

Chapter 143

(Senate Bill 719)

AN ACT concerning

Public Safety – State Fuel Security Program

FOR the purpose of establishing the State Fuel Security Program to be administered and enforced by the Maryland Energy Administration ~~for the management and distribution of certain energy resources during an energy emergency; establishing fuel percentages under the Program; designating certain activities for which an assignment of fuel may be issued under the Program during an energy emergency and authorizing the Administration to set priorities for fuel assignments under certain circumstances; requiring a certain entity to designate a representative to act on behalf of the entity and requiring an assignment issued under the Program during an energy emergency to be honored by the entity; establishing an appeals process for the issuance of an assignment by the Administration;~~ authorizing the Administration, in coordination with the Department of Emergency Management and the Department of Information Technology, to collect, store, and disseminate certain energy-related data for a certain purpose and subject to certain requirements; requiring certain entities to provide the Administration with certain information under certain circumstances; ~~authorizing the Attorney General to bring a certain civil suit under certain circumstances;~~ and generally relating to the State Fuel Security Program.

BY adding to

Article – Public Safety

Section 14–501 through ~~14–511~~ 14–505 to be under the new subtitle “Subtitle 5. State Fuel Security Program”Annotated Code of Maryland
(2022 Replacement Volume)

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

Article – Public Safety**SUBTITLE 5. STATE FUEL SECURITY PROGRAM.****14–501.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADMINISTRATION” MEANS THE MARYLAND ENERGY ADMINISTRATION.

~~(C) “ASSIGNMENT” MEANS A WRITTEN AUTHORIZATION BY THE ADMINISTRATION THAT ORDERS A SPECIFIED SUPPLIER TO SUPPLY STATE FUEL SECURITY PRODUCTS TO A SPECIFIED PURCHASER.~~

~~(D)~~ (C) “DIRECTOR” MEANS THE DIRECTOR OF THE ADMINISTRATION.

~~(E) “ENERGY EMERGENCY” HAS THE MEANING STATED IN § 14-301 OF THIS TITLE.~~

~~(F)~~ (D) “PERSON” INCLUDES A FEDERAL, STATE, OR LOCAL GOVERNMENT OR AN AGENCY OR INSTRUMENTALITY OF A FEDERAL, STATE, OR LOCAL GOVERNMENT.

~~(G)~~ (E) “PRIME SUPPLIER” MEANS A SUPPLIER THAT MAKES THE FIRST SALE INTO THE STATE DISTRIBUTION SYSTEM OF A STATE FUEL SECURITY PRODUCT THAT IS INTENDED FOR CONSUMPTION IN THE STATE.

~~(H)~~ (F) “PROGRAM” MEANS THE STATE FUEL SECURITY PROGRAM.

~~(I)~~ (G) “STATE FUEL SECURITY PRODUCT” MEANS A PRODUCT TO WHICH THE PROGRAM APPLIES.

~~(J) “STATE FUEL SECURITY VOLUME” MEANS THE STATE FUEL SECURITY PERCENTAGE LEVEL FOR A PARTICULAR STATE FUEL SECURITY PRODUCT APPLIED TO A PARTICULAR PRIME SUPPLIER’S ESTIMATED PART OF ITS TOTAL SUPPLY FOR A PARTICULAR TIME PERIOD THAT WILL BE SOLD INTO THE STATE DISTRIBUTION SYSTEM FOR CONSUMPTION IN THE STATE.~~

~~(K)~~ (H) “SUPPLIER” MEANS A BUSINESS ENTITY OR A PART OR SUBSIDIARY OF A BUSINESS ENTITY THAT SUPPLIES, SELLS, TRANSFERS, OR OTHERWISE FURNISHES, INCLUDING BY CONSIGNMENT, A STATE FUEL SECURITY PRODUCT TO CONSUMERS OR WHOLESALE PURCHASER-RESELLERS.

