

HOUSE BILL 229

R6

6lr0076

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Transportation)**

Introduced and read first time: January 25, 2016

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2016

CHAPTER _____

1 AN ACT concerning

2 **Commercial Motor Vehicles – Operation – Transportation Emergencies**

3 FOR the purpose of authorizing the Secretary of Transportation to waive certain safety
4 regulations for commercial motor vehicles in intrastate travel under certain
5 circumstances to facilitate emergency relief efforts; authorizing an empty motor
6 carrier or the driver of an empty motor carrier to return to certain locations following
7 the termination of a transportation emergency; establishing the authorized duration
8 of a transportation emergency; authorizing the Secretary to renew a transportation
9 emergency declaration beyond the authorized duration for certain periods of time;
10 establishing the maximum total period of time that a transportation emergency may
11 extend ~~under certain circumstances~~; authorizing the Governor to take certain action
12 to facilitate emergency relief efforts through a declaration of a state of emergency;
13 defining certain terms; altering a certain defined term; and generally relating to the
14 operation of commercial motor vehicles during transportation emergencies.

15 BY repealing and reenacting, with amendments,
16 Article – Transportation
17 Section 25–111
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)

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

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.



Article – Transportation

25–111.

(a) (1) In this section the following words have the meanings indicated.

(2) (I) **“DIRECT ASSISTANCE” MEANS THE PROVISION OF TRANSPORTATION AND OTHER RELIEF SERVICES BY A MOTOR CARRIER OR ITS DRIVERS FOR THE IMMEDIATE RESTORATION OF ESSENTIAL SERVICES OR THE DELIVERY OF ESSENTIAL SUPPLIES.**

(II) **“DIRECT ASSISTANCE” DOES NOT INCLUDE:**

1. **TRANSPORTATION RELATED TO THE LONG-TERM REHABILITATION OF DAMAGED PHYSICAL INFRASTRUCTURE; OR**

2. **ROUTINE COMMERCIAL DELIVERIES MADE AFTER THE INITIAL THREAT TO LIFE OR PROPERTY CAUSED BY A TRANSPORTATION EMERGENCY HAS PASSED.**

(3) **“EMERGENCY RELIEF” MEANS AN OPERATION FOR WHICH A MOTOR CARRIER OR DRIVER OF A COMMERCIAL MOTOR VEHICLE, IN RESPONSE TO A TRANSPORTATION EMERGENCY, PROVIDES DIRECT ASSISTANCE TO SUPPLEMENT STATE AND LOCAL EFFORTS AND CAPABILITIES TO SAVE LIVES OR PROPERTY OR TO PROTECT PUBLIC HEALTH OR SAFETY.**

(4) **“ESSENTIAL SERVICES” ~~MEANS~~ INCLUDES ELECTRIC OR NATURAL GAS SERVICE, MEDICAL CARE, SEWER SERVICE, WATER SERVICE, TELECOMMUNICATIONS SERVICE, OR TELECOMMUNICATION TRANSMISSIONS.**

(5) **“ESSENTIAL SUPPLIES” ~~MEANS~~ INCLUDES FOOD OR FUEL.**

[(2)] (6) **“Hazardous materials inspector” means a person who is assigned by the Department of the Environment and certified by the Department of State Police to perform an inspection authorized under this section.**

(7) **“NATURAL OR MAN-MADE EMERGENCY” MEANS A HURRICANE, A TORNADO, A THUNDERSTORM, A SNOWSTORM, AN ICE STORM, A BLIZZARD, A FLOOD, WIND-DRIVEN WATER, A TIDAL WAVE, A TSUNAMI, AN EARTHQUAKE, A VOLCANIC ERUPTION, A MUD SLIDE, A DROUGHT, A FOREST FIRE, AN EXPLOSION, AN ELECTRICITY BLACKOUT, OR ANY OTHER SIMILAR OCCURRENCE.**

[(3)] (8) **“Police officer” means:**

1 (i) Any uniformed law enforcement officer who is certified or under
2 the direction of a law enforcement officer who is certified by the Department of State Police
3 to perform an inspection authorized under this section;

4 (ii) Any civilian employee of the Department of State Police assigned
5 to enforce any regulation adopted under this section, but only while acting under written
6 authorization of the Secretary of State Police;

7 (iii) Any civilian employee of the Maryland Transportation Authority
8 Police who is:

9 1. Acting under the immediate direction and control of a
10 uniformed police officer;

11 2. Acting under the written authorization of the Secretary of
12 State Police; and

13 3. Certified by the Department of State Police to perform an
14 inspection authorized under this section; or

15 (iv) Any civilian employee of a local government who is:

16 1. Acting under the immediate direction and control of a
17 uniformed police officer;

18 2. Acting under the written authorization of the Secretary of
19 State Police; and

20 3. Certified by the Department of State Police to perform an
21 inspection authorized under this section.

