

**SB 74.pdf**

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SB 74

~~HB 875~~ Talking Points/Testimony

The goal of this bill is to assure that all defendants who conduct themselves in the same manner by driving under the influence or driving while impaired by alcohol or drugs, regardless of the vehicle utilized, are penalized in the same manner.

Currently, any prior conviction under Transportation Article §21-902, may be used to determine subsequent offender penalties for a new violation of the same article. This means a prior conviction for driving under the influence, driving under the influence per se, driving while impaired by alcohol, driving while impaired by drugs, or driving while impaired by a controlled dangerous substance, counts as a prior conviction. Two years ago, the General Assembly strengthened subsequent offender penalties for these types of convictions under Transportation Article §21-902 (HB 707).

However, prior convictions for operating, or attempting to operate, a vessel while under the influence or impaired do NOT enhance the penalties for a defendant who then drives, or attempts to drive, a vehicle while under the influence or impaired. As a result, a defendant who is convicted of operating a boat or other watercraft while drugged or drunk, is currently only exposed to a first time offender penalty, rather than a subsequent offender penalty, if they are subsequently convicted of driving a car drugged or drunk.

This extremely simple bill will close this loophole and make sure that there is accountability for individuals who choose to operate ANY vehicle while impaired or under the influence. This legislation would level the playing field so that individuals convicted of boating DUI offenses would have the same level of deterrence as those who are repeat vehicle DUI operators.

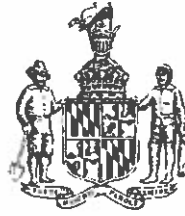
The current disparity in subsequent offender penalties perpetuates the attitude that operating watercraft while intoxicated is somehow less dangerous, or less serious, than operating a motor vehicle. Both are extremely dangerous activities that can cost lives. Individuals who drive any vehicle, whether on the land or the sea, while impaired or intoxicated should be held accountable for their repeat behavior.

# **Edward Leyden Testimony**

Uploaded by: Edward Leyden

Position: FAV

**AISHA N. BRAVEBOY**  
STATE'S ATTORNEY



**JASON B. ABBOTT**  
PRINCIPAL DEPUTY STATE'S ATTORNEY

**State's Attorney for Prince George's County**  
14735 Main Street, Suite M3403  
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301-952-3500

January 31, 2023

**Testimony in Support of**

**SB 74 – Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel –  
Prior Convictions**

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Dear Chairman Smith, Vice Chairman Waldstreicher, and Members of the Committee:

I am writing to show my strong support for Senate Bill (SB) 74 on behalf of State's Attorney Aisha Braveboy and to urge a favorable report. I am an Assistant State's Attorney in the Special Prosecutions Unit in the State's Attorney's Office for Prince George's County.

As a member of the Special Prosecutions Unit, I prosecute, among other offenses, vehicular homicides and impaired driving offenses that have resulted in serious bodily injuries. As a result, I am all too familiar with the reality that a large proportion of the defendants that this Office prosecutes for vehicular homicide and the like have had earlier encounters with the criminal justice system for impaired driving and similar offenses. Accordingly, one of the most effective prosecutorial tools at our disposal in such instances are the enhanced sentencing provisions available under the Maryland Code to address this type of chronically wanton conduct.

The provisions proposed under SB 74 to cross-reference sentencing enhancements between Maryland Code Annotated, Natural Resources Article (NR), Section 8-738, and Transportation Article (TR), Section 21-902, for grossly negligent or impaired operation of a vehicle or vessel, respectively, will help to strengthen these prosecutorial tools. For these reasons, among others, I strongly support SB 74.

As an additional point of clarification, the addition of a previous violation of Criminal Law Article (CR), Section 2-209 (Manslaughter by vehicle or vessel) as a sentencing enhancement to TR Section 21-902 should not be construed as conflating the conduct of wantonly and/or recklessly operating a vehicle or vessel, as punished under CR Section 2-209, with the impaired operation of a mode of transportation that TR Section 21-902 addresses. To be clear, the State is

not required to prove impairment to obtain a conviction under CR Section 2-209 because this statute targets particularly egregious conduct in operating a vehicle or vessel that causes the death of another person. By the same token, TR 21-902 sanctions impaired driving regardless of whether the defendant's driving was negligent. And, to complete the circle, CR Section 2-503 punishes an impaired driver whose negligence results in the death of another without the need to prove the kind of gross negligence necessary for a conviction under CR Section 2-209.

For the foregoing reasons, I respectfully urge a favorable report, and ultimately passage, on SB 74.

