

CF 7r2167

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 ~~Young, Green, and Stone~~

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

Committee Report:

Senate action:

Read second time:

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 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

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1 sentenced to jail or the house of correction for not more than 10 years, or be fined not
2 more than \$5,000 or be both fined and imprisoned.

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

9 388A.

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

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

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

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

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

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

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

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

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

6 (e) 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 a controlled dangerous substance is guilty of a [misdemeanor] FELONY to
9 be known as "homicide by motor vehicle or vessel while under the influence of a
10 controlled dangerous substance", and on conviction shall be punished by imprisonment
11 for not more than 3 years or a fine of not more than \$5,000 or both.

12 (f) (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.";

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

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

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