

HOUSE BILL 229

R6

6lr0076

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Transportation)**

Introduced and read first time: January 25, 2016

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Motor Vehicles – Operation – Transportation Emergencies**

3 FOR the purpose of authorizing the Secretary of Transportation to waive certain safety
4 regulations for commercial motor vehicles in intrastate travel under certain
5 circumstances to facilitate emergency relief efforts; authorizing an empty motor
6 carrier or the driver of an empty motor carrier to return to certain locations following
7 the termination of a transportation emergency; establishing the authorized duration
8 of a transportation emergency; authorizing the Secretary to renew a transportation
9 emergency declaration beyond the authorized duration for certain periods of time;
10 establishing the maximum total period of time that a transportation emergency may
11 extend under certain circumstances; defining certain terms; altering a certain
12 defined term; and generally relating to the operation of commercial motor vehicles
13 during transportation emergencies.

14 BY repealing and reenacting, with amendments,
15 Article – Transportation
16 Section 25–111
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2015 Supplement)

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

21 **Article – Transportation**

22 25–111.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) (I) “DIRECT ASSISTANCE” MEANS THE PROVISION OF**
2 **TRANSPORTATION AND OTHER RELIEF SERVICES BY A MOTOR CARRIER OR ITS**
3 **DRIVERS FOR THE IMMEDIATE RESTORATION OF ESSENTIAL SERVICES OR THE**
4 **DELIVERY OF ESSENTIAL SUPPLIES.**

5 **(II) “DIRECT ASSISTANCE” DOES NOT INCLUDE:**

6 **1. TRANSPORTATION RELATED TO THE LONG-TERM**
7 **REHABILITATION OF DAMAGED PHYSICAL INFRASTRUCTURE; OR**

8 **2. ROUTINE COMMERCIAL DELIVERIES MADE AFTER**
9 **THE INITIAL THREAT TO LIFE OR PROPERTY CAUSED BY A TRANSPORTATION**
10 **EMERGENCY HAS PASSED.**

11 **(3) “EMERGENCY RELIEF” MEANS AN OPERATION FOR WHICH A**
12 **MOTOR CARRIER OR DRIVER OF A COMMERCIAL MOTOR VEHICLE, IN RESPONSE TO**
13 **A TRANSPORTATION EMERGENCY, PROVIDES DIRECT ASSISTANCE TO SUPPLEMENT**
14 **STATE AND LOCAL EFFORTS AND CAPABILITIES TO SAVE LIVES OR PROPERTY OR TO**
15 **PROTECT PUBLIC HEALTH OR SAFETY.**

16 **(4) “ESSENTIAL SERVICES” MEANS ELECTRIC SERVICE, MEDICAL**
17 **CARE, SEWER SERVICE, WATER SERVICE, TELECOMMUNICATIONS SERVICE, OR**
18 **TELECOMMUNICATION TRANSMISSIONS.**

19 **(5) “ESSENTIAL SUPPLIES” MEANS FOOD OR FUEL.**

20 **[(2)](6) “Hazardous materials inspector” means a person who is assigned**
21 **by the Department of the Environment and certified by the Department of State Police to**
22 **perform an inspection authorized under this section.**

23 **(7) “NATURAL OR MAN-MADE EMERGENCY” MEANS A HURRICANE, A**
24 **TORNADO, A THUNDERSTORM, A SNOWSTORM, AN ICE STORM, A BLIZZARD, A FLOOD,**
25 **WIND-DRIVEN WATER, A TIDAL WAVE, A TSUNAMI, AN EARTHQUAKE, A VOLCANIC**
26 **ERUPTION, A MUD SLIDE, A DROUGHT, A FOREST FIRE, AN EXPLOSION, AN**
27 **ELECTRICITY BLACKOUT, OR ANY OTHER SIMILAR OCCURRENCE.**

28 **[(3)] (8) “Police officer” means:**

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

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

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

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

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

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

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

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

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

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

19 [(4) (9) "Public Service Commission inspector" means a person who is
20 assigned by the Public Service Commission and certified by the Department of State Police
21 to perform an inspection authorized under this section.

22 [(5) (10) "Transportation emergency" means any natural or man-made
23 emergency that [disrupts or hinders the free flow of traffic on the State's highways and
24 local streets and roads for more than 8 hours so that public safety is or may be threatened
25 as a result] **INTERRUPTS OR MAY INTERRUPT THE DELIVERY OF ESSENTIAL**
26 **SERVICES OR ESSENTIAL SUPPLIES.**

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

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

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

1 (iii) All cargo and cargo areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (2) Any regulation adopted pursuant to this subsection shall:

2 (i) Be formulated jointly by the Administration and the Department
3 of State Police;

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

6 1. 49 C.F.R., Part 40 (“Procedures for Transportation
7 Workplace Drug and Alcohol Testing Programs”) and Part 382 (“Controlled Substances and
8 Alcohol Use and Testing”), with respect to drug and alcohol testing regulations applicable
9 to drivers required by regulation to possess a commercial driver’s license;

10 2. 49 C.F.R., Part 385, Subparts A, C, and D (“New Entrant
11 Safety Assurance Program”);

12 3. 49 C.F.R., Part 386, Subparts F and G (“Injunctions and
13 Imminent Hazards; Penalties”); and

14 4. 49 C.F.R., Parts 390 through 399 (“General Safety
15 Requirements”);

16 (iii) Apply to all vehicles with a gross vehicle weight rating or gross
17 combination weight rating over 10,000 pounds that are subject to the Federal Motor Carrier
18 Safety Regulations; and

19 (iv) Apply to vehicles with a gross vehicle weight rating or gross
20 combination weight rating over 10,000 pounds that are not subject to the Federal Motor
21 Carrier Safety Regulations, if the regulation adopted by the Motor Vehicle Administration
22 specifically states that it applies to the vehicle.

