

ENROLLED BILL
-- Economic Matters/Judicial Proceedings --

Introduced by **Delegate Barve**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

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

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Utility Emergencies - Incidental Drivers**

3 FOR the purpose of providing that certain provisions relating to motor carriers do not
4 apply to certain incidental drivers during a declared utility emergency;
5 ~~repealing a requirement that a utility emergency declared by the Secretary of~~
6 ~~Transportation or the Secretary's designee must be renewed by the Governor if~~
7 ~~it extends for more than a certain number of days; authorizing a utility company~~
8 ~~to declare a utility emergency; requiring a utility company to file a certain plan~~
9 ~~with the Secretary or the Secretary's designee before the utility company may~~
10 ~~declare a utility emergency; requiring a utility company to notify the Secretary~~
11 ~~or the Secretary's designee of the declaration of a utility emergency a certain~~
12 ~~number of hours after the declaration providing that certain incidental drivers~~
13 ~~employed by or under contract with a utility company are exempt from certain~~
14 ~~requirements during a certain utility emergency if the utility company has~~
15 ~~prefiled certain information with the Secretary of Transportation or the~~
16 ~~Secretary's designee; requiring the Secretary or the Secretary's designee to~~
17 ~~require certain information, make a certain determination, and notify a utility~~

1 ~~company of certain matters under certain circumstances; providing for renewal~~
 2 ~~of a certain utility emergency under certain circumstances; altering the~~
 3 ~~definition of "utility emergency" to include the disruption or potential~~
 4 ~~distribution disruption of certain cable service; defining certain terms; making~~
 5 ~~certain technical corrections and stylistic changes; and generally relating to~~
 6 ~~utility emergencies.~~

7 BY repealing and reenacting, with amendments,
 8 Article - Transportation
 9 Section 25-111
 10 Annotated Code of Maryland
 11 (2002 Replacement Volume and 2004 Supplement)

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

14 **Article - Transportation**

15 25-111.

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

17 (2) "Hazardous materials inspector" means a person who is assigned by
 18 the Department of the Environment and certified by the Department of State Police
 19 to perform an inspection authorized under this section.

20 (3) "INCIDENTAL DRIVER" MEANS AN INDIVIDUAL ~~WHO~~:

21 (I) WHO IS EMPLOYED BY OR CONTRACTS WITH A UTILITY
 22 COMPANY OR IS EMPLOYED BY A PERSON WHO CONTRACTS WITH A UTILITY
 23 COMPANY;

24 (II) WHOSE PRIMARY EMPLOYMENT BY OR CONTRACTUAL
 25 AGREEMENT WITH THE UTILITY COMPANY IS NOT REQUIRED TO DRIVE A MOTOR
 26 VEHICLE MORE THAN 50% OF THE HOURS OF DUTY REQUIRED BY THE INDIVIDUAL'S
 27 EMPLOYMENT OR CONTRACTUAL AGREEMENT WITH THE UTILITY COMPANY AS A
 28 DRIVER OF A MOTOR VEHICLE; AND

29 (III) WHO DRIVES A MOTOR VEHICLE ON ONLY AS AN INCIDENTAL
 30 BASIS UNDER PART OF THE INDIVIDUAL'S EMPLOYMENT OR CONTRACTUAL
 31 AGREEMENT WITH THE UTILITY COMPANY.

32 (4) "Police officer" means:

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

1 (ii) Any civilian employee of the Department of State Police
 2 assigned to enforce any rule or regulation adopted under this section, but only while
 3 acting under written authorization of the Secretary of the State Police;

4 (iii) Any civilian employee of the Maryland Transportation
 5 Authority Police who is:

6 1. Acting under the immediate direction and control of a
 7 uniformed police officer;

8 2. Acting under the written authorization of the Secretary of
 9 the State Police; and

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

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

13 1. Acting under the immediate direction and control of a
 14 uniformed police officer;

15 2. Acting under the written authorization of the Secretary of
 16 the State Police; and

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

19 [(4)] (5) "Public Service Commission inspector" means a person who is
 20 assigned by the Public Service Commission and certified by the Department of State
 21 Police to perform an inspection authorized under this section.

22 [(5)] (6) "Transportation emergency" means any natural or man-made
 23 emergency that disrupts or hinders the free flow of traffic on the State's highways
 24 and local streets and roads for more than 8 hours so that public safety is or may be
 25 threatened as a result.

