

HOUSE BILL 1513

R3, D4

0lr3304

By: **Delegate Valderrama**

Introduced and read first time: March 5, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving with Child in the Vehicle – Retention of Child by**
3 **Child Care Providers**

4 FOR the purpose of authorizing an employee of a child care center or a person
5 providing care at a family day care home to refuse to allow a certain person to
6 leave the property of the child care center or family day care home in a vehicle
7 with the child if the child care provider has a reasonable belief that the person
8 is under the influence of alcohol or drugs and it is unsafe for the person to drive;
9 requiring a certain child care provider to call local law enforcement and remain
10 with a child under certain circumstances; requiring a local law enforcement
11 officer, after receiving a certain request, to make a certain determination
12 regarding whether a certain person is under the influence of alcohol or drugs at
13 a level that would make driving unsafe; requiring a local law enforcement
14 officer to attempt to locate a certain person to take temporary custody of a child
15 under certain circumstances; requiring a local law enforcement officer to contact
16 a certain local department if a person cannot be found to take temporary
17 custody of a child under certain circumstances; requiring a local law
18 enforcement officer to require a child care provider to allow an authorized
19 person to leave the property of a child care center or family day care home with
20 a child under certain circumstances; making it a felony for a person to drive or
21 attempt to drive a vehicle while under the influence of alcohol or under the
22 influence of alcohol per se and while transporting a minor; establishing a
23 certain penalty; defining certain terms; and generally relating to drunk and
24 drugged driving with a child in the vehicle.

25 BY adding to

26 Article – Family Law

27 Section 5–505

28 Annotated Code of Maryland

29 (2006 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Transportation
3 Section 21–902(a)
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2009 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Transportation
8 Section 27–101(q)
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2009 Supplement)

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

13 **Article – Family Law**

14 **5–505.**

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
16 MEANINGS INDICATED.

17 (2) “AUTHORIZED PERSON” MEANS A PARENT OR GUARDIAN OF A
18 CHILD OR ANY OTHER PERSON AUTHORIZED BY THE PARENT OR GUARDIAN TO
19 REMOVE A CHILD FROM A CHILD CARE CENTER LICENSED UNDER PART VII OF
20 THIS SUBTITLE OR A FAMILY DAY CARE HOME REGISTERED UNDER PART V OF
21 THIS SUBTITLE.

22 (3) “PROVIDER” MEANS AN EMPLOYEE OF A CHILD CARE CENTER
23 LICENSED UNDER PART VII OF THIS SUBTITLE OR A PERSON PROVIDING CARE
24 AT A FAMILY DAY CARE HOME REGISTERED UNDER PART V OF THIS SUBTITLE.

25 (B) A PROVIDER MAY REFUSE TO ALLOW AN AUTHORIZED PERSON TO
26 LEAVE THE PROPERTY OF A CHILD CARE CENTER OR FAMILY DAY CARE HOME IN
27 A VEHICLE WITH A CHILD IF THE PROVIDER HAS A REASONABLE BELIEF THAT
28 THE AUTHORIZED PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
29 AND THAT IT IS UNSAFE FOR THE AUTHORIZED PERSON TO DRIVE.

30 (C) A PROVIDER WHO REFUSES TO ALLOW A CHILD TO LEAVE A CHILD
31 CARE CENTER OR FAMILY DAY CARE HOME UNDER SUBSECTION (B) OF THIS
32 SECTION SHALL:

33 (1) IMMEDIATELY CALL LOCAL LAW ENFORCEMENT AND
34 REQUEST THE PRESENCE OF A LAW ENFORCEMENT OFFICER TO DETERMINE
35 WHETHER THE AUTHORIZED PERSON IS UNDER THE INFLUENCE OF ALCOHOL

1 OR DRUGS AND WHETHER IT IS UNSAFE FOR THE AUTHORIZED PERSON TO
2 DRIVE; AND

3 (2) REMAIN WITH THE CHILD UNTIL LOCAL LAW ENFORCEMENT
4 HAS ARRIVED.

