

SENATE BILL 302

D3, R3

6lr1390
CF HB 864

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 2016

CHAPTER _____

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Courts and Judicial Proceedings
 3 Section 10–913.1
 4 Annotated Code of Maryland
 5 (2013 Replacement Volume and 2015 Supplement)

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

8 **Article – Courts and Judicial Proceedings**

9 **10–913.1.**

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

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

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

15 (2) THE MARYLAND TORT CLAIMS ACT UNDER TITLE 12, SUBTITLE
 16 1 OF THE STATE GOVERNMENT ARTICLE.

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

20 (1) (I) CAUSES PERSONAL INJURY OR WRONGFUL DEATH WHILE
 21 OPERATING OR ATTEMPTING TO OPERATE A MOTOR VEHICLE WHILE HAVING AN
 22 ALCOHOL CONCENTRATION OF ~~0.08~~ 0.15 OR MORE AS MEASURED BY GRAMS OF
 23 ALCOHOL PER 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS
 24 OF BREATH; OR

25 (II) 1. CAUSES PERSONAL INJURY OR WRONGFUL DEATH
 26 WHILE OPERATING OR ATTEMPTING TO OPERATE A MOTOR VEHICLE;

27 2. IS DETAINED BY A POLICE OFFICER WHO HAS
 28 REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN OPERATING OR
 29 ATTEMPTING TO OPERATE A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF
 30 ALCOHOL, WHILE IMPAIRED BY ALCOHOL, OR IN VIOLATION OF § 16–813 OF THE
 31 TRANSPORTATION ARTICLE; AND

32 3. REFUSES TO SUBMIT TO A CHEMICAL TEST TO
 33 DETERMINE ALCOHOL CONCENTRATION; AND

1 (2) WITHIN THE PAST ~~5~~ 10 YEARS, WAS CONVICTED, ENTERED A PLEA
2 OF NOLO CONTENDERE, OR RECEIVED PROBATION BEFORE JUDGMENT:

3 (I) UNDER § 21-902 OF THE TRANSPORTATION ARTICLE;

4 (II) UNDER § 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF
5 THE CRIMINAL LAW ARTICLE; OR

6 (III) FOR AN OFFENSE COMPARABLE TO THE OFFENSES
7 SPECIFIED IN ITEM 1 OR 2 OF THIS ITEM UNDER A FEDERAL OR OTHER STATE
8 STATUTE.

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

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

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

14 (3) MAY NOT BE AWARDED IN THE ABSENCE OF AN AWARD OF
15 COMPENSATORY DAMAGES; AND

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

18 (E) LIABILITY FOR PUNITIVE DAMAGES UNDER THIS SECTION SHALL BE
19 LIMITED SOLELY TO THE PERSON OPERATING OR ATTEMPTING TO OPERATE THE
20 MOTOR VEHICLE.

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

23 ~~(2) A COURT SHALL REMIT AN AWARD FOR PUNITIVE DAMAGES IF THE~~
24 ~~AWARD IS:~~

25 ~~(I) DISPROPORTIONATE TO THE AWARD OF COMPENSATORY~~
26 ~~DAMAGES; OR~~

27 ~~(II) DISPROPORTIONATE TO THE DEFENDANT'S CONDUCT,~~
28 ~~TAKING INTO ACCOUNT THE GRAVITY AND CONTINUING NATURE OF THE CONDUCT.~~

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

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.