

SENATE BILL 293

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R5

2004 Regular Session  
4r0901

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By: **Senator Stone**

Introduced and read first time: January 30, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Homicide by Motor Vehicle or Vessel While Fatigued**

3 FOR the purpose of establishing the crime of homicide by motor vehicle or vessel  
4 while fatigued to mean either causing the death of another as a result of driving,  
5 operating, or controlling a motor vehicle or vessel while knowingly fatigued or  
6 causing the death of another as a result of falling asleep while driving,  
7 operating, or controlling a motor vehicle or vessel; providing that certain proof  
8 may give rise to a certain inference concerning the defendant in a prosecution  
9 for a violation of this Act; providing guidelines for an indictment, information, or  
10 other charging document for homicide by motor vehicle or vessel while fatigued;  
11 establishing a certain penalty; providing for the assessment of a certain number  
12 of points by the Motor Vehicle Administration for a conviction for the crime of  
13 homicide by motor vehicle or vessel while fatigued; defining a certain term; and  
14 generally relating to the crime of homicide by motor vehicle or vessel while  
15 fatigued.

16 BY adding to

17 Article - Criminal Law

18 Section 2-601 to be under the new subtitle "Subtitle 6. Homicide by Motor  
19 Vehicle or Vessel While Fatigued"

20 Annotated Code of Maryland

21 (2002 Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article - Transportation

24 Section 16-402(a)

25 Annotated Code of Maryland

26 (2002 Replacement Volume and 2003 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

28 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Criminal Law**

2 SUBTITLE 6. HOMICIDE BY MOTOR VEHICLE OR VESSEL WHILE FATIGUED.

3 2-601.

4 (A) (1) A PERSON MAY NOT CAUSE THE DEATH OF ANOTHER AS A RESULT  
5 OF THE PERSON'S DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE OR  
6 VESSEL WHILE KNOWINGLY FATIGUED.

7 (2) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, PROOF THAT  
8 THE DEFENDANT WAS DRIVING WITHOUT SLEEP FOR A PERIOD IN EXCESS OF 24  
9 CONSECUTIVE HOURS IMMEDIATELY BEFORE DRIVING, OPERATING, OR  
10 CONTROLLING THE MOTOR VEHICLE OR VESSEL MAY GIVE RISE TO AN INFERENCE  
11 THAT THE DEFENDANT WAS FATIGUED.

12 (B) A PERSON MAY NOT CAUSE THE DEATH OF ANOTHER AS A RESULT OF  
13 FALLING ASLEEP WHILE DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE  
14 OR VESSEL.

15 (C) A VIOLATION OF THIS SECTION IS HOMICIDE BY MOTOR VEHICLE OR  
16 VESSEL WHILE FATIGUED.

17 (D) IN ANY INDICTMENT, INFORMATION, OR OTHER CHARGING DOCUMENT  
18 UNDER THIS SECTION:

19 (1) IT IS NOT NECESSARY TO SET FORTH THE MANNER AND MEANS OF  
20 DEATH; AND

21 (2) IT SHALL BE SUFFICIENT TO USE A FORMULA THAT SUBSTANTIALLY  
22 STATES "(NAME OF DEFENDANT) ON (DATE) IN (COUNTY) COMMITTED HOMICIDE BY  
23 (MOTOR VEHICLE)(VESSEL) WHILE FATIGUED BY KILLING (NAME OF VICTIM)  
24 AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."

25 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON  
26 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE  
27 NOT EXCEEDING \$5,000 OR BOTH.

28 **Article - Transportation**

29 16-402.

