

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 489  
Judiciary

(Delegate B. Wilson, *et al.*)

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Operating a Vehicle or Vessel - Injury to Others While Under the Influence of or Impaired by Alcohol or Drugs

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This bill alters the element of the offenses of causing injury by motor vehicle or vessel for specified alcohol- and drug-related offenses from requiring a “life-threatening” injury to a “serious physical injury.” Thus, a person may not cause a serious physical injury to another while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) impaired by alcohol; (3) impaired by a drug, a combination of drugs, or a combination of one or more drugs and alcohol; or (4) impaired by a controlled dangerous substance (CDS). The bill makes conforming changes, including altering the circumstances under which a person is required to submit to a test of blood or breath as directed by a police officer.

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Fiscal Summary

**State Effect:** Enforcement can be handled with existing resources. The Maryland Department of Transportation and the Judiciary can handle the bill’s requirements with existing resources. Minimal increase in general fund revenues and expenditures due to application of existing penalty provisions to the expanded offenses.

**Local Effect:** Enforcement can be handled with existing resources. Minimal increase in revenues and expenditures due to application of existing penalty provisions to the expanded offenses.

**Small Business Effect:** None.

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## Analysis

**Current Law:** 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 does not include a seaplane.

Under the Natural Resources Article, “vessel” means every description of watercraft, including an iceboat, but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice.

Under the Criminal Law Article, “serious physical injury” is defined as a physical injury that creates a substantial risk of death or causes permanent or protracted disfigurement or loss or impairment of the function of any bodily member or organ.

“Life-threatening injury” is not defined in statute.

*Life-threatening Injury by Motor Vehicle or Vessel Under the Influence:* A person may not cause life-threatening injury to another as a result of negligently operating or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*.

*Life-threatening Injury by Motor Vehicle or Vessel While Impaired:* A person may not cause life-threatening injury to another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) impaired by a drug, any combination of drugs, or any combination of drugs and alcohol; or (3) impaired by a CDS.

Chapters 517 and 518 of 2016 established subsequent offender offenses and more stringent penalties for specified homicide, manslaughter, and life-threatening injury by motor vehicle or vessel offenses. Penalties for first offenses as well as the more stringent penalties for subsequent offenses are shown in **Exhibit 1**.

**Exhibit 1**  
**Maximum Penalties for First Offenders and Maximum Penalties for Repeat Offenders**

<u>Offense</u>	<b>Maximum Penalties</b>			<b>Maximum Penalties if Previously Convicted of Any Specified Offense</b>		
		<u>Imprisonment</u>	<u>Fine</u>		<u>Imprisonment</u>	<u>Fine</u>
Manslaughter by vehicle or vessel – gross negligence	felony	10 years	\$5,000	felony	15 years	\$10,000
Manslaughter by vehicle or vessel – criminal negligence	misdemeanor	3 years	\$5,000	misdemeanor	5 years	\$10,000
Homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	felony	5 years	\$5,000	felony	10 years	\$10,000
Homicide by motor vehicle or vessel while impaired by alcohol	felony	3 years	\$5,000	felony	5 years	\$10,000
Homicide by motor vehicle or vessel while impaired by drugs	felony	3 years	\$5,000	felony	5 years	\$10,000
Homicide by motor vehicle or vessel while impaired by a CDS	felony	3 years	\$5,000	felony	5 years	\$10,000
Causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i> or while impaired by a CDS	misdemeanor	3 years	\$5,000	misdemeanor	5 years	\$10,000
Causing life-threatening injury by motor vehicle or vessel while impaired by alcohol or drugs	misdemeanor	2 years	\$3,000	misdemeanor	5 years	\$10,000

CDS: controlled dangerous substance

Notes: Under the law, the maximum penalties may be the imprisonment term noted, the fine noted, or both. Maximum penalties for repeat offenders apply if previously convicted of the same offense; any other offense listed in this exhibit; or driving while under the influence of alcohol, while under the influence of alcohol *per se*, while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a CDS.

Source: Department of Legislative Services

Under the Transportation Article, a person who is in a motor vehicle accident that results in death or life-threatening injury to another person is required to submit to a test if detained by an officer who has reasonable grounds to believe the person committed an alcohol- and/or drug-related driving offense. The Motor Vehicle Administration must assess 12 points against the license of a person who is convicted of causing a life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes, and the license is subject to revocation.

Under the Natural Resources Article, a person involved in an accident – while operating or attempting to operate a vessel that results in death or life-threatening injury to another person – and detained by a police officer with reasonable grounds to believe that the person did so while under the influence of or impaired by alcohol, drugs and/or alcohol, or a CDS is required to submit, as directed by the police officer, to a test of blood or breath, or both, as specified.

“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.

**Background:** According to the Maryland State Commission on Criminal Sentencing Policy, during fiscal 2016, 12 individuals were sentenced in the circuit courts for causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol or impaired by alcohol, drugs, or a CDS, with an average sentence of 0.66 years.

The Department of State Police has historically advised that its policy is to require any driver involved in a motor vehicle accident with injuries to take a test of blood or breath, if the officer has reasonable grounds to believe that the motorist was driving under the influence of alcohol or was impaired by alcohol, drugs, or a CDS.

**State Revenues:** General fund revenues increase minimally as a result of imposition of existing monetary penalty provisions from cases heard in the District Court.

**State Expenditures:** General fund expenditures increase minimally as a result of imposition of existing incarceration penalties for the expanded offenses due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of the proposed expanded crimes 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 \$3,600 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 \$800 per month. Excluding all health care, the average variable costs total \$210 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues increase minimally as a result of imposition of existing monetary penalty provisions from cases heard in the circuit courts.

**Local Expenditures:** Expenditures increase minimally as a result of imposition of existing incarceration penalties for the expanded offenses. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

## **Additional Information**

**Prior Introductions:** HB 47 of 2016 received an unfavorable report from the House Judiciary Committee. HB 1439 of 2010, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 697, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Cross File:** None.

**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 Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2017  
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