~~(L)~~ (I) “WHOLESALE PURCHASER-RESELLER” MEANS A BUSINESS ENTITY THAT:

(1) PURCHASES, RECEIVES THROUGH TRANSFER, OR OTHERWISE OBTAINS, INCLUDING BY CONSIGNMENT, A STATE FUEL SECURITY PRODUCT; AND

(2) RESELLS OR OTHERWISE TRANSFERS THE STATE FUEL SECURITY PRODUCT TO OTHER PURCHASERS WITHOUT SUBSTANTIALLY CHANGING ITS FORM.

14-502.

(A) THERE IS A STATE FUEL SECURITY PROGRAM.

(B) THE ADMINISTRATION SHALL MAINTAIN PLANS AND PROCEDURES TO CARRY OUT THE PROGRAM ~~FOR USE DURING AN ENERGY EMERGENCY.~~

(C) THE DIRECTOR SHALL ADMINISTER AND ENFORCE THE PROGRAM.

(D) THE ADMINISTRATION SHALL ADOPT REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS SUBTITLE.

14-503.

(A) ~~(1)~~ THE PROGRAM APPLIES TO:

~~(I)~~ (1) MOTOR GASOLINE;

~~(II)~~ (2) MIDDLE DISTILLATE;

~~(III)~~ (3) PROPANE;

~~(IV)~~ (4) RESIDUAL FUEL OIL, EXCEPT AS PROVIDED IN ~~PARAGRAPH (2) OF THIS SUBSECTION~~ SUBSECTION (B) OF THIS SECTION; AND

~~(V)~~ (5) AVIATION GASOLINE.

~~(2)~~ (B) THE PROGRAM DOES NOT APPLY TO RESIDUAL FUEL OIL THAT IS USED:

~~(I)~~ (1) IN AN ELECTRIC GENERATING STATION; OR

~~(II)~~ (2) AS BUNKER FUEL FOR MARINE SHIPPING.

~~(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DIRECTOR:~~

~~(I) SHALL DETERMINE THE APPROPRIATE STATE FUEL SECURITY PERCENTAGE LEVEL FOR EACH STATE FUEL SECURITY PRODUCT; AND~~

~~(H) MAY REVIEW AND REVISE THE STATE FUEL SECURITY PERCENTAGE LEVELS AS THE DIRECTOR CONSIDERS APPROPRIATE.~~

~~(2) A STATE FUEL SECURITY PERCENTAGE LEVEL MAY NOT EXCEED:~~

~~(I) 5% FOR MOTOR GASOLINE;~~

~~(H) 4% FOR MIDDLE DISTILLATES;~~

~~(HH) 3% FOR PROPANE;~~

~~(IV) 3% FOR RESIDUAL FUEL OIL; AND~~

~~(V) 2% FOR AVIATION GASOLINE.~~

~~14-504.~~

~~(A) DURING AN ENERGY EMERGENCY, THE ADMINISTRATION MAY ISSUE AN ASSIGNMENT OF STATE FUEL SECURITY PRODUCT THROUGH THE PROGRAM TO A PERSON IF THE PERSON IS ENGAGED IN:~~

~~(1) AGRICULTURAL PRODUCTION FOR THE COMMERCIAL PRODUCTION OF FOOD, INCLUDING:~~

~~(I) FARMING;~~

~~(H) RANCHING;~~

~~(HH) DAIRYING;~~

~~(IV) FISHING; AND~~

~~(V) RELATED SUPPORT SERVICES;~~

~~(2) CARGO FREIGHT AND MAIL HAULING BY TRUCKS AND MAIL CARRIERS;~~

~~(3) THE OPERATION OF PUBLIC AND PRIVATE CONGREGATE CARE FACILITIES TO LODGE AND CARE FOR INDIVIDUALS WHOSE PLACES OF LODGING ARE RENDERED UNINHABITABLE DUE TO THE ENERGY EMERGENCY;~~

