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By: Delegates Genn and Taylor and Delegates W. Baker, Baldwin, Barve, Beck, Benson, Bissett, Bobo, Boston, Bozman, Branch, Brinkley, E. Burns, M. Burns, Busch, Cadden, Campbell, Ciliberti, Clagett, Conroy, Conway, Crumlin, Cryor, Curran, C. Davis, D. Davis, DeCarlo, Dewberry, Donoghue, Doory, Dypski, Eckardt, Edwards, Elliott, Exum, Faulkner, Finifter, Flanagan, Franchot, Frush, Fry, Fulton, Getty, Goldwater, Gordon, Greenip, Grosfeld, Harkins, Harrison, Healey, Hecht, Heller, Hixson, Holt, Howard, Hubbard, B. Hughes, Hurson, Hutchins, Jacobs, Kagan, Kach, Kelly, Kittleman, Klausmeier, Klima, Kopp, Krysiak, La Vay, Leopold, Linton, Love, Malone, Mandel, Marriott, McIntosh, McKee, Menes, Minnick, V. Mitchell, Mohorovic, Morgan, Morhaim, Mossburg, D. Murphy, T. Murphy, Muse, O'Donnell, Owings, Palumbo, Parker, Patterson, Pendergrass, Perry, Petzold, Pitkin, Preis, Rawlings, Rosapepe, Rosenberg, Rudolph, Rzepkowski, Schade, Shriver, Slade, Snodgrass, Stocksdales, Stull, Stup, Turner, Valderrama, Walkup, Watson, Weir, Willis, and Wood

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 1997

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## CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Manslaughter by Motor Vehicle and Homicide by Motor Vehicle or Vessel While**  
3 **Intoxicated - Penalties**

4 FOR the purpose of making manslaughter by ~~motor~~ vehicle a felony and making it a  
5 felony to cause the death of another as a result of certain negligent driving,  
6 operation, or control of a motor vehicle or vessel while intoxicated or intoxicated  
7 per se or under the influence of alcohol, drugs, or a controlled dangerous substance.

8 BY repealing and reenacting, with amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 388 and 388A  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,

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1 Article - Courts and Judicial Proceedings  
 2 Section 4-301(b) and 4-302(a) and (d)  
 3 Annotated Code of Maryland  
 4 (1995 Replacement Volume and 1996 Supplement)

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

7 **Article 27 - Crimes and Punishments**

8 388.

9 Every person causing the death of another as the result of the driving, operation or  
 10 control of an automobile, motor vehicle, locomotive, engine, car, streetcar, train, vessel,  
 11 or other vehicle in a grossly negligent manner, shall be guilty of a [misdemeanor]  
 12 FELONY to be known as "manslaughter by automobile, motor vehicle, locomotive, engine,  
 13 car, streetcar, train, vessel, or other vehicle," and the person so convicted shall be  
 14 sentenced to jail or the house of correction for not more than 10 years, or be fined not  
 15 more than \$5,000 or be both fined and imprisoned.

16 In any indictment or other charging document for manslaughter by automobile,  
 17 motor vehicle, locomotive, engine, car, streetcar, train, vessel, or other vehicle, it shall not  
 18 be necessary to set forth the manner and means of death. It shall be sufficient to use a  
 19 formula substantially to the following effect: "That A-B on the .... day of ....., nineteen  
 20 hundred and .. at the County (City) aforesaid, unlawfully, in a grossly negligent manner  
 21 did kill and slay C-D."

22 388A.

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

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

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

31 (4) "Under the influence of drugs" means so far under the influence of a  
 32 drug, a combination of drugs, or a combination of one or more drugs and alcohol that a  
 33 person cannot drive, operate, or control a motor vehicle or vessel safely.

34 (5) "Under the influence of a controlled dangerous substance" means under  
 35 the influence of a controlled dangerous substance, as that term is defined in § 279 of this  
 36 article, if the person is not entitled to use the controlled dangerous substance under the  
 37 laws of this State.

