

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 763

(Senator Raskin)

Judicial Proceedings

Manslaughter and Homicide by Vehicle or Vessel

This bill increases the maximum incarceration penalties for specified violations as follows: (1) manslaughter by vehicle or vessel – gross negligence, from 10 years to 15 years; (2) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*, from 5 years to 15 years; (3) homicide by motor vehicle or vessel while impaired by alcohol, from 3 years to 10 years; (4) homicide by motor vehicle or vessel while impaired by drugs, from 3 years to 10 years; and (5) homicide by motor vehicle or vessel while impaired by a controlled dangerous substance (CDS), from 3 years to 15 years.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill’s penalty provisions. No effect on revenues.

Local Effect: Enforcement can be handled with existing resources. No effect on revenues.

Small Business Effect: None.

Analysis

Current Law:

Definitions: A “vehicle” includes a motor vehicle, streetcar, locomotive, engine, or train. A “motor vehicle” is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires and is not operated on rails. A “vessel” is any watercraft

that is used or capable of being used as a means of transportation on water or ice, but it does not include a seaplane.

“Under the influence of alcohol *per se*” means having an alcohol concentration at the time of testing of at least 0.08 as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. “Impaired by alcohol” means *prima facie* evidence as indicated, at the time of testing, by an alcohol concentration of at least 0.07, but less than 0.08, as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Manslaughter by Vehicle or Vessel – Gross Negligence: A person is prohibited from committing manslaughter by vehicle or vessel by causing the death of another as a result of driving, operating, or controlling a vehicle or vessel in a grossly negligent manner. The standard of “gross negligence” is established in common law and requires that evidence show, beyond a reasonable doubt, that the offender had a wanton or reckless disregard for human life in the operation of vehicle or vessel. The conduct must be extraordinary or outrageous to meet this standard. A violator is guilty of a felony and subject to maximum penalties of 10 years imprisonment and/or a \$5,000 fine.

Homicide by Motor Vehicle or Vessel Under the Influence: A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*. A violator is guilty of a felony and subject to maximum penalties of five years imprisonment and/or a \$5,000 fine.

Homicide by Motor Vehicle or Vessel While Impaired: A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) so far impaired by a drug, any combination of drugs, or any combination of one or more drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (3) impaired by a CDS that the person is not entitled to use by State law. A violator is guilty of a felony and subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

Administrative Penalties: The offenses in the bill are subject to points assessment by the Motor Vehicle Administration (MVA), which makes the driver subject to revocation of the driver’s license. For convictions of all manslaughter by motor vehicle or vessel, homicide by motor vehicle or vessel, and life-threatening injury by motor vehicle or vessel offenses, MVA must assess 12 points against the driver’s license, and the license is subject to revocation. A driver who accumulates 12 points against his or her driver’s license within a two-year period is subject to license revocation.

Background: Exhibit 1 shows the Maryland State Commission on Criminal Sentencing Policy’s sentencing and incarceration information for fiscal 2015, for the offenses that have enhanced incarceration penalties under the bill.

Exhibit 1
Fiscal 2015 Sentencing and Incarceration Rates for Offenses Under the Bill

<u>Offense</u>	<u>Number of Persons Sentenced</u>	<u>Number of Counts</u>	<u>Average Length of Incarceration</u>
Manslaughter by vehicle or vessel – gross negligence	11	12	3.8 years
Homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	6	7	2.4 years
Homicide by motor vehicle or vessel while impaired by alcohol	2	4	1.5 and 3 years
Homicide by motor vehicle or vessel while impaired by drugs	0	0	0
Homicide by motor vehicle or vessel while impaired by a controlled dangerous substance	1	1	1 year

Source: Maryland State Commission on Criminal Sentencing Policy

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalties due to offenders being committed to State correctional facilities for longer periods of time. The number of people convicted and subject to the expanded penalties under the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$770 per month.

Additional Information

Prior Introductions: None.

Cross File: HB 735 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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