

HOUSE BILL 480

M1, C5

9lr1994
CF SB 352

By: **Delegates Levi, Barnes, Dumais, Feldman, Frush, Gilchrist, Holmes, Hubbard, Hucker, Kramer, Lafferty, Lee, Manno, Montgomery, Niemann, Pena-Melnyk, V. Turner, Valderrama, and Waldstreicher**

Introduced and read first time: February 4, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utility Tree Management Act of 2009**

3 FOR the purpose of requiring certain public utilities to prepare a certain plan in
4 accordance with certain requirements under certain circumstances; requiring a
5 certain public utility to submit a certain plan to the Department of Natural
6 Resources and certain local governments within a certain amount of time;
7 requiring a certain public utility to enter into a certain agreement with the
8 Department under certain circumstances; requiring certain programs and plans
9 to be published in accordance with certain requirements; authorizing the
10 Department to issue a stop-work order under certain circumstances; providing
11 for certain penalties under certain circumstances; authorizing the Department
12 to adopt certain regulations; defining a certain term; and generally relating to
13 public utilities and tree preservation.

14 BY adding to
15 Article – Natural Resources
16 Section 5–1901 through 5–1905 to be under the new subtitle “Subtitle 19. Public
17 Utility Tree Preservation”
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2008 Supplement)

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

22 **Article – Natural Resources**

23 **SUBTITLE 19. PUBLIC UTILITY TREE PRESERVATION.**

24 **5–1901.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) “COMPATIBLE VEGETATION” MEANS VEGETATION THAT DOES NOT
4 POSE A PRESENT OR LONG-TERM RISK TO PUBLIC UTILITY INFRASTRUCTURE
5 OR RELIABILITY.

6 (C) “PUBLIC UTILITY” MEANS AN ELECTRIC COMPANY, A GAS COMPANY,
7 OR A TELEPHONE COMPANY AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY
8 COMPANIES ARTICLE.

9 **5-1902.**

10 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AND
11 NOTWITHSTANDING § 5-1602(B)(5) AND (6) OF THIS TITLE, THIS SUBTITLE
12 APPLIES TO TREE REMOVAL CONDUCTED ON A TRANSMISSION RIGHT-OF-WAY
13 BY A PUBLIC UTILITY.

14 (B) THIS TITLE DOES NOT APPLY IF:

15 (1) A TREE IS UPROOTED OR ITS BRANCHES ARE BROKEN SO AS
16 TO CONTACT TELEPHONE, TELEGRAPH, ELECTRIC POWER, OR OTHER WIRES
17 CARRYING ELECTRIC CURRENT; OR

18 (2) A TREE OR ITS BRANCHES ENDANGER PERSONS OR
19 PROPERTY.

20 **5-1903.**

21 (A) (1) IN ADDITION TO ANY TRANSMISSION VEGETATION
22 MANAGEMENT PROGRAM OR ANNUAL PLAN FOR VEGETATION MANAGEMENT
23 PREPARED IN ACCORDANCE WITH A STANDARD, A RECOMMENDATION, AN
24 ORDER, A REGULATION, OR ANY OTHER PROCLAMATION OF THE FEDERAL
25 ENERGY REGULATORY COMMISSION, A PUBLIC UTILITY, BEFORE CLEARING OR
26 TRIMMING VEGETATION ON OR ADJACENT TO A PUBLIC UTILITY TRANSMISSION
27 RIGHT-OF-WAY, SHALL PREPARE A TREE MANAGEMENT PLAN.

