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1997 Regular Session
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CF 7lr2167

By: Senators Jimeno, Amoss, Astle, Boozer, Collins, Conway, Craig, Currie, Della, Derr, Dorman, Ferguson, Forehand, Haines, Hoffman, Hogan, Kasemeyer, Kelley, Lawlah, Madden, McFadden, Middlebrooks, Munson, Neall, Roesser, Stoltzfus, Teitelbaum, Trotter, Van Hollen, and Young

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

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

15 **Article 27 - Crimes and Punishments**

16 388.

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

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

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1 388A.

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

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

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

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

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

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

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

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

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

39 (e) A person who causes the death of another as the result of the person's
40 negligent driving, operation, or control of a motor vehicle or vessel while under the
41 influence of a controlled dangerous substance is guilty of a [misdemeanor] FELONY to
42 be known as "homicide by motor vehicle or vessel while under the influence of a

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1 controlled dangerous substance", and on conviction shall be punished by imprisonment
2 for not more than 3 years or a fine of not more than \$5,000 or both.

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

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

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

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

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1997.