~~(4) EMERGENCY SERVICES, INCLUDING:~~

~~(I) LAW ENFORCEMENT;~~

~~(II) FIRE FIGHTING;~~

~~(III) EMERGENCY ROAD SERVICES; AND~~

~~(IV) EMERGENCY MEDICAL SERVICES;~~

~~(5) THE PRODUCTION, PROCESSING, AND DISTRIBUTION OF ENERGY RESOURCES, INCLUDING:~~

~~(I) SOLAR ENERGY;~~

~~(II) FUEL PRODUCED FROM ORGANIC MATERIAL, INCLUDING WOOD, WASTES, PETROLEUM, COAL, AND NATURAL GAS;~~

~~(III) GEOTHERMAL ENERGY;~~

~~(IV) NUCLEAR ENERGY; AND~~

~~(V) ELECTRICAL ENERGY, OTHER THAN ELECTRICAL ENERGY PRODUCED USING PETROLEUM BASED FUELS;~~

~~(6) PASSENGER TRANSPORTATION SERVICES, OR THE OPERATION OF FACILITIES NECESSARY TO SUPPORT PASSENGER TRANSPORTATION SERVICES, INCLUDING:~~

~~(I) PUBLICLY OR PRIVATELY OWNED AIR AND SURFACE OPERATIONS FOR TRANSPORTING THE PUBLIC;~~

~~(II) BUS TRANSPORTATION OF PUPILS TO AND FROM SCHOOL SPONSORED ACTIVITIES; AND~~

~~(III) VANPOOL OPERATIONS, AS DEFINED IN § 11-175.1 OF THE TRANSPORTATION ARTICLE;~~

~~(7) RESIDENTIAL SPACE HEATING AND FOOD PREPARATION;~~

~~(8) SANITATION SERVICES, INCLUDING THE COLLECTION AND DISPOSAL OF SOLID WASTES BY PUBLIC OR PRIVATE ENTITIES AND THE MAINTENANCE, OPERATION, AND REPAIR OF LIQUID PURIFICATION AND WASTE FACILITIES;~~

~~(9) THE OPERATION OF PROGRAMS TO PROVIDE ESSENTIAL HEALTH AND WELFARE SERVICES BY PUBLIC OR PRIVATE NONPROFIT SOCIAL SERVICES AGENCIES;~~

~~(10) SPACE HEATING FOR MEDICAL AND NURSING BUILDINGS; AND~~

~~(11) TELECOMMUNICATION SERVICES, INCLUDING THE EMERGENCY OR ESSENTIAL INSTALLATION, REPAIR, OPERATION, AND MAINTENANCE OF VOICE, DATA, TELEGRAPH, VIDEO, AND SIMILAR COMMUNICATION SERVICES TO THE PUBLIC BY A COMMUNICATIONS COMMON CARRIER.~~

~~(B) IF STATE FUEL SECURITY VOLUMES ARE NOT SUFFICIENT TO SATISFY ALL REQUESTS FOR ASSIGNMENTS FOR ACTIVITIES PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION MAY SET PRIORITIES FOR MAKING ASSIGNMENTS.~~

~~14-505.~~

~~(A) (1) EACH PRIME SUPPLIER SHALL DESIGNATE A REPRESENTATIVE WITH FULL AUTHORITY TO ACT ON BEHALF OF THE PRIME SUPPLIER WITH RESPECT TO ASSIGNMENTS AND APPLICATIONS FOR ASSIGNMENTS.~~

~~(2) TO THE MAXIMUM EXTENT FEASIBLE, THE ADMINISTRATION SHALL CONSULT WITH THE REPRESENTATIVE OF A PRIME SUPPLIER BEFORE ISSUING AN ASSIGNMENT THAT AFFECTS THE AMOUNT OF STATE FUEL SECURITY PRODUCT TO BE SUPPLIED BY THE PRIME SUPPLIER.~~

