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**HOUSE BILL NO. 2978****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice  
on February 7, 2007)

(Patron Prior to Substitute—Delegate Bell)

A *BILL to amend and reenact § 19.2-187.02 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-51.5, relating to maiming of another from operating a watercraft while intoxicated; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-187.02 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-51.5 as follows:**

*§ 18.2-51.5. Maiming, etc., of another resulting from operating a watercraft while intoxicated; penalty.*

*A. Any person who, as a result of operating a watercraft or motorboat in violation of subsection B of § 29.1-738 or a similar local ordinance in a manner so gross, wanton, and culpable as to show reckless disregard for human life, unintentionally causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony. The court shall order any person convicted under this section not to operate a watercraft or motorboat that is underway upon the waters of the Commonwealth. After two years have passed from the date of the conviction, the convicted person may petition the court that entered the conviction for the right to operate a watercraft or motorboat upon the waters of the Commonwealth. Upon consideration of such petition, the court may restore the right to operate a watercraft or motorboat subject to such terms and conditions as the court deems appropriate, including the successful completion of a water safety alcohol rehabilitation program described in § 29.1-738.5.*

*B. The provisions of Article 3 (§ 29.1-734 et seq.) of Chapter 7 of Title 29.1 shall apply, mutatis mutandis, upon arrest for a violation of this section.*

*§ 19.2-187.02. Admissibility of written reports or records of blood alcohol tests conducted in the regular course of providing emergency medical treatment.*

*A. Notwithstanding any other provision of law, the written reports or records of blood alcohol tests conducted upon persons receiving medical treatment in a hospital or emergency room are admissible in evidence as a business records exception to the hearsay rule in prosecutions for any violation of § 18.2-266 (driving while intoxicated) or a substantially similar local ordinance, § 18.2-36.1 (involuntary manslaughter resulting from driving while intoxicated), § 18.2-36.2 (involuntary manslaughter resulting from boating while intoxicated), § 18.2-51.4 (maiming resulting from driving while intoxicated), § 18.2-51.5 (maiming resulting from boating while intoxicated), § 29.1-738 (boating while intoxicated), or § 46.2-341.24 (driving a commercial vehicle while intoxicated).*

*B. The provisions of law pertaining to confidentiality of medical records and medical treatment shall not be applicable to reports or records of blood alcohol tests sought or admitted as evidence under the provisions of this section in prosecutions as specified in subsection A. Owners or custodians of such reports or records may disclose them, in accordance with regulations concerning patient privacy promulgated by the U.S. Department of Health and Human Services, without obtaining consent or authorization for such disclosure. No person who is involved in taking blood or conducting blood alcohol tests shall be liable for civil damages for breach of confidentiality or unauthorized release of medical records because of the evidentiary use of blood alcohol test results under this section, or as a result of that person's testimony given pursuant to this section.*

**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.**

SENATE SUBSTITUTE

HB2978S1