Sincerely,



Edward J. Leyden  
Assistant State's Attorney – Special Prosecutions Unit  
State's Attorney's Office for Prince George's County

**SenatorBailey\_SB74\_FAV.pdf**

Uploaded by: Jack Bailey

Position: FAV

JACK BAILEY  
Legislative District 29  
Calvert and St. Mary's Counties

Budget & Taxation Committee



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January 31, 2023

**Senate Bill 74 – Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel – Prior Convictions**

Dear Chairman Smith and Members of the Committee:

I am writing to introduce Senate Bill 74 – Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel – Prior Convictions. This legislation would strengthen Maryland's laws regarding drunk and drugged driving of vehicles or vessels and manslaughter while driving resulting from operating a vehicle in a grossly negligent manner through alterations to two parts of Maryland's statutes regarding these issues.

This bill resolves an inconsistency in how drunk or drugged driving and operating a boat while drunk or drugged are handled for the purposes of determining whether an individual is a subsequent offender. Under current law, convictions for drunk or drugged driving and operating a vehicle or vessel while under the influence of alcohol or while impaired by alcohol and/or drugs are considered separately when determining if an individual is a subsequent offender. Senate Bill 74 resolves that inconsistency by requiring a conviction for drunk or drugged driving be considered a prior conviction for the purposes of determining subsequent offender penalties for unlawfully operating or attempting to operate a vessel while under the influence of alcohol or while impaired by alcohol and/or drugs, and vice versa.

Senate Bill 74 also establishes that a person convicted of drunk and drugged driving offenses is subject to increased subsequent offender penalties if the person has previously been convicted of manslaughter by vehicle or vessel in a grossly negligent manner.

This legislation is based on a portion of a bill I sponsored during the last legislative session, Senate Bill 914. That bill included provisions increasing the penalties for some drunk driving offenses; those provisions are not included in Senate Bill 74, which is narrowly focused on ensuring the consistent treatment of repeat offenders. I know that this Committee are aware of what a serious issue this is for the residents of our State who deserve the assurance of being able to safely travel in our State.

I respectfully request a favorable report on Senate Bill 74. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey

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Uploaded by: Kurt Erickson

Position: FAV



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WASHINGTON REGIONAL ALCOHOL PROGRAM

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January 31, 2023

Members of the Judicial Proceedings Committee  
Maryland Senate  
Annapolis, Maryland

Re.: Support for "Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel - Prior Convictions," SB 74, Bailey, R-Calvert & St. Mary's Counties

**"Alcohol use is the leading known contributing factor in fatal boating" incidents.**

- U.S. Coast Guard ("2021 Recreational Boating Statistics")

Dear Senators:

On behalf of the Maryland nonprofit Washington Regional Alcohol Program's (WRAP) Board of Directors, staff, volunteers and the more than six-million Maryland residents we serve in the fight against drunk driving and underage drinking (including having served as project director of both Maryland's Checkpoint Strikeforce campaign and "Maryland Remembers" ceremony), I wanted to formally communicate to you **WRAP's unequivocal support for Senate Bill 74, "Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel – Prior Convictions"** (Bailey, R-Calvert & St. Mary's Counties).

Succinctly, SB 74 proposes to count previous boating under the influence convictions (BUI, Maryland Natural Resources Article 8-738) as prior convictions relative to Maryland's impaired driving statutes (21-902) when it comes to enhanced penalties for second or subsequent violations of Maryland's impaired driving laws.

(continued)



A coalition of diverse interests using effective education, innovative programs and targeted advocacy to end alcohol-impaired driving and underage drinking in the Washington, DC metro area.

A copy of WRAP's current financial statement is available by writing WRAP, 7900 Westpark Drive, Suite A550, Tysons, VA 22102 or by calling 703.893.0461. Background information is available on the WRAP Website. Donations are also possible for the cost of postage and return from the WRAP Care of Users, State House, Room 2111, 400 S. Capitol St., S.E., Washington, DC 20003.

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page two

While I look forward to better equating the two crimes when it comes to the uniform imposition of sanctions for either at today's Judicial Proceedings Committee hearing on such, quite simply, impaired driving is impaired driving whether it be on land or water. Indeed, impaired driving on land or water is a distinction without a difference as both are criminal behaviors which far too often have deadly consequences.

□□□□

In a state where nearly a third (30.7% in 2021, Maryland Department of Transportation Motor Vehicle Administration's Highway Safety Office) of traffic fatalities still involve drunk drivers – and where 2021 bore witness to Maryland posting increases in the number of drunk driving crashes (up 4.9%) and number of persons injured in said crashes (up 3.9%) (MDOT) -- the Maryland nonprofit Washington Regional Alcohol Program supports Senate Bill 74 as a means of equitably applying the state's DUI and BUI laws.

In as much, we thank you, in advance, for your consideration of favorably reporting this potentially lifesaving legislation. I may be directly reached with any questions at either 703-893-0461 or at [kurt@wrap.org](mailto:kurt@wrap.org).

Cordially,



Kurt Gregory Erickson  
President