

# SENATE BILL 464

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CF HB 169

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By: **Senators Forehand, Exum, Garagiola, Harrington, King, Kramer, Lenett, Madaleno, Raskin, and Rosapepe**

Introduced and read first time: February 1, 2010

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Marilyn J. Praisner Safe and Earth-Friendly Roadway Act**

3 FOR the purpose of authorizing the State Highway Administration, Maryland  
4 Transportation Authority, or a political subdivision to install or replace a  
5 certain luminaire for highway lighting only if it determines that the concerns to  
6 be addressed by the lighting cannot be addressed by certain alternative means;  
7 authorizing the Administration, the Authority, a political subdivision, or an  
8 electric company to install or replace a certain luminaire for highway lighting  
9 only with a new or replacement luminaire that meets certain requirements;  
10 authorizing the Administration, the Authority, a political subdivision, or an  
11 electric company to install or replace a certain luminaire for highway lighting  
12 only if the new or replacement luminaire is of a certain type; authorizing the  
13 Administration, the Authority, or a political subdivision to waive a certain  
14 requirement for luminaires for highway lighting for certain reasons; requiring  
15 the Administration, the Authority, or a political subdivision to document certain  
16 information in writing for each waiver granted; requiring an electric company to  
17 provide certain written notice to the Administration, the Authority, or a  
18 political subdivision by a certain date to obtain a waiver authorized under this  
19 Act; requiring an electric company's written notice to include certain  
20 information; requiring an electric company to offer the Administration, the  
21 Authority, or a political subdivision the opportunity to replace certain  
22 luminaires for highway lighting with replacement luminaires owned and  
23 maintained by the Administration, Authority, or political subdivision under  
24 certain circumstances; defining certain terms; and generally relating to highway  
25 lighting.

26 BY repealing and reenacting, without amendments,  
27 Article – Public Utility Companies  
28 Section 1–101(h)  
29 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 1–101(a) and (k) and 8–101(a), (b), (g), (i), and (q)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Transportation  
Section 8–609.2  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

### Preamble

WHEREAS, House Joint Resolution 14 of 2001 created the Task Force to Study  
Lighting Efficiency and Light Pollution in Maryland; and

WHEREAS, The purpose of the Task Force was to study the cost, extent, and  
consequences of inefficient public lighting and light pollution in the State, and the  
benefits of improvements; and

WHEREAS, The Task Force issued a report to the General Assembly in 2002  
that stated three objectives, including reducing or halting the spread of sky glow,  
reducing or halting the increase of light trespass or glare, and conserving energy and  
minimizing the State’s energy costs; and

WHEREAS, The Task Force and the resolution that established it found that  
State, county, and municipal roadway lighting consumes a significant amount of  
energy and public funds and contributes to light pollution, sky glow, glare, and light  
trespass; and

WHEREAS, It is the policy of the State that new and replacement roadway  
lighting be procured, designed, configured, and maintained in a manner that  
minimizes glare, light pollution, and unnecessary energy consumption, and maximizes  
safety for drivers, pedestrians, and bicyclists; now, therefore,

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

### Article – Public Utility Companies

1–101.

(h) (1) “Electric company” means a person who physically transmits or  
distributes electricity in the State to a retail electric customer.

(2) “Electric company” does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building;

(ii) any person who generates on-site generated electricity; or

(iii) a person who transmits or distributes electricity within a site owned by the person or the person’s affiliate that is incidental to a primarily landlord-tenant relationship.

## **Article – Transportation**

1–101.

(a) In this article the following words have the meanings indicated.

(k) “Political subdivision” includes:

(1) Any county or municipal corporation; and

(2) Unless the context requires otherwise, any special taxing district.

8–101.

(a) In this title the following words have the meanings indicated.

(b) “Administration” means the State Highway Administration.

(g) “County road” means any public highway:

(1) The title to which or the easement for the use of which, is vested in a public body or governmental agency; and

(2) That is not a State highway or located in Baltimore City.

