

LAWS OF DELAWARE
VOLUME 85
CHAPTER 25
153rd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 49
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 20 AND TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVING RESTRICTIONS DURING A STATE OF EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3102, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 3102. Definitions.

As used in this chapter:

(6) “Essential personnel” means those 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 § 102(2) of Title 26, health-care services, emergency broadcasting services, and food and fuel deliveries during a state of emergency, regardless of whether they are employed by a public or private entity.

(7) “First informer” means a broadcast engineer or on-air employee of a radio or television station licensed by the Federal Communications Commission who is engaged in the process of broadcasting, or maintenance, operation, or repair of broadcast station equipment, transmitters, receivers, repeaters, or generators.

Section 2. Amend § 3116, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3116. Powers.

(b) During ~~an emergency or disaster~~, a state of emergency, the Governor may:

(12) Restrict the use or operation of motor vehicles on Delaware roads, including highways, express highways, roadways, and private roads as defined in § 101 of Title 21. The levels of restriction of the use or operation of motor vehicles during a state of emergency are as follows:

a. Level 3 Driving Ban: A “Level 3 Driving Ban” ~~shall mean~~ means 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~~ responders, first informers, and essential personnel, including public utilities as defined in § 102(2) of Title 26 and operators of snow removal equipment employed or contracted by a public or private entity, pursuant to this chapter and the plans set forth thereunder, 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 § 3125 of this title.

b. Level 2 Driving Restriction: A “Level 2 Driving Restriction” ~~shall mean~~ means that no person ~~shall~~ may 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 § 102(2) of Title 26, health care 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~~ may 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 § 4176D of Title 21.

~~The Governor may issue (13) Issue~~ separate levels of driving restrictions throughout the State based on the severity of conditions in any given area within the ~~State; and~~ State.

~~(13)~~ (14) Take such other actions as the Governor reasonably believes necessary to help maintain life, health, ~~property~~ property, or public peace.

(d) The Secretary of the Department of Safety and Homeland Security shall promulgate rules and regulations necessary to carry out the provisions of paragraph (b)(12).

Section 3. Amend § 4176D, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4176D. Operation of a motor vehicle during an emergency.

(a) No person ~~shall~~ may operate a motor vehicle on a highway, express highway, roadway or private road as defined in § 101 of this title when a Level 3 Driving Ban or a Level 2 Driving Restriction has been activated during an emergency, unless the person is a ~~first responder, essential personnel,~~ first responder, first informer, or essential personnel, as those terms are defined under § 3102 of Title 20, or a waiver has been ~~granted, granted pursuant to under § 3116(b)(12)~~ § 3116(b)(12)b. of Title 20.

Approved May 22, 2025