

**Department of Legislative Services**  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 1080

(Senator Simonaire)

Education, Health, and Environmental Affairs

Judiciary

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**State Boat Act - Privilege to Operate a Vessel - Suspension Authority**

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This bill authorizes the Department of Natural Resources (DNR) to, in addition to any other penalty, suspend, for up to one year, a person's privilege to operate a vessel on the waters of the State, if the person is convicted of operating a vessel on waters of the State while under the influence of alcohol. The bill applies only to (1) a vessel required to be registered with DNR; (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 the State. Following specified procedures, the department must provide a person an opportunity for a hearing before suspending the person's privilege to operate a vessel on the waters of the State. DNR must adopt regulations to implement the bill.

The bill is contingent on specified legislation taking effect and the State entering into the Interstate Boating Violator Compact, as specified.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase for costs billed to DNR by the Office of Administrative Hearings (OAH) to conduct any hearings prior to suspension of a person's privilege to operate a vessel on the waters of the State. Under one set of assumptions, general fund expenditures increase by at least \$25,000, on average, each fiscal year. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** DNR must initiate any proceeding to suspend the privilege to operate a vessel on the waters of the State immediately after the time for filing an appeal of the conviction has passed. Before suspending such a privilege, DNR must notify the person in writing of the person's right to a hearing on request. If a person submits a written request for a hearing within 30 days after the notice is mailed, DNR must hold a hearing, as specified. DNR may suspend the privilege to operate a vessel on the waters of the State without a hearing if the person does not submit a written request for a hearing or if the person fails to appear for the scheduled hearing.

The bill is contingent on (1) Senate Bill 81 of 2017 being enacted and taking effect and (2) the State, as authorized under Senate Bill 81, entering into the Interstate Boating Violator Compact (which allows for coordination among member states to enforce citations and suspensions for boating law violations committed by individuals moving among the states). DNR must notify the Department of Legislative Services within five days of the State entering into the compact; if notice is not received by October 1, 2020, the bill is null and void.

**Current Law:** Under provisions of the State Boat Act, which apply only to specified vessels (the same vessels the bill applies to), a person is prohibited from operating or attempting to operate a vessel while the person is (1) under the influence of alcohol; (2) impaired by alcohol; (3) so far impaired by any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely; or (4) impaired by any controlled dangerous substance, unless the person is entitled to use the controlled dangerous substance under the laws of the State.

Any person who operates or attempts to operate a vessel on the waters of the State is deemed to have consented to alcohol concentration testing if the person is detained by a police officer who has reasonable grounds to believe the person has been operating or attempting to operate a vessel while under the influence or impaired. Additional evidentiary presumptions and procedures apply with respect to alcohol concentration testing.

An alcohol concentration test result of 0.08 or more is sufficient to establish that a person was under the influence of alcohol, while a test result lower than 0.08 can be considered, along with other evidence, in determining whether a person was under the influence of alcohol. A person with an alcohol concentration of 0.05 or less, however, is presumed to be not under the influence of alcohol.

A refusal of the testing, or a test result indicating an alcohol concentration of 0.08 or more, can result in the person being prohibited (by the court) from operating a vessel on the waters

of the State for up to one year, if convicted of operating a vessel while under the influence of alcohol. The person must submit to testing if the person was involved in an accident that results in the death of, or life-threatening injury to, another person.

Applicable monetary and incarceration penalties include a fine of up to \$1,000 and/or imprisonment for up to one year for operating or attempting to operate a vessel while under the influence of alcohol. The remaining offenses involving impairment by alcohol and/or drugs are subject to a fine of up to \$500 and/or imprisonment for up to two months. Penalties increase for second and subsequent offenses.

These provisions only apply to (1) vessels required to be registered with DNR; (2) vessels required to have a valid number awarded in accordance with a federal law or a federally approved numbering system of another state; and (3) vessels from a foreign country using the waters of the State. Vessels without any propulsion machinery of any type, such as nonpowered sailboats, canoes, and kayaks, are not required to be registered with DNR.

**State Expenditures:** General fund expenditures increase for costs billed to DNR by OAH to conduct any hearings requested by persons for whom DNR seeks to suspend the privilege to operate a vessel on the waters of the State. The extent of the increase in general fund expenditures cannot be reliably estimated at this time, since it is uncertain (1) how many persons will be convicted of operating a vessel while under the influence of alcohol in a given fiscal year; (2) how often DNR will seek a suspension; (3) how many persons will request a hearing; and (4) what the cost billed to DNR for each hearing will be. In addition, in cases where the court, under existing authority, has prohibited a person from operating a vessel on the waters of the State for up to one year (based on a refusal of an alcohol concentration test or a test result of 0.08 or more), DNR may choose to forego seeking an additional suspension, although this is unclear.

DNR indicates that the Natural Resources Police charge 80 to 100 people, on average, each year with operating a vessel while under the influence of alcohol, the vast majority of which result in convictions. DNR estimates that OAH bills the department \$175 to \$200 per hour for hearings under the bill, but it is unknown how many hours are associated with each hearing. Hearings conducted pursuant to the bill are expected to be significantly less complex than other hearings currently conducted by OAH for DNR, which cost \$3,500 per hearing. *For illustrative purposes only*, if there are an average of 25 hearings conducted each fiscal year at a cost of at least \$1,000 per hearing, general fund expenditures increase by at least \$25,000, on average, each fiscal year.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2017  
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