

# SENATE BILL 783

R3

9lr2498

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By: **Senator Haines**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Driving While Under the Influence of Drugs or Controlled**  
3 **Dangerous Substances**

4 FOR the purpose of establishing certain drug–related driving offenses; providing for  
5 certain criminal and administrative penalties; making conforming changes; and  
6 generally relating to certain drug–related driving offenses.

7 BY repealing and reenacting, with amendments,  
8 Article – Criminal Law  
9 Section 2–503, 2–507(a)(1) and (4), 3–211(c), and 3–212(a)  
10 Annotated Code of Maryland  
11 (2002 Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article – Transportation  
14 Section 16–205(a)(1) and (2)(i), (b)(1), and (d)(1), 16–205.1(a)(2), (b)(2) and  
15 (3)(viii)1., (c)(1), (d)(1), (f)(1)(i), (7)(i)1., and (8)(i)1., (ii)2., and (iii)3.,  
16 16–402(a)(33), 18–105, 21–902(a), 26–202(a)(3)(i), 26–404(f)(2)(i), 26–405,  
17 and 27–101(k)(1)  
18 Annotated Code of Maryland  
19 (2006 Replacement Volume and 2008 Supplement)

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

22 **Article – Criminal Law**

23 2–503.

24 (a) A person may not cause the death of another as a result of the person’s  
25 negligently driving, operating, or controlling a motor vehicle or vessel while:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) under the influence of alcohol, **UNDER THE INFLUENCE OF A**  
2 **DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS**  
3 **AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS**  
4 **SUBSTANCE**; or

5 (2) under the influence of alcohol per se.

6 (b) A violation of this section is:

7 (1) homicide by motor vehicle or vessel while under the influence of  
8 alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A**  
9 **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER THE**  
10 **INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE**; or

11 (2) homicide by motor vehicle or vessel while under the influence of  
12 alcohol per se.

13 (c) A person who violates this section is guilty of a felony and on conviction is  
14 subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

15 2-507.

16 (a) An indictment, information, or other charging document for a crime  
17 under this subtitle is sufficient if it substantially states:

18 (1) “(name of defendant) on (date) in (county) committed homicide by  
19 motor vehicle or vessel while under the influence of alcohol, **UNDER THE INFLUENCE**  
20 **OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE**  
21 **DRUGS AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED**  
22 **DANGEROUS SUBSTANCE** by killing (name of victim) against the peace, government,  
23 and dignity of the State.”;

24 (4) “(name of defendant) on (date) in (county) committed homicide by  
25 motor vehicle or vessel while impaired by [drugs] **A DRUG, A COMBINATION OF**  
26 **DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL** by killing  
27 (name of victim) against the peace, government, and dignity of the State.”; or

28 3-211.

29 (c) (1) A person may not cause a life-threatening injury to another as a  
30 result of the person’s negligently driving, operating, or controlling a motor vehicle or  
31 vessel while the person is:

32 (i) under the influence of alcohol, **UNDER THE INFLUENCE OF**  
33 **A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE**

1 **DRUGS AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED**  
2 **DANGEROUS SUBSTANCE; or**

3 (ii) under the influence of alcohol per se.

4 (2) A violation of this subsection is life-threatening injury by motor  
5 vehicle or vessel while:

6 (i) under the influence of alcohol, **UNDER THE INFLUENCE OF**  
7 **A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE**  
8 **DRUGS AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED**  
9 **DANGEROUS SUBSTANCE; or**

10 (ii) under the influence of alcohol per se.

11 (3) A person who violates this subsection is guilty of a misdemeanor  
12 and on conviction is subject to imprisonment not exceeding 3 years or a fine not  
13 exceeding \$5,000 or both.

14 3-212.

15 (a) An indictment, information, or other charging document for a crime  
16 described in § 3-211 of this subtitle is sufficient if it substantially states:

17 (1) “(name of defendant) on (date) in (county) caused a  
18 life-threatening injury to (name of victim) while under the influence of alcohol,  
19 **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A**  
20 **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER THE**  
21 **INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE,** in violation of §  
22 3-211(c)(1)(i) of the Criminal Law Article against the peace, government, and dignity  
23 of the State.”;

24 (2) “(name of defendant) on (date) in (county) caused a  
25 life-threatening injury to (name of victim) while under the influence of alcohol per se,  
26 in violation of § 3-211(c)(1)(ii) of the Criminal Law Article against the peace,  
27 government, and dignity of the State.”;

