
By: **Delegate Harrison**

Rules suspended

Introduced and read first time: March 17, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Vessels - Operating While Under the Influence of Drugs or Alcohol**

3 FOR the purpose of making the results of a test to determine the drug or controlled
4 dangerous substance content of a person's blood admissible as evidence in a
5 criminal case involving a violation of the prohibition against operating a vessel
6 while under the influence of any controlled dangerous substance or while so far
7 under the influence of any drug, combination of drugs, or combination of drugs
8 and alcohol that the person cannot operate a vessel safely; establishing that a
9 certain alcohol concentration, as determined by an analysis of the person's blood
10 or breath, is prima facie evidence that the person was operating a vessel while
11 intoxicated; and generally relating to the operation of vessels while under the
12 influence of drugs, controlled dangerous substances, or alcohol.

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 10-308
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Natural Resources
20 Section 8-738
21 Annotated Code of Maryland
22 (1990 Replacement Volume and 1997 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 10-308.

3 (a) The evidence of the analysis does not limit the introduction of other
4 evidence bearing upon whether the defendant was intoxicated or whether the
5 defendant was driving while under the influence of alcohol, while so far under the
6 influence of any drug, any combination of drugs, or a combination of one or more
7 drugs and alcohol that the person cannot drive a vehicle safely, or while under the
8 influence of a controlled dangerous substance.

9 (b) The results of a test or tests to determine the drug or controlled dangerous
10 substance content of a person's blood:

11 (1) Are admissible as evidence in a criminal trial only in a prosecution
12 [under] FOR A VIOLATION OF § 21-902 of the Transportation Article, § 8-738 OF THE
13 NATURAL RESOURCES ARTICLE, or [a violation of] Article 27, § 388, § 388A, or § 388B
14 of the Code and only if other admissible evidence is introduced that creates an
15 inference that the person was driving or attempting to drive while so far under the
16 influence of any drug, any combination of drugs, or a combination of one or more
17 drugs and alcohol that the person could not drive a vehicle safely, or while under the
18 influence of a controlled dangerous substance; and

19 (2) Are not admissible in a prosecution other than a prosecution [under]
20 FOR A VIOLATION OF § 21-902 of the Transportation Article, § 8-738 OF THE NATURAL
21 RESOURCES ARTICLE, or [a violation of] Article 27, § 388, § 388A, or § 388B of the
22 Code.

23 **Article - Natural Resources**

24 8-738.

25 (a) A person may not operate or attempt to operate a vessel while the person:

26 (1) Is intoxicated;

27 (2) Is under the influence of alcohol;

28 (3) Is so far under the influence of any drug, combination of drugs, or
29 combination of one or more drugs and alcohol that the person cannot operate a vessel
30 safely; or

31 (4) Is under the influence of any controlled dangerous substance, as
32 defined in Article 27, § 277 of the Code, unless the person is entitled to use the
33 controlled dangerous substance under the laws of the State.

34 (b) (1) [The evidentiary requirements of] EXCEPT AS PROVIDED UNDER
35 PARAGRAPH (2) OF THIS SUBSECTION, THE EVIDENTIARY PRESUMPTIONS AND
36 PROCEDURES ESTABLISHED UNDER §§ 10-302 through 10-307 of the Courts Article
37 are applicable to any violation of this section.

1 (2) IF AT THE TIME OF TESTING AN INDIVIDUAL HAS AN ALCOHOL
2 CONCENTRATION OF 0.10 OR MORE, AS DETERMINED BY AN ANALYSIS OF THE
3 INDIVIDUAL'S BLOOD OR BREATH, IT SHALL BE PRIMA FACIE EVIDENCE THAT THE
4 INDIVIDUAL WAS OPERATING A VESSEL WHILE INTOXICATED.

5 (c) It is not a defense to a charge of violating subsection (a)(3) of this section
6 that the person charged is or was entitled under the laws of this State to use the drug,
7 combination of drugs, or combination of 1 or more drugs and alcohol, unless the
8 person was unaware that the drug or combination would make the person incapable
9 of safely operating a vessel.

10 (d) (1) Notwithstanding any other provision of this title, a person who
11 violates paragraph (1) of subsection (a) of this section is guilty of a misdemeanor and
12 upon conviction:

13 (i) For a first offense, shall be subject to a fine of not more than
14 \$1,000 or imprisonment for not more than 1 year or both;

15 (ii) For a second offense, shall be subject to a fine of not more than
16 \$2,000 or imprisonment for not more than 2 years or both; and

17 (iii) For a third or subsequent offense, shall be subject to a fine of
18 not more than \$3,000 or imprisonment for not more than 3 years or both.

19 (2) Notwithstanding any other provision of this title, a person who
20 violates paragraph (2), (3), or (4) of subsection (a) of this section is guilty of a
21 misdemeanor and upon conviction:

22 (i) For a first offense, shall be subject to a fine of not more than
23 \$500 or imprisonment for not more than 2 months or both; and

24 (ii) For a second or subsequent offense, shall be subject to a fine of
25 not more than \$1,000 or imprisonment of not more than 1 year or both.

26 (e) If a person is charged with a violation of this section, the court may find
27 the person guilty of any lesser included offense under any subsection of this section.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 1998.