

Chapter 14

(Senate Bill 77)

AN ACT concerning

Vehicle Laws – Commercial and Farm Vehicles – Safety Inspections and Utility Emergencies

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

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

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

Article – Transportation

23–301.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Equipment” includes all mechanisms that form part of or relate to vehicle equipment.
- (c) “Hazardous materials inspector” means a person who is assigned by the Department of the Environment and certified by the Department of State Police to perform an inspection authorized under this subtitle.

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

(e) “State Police officer” means:

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

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

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

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

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

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

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

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

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

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

[2.] B. Was previously registered under § 13–932 or § 13–933 of this article.

(2) “VEHICLE” DOES NOT INCLUDE:

(I) A FARM TRUCK AS DEFINED IN § 13–921 OF THIS ARTICLE;

(II) A FARM TRUCK TRACTOR AS DEFINED IN § 13–924 OF THIS ARTICLE; OR

(III) A CLASS K (FARM AREA) VEHICLE.

25-111.

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

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

(3) ["Incidental driver" means an individual:

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

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

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

(4)] "Police officer" means:

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

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

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

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

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

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

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

1. Acting under the immediate direction and control of a uniformed police officer;
2. Acting under the written authorization of the Secretary of State Police; and
3. Certified by the Department of State Police to perform an inspection authorized under this section.

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

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

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

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

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

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

(b) (1) Upon direction by a police officer or by an electronic signal to vehicles equipped with a CVISN transponder, the driver of any vehicle that is subject to any rule or regulation adopted under this section shall stop and submit to an inspection:

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

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

(iii) All cargo and cargo areas.

(2) A police officer who is certified by the Department of State Police to perform an inspection authorized under this section, a Public Service Commission

inspector, or a hazardous materials inspector may conduct a safety inspection of the vehicle that is subject to a rule or regulation adopted under this section or § 22–409 of this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Any motor carrier **OR DRIVER** operating a vehicle that is subject to the [rules and] regulations adopted under this section shall, at all times when operating

the vehicle on a highway in this State, comply with the [rules and] regulations adopted under this section.

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

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

- (i) Any record required by this section;
- (ii) Driver qualification files;
- (iii) Hours of service records;
- (iv) Drug and alcohol testing records of drivers required to be tested under this section; and
- (v) Insurance records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) [Apply the provisions of this paragraph or Parts 391 and 395 of the Federal Motor Carrier Safety Regulations to a farmer, or an agent or employee of a farmer, who operates farm equipment or a motor vehicle owned or operated by the farmer in the transportation of supplies to a farm or the transportation of farm products as defined in § 10-601 of the Agriculture Article within 150 air miles of the farmer's farm; or

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

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

2. Operates only in intrastate commerce; and

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

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

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

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

(i) In interstate commerce;

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

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

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

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

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

2. This waiver shall include the hours of duty status accrued by, and shall apply only to, drivers providing direct assistance in restoring [utility services affected by a utility emergency] **NORMAL OPERATIONS** in the State, or to drivers of emergency vehicles operated under the direction of State and local

governments or their agents when providing direct assistance in clearing and opening State highways and local streets and roads to allow free flow of traffic.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 8, 2014.