

MD-BUI-TESTIMONY- SENATE - 022224.pdf

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Position: FAV



Ian Goldstein
Vice President of Government Affairs
Mothers Against Drunk Driving
Testimony in Support of SB740
Senate Judicial Proceedings Committee
February 22, 2024

Thank you, Mr. Chairman and Members of the Committee for allowing me to testify in support of SB740. My name is Ian Goldstein, VP of Government Affairs, with Mothers Against Drunk Driving (MADD). MADD represents the millions of victims and survivors of drunk and impaired driving crashes. MADD's mission is a future with no more victims. MADD thanks Senator Giles for authoring and introducing this lifesaving legislation.

MADD urges the Maryland legislature to pass SB740 which would make improvements to Nick's Law, by strengthening penalties for operating a vessel under the influence of alcohol or other impairing substances. In 2022, Maryland had 14 fatal boating crashes, and alcohol was the leading cause of crashes. According to the U.S. Coast Guard, boaters are ten times more likely to be in a fatal boating crash with a BAC of .1.ⁱ

SB740 not only strengthens the amount of time an offender is prohibited from operating a vessel on the waters, but it also creates a database with the Natural Resources Police Force accessible to a natural resources police officer. The creation of a database will ensure that BUI offenders will not continue their behavior on Maryland's waterways, creating danger for operators of other vessels.

Maryland's current BUI laws can deter someone from operating a vessel under the influence of drugs and alcohol; however, strengthening the current law with longer suspensions for those who break the law will make offenders think twice before operating a vessel while impaired. The goal of SB740 is to deter illegal behavior on our waterways. Mr. Chairman, and Members of the Committee, please pass SB740 to ensure safety on our waterways for everyone. Thank You.

ⁱ Maryland Association for Justice, Boating Under the Influence, <https://www.mdforjustice.com/?pg=MAJRecentNews&blAction=showEntry&blogEntry=96989#:~:text=Unfortunately%2C%20Maryland%20saw%20fourteen%20fatal,those%20of%20a%20second%20DUI.>

sb740.pdf

Uploaded by: Linda Miller

Position: FAV

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 740
Operating a Vessel While Under the Influence of Alcohol –
Enforcement (Nick’s Law)
DATE: February 15, 2024
(2/22)
POSITION: Support

The Maryland Judiciary supports Senate Bill 740. This legislation modifies Title 8, Subtitle 7 of the Natural Resources Article to prohibit persons convicted under certain circumstances from operating a water vessel and requiring the Natural Resources Police Force to establish and maintain a database of persons prohibited from operating a water vessel. Under § 8-738, courts are to electronically notify the Department of Natural Resources when a person is convicted of a crime which prohibits them from operating a water vessel, or when a court prohibits a person from operating a vessel. The court must provide the person’s name, address, date of birth, and time period for which the prohibition applies. The Department is tasked with entering the data into the database and maintaining the information until the prohibition expires.

The Judiciary supports this legislation. The Judiciary routinely provides similar information to the Motor Vehicle Administration, so this bill does not pose any significant technological implications for the Judiciary.

cc. Hon. Dawn Gile
Judicial Council
Legislative Committee
Kelley O’Connor

Amendment

Uploaded by: Senator Gile

Position: FAV



SB0740/303326/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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09:04:06

BY: Senator Gile
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 740
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after “alcohol;” insert “prohibiting a person from operating a vessel on the waters of the State under certain circumstances;”; and after line 16, insert:

“BY adding to
Article – Natural Resources
Section 8-738.3
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)”.

AMENDMENT NO. 2

On page 4, after line 30, insert:

“8-738.3.

(A) A PERSON MAY NOT OPERATE OR ATTEMPT TO OPERATE A VESSEL ON THE WATERS OF THE STATE WHILE THE PERSON IS PROHIBITED FROM OPERATING A VESSEL ON THE WATERS OF THE STATE UNDER § 8-738(E)(3)(I) OF THIS SUBTITLE.

(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION:

(I) FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH;

(II) FOR A SECOND OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$2,000 OR IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR BOTH; AND

(III) FOR A THIRD OR SUBSEQUENT OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$3,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

(2) FOR THE PURPOSE OF DETERMINING SUBSEQUENT OFFENDER PENALTIES FOR A VIOLATION OF THIS SECTION, A PRIOR CONVICTION UNDER SUBSECTION (A) OF THIS SECTION OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE CONSIDERED A PRIOR CONVICTION.”.

DG Written Testimony_SB0740.pdf

Uploaded by: Senator Gile

Position: FAV

DAWN D. GILE
Legislative District 33
Anne Arundel County

Finance Committee

Chair

Anne Arundel County
Senate Delegation



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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.

SB0740_DNR_SWA_JPR_2-22-24.pdf

Uploaded by: Dylan Behler

Position: FWA



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

February 22, 2024

BILL NUMBER: SENATE BILL 740 - First Reader

SHORT TITLE: Operating a Vessel While Under the Influence of Alcohol – Enforcement (Nick’s Law)

DEPARTMENT’S POSITION: SUPPORT WITH AMENDMENTS

EXPLANATION OF DEPARTMENT’S POSITION

The Department supports Senate Bill 740, which requires the Department to establish and maintain a database of individuals whose privilege to operate a vessel in Maryland has been suspended. This bill also places requirements upon the courts to transmit certain data concerning these suspended individuals to the department in order that Natural Resources Police Officers, while on patrol, can utilize the required database to positively identify those persons if encountered operating a vessel while they are suspended. SB 740 modifies the period of suspension that the court may impose upon individuals who are convicted of violating NR § 8-738 (Operating vessel while under the influence of or impaired by alcohol and/or drugs). The Department is working with the sponsors on an amendment that would establish penalties specific to individuals who are apprehended while operating a vessel during the period that their privilege to do so is suspended. The penalties proposed by this amendment are intended to discourage suspended individuals from operating a vessel while suspended, which is currently not addressed in statute.

BACKGROUND INFORMATION

There is no recent legislative history concerning modifications to periods of suspension for violating NR § 8-738. There is no legislative history establishing additional penalties for operating a vessel while suspended.

BILL EXPLANATION

This bill addresses periods of suspension that the court may impose for violating NR § 8-738. The bill also establishes that a database which identifies individuals who have been suspended by the court for these violations must be created and maintained by the Department and requires that the court transmit certain information to the Department to populate this database. The bill also establishes new penalties for operating a vessel while suspended.

BY:

Contact: Dylan Behler, Director, Legislative and Constituent Services
dylan.behler@maryland.gov ♦ 410-260-8113 (office) ♦ 443-924-0891 (cell)

(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 740
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after “alcohol;” insert “prohibiting a person from operating a vessel on the waters of the State under certain circumstances;”.

On page 1, after line 16, insert:

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Section 8-738.3
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)”.

AMENDMENT NO. 2

On page 5, in line 1, before “SECTION” insert:

“8-738.3.

(A) SUBJECT TO § 8-738(G) OF THIS SUBTITLE, A PERSON MAY NOT OPERATE OR ATTEMPT TO OPERATE A VESSEL ON THE WATERS OF THE STATE WHILE THE PERSON IS PROHIBITED FROM OPERATING A VESSEL ON THE WATERS OF THE STATE UNDER § 8-738(E)(3)(I) OF THIS SUBTITLE.

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