

SENATE BILL 352

M1, C5

9lr0642
CF HB 480

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

Introduced and read first time: January 29, 2009

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2009

CHAPTER _____

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 make the plan available to the public within
8 a certain amount of time; ~~requiring a certain public utility to enter into a~~
9 ~~certain agreement with the Department under certain circumstances; requiring~~
10 ~~certain programs and plans to be published in accordance with certain~~
11 ~~requirements; authorizing the Department to issue a stop work order under~~
12 ~~certain circumstances; providing for certain penalties under certain~~
13 ~~circumstances;~~ authorizing the Department to adopt certain regulations;
14 defining a certain term; and generally relating to public utilities and tree
15 preservation management.

16 BY adding to

17 Article – Natural Resources

18 Section 5-1901 through ~~5-1905~~ 5-1904 to be under the new subtitle “Subtitle
19 19. Public Utility Tree Preservation”

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article - Natural Resources

2 SUBTITLE 19. PUBLIC UTILITY TREE PRESERVATION.

3 5-1901.

4 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
5 ~~INDICATED.~~

6 ~~(B) "COMPATIBLE VEGETATION" MEANS VEGETATION THAT DOES NOT~~
7 ~~POSE A PRESENT OR LONG TERM RISK TO PUBLIC UTILITY INFRASTRUCTURE~~
8 ~~OR RELIABILITY.~~

9 ~~(C) "PUBLIC UTILITY" MEANS, "PUBLIC UTILITY" MEANS AN ELECTRIC~~
10 ~~COMPANY, A GAS COMPANY, OR A TELEPHONE COMPANY AS DEFINED IN § 1-101~~
11 ~~OF THE PUBLIC UTILITY COMPANIES ARTICLE.~~

12 5-1902.

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

17 (B) THIS TITLE DOES NOT APPLY IF:

18 (1) A TREE IS UPROOTED OR ITS BRANCHES ARE BROKEN SO AS
19 TO CONTACT OR ENDANGER TELEPHONE, TELEGRAPH, ELECTRIC POWER, OR
20 OTHER WIRES CARRYING ELECTRIC CURRENT; OR

21 (2) A TREE OR ITS BRANCHES ENDANGER PERSONS OR
22 PROPERTY.

23 5-1903.

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

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

3 ~~(I) TREE REMOVAL; AND~~

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

6 ~~1. (I)~~ WETLANDS;

7 ~~2. (II)~~ AREAS WITHIN 100 FEET OF STATE
8 WATERS;

9 ~~3. (III)~~ STEEP SLOPES;

10 ~~4. (IV)~~ ERODIBLE LANDS; AND

11 ~~5. (V)~~ PROPERTIES INCLUDED IN THE MARYLAND
12 INVENTORY OF HISTORIC PROPERTIES.

13 (3) THE TREE MANAGEMENT PLAN SHALL PROVIDE ~~FOR THE~~
14 ~~PLANTING OF COMPATIBLE VEGETATION ON AREAS ADJACENT TO A~~
15 ~~TRANSMISSION RIGHT-OF-WAY FROM WHICH TREES AND OTHER VEGETATION~~
16 ~~HAVE BEEN REMOVED~~ PROCEDURES FOR:

17 (I) IDENTIFYING STAKEHOLDERS; AND

18 (II) CONDUCTING OUTREACH TO AND COMMUNICATING
19 WITH STAKEHOLDERS.

20 (4) ~~(I) THE~~ AT LEAST 30 DAYS BEFORE THE TREE
21 MANAGEMENT PLAN WILL BE IMPLEMENTED, THE PLAN SHALL BE ~~SUBMITTED:~~

22 (I) SUBMITTED TO THE DEPARTMENT AND THE LOCAL
23 GOVERNMENT WITHIN THE BOUNDARIES OF WHICH THE ~~TRIMMING OR TREE~~
24 REMOVAL OF VEGETATION IS PROPOSED TO OCCUR AT LEAST 30 DAYS BEFORE
25 THE PLAN WILL BE IMPLEMENTED; AND

26 (II) MADE AVAILABLE TO THE PUBLIC.

27 ~~(II) THE PLAN SHALL BE ACCOMPANIED BY A MAP OF THE~~
28 ~~WORK AREA SHOWING:~~

29 ~~1. PROPERTY BOUNDARIES, WATERWAYS, AND~~
30 ~~TOPOGRAPHY; AND~~

1 ~~2. SPECIFIC AREAS WHERE VEGETATION~~
2 ~~MANAGEMENT ACTIVITIES, INCLUDING TREE REMOVAL, TRIMMING, HERBICIDE~~
3 ~~APPLICATION, AND PLANTING WILL OCCUR.~~

4 ~~(B) (1) A PUBLIC UTILITY SHALL ENTER INTO A BINDING 2-YEAR~~
5 ~~MANAGEMENT AGREEMENT WITH THE DEPARTMENT THAT DESCRIBES HOW~~
6 ~~AREAS AFFORESTED WITH COMPATIBLE VEGETATION WILL BE MAINTAINED TO~~
7 ~~ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT OF THE~~
8 ~~COMPATIBLE VEGETATION, INCLUDING REFORESTATION PROVISIONS IF~~
9 ~~SURVIVAL FALLS BELOW THE STANDARDS ESTABLISHED IN THE MANAGEMENT~~
10 ~~AGREEMENT.~~

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

14 ~~(C) TRANSMISSION VEGETATION MANAGEMENT PROGRAMS, ANNUAL~~
15 ~~PLANS FOR VEGETATION MANAGEMENT, AND TREE MANAGEMENT PLANS SHALL~~
16 ~~BE PUBLISHED AND MADE AVAILABLE TO THE PUBLIC AT LEAST 30 DAYS~~
17 ~~BEFORE IMPLEMENTATION.~~

18 ~~5-1904.~~

19 ~~(A) THE DEPARTMENT MAY ISSUE A STOP WORK ORDER AGAINST ANY~~
20 ~~PERSON THAT VIOLATES THIS SUBTITLE OR A PROVISION OF A TRANSMISSION~~
21 ~~VEGETATION MANAGEMENT PROGRAM, AN ANNUAL PLAN FOR VEGETATION~~
22 ~~MANAGEMENT, OR A TREE MANAGEMENT PLAN ADOPTED UNDER THIS~~
23 ~~SUBTITLE.~~

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

27 ~~5-1905. 5-1904.~~

28 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS
29 SUBTITLE.

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