38 (b) Any person causing the death of another as the result of the person's negligent  
 39 driving, operation, or control of a motor vehicle or vessel while intoxicated or intoxicated  
 40 per se is guilty of a [misdemeanor] FELONY to be known as "homicide by motor vehicle

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1 or vessel while intoxicated", and the person so convicted shall be punished by  
2 imprisonment for not more than 5 years, or by fine of not more than \$5,000 or both fine  
3 and imprisonment.

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

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

15 (2) It is not a defense to any charge of violating this subsection that the  
16 person charged is or was entitled under the laws of this State to use the drug, combination  
17 of drugs, or combination of one or more drugs and alcohol, unless the person was  
18 unaware that the drug or combination would make the person incapable of safely driving,  
19 operating, or controlling a motor vehicle or vessel.

20 (e) A person who causes the death of another as the result of the person's  
21 negligent driving, operation, or control of a motor vehicle or vessel while under the  
22 influence of a controlled dangerous substance is guilty of a [misdemeanor] FELONY to  
23 be known as "homicide by motor vehicle or vessel while under the influence of a  
24 controlled dangerous substance", and on conviction shall be punished by imprisonment  
25 for not more than 3 years or a fine of not more than \$5,000 or both.

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

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

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

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

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

39 (iv) "That A-B on the ..... day of ....., nineteen hundred and  
40 ..... at the County (City) aforesaid, unlawfully, while under the influence of a  
41 controlled dangerous substance, did kill C-D, against the peace, government, and dignity  
42 of the State.".

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1     **Article - Courts and Judicial Proceedings**2     4-301.

3             **(b) Except as provided in § 4-302 OF THIS SUBTITLE, the District Court also has**  
 4 **exclusive original jurisdiction in a criminal case in which a person at least 18 years old or**  
 5 **a corporation is charged with:**

6                     **(1) Commission of a common-law or statutory misdemeanor regardless of**  
 7 **the amount of money or value of the property involved;**

8                     **(2) Violation of §§ 342 through 344 of Article 27 of the Code, whether a**  
 9 **felony or a misdemeanor;**

10                    **(3) Violation of a county, municipal, or other ordinance, if the violation is**  
 11 **not a felony;**

12                    **(4) Criminal violation of a State, county, or municipal rule or regulation, if**  
 13 **the violation is not a felony;**

14                    **(5) Doing or omitting to do any act made punishable by a fine,**  
 15 **imprisonment, or other penalty as provided by the particular law, ordinance, rule, or**  
 16 **regulation defining the violation if the violation is not a felony;**

17                    **(6) Violation of Article 27, § 141 of this Code, whether a felony or a**  
 18 **misdemeanor;**

19                    **(7) Violation of Article 27, § 145 of this Code, whether a felony or**  
 20 **misdemeanor;**

21                    **(8) Violation of Article 27, § 44 of the Code;**

22                    **(9) Violation of Article 48A, § 233 of the Code, whether a felony or a**  
 23 **misdemeanor;**

24                    **(10) Violation of § 9-1106 of the Labor and Employment Article; [or]**

25                    **(11) Violation of § 14-1403 of the Commercial Law Article;**

26                    **(12) VIOLATION OF ARTICLE 27, § 388 OF THE CODE; OR**

27                    **(13) VIOLATION OF ARTICLE 27, § 388A OF THE CODE.**

28     4-302.

29             **(a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), [and] (11), (12),**  
 30 **AND (13), of this subtitle, the District Court does not have jurisdiction to try a criminal**  
 31 **case charging the commission of a felony.**

32             **(d) The jurisdiction of the District Court is concurrent with that of the circuit**  
 33 **court in a criminal case;**

34                    **(1) In which the penalty may be confinement for three years or more or a**  
 35 **fine of \$2,500 or more; or**

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1                   (2) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9), (10),  
2 [and] (11), (12), AND (13) of this subtitle.

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 July 1, 1997.