

HB1270/232213/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 1270

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “Compulsory”; in line 4, after the first “of” insert “specifying that certain alcohol- or drug-related offenses apply to certain vessels; providing that a person who operates or attempts to operate a vessel on the waters of the State is deemed to have consented to a certain test of the person’s breath or blood to determine alcohol concentration or drug or controlled dangerous substance content under certain circumstances; establishing that a person may not be compelled to take a certain test of the person’s breath or blood, except under certain circumstances; requiring a detaining police officer to advise a person that if the person refuses to take a certain test or takes a test with a certain result the court may prohibit the person from operating a vessel on the waters of the State for a certain period of time; authorizing the court to prohibit a certain person from operating a vessel on the waters of the State for a certain period of time if the person refuses a certain test or takes a test with a certain result;”; in line 11, after “substance,” insert “establishing that certain provisions relating to the qualifications of a person administering a certain blood or breath test and the equipment used to administer the test apply under certain circumstances;”; after line 16, insert:

“BY renumbering

Article - Natural Resources

Section 8-738.1

to be Section 8-738.2

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)”;

and after line 26, insert:

“BY adding to

(Over)

Article - Natural Resources
Section 8-738.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-738.1 of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8-738.2.”.

On page 2, in line 1, strike “1.” and substitute “2. AND”; in the same line, after “IT” insert “FURTHER”; and strike beginning with “BY” in line 1 down through “MARYLAND” in line 2.

AMENDMENT NO. 2

On page 2, in lines 6 and 17, in each instance, strike “8-738(B)(3)” and substitute “8-738.1”; in line 20, strike “A” and substitute “SUBJECT TO SUBSECTION (G) OF THIS SECTION, A”; and in line 31, strike “10-308” and substitute “10-309”.

On page 3, strike in their entirety lines 6 through 29, inclusive, and substitute:

“(3) ANY PERSON WHO OPERATES OR ATTEMPTS TO OPERATE A VESSEL ON THE WATERS OF THE STATE IS DEEMED TO HAVE CONSENTED, SUBJECT TO §§ 10-302 THROUGH 10-309 OF THE COURTS ARTICLE, TO TAKE A TEST, AS DEFINED IN § 16-205.1 OF THE TRANSPORTATION ARTICLE, 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, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE THE VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.

(C) (1) EXCEPT AS PROVIDED IN § 8-738.1 OF THIS SUBTITLE, A PERSON MAY NOT BE COMPELLED TO TAKE A TEST, AS DEFINED IN § 16-205.1 OF THE TRANSPORTATION ARTICLE.

(2) THE DETAINING POLICE OFFICER SHALL ADVISE A PERSON WHO IS REQUESTED TO TAKE A TEST THAT, ON RECEIPT OF A SWORN STATEMENT FROM THE OFFICER THAT THE PERSON WAS REQUESTED TO TAKE A TEST AND REFUSED OR WAS TESTED AND THE RESULT INDICATED AN ALCOHOL CONCENTRATION OF 0.08 OR MORE, THE COURT MAY, ON CONVICTION AND IN ADDITION TO OTHER PENALTIES, PROHIBIT THE PERSON FROM OPERATING A VESSEL ON THE WATERS OF THE STATE FOR UP TO 1 YEAR.”;

and in lines 30 and 35, strike “(c)” and “(d)”, respectively, and substitute “(D)” and “(E)”, respectively.

On page 4, after line 13, insert:

“(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE COURT MAY PROHIBIT A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A)(1) OF THIS SECTION FROM OPERATING A VESSEL ON THE WATERS OF THE STATE FOR UP TO 1 YEAR IF THE PERSON:

(I) REFUSED TO TAKE A TEST, AS DEFINED IN § 16-205.1 OF THE TRANSPORTATION ARTICLE, WHEN REQUESTED BY A POLICE OFFICER UNDER SUBSECTION (B)(3) OF THIS SECTION; OR

(II) WAS TESTED AND THE RESULT INDICATED AN ALCOHOL CONCENTRATION OF 0.08 OR MORE.”;

(Over)

in line 14, strike “(e)” and substitute “**(F)**”; and after line 15, insert:

“(G) THIS SECTION APPLIES TO THE FOLLOWING:

(1) A VESSEL REQUIRED TO BE REGISTERED WITH THE DEPARTMENT UNDER THIS SUBTITLE;

(2) A 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) A VESSEL FROM A FOREIGN COUNTRY USING THE WATERS OF THIS STATE.

8-738.1.

(A) IF A PERSON IS INVOLVED IN AN ACCIDENT WHILE OPERATING OR ATTEMPTING TO OPERATE A VESSEL THAT RESULTS IN THE DEATH OF, OR LIFE-THREATENING INJURY TO, ANOTHER PERSON AND THE PERSON IS DETAINED BY A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN OPERATING A VESSEL OR ATTEMPTING TO OPERATE A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE, THE PERSON SHALL BE REQUIRED TO SUBMIT, AS DIRECTED BY THE OFFICER, TO A TEST OF:

(1) THE PERSON’S BREATH TO DETERMINE ALCOHOL CONCENTRATION;

(2) ONE SPECIMEN OF THE PERSON'S BLOOD TO DETERMINE ALCOHOL CONCENTRATION OR TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF THE PERSON'S BLOOD; OR

(3) BOTH THE PERSON'S BREATH UNDER ITEM (1) OF THIS SUBSECTION AND ONE SPECIMEN OF THE PERSON'S BLOOD UNDER ITEM (2) OF THIS SUBSECTION.

(B) IF A POLICE OFFICER DIRECTS THAT A PERSON BE TESTED, THEN THE PROVISIONS OF § 10-304 OF THE COURTS ARTICLE APPLY.

(C) ANY MEDICAL PERSONNEL WHO PERFORM ANY TEST REQUIRED BY THIS SECTION ARE NOT LIABLE FOR ANY CIVIL DAMAGES AS THE RESULT OF ANY ACT OR OMISSION RELATED TO THE TEST, NOT AMOUNTING TO GROSS NEGLIGENCE.”;

and in line 16, strike “2.” and substitute “3.”.