(i) “Highway” includes:

(1) Rights-of-way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management

1 facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway  
2 grade separation structures, railroad grade separations, tunnels, overpasses,  
3 underpasses, interchanges, entrance plazas, approaches, and other structures forming  
4 an integral part of a street, road, or highway, including bicycle and walking paths; and

5 (2) Any other property acquired for the construction, operation, or use  
6 of the highway.

7 (q) "State highway" means any public highway owned by this State.

8 **8-609.2.**

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
10 MEANINGS INDICATED.

11 (2) "AUTHORITY" MEANS THE MARYLAND TRANSPORTATION  
12 AUTHORITY.

13 (3) "ELECTRIC COMPANY" HAS THE MEANING STATED IN § 1-101  
14 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

15 (4) "LAMP" MEANS THE COMPONENT OF A LUMINAIRE THAT  
16 PRODUCES THE LIGHT, COMMONLY REFERRED TO AS THE LIGHT BULB.

17 (5) "LIGHT TRESPASS" HAS THE MEANING STATED IN THE MOST  
18 RECENT TECHNICAL MEMORANDUM PUBLISHED BY THE ILLUMINATING  
19 ENGINEERING SOCIETY OF NORTH AMERICA IN WHICH THE TERM IS DEFINED.

20 (6) "LUMEN" MEANS A UNIT OF MEASUREMENT OF LUMINOUS  
21 FLUX.

22 (7) "LUMINAIRE" HAS THE MEANING STATED IN THE MOST  
23 RECENT VERSION OF THE ROADWAY LIGHTING DESIGN GUIDE PUBLISHED BY  
24 THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION  
25 OFFICIALS.

26 (8) "PERMANENT OUTDOOR LUMINAIRE" MEANS ANY LUMINAIRE  
27 OR SYSTEM OF LUMINAIRES THAT IS OUTDOORS AND INTENDED TO BE USED  
28 FOR 45 DAYS OR LONGER.

29 (9) "RESTRICTED UPLIGHT LUMINAIRE" MEANS A LUMINAIRE  
30 THAT:

1                   **(I) EXCEPT FOR A 0.5% MAXIMUM INCIDENTAL UPLIGHT**  
2 **FROM REFLECTION OFF MOUNTING HARDWARE, ALLOWS NO DIRECT LIGHT**  
3 **EMISSION ABOVE A HORIZONTAL PLANE THROUGH THE LUMINAIRE'S LOWEST**  
4 **LIGHT-EMITTING PART; AND**

5                   **(II) EMITS NO MORE THAN 10% OF THE TOTAL DIRECT**  
6 **LIGHT EMISSION AT OR ABOVE A VERTICAL ANGLE OF 80 DEGREES.**

7                   **(10) "VEILING LUMINANCE RATIO" HAS THE MEANING STATED IN**  
8 **THE MOST RECENT VERSION OF THE AMERICAN NATIONAL STANDARD**  
9 **PRACTICE FOR ROADWAY LIGHTING (RP-8) PUBLISHED BY THE ILLUMINATING**  
10 **ENGINEERING SOCIETY OF NORTH AMERICA.**

11           **(B) THE ADMINISTRATION, THE AUTHORITY, OR A POLITICAL**  
12 **SUBDIVISION MAY INSTALL OR REPLACE A PERMANENT OUTDOOR LUMINAIRE**  
13 **FOR HIGHWAY LIGHTING ONLY IF THE ADMINISTRATION, AUTHORITY, OR**  
14 **POLITICAL SUBDIVISION DETERMINES THAT THE SAFETY CONCERNS TO BE**  
15 **ADDRESSED BY THE LIGHTING CANNOT BE ADDRESSED BY INSTALLING**  
16 **REFLECTORIZED ROADWAY MARKERS, LINES, WARNINGS, INFORMATIONAL**  
17 **SIGNS, OR OTHER MEANS OF PASSIVE OR REFLECTIVE LIGHTING.**