5 (D) (1) ON RECEIVING A REQUEST FROM A PROVIDER UNDER
6 SUBSECTION (C) OF THIS SECTION, A LAW ENFORCEMENT OFFICER SHALL
7 DETERMINE WHETHER THE AUTHORIZED PERSON IS UNDER THE INFLUENCE OF
8 ALCOHOL OR DRUGS AT A LEVEL THAT MAKES IT UNSAFE FOR THE AUTHORIZED
9 PERSON TO DRIVE.

10 (2) (I) IF A LAW ENFORCEMENT OFFICER DETERMINES THAT
11 THE AUTHORIZED PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
12 AT A LEVEL THAT MAKES IT UNSAFE FOR THE AUTHORIZED PERSON TO DRIVE,
13 THE LAW ENFORCEMENT OFFICER SHALL ATTEMPT TO LOCATE A FAMILY
14 MEMBER OR OTHER SUITABLE PERSON TO TAKE CUSTODY OF THE CHILD UNTIL
15 THE AUTHORIZED PERSON IS NO LONGER UNDER THE INFLUENCE OF ALCOHOL
16 OR DRUGS.

17 (II) IF A LAW ENFORCEMENT OFFICER CANNOT FIND A
18 FAMILY MEMBER OR OTHER SUITABLE PERSON TO TAKE TEMPORARY CUSTODY
19 OF THE CHILD, THE LAW ENFORCEMENT OFFICER SHALL CONTACT THE LOCAL
20 DEPARTMENT.

21 (3) IF A LAW ENFORCEMENT OFFICER DETERMINES THAT THE
22 AUTHORIZED PERSON IS NOT UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
23 AT A LEVEL THAT MAKES IT UNSAFE FOR THE AUTHORIZED PERSON TO DRIVE,
24 THE LAW ENFORCEMENT OFFICER SHALL REQUIRE THE PROVIDER TO ALLOW
25 THE CHILD TO LEAVE THE PROPERTY WITH THE AUTHORIZED PERSON.

26 **Article – Transportation**

27 21-902.

28 (a) (1) A person may not drive or attempt to drive any vehicle while under
29 the influence of alcohol.

30 (2) A person may not drive or attempt to drive any vehicle while the
31 person is under the influence of alcohol per se.

32 (3) A person may not violate paragraph (1) or (2) of this subsection
33 while transporting a minor.

1 27-101.

2 (q) (1) Any person who is convicted of a violation of § [21-902(a)(3) or
3 (d)(2)] **21-902(D)(2)** of this article is subject to:

4 (i) For a first offense, a fine of not more than \$2,000 or
5 imprisonment for not more than 2 years or both;

6 (ii) For a second offense, a fine of not more than \$3,000 or
7 imprisonment for not more than 3 years or both; and

8 (iii) For a third or subsequent offense, a fine of not more than
9 \$4,000 or imprisonment for not more than 4 years or both.

10 (2) Any person who is convicted of a violation of § 21-902(b)(2) or (c)(3)
11 of this article is subject to:

12 (i) For a first offense, a fine of not more than \$1,000 or
13 imprisonment for not more than 6 months or both; and

14 (ii) For a second or subsequent offense, a fine of not more than
15 \$2,000 or imprisonment for not more than 1 year or both.

16 (3) **ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §**
17 **21-902(A)(3) OF THIS ARTICLE IS GUILTY OF A FELONY AND ON CONVICTION IS**
18 **SUBJECT TO A FINE OF NOT MORE THAN \$5,000 OR IMPRISONMENT FOR NOT**
19 **MORE THAN 4 YEARS OR BOTH.**

20 (4) For the purpose of determining second or subsequent offender
21 penalties provided under this subsection, a prior conviction of any provision of §
22 21-902 of this article that subjected a person to the penalties under this subsection
23 shall be considered a prior conviction.

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