

SENATE BILL 724

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R5

2003 Regular Session  
(3lr2613)

**ENROLLED BILL**  
*-- Judicial Proceedings/Environmental Matters --*

Introduced by **Senator Ruben**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Motor Vehicle Law - Railroad Grade Crossing Violations and Penalties**

3 FOR the purpose of establishing certain violations for operators of commercial motor  
4 vehicles and their employer related to railroad grade crossings; requiring the  
5 Motor Vehicle Administration to disqualify an individual who is convicted of  
6 certain violations from driving a commercial motor vehicle for a certain period of  
7 time; providing that an employer of an operator of a commercial motor vehicle  
8 who is convicted of certain violations shall be subject to a certain civil penalty;  
9 and generally relating to railroad grade crossing violations.

10 BY repealing and reenacting, with amendments,  
11 Article - Transportation  
12 Section 16-806, 16-812, and 27-101.1  
13 Annotated Code of Maryland  
14 (2002 Replacement Volume)

15 BY repealing and reenacting, without amendments,

1 Article - Transportation  
2 Section 21-701, 21-702, 21-703, and 21-704  
3 Annotated Code of Maryland  
4 (2002 Replacement Volume)

5 BY adding to  
6 Article - Transportation  
7 Section 21-703.1  
8 Annotated Code of Maryland  
9 (2002 Replacement Volume)

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

12 **Article - Transportation**

13 16-806.

14 (a) Each employer shall require the information specified in § 16-805(c) of this  
15 subtitle to be provided by the applicant.

16 (b) An employer may not knowingly allow, REQUIRE, permit, or authorize a  
17 driver to drive a commercial motor vehicle in the United States [during any period]:

18 (1) [In] DURING ANY PERIOD IN which the driver has a driver's license  
19 suspended, revoked, or canceled by a state OR HAS LOST THE PRIVILEGE TO OPERATE  
20 A COMMERCIAL MOTOR VEHICLE IN A STATE;

21 (2) [In] DURING ANY PERIOD IN which the driver has been disqualified  
22 from driving a commercial motor vehicle;

23 (3) [In] DURING ANY PERIOD IN which the driver has more than 1  
24 driver's license; [or]

25 (4) [In] DURING ANY PERIOD IN which the [employee] DRIVER, the  
26 motor vehicle [the employee] HE OR SHE is driving, or the motor carrier operation, is  
27 subject to an out-of-service order[.]; OR

28 (5) IN VIOLATION OF ANY OF THE PROVISIONS OF §§ 21-701 THROUGH  
29 21-704 OF THIS ARTICLE PERTAINING TO RAILROAD CROSSINGS OR ANY OTHER  
30 FEDERAL, STATE, OR LOCAL LAW OR REGULATION SUBSTANTIALLY SIMILAR TO A  
31 PROVISION OF §§ 21-701 THROUGH 21-704 OF THIS ARTICLE, PERTAINING TO  
32 RAILROAD GRADE CROSSINGS.

33 16-812.

34 (a) The Administration shall disqualify any individual from driving a  
35 commercial motor vehicle for a period of 1 year if:

1 (1) The individual is convicted of committing any of the following  
2 offenses while driving a commercial motor vehicle:

3 (i) Driving in violation of § 21-902 of this article;

4 (ii) Driving in violation of a federal law or any other state's law  
5 which is substantially similar in nature to the provisions in § 21-902 of this article;

6 (iii) Leaving the scene of an accident which requires disqualification  
7 as provided by the United States Secretary of Transportation;

8 (iv) A crime, other than a crime described in subsection (e) of this  
9 section, that is punishable by death or imprisonment for a term exceeding 1 year; or

10 (v) Driving in violation of § 25-112 of this article;

11 (2) The individual, while driving a commercial motor vehicle, refuses to  
12 undergo testing as provided in § 16-205.1 of this title or as is required by any other  
13 state's law or by federal law in the enforcement of 49 CFR § 383.51(b)(2)(i)(A) or (B),  
14 or 49 CFR § 392.5(a)(2); or

15 (3) The individual drives or attempts to drive a commercial motor vehicle  
16 while the alcohol concentration of the person's blood or breath is 0.04 or more.

