

# SENATE BILL 352

M1, C5

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CF 9lr1994

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By: **Senators Peters, Frosh, Harrington, Lenett, Pinsky, and Rosapepe**

Introduced and read first time: January 29, 2009

Assigned to: Education, Health, and Environmental Affairs

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## 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.**

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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

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

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

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

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

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

17                                       1.   **PROPERTY BOUNDARIES, WATERWAYS, AND**  
18 **TOPOGRAPHY; AND**

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

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

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

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

5 **5-1904.**

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

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

14 **5-1905.**

15           **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**  
16 **SUBTITLE.**

17           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
18 **October 1, 2009.**