~~(B) (1) DURING AN ENERGY EMERGENCY, A PERSON ENGAGED IN AN ACTIVITY DESCRIBED IN § 14-504 OF THIS SUBTITLE MAY REQUEST AN ASSIGNMENT BY SUBMITTING AN APPLICATION IN A FORM DETERMINED BY THE ADMINISTRATION.~~

~~(2) ON APPROVAL OF AN APPLICATION, THE ADMINISTRATION SHALL:~~

~~(I) ISSUE AN ASSIGNMENT TO THE APPLICANT; AND~~

~~(II) PROVIDE A COPY OF THE ASSIGNMENT TO THE DESIGNATED REPRESENTATIVE OF THE PRIME SUPPLIER.~~

~~(3) AN ASSIGNMENT IS EFFECTIVE ON ISSUANCE AND CONSTITUTES AN ENCUMBRANCE ON THE PRIME SUPPLIER'S STATE FUEL SECURITY VOLUMES FOR~~

~~THE MONTH OF ISSUANCE REGARDLESS OF THE ACTUAL DATE OF DELIVERY OF THE STATE FUEL SECURITY PRODUCT TO THE APPLICANT.~~

~~(4) AN ASSIGNMENT EXPIRES AUTOMATICALLY UNLESS THE APPLICANT PRESENTS IT TO A SUPPLIER WITHIN 10 DAYS AFTER ISSUANCE.~~

~~(C) (1) ON PRESENTATION OF AN ASSIGNMENT, THE SUPPLIER SHALL SUPPLY TO THE APPLICANT THE ASSIGNED AMOUNT OF THE STATE FUEL SECURITY PRODUCT.~~

~~(2) A DESIGNATED WHOLESALE PURCHASER-RESELLER OF A PRIME SUPPLIER:~~

~~(I) SHALL HONOR ASSIGNMENTS ON PRESENTATION; AND~~

~~(II) MAY NOT DELAY DELIVERY WHILE CONFIRMING THE ASSIGNMENT WITH THE PRIME SUPPLIER.~~

~~(D) (1) IF A SUPPLIER OTHER THAN A PRIME SUPPLIER SUPPLIES A STATE FUEL SECURITY PRODUCT IN ACCORDANCE WITH AN ASSIGNMENT, THE SUPPLIER SHALL RECEIVE FROM ITS SUPPLIER AN EQUIVALENT VOLUME OF THE STATE FUEL SECURITY PRODUCT.~~

~~(2) THE VOLUME OF A STATE FUEL SECURITY PRODUCT RECEIVED BY A SUPPLIER FROM ITS SUPPLIER UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSIDERED PART OF THE ALLOCATION THAT WOULD OTHERWISE HAVE BEEN SUPPLIED TO THE SUPPLIER DURING THE SAME PERIOD.~~

~~(E) THE ADMINISTRATION MAY DIRECT THAT A WHOLESALE PURCHASER-RESELLER BE SUPPLIED UNDER THE PROGRAM SO THAT THE WHOLESALE PURCHASER-RESELLER IS ABLE TO SUPPLY INDIVIDUAL CONSUMERS WHO WOULD OTHERWISE BE ELIGIBLE FOR AN ASSIGNMENT UNDER THIS SUBTITLE.~~

~~14-506.~~

~~(A) AN APPLICANT OR A SUPPLIER MAY APPEAL TO THE DIRECTOR A DECISION BY THE ADMINISTRATION ON AN APPLICATION FOR AN ASSIGNMENT.~~

~~(B) AN APPEAL UNDER THIS SECTION:~~

~~(1) IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT; AND~~

~~(2) SHALL BE RESOLVED INFORMALLY, EXPEDITIOUSLY, AND INEXPENSIVELY.~~

~~(C) THE DECISION OF THE DIRECTOR IS THE FINAL AGENCY DECISION FOR PURPOSES OF JUDICIAL REVIEW.~~

~~14-507.~~

~~(A) THE ADMINISTRATION MAY ALLOW THE RELEASE OF ALL OR PART OF A PRIME SUPPLIER'S STATE FUEL SECURITY VOLUME INTO THE PRIME SUPPLIER'S NORMAL STATEWIDE DISTRIBUTION SYSTEM.~~

