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LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature First Regular Session - 2021

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1 AN ACT
2 RELATING TO EMERGENCIES; AMENDING SECTION 46-601, IDAHO CODE, TO PROVIDE FOR
3 THE CONVENING OF THE LEGISLATURE UPON AN ORDER BY THE GOVERNOR DECLARING
4 AN EXTREME EMERGENCY, TO PROVIDE FOR THE TERMINATION OF THE STATE OF EX-
5 TREME EMERGENCY UNDER CERTAIN CONDITIONS, AND TO MAKE TECHNICAL CORREC-
6 TIONS; AND AMENDING SECTION 46-1008, IDAHO CODE, TO PROVIDE THAT CER-
7 TAIN DISASTER EMERGENCY ORDERS OR PROCLAMATIONS BY THE GOVERNOR SHALL
8 REQUIRE THE CALL OF A SPECIAL LEGISLATIVE SESSION UNDER CERTAIN CONDI-
9 TIONS AND TO AFFIRM THE ROLE OF THE LEGISLATURE IN APPROPRIATING EMER-
10 GENCY FUNDS.

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 46-601, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 46-601. AUTHORITY OF GOVERNOR. (1) The governor shall have the power
15 in the event of a state of extreme emergency to order into the active ser-
16 vice of the state, the national guard, or any part thereof, and the organized
17 militia, or any part thereof, or both as he may deem proper.

18 "State of extreme emergency" means: (a) the duly proclaimed existence
19 of conditions of extreme peril to the safety of persons and property within
20 the state, or any part thereof, caused by an enemy attack or threatened at-
21 tack; or (b) the duly proclaimed existence of conditions of extreme peril
22 to the safety of persons and property within the state, or any part thereof,
23 caused by such conditions as air pollution, fire, flood, storm, epidemic,
24 riot or earthquake, insurrection, breach of the peace, which conditions by
25 reason of their magnitude are or are likely to be beyond the control of the
26 services, personnel, equipment and facilities of any county, any city, or
27 any city and county.

28 (2) During a period of a state of extreme emergency, the governor shall
29 have complete authority over all agencies of the state government, including
30 all separate boards and commissions, and the right to exercise within the
31 area or regions wherein the state of extreme emergency exists all police
32 power vested in the state by the constitution and the laws of the state of
33 Idaho. In the exercise thereof he is authorized to promulgate, issue and
34 enforce rules, ~~regulations~~ and orders which he considers necessary for the
35 protection of life and property. Such rules, ~~regulations~~ and orders shall,
36 whenever practicable, be prepared in advance of extreme emergency and the
37 governor shall cause widespread publicity and notice to be given of such
38 rules, ~~regulations~~ and orders. Rules, ~~regulations~~ and orders issued under
39 the authority of this section and prepared in advance of a state of extreme
40 emergency shall not become operative until the governor proclaims a state
41 of extreme emergency and simultaneously issues an order convening the leg-
42 islature in special session within fifteen (15) days, if it is not already

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1 in session. The governor shall direct the legislature to consider any and
2 all issues related to the emergency orders. ~~Such~~ The governor's rules,
3 regulations and orders shall be in writing and shall take effect upon their
4 issuance. They shall be filed in the office of the secretary of state as
5 soon as possible after their issuance. A copy of such rules, ~~regulations~~
6 and orders shall likewise be filed in the office of the county clerk of each
7 county, any portion of which is included within the area wherein a state
8 of extreme emergency has been proclaimed. Whenever the state of extreme
9 emergency has been ended by ~~either~~ the expiration of the period for which it
10 was proclaimed, or the failure of the governor to convene the legislature
11 within fifteen (15) days, or the need for said state of extreme emergency
12 has ceased, the governor shall declare the period of the state of extreme
13 emergency to be at an end. The legislature by concurrent resolution may
14 terminate a state of extreme emergency at any time.

15 (3) During the continuance of any proclaimed state of extreme emer-
16 gency, insurrection or martial law, neither the governor nor any agency of
17 any governmental entity or political subdivision of the state shall impose
18 additional restrictions on the lawful possession, transfer, sale, trans-
19 port, storage, display or use of firearms or ammunition.

20 SECTION 2. That Section 46-1008, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,
23 the governor may issue executive orders, proclamations and amend or rescind
24 them. Executive orders and proclamations have the force and effect of law.

