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WRITTEN TESTIMONY IN SUPPORT OF SB 123

Boating Accidents – Duty to Remain at the Scene

On behalf of the Maryland State’s Attorneys’ Association, please accept this written testimony in support of Senate Bill 123, Boating Accidents – Duty to Remain at the Scene.

The intent of Senate Bill 585 is to bring the penalties for leaving the scene of boating accidents resulting in property damage, personal injury, serious physical injury or death in line with similar incidents involving vehicles on a highway.

Transportation Article §§20-102 et seq of the Annotated Code of Maryland are commonly known as the “Hit and Run” sections. The current penalties for the operator leaving the scene of a vehicle accident are listed below:

- Accident Involving Damage to Attended Vehicle or Property.....2 mos./\$500
- Accident Involving Unattended Vehicle or Other Property.....2 mos./\$500
- Accident Involving Bodily Injury.....1 year/\$3,000
- Accident Involving Serious Bodily Injury and Knew or Should Have Known there was Serious Bodily Injury.....5 years/\$5,000
- Accident Involving Death.....5 years/\$5,000
- Accident Involving Death and Knew or Should Have Known Death Would Result.....
10 years/\$10,000

In contrast, the current penalties for leaving the scene of a boating accident involving the same scenarios as above are so miniscule as to be bordering on the unimaginable. Those penalties are:

Duty to Remain at Scene of Boating Accident.....1st Offense - \$500 fine
2nd Offense - 1 yr/\$1,000

The odds of someone being twice convicted of leaving the scene of a boating accident are probably on par with winning Powerball.

Imagine the inequity of the following scenario: An impaired operator of a boat runs over and maims or kills a swimmer, renders no aid, and flees the scene. Quite possibly, the most they would face is a \$500 fine. Compare this to a boat operator who is operating his or her vessel while under the influence of or impaired by alcohol, under Natural Resources Article §8-738 and is not involved in any sort of accident:

Operating Vessel While Under the Influence of Alcohol.....1 year/\$1,000

Operating Vessel While Impaired by Alcohol and/or Drugs.....2 mos/\$500

There could be the possibility of an incidental charge of Reckless Boating under the Natural Resources Article §8-738.2, but that carries only a 30 day/\$200 fine for a first offense and 60 days/\$500 for a second or subsequent offenses.

Given the current state of the boating laws, an intoxicated boater who strikes and kills another individual would have absolutely no incentive to remain at the scene and attempt to render aid. If they remain at the scene, the intoxicated boater would be facing a myriad of possible charges, from Impaired Boating to Homicide by Vessel While Impaired, etc. If they flee from the scene and are not apprehended until after they sober up, it's possible the only Natural Resource Violations they could face would be Reckless Boating - if that could be proven – with its concomitant 30 day penalty.

Just to be clear, Manslaughter by Vessel under Criminal Law Article §2-209 and Criminal Negligence by Vessel under CR §2-210 are *possible* charges, but when it comes to boating incidents, these types of charges are *extremely* difficult to prove, especially if the only witness is deceased! For obvious reasons, evidence on a waterway is much more difficult to obtain than from a roadway.

Senate Bill 123, if passed, would finally bring the penalties for leaving the scene of a boating accident in line with those for leaving the scene of a vehicle accident. That makes perfect sense and for the reasons stated above, the Maryland State's Attorneys' Association strongly supports SB 123 and urges that it receive a favorable report.

Respectfully Submitted,

David Daggett,
Maryland State's Attorneys' Association