

By: Delegate Campbell

Requested: July 26, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Crimes - Homicide or Life Threatening Injury - Motor Vehicle or Vessel

3 FOR the purpose of establishing the crimes of and penalties for causing a life threatening
4 injury by motor vehicle or vessel while intoxicated, intoxicated per se, or under the
5 influence of alcohol, drugs, or a controlled dangerous substance; establishing the
6 crimes of and penalties for homicide by motor vehicle or vessel while under the
7 influence of drugs or a controlled dangerous substance; altering the penalty for
8 homicide by motor vehicle or vessel while intoxicated; altering the penalty for
9 homicide by motor vehicle or vessel while under the influence of alcohol; providing
10 for certain tests that may be administered in certain prosecutions under this Act;
11 providing for the admissibility of certain test results; providing for assessment of
12 points against an individual convicted of a violation of certain provisions of this Act;
13 and generally relating to homicide or life threatening injury by motor vehicle or
14 vessel while intoxicated, intoxicated per se, or under the influence of alcohol, drugs,
15 or a controlled dangerous substance.

16 BY renumbering

17 Article 27 - Crimes and Punishments
18 Section 388B
19 to be Section 388C
20 Annotated Code of Maryland
21 (1992 Replacement Volume and 1995 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article 27 - Crimes and Punishments
24 Section 388A
25 Annotated Code of Maryland
26 (1992 Replacement Volume and 1995 Supplement)

27 BY adding to

28 Article 27 - Crimes and Punishments
29 Section 388B
30 Annotated Code of Maryland
31 (1992 Replacement Volume and 1995 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Courts and Judicial Proceedings
3 Section 10-302, 10-306(a)(1), 10-307(a)(1), and 10-308(b)
4 Annotated Code of Maryland
5 (1995 Replacement Volume and 1995 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Transportation
8 Section 16-402(a)
9 Annotated Code of Maryland
10 (1992 Replacement Volume and 1995 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That Section(s) 388B of Article 27 - Crimes and Punishments of the
13 Annotated Code of Maryland be renumbered to be Section(s) 388C.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article 27 - Crimes and Punishments**

17 388A.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) "Intoxicated per se" means an alcohol concentration at the time of
20 testing of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood or
21 grams of alcohol per 210 liters of breath.

22 (3) "Under the influence of alcohol" has the meaning indicated in and is
23 subject to the same presumptions and evidentiary rules of § 10-307 of the Courts Article
24 regarding driving while under the influence of alcohol under § 21-902(b) of the
25 Transportation Article.

26 (4) "UNDER THE INFLUENCE OF DRUGS" MEANS SO FAR UNDER THE
27 INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE
28 OR MORE DRUGS AND ALCOHOL THAT A PERSON CANNOT DRIVE, OPERATE, OR
29 CONTROL A MOTOR VEHICLE OR VESSEL SAFELY.

30 (5) "UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
31 SUBSTANCE" MEANS UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
32 SUBSTANCE, AS THAT TERM IS DEFINED IN § 279 OF THIS ARTICLE, IF THE PERSON IS
33 NOT ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE
34 LAWS OF THIS STATE.

35 (b) Any person causing the death of another as the result of the person's negligent
36 driving, operation, or control of a motor vehicle or vessel while intoxicated or intoxicated
37 per se is guilty of a misdemeanor to be known as "homicide by motor vehicle or vessel
38 while intoxicated", and the person so convicted shall be punished by imprisonment for not
39 more than 5 years, or by fine of not more than [\$3,000] \$5,000 or both fine and
40 imprisonment.

1 (c) A person who causes the death of another as the result of the person's
2 negligent driving, operation, or control of a motor vehicle or vessel while under the
3 influence of alcohol is guilty of a misdemeanor to be known as "homicide by motor vehicle
4 or vessel while under the influence", and on conviction shall be punished by
5 imprisonment for not more than [1 year] 3 YEARS or a fine of not more than [\$1,000]
6 \$5,000 or both.

7 (D) (1) A PERSON WHO CAUSES THE DEATH OF ANOTHER AS THE RESULT
8 OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR
9 VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS IS GUILTY OF A
10 MISDEMEANOR TO BE KNOWN AS "HOMICIDE BY MOTOR VEHICLE OR VESSEL
11 WHILE UNDER THE INFLUENCE OF DRUGS", AND ON CONVICTION SHALL BE
12 PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT
13 MORE THAN \$5,000 OR BOTH.

