

~~make the person incapable of safely operating a vessel, it is not a defense to any charge of violating this section that the person is or was entitled to use the alcohol, drug, combination of drugs, or combination of drugs and alcohol under the laws of this State.~~

(C) IT IS NOT A DEFENSE TO A CHARGE OF VIOLATING SUBSECTION (A)(3) OF THIS SECTION THAT THE PERSON CHARGED IS OR WAS ENTITLED UNDER THE LAWS OF THIS STATE TO USE THE DRUG, COMBINATION OF DRUGS, OR COMBINATION OF 1 OR MORE DRUGS AND ALCOHOL, UNLESS THE PERSON WAS UNAWARE THAT THE DRUG OR COMBINATION WOULD MAKE THE PERSON INCAPABLE OF SAFELY OPERATING A VESSEL.

(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A PERSON WHO VIOLATES PARAGRAPH (1) OF SUBSECTION (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION:

(I) FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH;

(II) FOR A SECOND OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$2,000 OR IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR BOTH; AND

(III) FOR A THIRD OR SUBSEQUENT OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$3,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A PERSON WHO VIOLATES PARAGRAPH (2), (3), OR (4) OF SUBSECTION (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION:

(I) FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 2 MONTHS OR BOTH; AND

(II) FOR A SECOND OR SUBSEQUENT OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT OF NOT MORE THAN 1 YEAR OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1990.

Approved May 2, 1990.