

# SENATE BILL 914

R3

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CF HB 967

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By: **Senator Bailey**

Introduced and read first time: February 11, 2022

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel –**  
3 **Penalties and Prior Convictions**

4 FOR the purpose of increasing the penalties for certain offenses of manslaughter and  
5 homicide by vehicle or vessel; establishing that certain previous convictions for  
6 drunk or drugged operation of a vehicle or vessel and grossly negligent manslaughter  
7 by vehicle or vessel under certain provisions of law constitute prior convictions for  
8 the purpose of determining certain enhanced subsequent offender penalties; and  
9 generally relating to penalties and prior convictions for the grossly negligent or  
10 drunk or drugged operation of a vehicle or vessel.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Law  
13 Section 2–209 and 2–503  
14 Annotated Code of Maryland  
15 (2021 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article – Natural Resources  
18 Section 8–738(a) and (g)  
19 Annotated Code of Maryland  
20 (2012 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Natural Resources  
23 Section 8–738(e)(1) and (2)  
24 Annotated Code of Maryland  
25 (2012 Replacement Volume and 2021 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – Transportation

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 21–902(a)(1), (b)(1), (c)(1), (d)(1), (e), (h), and (i)  
2 Annotated Code of Maryland  
3 (2020 Replacement Volume and 2021 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
5 That the Laws of Maryland read as follows:

6 **Article – Criminal Law**

7 2–209.

8 (a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive,  
9 engine, and train.

10 (b) A person may not cause the death of another as a result of the person’s driving,  
11 operating, or controlling a vehicle or vessel in a grossly negligent manner.

12 (c) A violation of this section is manslaughter by vehicle or vessel.

13 (d) (1) Except as provided in paragraph (2) of this subsection, a person who  
14 violates this section is guilty of a felony and on conviction is subject to imprisonment not  
15 exceeding [10] **20** years or a fine not exceeding [\$5,000] **\$10,000** or both.

16 (2) (i) A person who violates this section, having previously been  
17 convicted under this section, § 2–210, § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of this  
18 article, or § 21–902 of the Transportation Article, is guilty of a felony and on conviction is  
19 subject to imprisonment not exceeding [15] **30** years or a fine not exceeding [\$10,000]  
20 **\$25,000** or both.

21 (ii) For the purposes of application of subsequent offender penalties  
22 under subparagraph (i) of this paragraph, a conviction for a crime committed in another  
23 state or federal jurisdiction that, if committed in this State would constitute a violation of  
24 this section, § 2–210, § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of this article, or §  
25 21–902 of the Transportation Article, shall be considered a violation of this section.

26 (e) (1) An indictment or other charging document for manslaughter by vehicle  
27 or vessel is sufficient if it substantially states:

28 “(name of defendant) on (date) in (county) killed (name of victim) in a grossly  
29 negligent manner against the peace, government, and dignity of the State.”.

30 (2) An indictment or other charging document for manslaughter by vehicle  
31 or vessel need not set forth the manner or means of death.

32 2–503.

33 (a) A person may not cause the death of another as a result of the person’s

1 negligently driving, operating, or controlling a motor vehicle or vessel while:

2 (1) under the influence of alcohol; or

3 (2) under the influence of alcohol per se.

4 (b) A violation of this section is:

5 (1) homicide by motor vehicle or vessel while under the influence of alcohol;

6 or

7 (2) homicide by motor vehicle or vessel while under the influence of alcohol  
8 per se.

9 (c) (1) Except as provided in paragraph (2) of this subsection, a person who  
10 violates this section is guilty of a felony and on conviction is subject to imprisonment not  
11 exceeding ~~[5]~~ **10** years or a fine not exceeding ~~[\$5,000]~~ **\$10,000** or both.

12 (2) (i) A person who violates this section, having previously been  
13 convicted under this section, § 2–209, § 2–210, § 2–504, § 2–505, § 2–506, or § 3–211 of this  
14 article, or § 21–902 of the Transportation Article, is guilty of a felony and on conviction is  
15 subject to imprisonment not exceeding ~~[10]~~ **20** years or a fine not exceeding ~~[\$10,000]~~  
16 **\$20,000** or both.

17 (ii) For the purposes of application of subsequent offender penalties  
18 under subparagraph (i) of this paragraph, a conviction for a crime committed in another  
19 state or federal jurisdiction that, if committed in this State would constitute a violation of  
20 this section, § 2–209, § 2–210, § 2–504, § 2–505, § 2–506, or § 3–211 of this article, or §  
21 21–902 of the Transportation Article, shall be considered a violation of this section.

## 22 Article – Natural Resources

23 8–738.

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

26 (1) Is under the influence of alcohol;

27 (2) Is impaired by alcohol;

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

30 (4) Is impaired by any controlled dangerous substance, as defined in §  
31 5–101 of the Criminal Law Article, unless the person is entitled to use the controlled  
32 dangerous substance under the laws of the State.

1 (e) (1) **(I)** Notwithstanding any other provision of this title, a person who  
2 violates subsection (a)(1) of this section is guilty of a misdemeanor and upon conviction:

3 [(i)] 1. For a first offense, shall be subject to a fine of not more  
4 than \$1,000 or imprisonment for not more than 1 year or both;

5 [(ii)] 2. For a second offense, shall be subject to a fine of not more  
6 than \$2,000 or imprisonment for not more than 2 years or both; and

7 [(iii)] 3. For a third or subsequent offense, shall be subject to a fine  
8 of not more than \$3,000 or imprisonment for not more than 3 years or both.

9 **(II) FOR THE PURPOSE OF DETERMINING SUBSEQUENT**  
10 **OFFENDER PENALTIES FOR A VIOLATION OF THIS SECTION, A PRIOR CONVICTION**  
11 **UNDER SUBSECTION (A) OF THIS SECTION OR § 21-902 OF THE TRANSPORTATION**  
12 **ARTICLE SHALL BE CONSIDERED A PRIOR CONVICTION.**

13 (2) **(I)** Notwithstanding any other provision of this title, a person who  
14 violates subsection (a)(2), (3), or (4) of this section is guilty of a misdemeanor and upon  
15 conviction:

16 [(i)] 1. For a first offense, shall be subject to a fine of not more  
17 than \$500 or imprisonment for not more than 2 months or both; and

18 [(ii)] 2. For a second or subsequent offense, shall be subject to a  
19 fine of not more than \$1,000 or imprisonment of not more than 1 year or both.

20 **(II) FOR THE PURPOSE OF DETERMINING SUBSEQUENT**  
21 **OFFENDER PENALTIES FOR A VIOLATION OF THIS SECTION, A PRIOR CONVICTION**  
22 **UNDER SUBSECTION (A) OF THIS SECTION OR § 21-902 OF THE TRANSPORTATION**  
23 **ARTICLE SHALL BE CONSIDERED A PRIOR CONVICTION.**

24 (g) This section applies to the following:

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

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

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

30 **Article – Transportation**

31 21-902.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (d) (1) (i) A person may not drive or attempt to drive any vehicle while the  
11 person is impaired by any controlled dangerous substance, as that term is defined in §  
12 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled  
13 dangerous substance under the laws of this State.

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

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

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

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

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

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

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

35 (3) A person who violates this subsection is guilty of a misdemeanor and

1 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
2 \$5,000 or both.

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

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

7 (ii) A violation of **§ 2-209**, § 2-503, § 2-504, § 2-505, § 2-506, or §  
8 3-211 of the Criminal Law Article.

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

12 (3) A person who violates this subsection is guilty of a misdemeanor and  
13 on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding  
14 \$10,000 or both.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2022.