

SENATE BILL 383

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R3

2003 Regular Session
(31r0269)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Ruben, Giannetti, Hollinger, Jimeno, Lawlah, and
~~Teitelbaum~~ Teitelbaum, Brochin, Forehand, Haines, and Jacobs**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 376

1 AN ACT concerning

2 ~~**Drunk and Drugged Driving**~~ **Alcohol- or Drug-Related Offenses - Custodian**
3 **Liability Warning - Offender Detention - Vehicle Impoundment Prohibition**
4 **on Driving(John's Law)**

5 FOR the purpose of ~~requiring law enforcement agencies to provide certain custodians~~
6 ~~with a written statement advising of potential criminal or civil liability for~~
7 ~~allowing or facilitating a person who has been arrested for a certain drunk or~~
8 ~~drugged driving violation to operate a motor vehicle while the person remains~~
9 ~~under the influence of alcohol or impaired by alcohol or drugs; requiring a~~
10 ~~custodian to acknowledge, in writing, receipt of the statement or, if the~~
11 ~~custodian refuses, requiring the law enforcement agency to record that the~~
12 ~~statement was provided but the custodian refused to sign an acknowledgment;~~
13 ~~requiring a law enforcement officer to detain certain persons based on probable~~
14 ~~cause of a violation of certain drunk or drugged driving offenses for a certain~~
15 ~~period of time; requiring the arresting law enforcement agency to impound for a~~
16 ~~certain period the motor vehicle that the arrestee was operating at the time of~~

1 the arrest; establishing requirements for the release of a motor vehicle
 2 impounded under this Act; requiring the Attorney General to perform certain
 3 duties and adopt certain regulations; clarifying that this Act does not impose a
 4 duty on certain physicians or other health care providers; defining certain
 5 terms; and generally relating to prohibiting a person who is arrested for certain
 6 alcohol- or drug-related offenses from driving a motor vehicle for a certain
 7 period; providing for an assessment of points against an individual and certain
 8 penalties for a violation of this Act; and generally relating to a prohibition
 9 against driving a motor vehicle for a certain period after an arrest for certain
 10 drunk or drugged driving offenses.

11 BY repealing and reenacting, with amendments,
 12 Article - Transportation
 13 Section 16-402(a)(24) and 27-101(c)(25) and (26)
 14 Annotated Code of Maryland
 15 (2002 Replacement Volume)

16 BY adding to
 17 Article - Transportation
 18 Section 21-902.1 and 27-101(c)(26)
 19 Annotated Code of Maryland
 20 (2002 Replacement Volume)

21 **Preamble**

22 ~~WHEREAS, John Elliott, a distinguished member of the United States Naval~~
 23 ~~Academy Class of 2000, was killed by a drunken driver while driving from Annapolis,~~
 24 ~~Maryland to New Jersey on July 22, 2000; and~~

25 ~~WHEREAS, The person whose car struck John's car had been arrested on a~~
 26 ~~drunk driving charge 3 hours earlier and released to the custody of a friend, but~~
 27 ~~nevertheless had resumed driving until the accident killed both men and injured~~
 28 ~~Kristen Hohenwarter of Westminster, Maryland; and~~

29 ~~WHEREAS, In the aftermath of John's death, the General Assembly believes it~~
 30 ~~important to enact a law, such as one recently enacted in New Jersey, that helps~~
 31 ~~protect innocent individuals such as John Elliott from drunk or drugged drivers who~~
 32 ~~resume driving shortly after they are arrested; now, therefore,~~

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

35 **Article - Transportation**

36 16-402.

37 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §
 38 2-209, or § 3-211 of the Criminal Law Article, or of the vehicle laws or regulations of

1 this State or of any local authority, points shall be assessed against the individual as
 2 of the date of violation and as follows:

3 (24) Driving while impaired by alcohol or while impaired by a drug,
 4 combination of drugs, or a combination of one or more drugs and alcohol. OR DRIVING
 5 WITHIN 12 HOURS AFTER ARREST UNDER § 21-902.1 OF THIS ARTICLE 8 points

6 21-902.1.