26 [(6)] (7) "Utility emergency" means any natural or man-made
 27 emergency that disrupts or severs or has the potential to disrupt or sever gas, electric,
 28 telephone, water, sewer, CABLE, or other utility service to:

29 (i) Any large number of residential or commercial customers in an
 30 area or areas of the State; or

31 (ii) Any public or private institutions in an area or areas of the
 32 State so that the public health, welfare, or safety is or may be threatened as a result.

33 (8) "UTILITY COMPANY" MEANS AN ELECTRIC COMPANY, GAS COMPANY,
 34 ~~SEWAGE DISPOSAL COMPANY, TELEPHONE COMPANY, WATER COMPANY, OR CABLE~~
 35 ~~COMPANY, OR WATER OR SEWER UTILITY.~~

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

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

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

8 (iii) All cargo and cargo areas[; and].

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (2) Any rule or regulation adopted pursuant to this subsection shall:

10 (i) Be formulated jointly by the Motor Vehicle Administration and
11 the Department of State Police;

12 (ii) Duplicate or be consistent with the Federal Motor Carrier
13 Safety Regulations contained in 49 CFR, Parts 390 through 399;

14 (iii) Apply to all vehicles over 10,000 pounds rated gross vehicle
15 weight that are subject to the Federal Motor Carrier Safety Regulations;

16 (iv) Apply to vehicles over 10,000 pounds gross vehicle weight
17 rating that are not subject to the Federal Motor Carrier Safety Regulations, if the rule
18 or regulations adopted by the Motor Vehicle Administration specifically states that it
19 applies to the vehicle; and

20 (v) Be consistent with 49 CFR, Parts 40 and 382, with respect to
21 alcohol and drug testing regulations applicable to drivers required by regulation to
22 possess a commercial driver's license.

23 (3) The rules or regulations adopted under this subsection may require
24 that registrants of motor vehicles subject to this subsection have knowledge of
25 applicable federal and State motor carrier safety regulations.

26 (g) Any motor carrier operating a vehicle that is subject to the rules and
27 regulations adopted under this section shall, at all times when operating the vehicle
28 on a highway in this State, comply with the rules and regulations adopted under this
29 section.

30 (h) (1) During normal business hours, a police officer, a hazardous materials
31 inspector, or a Public Service Commission inspector may enter the premises and
32 inspect equipment and review and copy records of motor carriers subject to the rules
33 or regulations adopted under § 22-409 or § 23-302 of this article, Federal Motor
34 Carrier Safety Regulations, Federal Hazardous Material Regulations, or Public
35 Service Commission laws and regulations.

36 (2) During normal business hours, trained personnel from the
37 Commercial Vehicle Enforcement Division of the Department of State Police may

1 enter the premises and inspect, review, and copy records of motor carriers subject to
2 the regulations adopted under this section, § 22-409 of this article, or § 23-302 of this
3 article, including:

- 4 (i) Any record required by this section;
- 5 (ii) Driver qualification files;
- 6 (iii) Hours of service records;
- 7 (iv) Drug and alcohol testing records of drivers required to be tested
8 under this section; and
- 9 (v) Insurance records.

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

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

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

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

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

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

22 2. The driver returns to the driver's normal work reporting
23 location;

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

27 4. Regardless of the number of motor carriers using the
28 driver's services, the driver:

29 A. If the employing motor carrier does not operate motor
30 vehicles every day of the week, has been on duty no more than 70 hours in a period of
31 7 consecutive days; or

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

1 (iii) Require a driver to maintain a record of duty status if the driver
2 is not subject to item (ii) of this paragraph, except that, if a driver is on duty for a
3 period of more than 12 hours, the driver shall maintain a record of the driver's duty
4 status that:

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

7 2. For all time on duty in excess of 12 hours, conforms to
8 federal regulations;

9 (iv) Apply the provisions of this paragraph or Parts 391 and 395 of
10 the Federal Motor Carrier Safety Regulations to a farmer, or an agent or employee of
11 a farmer, who operates farm equipment or a motor vehicle owned or operated by the
12 farmer in the transportation of supplies to a farm or the transportation of farm
13 products as defined in § 10-601 of the Agriculture Article within 150 air miles of the
14 farmer's farm; or

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

18 1. On October 1, 2003, was otherwise qualified to operate
19 and operated a vehicle or vehicle combination used in intrastate commerce with a
20 gross vehicle weight rating or gross combination weight rating of 10,001 pounds or
21 more and, after October 1, 2003, remained qualified to operate and continued to
22 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
28 required by regulations adopted by the Administration under subsection (k) of this
29 section; and

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

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

36 (i) In interstate commerce;

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

1 (iii) Designed to transport 16 or more passengers, including the
2 driver.