30 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
31 2-209, § 2-601, or § 3-211 of the Criminal Law Article, or of the vehicle laws or  
32 regulations of this State or of any local authority, points shall be assessed against the  
33 individual as of the date of violation and as follows:

34 (1) Any moving violation not listed below and not contributing  
35 to an accident ..... 1 point

- 1 (2) Following another vehicle too closely ..... 2 points
- 2 (3) Speeding in excess of the posted speed limit by 10 miles an  
3 hour or more ..... 2 points
- 4 (4) Driving with an improper class of license ..... 2 points
- 5 (5) Failing to stop for a school vehicle with activated  
6 alternately flashing red lights ..... 3 points
- 7 (6) Any violation of § 21-1111 of this article ..... 2 points
- 8 (7) Passing an emergency or police vehicle under the  
9 provisions of § 21-405(d) of this article ..... 2 points
- 10 (8) A violation of § 21-511(a) of this article ..... 2 points
- 11 (9) Failure to stop a vehicle for a steady red traffic signal in  
12 violation of § 21-202 of this article ..... 2 points
- 13 (10) Any moving violation contributing to an accident ..... 3 points
- 14 (11) Driving after suspension of license under the provisions of  
15 § 17-106, § 26-204, § 26-206, or § 27-103 of this article, or under the traffic  
16 laws or regulations of another state as described in § 16-303(i) of this title ..... 3 points
- 17 (12) Any violation, except violations committed on the John F.  
18 Kennedy Memorial Highway, of § 21-1411 of this article ..... 3 points
- 19 (13) Speeding in excess of the posted speed limit by 30 miles an  
20 hour or more ..... 5 points
- 21 (14) Driving while not licensed ..... 5 points
- 22 (15) Failure to report an accident ..... 5 points
- 23 (16) Driving on a learner's permit unaccompanied ..... 5 points
- 24 (17) Any violation of § 17-107 of this article ..... 5 points
- 25 (18) Participating in a race or speed contest on a highway ..... 5 points
- 26 (19) Any violation of § 16-304 or § 16-305 of this title ..... 5 points
- 27 (20) Any violation of § 22-404.5 of this article ..... 5 points
- 28 (21) Speeding in excess of a posted speed limit of 65 miles an  
29 hour by 20 miles an hour or more ..... 5 points
- 30 (22) Aggressive driving in violation of § 21-901.2 of this article ..... 5 points

- 1 (23) Reckless driving ..... 6 points
- 2 (24) Driving while impaired by alcohol or while impaired by a  
3 drug, combination of drugs, or a combination of one or more drugs and  
4 alcohol, or driving within 12 hours after arrest under § 21-902.1 of this  
5 article ..... 8 points
- 6 (25) Turning off lights of a vehicle to avoid identification ..... 8 points
- 7 (26) Failing to stop after accident resulting in damage to  
8 attended vehicle or property ..... 8 points
- 9 (27) Failing to stop after accident resulting in damage to  
10 unattended vehicle or property ..... 8 points
- 11 (28) Any violation of § 16-815 or § 16-816 of this title ..... 8 points
- 12 (29) Failing to stop after an accident resulting in bodily injury  
13 or death ..... 12 points
- 14 (30) Driving after refusal, suspension, cancellation, or  
15 revocation of license except for suspensions of license under the provisions  
16 of § 17-106, § 26-204, § 26-206, or § 27-103 of this article, or under the  
17 traffic laws or regulations of another state as described in § 16-303(i) of this  
18 title..... 12 points
- 19 (31) Any violation of § 16-301, § 16-302, § 16-804, or §  
20 16-808(a)(1) through (9) of this title ..... 12 points
- 21 (32) Homicide, life threatening injury under § 3-211 of the  
22 Criminal Law Article, HOMICIDE BY MOTOR VEHICLE OR VESSEL WHILE  
23 FATIGUED UNDER § 2-601 OF THE CRIMINAL LAW ARTICLE, or assault  
24 committed by means of a vehicle ..... 12 points
- 25 (33) Driving while under the influence of alcohol, while under  
26 the influence of alcohol per se, or while impaired by an illegally used  
27 controlled dangerous substance ..... 12 points
- 28 (34) Any felony involving use of a vehicle ..... 12 points
- 29 (35) Fleeing or attempting to elude a police officer ..... 12 points
- 30 (36) The making of a false affidavit or statement under oath, or  
31 falsely certifying to the truth of any fact or information to the  
32 Administration under the Maryland Vehicle Law or under any law relating  
33 to the ownership or operation of motor vehicles ..... 12 points
- 34 (37) Any violation involving an unlawful taking or unauthorized  
35 use of a motor vehicle under § 7-105 or § 7-203 of the Criminal Law Article,  
36 or § 14-102 of this article ..... 12 points

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2004.