17 (b) If any of the offenses in subsection (a) of this section occurred while  
18 transporting a hazardous material required to be placarded, the Administration shall  
19 disqualify the individual for a period of 3 years.

20 (c) The Administration shall disqualify any person from driving a commercial  
21 motor vehicle for life for 2 or more violations of any of the offenses specified in  
22 subsection (a) or (b) of this section, or any combination of those offenses, arising from  
23 2 or more separate incidents.

24 (d) The Administration may adopt regulations establishing guidelines,  
25 including conditions, under which a disqualification for life may be reduced to a  
26 period of time which may be permitted by federal regulations.

27 (e) The Administration shall disqualify any person from driving a commercial  
28 motor vehicle for life who uses a commercial motor vehicle in the commission of any  
29 felony involving the manufacture, distribution, or dispensing of a controlled  
30 dangerous substance, or possession with intent to manufacture, distribute, or  
31 dispense a controlled dangerous substance.

32 (f) The Administration shall disqualify any person from driving a commercial  
33 motor vehicle for a period of 60 days if convicted under the laws of this State or any  
34 other state of 2 serious traffic violations committed in a commercial motor vehicle  
35 arising from separate incidents occurring within a 3-year period.

36 (g) The Administration shall disqualify any person from driving a commercial  
37 motor vehicle for a period of 120 days if convicted under the laws of this State or any

1 other state of 3 serious traffic violations committed in a commercial motor vehicle  
2 arising from separate incidents occurring within a 3-year period.

3 (h) The Administration may disqualify a person from driving a commercial  
4 motor vehicle for a controlled dangerous substance offense in the manner provided  
5 under Article 41, Title 1, Subtitle 5 of the Code.

6 (i) (1) In this subsection the following terms have the meanings indicated:

7 (i) "Commercial motor vehicle" means:

8 1. A "commercial motor vehicle" as defined in § 11-109.1 of  
9 this article; and

10 2. Except as provided in § 11-109.1(b) of this article, any  
11 self-propelled or towed vehicle used on a public highway to transport passengers or  
12 property, if the vehicle has a gross vehicle weight rating of 10,001 or more pounds.

13 (ii) "Out-of-service order" means a declaration by an authorized  
14 enforcement officer of a federal, State, Canadian, Mexican or local jurisdiction that a  
15 driver, a commercial motor vehicle, or a motor carrier operation, is put out of service  
16 pursuant to Title 49, §§ 386.72, 392.5, 395.13, and 396.9 of the Code of Federal  
17 Regulations, compatible laws, or the North American Uniform Out-of-Service  
18 criteria.

19 (2) A driver who is convicted of violating an out-of-service order while  
20 driving a commercial motor vehicle is disqualified for the period of time specified in  
21 regulation by the United States Secretary of Transportation.

22 (J) A DRIVER WHO IS CONVICTED OF A VIOLATION OF ANY OF THE  
23 PROVISIONS OF §§ 21-701 THROUGH 21-704 OF THIS ARTICLE PERTAINING TO  
24 RAILROAD GRADE CROSSINGS OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW OR  
25 REGULATION PERTAINING TO RAILROAD GRADE CROSSINGS THAT IS  
26 SUBSTANTIALLY SIMILAR TO §§ 21-701 THROUGH 21-704 OF THIS ARTICLE, WHILE  
27 OPERATING A COMMERCIAL MOTOR VEHICLE, IS DISQUALIFIED FOR THE PERIOD OF  
28 TIME SPECIFIED IN REGULATION BY THE UNITED STATES SECRETARY OF  
29 TRANSPORTATION.

30 [(j)] (K) The Administration shall cancel a commercial driver's license if the  
31 applicant provides information that is incomplete or incorrect.

32 [(k)] ~~(L)~~ After suspending, revoking, or canceling a commercial driver's  
33 license, or after disqualifying a commercial driver from operating a commercial motor  
34 vehicle, the Administration shall update its records to reflect that action within 10  
35 days.

36 [(l)] (M) After suspending, revoking, or canceling a nonresident commercial  
37 driver's privilege, or after disqualifying a nonresident driver from operating a  
38 commercial motor vehicle, the Administration shall notify the licensing authority of  
39 the state which issued the commercial driver's license within 10 days.

