

CHAPTER 383  
FORMERLY  
SENATE BILL NO. 254

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE AS IT RELATES TO THE HAZARDOUS MATERIALS TRANSPORTATION ACT AND TITLE 21 OF THE DELAWARE CODE AS IT RELATES TO MOTOR CARRIER SAFETY.

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

Section 1. Amend Title 29, Chapter 82, of the Delaware Code as follows:

§ 8224. Definitions.

§ 8225. Adoption of federal requirements.

(a) The State hereby adopts the following parts of the Code of Federal Regulations (hereinafter sometimes referred to as C.F.R.), being Title 49, Part 107, Subpart F and G, Subchapter C of Chapter I, Parts 171 through 180 and Parts 393 and 397 of Subchapter B, Chapter III, unless otherwise stated in this section, being lawfully promulgated pursuant to the federal "Hazardous Materials Transportation Act" (P. L. 93-633; 49 U.S.C. § 1801 et seq. [repealed]).

(b) Exceptions.

(1) For other than a Class 2 material, the transportation of an agricultural product over roadways as defined in 21 Del. C. § 101(58) between fields of the same farm is excepted from the requirements of Title 49, Chapter 1, Subchapter C of the Code of Federal Regulations. Transportation of the hazardous material is subject to the following conditions:

a. It is transported by a farmer who is an intrastate private motor carrier; and

b. The movement of the agricultural product conforms to requirements of the State in which it is transported and is specifically authorized by a State statute or regulation in effect before October 1, 1998.

(2) A Class 2 material transported over roadways as defined in 21 Del. C. § 101(58) between the fields of the same farm is excepted from subparts G and H of part 172, 49 C.F.R., Chapter 1, Subchapter C., subject to the following conditions:

a. It is transported by a farmer who is an intrastate private motor carrier; and

b. The movement of the agricultural product conforms to requirements of the State in which it is transported and is specifically authorized by a State statute or regulation in effect before October 1, 1998.

(3) The transportation of an agricultural product to or from a farm, within 40 miles of a farm, is excepted from the requirements in subparts G and H of part 172, 49 C.F.R. Chapter 1, Subchapter C and from its specific packaging requirements when;

a. It is transported by a farmer who is an intrastate private motor carrier;

b. The total amount of agricultural product being transported on a single motor vehicle does not exceed:

(i) 16,094 pounds of ammonium nitrate fertilizer, properly classed as Division 5.1, PG HL, in a bulk packaging (aggregate gross weight) or less; or

(ii) 502 gallons for liquids or gases, or 5,070 for solids, of any other agricultural product;

c. The movement and packaging of the agricultural product conform to the requirements of the State in which it is transported and are specifically authorized by a State statute or regulations in effect before October 1, 1998; and,

d. Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of Title 49, Chapter 1, Subchapter C of the Code of Federal Regulations.

(4) Formulated liquid agricultural products in specification packaging of 58 gallons capacity, or less, with closures manifolded to a closed mixing system and equipped with positive dry disconnect devices may be transported by a private motor carrier between a final distribution point and an ultimate point of application or loading aboard an aircraft for aerial application.

(c) Any person engaged in the transportation or shipment of hazardous materials, either in interstate or intrastate commerce, in the State shall comply with these adopted federal regulations and any federal regulations subsequently adopted by the Commission.

Section 2. Amend §4705(b), Title 21 of the Delaware Code as follows:

“(b) Amend § 392.5 of Part 392 by adding a new subparagraph (f) to read as follows: “(f) Nothing in this section shall preclude prosecution under §4177 of this title.”

Approved August 01, 2012