~~(B) (1) DURING AN ENERGY EMERGENCY, THE GOVERNOR BY EXECUTIVE ORDER MAY DESIGNATE CERTAIN GEOGRAPHIC AREAS IN THE STATE AS SUFFERING FROM AN INTRASTATE SUPPLY IMBALANCE.~~

~~(2) AT ANY TIME DURING AN ENERGY EMERGENCY, THE ADMINISTRATION BY WRITTEN ORDER MAY REQUIRE A PRIME SUPPLIER TO RELEASE ALL OR PART OF ITS STATE FUEL SECURITY VOLUME INTO AN AREA DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION THROUGH ITS NORMAL DISTRIBUTION SYSTEM.~~

~~(3) AN ORDER ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION:~~

~~(I) IS EFFECTIVE IMMEDIATELY ON RECEIPT BY THE DESIGNATED REPRESENTATIVE OF THE PRIME SUPPLIER; AND~~

~~(H) CONSTITUTES AN ENCUMBRANCE ON THE PRIME SUPPLIER'S STATE FUEL SECURITY VOLUME FOR THE MONTH OF ISSUANCE REGARDLESS OF THE ACTUAL DATE OF DELIVERY OF THE STATE FUEL SECURITY PRODUCT.~~

~~14-508.~~

~~THE STATE FUEL SECURITY VOLUMES FOR A PARTICULAR MONTH:~~

~~(1) MAY NOT BE ACCUMULATED OR DEFERRED; AND~~

~~(2) SHALL BE MADE AVAILABLE FROM THE STOCKS OF PRIME SUPPLIERS DIRECTLY OR THROUGH THEIR WHOLESALE PURCHASER-RESELLERS.~~

~~14-509.~~

~~(A) WITHIN 120 DAYS AFTER THE END OF A FISCAL YEAR WHEN THE ADMINISTRATION USES THE PROGRAM, THE ADMINISTRATION SHALL REPORT TO~~

~~THE GENERAL ASSEMBLY, SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE PROGRAM.~~

~~(B) THE REPORT REQUIRED UNDER THIS SECTION SHALL INCLUDE A DESCRIPTION OF THE NUMBER AND TYPES OF APPLICATIONS FOR EACH STATE FUEL SECURITY PRODUCT RECEIVED AND APPROVED BY THE ADMINISTRATION DURING THAT FISCAL YEAR.~~

~~14-510. 14-504.~~

(A) TO CARRY OUT THE REQUIREMENTS OF THIS SUBTITLE, THE ADMINISTRATION:

(1) MAY COLLECT ENERGY-RELATED DATA IN ORDER TO INFORM EVALUATIONS AND DECISIONS REGARDING ENERGY BY THE ADMINISTRATION, STATE AND FEDERAL AGENCIES, AND, SUBJECT TO THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION, THE PUBLIC;

(2) MAY MAINTAIN UP-TO-DATE REPORTS ON THE SUPPLY, DEMAND, AND PRICE OF VARIOUS ENERGY RESOURCES, INCLUDING:

(I) STATE FUEL SECURITY PRODUCTS;

~~(H)~~ (II) WHOLESALE ELECTRICITY, INCLUDING ELECTRICITY GENERATED FROM:

1. NUCLEAR GENERATION;
2. SOLAR PHOTOVOLTAIC TECHNOLOGY; AND
3. WIND, INCLUDING OFFSHORE WIND;

~~(H)~~ (III) COAL;

~~(H)~~ (IV) NATURAL GAS; AND

~~(IV)~~ PROPANE; AND

(V) PETROLEUM; AND

~~(3) WHEN FEASIBLE, SHALL PROVIDE AN ANALYSIS OF THE AVAILABILITY OF VARIOUS ENERGY RESOURCES, INCLUDING A FORECAST OF THE FUTURE DEMAND FOR AND AVAILABILITY OF THOSE RESOURCES; AND~~

~~(4)~~ SHALL COORDINATE WITH THE DEPARTMENT OF EMERGENCY MANAGEMENT TO DEVELOP AN INFORMATION DISTRIBUTION PLAN TO DISSEMINATE ENERGY-RELATED INFORMATION TO THE GENERAL PUBLIC AND RELEVANT STATE AND FEDERAL AGENCIES.

