

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 707  
Judiciary

(Delegates Crutchfield and Dumais)

---

Manslaughter and Homicide by Vehicle or Vessel - Penalties

---

This bill increases the maximum incarceration penalties for those who commit the following offenses: (1) manslaughter by vehicle or vessel – gross negligence; (2) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; (3) homicide by motor vehicle or vessel while impaired by alcohol; (4) homicide by motor vehicle or vessel while impaired by drugs; and (5) homicide by motor vehicle or vessel while impaired by a controlled dangerous substance (CDS). The bill also increases the maximum incarceration penalties for subsequent offenders who commit the same offense; other specified homicide, manslaughter, or life-threatening injury by motor vehicle or vessel offenses; or alcohol- and/or drug-related driving offenses.

---

Fiscal Summary

**State Effect:** Minimal increase in general fund expenditures beginning in FY 2023 due to the bill’s penalty provisions. Revenues are not affected.

**Local Effect:** Enforcement can be handled with existing resources. Revenues are not affected.

**Small Business Effect:** None.

---

Analysis

**Bill Summary:** The bill increases maximum incarceration penalties as follows.

- *Manslaughter by Vehicle or Vessel – Gross Negligence:* For a first offense, the maximum term of imprisonment is increased from 10 to 15 years. For a subsequent

offense (after a previous conviction of the same or other specified offenses), the maximum term of imprisonment is increased from 15 to 20 years.

- *Homicide by Motor Vehicle or Vessel While Under the Influence:* For a first offense, the maximum term of imprisonment is increased from 5 to 15 years. For a subsequent offense (after a previous conviction of the same or other specified offenses), the maximum term of imprisonment is increased from 10 to 20 years.
- *Homicide by Motor Vehicle or Vessel While Impaired by Alcohol or Impaired by Alcohol and/or Drugs:* For a first offense, the maximum term of imprisonment is increased from 3 to 10 years. For a subsequent offense (after a previous conviction of the same or other specified offenses), the maximum term of imprisonment is increased from 5 to 15 years.
- *Homicide by Motor Vehicle or Vessel While Impaired by CDS:* For a first offense, the maximum term of imprisonment is increased from 5 to 15 years. For a subsequent offense (after a previous conviction of the same or other specified offenses), the maximum term of imprisonment is increased from 10 to 20 years.

**Current Law:** A “vehicle” includes a motor vehicle, streetcar, locomotive, engine, or train. A “motor vehicle” is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires and is not operated on rails. A “vessel” is any watercraft that is used or capable of being used as a means of transportation on water or ice, but it does not include a seaplane.

“Life-threatening injury” is not defined in statute.

“Under the influence of alcohol *per se*” means having an alcohol concentration at the time of testing of at least 0.08 as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. “Impaired by alcohol” means *prima facie* evidence as indicated, at the time of testing, by an alcohol concentration of at least 0.07, but less than 0.08, as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

*Homicide by Motor Vehicle or Vessel While Under the Influence:* A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*.

*Homicide by Motor Vehicle or Vessel While Impaired:* A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) so far impaired by a drug, any combination of

drugs, or any combination of drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (3) impaired by a CDS that the person is not entitled to use by State law.

*Manslaughter by Vehicle or Vessel – Gross Negligence:* A person is prohibited from committing manslaughter by vehicle or vessel by causing the death of another as a result of driving, operating, or controlling a vehicle or vessel in a grossly negligent manner. The standard of “gross negligence” is established in common law and requires that evidence show, beyond a reasonable doubt, that the offender had a wanton or reckless disregard for human life in the operation of an automobile or vessel. The conduct must be extraordinary or outrageous to meet this standard.

*Manslaughter by Vehicle or Vessel – Criminal Negligence:* A person is prohibited from causing the death of another due to driving, operating, or controlling a vehicle or vessel in “a criminally negligent manner.” A person acts in a criminally negligent manner when the person should be aware, but fails to perceive, that the person’s conduct creates a substantial and unjustifiable risk that manslaughter will occur and the failure to perceive is a gross deviation from the standard of care that would be exercised by a reasonable person.

*Life-threatening Injury by Motor Vehicle or Vessel Under the Influence:* A person may not cause life-threatening injury to another as a result of negligently operating or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*.

*Life-threatening Injury by Motor Vehicle or Vessel While Impaired:* A person may not cause life-threatening injury to another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) impaired by a drug, any combination of drugs, or any combination of drugs and alcohol; or (3) impaired by a CDS.

Penalties for first and subsequent offenses are shown in **Exhibit 1**.

