

SENATE BILL 77

R5

4lr0012

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Transportation)**

Requested: September 30, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 29, 2014

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Commercial and Farm Vehicles – Safety Inspections and**
3 **Utility Emergencies**

4 FOR the purpose of altering the definition of “vehicle” to exclude certain farm vehicles
5 for certain purposes relating to vehicle inspections and warnings for defective
6 equipment; clarifying that certain regulations apply to all vehicles over a
7 certain gross vehicle weight rating or gross combination weight rating;
8 clarifying that certain regulations applicable to certain motor carriers are also
9 applicable to certain drivers; clarifying that a certain record of a driver’s duty
10 status must conform to recording requirements provided in federal regulations;
11 repealing a provision prohibiting the Motor Vehicle Administration from
12 adopting regulations applying certain provisions of the Federal Motor Carrier
13 Safety Regulations to certain farmers and certain agents or employees of
14 farmers in certain circumstances; repealing the authority of the Secretary of
15 Transportation to declare a utility emergency; repealing certain provisions and
16 definitions relating to utility emergencies; making conforming and stylistic
17 changes; and generally relating to commercial and farm vehicles.

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 23–301 and 25–111
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2013 Supplement)

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

3 **Article – Transportation**

4 23–301.

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

6 (b) “Equipment” includes all mechanisms that form part of or relate to
7 vehicle equipment.

8 (c) “Hazardous materials inspector” means a person who is assigned by the
9 Department of the Environment and certified by the Department of State Police to
10 perform an inspection authorized under this subtitle.

11 (d) “Public Service Commission inspector” means a person who is assigned by
12 the Public Service Commission and certified by the Department of State Police to
13 perform an inspection authorized under this subtitle.

14 (e) “State Police officer” means:

15 (1) Any uniformed law enforcement officer of the Department of State
16 Police; or

17 (2) Any civilian employee of the Department of State Police assigned
18 to enforce any rule or regulation adopted under this subtitle, but only while acting
19 under written authorization of the Secretary of State Police.

20 (f) **(1)** “Vehicle” means, **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF**
21 **THIS SUBSECTION**, any vehicle registered in this State as:

22 **[(1)] (I)** A Class E (truck) vehicle with a registered, operating, or
23 rated gross vehicle weight of over 10,000 pounds;

24 **[(2)] (II)** A Class F (tractor) vehicle;

25 **[(3)] (III)** A Class G (trailer or semitrailer) vehicle with a registered,
26 operating, or rated gross vehicle weight over 10,000 pounds;

27 **[(4)] (IV)** A Class P (passenger bus) vehicle; or

28 **[(5)] (V)** A Class M (multipurpose) vehicle that:

29 **[(i)] 1.** Is used primarily to transport passengers; and

1 [(ii) 1.] **2. A.** Is designed to transport 16 passengers or more,
2 including the driver; or

3 [2.] **B.** Was previously registered under § 13-932 or §
4 13-933 of this article.

5 **(2) “VEHICLE” DOES NOT INCLUDE:**

6 **(I) A FARM TRUCK AS DEFINED IN § 13-921 OF THIS**
7 **ARTICLE;**

8 **(II) A FARM TRUCK TRACTOR AS DEFINED IN § 13-924 OF**
9 **THIS ARTICLE; OR**

10 **(III) A CLASS K (FARM AREA) VEHICLE.**
11 25-111.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) “Hazardous materials inspector” means a person who is assigned
14 by the Department of the Environment and certified by the Department of State Police
15 to perform an inspection authorized under this section.

16 (3) [“Incidental driver” means an individual:

17 (i) Who is employed by or contracts with a utility company or is
18 employed by a person who contracts with a utility company;

19 (ii) Whose primary employment by or contractual agreement
20 with the utility company is not as a driver of a motor vehicle; and

21 (iii) Who drives a motor vehicle only as an incidental part of the
22 individual’s employment or contractual agreement with the utility company.

