

HOUSE BILL 395

E1, R3

5lr1762

By: **Delegates Valentino–Smith, Folden, McComas, B. Wilson, and C. Wilson**

Introduced and read first time: February 6, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Death or Life–Threatening Injury by Motor Vehicle or Vessel – Subsequent**
3 **Offenders – Penalties**

4 FOR the purpose of establishing subsequent offender penalties for certain offenses that
5 result in the death or life–threatening injury to another as the result of a certain
6 person driving, operating, or controlling a vehicle or vessel; providing that certain
7 offenses committed in another state or federal jurisdiction are to be considered for
8 the application of certain subsequent offender penalties; and generally relating to
9 death or life–threatening injuries by motor vehicles or vessels.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 2–209, 2–210, 2–503 through 2–506, and 3–211
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2014 Supplement)

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

17 **Article – Criminal Law**

18 2–209.

19 (a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive,
20 engine, and train.

21 (b) A person may not cause the death of another as a result of the person’s driving,
22 operating, or controlling a vehicle or vessel in a grossly negligent manner.

23 (c) A violation of this section is manslaughter by vehicle or vessel.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, A person who violates this section is guilty of a felony and on conviction is
3 subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

4 (2) (I) A PERSON WHO VIOLATES THIS SECTION, HAVING
5 PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-210, § 2-503, § 2-504, §
6 2-505, § 2-506, OR § 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION
7 ARTICLE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
8 IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
9 BOTH.

10 (II) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT
11 OFFENDER PENALTIES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A
12 CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL
13 JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A
14 VIOLATION OF THIS SECTION, § 2-210, § 2-503, § 2-504, § 2-505, § 2-506, OR §
15 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE
16 CONSIDERED A VIOLATION OF THIS SECTION.

17 (e) (1) An indictment or other charging document for manslaughter by vehicle
18 or vessel is sufficient if it substantially states:

19 “(name of defendant) on (date) in (county) killed (name of victim) in a grossly
20 negligent manner against the peace, government, and dignity of the State.”.

21 (2) An indictment or other charging document for manslaughter by vehicle
22 or vessel need not set forth the manner or means of death.

23 2-210.

24 (a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive,
25 engine, and train.

26 (b) A person may not cause the death of another as the result of the person’s
27 driving, operating, or controlling a vehicle or vessel in a criminally negligent manner.

28 (c) For purposes of this section, a person acts in a criminally negligent manner
29 with respect to a result or a circumstance when:

30 (1) the person should be aware, but fails to perceive, that the person’s
31 conduct creates a substantial and unjustifiable risk that such a result will occur; and

32 (2) the failure to perceive constitutes a gross deviation from the standard
33 of care that would be exercised by a reasonable person.

1 (d) It is not a violation of this section for a person to cause the death of another
2 as the result of the person's driving, operating, or controlling a vehicle or vessel in a
3 negligent manner.

4 (e) A violation of this section is criminally negligent manslaughter by vehicle or
5 vessel.

6 (f) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
7 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on
8 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000
9 or both.

10 (2) (I) A PERSON WHO VIOLATES THIS SECTION, HAVING
11 PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-503, § 2-504, §
12 2-505, § 2-506, OR § 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION
13 ARTICLE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
14 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
15 BOTH.

16 (II) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT
17 OFFENDER PENALTIES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A
18 CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL
19 JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A
20 VIOLATION OF THIS SECTION, § 2-209, § 2-503, § 2-504, § 2-505, § 2-506, OR §
21 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE
22 CONSIDERED A VIOLATION OF THIS SECTION.

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:

26 (1) under the influence of alcohol; or

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

28 (b) A violation of this section is:

29 (1) homicide by motor vehicle or vessel while under the influence of alcohol;

30 or

31 (2) homicide by motor vehicle or vessel while under the influence of alcohol

32 per se.

1 (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, A person who violates this section is guilty of a felony and on conviction is
3 subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

4 (2) (I) A PERSON WHO VIOLATES THIS SECTION, HAVING
5 PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-504, §
6 2-505, § 2-506, OR § 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION
7 ARTICLE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
8 IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
9 BOTH.

