

# SENATE BILL 605

D3, R3  
SB 351/12 – JPR

5lr1749

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By: **Senators Raskin, Astle, Benson, Conway, Currie, DeGrange, Feldman, Ferguson, Gladden, Guzzone, Jennings, Kagan, Kasemeyer, King, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Miller, Montgomery, Peters, Pinsky, Pugh, Ramirez, Rosapepe, Waugh, Young, and Zirkin**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Aggressive Drunk Driving – Punitive Damages**

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

22 BY adding to  
23 Article – Courts and Judicial Proceedings  
24 Section 10–913.1  
25 Annotated Code of Maryland  
26 (2013 Replacement Volume and 2014 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 **10-913.1.**

5 (A) IN THIS SECTION, “MOTOR VEHICLE” HAS THE MEANING STATED IN §  
6 11-135 OF THE TRANSPORTATION ARTICLE.

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

8 (1) THE LOCAL GOVERNMENT TORTS CLAIMS ACT UNDER TITLE 5,  
9 SUBTITLE 3 OF THIS ARTICLE; OR

10 (2) THE MARYLAND TORT CLAIMS ACT UNDER TITLE 12, SUBTITLE  
11 1 OF THE STATE GOVERNMENT ARTICLE.

12 (C) SUBJECT TO THE PROVISIONS OF THIS SECTION, A FINDER OF FACT MAY  
13 DETERMINE THAT A PERSON WHO CAUSES PERSONAL INJURY OR WRONGFUL DEATH  
14 WAS ACTING WITH MALICE AND AWARD PUNITIVE DAMAGES IF THE PERSON CAUSES  
15 PERSONAL INJURY OR WRONGFUL DEATH WHILE DRIVING OR ATTEMPTING TO  
16 DRIVE A MOTOR VEHICLE:

17 (1) WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE  
18 AS MEASURED BY GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD OR GRAMS  
19 OF ALCOHOL PER 210 LITERS OF BREATH; OR

20 (2) WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE  
21 AS MEASURED BY GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD OR GRAMS  
22 OF ALCOHOL PER 210 LITERS OF BREATH, AND THE PERSON:

23 (I) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE  
24 PERSON’S LICENSE TO DRIVE WAS SUSPENDED OR REVOKED UNDER § 16-205 OF  
25 THE TRANSPORTATION ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE  
26 STATUTE;

27 (II) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE  
28 PERSON’S LICENSE TO DRIVE WAS SUSPENDED UNDER § 16-205.1 OF THE  
29 TRANSPORTATION ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE  
30 STATUTE;

1 (III) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE  
2 PERSON'S LICENSE TO DRIVE WAS SUSPENDED OR REVOKED BASED ON AN  
3 ACCUMULATION OF POINTS UNDER § 16-402(A)(25), (33), OR (34) OF THE  
4 TRANSPORTATION ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE  
5 STATUTE; OR

6 (IV) WITHIN THE PAST 5 YEARS, WAS CONVICTED, ENTERED A  
7 PLEA OF NOLO CONTENDERE, OR RECEIVED PROBATION BEFORE JUDGMENT  
8 UNDER:

9 1. § 21-902 OF THE TRANSPORTATION ARTICLE;

10 2. § 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF THE  
11 CRIMINAL LAW ARTICLE; OR

12 3. A COMPARABLE OFFENSE TO AN OFFENSE SPECIFIED  
13 IN ITEM 1 OR 2 OF THIS ITEM UNDER A FEDERAL OR OTHER STATE STATUTE.

14 (D) A CLAIM FOR PUNITIVE DAMAGES UNDER THIS SECTION:

15 (1) SHALL BE PLEADED, BY COMPLAINT OR AMENDMENT, WITH  
16 FACTS SUPPORTING THE CLAIM WITH SUFFICIENT PARTICULARITY TO ESTABLISH  
17 THAT THE PARTY MAY BE ENTITLED TO PUNITIVE DAMAGES UNDER THIS SECTION;

18 (2) SHALL BE PROVED BY CLEAR AND CONVINCING EVIDENCE;

19 (3) MAY NOT BE AWARDED IN THE ABSENCE OF AN AWARD OF  
20 COMPENSATORY DAMAGES; AND

21 (4) SHALL COMPLY WITH THE PROVISIONS OF § 10-913 OF THIS  
22 SUBTITLE.

23 (E) (1) A MOTOR VEHICLE LIABILITY INSURER MAY EXCLUDE COVERAGE  
24 FOR PUNITIVE DAMAGES AWARDED UNDER THIS SECTION.

25 (2) AN EXCLUSION OF COVERAGE FOR PUNITIVE DAMAGES UNDER  
26 PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONSTITUTE A REDUCTION IN  
27 COVERAGE BY THE MOTOR VEHICLE LIABILITY INSURER.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
29 apply only prospectively and may not be applied or interpreted to have any effect on or  
30 application to any cause of action arising before the effective date of this Act.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2015.