23 (4)] “Police officer” means:

24 (i) Any uniformed law enforcement officer who is certified or
25 under the direction of a law enforcement officer who is certified by the Department of
26 State Police to perform an inspection authorized under this section;

27 (ii) Any civilian employee of the Department of State Police
28 assigned to enforce any rule or regulation adopted under this section, but only while
29 acting under written authorization of the Secretary of State Police;

1 (iii) Any civilian employee of the Maryland Transportation
2 Authority Police who is:

3 1. Acting under the immediate direction and control of a
4 uniformed police officer;

5 2. Acting under the written authorization of the
6 Secretary of State Police; and

7 3. Certified by the Department of State Police to perform
8 an inspection authorized under this section; or

9 (iv) Any civilian employee of a local government who is:

10 1. Acting under the immediate direction and control of a
11 uniformed police officer;

12 2. Acting under the written authorization of the
13 Secretary of State Police; and

14 3. Certified by the Department of State Police to perform
15 an inspection authorized under this section.

16 **[(5)] (4)** “Public Service Commission inspector” means a person who
17 is assigned by the Public Service Commission and certified by the Department of State
18 Police to perform an inspection authorized under this section.

19 **[(6)] (5)** “Transportation emergency” means any natural or
20 man-made emergency that disrupts or hinders the free flow of traffic on the State’s
21 highways and local streets and roads for more than 8 hours so that public safety is or
22 may be threatened as a result.

23 **[(7)]** “Utility company” means an electric company, gas company,
24 telephone company, cable company, or water or sewer utility.

25 **(8)** “Utility emergency” means any natural or man-made emergency
26 that disrupts or severs or has the potential to disrupt or sever gas, electric, telephone,
27 water, sewer, cable, or other utility service to:

28 (i) Any large number of residential or commercial customers in
29 an area or areas of the State; or

30 (ii) Any public or private institutions in an area or areas of the
31 State so that the public health, welfare, or safety is or may be threatened as a result.]

32 (b) (1) Upon direction by a police officer or by an electronic signal to
33 vehicles equipped with a CVISN transponder, the driver of any vehicle that is subject

1 to any rule or regulation adopted under this section shall stop and submit to an
2 inspection:

3 (i) All applicable driver records, including driver's license,
4 driver hours of service record and certificate of physical examination;

5 (ii) All load manifests, including bills of lading or other shipping
6 documents; and

7 (iii) All cargo and cargo areas.

8 (2) A police officer who is certified by the Department of State Police
9 to perform an inspection authorized under this section, a Public Service Commission
10 inspector, or a hazardous materials inspector may conduct a safety inspection of the
11 vehicle that is subject to a rule or regulation adopted under this section or § 22–409 of
12 this article.

13 (c) The operation of a vehicle on any highway in this State constitutes the
14 consent of the driver and the owner of the vehicle to the inspection provided for in this
15 section.

16 (d) (1) The driver of a vehicle shall obey every sign and every direction of
17 a police officer or an electronic signal to a CVISN transponder to stop the vehicle and
18 submit to the required inspection.

19 (2) If a driver fails or refuses to comply with the direction of a police
20 officer or an electronic signal to a CVISN transponder to submit a vehicle to the
21 required inspection, the police officer shall have the authority to take the vehicle and
22 its load into temporary custody for the purpose of inspecting the vehicle, load, its
23 equipment, or documents.

24 (3) The police officer may utilize resources as specified in § 27–111(b)
25 of this article to conduct the safety inspection.

26 (4) In addition to any fine or penalty attributable to the inspection, or
27 other offense, the driver is:

28 (i) Subject to a fine and penalty as specified in § 27–101(l) of
29 this article; and

30 (ii) Responsible for any additional costs incurred in inspecting
31 the vehicle and its load because of the driver's failure or refusal to comply with the
32 direction of a police officer or an electronic signal to a CVISN transponder.

