

Part 8. Miscellaneous Provisions.

§ 166A-19.70. Ensuring availability of emergency supplies and utility services; protection of livestock, poultry, and agricultural crops.

(a) Executive Order. – In addition to any other powers conferred on the Governor by law, whenever a curfew has been imposed, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that persons transporting essentials in commerce to the curfew area, or assisting in ensuring their availability, and persons assisting in restoring utility services, be allowed to enter or remain in areas from which they would otherwise be excluded for the limited purpose of delivering the essentials, assisting in ensuring their availability, or assisting in restoring utility services.

(b) Maximum Hours of Service Waiver. – As part of an executive order issued pursuant to subsection (a) of this section, or independently of such an order, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service prescribed by the Department of Public Safety pursuant to G.S. 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

(c) Certification System. – The Secretary shall develop a system pursuant to which a person who transports essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services can be certified as such. The certification system shall allow for both pre-emergency declaration and post-emergency declaration certification with renewable precertification. The Secretary shall only allow those who routinely transport or distribute essentials or assist in the restoring of utility services to be certified. A certification of the employer shall constitute a certification of the employer's employees. The Secretary shall create an easily recognizable indicium of certification in order to assist local officials' efforts to determine which persons have received certification by the system established under this subsection.

(d) Presence in Curfew Area Permitted. – Notwithstanding the existence of any curfew, a person who is certified pursuant to the system established under subsection (c) of this section shall be allowed to enter or remain in the curfew area for the limited purpose of delivering or assisting in the distribution of essentials or assisting in the restoration of utility services and shall be allowed to provide service that exceeds otherwise applicable hours of service maximums, to the extent authorized by an executive order executed pursuant to subsection (a) of this section. Nothing in this section prohibits law enforcement or other local officials from specifying the permissible route of ingress or egress for persons with certifications.

(e) Abnormal Market Disruptions with Respect to Petroleum. – If the Governor declares the existence of an abnormal market disruption with respect to petroleum pursuant to G.S. 75-38(f), the Governor shall contemporaneously seek all applicable waivers under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., and any other applicable federal law to facilitate the transportation of fuel within this State in order to address or prevent a fuel supply emergency in this State. Waiver requests shall be directed to the appropriate federal agencies and shall seek waivers of the following:

- (1) The Reformulated Gasoline requirements throughout the State.
- (2) The Federal and State Implementation Plan summertime gasoline requirements (low RVP) throughout the State.
- (3) Any other waiver that will, if obtained, facilitate the transportation of fuel within this State.

(f) Definitions. – The following definitions apply in this section:

- (1) Curfew. – Any restriction on ingress and egress to the emergency area of a state of emergency or any restriction on the movement of persons within such an area.

- (2) Curfew area. – The area that is subject to a curfew.
- (3) Essentials. – Any goods that are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property. The Secretary shall determine what goods constitute essentials for purposes of this section.

(g) Upon the recommendation of the Commissioner of Agriculture it shall be lawful for the Governor, by an executive order issued pursuant to G.S. 166A-19.20 or independently of such an order, to direct the Department of Public Safety to temporarily suspend weighing, pursuant to G.S. 20-118.1, those vehicles used to transport livestock, poultry, or crops from designated counties in an emergency area as defined in G.S. 166A-19.3(7), or counties designated by the Governor in an executive order issued independently of an order pursuant to G.S. 166A-19.20, if there exists an imminent threat of severe economic loss of livestock or poultry or widespread or severe damage to crops ready to be harvested. The Department of Public Safety shall develop procedures to carry out the provisions of this subsection. This subsection shall not be construed to permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety. A suspension authorized pursuant to the provisions of this subsection shall end when the Governor determines the threat of widespread or severe loss or damage in the designated counties has passed. (2001-214, s. 4; 2001-487, s. 98; 2002-24, s. 1; 2002-159, s. 57.5; 2006-66, s. 6.5(a); 2012-12, s. 1(b); 2013-230, s. 1; 2018-114, s. 7.)