

HOUSE BILL 1619

R2, M3, C8

8lr3485
CF SB 1006

By: **Delegates Haddaway, Bartlett, Bates, Beitzel, Donoghue, Eckardt, Elmore, James, Kelly, McComas, Myers, Norman, O'Donnell, Riley, Serafini, Shank, Smigiel, Sossi, Stifler, Stull, and Weldon**

Rules suspended

Introduced and read first time: March 14, 2008

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Rural Broadband Communication Services – Railroads and Tributaries**

3 FOR the purpose of exempting the installation of certain infrastructure provided by
4 certain persons from a certain State wetlands licensing requirement;
5 prohibiting the Secretary of the Environment from adopting certain regulations;
6 requiring the Maryland Transit Administration to allow the use of any railroad
7 right-of-way for the installation of certain infrastructure provided by certain
8 persons without the imposition of a certain charge; requiring the State Highway
9 Administration to allow the use of any right-of-way for the installation of
10 certain infrastructure provided by certain persons without the imposition of a
11 certain charge; providing for the termination of this Act; providing for the
12 construction of certain provisions of this Act; making a stylistic change; and
13 generally relating to rural broadband communication services.

14 BY repealing and reenacting, without amendments,
15 Article – Environment
16 Section 16–202(a)
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2007 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Environment
21 Section 16–202(d) and 16–302(a)
22 Annotated Code of Maryland
23 (2007 Replacement Volume and 2007 Supplement)

24 BY adding to
25 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 7–904
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2007 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Transportation
6 Section 8–654
7 Annotated Code of Maryland
8 (2001 Replacement Volume and 2007 Supplement)

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

11 **Article – Environment**

12 16–202.

13 (a) A person may not dredge or fill on State wetlands without a license.

14 (d) The provisions of this section do not apply to any operation for:

15 (1) Dredging and filling being conducted as of July 1, 1970, as
16 authorized under the terms of an appropriate permit or license granted under the
17 provisions of existing State and federal law;

18 (2) Dredging of seafood products by any licensed operator, harvesting
19 of seaweed, or mosquito control and abatement as approved by the Department of
20 Agriculture;

21 (3) Improvement of wildlife habitat or agricultural drainage ditches as
22 approved by an appropriate unit; [or]

23 (4) Routine maintenance or repair of existing bulkheads, provided that
24 there is no addition or channelward encroachment; **OR**

25 **(5) INSTALLATION OF BROADBAND COMMUNICATION**
26 **INFRASTRUCTURE PROVIDED BY A NONPROFIT TELECOMMUNICATIONS**
27 **SERVICES PROVIDER OR A MEMBER OF A NONPROFIT TELECOMMUNICATIONS**
28 **SERVICES PROVIDER IN A RURAL AND UNDERSERVED AREA OF THE STATE.**

29 16–302.

30 (a) **(1) (I) [To] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
31 **SUBSECTION, TO** promote the public safety, health, welfare, wildlife, and marine
32 fisheries, the Secretary may adopt regulations governing dredging, filling, removing,
33 or otherwise altering or polluting private wetlands.

1 (II) The regulations may vary as to specific tracts of wetlands
2 because of the character of the wetlands.

3 (2) **THE SECRETARY MAY NOT ADOPT REGULATIONS THAT**
4 **REQUIRE A NONPROFIT TELECOMMUNICATIONS SERVICES PROVIDER OR A**
5 **MEMBER OF A NONPROFIT TELECOMMUNICATIONS SERVICES PROVIDER TO**
6 **OBTAIN A PRIVATE WETLANDS PERMIT OR LICENSE OR PAY ANY FEE FOR THE**
7 **INSTALLATION OF BROADBAND COMMUNICATION INFRASTRUCTURE OVER, ON,**
8 **IN, OR UNDER PRIVATE WETLANDS IN A RURAL AND UNDERSERVED AREA OF**
9 **THE STATE.**

10 **Article - Transportation**

11 **7-904.**

12 (A) **THE ADMINISTRATION SHALL ALLOW THE USE OF ANY RAILROAD**
13 **RIGHT-OF-WAY FOR THE INSTALLATION OF BROADBAND COMMUNICATION**
14 **INFRASTRUCTURE PROVIDED BY NONPROFIT TELECOMMUNICATIONS SERVICES**
15 **PROVIDERS OR A MEMBER OF A NONPROFIT TELECOMMUNICATIONS SERVICES**
16 **PROVIDER IN RURAL AND UNDERSERVED AREAS OF THE STATE WITHOUT**
17 **IMPOSITION OF ANY CHARGE FOR THE USE OF THE RIGHT-OF-WAY.**

18 (B) **THIS SECTION MAY NOT BE CONSTRUED TO LIMIT OR OTHERWISE**
19 **AFFECT ANY RIGHT GRANTED TO THE STATE OR A UNIT OF THE STATE UNDER §**
20 **253 OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 WITH REGARD TO**
21 **FOR PROFIT TELECOMMUNICATIONS SERVICES PROVIDERS.**

22 **8-654.**

23 (a) The Administration shall allow the use of any right-of-way for the
24 installation of broadband communication infrastructure provided by nonprofit
25 telecommunications services providers **OR A MEMBER OF A NONPROFIT**
26 **TELECOMMUNICATIONS SERVICES PROVIDER** in rural and underserved areas of
27 the State without imposition of any charge for the use of the right-of-way.

28 (b) This section may not be construed to limit or otherwise affect any right
29 granted to the State or a unit of the State under § 253 of the federal
30 Telecommunications Act of 1996 with regard to for profit telecommunications services
31 providers.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2008. It shall remain effective for a period of 12 years and, at the end of June
34 30, 2020, with no further action required by the General Assembly, this Act shall be
35 abrogated and of no further force and effect.