

SENATE BILL 1058

D3, R3
SB 302/16 – JPR

7lr3495

By: **Senators Brochin and Zirkin**

Introduced and read first time: February 13, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Aggressive Drunk Driving – Punitive Damages**

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

19 BY adding to
20 Article – Courts and Judicial Proceedings
21 Section 10–913.1
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2016 Supplement)

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

26 **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) (I) CAUSES PERSONAL INJURY OR WRONGFUL DEATH WHILE
13 OPERATING OR ATTEMPTING TO OPERATE A MOTOR VEHICLE WHILE HAVING AN
14 ALCOHOL CONCENTRATION OF 0.15 OR MORE AS MEASURED BY GRAMS OF ALCOHOL
15 PER 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF
16 BREATH; OR

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

19 2. IS DETAINED BY A POLICE OFFICER WHO HAS
20 REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN OPERATING OR
21 ATTEMPTING TO OPERATE A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF
22 ALCOHOL, WHILE IMPAIRED BY ALCOHOL, OR IN VIOLATION OF § 16-813 OF THE
23 TRANSPORTATION ARTICLE; AND

24 3. REFUSES TO SUBMIT TO A CHEMICAL TEST TO
25 DETERMINE ALCOHOL CONCENTRATION; AND

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

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

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

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

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

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

8 (2) SHALL BE PROVEN BY CLEAR AND CONVINCING EVIDENCE;

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

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

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

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

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2017.