
By: **Senator Garagiola**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

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, if a utility emergency is
11 declared, to provide certain notification to the Secretary or the Secretary's
12 designee within a certain number of hours; 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; AND

4 (II) IS NOT REQUIRED TO DRIVE A MOTOR VEHICLE FOR MORE
5 THAN 50% OF THE TOTAL NUMBER OF HOURS THE INDIVIDUAL IS REQUIRED TO
6 WORK UNDER THE INDIVIDUAL'S EMPLOYMENT OR CONTRACTUAL AGREEMENT
7 WITH THE UTILITY COMPANY.

8 (4) "Police officer" means:

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

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

15 (iii) Any civilian employee of the Maryland Transportation
16 Authority Police who is:

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

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

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

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

24 1. Acting under the immediate direction and control of a
25 uniformed police officer;

26 2. Acting under the written authorization of the Secretary of
27 the State Police; and

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

30 [(4)] (5) "Public Service Commission inspector" means a person who is
31 assigned by the Public Service Commission and certified by the Department of State
32 Police to perform an inspection authorized under this section.

33 [(5)] (6) "Transportation emergency" means any natural or man-made
34 emergency that disrupts or hinders the free flow of traffic on the State's highways
35 and local streets and roads for more than 8 hours so that public safety is or may be
36 threatened as a result.

1 [(6)] (7) "Utility emergency" means any natural or man-made
2 emergency that disrupts or severs or has the potential to disrupt or sever gas, electric,
3 telephone, water, sewer, CABLE, or other utility service to:

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

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

8 (8) "UTILITY COMPANY" MEANS AN ELECTRIC COMPANY, GAS COMPANY,
9 SEWAGE DISPOSAL COMPANY, TELEPHONE COMPANY, WATER COMPANY, OR CABLE
10 COMPANY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (g) Any motor carrier operating a vehicle that is subject to the rules and
36 regulations adopted under this section shall, at all times when operating the vehicle

1 on a highway in this State, comply with the rules and regulations adopted under this
2 section.

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

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

14 (i) Any record required by this section;

15 (ii) Driver qualification files;

16 (iii) Hours of service records;

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

19 (v) Insurance records.

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

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

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

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

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

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

32 2. The driver returns to the driver's normal work reporting
33 location;

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

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

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

7 (i) In interstate commerce;

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

10 (iii) Designed to transport 16 or more passengers, including the
11 driver.

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

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

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

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

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

32 (3) (i) All declarations issued under this [section] SUBSECTION shall
33 indicate the nature of the utility or transportation emergency, the area or areas
34 threatened, and the conditions 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 [section] SUBSECTION, the Secretary or the Secretary's designee shall notify the
3 Governor of the nature of the declaration.

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

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

9 (2) (I) BEFORE A UTILITY COMPANY MAY EXERCISE THE AUTHORITY
10 TO DECLARE A UTILITY EMERGENCY, THE UTILITY COMPANY SHALL FILE A PLAN
11 WITH THE SECRETARY OR THE SECRETARY'S DESIGNEE.

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

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

19 (3) IF A UTILITY COMPANY DECLARES A UTILITY EMERGENCY, THE
20 UTILITY COMPANY SHALL NOTIFY THE SECRETARY OR THE SECRETARY'S DESIGNEE
21 OF THE NATURE OF THE DECLARATION WITHIN 24 HOURS OF THE DECLARATION.

22 (4) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN
23 INCIDENTAL DRIVER DURING A TIME WHEN A UTILITY EMERGENCY IS DECLARED
24 UNDER THIS SUBSECTION.

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

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