22 [(4)] (9) "Public Service Commission inspector" means a person who is
23 assigned by the Public Service Commission and certified by the Department of State Police
24 to perform an inspection authorized under this section.

25 [(5)] (10) "Transportation emergency" means any natural or man-made
26 emergency that [disrupts or hinders the free flow of traffic on the State's highways and
27 local streets and roads for more than 8 hours so that public safety is or may be threatened
28 as a result] **INTERRUPTS OR MAY INTERRUPT THE DELIVERY OF ESSENTIAL
29 SERVICES OR ESSENTIAL SUPPLIES OR OTHERWISE IMMEDIATELY THREATENS
30 HUMAN LIFE OR PUBLIC WELFARE.**

31 (b) (1) Upon direction by a police officer or by an electronic signal to vehicles
32 equipped with a CVISN transponder, the driver of any vehicle that is subject to any
33 regulation adopted under this section shall stop and submit to an inspection:

1 (i) All applicable driver records, including driver's license, driver
2 hours of service record and certificate of physical examination;

3 (ii) All load manifests, including bills of lading or other shipping
4 documents; and

5 (iii) All cargo and cargo areas.

6 (2) A police officer who is certified by the Department of State Police to
7 perform an inspection authorized under this section, a Public Service Commission
8 inspector, or a hazardous materials inspector may conduct a safety inspection of the vehicle
9 that is subject to a regulation adopted under this section or § 22-409 of this article.

10 (c) The operation of a vehicle on any highway in this State constitutes the consent
11 of the driver and the owner of the vehicle to the inspection provided for in this section.

12 (d) (1) The driver of a vehicle shall obey every sign and every direction of a
13 police officer or an electronic signal to a CVISN transponder to stop the vehicle and submit
14 to the required inspection.

15 (2) If a driver fails or refuses to comply with the direction of a police officer
16 or an electronic signal to a CVISN transponder to submit a vehicle to the required
17 inspection, the police officer shall have the authority to take the vehicle and its load into
18 temporary custody for the purpose of inspecting the vehicle, load, its equipment, or
19 documents.

20 (3) The police officer may utilize resources as specified in § 27-111(b) of
21 this article to conduct the safety inspection.

22 (4) In addition to any fine or penalty attributable to the inspection, or other
23 offense, the driver is:

24 (i) Subject to a fine and penalty as specified in § 27-101(l) of this
25 article; and

26 (ii) Responsible for any additional costs incurred in inspecting the
27 vehicle and its load because of the driver's failure or refusal to comply with the direction of
28 a police officer or an electronic signal to a CVISN transponder.

29 (e) A sign used to direct vehicles under this section may be displayed only by a
30 police officer who is assigned to enforce this section.

31 (f) (1) Except as provided in subsection (i) of this section, the Administration
32 may adopt regulations as are necessary for the safe operation of vehicles that:

33 (i) Exceed a gross vehicle weight rating of 10,000 pounds;

1 (ii) Are required to be marked or placarded for the transportation of
2 hazardous materials; or

3 (iii) Are designed to transport 16 or more passengers including the
4 driver over the highways of this State.

5 (2) Any regulation adopted pursuant to this subsection shall:

6 (i) Be formulated jointly by the Administration and the Department
7 of State Police;

8 (ii) Duplicate or be consistent with the Federal Motor Carrier Safety
9 Regulations contained in:

10 1. 49 C.F.R., Part 40 (“Procedures for Transportation
11 Workplace Drug and Alcohol Testing Programs”) and Part 382 (“Controlled Substances and
12 Alcohol Use and Testing”), with respect to drug and alcohol testing regulations applicable
13 to drivers required by regulation to possess a commercial driver’s license;

14 2. 49 C.F.R., Part 385, Subparts A, C, and D (“New Entrant
15 Safety Assurance Program”);

16 3. 49 C.F.R., Part 386, Subparts F and G (“Injunctions and
17 Imminent Hazards; Penalties”); and

18 4. 49 C.F.R., Parts 390 through 399 (“General Safety
19 Requirements”);

20 (iii) Apply to all vehicles with a gross vehicle weight rating or gross
21 combination weight rating over 10,000 pounds that are subject to the Federal Motor Carrier
22 Safety Regulations; and

23 (iv) Apply to vehicles with a gross vehicle weight rating or gross
24 combination weight rating over 10,000 pounds that are not subject to the Federal Motor
25 Carrier Safety Regulations, if the regulation adopted by the Motor Vehicle Administration
26 specifically states that it applies to the vehicle.

