

HOUSE BILL 1457

D3

0lr3230

By: **Delegates Dumais, Anderson, Barnes, Carter, Conaway, Dwyer, Frank, Jennings, Levi, McComas, McConkey, Rosenberg, Schuler, and Valderrama**

Introduced and read first time: February 26, 2010

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, March 8, 2010

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2010

CHAPTER _____

1 AN ACT concerning

2 **Civil Liability – AMBER, Silver, or Emergency Alert Dissemination –**
3 **Immunity for Broadcast Media**

4 FOR the purpose of establishing that certain broadcasters and their employees,
5 officers, directors, members, managers, or agents are not liable for damages for
6 any act or omission in broadcasting or disseminating a certain AMBER, Silver,
7 or Emergency Alert after receiving a certain notification under certain
8 circumstances; providing for the application of this Act; defining certain terms;
9 and generally relating to the dissemination of an AMBER, Silver, or Emergency
10 Alert.

11 BY adding to

12 Article – Courts and Judicial Proceedings

13 Section 5–427

14 Annotated Code of Maryland

15 (2006 Replacement Volume and 2009 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

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 **5-427.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

4 (2) "AMBER ALERT" MEANS AN ALERT THAT A MINOR HAS BEEN
5 ABDUCTED AND IS IN DANGER, AND INCLUDES ALL KNOWN DETAILS
6 SURROUNDING THE MINOR'S ABDUCTION, ISSUED AS A RESULT OF THE
7 VOLUNTARY AMBER ALERT PROGRAM ENTERED INTO BY MARYLAND LAW
8 ENFORCEMENT AGENCIES AND RADIO AND TELEVISION BROADCAST
9 ORGANIZATIONS.

10 (3) "BROADCASTER" MEANS AN INDIVIDUAL OR ENTITY ENGAGED
11 IN THE BROADCASTING OF TELEVISION, CABLE, OR RADIO PROGRAMMING BY
12 ANY MEANS OF COMMUNICATION, INCLUDING:

13 (I) THROUGH THE PUBLIC AIRWAVES;

14 (II) BY CABLE; OR

15 (III) BY DIRECT OR INDIRECT SATELLITE TRANSMISSION.

16 (4) "EMERGENCY ALERT" MEANS AN ALERT THAT WARNS OF A
17 LARGE SCALE NATURAL OR MAN-MADE EMERGENCY, AND INCLUDES ALL
18 KNOWN DETAILS SURROUNDING THE EMERGENCY, ISSUED BY THE MARYLAND
19 EMERGENCY MANAGEMENT AGENCY OR BY A LOCAL JURISDICTION FOR
20 EMERGENCY MANAGEMENT.

21 (5) "SILVER ALERT" MEANS AN ALERT THAT A PERSON WHO
22 SUFFERS A COGNITIVE IMPAIRMENT INCLUDING A DIAGNOSIS OF ALZHEIMER'S
23 DISEASE OR DEMENTIA IS MISSING, AND INCLUDES ALL KNOWN DETAILS
24 SURROUNDING THE EVENT, ISSUED BY THE MARYLAND STATE POLICE.

25 (B) A BROADCASTER, OR AN EMPLOYEE, AN OFFICER, A DIRECTOR, A
26 MEMBER, A MANAGER, OR AN AGENT OF A BROADCASTER, WHO VOLUNTARILY
27 AND WITHOUT COMPENSATION BROADCASTS OR OTHERWISE DISSEMINATES AN
28 AMBER, A SILVER, OR AN EMERGENCY ALERT AFTER RECEIVING AN ALERT
29 NOTIFICATION FROM THE MARYLAND STATE POLICE IN THE CASE OF AN
30 AMBER OR A SILVER ALERT, OR FROM THE MARYLAND EMERGENCY
31 MANAGEMENT AGENCY OR AN EMERGENCY MANAGEMENT OFFICE OF A LOCAL
32 JURISDICTION, IN THE CASE OF AN EMERGENCY ALERT, IS NOT LIABLE FOR ANY
33 DAMAGES FOR ANY ACT OR OMISSION THAT FORMS PART OF THE BROADCAST
34 OR ITS DISSEMINATION ~~UNLESS THE ACT OR OMISSION CONSTITUTES:~~

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

2 ~~(2) GROSS NEGLIGENCE; OR~~

3 ~~(3) INTENTIONALLY TORTIOUS CONDUCT IF THE BROADCASTER:~~

4 (1) IS A PARTY TO A MEMORANDUM OF UNDERSTANDING
5 REGARDING THE AMBER ALERT, SILVER ALERT, OR EMERGENCY ALERT
6 PLAN ENTERED INTO BETWEEN THE MARYLAND STATE POLICE AND THE
7 MARYLAND-DISTRICT OF COLUMBIA-DELAWARE BROADCASTER'S
8 ASSOCIATION, INC.;

9 (2) HAS ESTABLISHED STANDARD OPERATING PROCEDURES
10 APPROVED BY THE MARYLAND STATE POLICE THAT INCLUDE PROCEDURES
11 GOVERNING;

12 (I) THE MANAGEMENT, RECEIPT, DISSEMINATION, AND
13 BROADCAST OF THE AMBER ALERT, SILVER ALERT, OR EMERGENCY ALERT
14 INFORMATION PROVIDED THROUGH THE EMERGENCY ALERT SYSTEM BY THE
15 MARYLAND STATE POLICE;

16 (II) WHICH EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS,
17 MANAGERS, AND AGENTS OF THE BROADCASTER ARE AUTHORIZED BY THE
18 BROADCASTER TO RECEIVE THE AMBER ALERT, SILVER ALERT, AND
19 EMERGENCY ALERT INFORMATION PROVIDED THROUGH THE EMERGENCY
20 ALERT SYSTEM; AND

21 (III) WHICH EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS,
22 MANAGERS, AND AGENTS OF THE BROADCASTER ARE AUTHORIZED BY THE
23 BROADCASTER TO DISSEMINATE THE AMBER ALERT, SILVER ALERT, AND
24 EMERGENCY ALERT INFORMATION PROVIDED THROUGH THE EMERGENCY
25 ALERT SYSTEM; AND

26 (3) REQUIRES EACH EMPLOYEE, OFFICER, DIRECTOR, MEMBER,
27 MANAGER, AND AGENT WHO IS AUTHORIZED BY THE BROADCASTER TO RECEIVE
28 OR DISSEMINATE THE AMBER ALERT, SILVER ALERT, AND EMERGENCY
29 ALERT INFORMATION TO CONSENT TO, IN WRITING, OR EXECUTE THE
30 MEMORANDUM OF UNDERSTANDING DESCRIBED IN THIS SUBSECTION.

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.