

HOUSE BILL 675

R3

11r2229

By: **Delegate Valentino-Smith**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving – Prior Convictions – Conviction for the Drunk or**
3 **Drugged Operation of a Vessel**

4 FOR the purpose of establishing that certain previous convictions for the drunk or drugged
5 operation of a vessel under certain provisions of law constitute prior convictions for
6 the purpose of determining certain enhanced subsequent offender penalties under
7 State vehicle laws; and generally relating to penalties for drunk and drugged driving.

8 BY repealing and reenacting, without amendments,

9 Article – Natural Resources

10 Section 8–738(a) and (g)

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2020 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Transportation

15 Section 21–902(a)(1), (b)(1), (c)(1), (d)(1), (e), (h), and (i)

16 Annotated Code of Maryland

17 (2020 Replacement Volume)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Natural Resources**

21 8–738.

22 (a) Subject to subsection (g) of this section, a person may not operate or attempt
23 to operate a vessel while the person:

24 (1) Is under the influence of alcohol;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Is impaired by alcohol;

2 (3) Is so far impaired by any drug, combination of drugs, or combination of
3 one or more drugs and alcohol that the person cannot operate a vessel safely; or

4 (4) Is impaired by any controlled dangerous substance, as defined in §
5 5–101 of the Criminal Law Article, unless the person is entitled to use the controlled
6 dangerous substance under the laws of the State.

7 (g) This section applies to the following:

8 (1) A vessel required to be registered with the Department under this
9 subtitle;

10 (2) A vessel required to have a valid number awarded in accordance with a
11 federal law or a federally approved numbering system of another state; and

12 (3) A vessel from a foreign country using the waters of this State.

13 Article – Transportation

14 21–902.

15 (a) (1) (i) A person may not drive or attempt to drive any vehicle while
16 under the influence of alcohol.

17 (ii) A person may not drive or attempt to drive any vehicle while the
18 person is under the influence of alcohol per se.

19 (iii) A person convicted of a violation of this paragraph is subject to:

20 1. For a first offense, imprisonment not exceeding 1 year or
21 a fine not exceeding \$1,000 or both; and

22 2. For a second offense, imprisonment not exceeding 2 years
23 or a fine not exceeding \$2,000 or both.

24 (iv) For the purpose of determining subsequent offender penalties for
25 a violation of this paragraph, a prior conviction under subsection (b), (c), or (d) of this section
26 **OR § 8–738 OF THE NATURAL RESOURCES ARTICLE**, within 5 years before the
27 conviction for a violation of this paragraph, shall be considered a prior conviction.

28 (b) (1) (i) A person may not drive or attempt to drive any vehicle while
29 impaired by alcohol.

30 (ii) A person convicted of a violation of this paragraph is subject to:

1 1. For a first offense, imprisonment not exceeding 2 months
2 or a fine not exceeding \$500 or both; and

3 2. For a second offense, imprisonment not exceeding 1 year
4 or a fine not exceeding \$500 or both.

5 (iii) For the purpose of determining subsequent offender penalties for
6 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (c),
7 or (d) of this section **OR § 8-738 OF THE NATURAL RESOURCES ARTICLE** shall be
8 considered a prior conviction.

9 (c) (1) (i) A person may not drive or attempt to drive any vehicle while so
10 far impaired by any drug, any combination of drugs, or a combination of one or more drugs
11 and alcohol that the person cannot drive a vehicle safely.

12 (ii) A person convicted of a violation of this paragraph is subject to:

13 1. For a first offense, imprisonment not exceeding 2 months
14 or a fine not exceeding \$500 or both; and

15 2. For a second offense, imprisonment not exceeding 1 year
16 or a fine not exceeding \$500 or both.

17 (iii) For the purpose of determining subsequent offender penalties for
18 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (b),
19 or (d) of this section **OR § 8-738 OF THE NATURAL RESOURCES ARTICLE** shall be
20 considered a prior conviction.

21 (iv) It is not a defense to any charge of violating this subsection that
22 the person charged is or was entitled under the laws of this State to use the drug,
23 combination of drugs, or combination of one or more drugs and alcohol, unless the person
24 was unaware that the drug or combination would make the person incapable of safely
25 driving a vehicle.

26 (d) (1) (i) A person may not drive or attempt to drive any vehicle while the
27 person is impaired by any controlled dangerous substance, as that term is defined in §
28 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled
29 dangerous substance under the laws of this State.

30 (ii) A person convicted of a violation of this paragraph is subject to:

31 1. For a first offense, imprisonment not exceeding 1 year or
32 a fine not exceeding \$1,000 or both; and

33 2. For a second offense, imprisonment not exceeding 2 years
34 or a fine not exceeding \$2,000 or both.

1 (iii) For the purpose of determining subsequent offender penalties for
2 a violation of this paragraph, a prior conviction under subsection (a), (b), or (c) of this section
3 **OR UNDER § 8-738 OF THE NATURAL RESOURCES ARTICLE**, within 5 years before the
4 conviction for a violation of this paragraph, shall be considered a prior conviction.

5 (e) For purposes of the application of subsequent offender penalties under this
6 section, a conviction for a crime committed in another state or federal jurisdiction that, if
7 committed in this State, would constitute a violation of subsection (a)(1) or (2), (b)(1) or (2),
8 (c)(1) or (2), or (d)(1) or (2) of this section **OR § 8-738 OF THE NATURAL RESOURCES**
9 **ARTICLE** shall be considered a violation of subsection (a)(1) or (2), (b)(1) or (2), (c)(1) or (2),
10 or (d)(1) or (2) of this section **OR § 8-738 OF THE NATURAL RESOURCES ARTICLE**.

11 (h) (1) A person may not violate subsection (a), (b), (c), or (d) of this section if
12 the person previously has been convicted of two violations of any provision of subsection
13 (a), (b), (c), or (d) of this section **OR § 8-738 OF THE NATURAL RESOURCES ARTICLE**.

14 (2) For purposes of this subsection, a conviction for a crime under the laws
15 of the United States that would be a crime included in paragraph (1) of this subsection if
16 committed in this State shall be considered a prior conviction under this subsection.

17 (3) A person who violates this subsection is guilty of a misdemeanor and
18 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
19 \$5,000 or both.

20 (i) (1) A person may not violate subsection (a), (b), (c), or (d) of this section if
21 the person previously has been convicted of:

22 (i) Three or more violations of any provision of subsection (a), (b),
23 (c), or (d) of this section **OR § 8-738 OF THE NATURAL RESOURCES ARTICLE**; or

24 (ii) A violation of § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of
25 the Criminal Law Article.

26 (2) For purposes of this subsection, a conviction for a crime under the laws
27 of the United States that would be a crime included in paragraph (1) of this subsection if
28 committed in this State shall be considered a prior conviction under this subsection.

29 (3) A person who violates this subsection is guilty of a misdemeanor and
30 on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding
31 \$10,000 or both.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2021.