

SENATE BILL 302

D3, R3

6lr1390
CF 6lr1341

By: **Senators Raskin, Benson, Currie, DeGrange, Feldman, Kagan, Kelley, King, Klausmeier, Lee, Manno, Peters, Pinsky, Pugh, and Ramirez**

Introduced and read first time: January 22, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Aggressive Drunk Driving – Punitive Damages**

3 FOR the purpose of providing that a person with a certain alcohol concentration in the
4 blood or breath who causes personal injury or wrongful death while operating or
5 attempting to operate a motor vehicle is liable for punitive damages under certain
6 circumstances; requiring a party who seeks to recover punitive damages under this
7 Act to plead certain facts with particularity; providing for a standard of proof of clear
8 and convincing evidence for a claim of punitive damages under this Act; providing
9 that punitive damages under this Act may not be awarded in the absence of an award
10 of compensatory damages; providing that evidence of a defendant's financial means
11 is not admissible until there has been a finding of liability and that punitive damages
12 under this Act are supportable under the facts; authorizing a court to review an
13 award of punitive damages under certain circumstances; requiring a court to review
14 an award of punitive damages under certain circumstances; requiring a court to
15 remit an award for punitive damages under certain circumstances; defining a certain
16 term; providing for the application of this Act; and generally relating to liability for
17 punitive damages under certain circumstances when a person who causes personal
18 injury or wrongful death while driving or attempting to drive a motor vehicle with a
19 certain alcohol concentration in the blood or breath.

20 BY adding to

21 Article – Courts and Judicial Proceedings

22 Section 10–913.1

23 Annotated Code of Maryland

24 (2013 Replacement Volume and 2015 Supplement)

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

27 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **10-913.1.**

2 (A) IN THIS SECTION, "MOTOR VEHICLE" HAS THE MEANING STATED IN §
3 11-135 OF THE TRANSPORTATION ARTICLE.

4 (B) THIS SECTION DOES NOT AFFECT THE PROVISIONS OF:

5 (1) THE LOCAL GOVERNMENT TORTS CLAIMS ACT UNDER TITLE 5,
6 SUBTITLE 3 OF THIS ARTICLE; OR

7 (2) THE MARYLAND TORT CLAIMS ACT UNDER TITLE 12, SUBTITLE
8 1 OF THE STATE GOVERNMENT ARTICLE.

9 (C) SUBJECT TO THE PROVISIONS OF THIS SECTION, IN ADDITION TO ANY
10 LIABILITY FOR ACTUAL DAMAGES, A PERSON IS LIABLE FOR PUNITIVE DAMAGES IF
11 THE PERSON:

12 (1) CAUSES PERSONAL INJURY OR WRONGFUL DEATH WHILE
13 OPERATING OR ATTEMPTING TO OPERATE A MOTOR VEHICLE WHILE HAVING AN
14 ALCOHOL CONCENTRATION OF 0.08 OR MORE AS MEASURED BY GRAMS OF ALCOHOL
15 PER 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF
16 BREATH; AND

17 (2) WITHIN THE PAST 5 YEARS, WAS CONVICTED, ENTERED A PLEA OF
18 NOLO CONTENDERE, OR RECEIVED PROBATION BEFORE JUDGMENT:

19 (i) UNDER § 21-902 OF THE TRANSPORTATION ARTICLE;

20 (ii) UNDER § 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF
21 THE CRIMINAL LAW ARTICLE; OR

22 (iii) FOR AN OFFENSE COMPARABLE TO THE OFFENSES
23 SPECIFIED IN ITEM 1 OR 2 OF THIS ITEM UNDER A FEDERAL OR OTHER STATE
24 STATUTE.

25 (D) A CLAIM FOR PUNITIVE DAMAGES UNDER THIS SECTION:

26 (1) SHALL BE PLEADED, BY COMPLAINT OR AMENDMENT, WITH
27 FACTS SUPPORTING THE CLAIM WITH SUFFICIENT PARTICULARITY TO ESTABLISH
28 THAT THE PARTY MAY BE ENTITLED TO PUNITIVE DAMAGES UNDER THIS SECTION;

29 (2) SHALL BE PROVED BY CLEAR AND CONVINCING EVIDENCE;

1 **(3) MAY NOT BE AWARDED IN THE ABSENCE OF AN AWARD OF**
2 **COMPENSATORY DAMAGES; AND**

3 **(4) SHALL COMPLY WITH THE PROVISIONS OF § 10-913 OF THIS**
4 **SUBTITLE.**

5 **(E) (1) A COURT MAY ON ITS OWN MOTION, AND SHALL ON MOTION OF A**
6 **PARTY, REVIEW AN AWARD FOR PUNITIVE DAMAGES UNDER THIS SECTION.**

7 **(2) A COURT SHALL REMIT AN AWARD FOR PUNITIVE DAMAGES IF THE**
8 **AWARD IS:**

9 **(I) DISPROPORTIONATE TO THE AWARD OF COMPENSATORY**
10 **DAMAGES; OR**

11 **(II) DISPROPORTIONATE TO THE DEFENDANT'S CONDUCT,**
12 **TAKING INTO ACCOUNT THE GRAVITY AND CONTINUING NATURE OF THE CONDUCT.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
14 apply only prospectively and may not be applied or interpreted to have any effect on or
15 application to any cause of action arising before the effective date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2016.