

HOUSE BILL 169

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HB 542/99 - JUD

2001 Regular Session
11r0532

By: **Delegates Cryor, Amedori, Barkley, Barve, Boutin, Conroy, Dypski,
Goldwater, Hubers, La Vay, Pitkin, Rawlings, Shank, Stocksdale,
Walkup, Bronrott, and DeCarlo**

Introduced and read first time: January 18, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Vehicular Manslaughter and Homicide by Motor Vehicle While**
3 **Intoxicated - Penalties**

4 FOR the purpose of requiring a court to impose a certain mandatory minimum
5 sentence upon a person convicted of vehicular manslaughter or homicide by
6 motor vehicle or vessel while intoxicated; providing that the mandatory
7 minimum sentence may not be suspended; prohibiting a hearing officer from
8 declining, canceling, or modifying certain suspensions or revocations under
9 certain circumstances; and generally relating to the crimes of vehicular
10 manslaughter and homicide by motor vehicle or vessel while intoxicated.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 388 and 388A(b)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 2000 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article 27 - Crimes and Punishments
18 Section 388A(a)(1) and (2)
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Transportation
23 Section 16-405
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 2000 Supplement)

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

1

Article 27 - Crimes and Punishments

2 388.

3 (A) Every person causing the death of another as the result of the driving,
4 operation or control of an automobile, motor vehicle, locomotive, engine, car, streetcar,
5 train, vessel, or other vehicle in a grossly negligent manner[,] shall be guilty of a
6 felony to be known as "manslaughter by automobile, motor vehicle, locomotive,
7 engine, car, streetcar, train, vessel, or other vehicle[,]" [and the person so convicted
8 shall be sentenced to jail or the house of correction for not more than 10 years, or be
9 fined not more than \$5,000 or be both fined and imprisoned].

10 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO
11 IMPRISONMENT FOR NOT LESS THAN 60 DAYS AND NOT MORE THAN 10 YEARS OR A
12 FINE OF NOT MORE THAN \$5,000 OR BOTH.

13 (2) NOTWITHSTANDING § 643 OF THIS ARTICLE, IT IS MANDATORY ON
14 THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE OF 60 DAYS.

15 (3) THE MANDATORY MINIMUM SENTENCE OF 60 DAYS MAY NOT BE
16 SUSPENDED.

17 (C) In any indictment or other charging document for manslaughter by
18 automobile, motor vehicle, locomotive, engine, car, streetcar, train, vessel, or other
19 vehicle, it shall not be necessary to set forth the manner and means of death. It shall
20 be sufficient to use a formula substantially to the following effect: "That A-B on the
21 day of, nineteen hundred and .. at the County (City) aforesaid, unlawfully, in a
22 grossly negligent manner did kill and slay C-D."

23 388A.

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

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

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

32 (b) (1) Any person causing the death of another as the result of the person's
33 negligent driving, operation, or control of a motor vehicle or vessel while intoxicated
34 or intoxicated per se is guilty of a felony to be known as "homicide by motor vehicle or
35 vessel while intoxicated"[, and the person so convicted shall be punished by
36 imprisonment for not more than 5 years, or by fine of not more than \$5,000 or both
37 fine and imprisonment].

1 (2) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO
2 IMPRISONMENT FOR NOT LESS THAN 60 DAYS AND NOT MORE THAN 10 YEARS OR A
3 FINE OF NOT MORE THAN \$5,000 OR BOTH.

4 (3) NOTWITHSTANDING § 643 OF THIS ARTICLE, IT IS MANDATORY ON
5 THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE OF 60 DAYS.

6 (4) THE MANDATORY MINIMUM SENTENCE OF 60 DAYS MAY NOT BE
7 SUSPENDED.

8 **Article - Transportation**

9 16-405.

10 (a) Except as provided in § 16-205.1 of this title, if the suspension or
11 revocation of a license would affect adversely the employment or opportunity for
12 employment of a licensee, the hearing officer may:

13 (1) Decline to order the suspension or revocation; or

14 (2) Cancel or modify the suspension or revocation.

15 (b) For purposes of § 16-404 of this subtitle, if a licensee is required to drive a
16 motor vehicle in the course of his regular employment:

17 (1) Suspension requires 16 points; and

18 (2) Revocation requires 19 points.

19 (c) The provisions of subsection (b) of this section do not apply to an individual
20 whose current accumulation of points includes points resulting from a conviction for a
21 violation of § 21-902 of this article.

22 (D) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN INDIVIDUAL
23 WHOSE CURRENT ACCUMULATION OF POINTS INCLUDES POINTS RESULTING FROM
24 A CONVICTION FOR A VIOLATION OF ARTICLE 27, § 388 OR § 388A OF THE CODE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2001.