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

A BILL ENTITLED

1 AN ACT concerning

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

5 FOR the purpose of increasing the penalty for causing the death of a person as the
6 result of negligent driving, operation, or control of a motor vehicle or vessel
7 while intoxicated, intoxicated per se, or under the influence of alcohol, drugs, or
8 controlled dangerous substances; making stylistic changes; and generally
9 relating to homicide by a motor vehicle or vessel while intoxicated, intoxicated
10 per se, or under the influence of alcohol, drugs, or controlled dangerous
11 substances.

12 BY repealing and reenacting, with amendments,
13 Article 27 - Crimes and Punishments
14 Section 388A
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1999 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 388A.

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

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

25 (ii) If the alcohol concentration is measured by milligrams of
26 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a
27 court shall convert the measurement into grams of alcohol per 100 milliliters of blood
28 by dividing the measurement by 1000.

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

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

8 (5) "Under the influence of a controlled dangerous substance" means
9 under the influence of a controlled dangerous substance, as that term is defined in §
10 279 of this article, if the person is not entitled to use the controlled dangerous
11 substance under the laws of this State.

12 (b) Any person causing the death of another as the result of the person's
13 negligent driving, operation, or control of a motor vehicle or vessel while intoxicated
14 or intoxicated per se is guilty of a felony to be known as "homicide by motor vehicle or
15 vessel while intoxicated", and the person so convicted shall be punished by
16 imprisonment for not more than [5] 20 years, or by fine of not more than [\$5,000]
17 \$10,000 or both [fine and imprisonment].

18 (c) A person who causes the death of another as the result of the person's
19 negligent driving, operation, or control of a motor vehicle or vessel while under the
20 influence of alcohol is guilty of a felony to be known as "homicide by motor vehicle or
21 vessel while under the influence", and on conviction shall be punished by
22 imprisonment for not more than [3] 20 years or a fine of not more than [\$5,000]
23 \$10,000 or both.

24 (d) (1) A person who causes the death of another as the result of the person's
25 negligent driving, operation, or control of a motor vehicle or vessel while under the
26 influence of drugs is guilty of a felony to be known as "homicide by motor vehicle or
27 vessel while under the influence of drugs", and on conviction shall be punished by
28 imprisonment for not more than [3] 20 years or a fine of not more than [\$5,000]
29 \$10,000 or both.

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

35 (e) A person who causes the death of another as the result of the person's
36 negligent driving, operation, or control of a motor vehicle or vessel while under the
37 influence of a controlled dangerous substance is guilty of a felony to be known as
38 "homicide by motor vehicle or vessel while under the influence of a controlled
39 dangerous substance", and on conviction shall be punished by imprisonment for not
40 more than [3] 20 years or a fine of not more than [\$5,000] \$10,000 or both.

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

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

3 (i) "That A-B on the day of(MONTH), [nineteen
4 hundred and](YEAR) at the County (City) aforesaid, unlawfully, while
5 intoxicated did kill C-D, against the peace, government, and dignity of the State.";

6 (ii) "That A-B on the day of(MONTH), [nineteen
7 hundred and](YEAR) at the County (City) aforesaid, unlawfully, while under
8 the influence of alcohol, did kill C-D, against the peace, government, and dignity of
9 the State.";

10 (iii) "That A-B on the day of(MONTH), [nineteen
11 hundred and](YEAR) at the County (City) aforesaid, unlawfully, while under
12 the influence of drugs, did kill C-D, against the peace, government, and dignity of the
13 State."; or

14 (iv) "That A-B on the day of(MONTH), [nineteen
15 hundred and](YEAR) at the County (City) aforesaid, unlawfully, while under
16 the influence of a controlled dangerous substance, did kill C-D, against the peace,
17 government, and dignity of the State.".

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