
By: Senators Haines, Jimeno, and Ferguson

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicles - Vessels - Homicide - Driving While Under the Influence of an Inhalant**

3 FOR the purpose of providing that a person who causes the death of another while
4 driving a motor vehicle or vessel while so far under the influence of an inhalant that
5 the person cannot drive, operate, or control a motor vehicle or vessel safely is guilty
6 of a misdemeanor; expanding a provision relating to causing the death of another
7 while driving a motor vehicle or vessel while intoxicated to make this provision
8 applicable to driving while intoxicated by any substance or combination of
9 substances; imposing a certain penalty; defining a certain term; providing for certain
10 language to be used in an indictment, information, or other charging document; and
11 generally relating to motor vehicles or vessels and driving while under the influence
12 of an inhalant.

13 BY repealing and reenacting, without amendments,
14 Article 27 - Crimes and Punishments
15 Section 301
16 Annotated Code of Maryland
17 (1996 Replacement Volume)

18 BY repealing and reenacting, with amendments,
19 Article 27 - Crimes and Punishments
20 Section 388A
21 Annotated Code of Maryland
22 (1996 Replacement Volume)

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

25 **Article 27 - Crimes and Punishments**

26 301.

27 (a) It is unlawful for any person to deliberately smell or inhale such excessive
28 quantities of any drugs, or any other noxious substances or chemicals containing wholly or
29 in part any ketones, aldehydes, butyl nitrite, nitrous oxide, methyl benzene, organic
30 acetates, ether, chlorinated hydrocarbons, fluorinated hydrocarbons, or any other
31 substances containing solvents releasing toxic vapors, as cause conditions of intoxication,

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1 inebriation, excitement, stupefaction or dulling of the brain or nervous system. This
2 section applies with particularity to fingernail polish, model airplane glue, or any other
3 substance or chemical which has the aforementioned effect upon the brain or nervous
4 system when smelled or inhaled; provided, that nothing in this section shall be interpreted
5 as applying to the inhalation of any anaesthesia for medical or dental purposes, and
6 further provided, that nothing in this section shall be interpreted as applying to the
7 controlled dangerous substances as defined in this subheading.

8 (b) Any person violating any provision of this section is guilty of a misdemeanor
9 and, upon conviction, is subject to a fine not exceeding \$500, or imprisonment not
10 exceeding six months, or both.

11 388A.

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

13 (2) "INHALANT" MEANS ANY DRUG, SUBSTANCE, OR CHEMICAL THAT A
14 PERSON IS PROHIBITED FROM DELIBERATELY SMELLING OR INHALING UNDER § 301
15 OF THIS ARTICLE.

16 (3) "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)] (4) "Under the influence of alcohol" has the meaning indicated in and
20 is subject to the same presumptions and evidentiary rules of § 10-307 of the Courts
21 Article regarding driving while under the influence of alcohol under § 21-902(b) of the
22 Transportation Article.

23 [(4)] (5) "Under the influence of drugs" means so far under the influence of
24 a drug, a combination of drugs, or a combination of one or more drugs and alcohol that
25 a person cannot drive, operate, or control a motor vehicle or vessel safely.

26 [(5)] (6) "Under the influence of a controlled dangerous substance" means
27 under the influence of a controlled dangerous substance, as that term is defined in § 279
28 of this article, if the person is not entitled to use the controlled dangerous substance
29 under the laws of this State.

30 (7) "UNDER THE INFLUENCE OF AN INHALANT" MEANS SO FAR UNDER
31 THE INFLUENCE OF AN INHALANT THAT A PERSON CANNOT DRIVE, OPERATE, OR
32 CONTROL A MOTOR VEHICLE OR VESSEL SAFELY.

33 (b) Any person causing the death of another as the result of the person's negligent
34 driving, operation, or control of a motor vehicle or vessel while intoxicated BY ANY
35 SUBSTANCE OR COMBINATION OF SUBSTANCES or intoxicated per se is guilty of a
36 misdemeanor to be known as "homicide by motor vehicle or vessel while intoxicated", and
37 the person so convicted shall be punished by imprisonment for not more than 5 years, or
38 by fine of not more than \$5,000 or both fine and imprisonment.

39 (c) 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 alcohol is guilty of a misdemeanor to be known as "homicide by motor vehicle

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1 or vessel while under the influence", and on conviction shall be punished by
2 imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.

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

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

13 (e) A person who causes the death of another as the result of the person's
14 negligent driving, operation, or control of a motor vehicle or vessel while under the
15 influence of a controlled dangerous substance is guilty of a misdemeanor to be known as
16 "homicide by motor vehicle or vessel while under the influence of a controlled dangerous
17 substance", and on conviction shall be punished by imprisonment for not more than 3
18 years or a fine of not more than \$5,000 or both.

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

26 (G) (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."[.]; OR

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1 (V) "THAT A-B ON THE DAY OF , NINETEEN HUNDRED
2 AND AT THE COUNTY (CITY) AFORESAID, UNLAWFULLY, WHILE UNDER THE
3 INFLUENCE OF AN INHALANT, DID KILL C-D, AGAINST THE PEACE, GOVERNMENT,
4 AND DIGNITY OF THE STATE."

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