28 (3) “(name of defendant) on (date) in (county) caused a  
29 life-threatening injury to (name of victim) while impaired by alcohol, in violation of §  
30 3-211(d) of the Criminal Law Article against the peace, government, and dignity of the  
31 State.”;

32 (4) “(name of defendant) on (date) in (county) caused a  
33 life-threatening injury to (name of victim) while impaired by [drugs] **A DRUG, A**  
34 **COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND**  
35 **ALCOHOL,** in violation of § 3-211(e) of the Criminal Law Article against the peace,  
36 government, and dignity of the State.”; or



1 person cannot drive a motor vehicle safely and who was previously convicted of a  
2 violation under:

3 (1) § 21-902(a) of this article of driving or attempting to drive a motor  
4 vehicle while under the influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A**  
5 **COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND**  
6 **ALCOHOL, UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE,**  
7 or [while] under the influence of alcohol per se;

8 16-205.1.

9 (a) (2) Any person who drives or attempts to drive a motor vehicle on a  
10 highway or on any private property that is used by the public in general in this State  
11 is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309,  
12 inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person  
13 should be detained on suspicion of driving or attempting to drive while under the  
14 influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF**  
15 **DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER**  
16 **THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE,** while impaired by  
17 alcohol, while so far impaired by any drug, any combination of drugs, or a combination  
18 of one or more drugs and alcohol that the person could not drive a vehicle safely, while  
19 impaired by a controlled dangerous substance, in violation of an alcohol restriction, or  
20 in violation of § 16-813 of this title.

21 (b) (2) Except as provided in subsection (c) of this section, if a police  
22 officer stops or detains any person who the police officer has reasonable grounds to  
23 believe is or has been driving or attempting to drive a motor vehicle while under the  
24 influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF**  
25 **DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER**  
26 **THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE,** while impaired by  
27 alcohol, while so far impaired by any drug, any combination of drugs, or a combination  
28 of one or more drugs and alcohol that the person could not drive a vehicle safely, while  
29 impaired by a controlled dangerous substance, in violation of an alcohol restriction, or  
30 in violation of § 16-813 of this title, and who is not unconscious or otherwise incapable  
31 of refusing to take a test, the police officer shall:

32 (i) Detain the person;

33 (ii) Request that the person permit a test to be taken;

34 (iii) Advise the person of the administrative sanctions that shall  
35 be imposed for test results indicating an alcohol concentration of at least 0.08 but less  
36 than 0.15 at the time of testing;

37 (iv) Advise the person of the administrative sanctions, including  
38 ineligibility for modification of a suspension or issuance of a restrictive license unless  
39 the person participates in the Ignition Interlock System Program under § 16-404.1 of

1 this title, that shall be imposed for refusal to take the test and for test results  
2 indicating an alcohol concentration of 0.15 or more at the time of testing; and

3 (v) Advise the person of the additional criminal penalties that  
4 may be imposed under § 27–101(x) of this article on conviction of a violation of §  
5 21–902 of this article if the person knowingly refused to take a test arising out of the  
6 same circumstances as the violation.

7 (3) If the person refuses to take the test or takes a test which results  
8 in an alcohol concentration of 0.08 or more at the time of testing, the police officer  
9 shall:

10 (viii) Within 72 hours after the issuance of the order of  
11 suspension, send any confiscated driver's license, copy of the suspension order, and a  
12 sworn statement to the Administration, that states:

13 1. The officer had reasonable grounds to believe that the  
14 person had been driving or attempting to drive a motor vehicle on a highway or on any  
15 private property that is used by the public in general in this State while under the  
16 influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF**  
17 **DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER**  
18 **THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE**, while impaired by  
19 alcohol, while so far impaired by any drug, any combination of drugs, or a combination  
20 of one or more drugs and alcohol that the person could not drive a vehicle safely, while  
21 impaired by a controlled dangerous substance, in violation of an alcohol restriction, or  
22 in violation of § 16–813 of this title;

23 (c) (1) If a person is involved in a motor vehicle accident that results in  
24 the death of, or a life threatening injury to, another person and the person is detained  
25 by a police officer who has reasonable grounds to believe that the person has been  
26 driving or attempting to drive while under the influence of alcohol, **UNDER THE**  
27 **INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE**  
28 **OR MORE DRUGS AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED**  
29 **DANGEROUS SUBSTANCE**, while impaired by alcohol, while so far impaired by any  
30 drug, any combination of drugs, or a combination of one or more drugs and alcohol  
31 that the person could not drive a vehicle safely, while impaired by a controlled  
32 dangerous substance, or in violation of § 16–813 of this title, the person shall be  
33 required to submit, as directed by the officer, to a test of:

34 (i) The person's breath to determine alcohol concentration;

35 (ii) One specimen of the person's blood, to determine alcohol  
36 concentration or to determine the drug or controlled dangerous substance content of  
37 the person's blood; or

38 (iii) Both the person's breath under item (i) of this paragraph  
39 and one specimen of the person's blood under item (ii) of this paragraph.

