

## Chapter 553

**(Senate Bill 74)**

AN ACT concerning

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

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

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

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

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 21–902(a)(1), (b)(1), (c)(1), (d)(1), (e), (h), and (i)  
Annotated Code of Maryland  
(2020 Replacement Volume and 2022 Supplement)

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

**Article – Natural Resources**

8–738.

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

- (1) Is under the influence of alcohol;
- (2) Is impaired by alcohol;

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

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

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

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

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

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

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

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

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

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

(g) This section applies to the following:

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

(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 this State.

### Article – Transportation

21–902.

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

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

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

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

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

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

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

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

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

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

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

(c) (1) (i) A person may not drive or attempt to drive any vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs

and alcohol that the person cannot drive a vehicle safely.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Approved by the Governor, May 8, 2023.**