
By: **Delegate Barve**

Introduced and read first time: February 11, 2005

Assigned to: Economic Matters

A BILL ENTITLED

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; altering the definition of "utility
13 emergency" to include the disruption or potential distribution of certain cable
14 service; defining certain terms; making certain technical corrections and
15 stylistic changes; and generally relating to utility emergencies.

16 BY repealing and reenacting, with amendments,
17 Article - Transportation
18 Section 25-111
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2004 Supplement)

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

23 **Article - Transportation**

24 25-111.

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

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

1 (3) "INCIDENTAL DRIVER" MEANS AN INDIVIDUAL WHO:

2 (I) IS EMPLOYED BY OR CONTRACTS WITH A UTILITY COMPANY OR
3 IS EMPLOYED BY A PERSON WHO CONTRACTS WITH A UTILITY COMPANY;

4 (II) IS NOT REQUIRED TO DRIVE A MOTOR VEHICLE MORE THAN
5 50% OF THE HOURS OF DUTY REQUIRED BY THE INDIVIDUAL'S EMPLOYMENT OR
6 CONTRACTUAL AGREEMENT WITH THE UTILITY COMPANY; AND

7 (III) DRIVES A MOTOR VEHICLE ON AN INCIDENTAL BASIS UNDER
8 THE INDIVIDUAL'S EMPLOYMENT OR CONTRACTUAL AGREEMENT WITH THE UTILITY
9 COMPANY.

10 (4) "Police officer" means:

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

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

17 (iii) Any civilian employee of the Maryland Transportation
18 Authority Police who is:

19 1. Acting under the immediate direction and control of a
20 uniformed police officer;

21 2. Acting under the written authorization of the Secretary of
22 the State Police; and

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

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

26 1. Acting under the immediate direction and control of a
27 uniformed police officer;

28 2. Acting under the written authorization of the Secretary of
29 the State Police; and

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

32 [(4)] (5) "Public Service Commission inspector" means a person who is
33 assigned by the Public Service Commission and certified by the Department of State
34 Police to perform an inspection authorized under this section.

1 [(5)] (6) "Transportation emergency" means any natural or man-made
2 emergency that disrupts or hinders the free flow of traffic on the State's highways
3 and local streets and roads for more than 8 hours so that public safety is or may be
4 threatened as a result.

5 [(6)] (7) "Utility emergency" means any natural or man-made
6 emergency that disrupts or severs or has the potential to disrupt or sever gas, electric,
7 telephone, water, sewer, CABLE, or other utility service to:

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

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

12 (8) "UTILITY COMPANY" MEANS AN ELECTRIC COMPANY, GAS COMPANY,
13 SEWAGE DISPOSAL COMPANY, TELEPHONE COMPANY, WATER COMPANY, OR CABLE
14 COMPANY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (i) Any record required by this section;

17 (ii) Driver qualification files;

18 (iii) Hours of service records;

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

21 (v) Insurance records.

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

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

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

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

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

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

34 2. The driver returns to the driver's normal work reporting
35 location;

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

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

6 A. If the employing motor carrier does not operate motor
7 vehicles every day of the week, has been on duty no more than 70 hours in a period of
8 7 consecutive days; or

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

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

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

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

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

26 (v) Except in the case of bus drivers, apply the provisions of §
27 391.41(b)(1) through (11) of the Federal Motor Carrier Safety Regulations before
28 October 1, 2023 to any person who:

29 1. On October 1, 2003, was otherwise qualified to operate
30 and operated a vehicle or vehicle combination used in intrastate commerce with a
31 gross vehicle weight rating or gross combination weight rating of 10,001 pounds or
32 more and, after October 1, 2003, remained qualified to operate and continued to
33 operate such a vehicle;

34 2. Operates only in intrastate commerce; and

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

37 A. The condition existed on October 1, 2003 or at the time of
38 the first physical examination after that date to which the person submitted as

1 required by regulations adopted by the Administration under subsection (k) of this
2 section; and

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

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

9 (i) In interstate commerce;

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

12 (iii) Designed to transport 16 or more passengers, including the
13 driver.

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

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

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

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

31 (III) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN
32 INCIDENTAL DRIVER DURING A TIME WHEN A UTILITY EMERGENCY IS DECLARED
33 UNDER THIS SUBSECTION.

34 (3) (i) All declarations issued under this [section] SUBSECTION shall
35 indicate the nature of the utility or transportation emergency, the area or areas
36 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 days, unless renewed by the
9 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.

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

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