33 (e) A sign used to direct vehicles under this section may be displayed only by
34 a police officer who is assigned to enforce this section.

1 (f) (1) Except as provided in subsection (i) of this section, the
 2 Administration may adopt [rules and] regulations as are necessary for the safe
 3 operation of vehicles that:

4 (i) Exceed a gross vehicle weight rating of 10,000 pounds;

5 (ii) Are required to be marked or placarded for the
 6 transportation of hazardous materials; or

7 (iii) Are designed to transport 16 or more passengers including
 8 the driver over the highways of this State.

9 (2) Any [rule or] regulation adopted pursuant to this subsection shall:

10 (i) Be formulated jointly by the [Motor Vehicle] Administration
 11 and the Department of State Police;

12 (ii) Duplicate or be consistent with the Federal Motor Carrier
 13 Safety Regulations contained in:

14 **1. 49 C.F.R., PART 40 (“PROCEDURES FOR**
 15 **TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS”)**
 16 **AND PART 382 (“CONTROLLED SUBSTANCES AND ALCOHOL USE AND**
 17 **TESTING”), WITH RESPECT TO DRUG AND ALCOHOL TESTING REGULATIONS**
 18 **APPLICABLE TO DRIVERS REQUIRED BY REGULATION TO POSSESS A**
 19 **COMMERCIAL DRIVER’S LICENSE;**

20 **[1.] 2. 49 C.F.R., Part 385, Subparts A, C, and D (“New**
 21 **Entrant Safety Assurance Program”);**

22 **[2.] 3. 49 C.F.R., Part 386, Subparts F and G (“Injunctions**
 23 **and Imminent Hazards; Penalties”); and**

24 **[3.] 4. 49 C.F.R., Parts 390 through 399 (“General Safety**
 25 **Requirements”);**

26 (iii) Apply to all vehicles **WITH A GROSS VEHICLE WEIGHT**
 27 **RATING OR GROSS COMBINATION WEIGHT RATING** over 10,000 pounds [rated gross
 28 vehicle weight] that are subject to the Federal Motor Carrier Safety Regulations; **AND**

29 (iv) Apply to vehicles **WITH A GROSS VEHICLE WEIGHT**
 30 **RATING OR GROSS COMBINATION WEIGHT RATING** over 10,000 pounds [gross
 31 vehicle weight rating] that are not subject to the Federal Motor Carrier Safety
 32 Regulations, if the rule or regulations adopted by the Motor Vehicle Administration
 33 specifically states that it applies to the vehicle[]; and

1 (v) Be consistent with 49 C.F.R., Parts 40 and 382, with respect
2 to alcohol and drug testing regulations applicable to drivers required by regulation to
3 possess a commercial driver's license].

4 (3) The [rules or] regulations adopted under this subsection may
5 require that registrants of motor vehicles subject to this subsection have knowledge of
6 applicable federal and State motor carrier safety regulations.

7 (g) Any motor carrier **OR DRIVER** operating a vehicle that is subject to the
8 [rules and] regulations adopted under this section shall, at all times when operating
9 the vehicle on a highway in this State, comply with the [rules and] regulations
10 adopted under this section.

11 (h) (1) During normal business hours, a police officer, a hazardous
12 materials inspector, or a Public Service Commission inspector may enter the premises
13 and inspect equipment and review and copy records of motor carriers subject to the
14 [rules or] regulations adopted under § 22-409 or § 23-302 of this article, Federal
15 Motor Carrier Safety Regulations, Federal Hazardous Materials Regulations, or Public
16 Service Commission laws and regulations.

17 (2) During normal business hours, trained personnel from the
18 Commercial Vehicle Enforcement Division of the Department of State Police may
19 enter the premises and inspect, review, and copy records of motor carriers subject to
20 the regulations adopted under this section, § 22-409 of this article, or § 23-302 of this
21 article, including:

22 (i) Any record required by this section;

23 (ii) Driver qualification files;

24 (iii) Hours of service records;

25 (iv) Drug and alcohol testing records of drivers required to be
26 tested under this section; and

27 (v) Insurance records.