10 (II) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT
11 OFFENDER PENALTIES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A
12 CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL
13 JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A
14 VIOLATION OF THIS SECTION, § 2-209, § 2-210, § 2-504, § 2-505, § 2-506, OR §
15 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE
16 CONSIDERED A VIOLATION OF THIS SECTION.

17 2-504.

18 (a) A person may not cause the death of another as a result of the person's
19 negligently driving, operating, or controlling a motor vehicle or vessel while impaired by
20 alcohol.

21 (b) A violation of this section is homicide by motor vehicle or vessel while impaired
22 by alcohol.

23 (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
24 SUBSECTION, A person who violates this section is guilty of a felony and on conviction is
25 subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

26 (2) (I) A PERSON WHO VIOLATES THIS SECTION, HAVING
27 PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §
28 2-505, § 2-506, OR § 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION
29 ARTICLE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
30 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
31 BOTH.

32 (II) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT
33 OFFENDER PENALTIES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A
34 CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL
35 JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A
36 VIOLATION OF THIS SECTION, § 2-209, § 2-210, § 2-503, § 2-505, § 2-506, OR §

1 **3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE**
2 **CONSIDERED A VIOLATION OF THIS SECTION.**

3 2-505.

4 (a) A person may not cause the death of another as a result of the person's
5 negligently driving, operating, or controlling a motor vehicle or vessel while the person is
6 so far impaired by a drug, a combination of drugs, or a combination of one or more drugs
7 and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely.

8 (b) A violation of this section is homicide by motor vehicle or vessel while impaired
9 by drugs.

10 (c) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
11 **SUBSECTION, A person who violates this section is guilty of a felony and on conviction is**
12 **subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.**

13 **(2) (I) A PERSON WHO VIOLATES THIS SECTION, HAVING**
14 **PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §**
15 **2-504, § 2-506, OR § 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION**
16 **ARTICLE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
17 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR**
18 **BOTH.**

19 **(II) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT**
20 **OFFENDER PENALTIES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A**
21 **CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL**
22 **JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A**
23 **VIOLATION OF THIS SECTION, § 2-209, § 2-210, § 2-503, § 2-504, § 2-506, OR §**
24 **3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE**
25 **CONSIDERED A VIOLATION OF THIS SECTION.**

26 (d) It is not a defense to a charge of violating this section that the person is or was
27 entitled under the laws of this State to use a drug, combination of drugs, or combination of
28 one or more drugs and alcohol, unless the person was unaware that the drug, combination
29 of drugs, or combination of one or more drugs and alcohol would make the person incapable
30 of driving, operating, or controlling a motor vehicle or vessel in a safe manner.

31 2-506.

32 (a) A person may not cause the death of another as a result of the person's
33 negligently driving, operating, or controlling a motor vehicle or vessel while the person is
34 impaired by a controlled dangerous substance, as defined in § 5-101 of this article.

1 (b) A violation of this section is homicide by motor vehicle or vessel while impaired
2 by a controlled dangerous substance.

3 (c) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
4 **SUBSECTION, A person who violates this section is guilty of a felony and on conviction is**
5 **subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.**

6 **(2) (I) A PERSON WHO VIOLATES THIS SECTION, HAVING**
7 **PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §**
8 **2-504, § 2-505, OR § 3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION**
9 **ARTICLE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
10 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR**
11 **BOTH.**

12 **(II) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT**
13 **OFFENDER PENALTIES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A**
14 **CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL**
15 **JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A**
16 **VIOLATION OF THIS SECTION, § 2-209, § 2-210, § 2-503, § 2-504, § 2-505, OR §**
17 **3-211 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE**
18 **CONSIDERED A VIOLATION OF THIS SECTION.**

19 (d) This section does not apply to a person who is entitled to use the controlled
20 dangerous substance under the laws of this State.

21 3-211.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) "Under the influence of alcohol per se" means having an alcohol
24 concentration at the time of testing of at least 0.08 as measured by grams of alcohol per 100
25 milliliters of blood or grams of alcohol per 210 liters of breath.

26 (3) (i) "Vessel" means any watercraft that is used or is capable of being
27 used as a means of transportation on water or ice.

28 (ii) "Vessel" does not include a seaplane.

