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HOUSE BILL NO. 1756

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 21, 2005)

(Patron Prior to Substitute—Delegate Janis)

A BILL to amend and reenact § 18.2-36.1 of the Code of Virginia, relating to manslaughter caused by operation of watercraft; penalties.

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-36.1 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-36.1. Certain conduct punishable as involuntary manslaughter.

A. Any person who, as a result of driving under the influence in violation of clause (ii), (iii), or (iv) of § 18.2-266 or any local ordinance substantially similar thereto unintentionally causes the death of another person, shall be guilty of involuntary manslaughter.

A1. Any person who, as a result of operating a watercraft or motorboat in violation of clause (ii), (iii), or (iv) of subsection B of § 29.1-738, unintentionally causes the death of another person, is guilty of involuntary manslaughter.

B. If, in addition, the conduct of the defendant was so gross, wanton and culpable as to show a reckless disregard for human life, he shall be guilty of aggravated involuntary manslaughter, a felony punishable by a term of imprisonment of not less than one nor more than 20 years, one year of which shall be a mandatory minimum term of imprisonment.

C. The provisions of this section shall not preclude prosecution under any other homicide statute. This section shall not preclude any other revocation or suspension required by law. The driver's license of any person convicted under ~~this section~~ subsection A shall be revoked pursuant to subsection B of § 46.2-391. *The court shall order any person convicted under subsection A1 not to operate a watercraft or motorboat that is underway upon the waters of the Commonwealth for a period of 12 months.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.