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## VEHICULAR HOMICIDE: COMPULSORY ARREST FOR BEING CAUGHT RED-HANDED AT DRUNK DRIVING OR OTHER NEWS.

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*After 4 years of elaboration and several vicissitudes, the Draft Law approved about the penal code in accordance with Article 589-bis, in order to make the crime, the road murder, autonomous, making punishment stronger and establishing the detention also in some cases.*

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di **Giustina Feola**  
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Direttore responsabile  
**Raffaele Giaquinto**

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**The Italian Senate has given 149 favourable votes to the Government's proposal about making the road murder an autonomous crime (Art. 589-bis c.p).**

**Therefore a new case of crime has entered the Penal Code today: the road murder.**

The new law, approved after a hard path lasted 4 years, has been enlarged with respect to its first stage since it only used to concern the hijacking or driving in state of drunkenness or under the use of narcotics. On the contrary, now, it establishes the detention in some types of offence, aggravates punishments for hijacking and introduces compulsory arrest for drivers caught red-handed in state of drunkenness or under narcotics effect, causing a fatal accident.

Basically, the autonomous crime includes 3 hypotheses:

- 1) a penalty from **2 to 7 years**, concerning the basic hypothesis, that is, when a fatal accident is caused by a violation of Road Regulation;
- 2) the detention from **8 to 12 years** if the fatal accident has been caused because of narcotic or alcoholic effect;
- 3) **the imprisonment from 5 to 10 years** if the driver's blood alcohol level is slight (over 0,8 grams per litre), in other words, if the accident has been caused by dangerous driving behaviours (e.g. excessive speed limit, the wrong-way down, dangerous overtakings or car reversals).

**Regarding road injures, the basic penalty remains unchanged**, if they depend on a Road Regulation violation, on the other hand, punishments are heavier, if the driver is under alcohol or narcotics effect, in other words, from **3 to 5 years** for severe injures and from **4 to 7 years** for more severe ones.

Anyway, if the driver is under a slight alcohol effect or has caused an accident because of dangerous car behaviours, he will be condemned to a reclusion going from 1 year and 6 months to 3 years if injures are severe and to an imprisonment going from 2 to 4 years if injures are more severe.

The aggravated hypothesis (murder or injures) is applicable to lorry drivers, bus drivers and generally to truck drivers.

Indeed, if they drive **in state of drunkenness or narcotics effect**, even if blood alcohol level is slight, they will be subject to penalty for both crimes.

**The punishment will be heavier if the driver escapes.** In this circumstance it increases up to 2/3, and it could never be inferior to 5 years regarding the murder and to 3 years for injures.

**In addition, the aggravating penalty is applicable in case of a multiple road murder or injures** and the attenuating circumstances are banned by the prohibition of equivalence and prevalence.

On the contrary, the penalty is reduced till the half if the accident has been caused by victims or third-parties.

The Draft Law **has even doubled prescription limits** for the new crime hypothesis, besides the compulsory arrest in more severe and red-handed cases (optional in other ones).

Finally, a further new aspect is that the judge can also order of his own motion compulsory **biological samples in order to determine their DNA.**

It should be noted that compulsory biological samples can also be ordered by the p.m. in more severe cases whose delay can compromise the investigation.

In addition, both in case of conviction and plea bargaining (also with suspended sentence), **the driving licence is revoked for both crimes** and it will be achieved again at least after 5 years (in case of injures) and 15 years (in case of murder). However, this term has increased in more severe cases, e.g. the driver's escape leads to a nearly 30 year- revocation of the driving licence.

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