7 (A) ~~(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 8 ~~INDICATED.~~

9 ~~(2) IN THIS SECTION, "ARRESTEE" MEANS A PERSON WHO HAS BEEN~~
 10 ~~ARRESTED FOR A VIOLATION OF § 21-902 OF THIS SUBTITLE OR TITLE 2, SUBTITLE 5~~
 11 ~~OR § 3-211 OF THE CRIMINAL LAW ARTICLE.~~

12 (B) AN ARRESTEE MAY NOT DRIVE A MOTOR VEHICLE WITHIN 12 HOURS
 13 AFTER THE ARRESTEE'S ARREST FOR A VIOLATION OF § 21-902 OF THIS SUBTITLE OR
 14 TITLE 2, SUBTITLE 5 OR § 3-211 OF THE CRIMINAL LAW ARTICLE.

15 ~~(3) "CUSTODIAN" MEANS A PERSON WHO, IN RESPONSE TO A SUMMONS~~
 16 ~~BY OR ON BEHALF OF AN ARRESTEE, APPEARS AT A LAW ENFORCEMENT AGENCY TO~~
 17 ~~TRANSPORT OR ACCOMPANY THE ARRESTEE FROM THE LAW ENFORCEMENT~~
 18 ~~AGENCY.~~

19 ~~(B) (1) A LAW ENFORCEMENT AGENCY SHALL PROVIDE A CUSTODIAN WITH~~
 20 ~~A WRITTEN STATEMENT ADVISING OF POTENTIAL CRIMINAL LIABILITY UNDER §~~
 21 ~~26-101 OF THIS ARTICLE OR CIVIL LIABILITY FOR ALLOWING OR FACILITATING THE~~
 22 ~~ARRESTEE'S OPERATION OF A MOTOR VEHICLE WHILE THE ARRESTEE REMAINS:~~

23 ~~(I) UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE~~
 24 ~~INFLUENCE OF ALCOHOL PER SE;~~

25 ~~(II) IMPAIRED BY ALCOHOL;~~

26 ~~(III) IMPAIRED BY DRUGS OR DRUGS AND ALCOHOL; OR~~

27 ~~(IV) IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.~~

28 ~~(2) (I) THE CUSTODIAN SHALL ACKNOWLEDGE, IN WRITING, RECEIPT~~
 29 ~~OF THE STATEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

30 ~~(II) IF THE CUSTODIAN REFUSES TO ACKNOWLEDGE RECEIPT OF~~
 31 ~~THE STATEMENT, THE LAW ENFORCEMENT AGENCY SHALL RECORD THAT THE~~
 32 ~~STATEMENT WAS PROVIDED BUT THE CUSTODIAN REFUSED TO SIGN AN~~
 33 ~~ACKNOWLEDGMENT.~~

34 (C) EXCEPT AS OTHERWISE AUTHORIZED UNDER LAW, A LAW ENFORCEMENT
 35 OFFICER SHALL DETAIN AN ARRESTEE BASED ON PROBABLE CAUSE THAT THE

~~1 ARRESTEE VIOLATED § 21-902 OF THIS SUBTITLE, FOR A PERIOD UNTIL THE LATER
2 OF:~~

~~3 (1) 12 HOURS AFTER THE ARREST; OR~~

~~4 (2) THE TIME THE ARRESTEE IS ABLE TO OPERATE A MOTOR VEHICLE
5 SAFELY WITHOUT VIOLATING ANY PROVISION OF THIS ARTICLE.~~

~~6 (D) THE ARRESTING LAW ENFORCEMENT AGENCY SHALL IMPOUND THE
7 MOTOR VEHICLE THAT THE ARRESTEE WAS OPERATING WHEN ARRESTED AND MAY
8 NOT RELEASE THE MOTOR VEHICLE TO THE ARRESTEE UNTIL THE LATER OF:~~

