
By: **Delegates Menes and Vallario**

Introduced and read first time: February 21, 2000

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Punitive Damages - High Risk Drunk Drivers**

3 FOR the purpose of providing that a finder of fact may determine that a person who
4 causes personal injury or wrongful death while driving or attempting to drive a
5 motor vehicle was acting with malice and award punitive damages under
6 certain circumstances; requiring a party who seeks to recover punitive damages
7 under this Act to plead certain facts with particularity; providing for a standard
8 of proof of clear and convincing evidence for a claim of punitive damages under
9 this Act; providing that punitive damages under this Act may not be awarded in
10 the absence of an award of compensatory damages; providing that evidence of
11 the defendant's financial means is not admissible until there has been a finding
12 of liability and that punitive damages under this Act are supportable under the
13 facts; authorizing a motor vehicle insurer to exclude coverage for an award of
14 punitive damages under this Act; providing that an exclusion of certain coverage
15 for punitive damages does not constitute a reduction in coverage by a motor
16 vehicle liability insurer; defining a certain term; providing for the application of
17 this Act; and generally relating to authorizing a trier of fact to determine that a
18 person who causes personal injury or wrongful death while driving or
19 attempting to drive while intoxicated was acting with malice and award
20 punitive damages under certain circumstances.

21 BY adding to
22 Article - Courts and Judicial Proceedings
23 Section 10-913.1
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 1999 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 10-913.1.

3 (A) IN THIS SECTION "MOTOR VEHICLE" HAS THE SAME MEANING STATED IN §
4 11-135 OF THE TRANSPORTATION ARTICLE.

5 (B) THIS SECTION DOES NOT AFFECT THE PROVISIONS OF:

6 (1) THE LOCAL GOVERNMENT TORTS CLAIMS ACT UNDER TITLE 5,
7 SUBTITLE 3 OF THIS ARTICLE; OR8 (2) THE MARYLAND TORT CLAIMS ACT UNDER TITLE 12 OF THE STATE
9 GOVERNMENT ARTICLE.10 (C) SUBJECT TO THE PROVISIONS OF THIS SECTION, A FINDER OF FACT MAY
11 DETERMINE THAT A PERSON WHO CAUSES PERSONAL INJURY OR WRONGFUL DEATH
12 WAS ACTING WITH MALICE AND AWARD PUNITIVE DAMAGES IF THE PERSON CAUSES
13 PERSONAL INJURY OR WRONGFUL DEATH WHILE DRIVING OR ATTEMPTING TO
14 DRIVE A MOTOR VEHICLE:15 (1) WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.16 OR MORE AS
16 MEASURED BY GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD OR GRAMS OF
17 ALCOHOL PER 210 LITERS OF BREATH; OR18 (2) WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.10 OR MORE AS
19 MEASURED BY GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD OR GRAMS OF
20 ALCOHOL PER 210 LITERS OF BREATH, AND THE PERSON:21 (I) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE PERSON'S
22 LICENSE TO DRIVE WAS SUSPENDED OR REVOKED UNDER § 16-205 OF THE
23 TRANSPORTATION ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE STATUTE;24 (II) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE PERSON'S
25 LICENSE TO DRIVE WAS SUSPENDED UNDER § 16-205.1 OF THE TRANSPORTATION
26 ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE STATUTE;27 (III) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE PERSON'S
28 LICENSE TO DRIVE WAS SUSPENDED OR REVOKED FOR AN ACCUMULATION OF
29 POINTS UNDER § 16-402(A)(23), (31), OR (32) OF THE TRANSPORTATION ARTICLE OR A
30 COMPARABLE FEDERAL OR OTHER STATE STATUTE; OR31 (IV) WITHIN THE PAST 5 YEARS, WAS CONVICTED, ENTERED A PLEA
32 OF NOLO CONTENDERE, OR RECEIVED PROBATION BEFORE JUDGMENT UNDER:

33 1. § 21-902 OF THE TRANSPORTATION ARTICLE;

34 2. ARTICLE 27, § 388A OF THE CODE;

35 3. ARTICLE 27, § 388B OF THE CODE; OR