28 (i) (1) Except as provided for in paragraph (2) of this subsection,
29 regulations adopted under this section for intrastate motor carrier transportation may
30 not:

31 (i) Apply the provisions of § 391.21, § 391.23, § 391.31, or §
32 391.35 of the Federal Motor Carrier Safety Regulations to:

1 1. A driver who is a regularly employed driver of a motor
2 carrier for a continuous period that began before July 1, 1986, if the driver continues
3 to be a regularly employed driver of the motor carrier; or

4 2. The motor carrier, with regard to a driver described
5 under item 1 of this [subparagraph] ITEM, if the motor carrier continues to employ the
6 driver;

7 (ii) Limit a driver's time or hours on duty if:

8 1. The driver operates only within a 150 air mile radius
9 of the driver's normal work reporting location;

10 2. The driver returns to the driver's normal work
11 reporting location;

12 3. The driver is released from work within a period of 16
13 consecutive hours, not more than 12 of which are dedicated to driving, and is given at
14 least 8 consecutive hours off duty; and

15 4. Regardless of the number of motor carriers using the
16 driver's services, the driver:

17 A. If the employing motor carrier does not operate motor
18 vehicles every day of the week, has been on duty no more than 70 hours in a period of
19 7 consecutive days; or

20 B. If the employing motor carrier operates motor vehicles
21 every day of the week, has been on duty no more than 80 hours in a period of 8
22 consecutive days;

23 (iii) Require a driver to maintain a record of duty status if the
24 driver is not subject to item (ii) of this paragraph, except that, if a driver is on duty for
25 a period of more than 12 hours, the driver shall maintain a record of the driver's duty
26 status that:

27 1. For the first 12 hours of time on duty, accounts for all
28 time dedicated to driving; and

29 2. For all time on duty in excess of 12 hours, conforms to
30 **THE RECORDING REQUIREMENTS PROVIDED IN** federal regulations; **OR**

31 (iv) [Apply the provisions of this paragraph or Parts 391 and 395
32 of the Federal Motor Carrier Safety Regulations to a farmer, or an agent or employee
33 of a farmer, who operates farm equipment or a motor vehicle owned or operated by the
34 farmer in the transportation of supplies to a farm or the transportation of farm

1 products as defined in § 10–601 of the Agriculture Article within 150 air miles of the
2 farmer’s farm; or

3 (v)] Except in the case of bus drivers, apply the provisions of §
4 391.41(b)(1) through (11) of the Federal Motor Carrier Safety Regulations before
5 October 1, 2023 to any person who:

6 1. On October 1, 2003, was otherwise qualified to
7 operate and operated a vehicle or vehicle combination used in intrastate commerce
8 with a gross vehicle weight rating or gross combination weight rating of 10,001 pounds
9 or more and, after October 1, 2003, remained qualified to operate and continued to
10 operate such a vehicle;

11 2. Operates only in intrastate commerce; and

12 3. Has a mental or physical condition which would
13 disqualify the person under the Federal Motor Carrier Safety Regulations and:

14 A. The condition existed on October 1, 2003 or at the
15 time of the first physical examination after that date to which the person submitted as
16 required by regulations adopted by the Administration under subsection (k) of this
17 section; and

18 B. A physician who has examined the person has
19 determined that the condition has not substantially worsened and that no other
20 disqualifying medical or physical condition has developed since October 1, 2003 or the
21 time of the first required physical examination after that date.

22 (2) Nothing contained in this subsection limits regulation of the
23 qualifications or hours of service of a driver of a vehicle:

24 (i) In interstate commerce;

25 (ii) Transporting hazardous materials of a type and quantity
26 requiring placarding under Federal Hazardous Materials Regulations; or

27 (iii) Designed to transport 16 or more passengers, including the
28 driver.