18           **(C) THE ADMINISTRATION, THE AUTHORITY, OR A POLITICAL**  
19 **SUBDIVISION MAY INSTALL OR REPLACE A PERMANENT OUTDOOR LUMINAIRE**  
20 **FOR HIGHWAY LIGHTING ONLY WITH A NEW OR REPLACEMENT LUMINAIRE THAT**  
21 **IS DESIGNED TO MINIMIZE LIGHT POLLUTION, VEILING LUMINANCE RATIO, AND**  
22 **LIGHT TRESPASS.**

23           **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
24 **SUBSECTION, THE ADMINISTRATION OR AUTHORITY MAY INSTALL OR REPLACE**  
25 **A PERMANENT OUTDOOR LUMINAIRE FOR LIGHTING A STATE HIGHWAY ONLY IF**  
26 **THE NEW OR REPLACEMENT LUMINAIRE IS A RESTRICTED UPLIGHT LUMINAIRE.**

27                   **(2) (I) THE ADMINISTRATION OR AUTHORITY MAY WAIVE THE**  
28 **REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION IF A WAIVER IS**  
29 **NECESSARY DUE TO SAFETY, FEDERAL LAW, HISTORICAL OR AESTHETIC**  
30 **CONCERNS, OR OTHER REASONS NOT RELATED TO COST DEEMED APPROPRIATE**  
31 **BY THE ADMINISTRATION OR AUTHORITY.**

32                   **(II) FOR EACH WAIVER GRANTED UNDER THIS PARAGRAPH,**  
33 **THE ADMINISTRATION OR AUTHORITY SHALL DOCUMENT IN WRITING EFFORTS**  
34 **MADE TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION AND THE**  
35 **REASONS FOR GRANTING THE WAIVER.**

1           **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
2 **SUBSECTION, A POLITICAL SUBDIVISION MAY INSTALL OR REPLACE A**  
3 **PERMANENT OUTDOOR LUMINAIRE FOR LIGHTING A COUNTY ROAD ONLY IF THE**  
4 **NEW OR REPLACEMENT LUMINAIRE IS A RESTRICTED UPLIGHT LUMINAIRE.**

5           **(2) (I) A POLITICAL SUBDIVISION MAY WAIVE THE**  
6 **REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION IF A WAIVER IS**  
7 **NECESSARY DUE TO SAFETY, HISTORICAL OR AESTHETIC CONCERNS, OR OTHER**  
8 **REASONS NOT RELATED TO COST DEEMED APPROPRIATE BY THE POLITICAL**  
9 **SUBDIVISION.**

10           **(II) FOR EACH WAIVER GRANTED UNDER THIS PARAGRAPH,**  
11 **THE POLITICAL SUBDIVISION SHALL DOCUMENT IN WRITING EFFORTS MADE TO**  
12 **COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION AND THE REASONS FOR**  
13 **GRANTING THE WAIVER.**

14           **(F) (1) AN ELECTRIC COMPANY MAY INSTALL OR REPLACE A**  
15 **PERMANENT OUTDOOR LUMINAIRE FOR HIGHWAY LIGHTING ONLY WITH A NEW**  
16 **LUMINAIRE THAT IS DESIGNED TO MINIMIZE LIGHT POLLUTION, VEILING**  
17 **LUMINANCE RATIO, AND LIGHT TRESPASS.**

18           **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
19 **SUBSECTION, AN ELECTRIC COMPANY MAY INSTALL OR REPLACE A PERMANENT**  
20 **OUTDOOR LUMINAIRE FOR HIGHWAY LIGHTING ONLY IF THE NEW OR**  
21 **REPLACEMENT LUMINAIRE IS A RESTRICTED UPLIGHT LUMINAIRE.**