23 (3) The regulations adopted under this subsection may require that
24 registrants of motor vehicles subject to this subsection have knowledge of applicable federal
25 and State motor carrier safety regulations.

26 (g) Any motor carrier or driver operating a vehicle that is subject to the
27 regulations adopted under this section shall, at all times when operating the vehicle on a
28 highway in this State, comply with the regulations adopted under this section.

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

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

5 (i) Any record required by this section;

6 (ii) Driver qualification files;

7 (iii) Hours of service records;

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

10 (v) Insurance records.

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

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

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

18 2. The motor carrier, with regard to a driver described under
19 item 1 of this item, if the motor carrier continues to employ the driver;

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

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

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

25 3. The driver is released from work within a period of 16
26 consecutive hours, not more than 12 of which are dedicated to driving, and is given at least
27 8 consecutive hours off duty; and

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

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

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

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

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

9 2. For all time on duty in excess of 12 hours, conforms to the
10 recording requirements provided in federal regulations; or

11 (iv) Except in the case of bus drivers, apply the provisions of §
12 391.41(b)(1) through (11) of the Federal Motor Carrier Safety Regulations before October
13 1, 2023 to any person who:

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

18 2. Operates only in intrastate commerce; and

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

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

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

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

30 (i) In interstate commerce;

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

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

3 (j) (1) Notwithstanding the provisions of § 14–107 of the Public Safety Article,
4 the Governor may delegate the power to declare a transportation emergency to the
5 Secretary or the Secretary’s designee.

6 (2) (i) The Secretary or the Secretary’s designee may declare a
7 transportation emergency.

8 (ii) 1. During the time in which a transportation emergency
9 declared under this subsection exists, the Secretary or the Secretary’s designee [shall waive
10 the maximum hours–of–service time limits contained in this section, or in regulations
11 adopted under this section for all interstate and intrastate drivers providing direct
12 assistance in restoring normal operations] **MAY WAIVE ALL OR PART OF THE FEDERAL
13 MOTOR CARRIER SAFETY REGULATIONS CONTAINED IN 49 C.F.R. PARTS 390–399
14 THAT HAVE BEEN ADOPTED FOR INTRASTATE MOTOR CARRIER TRANSPORTATION
15 UNDER THIS SECTION IF THE SECRETARY OR THE SECRETARY’S DESIGNEE
16 REASONABLY EXPECTS THAT THE WAIVER WILL FACILITATE EMERGENCY RELIEF
17 EFFORTS.**

18 2. **A.** This waiver [shall include the hours of duty status
19 accrued by, and] shall apply only to[, drivers providing direct assistance in restoring
20 normal operations in the State, or to drivers of emergency vehicles operated under the
21 direction of State and local governments or their agents when providing direct assistance
22 in clearing and opening State highways and local streets and roads to allow free flow of
23 traffic] **MOTOR CARRIERS AND DRIVERS OPERATING COMMERCIAL MOTOR VEHICLES
24 WHILE PROVIDING EMERGENCY RELIEF.**

25 **B. WHEN A TRANSPORTATION EMERGENCY**
26 **TERMINATES, AN EMPTY MOTOR CARRIER OR THE DRIVER OF AN EMPTY MOTOR**
27 **CARRIER MAY RETURN TO THE MOTOR CARRIER’S TERMINAL OR THE DRIVER’S**
28 **NORMAL WORK REPORTING LOCATION.**

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

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

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

1 (5) **(I)** A transportation emergency declared by the Secretary or the
2 Secretary's designee [may not extend for more than 5 days, unless renewed] **LASTS FOR**
3 **THE LESSER OF 5 DAYS FROM THE DATE OF THE INITIAL DECLARATION OR FOR THE**
4 **DURATION OF THE EMERGENCY CONDITIONS.**

5 **(II)** **IF CONDITIONS WARRANT, THE SECRETARY OR THE**
6 **SECRETARY'S DESIGNEE MAY RENEW A TRANSPORTATION EMERGENCY BEYOND**
7 **THE INITIAL 5-DAY PERIOD FOR UP TO THREE RENEWAL PERIODS OF 5 DAYS EACH.**

8 **(III)** **A TRANSPORTATION EMERGENCY MAY NOT EXTEND FOR**
9 **MORE THAN 20 DAYS UNLESS RENEWED** by the Governor pursuant to § 14-107 of the
10 Public Safety Article.

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2016.