

**SB0475/178473/1**

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 475  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “Compulsory”; in line 4, after the first “of” insert “providing that a person who operates or attempts to operate a vessel on the waters of the State is deemed to have consented, subject to certain provisions of law, to take a certain test to determine alcohol concentration or drug or controlled dangerous substance content if the person is detained under certain circumstances; providing that a person may not be compelled to take a certain test, subject to a certain exception; requiring a detaining officer to advise a person detained under certain circumstances that, if the person refuses to take a certain test, or takes the test and the results indicate a certain alcohol concentration, on conviction of a certain violation the court may prohibit the person from operating or attempting to operate a vessel for a certain period;”; 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)”;

after line 26, insert:

“BY adding to

Article - Natural Resources

Section 8-738.1

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

(Over)

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.”;

in line 27, strike “1.” and substitute “2. AND”; in the same line, after “IT” insert “FURTHER”; and strike beginning with “BY” in line 27 down through “MARYLAND” in line 28.

AMENDMENT NO. 2

On page 2, in line 4, strike “**8-738(B)(3)**” and substitute “8-738.1”; in line 15, strike “**8-738(B)(3)**” and substitute “8-738.1”; and in line 29, strike “10-308” and substitute “10-309”.

On page 3, strike beginning with “(I)” in line 3 down through “NEGLIGENCE” in line 26 and substitute “ANY PERSON WHO OPERATES OR ATTEMPTS TO OPERATE A VESSEL UPON THE WATERS OF THE STATE IS DEEMED TO HAVE CONSENTED, SUBJECT TO THE PROVISIONS OF §§ 10-302 THROUGH 10-309 OF THE COURTS ARTICLE, TO TAKE A TEST 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 OR ATTEMPT TO OPERATE A 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.

(2) UPON CONVICTION AND IN ADDITION TO ANY OTHER PENALTIES, A COURT MAY PROHIBIT A PERSON FROM OPERATING A VESSEL ON THE WATERS OF THE STATE FOR A PERIOD OF 1 YEAR IF THE PERSON WAS DETAINED BY A POLICE OFFICER WHO HAD REASONABLE GROUNDS TO BELIEVE THAT THE PERSON WAS OPERATING 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 OR ATTEMPT TO OPERATE A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE AND THE PERSON REFUSED TO TAKE A TEST, OR WAS TESTED AND THE RESULT INDICATED AN ALCOHOL CONCENTRATION OF 0.08 OR MORE.

(3) A DETAINING OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON WAS OPERATING 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 OR ATTEMPT TO OPERATE A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE SHALL ADVISE THE PERSON OF THE SANCTIONS THAT MAY BE IMPOSED BY A COURT IF THE PERSON REFUSES TO TAKE A TEST OR TAKES A TEST AND THE RESULT INDICATES AN ALCOHOL CONCENTRATION OF 0.08 OR MORE”;

and in lines 27 and 32, strike “(c)” and “(d)”, respectively, and substitute “**(D)**” and “**(E)**”, respectively.

On page 4, in line 12, strike “(e)” and substitute “**(F)**”.

(Over)

AMENDMENT NO. 3

On page 4, after line 13, insert:

“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 A LIFE-THREATENING INJURY TO, ANOTHER PERSON AND THE PERSON IS DETAINED BY A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON WAS OPERATING THE VESSEL OR ATTEMPTING TO OPERATE THE 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, THE PERSON SHALL BE REQUIRED TO SUBMIT, AS DIRECTED BY THE POLICE 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 SHALL APPLY.

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

and in line 14, strike “2.” and substitute “3.”.