

HOUSE BILL 491

D3

71r2307
CF SB 382

By: **Delegates Anderson, Barkley, Dwyer, Kelly, McConkey, and Rosenberg**

Introduced and read first time: February 6, 2007

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2007

CHAPTER _____

1 AN ACT concerning

2 **Civil Liability – AMBER Alert Dissemination – Immunity for Media and**
3 **Commercial Mobile Radio Service Providers**

4 FOR the purpose of ~~exempting certain broadcasters and their agents from civil~~
5 ~~liability~~ establishing that certain broadcasters and commercial mobile radio
6 service providers and their employees, officers, directors, members, managers,
7 and agents are not liable for damages for broadcasting or disseminating an
8 AMBER alert after receiving a certain notification under certain circumstances;
9 providing for the application of this Act; defining certain terms; and generally
10 relating to the dissemination of an AMBER alert.

11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section ~~5-427~~ 5-642
14 Annotated Code of Maryland
15 (2006 Replacement Volume)

16 BY repealing and reenacting, without amendments,
17 Article – Public Safety
18 Section 1-301(d) and (e)
19 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2003 Volume and 2006 Supplement)

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

4 **Article – Courts and Judicial Proceedings**

5 ~~5-427, 5-642.~~

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) “AMBER ALERT” MEANS AN ALERT THAT A CHILD HAS BEEN
9 ABDUCTED AND IS IN DANGER, INCLUDING ALL KNOWN DETAILS SURROUNDING
10 THE CHILD’S ABDUCTION, ISSUED AS A RESULT OF THE VOLUNTARY AMBER
11 ALERT PROGRAM ENTERED INTO BY MARYLAND LAW ENFORCEMENT AGENCIES
12 AND RADIO AND TELEVISION BROADCAST ORGANIZATIONS.

13 (3) “BROADCASTER” MEANS AN INDIVIDUAL OR ENTITY ENGAGED
14 IN THE BROADCASTING OF TELEVISION, CABLE, OR RADIO PROGRAMMING BY
15 ANY MEANS OF COMMUNICATION, INCLUDING:

16 (I) THROUGH THE PUBLIC AIRWAVES;

17 (II) BY CABLE; OR

18 (III) BY DIRECT OR INDIRECT SATELLITE TRANSMISSION.

19 (4) “CMRS PROVIDER” HAS THE MEANING STATED IN § 1-301 OF
20 THE PUBLIC SAFETY ARTICLE.

21 (B) A BROADCASTER OR CMRS PROVIDER, OR AN EMPLOYEE, OFFICER,
22 DIRECTOR, MEMBER, MANAGER, OR AGENT OF A BROADCASTER OR CMRS
23 PROVIDER, WHO VOLUNTARILY AND WITHOUT COMPENSATION BROADCASTS OR
24 OTHERWISE DISSEMINATES AN AMBER ALERT AFTER RECEIVING AN AMBER
25 ALERT NOTIFICATION FROM A MARYLAND LAW ENFORCEMENT AGENCY, IS NOT
26 LIABLE FOR ANY DAMAGES FOR ANY ACT OR OMISSION THAT FORMS PART OF
27 THE BROADCAST OR ITS DISSEMINATION UNLESS THE ACT OR OMISSION
28 CONSTITUTES:

29 (1) ~~WILLFUL OR WANTON MISCONDUCT;~~

~~(2) GROSS NEGLIGENCE; OR~~

~~(3) INTENTIONALLY TORTIOUS CONDUCT DAMAGES ARISING FROM THAT BROADCAST OR DISSEMINATION IF THE BROADCAST OR DISSEMINATION WAS A FAIR AND SUBSTANTIALLY ACCURATE REPORT OF THE AMBER ALERT NOTIFICATION THAT WAS RECEIVED.~~

Article – Public Safety

1-301.

(d) “Commercial mobile radio service” or “CMRS” means mobile telecommunications service that is:

(1) provided for profit with the intent of receiving compensation or monetary gain;

(2) an interconnected, two-way voice service; and

(3) available to the public.

(e) “Commercial mobile radio service provider” or “CMRS provider” means a person authorized by the Federal Communications Commission to provide CMRS in the State.

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.