

CHAPTER 461
FORMERLY
SENATE BILL NO. 306
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 20, CHAPTER 31 OF THE DELAWARE CODE RELATING TO EMERGENCY MANAGEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Title 20, §3116(b) of the Delaware Code by redesignating the existing subsection (12) as subsection (13) and by inserting a new subsection (12) to read as follows:

“(12) Restrict the use or operation of motor vehicles on Delaware roads, including but not limited to, highways, express highways, roadways, and private roads as defined in 21 Del. C. §101. The levels of restriction of the use or operation of motor vehicles during a state of emergency shall be as follows:

i. Level 3 Driving Ban: A ‘Level 3 Driving Ban’ shall mean that no person shall operate a motor vehicle on Delaware roadways when a Level 3 Driving Ban has been activated, except for those persons designated as first responders and essential personnel, including public utilities as defined in 26 Del. C. Section 102(2) and operators of snow removal equipment employed or contracted by a public or private entity, pursuant to this Chapter and the plans set forth there under, and by executive order of the Governor. All businesses, professional offices, organizations, entities, etc. shall be encouraged to take appropriate protective actions to protect their citizens, customers, and employees by termination of operations or shelter in place. An employer of a public or private entity shall not terminate, reprimand, discipline, or in any way commit any adverse employment action against an employee who, as a result of the activation of a Level 3 Driving Ban, fails or refuses to report to work during the pendency of the driving ban. Any person or entity in violation of an activated Level 3 Driving Ban under this subsection shall be penalized pursuant to 20 Del. C. §3125.

ii. Level 2 Driving Restriction: A ‘Level 2 Driving Restriction’ shall mean that no person shall operate a motor vehicle on Delaware roadways when a Level 2 Driving Restriction has been activated, except for persons designated as essential personnel including operators of snow removal equipment employed or contracted by a public or private entity. ‘Essential personnel’ for purposes of this subsection shall mean those employees and/or personnel who are necessary to maintain the core functions of a government body or entity, and to maintain the health and safety of the people in Delaware by providing services provided by public utilities as defined in 26 Del. C. section 102(2) healthcare services, and food and fuel deliveries during a state of emergency, regardless of whether they are employed by a public or private entity. A waiver from a Level 2 Driving Restriction may be granted when a significant safety, health or business necessity is shown for issuing such a waiver. The Secretary of the Department of Safety and Homeland Security shall promulgate rules and regulations necessary to carry out the provisions of this subsection. An employer or entity which has not been granted a waiver shall not terminate, reprimand, discipline, or in any way commit any adverse employment action against an employee who, as a result of the activation of the a Level 2 Driving Restriction, fails or refuses to report to work during the pendency of the driving restriction. Any person or entity who violates an activated level 2 driving restriction under this subsection shall be in violation of 21 Del.C. §4176C.

iii. Level 1 Driving Warning: A 'Level 1 Driving Warning' shall mean that any person operating a motor vehicle when a Level 1 Driving Warning has been activated shall exercise extra caution in the operation of their motor vehicle. Non-essential employees, regardless of whether employed by a public or private entity, are encouraged not to operate a motor vehicle on the State's roadways when a Level 1 Driving Warning has been activated, unless there is a significant safety, health or business reason to do so.

The Governor may issue separate levels of driving restrictions throughout the State based on the severity of conditions in any given area within the State.”

Section 2. The Delaware Department of Emergency Management shall provide public awareness and education to the public on the significance of the three levels of driving restrictions during an emergency and the penalties incurred as a result of a violation of a Level 3 Driving Ban or Level 2 Driving Restriction.

Section 3. This Act shall be effective 90 days after date of enactment.

Approved July 30, 2010