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(PRE-FILED)

HB 151/95 - JUD

CF 6lr1288

~~By: Delegate Campbell~~ Delegates Campbell, Harkins, Kach, Bonsack, Jacobs, Brinkley, M. Burns, Edwards, Hutchins, Getty, Owings, Snodgrass, and Stup

Requested: July 26, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 1996

CHAPTER ____

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

2

1 Annotated Code of Maryland
2 (1992 Replacement Volume and 1995 Supplement)

3 BY adding to

4 Article 27 - Crimes and Punishments
5 Section 388B
6 Annotated Code of Maryland
7 (1992 Replacement Volume and 1995 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Courts and Judicial Proceedings
10 Section 10-302, 10-306(a)(1), 10-307(a)(1), and 10-308(b)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article - Transportation
15 Section 16-402(a)
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

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

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

23 **Article 27 - Crimes and Punishments**

24 388A.

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

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

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

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

37 (5) "UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
38 SUBSTANCE" MEANS UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS

3
1 SUBSTANCE, AS THAT TERM IS DEFINED IN § 279 OF THIS ARTICLE, IF THE PERSON IS
2 NOT ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE
3 LAWS OF THIS STATE.

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

10 (c) A person who causes the death of another as the result of the person's
11 negligent driving, operation, or control of a motor vehicle or vessel while under the
12 influence of alcohol is guilty of a misdemeanor to be known as "homicide by motor vehicle
13 or vessel while under the influence", and on conviction shall be punished by
14 imprisonment for not more than [1 year] 3 YEARS or a fine of not more than [\$1,000]
15 \$5,000 or both.

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

23 (2) IT IS NOT A DEFENSE TO ANY CHARGE OF VIOLATING THIS
24 SUBSECTION THAT THE PERSON CHARGED IS OR WAS ENTITLED UNDER THE LAWS
25 OF THIS STATE TO USE THE DRUG, COMBINATION OF DRUGS, OR COMBINATION OF
26 ONE OR MORE DRUGS AND ALCOHOL, UNLESS THE PERSON WAS UNAWARE THAT
27 THE DRUG OR COMBINATION WOULD MAKE THE PERSON INCAPABLE OF SAFELY
28 DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE OR VESSEL.

29 (E) A PERSON WHO CAUSES THE DEATH OF ANOTHER AS THE RESULT OF THE
30 PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE
31 OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS
32 SUBSTANCE IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS "HOMICIDE BY
33 MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF A CONTROLLED
34 DANGEROUS SUBSTANCE", AND ON CONVICTION SHALL BE PUNISHED BY
35 IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000
36 OR BOTH.

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

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

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

4

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

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

8 (IV) "THAT A-B ON THE DAY OF, NINETEEN HUNDRED
9 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE
10 INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, DID KILL C-D, AGAINST
11 THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE.".

12 388B.

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) "INTOXICATED PER SE" MEANS AN ALCOHOL CONCENTRATION AT
16 THE TIME OF TESTING OF 0.10 OR MORE AS MEASURED BY GRAMS OF ALCOHOL PER
17 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF BREATH.

18 (3) "UNDER THE INFLUENCE OF ALCOHOL" HAS THE MEANING
19 INDICATED IN AND IS SUBJECT TO THE SAME PRESUMPTIONS AND EVIDENTIARY
20 RULES OF § 10-307 OF THE COURTS ARTICLE REGARDING DRIVING WHILE UNDER
21 THE INFLUENCE OF ALCOHOL UNDER § 21-902(B) OF THE TRANSPORTATION
22 ARTICLE.

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

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

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

39 (C) A PERSON WHO CAUSES A LIFE THREATENING INJURY TO ANOTHER AS A
40 RESULT OF THE PERSON'S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A
41 MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL IS GUILTY
42 OF A MISDEMEANOR TO BE KNOWN AS "LIFE THREATENING INJURY BY MOTOR

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1 VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL", AND ON
2 CONVICTION THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE
3 THAN 2 YEARS OR A FINE OF NOT MORE THAN \$3,000 OR BOTH.

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

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

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

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

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

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

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

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

6

1 **Article - Courts and Judicial Proceedings**

2 10-302.