(B) (1) THE ADMINISTRATION SHALL COORDINATE WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY TO ENSURE THAT DATA COLLECTED UNDER SUBSECTION (A)(1) OF THIS SECTION IS TRANSMITTED AND HELD SECURELY.

(2) (I) DATA DISSEMINATED TO THE PUBLIC UNDER SUBSECTION ~~(A)(4)~~ (A)(3) OF THIS SECTION MAY NOT CREATE A COMPETITIVE ADVANTAGE FOR OR DISADVANTAGE TO THE PERSON WHO SUPPLIED THE ENERGY-RELATED DATA.

(II) THE ADMINISTRATION SHALL MAINTAIN THE CONFIDENTIALITY OF ALL DATA THAT MAY CREATE A COMPETITIVE ADVANTAGE OR DISADVANTAGE THAT IS UNKNOWN TO COMPETITORS.

(III) IF THE DATA COLLECTED UNDER THIS SUBTITLE IS STOLEN, BREACHED, COMPROMISED, OR OTHERWISE RELEASED IN A MANNER OTHER THAN THAT AUTHORIZED UNDER SUBSECTION (A)(3) OF THIS SECTION, THE ADMINISTRATION SHALL INFORM ALL PARTIES THAT PROVIDED THE DATA WITHIN 72 HOURS AFTER LEARNING OF THE RELEASE.

(C) IN MAINTAINING THE REPORTS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, THE ADMINISTRATION SHALL USE DATA AVAILABLE FROM EXISTING STATE AND FEDERAL SOURCES TO THE EXTENT PRACTICABLE.

(D) IN ORDER TO CARRY OUT THE PROVISIONS OF THIS SECTION, THE ADMINISTRATION MAY REQUIRE A PRIME SUPPLIER, SUPPLIER, OR WHOLESALE PURCHASER-RESELLER TO PROVIDE NECESSARY INFORMATION IN A FORM DETERMINED BY THE ADMINISTRATION.

~~14-511.~~ 14-505.

~~(A) (1) A PERSON MAY NOT KNOWINGLY VIOLATE OR KNOWINGLY PARTICIPATE IN A VIOLATION OF THIS SUBTITLE OR A RULE OR REGULATION ADOPTED UNDER IT.~~

~~(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

A PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A REGULATION
ADOPTED UNDER THIS SUBTITLE IS SUBJECT TO:

(1) FOR A FIRST VIOLATION, AN ADMINISTRATIVE PENALTY NOT
EXCEEDING \$1,000; AND

(2) FOR A SECOND OR SUBSEQUENT VIOLATION, AN ADMINISTRATIVE
PENALTY NOT EXCEEDING \$5,000.

~~(B) (1) IN ADDITION TO ANY PENALTY ASSESSED UNDER SUBSECTION (A)
OF THIS SECTION, IF THE DIRECTOR FINDS THAT A SUPPLIER HAS REFUSED TO
SUPPLY A STATE FUEL SECURITY PRODUCT AS REQUIRED BY AN ASSIGNMENT
UNDER THIS SUBTITLE, THE DIRECTOR MAY REFER THE MATTER TO THE ATTORNEY
GENERAL FOR CIVIL ENFORCEMENT.~~

~~(2) THE ATTORNEY GENERAL MAY SUE FOR AND A COURT MAY
GRANT IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING \$10,000 PER
OCCURRENCE PER DAY, APPROPRIATE EQUITABLE RELIEF, OR BOTH.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2023.

Approved by the Governor, April 24, 2023.