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**By: Senators Jimeno, Astle, Collins, and Middlebrooks ~~and Middlebrooks~~ Middlebrooks, Ferguson and Forehand**

Introduced and read first time: February 1, 1996

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Homicide by Motor Vehicle or Vessel While Under the Influence of Alcohol - Penalty**

3 FOR the purpose of increasing the maximum term of imprisonment for the misdemeanor  
4 known as homicide by motor vehicle or vessel while under the influence; and  
5 generally relating to criminal penalties.

6 BY repealing and reenacting, with amendments,  
7 Article 27 - Crimes and Punishments  
8 Section 388A  
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 the Laws of Maryland read as follows:

13 **Article 27 - Crimes and Punishments**

14 388A.

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

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

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

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

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

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

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

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 1996.