

(PRE-FILED)

By: **Delegates Boschert, Giannetti, and Bronrott**

Requested: October 22, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Custodian Liability Warning - Vehicle**
3 **Impoundment (John's Law)**

4 FOR the purpose of requiring law enforcement agencies to provide certain custodians
5 with a written statement advising of potential criminal or civil liability for
6 allowing or facilitating a person who has been arrested for a certain drunk or
7 drugged driving violation to operate a motor vehicle while the person remains
8 under the influence of alcohol or impaired by alcohol or drugs; requiring a
9 custodian to acknowledge, in writing, receipt of the statement or, if the
10 custodian refuses, requiring the law enforcement agency to record that the
11 statement was provided but the custodian refused to sign an acknowledgment;
12 requiring the arresting law enforcement agency to impound for a certain period
13 the motor vehicle that the arrestee was operating at the time of the arrest;
14 establishing requirements for the release of a motor vehicle impounded under
15 this Act; requiring the Attorney General to perform certain duties and adopt
16 certain regulations; clarifying that this Act does not impose a duty on certain
17 physicians or other health care providers; defining certain terms; and generally
18 relating to drunk or drugged driving.

19 BY adding to
20 Article - Transportation
21 Section 21-902.1
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2001 Supplement)

24 **Preamble**

25 WHEREAS, John Elliott, a distinguished member of the United States Naval
26 Academy Class of 2000, was killed by a drunken driver while driving from Annapolis,
27 Maryland to New Jersey on July 22, 2000; and

28 WHEREAS, The person whose car struck John's car had been arrested on a
29 drunk driving charge three hours earlier and released to the custody of a friend, but

1 nevertheless had resumed driving until the accident killed both men and injured
2 Kristen Hohenwarter of Westminster, Maryland; and

3 WHEREAS, In the aftermath of John's death, the General Assembly believes it
4 important to enact a law, such as one recently enacted in New Jersey, that helps
5 protect innocent individuals such as John Elliott from drunk or drugged drivers who
6 resume driving shortly after they are arrested; now, therefore,

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

9 **Article - Transportation**

10 21-902.1.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (2) "ARRESTEE" MEANS A PERSON WHO HAS BEEN ARRESTED FOR A
14 VIOLATION OF § 21-902 OF THIS SUBTITLE.

15 (3) "CUSTODIAN" MEANS A PERSON WHO, IN RESPONSE TO A SUMMONS
16 BY OR ON BEHALF OF AN ARRESTEE, APPEARS AT A LAW ENFORCEMENT AGENCY TO
17 TRANSPORT OR ACCOMPANY THE ARRESTEE FROM THE LAW ENFORCEMENT
18 AGENCY.

19 (B) (1) A LAW ENFORCEMENT AGENCY SHALL PROVIDE A CUSTODIAN WITH
20 A WRITTEN STATEMENT ADVISING OF POTENTIAL CRIMINAL LIABILITY UNDER §
21 26-101 OF THIS ARTICLE OR CIVIL LIABILITY FOR ALLOWING OR FACILITATING THE
22 ARRESTEE'S OPERATION OF A MOTOR VEHICLE WHILE THE ARRESTEE REMAINS:

23 (I) UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE
24 INFLUENCE OF ALCOHOL PER SE;

25 (II) IMPAIRED BY ALCOHOL;

26 (III) IMPAIRED BY DRUGS OR DRUGS AND ALCOHOL; OR

27 (IV) IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.

28 (2) (I) THE CUSTODIAN SHALL ACKNOWLEDGE, IN WRITING, RECEIPT
29 OF THE STATEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

30 (II) IF THE CUSTODIAN REFUSES TO ACKNOWLEDGE RECEIPT OF
31 THE STATEMENT, THE LAW ENFORCEMENT AGENCY SHALL RECORD THAT THE
32 STATEMENT WAS PROVIDED BUT THE CUSTODIAN REFUSED TO SIGN AN
33 ACKNOWLEDGMENT.

1 (C) THE ARRESTING LAW ENFORCEMENT AGENCY SHALL IMPOUND THE
2 MOTOR VEHICLE THAT THE ARRESTEE WAS OPERATING WHEN ARRESTED AND MAY
3 NOT RELEASE THE MOTOR VEHICLE TO THE ARRESTEE UNTIL THE LATER OF:

4 (1) 12 HOURS AFTER THE ARREST; OR

5 (2) THE TIME THE ARRESTEE MEETS THE CONDITIONS OF SUBSECTION
6 (E) OF THIS SECTION.

7 (D) A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY BE RELEASED
8 TO A PERSON OTHER THAN THE ARRESTEE BEFORE THE END OF THE IMPOUNDMENT
9 PERIOD DESCRIBED UNDER SUBSECTION (C) OF THIS SECTION ONLY IF:

10 (1) THE MOTOR VEHICLE IS NOT OWNED OR LEASED BY THE ARRESTEE
11 AND THE PERSON WHO OWNS OR LEASES THE MOTOR VEHICLE CLAIMS THE MOTOR
12 VEHICLE AND MEETS THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (E)
13 OF THIS SECTION; OR

14 (2) (I) THE MOTOR VEHICLE IS OWNED OR LEASED BY THE ARRESTEE;

15 (II) THE ARRESTEE ALLOWS THE RELEASE OF THE MOTOR
16 VEHICLE TO ANOTHER PERSON WHO HAS ACKNOWLEDGED, IN WRITING, RECEIPT OF
17 THE STATEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION; AND

18 (III) THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (E)
19 OF THIS SECTION ARE MET.

20 (E) A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY NOT BE
21 RELEASED UNLESS THE PERSON CLAIMING THE MOTOR VEHICLE:

22 (1) PRESENTS A VALID DRIVER'S LICENSE, PROOF OF OWNERSHIP OF OR
23 LAWFUL AUTHORITY TO OPERATE THE MOTOR VEHICLE, AND PROOF OF VALID
24 MOTOR VEHICLE INSURANCE FOR THAT MOTOR VEHICLE;

25 (2) IS ABLE TO OPERATE THE MOTOR VEHICLE SAFELY WITHOUT
26 VIOLATING ANY PROVISION OF THIS ARTICLE; AND

27 (3) SUBJECT TO REVIEW BY THE DISTRICT COURT, MEETS ANY OTHER
28 REASONABLE CONDITION FOR RELEASE THAT IS ESTABLISHED BY THE LAW
29 ENFORCEMENT AGENCY.

30 (F) A LAW ENFORCEMENT AGENCY THAT IMPOUNDS A MOTOR VEHICLE
31 UNDER THIS SECTION MAY CHARGE A REASONABLE FEE FOR TOWING AND STORAGE
32 OF THE MOTOR VEHICLE AND MAY RETAIN THE MOTOR VEHICLE UNTIL THE FEE IS
33 PAID.

34 (G) THE ATTORNEY GENERAL SHALL:

1 (1) ESTABLISH THE CONTENT AND FORM OF THE WRITTEN STATEMENT
2 OF LIABILITY AND ACKNOWLEDGMENT OF RECEIPT DESCRIBED UNDER SUBSECTION
3 (B) OF THIS SECTION; AND

4 (2) ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

5 (H) THIS SECTION DOES NOT IMPOSE A DUTY ON A PHYSICIAN OR OTHER
6 HEALTH CARE PROVIDER INVOLVED IN THE TREATMENT OR EVALUATION OF THE
7 ARRESTEE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2002.