14 (2) IT IS NOT A DEFENSE TO ANY CHARGE OF VIOLATING THIS
15 SUBSECTION THAT THE PERSON CHARGED IS OR WAS ENTITLED UNDER THE LAWS
16 OF THIS STATE TO USE THE DRUG, COMBINATION OF DRUGS, OR COMBINATION OF
17 ONE OR MORE DRUGS AND ALCOHOL, UNLESS THE PERSON WAS UNAWARE THAT
18 THE DRUG OR COMBINATION WOULD MAKE THE PERSON INCAPABLE OF SAFELY
19 DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE OR VESSEL.

20 (E) A PERSON WHO CAUSES THE DEATH OF ANOTHER AS THE RESULT OF THE
21 PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE
22 OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
23 SUBSTANCE IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "HOMICIDE BY
24 MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED
25 DANGEROUS SUBSTANCE", AND ON CONVICTION SHALL BE PUNISHED BY
26 IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000
27 OR BOTH.

28 [(d)] (F) (1) In any indictment, information, or other charging document under
29 this section, it is not necessary to set forth the manner and means of death.

30 (2) It shall be sufficient to use a formula substantially to the following
31 effect:

32 (i) "That A-B on the day of, nineteen hundred and
33 at the County (City) aforesaid, unlawfully, while intoxicated did kill C-D,
34 against the peace, government, and dignity of the State."; [or]

35 (ii) "That A-B on the day of, nineteen hundred and
36 at the County (City) aforesaid, unlawfully, while under the influence of alcohol,
37 did kill C-D, against the peace, government, and dignity of the State.";

38 (III) "THAT A-B ON THE DAY OF, NINETEENHUNDRED
39 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE
40 INFLUENCE OF DRUGS, DID KILL C-D, AGAINST THE PEACE, GOVERNMENT, AND
41 DIGNITY OF THE STATE."; OR

42 (IV) "THAT A-B ON THE DAY OF, NINETEEN HUNDRED
43 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE

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1 INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, DID KILL C-D, AGAINST
2 THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."

3 388B.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (2) "INTOXICATED PER SE" MEANS AN ALCOHOL CONCENTRATION AT
7 THE TIME OF TESTING OF 0.10 OR MORE AS MEASURED BY GRAMS OF ALCOHOL PER
8 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF BREATH.

9 (3) "UNDER THE INFLUENCE OF ALCOHOL" HAS THE MEANING
10 INDICATED AND IS SUBJECT TO THE SAME PRESUMPTIONS AND EVIDENTIARY
11 RULES OF § 10-307 OF THE COURTS ARTICLE REGARDING DRIVING WHILE UNDER
12 THE INFLUENCE OF ALCOHOL UNDER § 21-902(B) OF THE TRANSPORTATION
13 ARTICLE.

14 (4) "UNDER THE INFLUENCE OF DRUGS" MEANS SO FAR UNDER THE
15 INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE
16 OR MORE DRUGS AND ALCOHOL THAT A PERSON CANNOT DRIVE, OPERATE, OR
17 CONTROL A MOTOR VEHICLE OR VESSEL SAFELY.

18 (5) "UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
19 SUBSTANCE" MEANS UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
20 SUBSTANCE, AS THAT TERM IS DEFINED IN § 279 OF THIS ARTICLE, IF THE PERSON IS
21 NOT ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE
22 LAWS OF THIS STATE.

23 (B) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A
24 RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A
25 MOTOR VEHICLE OR VESSEL WHILE INTOXICATED OR INTOXICATED PER SE IS
26 GUILTY OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY
27 MOTOR VEHICLE OR VESSEL WHILE INTOXICATED OR INTOXICATED PER SE", AND
28 ON CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT
29 MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000 OR BOTH.

