



SPONSOR: Sen. DeLuca & Rep. Schwartzkopf
Rep. Atkins

DELAWARE STATE SENATE
145th GENERAL ASSEMBLY

SENATE BILL NO. 306

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):

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

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

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

16 ii. Level 2 Driving Restriction: A ‘Level 2 Driving Restriction’ shall mean that no person shall operate a
17 motor vehicle on Delaware roadways when a Level 2 Driving Restriction has been activated, except for persons
18 designated as essential personnel including operators of snow removal equipment employed or contracted by a
19 public or private entity. ‘Essential personnel’ for purposes of this subsection shall mean those employees and/or
20 personnel who are necessary to maintain the core functions of a government body or entity, and to maintain the
21 health and safety of the people in Delaware by providing healthcare services, and food and fuel deliveries during a

22 state of emergency, regardless of whether they are employed by a public or private entity. A waiver from a Level
23 2 Driving Restriction may be granted when a significant safety, health or business necessity is shown for issuing
24 such a waiver. The Secretary of the Department of Safety and Homeland Security shall promulgate rules and
25 regulations necessary to carry out the provisions of this subsection. An employer or entity which has not been
26 granted a waiver shall not terminate, reprimand, discipline, or in any way commit any adverse employment action
27 against an employee who, as a result of the activation of the a Level 2 Driving Restriction, fails or refuses to report
28 to work during the pendency of the driving restriction. Any person or entity who violates an activated level 2
29 driving restriction under this subsection shall be in violation of 21 Del.C. §4176C.

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

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

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

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

SYNOPSIS

Currently, including during the recent snowstorms, when the Governor restricts vehicles from the State’s roadways due to unsafe conditions, a criminal sanction is the only available penalty for drivers who are caught by law enforcement on the roads. This legislation would create a three-tiered driving restriction system for future storms or other emergencies: A Level 1 Driving Warning with no penalties, a Level 2 Driving Restriction with motor vehicle violations and a Level 3 Driving Ban for the most severe conditions with the current criminal sanctions under 20 Del. C. § 3125. Additionally, the bill provides that an employer may not terminate, reprimand or in any way discipline an employee for failing or refusing to report to work during a Level 3 Driving Ban. During a Level 2 Driving Restriction, an employer who requires an employee, who has not been pre-designated as essential personnel, to report to work shall be liable for the expenses incurred as a result of any emergency response to remove the employee, a passenger and/or the motor vehicle that becomes inoperable on the State’s roadways.

Author: Senator DeLuca