

HOUSE BILL 489

R5
HB 518/09 – ENV

0lr1222

By: **Delegates G. Clagett, Barkley, Hecht, Heller, Howard, Kullen, Reznik, Riley, Robinson, Rosenberg, F. Turner, and Weir**
Introduced and read first time: February 1, 2010
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Use of Wireless Telephone While Driving – Prohibitions**

3 FOR the purpose of prohibiting a driver of a certain school vehicle from using certain
4 wireless telephones; prohibiting a holder of a learner's instructional permit or
5 provisional driver's license who is 18 years of age or older from driving a motor
6 vehicle while using certain wireless telephones; prohibiting a certain driver of a
7 motor vehicle that is in motion from using the driver's hands to use certain
8 wireless telephones except under certain circumstances; providing that a
9 violation of this Act may be enforced only as a secondary action; establishing
10 penalties for a violation of this Act; authorizing the court to waive a certain
11 penalty under certain circumstances; providing for exceptions to certain
12 provisions of this Act relating to prohibitions on using wireless telephones while
13 driving; defining a certain term; and generally relating to prohibitions against
14 the use of wireless telephones while operating a motor vehicle.

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 18–213.2(a)(7) and (8)
18 Annotated Code of Maryland
19 (2009 Replacement Volume)

20 BY adding to
21 Article – Transportation
22 Section 21–1124.2
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2009 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 18–213.2.

3 (a) (7) “First responder” means a:

4 (i) Fire fighter;

5 (ii) Emergency medical technician;

6 (iii) Rescue squad member;

7 (iv) Law enforcement officer;

8 (v) Correctional officer; or

9 (vi) Sworn member of the State Fire Marshal’s office.

10 (8) “Law enforcement officer” means any individual who, in an official
11 capacity, is authorized by law to make arrests and who is a member of one of the
12 following law enforcement agencies:

13 (i) The Department of State Police;

14 (ii) The Baltimore City Police Department;

15 (iii) The police department, bureau, or force of any county;

16 (iv) The police department, bureau, or force of any incorporated
17 city or town;

18 (v) The office of the sheriff of any county;

19 (vi) The police department, bureau, or force of any bicounty
20 agency or constituent institution of the University System of Maryland, Morgan State
21 University, St. Mary’s College, or of any institution under the jurisdiction of the
22 Maryland Higher Education Commission;23 (vii) The Maryland Aviation Administration police force of the
24 Department of Transportation, the Maryland Transit Administration police force of
25 the Department of Transportation, the Maryland Transportation Authority police
26 force, and the Maryland Port Administration police force of the Department of
27 Transportation;28 (viii) The law enforcement officers of the Department of Natural
29 Resources;

1 (ix) The Field Enforcement Bureau of the Comptroller's Office;
2 or

3 (x) The Internal Investigative Unit of the Department of Public
4 Safety and Correctional Services.

5 **Article – Transportation**

6 **21-1124.2.**

7 (A) IN THIS SECTION, “9-1-1 SYSTEM” HAS THE MEANING STATED IN §
8 1-301 OF THE PUBLIC SAFETY ARTICLE.

9 (B) THIS SECTION DOES NOT APPLY TO:

10 (1) USE OF A WIRELESS TELEPHONE TO CALL A
11 9-1-1 SYSTEM FOR PURPOSES RELATED TO AN EMERGENCY THAT IS ONGOING
12 AT THE TIME THE CALL IS MADE;

13 (2) USE OF A WIRELESS TELEPHONE BY THE FOLLOWING
14 INDIVIDUALS, WHEN ACTING WITHIN THE SCOPE OF OFFICIAL DUTY:

15 (I) FIRST RESPONDERS, AS DEFINED IN § 18-213.2 OF THE
16 HEALTH – GENERAL ARTICLE;

17 (II) STATE HIGHWAY ADMINISTRATION EMPLOYEES OR
18 CONTRACTORS ACTING UNDER THE AUTHORITY OF § 8-602 OF THIS ARTICLE IN
19 AN EMERGENCY SITUATION; AND

20 (III) AN INDIVIDUAL DRIVING FOR A TRANSPORTATION
21 SERVICE OPERATING UNDER § 2-103.3 OF THIS ARTICLE; AND

22 (3) USE OF A TWO-WAY RADIO THAT OPERATES WITH
23 PUSH-TO-TALK TECHNOLOGY BY AN INDIVIDUAL OPERATING A COMMERCIAL
24 MOTOR VEHICLE, AS DEFINED IN § 16-803 OF THIS ARTICLE.

25 (C) THE FOLLOWING INDIVIDUALS MAY NOT USE A WIRELESS
26 TELEPHONE WHILE OPERATING A MOTOR VEHICLE:

27 (1) A DRIVER OF A CLASS H (SCHOOL) VEHICLE THAT IS
28 CARRYING PASSENGERS AND IS IN MOTION; AND

29 (2) A HOLDER OF A LEARNER'S INSTRUCTIONAL PERMIT OR A
30 PROVISIONAL DRIVER'S LICENSE WHO IS 18 YEARS OF AGE OR OLDER.

1 **(D) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL**
2 **SPECIFIED IN SUBSECTION (C) OF THIS SECTION.**

3 **(2) A DRIVER OF A MOTOR VEHICLE THAT IS IN MOTION MAY NOT**
4 **USE THE DRIVER'S HANDS TO USE A WIRELESS TELEPHONE OTHER THAN TO**
5 **INITIATE OR TERMINATE A WIRELESS TELEPHONE CALL OR TO TURN THE**
6 **WIRELESS TELEPHONE ON OR OFF.**

7 **(E) A POLICE OFFICER MAY ENFORCE THIS SECTION ONLY AS A**
8 **SECONDARY ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER FOR A**
9 **SUSPECTED VIOLATION OF ANOTHER PROVISION OF THE CODE.**

10 **(F) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS**
11 **SUBJECT TO THE FOLLOWING PENALTIES:**

12 **(I) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$50;**
13 **AND**

14 **(II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF**
15 **\$100.**

16 **(2) FOR A FIRST OFFENSE UNDER THIS SECTION, POINTS MAY**
17 **NOT BE ASSESSED AGAINST THE INDIVIDUAL UNDER § 16-402 OF THIS ARTICLE**
18 **UNLESS THE OFFENSE CONTRIBUTES TO AN ACCIDENT.**

19 **(G) THE COURT MAY WAIVE A PENALTY UNDER SUBSECTION (F) OF THIS**
20 **SECTION FOR A PERSON WHO:**

21 **(1) IS CONVICTED OF A FIRST OFFENSE UNDER THIS SECTION;**
22 **AND**

23 **(2) PROVIDES PROOF THAT THE PERSON HAS ACQUIRED A**
24 **HANDS-FREE ACCESSORY, AN ATTACHMENT OR ADD-ON, A BUILT-IN FEATURE,**
25 **OR AN ADDITION FOR THE PERSON'S WIRELESS TELEPHONE THAT WILL ALLOW**
26 **THE PERSON TO OPERATE A MOTOR VEHICLE IN ACCORDANCE WITH THIS**
27 **SECTION.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2010.