29 (b) (1) For purposes of determining alcohol concentration under this section, if
30 the alcohol concentration is measured by milligrams of alcohol per deciliter of blood or
31 milligrams of alcohol per 100 milliliters of blood, a court shall convert the measurement
32 into grams of alcohol per 100 milliliters of blood by dividing the measurement by 1000.

33 (2) The presumptions and evidentiary rules of §§ 10-302, 10-306, 10-307,
34 and 10-308 of the Courts Article apply to a person charged under this section.

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

4 (i) under the influence of alcohol; or

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

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

8 (i) under the influence of alcohol; or

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

10 (3) (I) **[A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
11 **PARAGRAPH, A person who violates this subsection is guilty of a misdemeanor and on**
12 **conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000**
13 **or both.**

14 (II) **A PERSON WHO VIOLATES THIS SUBSECTION, HAVING**
15 **PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §**
16 **2-504, § 2-505, OR § 2-506 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION**
17 **ARTICLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
18 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR**
19 **BOTH.**

20 (d) (1) A person may not cause a life-threatening injury to another as a result
21 of the person's negligently driving, operating, or controlling a motor vehicle or vessel while
22 the person is impaired by alcohol.

23 (2) A violation of this subsection is life-threatening injury by motor vehicle
24 or vessel while impaired by alcohol.

25 (3) (I) **[A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
26 **PARAGRAPH, A person who violates this subsection is guilty of a misdemeanor and on**
27 **conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$3,000**
28 **or both.**

29 (II) **A PERSON WHO VIOLATES THIS SUBSECTION, HAVING**
30 **PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §**
31 **2-504, § 2-505, OR § 2-506 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION**
32 **ARTICLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
33 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR**
34 **BOTH.**

1 (e) (1) A person may not cause a life-threatening injury to another as a result
2 of the person's negligently driving, operating, or controlling a motor vehicle or vessel while
3 the person is so far impaired by a drug, a combination of drugs, or a combination of one or
4 more drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or
5 vessel safely.

6 (2) A violation of this subsection is life-threatening injury by motor vehicle
7 or vessel while impaired by drugs.

8 (3) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
9 PARAGRAPH, A person who violates this subsection is guilty of a misdemeanor and on
10 conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$3,000
11 or both.

12 (II) A PERSON WHO VIOLATES THIS SUBSECTION, HAVING
13 PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §
14 2-504, § 2-505, OR § 2-506 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION
15 ARTICLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
16 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
17 BOTH.

18 (f) (1) This subsection does not apply to a person who is entitled to use the
19 controlled dangerous substance under the laws of the State.

20 (2) A person may not cause a life-threatening injury to another as a result
21 of the person's negligently driving, operating, or controlling a motor vehicle or vessel while
22 the person is impaired by a controlled dangerous substance as defined in § 5-101 of this
23 article.

24 (3) A violation of this subsection is life-threatening injury by motor vehicle
25 or vessel while impaired by a controlled dangerous substance.

26 (4) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
27 PARAGRAPH, A person who violates this subsection is guilty of a misdemeanor and on
28 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000
29 or both.

30 (II) A PERSON WHO VIOLATES THIS SUBSECTION, HAVING
31 PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, § 2-209, § 2-210, § 2-503, §
32 2-504, § 2-505, OR § 2-506 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION
33 ARTICLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
34 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
35 BOTH.

1 **(G) FOR THE PURPOSES OF APPLICATION OF SUBSEQUENT OFFENDER**
2 **PENALTIES UNDER SUBSECTION (C), (D), (E), OR (F) OF THIS SECTION, A**
3 **CONVICTION FOR A CRIME COMMITTED IN ANOTHER STATE OR FEDERAL**
4 **JURISDICTION THAT, IF COMMITTED IN THIS STATE WOULD CONSTITUTE A**
5 **VIOLATION OF THIS SECTION, § 2-209, § 2-210, § 2-503, § 2-504, § 2-505, OR §**
6 **2-506 OF THIS ARTICLE, OR § 21-902 OF THE TRANSPORTATION ARTICLE SHALL BE**
7 **CONSIDERED A VIOLATION OF THIS SECTION.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2015.