25 (2) A disaster emergency shall be declared by executive order or
26 proclamation of the governor if he finds a disaster has occurred or that the
27 occurrence or the threat thereof is imminent. However, any such order or
28 proclamation shall be ineffectual unless the legislature is then in session
29 or the governor simultaneously issues an order convening the legislature in
30 special session within fifteen (15) days. The governor shall direct the leg-
31 islature to consider any and all issues related to the emergency orders. The
32 state of disaster emergency shall continue until the governor finds that the
33 threat or danger has passed, or the disaster has been dealt with to the extent
34 that emergency conditions no longer exist, and when either or both of these
35 events occur, the governor shall terminate the state of disaster emergency
36 by executive order or proclamation; provided, however, that no state of
37 disaster emergency may continue for longer than thirty (30) days unless the
38 governor finds that it should be continued for another thirty (30) days or
39 any part thereof. The legislature by concurrent resolution may terminate a
40 state of disaster emergency at any time. Thereupon, the governor shall issue
41 an executive order or proclamation ending the state of disaster emergency.
42 All executive orders or proclamations issued under this subsection shall
43 indicate the nature of the disaster, the area or areas threatened, the area
44 subject to the proclamation, and the conditions which are causing the disas-
45 ter. An executive order or proclamation shall be disseminated promptly by
46 means calculated to bring its contents to the attention of the general public
47 and unless the circumstances attendant upon the disaster prevent or impede,
48 be promptly filed with the Idaho office of emergency management, the office

1 of the secretary of state and the office of the recorder of each county where
2 the state of disaster emergency applies.

3 (3) An executive order or proclamation of a state of disaster emergency
4 shall activate the disaster response and recovery aspects of the state, lo-
5 cal and intergovernmental disaster emergency plans applicable to the polit-
6 ical subdivision or area in question and be authority for the deployment and
7 use of any forces to which the plan or plans apply and for use or distribution
8 of any supplies, equipment, and materials and facilities assembled, stock-
9 piled, or arranged to be made available pursuant to this act or any other pro-
10 vision of law relating to disaster emergencies.

11 (4) During the continuance of any state of disaster emergency, the
12 governor is commander-in-chief of the militia and may assume command of all
13 other forces available for emergency duty. To the greatest extent prac-
14 ticable, the governor shall delegate or assign command authority by prior
15 arrangement embodied in appropriate executive orders or regulations, but
16 nothing herein restricts his authority to do so by orders issued at the time
17 of the disaster emergency.

18 (5) In addition to any other powers conferred upon the governor by law,
19 he may:

20 (a) Suspend the provisions of any regulations prescribing the proce-
21 dures for conduct of public business that would in any way prevent, hin-
22 der, or delay necessary action in coping with the emergency;

23 (b) Utilize all resources of the state, including, but not limited to,
24 those sums in the disaster emergency account as he shall deem necessary
25 to pay obligations and expenses incurred during a declared state of dis-
26 aster emergency;

27 (c) Transfer the direction, personnel, or functions of state depart-
28 ments and agencies or units thereof for the purpose of performing or fa-
29 cilitating emergency services;

30 (d) Subject to any applicable requirements for compensation under sec-
31 tion 46-1012, Idaho Code, commandeer or utilize any private property,
32 real or personal, if he finds this necessary to cope with the disaster
33 emergency;

34 (e) Direct and compel the evacuation of all or part of the population
35 from any stricken or threatened area within the state if he deems this
36 action necessary for the preservation of life or other disaster mitiga-
37 tion, response, or recovery;

38 (f) Prescribe routes, modes of transportation, and destinations in
39 connection with evacuation;

40 (g) Control ingress and egress to and from a disaster area, the movement
41 of persons within the area, and the occupancy of premises therein;

42 (h) Suspend or limit the sale, dispensing or transportation of alco-
43 holic beverages, explosives, and combustibles;

44 (i) Make provision for the availability and use of temporary emergency
45 housing.

46 (6) Whenever an emergency or a disaster has been declared to exist in
47 Idaho by the president of the United States under the provisions of the dis-
48 aster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the
49 governor may, subject to the right of the legislature to appropriate funds
50 pursuant to Article VII, Sections 13 and 16 of the Idaho Constitution:

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- 1 (a) Enter into agreements with the federal government for the sharing
2 of disaster recovery expenses involving public facilities;
- 3 (b) Require as a condition of state assistance that a local taxing dis-
4 trict be responsible for paying forty percent (40%) of the nonfederal
5 share of costs incurred by the local taxing district that have been de-
6 termined to be eligible for reimbursement by the federal government,
7 provided that the total local share of eligible costs for a taxing dis-
8 trict shall not exceed ten percent (10%) of the taxing district's tax
9 charges authorized by section 63-802, Idaho Code;
- 10 (c) Obligate the state to pay the balance of the nonfederal share of el-
11 igible costs within local taxing entities qualifying for federal assis-
12 tance; and
- 13 (d) Enter into agreements with the federal government for the sharing
14 of disaster assistance expenses to include individual and family grant
15 programs.
- 16 (7) During the continuance of any state of disaster emergency, neither
17 the governor nor any agency of any governmental entity or political subdivi-
18 sion of the state shall impose restrictions on the lawful possession, trans-
19 fer, sale, transport, storage, display or use of firearms or ammunition.