22           **(3) (I) THE ADMINISTRATION, THE AUTHORITY, OR A**  
23 **POLITICAL SUBDIVISION MAY WAIVE THE REQUIREMENT IN PARAGRAPH (2) OF**  
24 **THIS SUBSECTION IF A WAIVER IS NECESSARY DUE TO SAFETY, HISTORICAL OR**  
25 **AESTHETIC CONCERNS, OR OTHER REASONS NOT RELATED TO COST DEEMED**  
26 **APPROPRIATE BY THE ADMINISTRATION, THE AUTHORITY, OR A POLITICAL**  
27 **SUBDIVISION.**

28           **(II) TO OBTAIN A WAIVER UNDER THIS PARAGRAPH, AN**  
29 **ELECTRIC COMPANY SHALL PROVIDE WRITTEN NOTICE TO THE**  
30 **ADMINISTRATION, AUTHORITY, OR POLITICAL SUBDIVISION THAT PAYS THE**  
31 **COST OF OPERATING THE LUMINAIRE AT LEAST 30 DAYS BEFORE INSTALLING**  
32 **OR REPLACING THE LUMINAIRE.**

33           **(III) THE ELECTRIC COMPANY'S WRITTEN NOTICE SHALL**  
34 **DESCRIBE EFFORTS MADE TO COMPLY WITH PARAGRAPH (2) OF THIS**  
35 **SUBSECTION AND STATE THE REASONS THE WAIVER IS NECESSARY.**

1           **(G) (1) THIS SUBSECTION ONLY APPLIES IF AN ELECTRIC COMPANY**  
2 **INITIATES A PROJECT TO REMOVE AND REPLACE A GROUP OF 10 OR MORE**  
3 **WORKING LUMINAIRES WITH NEW LUMINAIRES THAT USE A DIFFERENT TYPE OF**  
4 **LIGHTING TECHNOLOGY.**

5           **(2) THE ELECTRIC COMPANY SHALL OFFER THE**  
6 **ADMINISTRATION, AUTHORITY, OR POLITICAL SUBDIVISION THAT PAYS THE**  
7 **COST OF OPERATING THE LUMINAIRES THE OPPORTUNITY TO INSTALL**  
8 **REPLACEMENT LUMINAIRES OWNED AND MAINTAINED BY THE**  
9 **ADMINISTRATION, AUTHORITY, OR POLITICAL SUBDIVISION.**

10           **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
11 **PARAGRAPH, IF THE ELECTRIC COMPANY INSTALLS THE REPLACEMENT**  
12 **LUMINAIRES, THE LUMEN OUTPUT OF EACH REPLACEMENT LUMINAIRE MAY**  
13 **NOT BE MORE THAN 10% GREATER THAN THE LUMEN OUTPUT OF THE**  
14 **LUMINAIRE BEING REPLACED.**

15           **(II) THE ELECTRIC COMPANY MAY INSTALL REPLACEMENT**  
16 **LUMINAIRES THAT DO NOT COMPLY WITH SUBPARAGRAPH (I) OF THIS**  
17 **PARAGRAPH IF THE ELECTRIC COMPANY:**

18                   **1. OBTAINS THE EXPRESS WRITTEN CONSENT OF**  
19 **THE ADMINISTRATION, AUTHORITY, OR POLITICAL SUBDIVISION THAT PAYS**  
20 **THE COST OF OPERATING THE LUMINAIRES; AND**

21                   **2. HAS OFFERED THE ADMINISTRATION,**  
22 **AUTHORITY, OR POLITICAL SUBDIVISION THAT PAYS THE COST OF OPERATING**  
23 **THE LUMINAIRES THE OPPORTUNITY TO CHOOSE REPLACEMENT LUMINAIRES**  
24 **THAT COMPLY WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF SUCH**  
25 **LUMINAIRES ARE COMMERCIALY AVAILABLE.**

26           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
27 **June 1, 2010.**