

HOUSE BILL 864

D3, R3

6lr1341
CF SB 302

By: Delegates Smith, Anderson, Angel, Barkley, B. Barnes, D. Barnes, Barron, Barve, Beidle, Brooks, Carr, Carter, Conaway, Ebersole, Fennell, Fraser-Hidalgo, Frick, Gilchrist, Glenn, Gutierrez, Haynes, Hixson, C. Howard, Impallaria, Jalisi, Jones, Kelly, Knotts, Korman, Kramer, Lam, Luedtke, McCray, A. Miller, Moon, Oaks, Platt, Proctor, Reznik, B. Robinson, S. Robinson, Rosenberg, Sanchez, Valderrama, Vallario, Vaughn, Waldstreicher, A. Washington, and K. Young

Introduced and read first time: February 8, 2016

Assigned to: Judiciary

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 causes personal injury
18 or wrongful death while driving or attempting to drive a motor vehicle with a certain
19 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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 **10-913.1.**

5 (A) IN THIS SECTION, “MOTOR VEHICLE” HAS THE MEANING STATED IN §
6 11-135 OF THE TRANSPORTATION ARTICLE.

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

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

10 (2) THE MARYLAND TORT CLAIMS ACT UNDER TITLE 12, SUBTITLE
11 1 OF THE STATE GOVERNMENT ARTICLE.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **(I) DISPROPORTIONATE TO THE AWARD OF COMPENSATORY**
14 **DAMAGES; OR**

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

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

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2016.