3 (j) (1) Notwithstanding the provisions of § 14-107 of the Public Safety
4 Article, the Governor may delegate the power to declare a utility or transportation
5 emergency to the Secretary or the Secretary's designee.

6 (2) (i) The Secretary or the Secretary's designee may declare a utility
7 or transportation emergency.

8 (ii) 1. During the time in which a [declared] utility or
9 transportation emergency DECLARED UNDER THIS SUBSECTION exists, the Secretary
10 or the Secretary's designee shall waive the maximum hours-of-service time limits
11 contained in this section, or in regulations [promulgated pursuant thereto] ADOPTED
12 UNDER THIS SECTION for all interstate and intrastate drivers providing direct
13 assistance in restoring utility services affected by a utility emergency.

14 [(iii)] 2. This waiver shall include the hours of duty status accrued
15 by, and shall apply only to, drivers providing direct assistance in restoring utility
16 services affected by a utility emergency in the State, or to drivers of emergency
17 vehicles operated under the direction of State and local governments or their agents
18 when providing direct assistance in clearing and opening State highways and local
19 streets and roads to allow free flow of traffic.

20 ~~(iii) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN~~
21 ~~INCIDENTAL DRIVER DURING A TIME WHEN A UTILITY EMERGENCY IS DECLARED~~
22 ~~UNDER THIS SUBSECTION.~~

23 (iii) 1. NOTWITHSTANDING THE OTHER PROVISIONS OF THIS
24 SUBSECTION AND § 14-107 OF THE PUBLIC SAFETY ARTICLE, DURING A UTILITY
25 EMERGENCY AN INCIDENTAL DRIVER SHALL BE EXEMPT FROM PART 395 OF THE
26 FEDERAL MOTOR CARRIER SAFETY REGULATIONS IF THE UTILITY COMPANY HAS
27 PREFILED, AS SPECIFIED BY THE SECRETARY OR THE SECRETARY'S DESIGNEE, A
28 UTILITY EMERGENCY RESPONSE NOTIFICATION PLAN AND AN INCIDENTAL DRIVER
29 SAFETY PLAN IN ACCORDANCE WITH THIS SUBPARAGRAPH.

30 2. A UTILITY EMERGENCY RESPONSE NOTIFICATION PLAN
31 MUST INCLUDE THE UTILITY COMPANY'S PROCEDURE FOR NOTIFYING THE
32 SECRETARY OR SECRETARY'S DESIGNEE WITHIN 4 HOURS AFTER THE UTILITY
33 COMPANY RESPONDS TO A UTILITY EMERGENCY.

34 3. AN INCIDENTAL DRIVER SAFETY PLAN MUST INCLUDE
35 THE PROCEDURES THAT THE UTILITY COMPANY WILL FOLLOW TO ENSURE THAT AN
36 INCIDENTAL DRIVER WILL NOT DRIVE DURING A UTILITY EMERGENCY IF THE
37 INCIDENTAL DRIVER HAS NOT HAD SUFFICIENT REST TO ENSURE THAT THE
38 INCIDENTAL DRIVER MAINTAINS THE ABILITY TO DRIVE SAFELY.

39 (3) (i) All declarations issued under this [section] SUBSECTION shall
40 indicate the nature of the utility or transportation emergency, the area or areas
41 threatened, and the conditions which have brought it about.

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

4 (4) Within 10 days of the issuance of any declaration issued under this
5 [section] SUBSECTION, the Secretary or the Secretary's designee shall notify the
6 Governor of the nature of the declaration.

7 (5) A ~~utility or~~ transportation emergency declared by the Secretary or
8 the Secretary's designee may not extend for more than ~~3~~ 5 days, unless renewed by
9 the Governor pursuant to § 14-107 of the Public Safety Article.