1 (d) (1) If a police officer has reasonable grounds to believe that a person  
2 has been driving or attempting to drive a motor vehicle while under the influence of  
3 alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A**  
4 **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER THE**  
5 **INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE**, while impaired by  
6 alcohol, while so far impaired by any drug, any combination of drugs, or a combination  
7 of one or more drugs and alcohol that the person could not drive a vehicle safely, while  
8 impaired by a controlled dangerous substance, or in violation of § 16–813 of this title,  
9 and if the police officer determines that the person is unconscious or otherwise  
10 incapable of refusing to take a test, the police officer shall:

11 (i) Obtain prompt medical attention for the person;

12 (ii) If necessary, arrange for removal of the person to a nearby  
13 medical facility; and

14 (iii) If a test would not jeopardize the health or well-being of the  
15 person, direct a qualified medical person to withdraw blood for a test.

16 (f) (1) Subject to the provisions of this subsection, at the time of, or  
17 within 30 days from the date of, the issuance of an order of suspension, a person may  
18 submit a written request for a hearing before an officer of the Administration if:

19 (i) The person is arrested for driving or attempting to drive a  
20 motor vehicle while under the influence of alcohol, **UNDER THE INFLUENCE OF A**  
21 **DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS**  
22 **AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS**  
23 **SUBSTANCE**, while impaired by alcohol, while so far impaired by any drug, any  
24 combination of drugs, or a combination of one or more drugs and alcohol that the  
25 person could not drive a vehicle safely, while impaired by a controlled dangerous  
26 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;  
27 and

28 (7) (i) At a hearing under this section, the person has the rights  
29 described in § 12–206 of this article, but at the hearing the only issues shall be:

30 1. Whether the police officer who stops or detains a  
31 person had reasonable grounds to believe the person was driving or attempting to  
32 drive while under the influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A**  
33 **COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND**  
34 **ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS**  
35 **SUBSTANCE**, while impaired by alcohol, while so far impaired by any drug, any  
36 combination of drugs, or a combination of one or more drugs and alcohol that the  
37 person could not drive a vehicle safely, while impaired by a controlled dangerous  
38 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

1 (8) (i) After a hearing, the Administration shall suspend the  
2 driver's license or privilege to drive of the person charged under subsection (b) or (c) of  
3 this section if:

4 1. The police officer who stopped or detained the person  
5 had reasonable grounds to believe the person was driving or attempting to drive while  
6 under the influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A**  
7 **COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND**  
8 **ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS**  
9 **SUBSTANCE**, while impaired by alcohol, while so far impaired by any drug, any  
10 combination of drugs, or a combination of one or more drugs and alcohol that the  
11 person could not drive a vehicle safely, while impaired by a controlled dangerous  
12 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

13 (ii) After a hearing, the Administration shall disqualify the  
14 person from driving a commercial motor vehicle if:

15 2. The police officer who stopped or detained the person  
16 had reasonable grounds to believe that the person was driving or attempting to drive  
17 while under the influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A**  
18 **COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND**  
19 **ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS**  
20 **SUBSTANCE**, while impaired by alcohol, while so far impaired by any drug, any  
21 combination of drugs, or a combination of one or more drugs and alcohol that the  
22 person could not drive a vehicle safely, while impaired by a controlled dangerous  
23 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

24 (iii) If the person is licensed to drive a commercial motor vehicle,  
25 the Administration shall disqualify the person in accordance with subparagraph (ii) of  
26 this paragraph, but may not impose a suspension under subparagraph (i) of this  
27 paragraph, if:

28 3. The police officer did not have reasonable grounds to  
29 believe the driver was driving while under the influence of alcohol, **UNDER THE**  
30 **INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE**  
31 **OR MORE DRUGS AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED**  
32 **DANGEROUS SUBSTANCE**, driving while impaired by alcohol, while so far impaired  
33 by any drug, any combination of drugs, or a combination of one or more drugs and  
34 alcohol that the person could not drive a vehicle safely, or while impaired by a  
35 controlled dangerous substance; and

36 16–402.