~~9 (1) 12 HOURS AFTER THE ARREST; OR~~

~~10 (2) THE TIME THE ARRESTEE MEETS THE CONDITIONS OF SUBSECTION
11 (F) OF THIS SECTION.~~

~~12 (E) A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY BE RELEASED
13 TO A PERSON OTHER THAN THE ARRESTEE BEFORE THE END OF THE IMPOUNDMENT
14 PERIOD DESCRIBED UNDER SUBSECTION (D) OF THIS SECTION ONLY IF:~~

~~15 (1) THE MOTOR VEHICLE IS NOT OWNED OR LEASED BY THE ARRESTEE
16 AND THE PERSON WHO OWNS OR LEASES THE MOTOR VEHICLE CLAIMS THE MOTOR
17 VEHICLE AND MEETS THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (F)
18 OF THIS SECTION; OR~~

~~19 (2) (I) THE MOTOR VEHICLE IS OWNED OR LEASED BY THE ARRESTEE;~~

~~20 (II) THE ARRESTEE ALLOWS THE RELEASE OF THE MOTOR
21 VEHICLE TO ANOTHER PERSON WHO HAS ACKNOWLEDGED, IN WRITING, RECEIPT OF
22 THE STATEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION; AND~~

~~23 (III) THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (E)
24 OF THIS SECTION ARE MET.~~

~~25 (F) A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY NOT BE
26 RELEASED UNLESS THE PERSON CLAIMING THE MOTOR VEHICLE:~~

~~27 (1) PRESENTS A VALID DRIVER'S LICENSE, PROOF OF OWNERSHIP OF OR
28 LAWFUL AUTHORITY TO OPERATE THE MOTOR VEHICLE, AND PROOF OF VALID
29 MOTOR VEHICLE INSURANCE FOR THAT MOTOR VEHICLE;~~

~~30 (2) IS ABLE TO OPERATE THE MOTOR VEHICLE SAFELY WITHOUT
31 VIOLATING ANY PROVISION OF THIS ARTICLE; AND~~

~~32 (3) SUBJECT TO REVIEW BY THE DISTRICT COURT, MEETS ANY OTHER
33 REASONABLE CONDITION FOR RELEASE THAT IS ESTABLISHED BY THE LAW
34 ENFORCEMENT AGENCY.~~

~~35 (G) A LAW ENFORCEMENT AGENCY THAT IMPOUNDS A MOTOR VEHICLE
36 UNDER THIS SECTION MAY CHARGE A REASONABLE FEE FOR TOWING AND STORAGE~~

1 OF THE MOTOR VEHICLE AND MAY RETAIN THE MOTOR VEHICLE UNTIL THE FEE IS
2 PAID.

3 (H) ~~THE ATTORNEY GENERAL SHALL:~~

4 (1) ~~ESTABLISH THE CONTENT AND FORM OF THE WRITTEN STATEMENT~~
5 ~~OF LIABILITY AND ACKNOWLEDGMENT OF RECEIPT DESCRIBED UNDER SUBSECTION~~
6 ~~(B) OF THIS SECTION; AND~~

7 (2) ~~ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

8 (I) ~~THIS SECTION DOES NOT IMPOSE A DUTY ON A PHYSICIAN OR OTHER~~
9 ~~HEALTH CARE PROVIDER INVOLVED IN THE TREATMENT OR EVALUATION OF THE~~
10 ~~ARRESTEE.~~

11 27-101.

12 (c) Any person who is convicted of a violation of any of the provisions of the
13 following sections of this article is subject to a fine of not more than \$500 or
14 imprisonment for not more than 2 months or both:

15 (25) Except as provided in subsections (f) and (q) of this section, §
16 21-902(d) ("Driving while impaired by controlled dangerous substance"); [or]

17 (26) § 21-902.1 ("DRIVING WITHIN 12 HOURS AFTER ARREST"); OR

18 [(26)] (27) § 27-107(d), (e), (f), or (g) (Prohibited acts - Ignition interlock
19 systems").

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect October 1, 2003.