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

10 10-306.

11 (a) (1) (i) Subject to the provisions of paragraph (2) of this subsection, in any
12 criminal trial in which a violation of § 16-113(a)(2), § 16-813, or § 21-902 of the
13 Transportation Article, or a violation of Article 27, § 388 [or § 388A], § 388A, OR § 388B
14 of the Code is charged or is an issue, a copy of a report of the results of a test of breath
15 or blood to determine alcohol concentration signed by the technician or analyst who
16 performed the test, is admissible as substantive evidence without the presence or
17 testimony of the technician or analyst who performed the test.

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

25 10-307.

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

32 10-308.

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

35 (1) Are admissible as evidence in a criminal trial only in a prosecution under
36 § 21-902 of the Transportation Article or a violation of Article 27, § 388 [or § 388A], §
37 388A, OR § 388B of the Code and only if other admissible evidence is introduced that
38 creates an inference that the person was driving or attempting to drive while so far under
39 the influence of any drug, any combination of drugs, or a combination of one or more
40 drugs and alcohol that the person could not drive a vehicle safely, or while under the
41 influence of a controlled dangerous substance; and

7

1 (2) Are not admissible in a prosecution other than a prosecution under §
2 21-902 of the Transportation Article or a violation of Article 27, § 388 [or § 388A], §
3 388A, OR § 388B of the Code.

4 **Article - Transportation**

5 16-402.

6 (a) After the conviction of an individual for a violation of Article 27, § 388 [or §
7 388A], § 388A, OR § 388B of the Code, or of the vehicle laws or regulations of this State or
8 of any local authority, points shall be assessed against the individual as of the date of
9 violation and as follows:

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

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

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

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

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

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

19 (7) Passing an emergency or police vehicle under the provisions of
20 § 21-405(d) of this article....
2 points

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

22 (9) Driving after suspension of license under the provisions of §
23 17-106, § 26-204, § 26-206, or § 27-103 of this article, or under the traffic laws
24 or regulations of another state as described in § 16-303(i) of this title..... 3 points

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

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

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

30 (13) Driving while not licensed....

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5 points

31 (14) Failure to report an accident...

5 points

32 (15) Driving on a learner's permit unaccompanied...

5 points

33 (16) Any violation of § 17-107 of this article...

5 points

34 (17) Participating in a race or speed contest on a highway...

5 points

35 (18) Any violation of § 16-304 or § 16-305 of this title...

5 points

8

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

2 (20) Speeding in excess of a posted speed limit of 65 miles an
3 hour by 20 miles an hour or more....
5 points

4 (21) Driving while under the influence of alcohol or while under
5 influence of a drug, combination of drugs, or combination of drugs and alcohol..... 8 points

6 (22) Turning off lights of a vehicle to avoid identification... 8 points

7 (23) Failing to stop after accident resulting in damage to
8 attended vehicle or property....
8 points

9 (24) Failing to stop after accident resulting in damage to
10 unattended vehicle or property....
8 points

11 (25) Any violation of § 16-815 or § 16-816 of this title....
8 points

12 (26) Failing to stop after an accident resulting in bodily injury or
13 death....
12 points

14 (27) Driving after refusal, suspension, cancellation, or
15 revocation of license except for suspensions of license under the provisions of §
16 17-106, § 26-204, § 26-206, or § 27-103 of this article, or under the traffic laws
17 or regulations of another state as described in § 16-303(i) of this title..... 12 points

18 (28) Any violation of § 16-301, § 16-302, § 16-804, or §
19 16-808(1) through (9) of this title....
12 points

20 (29) Homicide, LIFE THREATENING INJURY UNDER ARTICLE
21 27, § 388B OF THE CODE, or assault committed by means of a vehicle....
12 points

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

24 (31) Any felony involving use of a vehicle....
12 points

25 (32) Fleeing or attempting to elude a police officer....
12 points

26 (33) The making of a false affidavit or statement under oath, or
27 falsely certifying to the truth of any fact or information to the Administration
28 under the Maryland Vehicle Law or under any law relating to the ownership or
29 operation of motor vehicles....
12 points

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect

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31 October 1, 1996.