29 (j) (1) Notwithstanding the provisions of § 14–107 of the Public Safety
30 Article, the Governor may delegate the power to declare a [utility or] transportation
31 emergency to the Secretary or the Secretary’s designee.

32 (2) (i) The Secretary or the Secretary’s designee may declare a
33 [utility or] transportation emergency.

1 (ii) 1. During the time in which a [utility or] transportation
2 emergency declared under this subsection exists, the Secretary or the Secretary's
3 designee shall waive the maximum hours-of-service time limits contained in this
4 section, or in regulations adopted under this section for all interstate and intrastate
5 drivers providing direct assistance in restoring [utility services affected by a utility
6 emergency] **NORMAL OPERATIONS**.

7 2. This waiver shall include the hours of duty status
8 accrued by, and shall apply only to, drivers providing direct assistance in restoring
9 [utility services affected by a utility emergency] **NORMAL OPERATIONS** in the State,
10 or to drivers of emergency vehicles operated under the direction of State and local
11 governments or their agents when providing direct assistance in clearing and opening
12 State highways and local streets and roads to allow free flow of traffic.

13 [(iii) 1. Notwithstanding the other provisions of this
14 subsection and § 14-107 of the Public Safety Article, during a utility emergency an
15 incidental driver shall be exempt from Part 395 of the Federal Motor Carrier Safety
16 Regulations if the utility company has prefiled, as specified by the Secretary or the
17 Secretary's designee, a utility emergency response notification plan and an incidental
18 driver safety plan in accordance with this subparagraph.

19 2. A utility emergency response notification plan must
20 include the utility company's procedure for notifying the Secretary or Secretary's
21 designee within 4 hours after the utility company responds to a utility emergency.

22 3. An incidental driver safety plan must include the
23 procedures that the utility company will follow to ensure that an incidental driver will
24 not drive during a utility emergency if the incidental driver has not had sufficient rest
25 to ensure that the incidental driver maintains the ability to drive safely.]

26 (3) (i) All declarations issued under this subsection shall indicate
27 the nature of the [utility or] transportation emergency, the area or areas threatened,
28 and the conditions which have brought it about.

29 (ii) A declaration shall be disseminated by a means calculated to
30 bring its contents to the attention of the general public, in the areas affected by the
31 declaration.

32 (4) Within 10 days of the issuance of any declaration issued under this
33 subsection, the Secretary or the Secretary's designee shall notify the Governor of the
34 nature of the declaration.

35 (5) A [utility or] transportation emergency declared by the Secretary
36 or the Secretary's designee may not extend for more than 5 days, unless renewed by
37 the Governor pursuant to § 14-107 of the Public Safety Article.

1 (k) [(1) On notification by a utility company that it is responding to a
2 utility emergency, the Secretary or Secretary's designee shall:

3 (i) Require the utility company to indicate the nature of the
4 utility emergency, the areas threatened, the conditions which have brought it about,
5 and the duration of the utility company's expected response, not to exceed 5 days;

6 (ii) Determine whether a utility emergency, as defined in this
7 section, existed at the time of the utility company's response and, if so, declare that a
8 utility emergency existed starting at that time; and

9 (iii) If a utility emergency does not exist, notify the utility
10 company that it is not entitled to and may not exercise the relief provided to incidental
11 drivers under subsection (j) of this section.

12 (2) A utility emergency to which a utility company responds may not
13 extend more than 5 days after the date that the utility company first notifies the
14 Secretary or Secretary's designee of its response unless:

15 (i) The utility company provides a renewal notification to the
16 Secretary or Secretary's designee; and

17 (ii) The Secretary or Secretary's designee does not reject the
18 renewal.

19 (l)] For the purposes of subsection (i) of this section, the Administration shall
20 adopt regulations requiring physical examinations for intrastate commercial motor
21 vehicle drivers.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.