
By: **Delegate Hutchins**

Introduced and read first time: February 11, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Homicide by Motor Vehicle or Vessel While Intoxicated or Under the**
3 **Influence of Alcohol, Drugs, or Controlled Dangerous Substances - License**
4 **Revocation**

5 FOR the purpose of requiring the clerk of the court to notify the Motor Vehicle
6 Administration of persons convicted of homicide by a motor vehicle or vessel
7 while intoxicated or under the influence of alcohol, drugs, or a controlled
8 dangerous substance; requiring the Administration to revoke the license of a
9 person convicted of homicide by a motor vehicle or vessel while intoxicated or
10 under the influence of alcohol, drugs, or a controlled dangerous substance;
11 prohibiting the Administration from issuing a temporary license for a person
12 convicted of homicide by a motor vehicle or vessel while intoxicated or under the
13 influence of alcohol, drugs, or a controlled dangerous substance during an
14 administrative appeal of the revocation; and generally relating to license
15 revocation for certain drunk and drugged driving offences causing the death of a
16 person.

17 BY repealing and reenacting, with amendments,
18 Article 27 - Crimes and Punishments
19 Section 388A
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1999 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Transportation
24 Section 16-205
25 Annotated Code of Maryland
26 (1999 Replacement Volume and 1999 Supplement)

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

1

Article 27 - Crimes and Punishments

2 388A.

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

4 (2) (i) "Intoxicated per se" means an alcohol concentration at the time
5 of testing of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood
6 or grams of alcohol per 210 liters of breath.7 (ii) If the alcohol concentration is measured by milligrams of
8 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a
9 court shall convert the measurement into grams of alcohol per 100 milliliters of blood
10 by dividing the measurement by 1000.11 (3) "Under the influence of alcohol" has the meaning indicated in and is
12 subject to the same presumptions and evidentiary rules of § 10-307 of the Courts
13 Article regarding driving while under the influence of alcohol under § 21-902(b) of the
14 Transportation Article.15 (4) "Under the influence of drugs" means so far under the influence of a
16 drug, a combination of drugs, or a combination of one or more drugs and alcohol that
17 a person cannot drive, operate, or control a motor vehicle or vessel safely.18 (5) "Under the influence of a controlled dangerous substance" means
19 under the influence of a controlled dangerous substance, as that term is defined in §
20 279 of this article, if the person is not entitled to use the controlled dangerous
21 substance under the laws of this State.22 (b) Any person causing the death of another as the result of the person's
23 negligent driving, operation, or control of a motor vehicle or vessel while intoxicated
24 or intoxicated per se is guilty of a felony to be known as "homicide by motor vehicle or
25 vessel while intoxicated", and the person so convicted shall be punished by
26 imprisonment for not more than 5 years, or by fine of not more than \$5,000 or both
27 fine and imprisonment.28 (c) 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 alcohol is guilty of a felony to be known as "homicide by motor vehicle or
31 vessel while under the influence", and on conviction shall be punished by
32 imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.33 (d) (1) A person who causes the death of another as the result of the person's
34 negligent driving, operation, or control of a motor vehicle or vessel while under the
35 influence of drugs is guilty of a felony to be known as "homicide by motor vehicle or
36 vessel while under the influence of drugs", and on conviction shall be punished by
37 imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.38 (2) It is not a defense to any charge of violating this subsection that the
39 person charged is or was entitled under the laws of this State to use the drug,

1 combination of drugs, or combination of one or more drugs and alcohol, unless the
2 person was unaware that the drug or combination would make the person incapable
3 of safely driving, operating, or controlling a motor vehicle or vessel.

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

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

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

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

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

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

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

27 (G) THE CLERK OF THE COURT SHALL NOTIFY THE MOTOR VEHICLE
28 ADMINISTRATION OF EACH PERSON CONVICTED UNDER THIS SECTION.

29 **Article - Transportation**

30 16-205.

31 (a) The Administration may revoke the license of any person who:

32 (1) Is convicted under § 21-902(a) or (d) of this article of driving or
33 attempting to drive a motor vehicle while intoxicated, while intoxicated per se, or
34 while under the influence of a controlled dangerous substance; or

35 (2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this
36 article of driving or attempting to drive a motor vehicle while under the influence of
37 alcohol or while so far under the influence of any drug, any combination of drugs, or

1 a combination of one or more drugs and alcohol that the person cannot drive a vehicle
2 safely and who was previously convicted of any combination of two or more violations
3 under:

4 (i) § 21-902(a) of this article of driving or attempting to drive a
5 motor vehicle while intoxicated or while intoxicated per se;

6 (ii) § 21-902(b) of this article of driving or attempting to drive a
7 motor vehicle while under the influence of alcohol;

8 (iii) § 21-902(c) of this article of driving or attempting to drive a
9 motor vehicle while so far under the influence of any drug, any combination of drugs,
10 or a combination of one or more drugs and alcohol that the person cannot drive a
11 vehicle safely; or

12 (iv) § 21-902(d) of this article of driving or attempting to drive a
13 motor vehicle while under the influence of a controlled dangerous substance.

14 (b) THE ADMINISTRATION:

15 (1) SHALL REVOKE THE LICENSE OF ANY PERSON WHO HAS BEEN
16 CONVICTED, UNDER ARTICLE 27, § 388A OF THE CODE, OF HOMICIDE BY A MOTOR
17 VEHICLE WHILE INTOXICATED OR UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR
18 A CONTROLLED DANGEROUS SUBSTANCE; AND

19 (2) MAY NOT ISSUE A TEMPORARY LICENSE TO DRIVE FOR ANY PERSON
20 WHOSE LICENSE HAS BEEN REVOKED UNDER ITEM (1) OF THIS SUBSECTION DURING
21 AN ADMINISTRATIVE APPEAL OF THE REVOCATION.

22 (C) The Administration may suspend for not more than 60 days the license of
23 any person who is convicted under § 21-902(b) or (c) of this article of driving or
24 attempting to drive a motor vehicle while under the influence of alcohol or while so far
25 under the influence of any drug, any combination of drugs, or a combination of one or
26 more drugs and alcohol that the person cannot drive a vehicle safely.

27 [(c)] (D) The Administration may suspend for not more than 120 days the
28 license of any person who, within a 3-year period, is convicted under § 21-902(b) or
29 (c) of this article of driving or attempting to drive a motor vehicle while under the
30 influence of alcohol or while so far under the influence of any drug, any combination
31 of drugs, or a combination of one or more drugs and alcohol that the person cannot
32 drive a motor vehicle safely and who was previously convicted of a violation under:

33 (1) § 21-902(a) of this article of driving or attempting to drive a motor
34 vehicle while intoxicated or while intoxicated per se;

35 (2) § 21-902(b) of this article of driving or attempting to drive a motor
36 vehicle while under the influence of alcohol;

37 (3) § 21-902(c) of this article of driving or attempting to drive a motor
38 vehicle while so far under the influence of any drug, any combination of drugs, or a

1 combination of one or more drugs and alcohol that the person cannot drive a motor
2 vehicle safely; or

3 (4) § 21-902(d) of this article of driving or attempting to drive a motor
4 vehicle while under the influence of a controlled dangerous substance.

5 [(d)] (E) When a suspension imposed under subsections (b) and (c) of this
6 section expires, the Administration immediately shall return the license or reinstate
7 the privilege of the driver, unless the license or privilege has been refused, revoked,
8 suspended, or canceled under any other provisions of the Maryland Vehicle Law.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2000.