30 (C) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A
31 RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A
32 MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL IS GUILTY
33 OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR
34 VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL", AND ON
35 CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE
36 THAN 2 YEARS OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

37 (D) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A
38 RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A
39 MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS IS GUILTY
40 OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR
41 VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS", AND ON
42 CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE
43 THAN 2 YEARS OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

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1 (E) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A
2 RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A
3 MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED
4 DANGEROUS SUBSTANCE IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "LIFE
5 THREATENING INJURY BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE
6 INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE", AND ON CONVICTION
7 THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS
8 OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

9 (F) (1) IN ANY INDICTMENT, INFORMATION, OR OTHER CHARGING
10 DOCUMENT UNDER THIS SECTION, IT IS NOT NECESSARY TO SET FORTH THE
11 MANNER AND MEANS OF THE LIFE THREATENING INJURY.

12 (2) IT SHALL BE SUFFICIENT TO USE A FORMULA SUBSTANTIALLY TO
13 THE FOLLOWING EFFECT:

14 (I) "THAT A-B ON THE DAY OF, NINETEEN HUNDRED
15 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE
16 INTOXICATED, DID CAUSE A LIFE THREATENING INJURY TO C-D, AGAINST THE
17 PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.";

18 (II) "THAT A-B ON THE DAY OF, NINETEEN HUNDRED
19 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE
20 INFLUENCE OF ALCOHOL, DID CAUSE A LIFE THREATENING INJURY TO C-D,
21 AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.";

22 (III) "THAT A-B ON THE DAY OF, NINETEEN HUNDRED
23 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE
24 INFLUENCE OF DRUGS, DID CAUSE A LIFE THREATENING INJURY TO C-D, AGAINST
25 THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."; OR

26 (IV) "THAT A-B ON THE DAY OF, NINETEEN HUNDRED
27 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE
28 INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, DID CAUSE A LIFE
29 THREATENING INJURY TO C-D, AGAINST THE PEACE, GOVERNMENT, AND DIGNITY
30 OF THE STATE.".

31 **Article - Courts and Judicial Proceedings**

32 10-302.

33 In a prosecution for a violation of a law concerning a person who is driving or
34 attempting to drive a vehicle in violation of § 16-113, § 16-813, or § 21-902 of the
35 Transportation Article, or in violation of Article 27, § 388 [or § 388A], § 388A, OR § 388B
36 of the Code, a test of the person's breath or blood may be administered for the purpose
37 of determining alcohol concentration and a test or tests of 1 specimen of the person's
38 blood may be administered for the purpose of determining the drug or controlled
39 dangerous substance content of the person's blood.

40 10-306.

41 (a) (1) (i) Subject to the provisions of paragraph (2) of this subsection, in any
42 criminal trial in which a violation of § 16-113(a)(2), § 16-813, or § 21-902 of the

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1 Transportation Article, or a violation of Article 27, § 388 [or § 388A], § 388A, OR § 388B
2 of the Code is charged or is an issue, a copy of a report of the results of a test of breath
3 or blood to determine alcohol concentration signed by the technician or analyst who
4 performed the test, is admissible as substantive evidence without the presence or
5 testimony of the technician or analyst who performed the test.

6 (ii) Subject to the provisions of § 10-308(b) of this subtitle and
7 paragraph (2) of this subsection, in any criminal trial in which a violation of § 21-902 of
8 the Transportation Article or a violation of Article 27, § 388 [or § 388A], § 388A, OR §
9 388B of the Code is charged, a copy of a report of the results of a test or tests of blood to
10 determine drug or controlled dangerous substance content signed by the technician or
11 analyst who performed the test, is admissible as substantive evidence without the
12 presence or testimony of the technician or analyst who performed the test.

13 10-307.

14 (a) (1) In a proceeding in which a person is charged with a violation of Article
15 27, § 388 [or § 388A], § 388A, OR § 388B of the Code, or with driving or attempting to
16 drive a vehicle in violation of § 16-113(a)(2), § 16-813, or § 21-902 of the Transportation
17 Article, the amount of alcohol in the person's breath or blood shown by analysis as
18 provided in this subtitle is admissible in evidence and has the effect set forth in
19 subsections (b) through (e) of this section.

20 10-308.