27 (3) The regulations adopted under this subsection may require that
28 registrants of motor vehicles subject to this subsection have knowledge of applicable federal
29 and State motor carrier safety regulations.

30 (g) Any motor carrier or driver operating a vehicle that is subject to the
31 regulations adopted under this section shall, at all times when operating the vehicle on a
32 highway in this State, comply with the regulations adopted under this section.

33 (h) (1) During normal business hours, a police officer, a hazardous materials
34 inspector, or a Public Service Commission inspector may enter the premises and inspect

1 equipment and review and copy records of motor carriers subject to the regulations adopted
2 under § 22–409 or § 23–302 of this article, Federal Motor Carrier Safety Regulations,
3 Federal Hazardous Materials Regulations, or Public Service Commission laws and
4 regulations.

5 (2) During normal business hours, trained personnel from the Commercial
6 Vehicle Enforcement Division of the Department of State Police may enter the premises
7 and inspect, review, and copy records of motor carriers subject to the regulations adopted
8 under this section, § 22–409 of this article, or § 23–302 of this article, including:

9 (i) Any record required by this section;

10 (ii) Driver qualification files;

11 (iii) Hours of service records;

12 (iv) Drug and alcohol testing records of drivers required to be tested
13 under this section; and

14 (v) Insurance records.

15 (i) (1) Except as provided for in paragraph (2) of this subsection, regulations
16 adopted under this section for intrastate motor carrier transportation may not:

17 (i) Apply the provisions of § 391.21, § 391.23, § 391.31, or § 391.35
18 of the Federal Motor Carrier Safety Regulations to:

19 1. A driver who is a regularly employed driver of a motor
20 carrier for a continuous period that began before July 1, 1986, if the driver continues to be
21 a regularly employed driver of the motor carrier; or

22 2. The motor carrier, with regard to a driver described under
23 item 1 of this item, if the motor carrier continues to employ the driver;

24 (ii) Limit a driver's time or hours on duty if:

25 1. The driver operates only within a 150 air mile radius of
26 the driver's normal work reporting location;

27 2. The driver returns to the driver's normal work reporting
28 location;

29 3. The driver is released from work within a period of 16
30 consecutive hours, not more than 12 of which are dedicated to driving, and is given at least
31 8 consecutive hours off duty; and

1 4. Regardless of the number of motor carriers using the
2 driver’s services, the driver:

3 A. If the employing motor carrier does not operate motor
4 vehicles every day of the week, has been on duty no more than 70 hours in a period of 7
5 consecutive days; or

6 B. If the employing motor carrier operates motor vehicles
7 every day of the week, has been on duty no more than 80 hours in a period of 8 consecutive
8 days;

9 (iii) Require a driver to maintain a record of duty status if the driver
10 is not subject to item (ii) of this paragraph, except that, if a driver is on duty for a period of
11 more than 12 hours, the driver shall maintain a record of the driver’s duty status that:

12 1. For the first 12 hours of time on duty, accounts for all time
13 dedicated to driving; and

14 2. For all time on duty in excess of 12 hours, conforms to the
15 recording requirements provided in federal regulations; or

16 (iv) Except in the case of bus drivers, apply the provisions of §
17 391.41(b)(1) through (11) of the Federal Motor Carrier Safety Regulations before October
18 1, 2023 to any person who:

19 1. On October 1, 2003, was otherwise qualified to operate and
20 operated a vehicle or vehicle combination used in intrastate commerce with a gross vehicle
21 weight rating or gross combination weight rating of 10,001 pounds or more and, after
22 October 1, 2003, remained qualified to operate and continued to operate such a vehicle;

23 2. Operates only in intrastate commerce; and

24 3. Has a mental or physical condition which would disqualify
25 the person under the Federal Motor Carrier Safety Regulations and:

26 A. The condition existed on October 1, 2003 or at the time of
27 the first physical examination after that date to which the person submitted as required by
28 regulations adopted by the Administration under subsection (k) of this section; and

29 B. A physician who has examined the person has determined
30 that the condition has not substantially worsened and that no other disqualifying medical
31 or physical condition has developed since October 1, 2003 or the time of the first required
32 physical examination after that date.

