

# SENATE BILL 74

R3  
SB 914/22 – JPR

(PRE-FILED)

3lr0409  
CF HB 483

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By: **Senator Bailey**

Requested: September 16, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 15, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

10 BY repealing and reenacting, without amendments,  
11 Article – Natural Resources  
12 Section 8–738(a) and (g)  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Natural Resources  
17 Section 8–738(e)(1) and (2)  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2022 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Transportation

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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 2022 Supplement)

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

6 **Article – Natural Resources**

7 8–738.

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

10 (1) Is under the influence of alcohol;

11 (2) Is impaired by alcohol;

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

14 (4) Is impaired by any controlled dangerous substance, as defined in §  
15 5–101 of the Criminal Law Article, unless the person is entitled to use the controlled  
16 dangerous substance under the laws of the State.

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

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

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

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

25 **(II) FOR THE PURPOSE OF DETERMINING SUBSEQUENT**  
26 **OFFENDER PENALTIES FOR A VIOLATION OF THIS SECTION, A PRIOR CONVICTION**  
27 **UNDER SUBSECTION (A) OF THIS SECTION OR § 21–902 OF THE TRANSPORTATION**  
28 **ARTICLE SHALL BE CONSIDERED A PRIOR CONVICTION.**

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19                  (3)    A person who violates this subsection is guilty of a misdemeanor and  
20 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
21 \$5,000 or both.

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

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

26                         (ii)    A violation of **§ 2-209**, § 2-503, § 2-504, § 2-505, § 2-506, or §  
27 3-211 of the Criminal Law Article.

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

31                  (3)    A person who violates this subsection is guilty of a misdemeanor and  
32 on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding  
33 \$10,000 or both.

34                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2023.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.