21 (b) The results of a test or tests to determine the drug or controlled dangerous
22 substance content of a person's blood:

23 (1) Are admissible as evidence in a criminal trial only in a prosecution under
24 § 21-902 of the Transportation Article or a violation of Article 27, § 388 [or § 388A], §
25 388A, OR § 388B of the Code and only if other admissible evidence is introduced that
26 creates an inference that the person was driving or attempting to drivewhile so far under
27 the influence of any drug, any combination of drugs, or a combination of one or more
28 drugs and alcohol that the person could not drive a vehicle safely, or while under the
29 influence of a controlled dangerous substance; and

30 (2) Are not admissible in a prosecution other than a prosecution under §
31 21-902 of the Transportation Article or a violation of Article 27, § 388 [or § 388A], §
32 388A, OR § 388B of the Code.

33 **Article - Transportation**

34 16-402.

35 (a) After the conviction of an individual for a violation of Article 27, § 388 [or §
36 388A], § 388A, OR § 388B of the Code, or of the vehicle laws or regulations of this State or
37 of any local authority, points shall be assessed against the individual as of the date of
38 violation and as follows:

39 (1) Any moving violation not listed below and not contributing to
40 an accident...
1 point

41 (2) Following another vehicle too closely...
2 points

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1 (3) Speeding in excess of the posted speed limit by 10 miles an
2 hour or more....
2 points

3 (4) Driving with an improper class of license....
2 points

4 (5) Failing to stop for a school vehicle with alternately flashing
5 lights....
2 points

6 (6) Any violation of § 21-1111 of this article
2 points

7 (7) Passing an emergency or police vehicle under the provisions of
8 § 21-405(d) of this article....
2 points

9 (8) Any moving violation contributing to an accident....
3 points

10 (9) Driving after suspension of license under the provisions of §
11 17-106, § 26-204, § 26-206, or § 27-103 of this article, or under the traffic laws
12 or regulations of another state as described in § 16-303(i) of this title..... 3 points

13 (10) Any violation, except violations committed on the John F.
14 Kennedy Memorial Highway, of § 21-1411 of this article....
3 points

15 (11) Reckless driving....
4 points

16 (12) Speeding in excess of the posted speed limit by 30 miles an
17 hour or more....
5 points

18 (13) Driving while not licensed....
5 points

19 (14) Failure to report an accident....
5 points

20 (15) Driving on a learner's permit unaccompanied....
5 points

21 (16) Any violation of § 17-107 of this article....
5 points

22 (17) Participating in a race or speed contest on a highway....
5 points

23 (18) Any violation of § 16-304 or § 16-305 of this title....
5 points

24 (19) Any violation of § 22-404.5 of this title....
5 points

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- 25 (20) Speeding in excess of a posted speed limit of 65 miles an
26 hour by 20 miles an hour or more....
 5 points
- 27 (21) Driving while under the influence of alcohol or while under
28 influence of a drug, combination of drugs, or combination of drugs and alcohol..... 8 points
- 29 (22) Turning off lights of a vehicle to avoid identificationL.. 8 points
- 30 (23) Failing to stop after accident resulting in damage to
31 attended vehicle or property....
 8 points
- 32 (24) Failing to stop after accident resulting in damage to
33 unattended vehicle or property....
 8 points
- 34 (25) Any violation of § 16-815 or § 16-816 of this title....
 8 points

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8

1 (26) Failing to stop after an accident resulting in bodily injury or
2 death....

12 points

3 (27) Driving after refusal, suspension, cancellation, or
4 revocation of license except for suspensions of license under the provisions of §
5 17-106, § 26-204, § 26-206, or § 27-103 of this article, or under the traffic laws
6 or regulations of another state as described in § 16-303(i) of this title.....

12 points

7 (28) Any violation of § 16-301, § 16-302, § 16-804, or §
8 16-808(1) through (9) of this title....

12 points

9 (29) Homicide, LIFE THREATENING INJURY UNDER ARTICLE
10 27, § 388B OF THE CODE, or assault committed by means of a vehicle....

12 points

11 (30) Driving while intoxicated or while under the influence of
12 illegally used controlled dangerous substance....

12 points

13 (31) Any felony involving use of a vehicle....

12 points

14 (32) Fleeing or attempting to elude a police officer....

12 points

15 (33) The making of a false affidavit or statement under oath, or
16 falsely certifying to the truth of any fact or information to the Administration
17 under the Maryland Vehicle Law or under any law relating to the ownership or
18 operation of motor vehicles....

12 points

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1996.