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HOUSE BILL NO. 1941

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on February 11, 2019)

(Patron Prior to Substitute—Delegate Bell, Robert B.)

A BILL to amend and reenact §§ 18.2-51.4 and 18.2-51.5 of the Code of Virginia, relating to maiming, etc., of another; driving while intoxicated; operating a watercraft while intoxicated; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-51.4 and 18.2-51.5 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-51.4. Maiming, etc., of another resulting from driving while intoxicated.

A. Any person who, as a result of driving while intoxicated in violation of § 18.2-266 or any local ordinance substantially similar thereto in a manner so gross, wanton, and culpable as to show a reckless disregard for human life, unintentionally causes the serious bodily injury of another person is guilty of a Class 6 felony.

B. Any person who, as a result of driving while intoxicated in violation of § 18.2-266 or any local ordinance substantially similar thereto in a manner so gross, wanton, and culpable as to show a reckless disregard for human life, unintentionally causes the serious bodily injury of another person resulting in permanent and significant physical impairment shall be is guilty of a Class 6 4 felony.

C. The driver's license of any person convicted under this section shall be revoked pursuant to subsection B of § 46.2-391.

~~B. D.~~ The provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 shall apply, mutatis mutandis, upon arrest for a violation of this section.

E. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

§ 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 is guilty of a Class 6 felony.

B. 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 4 felony.

C. 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. D.~~ 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.

E. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

SENATE SUBSTITUTE

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