1 [(m)] (N) An individual who is disqualified from driving a commercial motor  
2 vehicle under this section shall surrender the individual's driver's license to the  
3 Administration.

4 [(n)] (O) The Administration may issue a noncommercial driver's license of an  
5 appropriate class to an individual who is disqualified under this section if:

6 (1) The individual surrenders the commercial driver's license; and

7 (2) The individual's driving privilege is not otherwise refused,  
8 suspended, revoked, or canceled in this State or any other state.

9 [(o)] (P) Upon termination of a disqualification period, an individual may  
10 apply for a new commercial driver's license. The Administration shall issue a  
11 commercial driver's license to the applicant when the applicant:

12 (1) Passes the skills and knowledge tests required by this subtitle;

13 (2) Is eligible to drive pursuant to the Commercial Driver's License  
14 Information System, and National Driver's Register;

15 (3) Surrenders any previously issued driver's instructional permit or  
16 license; and

17 (4) Pays the fees required by § 16-818(a)(1) of this subtitle.

18 [(p)] (Q) If an individual is disqualified based on multiple offenses committed  
19 at the same time, or arising out of circumstances simultaneous in time and place, or  
20 arising out of the same incident, the Administration:

21 (1) Shall disqualify the individual from driving a commercial motor  
22 vehicle for the offense which results in the lengthiest period of disqualification; and

23 (2) May not impose any additional periods of disqualification for the  
24 remainder of the offenses.

25 21-701.

26 (a) (1) If the driver of a vehicle approaches a railroad grade crossing under  
27 any of the circumstances stated in paragraph (2) of this subsection, the driver:

28 (i) Shall stop within 50 feet but not less than 15 feet from the  
29 nearest rail in the crossing; and

30 (ii) May not proceed until he can do so safely.

31 (2) The requirements of this subsection apply if:

32 (i) A clearly visible electric or mechanical signal device warns of  
33 the immediate approach or passage of a railroad train;

- 1 (ii) A crossing gate is lowered;
- 2 (iii) A flagman signals the approach or passage of a railroad train;
- 3 (iv) A railroad train approaching within 1,500 feet of the crossing  
4 gives a signal audible to traffic approaching the crossing and the railroad train,  
5 because of its speed or nearness to the crossing, is an immediate danger; or
- 6 (v) A railroad train is plainly visible and is in or is approaching  
7 dangerously near to the crossing.

8 (b) A person may not drive any vehicle through, around, or under any crossing  
9 gate or barrier at a railroad grade crossing while the gate or barrier is closed or is  
10 being opened or closed.

11 21-702.

12 (a) The State Highway Administration and any local authority with the  
13 approval of the State Highway Administration may place a stop sign at any railroad  
14 grade crossing of a highway that the local authority or State Highway Administration  
15 designates as a particularly dangerous crossing.

16 (b) If the driver of a vehicle approaches the stop sign, the driver:

17 (1) Shall stop within 50 feet but not less than 15 feet from the nearest  
18 rail in the crossing; and

19 (2) May proceed only on exercising due care.

20 21-703.

21 (a) Except as provided in subsection (g) of this section, this section applies to:

22 (1) Every motor vehicle carrying a passenger for hire;

23 (2) Every school vehicle carrying any passenger;

24 (3) Every bus that is owned or operated by a church and carrying any  
25 passenger;

26 (4) Every vehicle carrying as cargo a flammable liquid or an explosive;  
27 and

28 (5) Every vehicle carrying hazardous materials of a type and quantity  
29 requiring placarding under federal hazardous materials regulations.

30 (b) If the driver of any vehicle described in subsection (a) of this section  
31 approaches a railroad grade crossing, the driver shall stop within 50 feet but not less  
32 than 15 feet from the nearest rail in the crossing.

1 (c) If the driver of any vehicle described in subsection (a) of this section  
2 approaches a railroad grade crossing, the driver while stopped, shall listen and look in  
3 both directions along the track for any approaching or passing railroad train and for  
4 any signals indicating the approach or passage of a railroad train.

5 (d) If the driver of any vehicle described in subsection (a) of this section  
6 approaches a railroad grade crossing, the driver may not proceed until he can do so  
7 safely.

