Unofficial Copy D3 1999 Regular Session 9lr0919

By: Delegates Menes and Vallario

Introduced and read first time: February 5, 1999

Assigned to: Judiciary

## A BILL ENTITLED

## 1 AN ACT concerning

## 2 Motor Vehicles - Drunk Driving - Punitive Damages

- $3\,$  FOR the purpose of providing that a party may recover punitive damages from a
- 4 person who causes personal injury or wrongful death while driving or
- 5 attempting to drive a motor vehicle while intoxicated or intoxicated per se under
- 6 certain circumstances; providing for a standard of proof of clear and convincing
- 7 evidence for a claim of punitive damages under this Act; requiring a party who
- 8 seeks to recover punitive damages under this Act to plead certain facts with
- 9 particularity; defining certain terms; providing for the application of this Act;
- and generally relating to punitive damages claims for personal injury or
- 11 wrongful death caused by a person who drives or attempts to drive a motor
- vehicle while intoxicated.
- 13 BY repealing and reenacting, without amendments,
- 14 Article Courts and Judicial Proceedings
- 15 Section 10-913(a)
- 16 Annotated Code of Maryland
- 17 (1998 Replacement Volume)
- 18 BY adding to
- 19 Article Courts and Judicial Proceedings
- 20 Section 10-913.1
- 21 Annotated Code of Maryland
- 22 (1998 Replacement Volume)
- 23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 24 MARYLAND, That the Laws of Maryland read as follows:

## 1 Article - Courts and Judicial Proceedings

- 2 10-913.
- 3 (a) In any action for punitive damages for personal injury, evidence of the
- 4 defendant's financial means is not admissible until there has been a finding of
- 5 liability and that punitive damages are supportable under the facts.
- 6 10-913.1.
- 7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS 8 INDICATED.
- 9 (2) "INTOXICATED PER SE" HAS THE SAME MEANING STATED IN § 10 11-127.1 OF THE TRANSPORTATION ARTICLE.
- 11 (3) "MOTOR VEHICLE" HAS THE SAME MEANING STATED IN § 11-135 OF 12 THE TRANSPORTATION ARTICLE.
- 13 (B) THIS SECTION DOES NOT AFFECT:
- 14 (1) THE PROVISIONS OF THE LOCAL GOVERNMENT TORT CLAIMS ACT
- 15 UNDER TITLE 5, SUBTITLE 3 OF THIS ARTICLE; OR
- 16 (2) THE PROVISIONS OF THE MARYLAND TORT CLAIMS ACT UNDER 17 TITLE 12 OF THE STATE GOVERNMENT ARTICLE.
- 18 (C) SUBJECT TO THE PROVISIONS OF THIS SECTION, A PARTY MAY RECOVER
- 19 PUNITIVE DAMAGES FROM A PERSON WHO CAUSES PERSONAL INJURY OR
- 20 WRONGFUL DEATH WHILE DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE
- 21 WHILE INTOXICATED OR INTOXICATED PER SE.
- 22 (D) A CLAIM FOR PUNITIVE DAMAGES UNDER THIS SECTION:
- 23 (1) SHALL BE PLEADED, BY COMPLAINT OR AMENDMENT, WITH FACTS
- 24 SUPPORTING THE CLAIM WITH SUFFICIENT PARTICULARITY TO ESTABLISH THAT
- 25 THE PARTY MAY BE ENTITLED TO PUNITIVE DAMAGES UNDER THIS SECTION;
- 26 (2) SHALL BE PROVED BY CLEAR AND CONVINCING EVIDENCE;
- 27 (3) MAY NOT BE AWARDED IN THE ABSENCE OF AN AWARD OF
- 28 COMPENSATORY DAMAGES; AND
- 29 (4) SHALL COMPLY WITH THE PROVISIONS OF § 10-913 OF THIS
- 30 SUBTITLE.
- 31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
- 32 construed only prospectively and may not be applied or interpreted to have any effect
- 33 on or application to any cause of action arising before the effective date of this Act.

- SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 1999.