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THE SENATE OF MARYLAND
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Testimony in Support of SB0740 - Operating a Vessel While Under the Influence of Alcohol - Enforcement (Nick's Law)

Mr. Chair, Mr. Vice Chair, and Members of the Senate Judicial Proceedings Committee:

SB0740 would establish the needed infrastructure to enforce existing laws that bar individuals who have been convicted of boating under the influence (BUI) from operating a vessel. The bill also increases the maximum number of years these convicted individuals may be barred from operating vessels.

Background

Sadly, like many bills before this committee, the need for SB0740 comes about from tragedy. In June 2022, Crofton resident Nick Barton was killed in a boating accident in which the operator of the vessel was under the influence of alcohol and cannabis. His fiercely loving mother, Marie, has spent the last 20 months raising money for various causes and working with my office to change the law in Nick's honor.

Existing Law

It is illegal in the state of Maryland to operate a vessel while under the influence of drugs in alcohol, just as it is for a vehicle. And while the limits and penalties are technically the same, the administrative process is vastly different. First, the state of Maryland issues drivers' licenses that can be suspended and revoked in an administrative process that operates separate and in parallel to a criminal procedure for conviction of driving under the influence (DUI). While Maryland does require boaters born on or after July 1, 1972, to obtain and carry a Maryland Safe Boating Certificate (which can be obtained after completing online courses, among other sources), it does not issue boating licenses. The Maryland Safe Boating Certificate that boaters are required to carry when operating a vessel is not registered with the state. In other words, the state does not have a list of certificate-holders. Therefore, the certificate cannot be suspended or revoked.

When a boater is barred from operating a vessel during a given time, the judiciary has record of this order, but does not current send this order to the Natural Resource Police (NRP) within the Department of Natural Resources (DNR), nor does DNR have a process in place to store this information.

Solution

To address these issues, my office worked in partnership with DNR over the interim to draft SB0740, which would:

- Require DNR to create and maintain a database for the barred operators and require the judiciary to send names of the barred operators to DNR. The database shall be operational by no later than October 1, 2025.
- Increase the maximum time someone convicted of a BUI may be barred from operating a vessel from one to two years. In a case where a death is a result of the BUI, the maximum period would be five years.

I have submitted a clarifying amendment with my testimony that addresses some concerns expressed by DNR on the fines and prison guidelines for individuals in violation of this bill.

For these reasons, I respectfully request a favorable report on SB0740.