10 (k) (1) ~~NOTWITHSTANDING THE PROVISIONS OF § 14-107 OF THE PUBLIC~~
11 ~~SAFETY ARTICLE, A UTILITY COMPANY MAY DECLARE A UTILITY EMERGENCY.~~

12 (2) (I) ~~BEFORE A UTILITY COMPANY MAY EXERCISE THE AUTHORITY~~
13 ~~TO DECLARE A UTILITY EMERGENCY, THE UTILITY COMPANY SHALL FILE A PLAN~~
14 ~~WITH THE SECRETARY OR THE SECRETARY'S DESIGNEE.~~

15 (II) ~~THE PLAN SHALL ESTABLISH THE PROCEDURES THAT THE~~
16 ~~UTILITY COMPANY WILL FOLLOW TO ENSURE THAT AN INCIDENTAL DRIVER WILL~~
17 ~~NOT DRIVE DURING A UTILITY EMERGENCY IF THE INCIDENTAL DRIVER HAS NOT~~
18 ~~HAD AN AMOUNT OF REST SUFFICIENT TO ENSURE THAT THE DRIVER MAINTAINS~~
19 ~~THE ABILITY TO DRIVE SAFELY.~~

20 (III) ~~A UTILITY COMPANY IS NOT REQUIRED TO FILE A NEW PLAN~~
21 ~~EACH TIME THE UTILITY COMPANY INTENDS TO DECLARE A UTILITY EMERGENCY.~~

22 (3) ~~IF A UTILITY DECLARES AN EMERGENCY, THE UTILITY COMPANY~~
23 ~~SHALL NOTIFY THE SECRETARY OR THE SECRETARY'S DESIGNEE WITHIN 24 HOURS~~
24 ~~OF SUCH DECLARATION.~~

25 (4) ~~THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN~~
26 ~~INCIDENTAL DRIVER DURING A TIME WHEN A UTILITY EMERGENCY IS DECLARED~~
27 ~~UNDER THIS SUBSECTION ON NOTIFICATION BY A UTILITY COMPANY THAT IT IS~~
28 ~~RESPONDING TO A UTILITY EMERGENCY, THE SECRETARY OR SECRETARY'S~~
29 ~~DESIGNEE SHALL:~~

30 (I) ~~REQUIRE THE UTILITY COMPANY TO INDICATE THE NATURE OF~~
31 ~~THE UTILITY EMERGENCY, THE AREAS THREATENED, THE CONDITIONS WHICH HAVE~~
32 ~~BROUGHT IT ABOUT, AND THE DURATION OF THE UTILITY COMPANY'S EXPECTED~~
33 ~~RESPONSE, NOT TO EXCEED 5 DAYS;~~

34 (II) ~~DETERMINE WHETHER A UTILITY EMERGENCY, AS DEFINED IN~~
35 ~~THIS SECTION, EXISTED AT THE TIME OF THE UTILITY COMPANY'S RESPONSE AND, IF~~
36 ~~SO, DECLARE THAT A UTILITY EMERGENCY EXISTED STARTING AT THAT TIME; AND~~

37 (III) ~~IF A UTILITY EMERGENCY DOES NOT EXIST, NOTIFY THE~~
38 ~~UTILITY COMPANY THAT IT IS NOT ENTITLED TO AND MAY NOT EXERCISE THE~~

1 RELIEF PROVIDED TO INCIDENTAL DRIVERS UNDER SUBSECTION (J) OF THIS
2 SECTION.

3 (2) A UTILITY EMERGENCY TO WHICH A UTILITY COMPANY RESPONDS
4 MAY NOT EXTEND MORE THAN 5 DAYS AFTER THE DATE THAT THE UTILITY
5 COMPANY FIRST NOTIFIES THE SECRETARY OR SECRETARY'S DESIGNEE OF ITS
6 RESPONSE UNLESS:

7 (I) THE UTILITY COMPANY PROVIDES A RENEWAL NOTIFICATION
8 TO THE SECRETARY OR SECRETARY'S DESIGNEE; AND

9 (II) THE SECRETARY OR SECRETARY'S DESIGNEE DOES NOT
10 REJECT THE RENEWAL.

11 (L) For the purposes of subsection (i) of this section, the Administration shall
12 adopt regulations requiring physical examinations for intrastate commercial motor
13 vehicle drivers.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2005.