

SENATE BILL 605

D3, R3
SB 351/12 – JPR

5lr1749

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2015

CHAPTER _____

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; limiting liability for punitive damages under this
14 Act to the person driving or attempting to drive the motor vehicle; authorizing a
15 motor vehicle insurer to exclude coverage for an award of punitive damages under
16 this Act; providing that an exclusion of certain coverage for punitive damages does
17 not constitute a reduction in coverage by a motor vehicle liability insurer; defining a
18 certain term; providing for the application of this Act; and generally relating to
19 authorizing a finder of fact to determine that a person who causes personal injury or
20 wrongful death while driving or attempting to drive with a certain alcohol

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 concentration in the blood or breath of the person was acting with malice and to
2 award punitive damages under certain circumstances.

3 BY adding to

4 Article – Courts and Judicial Proceedings

5 Section 10–913.1

6 Annotated Code of Maryland

7 (2013 Replacement Volume and 2014 Supplement)

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

10 **Article – Courts and Judicial Proceedings**

11 **10–913.1.**

12 (A) IN THIS SECTION, “MOTOR VEHICLE” HAS THE MEANING STATED IN §
13 11–135 OF THE TRANSPORTATION ARTICLE.

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

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

17 (2) THE MARYLAND TORT CLAIMS ACT UNDER TITLE 12, SUBTITLE
18 1 OF THE STATE GOVERNMENT ARTICLE.

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

24 ~~(1) WHILE~~ **WHILE** HAVING AN ALCOHOL CONCENTRATION OF 0.15 OR
25 MORE AS MEASURED BY GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD OR
26 GRAMS OF ALCOHOL PER 210 LITERS OF BREATH; ~~OR~~

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

30 ~~(i) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE~~
31 ~~PERSON’S LICENSE TO DRIVE WAS SUSPENDED OR REVOKED UNDER § 16 205 OF~~
32 ~~THE TRANSPORTATION ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE~~
33 ~~STATUTE;~~

1 ~~(II) WAS DRIVING OR ATTEMPTING TO DRIVE WHILE THE~~
2 ~~PERSON'S LICENSE TO DRIVE WAS SUSPENDED UNDER § 16-205.1 OF THE~~
3 ~~TRANSPORTATION ARTICLE OR A COMPARABLE FEDERAL OR OTHER STATE~~
4 ~~STATUTE;~~

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

10 ~~(IV) WITHIN THE PAST 5 YEARS, WAS CONVICTED, ENTERED A~~
11 ~~PLEA OF NOLO CONTENDERE, OR RECEIVED PROBATION BEFORE JUDGMENT~~
12 ~~UNDER:~~

13 ~~1. § 21-902 OF THE TRANSPORTATION ARTICLE;~~

14 ~~2. § 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF THE~~
15 ~~CRIMINAL LAW ARTICLE; OR~~

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

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

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

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

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

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

27 (E) LIABILITY FOR PUNITIVE DAMAGES UNDER THIS SECTION SHALL BE
28 LIMITED SOLELY TO THE PERSON DRIVING OR ATTEMPTING TO DRIVE THE MOTOR
29 VEHICLE.

30 (F) (1) A MOTOR VEHICLE LIABILITY INSURER MAY EXCLUDE COVERAGE
31 FOR PUNITIVE DAMAGES AWARDED UNDER THIS SECTION.

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.