

SENATE BILL 724

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2003 Regular Session
3r2613
CF HB 1050

By: **Senator Ruben**

Introduced and read first time: February 25, 2003

Rules suspended

Assigned to: Judicial Proceedings

A BILL ENTITLED

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,
16 Article - Transportation
17 Section 21-701, 21-702, 21-703, and 21-704
18 Annotated Code of Maryland
19 (2002 Replacement Volume)

20 BY adding to
21 Article - Transportation
22 Section 21-703.1
23 Annotated Code of Maryland
24 (2002 Replacement Volume)

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

1 **Article - Transportation**

2 16-806.

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

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

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

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

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

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

17 (5) IN VIOLATION OF ANY OF THE PROVISIONS OF §§ 21-701 THROUGH
18 21-704 OF THIS ARTICLE PERTAINING TO RAILROAD CROSSINGS OR ANY OTHER
19 FEDERAL, STATE, OR LOCAL LAW OR REGULATION SUBSTANTIALLY SIMILAR TO A
20 PROVISION OF §§ 21-701 THROUGH 21-704 OF THIS ARTICLE, PERTAINING TO
21 RAILROAD GRADE CROSSINGS.

22 16-812.

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

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

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

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

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

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

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

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

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

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

10 (c) The Administration shall disqualify any person from driving a commercial
11 motor vehicle for life for 2 or more violations of any of the offenses specified in
12 subsection (a) or (b) of this section, or any combination of those offenses, arising from
13 2 or more separate incidents.

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

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

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

26 (g) The Administration shall disqualify any person from driving a commercial
27 motor vehicle for a period of 120 days if convicted under the laws of this State or any
28 other state of 3 serious traffic violations committed in a commercial motor vehicle
29 arising from separate incidents occurring within a 3-year period.

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

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

34 (i) "Commercial motor vehicle" means:

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

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

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

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

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

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

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

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

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

17 21-701.

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

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

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

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

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

26 (ii) A crossing gate is lowered;

27 (iii) A flagman signals the approach or passage of a railroad train;

28 (iv) A railroad train approaching within 1,500 feet of the crossing
29 gives a signal audible to traffic approaching the crossing and the railroad train,
30 because of its speed or nearness to the crossing, is an immediate danger; or

31 (v) A railroad train is plainly visible and is in or is approaching
32 dangerously near to the crossing.

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

4 21-702.

5 (a) The State Highway Administration and any local authority with the
6 approval of the State Highway Administration may place a stop sign at any railroad
7 grade crossing of a highway that the local authority or State Highway Administration
8 designates as a particularly dangerous crossing.

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

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

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

13 21-703.

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

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

16 (2) Every school vehicle carrying any passenger;

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

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

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

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

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

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

33 (e) If the driver of any vehicle described in subsection (a) of this section
34 approaches a railroad grade crossing, the driver may proceed only in that gear of the

1 vehicle in which it will be unnecessary to shift gears manually while passing through
2 the crossing.

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

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

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

13 21-703.1.

14 UNLESS OTHERWISE PROVIDED IN THIS SUBTITLE, UPON APPROACHING A
15 RAILROAD GRADE CROSSING, THE OPERATOR OF EVERY COMMERCIAL MOTOR
16 VEHICLE SHALL:

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

19 (2) STOP BEFORE REACHING THE CROSSING, IF THE TRACKS ARE NOT
20 CLEAR;

21 (3) ATTEMPT TO NEGOTIATE THE CROSSING ONLY IF THE CROSSING
22 AND THE ROADWAY BEYOND THE CROSSING ARE SUFFICIENTLY CLEAR OF OTHER
23 TRAFFIC SO THAT THE DRIVER CAN DRIVE COMPLETELY THROUGH AND CLEAR OF
24 THE CROSSING WITHOUT STOPPING;

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

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

29 21-704.

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

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

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

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

3 (ii) 9 inches.

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

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

7 (2) Afford the railroad reasonable time to provide proper protection at
8 the crossing.

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

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

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

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

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

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

21 27-101.1.

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

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

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