

Unfortunately, this purpose is obscured by the addition of the words "when exercising reasonable care." When a person is exercising reasonable care, he cannot be liable for negligence; only if there is a lack of reasonable care will an action for negligence lie. Baltimore Transit Co. v. Prinz, 215 Md. 398, 403 (1958).

Section 19-103(b)(1) seems to say that an operator is not liable in tort if he exercises reasonable care. But, under such circumstances, he would not be liable in tort in any event, be it for negligence or gross negligence. On the other hand, § 19-103(c)(1) would appear to impose liability on the owner or lessee of the vehicle even if the operator were not negligent. This is more than strict liability and simply could not have been intended. Moreover, under § 19-103(c)(1) it is unclear whether the owner or lessee is to be liable jointly or solely for actions that involve gross negligence.

Because the use in the same paragraph of the mutually exclusive words "tortious act or omission" and "exercising reasonable care" creates an obvious ambiguity in the bills, this might lead a court to somehow construe the bills in a reasonable fashion. Kindley v. Governor of Maryland, 289 Md. 620 (1981).

However, we can give no assurance how a court would construe the bills and whether it would construe them so as to exempt an operator from liability for negligence and impose only that liability on the owner or lessee of the vehicle.

Very truly yours,
Stephen H. Sachs
Attorney General

House Bill No. 165

AN ACT concerning

Baltimore City - Sheriffs - Expense Allowance

FOR the purpose of altering the annual expense allowance of the Sheriff, assistant and undersheriffs, and deputy sheriffs in Baltimore City.

BY repealing and reenacting, with amendments,