37 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
38 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of  
39 this State or of any local authority, points shall be assessed against the individual as  
40 of the date of violation and as follows:



1           (33) Driving while under the influence of alcohol, **UNDER**  
 2           **THE INFLUENCE OF A DRUG, A COMBINATION OF**  
 3           **DRUGS, OR A COMBINATION OF ONE OR MORE**  
 4           **DRUGS AND ALCOHOL, OR UNDER THE INFLUENCE**  
 5           **OF A CONTROLLED DANGEROUS SUBSTANCE, OR**  
 6           while under the influence of alcohol per se, or while  
 7           impaired by an illegally used controlled dangerous  
 8           substance ..... 12 points

9 18-105.

10           (a) A person may not rent a motor vehicle to any other person if he knows  
 11           that the other person is under the influence of alcohol, **UNDER THE INFLUENCE OF A**  
 12           **DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS**  
 13           **AND ALCOHOL, OR UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS**  
 14           **SUBSTANCE**, impaired by alcohol, impaired by a drug, a combination of drugs, a  
 15           combination of one or more drugs and alcohol, or impaired by a controlled dangerous  
 16           substance.

17           (b) A person may not rent a motor vehicle to any other person if the person  
 18           knows that an individual who will drive the rented vehicle is under the influence of  
 19           alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A**  
 20           **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER THE**  
 21           **INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE**, impaired by alcohol,  
 22           impaired by a drug, a combination of drugs, a combination of one or more drugs and  
 23           alcohol, or impaired by a controlled dangerous substance.

24 21-902.

25           (a) (1) A person may not drive or attempt to drive any vehicle while under  
 26           the influence of alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF**  
 27           **DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER**  
 28           **THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE.**

29           (2) A person may not drive or attempt to drive any vehicle while the  
 30           person is under the influence of alcohol per se.

31           (3) A person may not violate paragraph (1) or (2) of this subsection  
 32           while transporting a minor.

33 26-202.

34           (a) A police officer may arrest without a warrant a person for a violation of  
 35           the Maryland Vehicle Law, including any rule or regulation adopted under it, or for a  
 36           violation of any traffic law or ordinance of any local authority of this State, if:

1           (3) The officer has probable cause to believe that the person has  
2 committed the violation, and the violation is any of the following offenses:

3                   (i) Driving or attempting to drive while under the influence of  
4 alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A**  
5 **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER THE**  
6 **INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE**, while impaired by  
7 alcohol, or in violation of an alcohol restriction;

8 26–404.

9           (f) A guaranteed arrest bond certificate may not be accepted:

10                   (2) To guarantee the appearance of any person in a court of this State,  
11 if the offense charged is:

12                   (i) Driving or attempting to drive while under the influence of  
13 alcohol, **UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A**  
14 **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, UNDER THE INFLUENCE**  
15 **OF A CONTROLLED DANGEROUS SUBSTANCE, OR WHILE UNDER THE INFLUENCE**  
16 **OF ALCOHOL PER SE**, or while impaired by alcohol;

17 26–405.

18           If a person is charged with a violation of § 21–901.1 of this article (“Reckless  
19 and negligent driving”) or § 21–902 of this article (“Driving while under the influence  
20 of alcohol, **WHILE UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF**  
21 **DRUGS, A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR UNDER**  
22 **THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, OR [while] under**  
23 the influence of alcohol per se, while impaired by alcohol, or while impaired by a drug,  
24 a combination of drugs, a combination of one or more drugs and alcohol, or while  
25 impaired by a controlled dangerous substance”), the court may find the person guilty  
26 of any lesser included offense under any subsection of the respective section.

27 27–101.

28           (k) (1) Except as provided in subsection (q) of this section, any person who  
29 is convicted of a violation of any of the provisions of § 21–902(a) of this article  
30 (“Driving while under the influence of alcohol, **UNDER THE INFLUENCE OF A DRUG,**  
31 **A COMBINATION OF DRUGS, A COMBINATION OF ONE OR MORE DRUGS AND**  
32 **ALCOHOL, UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE,**  
33 or under the influence of alcohol per se”) or § 21–902(d) of this article (“Driving while  
34 impaired by controlled dangerous substance”):

35                   (i) For a first offense, shall be subject to a fine of not more than  
36 \$1,000, or imprisonment for not more than 1 year, or both;

1                   (ii) For a second offense, shall be subject to a fine of not more  
2 than \$2,000, or imprisonment for not more than 2 years, or both; and

3                   (iii) For a third or subsequent offense, shall be subject to a fine of  
4 not more than \$3,000, or imprisonment for not more than 3 years, or both.

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2009.