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

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AN ACT

1
2 RELATING TO THE GOVERNOR; AMENDING SECTION 46-601, IDAHO CODE, TO PROVIDE
3 CERTAIN LIMITATIONS; AND AMENDING SECTION 46-1008, IDAHO CODE, TO PRO-
4 VIDE CERTAIN LIMITATIONS.

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

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

8 46-601. AUTHORITY OF GOVERNOR. (1) The governor shall have the power
9 in the event of a state of extreme emergency to order into the active ser-
10 vice of the state, the national guard, or any part thereof, and the organized
11 militia, or any part thereof, or both as he may deem proper.

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

22 (2) During a period of a state of extreme emergency, the governor shall
23 have complete authority over all agencies of the state government, including
24 all separate boards and commissions, and the right to exercise within the
25 area or regions wherein the state of extreme emergency exists all police
26 power vested in the state by the constitution and the laws of the state of
27 Idaho. In the exercise thereof he is authorized to promulgate, issue and
28 enforce rules, regulations and orders which he considers necessary for the
29 protection of life and property. Such rules, regulations and orders shall,
30 whenever practicable, be prepared in advance of extreme emergency and the
31 governor shall cause widespread publicity and notice to be given of such
32 rules, regulations and orders. Rules, regulations and orders issued under
33 the authority of this section and prepared in advance of a state of extreme
34 emergency shall not become operative until the governor proclaims a state of
35 extreme emergency. Such rules, regulations and orders shall be in writing
36 and shall take effect upon their issuance. They shall be filed in the office
37 of the secretary of state as soon as possible after their issuance. A copy
38 of such rules, regulations and orders shall likewise be filed in the office
39 of the county clerk of each county, any portion of which is included within
40 the area wherein a state of extreme emergency has been proclaimed. Whenever
41 the state of extreme emergency has been ended by either the expiration of
42 the period for which it was proclaimed or the need for said state of extreme

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1 emergency has ceased, the governor shall declare the period of the state of
2 extreme emergency to be at an end.

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

8 (4) During any state of extreme emergency, the governor may not alter,
9 adjust, or suspend any provision of any statute.

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

12 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,
13 the governor may issue executive orders, proclamations and amend or rescind
14 them. Executive orders and proclamations have the force and effect of law.

15 (2) A disaster emergency shall be declared by executive order or
16 proclamation of the governor if he finds a disaster has occurred or that the
17 occurrence or the threat thereof is imminent. The state of disaster emer-
18 gency shall continue until the governor finds that the threat or danger has
19 passed, or the disaster has been dealt with to the extent that emergency con-
20 ditions no longer exist, and when either or both of these events occur, the
21 governor shall terminate the state of disaster emergency by executive order
22 or proclamation; provided, however, that no state of disaster emergency may
23 continue for longer than thirty (30) days unless the governor finds that it
24 should be continued for another thirty (30) days or any part thereof. The
25 legislature by concurrent resolution may terminate a state of disaster emer-
26 gency at any time. Thereupon, the governor shall issue an executive order or
27 proclamation ending the state of disaster emergency. All executive orders
28 or proclamations issued under this subsection shall indicate the nature of
29 the disaster, the area or areas threatened, the area subject to the proclama-
30 tion, and the conditions which are causing the disaster. An executive order
31 or proclamation shall be disseminated promptly by means calculated to bring
32 its contents to the attention of the general public and unless the circum-
33 stances attendant upon the disaster prevent or impede, be promptly filed
34 with the Idaho office of emergency management, the office of the secretary
35 of state and the office of the recorder of each county where the state of
36 disaster emergency applies.

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

45 (4) During the continuance of any state of disaster emergency, the
46 governor is commander-in-chief of the militia and may assume command of all
47 other forces available for emergency duty. To the greatest extent prac-
48 ticable, the governor shall delegate or assign command authority by prior

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1 arrangement embodied in appropriate executive orders or regulations, but
2 nothing herein restricts his authority to do so by orders issued at the time
3 of the disaster emergency.

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

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

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

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

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

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

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

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

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

30 (i) Make provision for the availability and use of temporary emergency
31 housing.

32 (6) Whenever an emergency or a disaster has been declared to exist in
33 Idaho by the president under the provisions of the disaster relief act of
34 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

35 (a) Enter into agreements with the federal government for the sharing
36 of disaster recovery expenses involving public facilities;

37 (b) Require as a condition of state assistance that a local taxing dis-
38 trict be responsible for paying forty percent (40%) of the nonfederal
39 share of costs incurred by the local taxing district that have been de-
40 termined to be eligible for reimbursement by the federal government,
41 provided that the total local share of eligible costs for a taxing dis-
42 trict shall not exceed ten percent (10%) of the taxing district's tax
43 charges authorized by section 63-802, Idaho Code;

44 (c) Obligate the state to pay the balance of the nonfederal share of el-
45 igible costs within local taxing entities qualifying for federal assis-
46 tance; and

47 (d) Enter into agreements with the federal government for the sharing
48 of disaster assistance expenses to include individual and family grant
49 programs.

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1 (7) During the continuance of any state of disaster emergency, neither
2 the governor nor any agency of any governmental entity or political subdivi-
3 sion of the state shall impose restrictions on the lawful possession, trans-
4 fer, sale, transport, storage, display or use of firearms or ammunition.
5 (8) During any state of disaster emergency, the governor may not alter,
6 adjust, or suspend any provision of any statute.