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By: **Delegate Hutchins**  
Introduced and read first time: February 11, 2000  
Assigned to: Judiciary

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Committee Report: Favorable  
House action: Adopted with floor amendments  
Read second time: March 20, 2000

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CHAPTER \_\_\_\_\_

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~~ Substance**  
4 **- License 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~~ offenses causing the  
16 death of a 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

1 (1999 Replacement Volume and 1999 Supplement)

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

4 **Article 27 - Crimes and Punishments**

5 388A.

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

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

10 (ii) If the alcohol concentration is measured by milligrams of  
11 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a  
12 court shall convert the measurement into grams of alcohol per 100 milliliters of blood  
13 by dividing the measurement by 1000.

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  
16 Article 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  
20 a person cannot drive, operate, or control a motor vehicle or vessel safely.

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

25 (b) Any person causing the death of another as the result of the person's  
26 negligent driving, operation, or control of a motor vehicle or vessel while intoxicated  
27 or intoxicated per se is guilty of a felony to be known as "homicide by motor vehicle or  
28 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  
30 fine 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 felony to be known as "homicide by motor vehicle or  
34 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 felony to be known as "homicide by motor vehicle or

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

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

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

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

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

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

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

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

31 (G) THE CLERK OF THE COURT SHALL NOTIFY THE MOTOR VEHICLE  
32 ADMINISTRATION OF EACH PERSON CONVICTED UNDER THIS SECTION OF AN  
33 OFFENSE INVOLVING A MOTOR VEHICLE.

34 **Article - Transportation**

35 16-205.

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

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

4 (2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this  
5 article of driving or attempting to drive a motor vehicle while under the influence of  
6 alcohol or while so far under the influence of any drug, any combination of drugs, or  
7 a combination of one or more drugs and alcohol that the person cannot drive a vehicle  
8 safely and who was previously convicted of any combination of two or more violations  
9 under:

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

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

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

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

20 (b) THE ADMINISTRATION:

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

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

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

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

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

3           (2)       § 21-902(b) of this article of driving or attempting to drive a motor  
4 vehicle while under the influence of alcohol;

5           (3)       § 21-902(c) of this article of driving or attempting to drive a motor  
6 vehicle while so far under the influence of any drug, any combination of drugs, or a  
7 combination of one or more drugs and alcohol that the person cannot drive a motor  
8 vehicle safely; or

9           (4)       § 21-902(d) of this article of driving or attempting to drive a motor  
10 vehicle while under the influence of a controlled dangerous substance.

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

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