

IN THE SENATE

SENATE BILL NO. 1003

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MARTIAL LAW; AMENDING SECTION 46-601, IDAHO CODE, TO REVISE PRO-  
2 VISIONS REGARDING THE AUTHORITY OF THE GOVERNOR DURING A STATE OF EX-  
3 TREME PERIL, TO PROVIDE THAT THE GOVERNOR MAY NOT ALTER, ADJUST, OR SUS-  
4 PEND ANY PROVISION OF THE IDAHO CODE IN CERTAIN INSTANCES, AND TO PRO-  
5 VIDE SEVERABILITY; AND DECLARING AN EMERGENCY.  
6

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

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

10 46-601. AUTHORITY OF GOVERNOR.

11 (1) (a) The governor shall have the power in the event of may proclaim a  
12 state of extreme emergency to peril and then order into the active ser-  
13 vice of the state, the national guard, or any part thereof, and or the  
14 organized militia, or any part thereof, or both as he may deem proper.

15 (b) "State of extreme emergency peril" means: (a) the

16 (i) The duly proclaimed existence of conditions of extreme peril  
17 to the safety of persons and property within the state, or any part  
18 thereof, caused by an enemy attack or threatened attack; or (b) the

19 (ii) The duly proclaimed existence of conditions of extreme peril  
20 to the safety of persons and property within the state, or any part  
21 thereof, caused by such human-caused conditions as air pollution,  
22 fire, flood, storm, epidemic, riot or earthquake riot, insurrec-  
23 tion, breach of the peace, or explosion, which conditions by rea-  
24 son of their magnitude are or are likely to be beyond the control of  
25 the services, personnel, equipment and facilities of any county,  
26 any city, or any city and county.

27 (c) "Enemy attack" means an actual attack by terrorists or a foreign  
28 nation by terrorism, hostile air raids, or other forms of warfare upon  
29 this state or any other state or territory of the United States.

30 (2) (a) During a period of a state of extreme emergency peril, the gov-  
31 ernor shall have complete authority over all agencies of the state gov-  
32 ernment, including all separate boards and commissions, and the right  
33 to exercise within the area or regions wherein the state of extreme  
34 emergency peril exists all police power vested in the state by the con-  
35 stitution and the laws of the state of Idaho. In the; provided, however,  
36 that the governor's exercise thereof he is authorized to promulgate,  
37 issue and enforce must be limited to promulgation, issuance, and en-  
38 forcement of written rules, regulations and orders which necessary to  
39 support the national guard or organized militia and that he considers  
40 necessary for the protection of essential to protect life and property  
41 from the occurrence or imminent threat of the state of extreme peril.  
42 Such rules, regulations and orders shall must not restrict the right of

1 Idahoans to work, provide for their families, and otherwise contribute  
2 to the economy of Idaho. Such rules and orders must, whenever practica-  
3 ble, be prepared in advance of extreme emergency peril, and the governor  
4 shall cause widespread publicity and notice to be given of such rules,  
5 regulations and orders. Rules, regulations and orders issued under the  
6 authority of this section and prepared in advance of a state of extreme  
7 emergency shall will not become operative until the governor proclaims  
8 a state of extreme emergency peril. Such rules, regulations and orders  
9 shall be in writing and shall take effect upon their issuance. They  
10 shall be filed in the office of the secretary of state as soon as possi-  
11 ble after their issuance. A copy of such rules, regulations and orders  
12 shall likewise be filed in the office of the county clerk of each county,  
13 any portion of which is included within the area wherein a state of ex-  
14 trême emergency peril has been proclaimed. Whenever the

15 (b) The state of extreme emergency has been ended by either peril must  
16 terminate by the expiration of the period for which it was proclaimed or  
17 when the need for said state of extreme emergency has ceased, the gover-  
18 nor shall declare the period peril has ceased, whichever is sooner, and  
19 such state of extreme peril in no event shall exceed thirty (30) days,  
20 unless the legislature by concurrent resolution extends the duration of  
21 the state of extreme emergency to be at an end peril. The governor may  
22 not circumvent the thirty (30) day limitation by redeclaring successive  
23 states of extreme peril in the absence of an extension by the legisla-  
24 ture.

25 (c) If the legislature is in a regular or extraordinary session during a  
26 state of extreme peril, the legislature may consider any legislation to  
27 respond to the extreme peril, including appropriating necessary emer-  
28 gency funds. The legislature may modify, terminate, or extend the state  
29 of extreme peril by concurrent resolution and the governor must abide by  
30 the terms of the concurrent resolution. The legislature may extend the  
31 state of extreme peril for any number of days.

32 (d) Whenever the state of extreme peril has terminated, the rules and  
33 orders issued by the governor under the authority of this subsection  
34 shall simultaneously terminate without further action by the governor.  
35 The governor must then immediately notify the public that the state of  
36 extreme peril has terminated and that any rules or orders issued by the  
37 governor under the authority of this subsection have also terminated.  
38 Such notice must be filed and publicized in the same manner that the  
39 rules or orders were filed and publicized under this subsection.

40 (3) During the continuance of any proclaimed state of extreme emergency  
41 peril, insurrection, or martial law, neither the governor nor any agency of  
42 any governmental entity or political subdivision of the state shall impose  
43 additional restrictions on the lawful manufacturing, possession, transfer,  
44 sale, transport, storage, display, or use of firearms or ammunition or oth-  
45 erwise limit or suspend any rights guaranteed by the United States constitu-  
46 tion or constitution of the state of Idaho, including but not limited to the  
47 right to assemble for worship.

48 (4) During any state of extreme peril, the governor may not alter, ad-  
49 just, or suspend any provision of the Idaho Code.

1       (5) The provisions of this section are hereby declared to be severable.  
2 If any provision of this section or the application of such provision to any  
3 person or circumstance is declared invalid for any reason, such declaration  
4 shall not affect the validity of the remaining portions of this section.

5       SECTION 2. An emergency existing therefor, which emergency is hereby  
6 declared to exist, this act shall be in full force and effect on and after its  
7 passage and approval.