33 (2) Nothing contained in this subsection limits regulation of the
34 qualifications or hours of service of a driver of a vehicle:

1 (i) In interstate commerce;

2 (ii) Transporting hazardous materials of a type and quantity
3 requiring placarding under Federal Hazardous Materials Regulations; or

4 (iii) Designed to transport 16 or more passengers, including the
5 driver.

6 (j) (1) Notwithstanding the provisions of § 14–107 of the Public Safety Article,
7 the Governor may delegate the power to declare a transportation emergency to the
8 Secretary or the Secretary’s designee.

9 (2) (i) The Secretary or the Secretary’s designee may declare a
10 transportation emergency.

11 (ii) 1. During the time in which a transportation emergency
12 declared under this subsection exists, the Secretary or the Secretary’s designee [shall waive
13 the maximum hours–of–service time limits contained in this section, or in regulations
14 adopted under this section for all interstate and intrastate drivers providing direct
15 assistance in restoring normal operations] **MAY WAIVE ALL OR PART OF THE FEDERAL
16 MOTOR CARRIER SAFETY REGULATIONS CONTAINED IN 49 C.F.R. PARTS 390–399
17 THAT HAVE BEEN ADOPTED FOR INTRASTATE MOTOR CARRIER TRANSPORTATION
18 UNDER THIS SECTION IF THE SECRETARY OR THE SECRETARY’S DESIGNEE
19 REASONABLY EXPECTS THAT THE WAIVER WILL FACILITATE EMERGENCY RELIEF
20 EFFORTS.**

21 2. **A.** This waiver [shall include the hours of duty status
22 accrued by, and] shall apply only to[, drivers providing direct assistance in restoring
23 normal operations in the State, or to drivers of emergency vehicles operated under the
24 direction of State and local governments or their agents when providing direct assistance
25 in clearing and opening State highways and local streets and roads to allow free flow of
26 traffic] **MOTOR CARRIERS AND DRIVERS OPERATING COMMERCIAL MOTOR VEHICLES
27 WHILE PROVIDING EMERGENCY RELIEF.**

28 **B. WHEN A TRANSPORTATION EMERGENCY
29 TERMINATES, AN EMPTY MOTOR CARRIER OR THE DRIVER OF AN EMPTY MOTOR
30 CARRIER MAY RETURN TO THE MOTOR CARRIER’S TERMINAL OR THE DRIVER’S
31 NORMAL WORK REPORTING LOCATION.**

32 (3) (i) All declarations issued under this subsection shall indicate the
33 nature of the transportation emergency, the area or areas threatened, and the conditions
34 which have brought it about.

35 (ii) A declaration shall be disseminated by a means calculated to
36 bring its contents to the attention of the general public, in the areas affected by the
37 declaration.

1 (4) Within 10 days of the issuance of any declaration issued under this
2 subsection, the Secretary or the Secretary’s designee shall notify the Governor of the nature
3 of the declaration.

4 (5) (I) A transportation emergency declared by the Secretary or the
5 Secretary’s designee [may not extend for more than 5 days, unless renewed] **LASTS FOR**
6 **THE LESSER OF 5 DAYS FROM THE DATE OF THE INITIAL DECLARATION OR FOR THE**
7 **DURATION OF THE EMERGENCY CONDITIONS.**

8 (II) **IF CONDITIONS WARRANT, THE SECRETARY OR THE**
9 **SECRETARY’S DESIGNEE MAY RENEW A TRANSPORTATION EMERGENCY BEYOND**
10 **THE INITIAL 5-DAY PERIOD FOR UP TO THREE RENEWAL PERIODS OF 5 DAYS EACH.**

11 (III) **1. A TRANSPORTATION EMERGENCY MAY NOT EXTEND**
12 **FOR MORE THAN 20 DAYS UNLESS RENEWED** by the Governor pursuant to § 14-107 of
13 ~~the Public Safety Article.~~

14 **2. IF THE DURATION OF THE TRANSPORTATION**
15 **EMERGENCY CONDITIONS EXTENDS FOR MORE THAN 20 DAYS, THE GOVERNOR MAY**
16 **TAKE ANY ACTION AUTHORIZED UNDER THIS SUBSECTION TO FACILITATE**
17 **EMERGENCY RELIEF EFFORTS THROUGH A DECLARATION OF A STATE OF**
18 **EMERGENCY UNDER § 14-107 OF THE PUBLIC SAFETY ARTICLE.**

19 (k) For the purposes of subsection (i) of this section, the Administration shall
20 adopt regulations requiring physical examinations for intrastate commercial motor vehicle
21 drivers.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.