## IN THE HOUSE OF REPRESENTATIVES

## HOUSE BILL NO. 135

## BY STATE AFFAIRS COMMITTEE

| 1 | AN ACT   |
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| 2 | RELATING TO THE STATE DISASTER PREPAREDNESS ACT; AMENDING SECTION 46-1008, |
| 3 | IDAHO CODE, TO REVISE PROVISIONS REGARDING THE GOVERNOR'S POWERS DUR-      |
| 4 | ING A DISASTER EMERGENCY, TO PROVIDE SEVERABILITY, AND TO MAKE TECHNI-     |
| 5 | CAL CORRECTIONS; AND DECLARING AN EMERGENCY.                               |
| 6 | Be It Enacted by the Legislature of the State of Idaho:                    |

SECTION 1. That Section 46-1008, Idaho Code, be, and the same is hereby amended to read as follows:

- 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act, the governor may issue executive orders, or proclamations and amend or rescind them if he finds a disaster has occurred or the threat thereof is imminent. Executive orders and proclamations have the force and effect of law; provided, however, that any such orders or proclamations must be essential to protect life or property from the occurrence or imminent threat of the state of disaster emergency. Because all jobs are essential, declared emergencies must not restrict the right of Idahoans to work, provide for their families, and otherwise contribute to the economy of Idaho. Such orders and proclamations must be narrowly tailored to their purposes and not restrict jobholders by job type or classification.
- (2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency.
  - (a) (i) A state of disaster emergency must be declared by executive order or proclamation of the governor. The state of disaster emergency must terminate as soon as:
    - 1. The governor finds that the threat or danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist;
    - $\underline{\text{2.}}$  The period for which the state of disaster emergency has been declared terminates; or

- 3. The legislature terminates the state of disaster emergency prior to the end of the period for which it was declared as provided in paragraph (c) of this subsection.
- (ii) When any of these termination events occur, any executive orders or proclamations issued by the governor under the authority of this subsection are simultaneously terminated, and the governor must immediately issue a written notice that the state of disaster emergency has terminated and that the orders or proclamations issued by the governor have also terminated. The notice must be immediately filed and disseminated in the same manner as the executive order or proclamation was filed and disseminated under paragraph (d) of this subsection.
- (b) A declared state of disaster emergency may not continue or be extended by the governor for longer than sixty (60) days except for the sole purpose of collection processes to receive federal funding, benefits, and resources available for the declared disaster emergency. In such a case, those provisions of the governor's order or proclamation necessary for receiving such funding, benefits, or resources shall continue in full force and effect as long as any conditions associated with accepting such funding, benefits, or resources do not violate any provision of this section. All other provisions of the order or proclamation shall expire unless the legislature by concurrent resolution extends the duration of the state of disaster emergency for up to three hundred sixty-five (365) days. The governor may not circumvent the sixty (60) day limitation by redeclaring successive states of disaster emergency for the same emergency in the absence of an extension by the legislature.
- (c) If, during a state of disaster emergency, the legislature is convened in a regular session or has been convened in an extraordinary session to address the disaster emergency, the legislature may consider any legislation to respond to the disaster emergency, including appropriating necessary emergency funding. Any orders or proclamations issued by the governor under the authority of this section may be terminated by concurrent resolution by the legislature. Such termination will be binding on the governor, state agencies, governmental entities, and political subdivisions; provided that nothing in this section prohibits a city's ability to pass ordinances for the preservation of public health pursuant to section 50-304, Idaho Code. The legislature may by concurrent resolution extend the state of disaster emergency for up to three hundred sixty-five (365) days.
- (d) All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, the facts establishing a threat to life or property, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the Idaho office of emergency management, the office of the secretary of state, and the office of the recorder of each county where the state of disaster emergency applies.

- (e) Nothing in this section hinders the governor's ability to activate and use the national guard to respond to a declared emergency.
- (3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local, and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any national guard forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.
- (4) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the militia and may assume command of all other national guard forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations rules, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.
- (5) In addition to any other powers conferred upon If essential to protect the life or property of the people of Idaho, the governor by law, he may:
  - (a) Suspend the provisions of any regulations rules prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;
  - (b) Utilize all state and federal resources of available to the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during arising out of a declared state of disaster emergency, subject to the one percent (1%) limitation on the revenues made available by section 46-1005A(2) (b) and (c), Idaho Code, as set forth in section 46-1005A(3), Idaho Code;
  - (c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
  - (d) Subject to any applicable requirements for compensation under section 46-1012, Idaho Code, commandeer or utilize any private property, real or personal, if he finds this necessary to cope with the disaster emergency;
  - (e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;
  - (f) Prescribe routes  $\tau$  and modes of transportation  $\tau$  and recommend destinations in connection with evacuation;
  - (g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
  - (h) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives except to the extent protected under subsection (7) of this section in relation to firearms or ammunition, and combustibles; and
  - (i) Make provision for the availability and use of temporary emergency housing.

(6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president of the United States under the provisions of the disaster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor must declare a state of disaster emergency pursuant to this section and may:

- (a) Enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;
- (b) Require as a condition of state assistance that a local taxing district be responsible for paying forty percent (40%) of the nonfederal share of costs incurred by the local taxing district that have been determined to be eligible for reimbursement by the federal government, provided that the total local share of eligible costs for a taxing district shall not exceed ten percent (10%) of the taxing district's tax charges authorized by section 63-802, Idaho Code;
- (c) Obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and
- (d) Enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs.
- (7) During the continuance of any state of disaster emergency, neither the governor nor any agency of any governmental entity or political subdivision of the state shall impose or enforce any additional restrictions on the lawful manufacturing, possession, transfer, sale, transport, storage, display or use of firearms or ammunition or otherwise limit or suspend any rights guaranteed by the United States constitution or constitution of the state of Idaho, including but not limited to the right to peaceable assembly or free exercise of religion.
- (8) During any state of disaster emergency, the governor may not alter, adjust, or suspend any provision of the Idaho Code.
- (9) The provisions of this section are hereby declared to be severable. If any provision of this section or the application of such provision to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this section.

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