8 (e) If the driver of any vehicle described in subsection (a) of this section  
9 approaches a railroad grade crossing, the driver may proceed only in that gear of the  
10 vehicle in which it will be unnecessary to shift gears manually while passing through  
11 the crossing.

12 (f) If the driver of any vehicle described in subsection (a) of this section  
13 approaches a railroad grade crossing, the driver may not shift gears manually while  
14 passing over any track of the railroad.

15 (g) (1) This section does not apply to the vehicles described in subsection  
16 (a)(1), (4), and (5) of this section, at any railroad grade crossing in a business district  
17 or residential district.

18 (2) This section does not apply to school buses and church buses, as  
19 described in subsection (a)(2) and (3) of this section, at locations within Baltimore  
20 City where complying with the provision of this section would conflict with the  
21 existing traffic signal indications.

22 21-703.1.

23 UNLESS OTHERWISE PROVIDED IN THIS SUBTITLE, UPON APPROACHING A  
24 RAILROAD GRADE CROSSING, THE OPERATOR OF EVERY COMMERCIAL MOTOR  
25 VEHICLE SHALL:

26 (1) SLOW DOWN AND CHECK THAT THE TRACKS ARE CLEAR OF AN  
27 APPROACHING TRAIN;

28 (2) STOP BEFORE REACHING THE CROSSING, IF THE TRACKS ARE NOT  
29 CLEAR;

30 (3) ATTEMPT TO NEGOTIATE THE CROSSING ONLY IF THE CROSSING  
31 AND THE ROADWAY BEYOND THE CROSSING ARE SUFFICIENTLY CLEAR OF OTHER  
32 TRAFFIC SO THAT THE DRIVER CAN DRIVE COMPLETELY THROUGH AND CLEAR OF  
33 THE CROSSING WITHOUT STOPPING;

34 (4) OBEY A TRAFFIC CONTROL DEVICE OR THE DIRECTIONS OF A POLICE  
35 OFFICER AT THE CROSSING; AND

36 (5) ATTEMPT TO NEGOTIATE THE CROSSING ONLY IF THE VEHICLE HAS  
37 SUFFICIENT UNDERCARRIAGE CLEARANCE.

1 21-704.

2 (a) Unless a person has complied with this section, he may not drive or move  
3 on or across any railroad grade crossing any power shovel, derrick, roller,  
4 crawler-type tractor, or other equipment or structure that has:

5 (1) A normal operating speed of 10 miles an hour or less; or

6 (2) A vertical body or load clearance, measured above the level surface of  
7 a roadway, of less than:

8 (i) One-half inch for each foot of the distance between any two  
9 adjacent axles; or

10 (ii) 9 inches.

11 (b) Before any person drives or moves any equipment described in subsection  
12 (a) of this section on or across any railroad grade crossing, the person shall:

13 (1) Notify an agent of the railroad of his intention; and

14 (2) Afford the railroad reasonable time to provide proper protection at  
15 the crossing.

16 (c) When the person approaches the crossing, he:

17 (1) Shall stop within 50 feet but not less than 15 feet from the nearest  
18 rail in the crossing;

19 (2) While stopped, shall listen and look in both directions along the track  
20 for any approaching or passing railroad train and for any signals indicating the  
21 approach or passage of a railroad train; and

22 (3) May not proceed until he can do so safely.

23 (d) (1) The person may not proceed if a warning is given by an automatic  
24 signal, crossing gate, flagman, or otherwise of the immediate approach or passage of  
25 a railroad train.

26 (2) If the railroad provides a flagman, the person may proceed over the  
27 crossing only at the direction of the flagman.

28 27-101.1.

29 (a) In addition to being disqualified from driving a commercial motor vehicle  
30 under § 16-812(i) of this article, a driver who is convicted of violating an  
31 out-of-service order shall be subject to the civil penalties specified by regulation by  
32 the United States Secretary of Transportation.



1 (b) An employer who is convicted of violating § 16-806(b)(4) OR (5) of this  
2 article shall be subject to the civil penalties specified by regulation by the United  
3 States Secretary of Transportation.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
5 effect July 1, 2003.