28 (2) THE TREE MANAGEMENT PLAN SHALL INCLUDE MEASURES TO
29 MINIMIZE:

30 (I) TREE REMOVAL; AND

1 **(II) ADVERSE ENVIRONMENTAL IMPACTS ON AND**
2 **ADJACENT TO THE PUBLIC UTILITY TRANSMISSION RIGHT-OF-WAY, INCLUDING:**

- 3 **1. WETLANDS;**
4 **2. AREAS WITHIN 100 FEET OF STATE WATERS;**
5 **3. STEEP SLOPES;**
6 **4. ERODIBLE LANDS; AND**
7 **5. PROPERTIES INCLUDED IN THE MARYLAND**
8 **INVENTORY OF HISTORIC PROPERTIES.**

9 **(3) THE TREE MANAGEMENT PLAN SHALL PROVIDE FOR THE**
10 **PLANTING OF COMPATIBLE VEGETATION ON AREAS ADJACENT TO A**
11 **TRANSMISSION RIGHT-OF-WAY FROM WHICH TREES AND OTHER VEGETATION**
12 **HAVE BEEN REMOVED.**

13 **(4) (I) THE TREE MANAGEMENT PLAN SHALL BE SUBMITTED**
14 **TO THE DEPARTMENT AND THE LOCAL GOVERNMENT WITHIN THE BOUNDARIES**
15 **OF WHICH THE TRIMMING OR REMOVAL OF VEGETATION IS PROPOSED TO**
16 **OCCUR AT LEAST 30 DAYS BEFORE THE PLAN WILL BE IMPLEMENTED.**

17 **(II) THE PLAN SHALL BE ACCOMPANIED BY A MAP OF THE**
18 **WORK AREA SHOWING:**

19 **1. PROPERTY BOUNDARIES, WATERWAYS, AND**
20 **TOPOGRAPHY; AND**

21 **2. SPECIFIC AREAS WHERE VEGETATION**
22 **MANAGEMENT ACTIVITIES, INCLUDING TREE REMOVAL, TRIMMING, HERBICIDE**
23 **APPLICATION, AND PLANTING WILL OCCUR.**

24 **(B) (1) A PUBLIC UTILITY SHALL ENTER INTO A BINDING 2-YEAR**
25 **MANAGEMENT AGREEMENT WITH THE DEPARTMENT THAT DESCRIBES HOW**
26 **AREAS AFFORESTED WITH COMPATIBLE VEGETATION WILL BE MAINTAINED TO**
27 **ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT OF THE**
28 **COMPATIBLE VEGETATION, INCLUDING REFORESTATION PROVISIONS IF**
29 **SURVIVAL FALLS BELOW THE STANDARDS ESTABLISHED IN THE MANAGEMENT**
30 **AGREEMENT.**

1 (2) THE DEPARTMENT SHALL SEND A COPY OF THE
2 MANAGEMENT AGREEMENT TO THE LOCAL GOVERNMENT WITHIN THE
3 BOUNDARIES OF WHICH THE AFFORESTATION OR REFORESTATION WILL OCCUR.

4 (C) TRANSMISSION VEGETATION MANAGEMENT PROGRAMS, ANNUAL
5 PLANS FOR VEGETATION MANAGEMENT, AND TREE MANAGEMENT PLANS SHALL
6 BE PUBLISHED AND MADE AVAILABLE TO THE PUBLIC AT LEAST 30 DAYS
7 BEFORE IMPLEMENTATION.

8 **5-1904.**

9 (A) THE DEPARTMENT MAY ISSUE A STOP-WORK ORDER AGAINST ANY
10 PERSON THAT VIOLATES THIS SUBTITLE OR A PROVISION OF A TRANSMISSION
11 VEGETATION MANAGEMENT PROGRAM, AN ANNUAL PLAN FOR VEGETATION
12 MANAGEMENT, OR A TREE MANAGEMENT PLAN ADOPTED UNDER THIS
13 SUBTITLE.

14 (B) FAILURE TO ADHERE TO THE REQUIREMENTS OF THIS SUBTITLE OR
15 TO THE PROVISIONS OF A TREE MANAGEMENT PLAN SHALL SUBJECT A PUBLIC
16 UTILITY TO THE PENALTIES UNDER § 5-1301 OF THIS TITLE.

17 **5-1905.**

18 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS
19 SUBTITLE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2009.