

Article 27 – Crimes and Punishments

388A.

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

(2) “Intoxicated per se” means an alcohol concentration at the time of testing of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(3) “Under the influence of alcohol” has the meaning indicated in and is subject to the same presumptions and evidentiary rules of § 10-307 of the Courts Article regarding driving while under the influence of alcohol under § 21-902(b) of the Transportation Article.

(4) “UNDER THE INFLUENCE OF DRUGS” MEANS SO FAR UNDER THE INFLUENCE OF A DRUG, A COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT A PERSON CANNOT DRIVE, OPERATE, OR CONTROL A MOTOR VEHICLE OR VESSEL SAFELY.

(5) “UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE” MEANS UNDER THE INFLUENCE OF A CONTROLLED DANGEROUS SUBSTANCE, AS THAT TERM IS DEFINED IN § 279 OF THIS ARTICLE, IF THE PERSON IS NOT ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE LAWS OF THIS STATE.

(b) Any person causing the death of another as the result of the person’s negligent driving, operation, or control of a motor vehicle or vessel while intoxicated or intoxicated per se is guilty of a misdemeanor to be known as “homicide by motor vehicle or vessel while intoxicated”, and the person so convicted shall be punished by imprisonment for not more than 5 years, or by fine of not more than [\$3,000] \$5,000 or both fine and imprisonment.

(c) A person who causes the death of another as the result of the person’s negligent driving, operation, or control of a motor vehicle or vessel while under the influence of alcohol is guilty of a misdemeanor to be known as “homicide by motor vehicle or vessel while under the influence”, and on conviction shall be punished by imprisonment for not more than [1 year] 3 YEARS or a fine of not more than [\$1,000] \$5,000 or both.

(D) (1) A PERSON WHO CAUSES THE DEATH OF ANOTHER AS THE RESULT OF THE PERSON’S NEGLIGENT DRIVING, OPERATION, OR CONTROL OF A MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS IS GUILTY OF A MISDEMEANOR TO BE KNOWN AS “HOMICIDE BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF DRUGS”, AND ON CONVICTION SHALL BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN \$5,000 OR BOTH.

(2) IT IS NOT A DEFENSE TO ANY CHARGE OF VIOLATING THIS SUBSECTION THAT THE PERSON CHARGED IS OR WAS ENTITLED UNDER THE LAWS OF THIS STATE TO USE THE DRUG, COMBINATION OF DRUGS, OR COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, UNLESS THE PERSON WAS UNAWARE THAT