohibition it imposed. The court’s notice must include the person’s name, address, and date of birth, as well as the time period within which the prohibition applies. On receipt of notice from a court, DNR must enter the information provided into the database and maintain the information in the database until the prohibition expires.

A person may not operate or attempt to operate a vessel (as defined below) on the waters of the State while the person is prohibited from doing so under the provisions discussed above. A violator is guilty of a misdemeanor and on conviction is subject to the following criminal penalties: for a first offense, imprisonment for up to one year and/or a maximum fine of \$1,000; for a second offense, imprisonment for up to two years and/or a maximum fine of \$2,000; and for a third or subsequent offense, imprisonment for up to three years and/or a maximum fine of \$3,000.

“Vessel” includes a (1) vessel required to be registered with DNR; (2) vessel required to have a valid number awarded in accordance with a federal law or a federally approved numbering system of another state; and (3) vessel from a foreign country using the waters of the State.

Current Law:

Prohibition on Operating a Vessel under the Influence of Alcohol and Associated Penalties

The State Boat Act prohibits a person from operating or attempting to operate a vessel while under the influence of alcohol. Any person who operates or attempts to operate a vessel on the waters of the State is deemed to have consented to take a test of blood or breath for alcohol content if the person is detained by a police officer who has reasonable grounds to believe that the person has been operating or attempting to operate a vessel while under the influence of alcohol. Evidentiary presumptions applicable to drunk driving offenses also apply to the operation of a vessel while under the influence of alcohol.

Operating a vessel while under the influence of alcohol is a misdemeanor punishable by (1) for a first offense, a fine of up to \$1,000 and/or imprisonment for up to one year; (2) for a second offense, a fine of up to \$2,000 and/or imprisonment for up to two years; and (3) for a third or subsequent offense, a fine of up to \$3,000 and/or imprisonment for up to three years. The court may prohibit a person convicted of a violation from operating a vessel on the waters of the State for up to one year if the person either refused to take a test or was tested and the result indicated an alcohol concentration of 0.08 or more.

Enforcement

NRP is a public safety agency with statewide authority to enforce conservation, boating, and criminal laws. NRP serves as the lead agency for maritime homeland security on State waterways and is responsible for providing maritime and rural search and rescue services, public education in hunting, boating, and water safety, and primary law enforcement for State parks, State forests, wildlife management areas, and public lands owned and managed by DNR.

In general, NRP officers have the same powers conferred upon police officers of the State and may exercise them anywhere within the State. If an NRP officer apprehends a person for violating any law punishable as a misdemeanor, the officer may prepare a written or electronic citation containing specified information. The person charged may promise to appear in court by acknowledging receipt of the citation. If this occurs, an officer is not required to take the person into physical custody for the violation unless specified conditions exist.

State Expenditures: General fund expenditures for the Judiciary increase by \$37,567 in fiscal 2025 for one-time programming costs to comply with the bill. Specifically, the Judiciary must reprogram its systems to enable it to electronically notify DNR if a court prohibits a person from operating a vessel on the waters of the State.

DNR advises that it can develop, maintain, and make accessible to officers the required database with existing budgeted resources.

Additional Comments: NRP enforces boating laws for 171,017 registered vessels in the State (as of the end of 2023). According to NRP, there were an average of 146 boating accidents annually in Maryland from 2014 through 2023, including 123 boating accidents in 2023. NRP's data shows that boating fatalities and injuries have generally been declining over the past decade; however, there were still 11 boating fatalities and 56 boating injuries in 2023.

From 2018 through 2023, NRP advises that there were 66 alcohol-related boating accidents (an average of 11 each year). More than 70% of these alcohol-related boating accidents resulted in at least one injury, and approximately one-third of the accidents resulted in at least one fatality.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 740 (Senator Gile, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Natural Resources; Department of Legislative Services

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