---

**Exhibit 1**  
**Maximum Penalties for First Offenders and Maximum Penalties for Repeat Offenders**

<u>Offense</u>		Maximum Penalties		Maximum Penalties if Previously Convicted of Any Specified Offense		
		<u>Imprisonment</u>	<u>Fine</u>		<u>Imprisonment</u>	<u>Fine</u>
Manslaughter by vehicle or vessel – gross negligence	felony	10 years	\$5,000	felony	15 years	\$10,000
Manslaughter by vehicle or vessel – criminal negligence	misdemeanor	3 years	5,000	misdemeanor	5 years	10,000
Homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	felony	5 years	5,000	felony	10 years	10,000
Homicide by motor vehicle or vessel while impaired by alcohol	felony	3 years	5,000	felony	5 years	10,000
Homicide by motor vehicle or vessel while impaired by drugs	felony	3 years	5,000	felony	5 years	10,000
Homicide by motor vehicle or vessel while impaired by a CDS	felony	5 years	5,000	felony	10 years	10,000
Causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i> or while impaired by a CDS	misdemeanor	3 years	5,000	misdemeanor	5 years	10,000
Causing life-threatening injury by motor vehicle or vessel while impaired by alcohol or drugs	misdemeanor	2 years	3,000	misdemeanor	5 years	10,000

CDS: controlled dangerous substance

Notes: Chapters 517 and 518 of 2016 established subsequent offender offenses and more stringent penalties for these offenses. Chapters 167 and 168 of 2017 increased the maximum incarceration penalties for homicide by motor vehicle or vessel while impaired by a CDS. Maximum penalties may be the imprisonment term noted, the fine noted, or both. Maximum penalties for repeat offenders apply if previously convicted of the same offense, any other offense listed in this exhibit, or driving while under the influence of alcohol, while under the influence of alcohol *per se*, while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a CDS.

Source: Department of Legislative Services

---

*Driving Under the Influence of Alcohol or While Impaired by Alcohol/Drugs/Controlled Dangerous Substance:* A person may not drive or attempt to drive any vehicle while:

- under the influence of alcohol or under the influence of alcohol *per se*;
- impaired by alcohol;
- impaired by a drug, any combination of drugs, or any combination of drugs and alcohol; or
- impaired by a CDS.

With a conviction for an alcohol- and/or drug-related driving offense under the Transportation Article, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or revocation of the driver's license by the Motor Vehicle Administration (MVA). A person convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years – depending on whether it is a first or subsequent offense. A repeat conviction or convictions within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as specified, as well as a mandatory alcohol or drug abuse assessment.

A conviction for lesser included offenses subjects the violator to a fine of up to \$500 and/or imprisonment for up to two months. However, for repeat offenders, maximum fines increase to \$3,000 and maximum prison terms increase to three years. If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

*Administrative Penalties:* In addition to the maximum penalties noted in Exhibit 1, all of the listed offenses are subject to points assessment by MVA, which makes the driver subject to either suspension or revocation of the driver's license.

For convictions for all manslaughter by vehicle or vessel, homicide by motor vehicle or vessel, and life-threatening injury by motor vehicle or vessel offenses, MVA must assess 12 points against the driver's license, and the license is subject to revocation. A conviction for driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS also requires assessment of 12 points against the license by MVA, and the license is subject to revocation. A conviction for driving while impaired by alcohol or impaired by a drug, any combination of drugs, or any combination of drugs and alcohol requires assessment of 8 points against the driver's license by MVA, and the license is subject to suspension. A driver who accumulates 8 or 12 points against his or her driver's license within a two-year period is subject to license suspension or revocation, respectively.

**Background:** Exhibit 2 shows the sentencing and incarceration information from the circuit courts, for fiscal 2018, for homicide, manslaughter, and life-threatening injury by vehicle or vessel offenses.

---

**Exhibit 2**  
**Fiscal 2018 Sentencing and Incarceration Rates for Homicide, Manslaughter, and Life-threatening Injury by Motor Vehicle or Vessel Offenses**

<u>Offense</u>	<u>Number of Persons Sentenced</u>	<u>Number of Counts</u>	<u>Average Length of Incarceration</u>
Homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	5	5	3.24 years
Homicide by motor vehicle or vessel while impaired by alcohol, drugs, or a CDS	2	2	2.16 years
Manslaughter by vehicle or vessel – gross negligence	16	18	3.48 years
Manslaughter by vehicle or vessel – criminal negligence	17	18	1.13 years
Life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	2	2	1.37 years
Life-threatening injury by motor vehicle or vessel while impaired by alcohol	1	1	.03 years

CDS: controlled dangerous substance

Note: Information reflects those cases heard in the circuit courts.

Source: Maryland State Commission on Criminal Sentencing Policy

---

Additionally, in fiscal 2018, there were 5,130 guilty dispositions for alcohol- and/or drug-related driving offenses in the District Court. Further, according to the Department of Public Safety and Correctional Services, in fiscal 2018, there were 14 intakes for homicide by motor vehicle or vessel while under the influence of alcohol or while impaired by alcohol with an average sentence of 8.4 years. None was for subsequent offenses.

**State Expenditures:** General fund expenditures increase minimally beginning in fiscal 2023 as a result of the bill’s incarceration penalties due to people being committed

to State correctional facilities for longer periods of time, to the extent that judges impose longer sentences under the bill. The number of people convicted and subject to the increased penalties under the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

---

### **Additional Information**

**Prior Introductions:** HB 324 of 2018 was withdrawn. HB 393 of 2017 received a hearing in the House Judiciary Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2019  
mm/kdm

---

Analysis by: Amber R. Gundlach

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510