

HOUSE BILL 303
EMERGENCY BILL

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E4

2002 Regular Session
(2r0161)

ENROLLED BILL

-- *Commerce and Government Matters/Education, Health, Environmental Affairs* --

Introduced by **The Speaker (Administration) and Delegates Cole, D. Davis,
Doory, Hammen, Hubbard, McHale, McIntosh, Morhaim, Oaks, Phillips,
Turner, Vallario, and Wood**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2

Governor's Emergency Powers

3 FOR the purpose of specifying the Governor's authority under certain circumstances;
4 requiring certain State or ~~county~~ local law enforcement officers and health
5 officers to execute and enforce certain orders, rules and regulations made by the
6 Governor under certain circumstances; providing certain penalties for a
7 violation of an order, rule or regulation made by the Governor under certain
8 circumstances; requiring certain State officials to carry out the Governor's
9 policies; authorizing the Secretary of Health and Mental Hygiene to perform
10 certain duties under certain circumstances; modifying certain definitions;
11 making this Act an emergency measure; and generally relating to the Governor's
12 emergency powers.

13 BY repealing and reenacting, with amendments,

14 Article 16A - Maryland Emergency Management Agency

1 Section 3(d), 6(a) and (b), and 12
2 Annotated Code of Maryland
3 (2001 Replacement Volume)

4 BY adding to
5 Article 16A - Maryland Emergency Management Agency
6 Section 12A
7 Annotated Code of Maryland
8 (2001 Replacement Volume)

9 BY repealing and reenacting, with amendments,
10 Article 65 - Militia
11 Section 9(a)
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article 88B - Department of State Police
16 Section 14(a)
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Health - General
21 Section 2-102(b)(1)
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2001 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Health - General
26 Section 18-102
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2001 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - State Government
31 Section 3-401
32 Annotated Code of Maryland
33 (1999 Replacement Volume and 2001 Supplement)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
35 MARYLAND, That the Laws of Maryland read as follows:

Article 16A - Maryland Emergency Management Agency

2 3.

3 As used in this subtitle:

4 (d) "Emergency" means:

5 (1) [the] THE threat or occurrence of [an enemy attack or] any
 6 hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave,
 7 earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, [act of
 8 terrorism] or other catastrophe in any part of the State which requires State
 9 emergency assistance to supplement local efforts in order to save lives and protect
 10 public {health and safety} ~~HEALTH, OR SAFETY, AND WELFARE; OR~~

11 (2) THE THREAT OR OCCURRENCE OF ANY ENEMY ATTACK, ACT OF
 12 TERRORISM, OR PUBLIC HEALTH CATASTROPHE.

13 6.

14 (a) The Governor shall have general direction and control of the Maryland
 15 Emergency Management Agency, and shall be responsible for the carrying out of the
 16 provisions of this subtitle. In the event of the occurrence or threat of an emergency
 17 [beyond local control], the Governor may assume direct operational control over all or
 18 any part of any emergency management function created or authorized by this article.
 19 The Governor may delegate such powers as he may see fit [to the Adjutant General or
 20 the Director] TO AN INDIVIDUAL EMPLOYED IN THE EXECUTIVE DEPARTMENT OF
 21 THE STATE GOVERNMENT OR EMPLOYED AS A SECRETARY OF A PRINCIPAL
 22 DEPARTMENT OR AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

23 (b) In performing his duties under this subtitle, the Governor:

24 (1) May cooperate with the federal government, with other states, and
 25 with private agencies in all matters pertaining to the emergency management
 26 operations of this State and of the nation;

27 (2) May issue orders, rules and regulations necessary or desirable to
 28 carry out the provisions of this subtitle, to prepare and revise, as necessary, a
 29 comprehensive plan and program for the emergency management operations of this
 30 State, to integrate such plan and program with the emergency management
 31 operations plans of the federal government and other states, and to coordinate the
 32 preparation of plans and programs for emergency management operations by the
 33 political subdivisions of this State;

34 (3) May authorize the procurement of supplies and equipment and the
 35 institution of training programs and public information programs and other
 36 preparatory steps in advance of a State emergency;

37 (4) Authorize such studies and surveys of the industries, resources, and
 38 facilities in this State as may be necessary or desirable to ascertain the capabilities of

1 the State for emergency management operations and to prepare plans for the
 2 emergency management of resources in accordance with the national plan for
 3 emergency preparedness;

4 (5) May appoint, in cooperation with local authorities, directors for the
 5 political subdivisions of the State and may delegate to them any administrative
 6 authority vested in him under this subtitle, and provide for the subdelegation of any
 7 such authority; and

8 (6) May delegate his authority under this subsection [to the Adjutant
 9 General] TO AN INDIVIDUAL EMPLOYED IN THE EXECUTIVE DEPARTMENT OF THE
 10 STATE GOVERNMENT OR EMPLOYED AS A SECRETARY OF A PRINCIPAL DEPARTMENT
 11 OR AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

12 12.

13 (A) It is the duty of every emergency management organization established
 14 pursuant to this subtitle and of the officers thereof, to execute and enforce such
 15 orders, rules and regulations as may be made by the Governor under authority of this
 16 subtitle.

17 (B) WITH RESPECT TO AN EMERGENCY UNDER § 3(D)(2) OF THIS SUBTITLE, IT
 18 IS THE DUTY OF EVERY ~~STATE OR COUNTY~~ LAW ENFORCEMENT OFFICER OF THE
 19 STATE OR A POLITICAL SUBDIVISION AND EVERY HEALTH OFFICER OF A POLITICAL
 20 SUBDIVISION TO EXECUTE AND ENFORCE ORDERS, RULES, AND REGULATIONS MADE
 21 BY THE GOVERNOR UNDER AUTHORITY OF THIS SUBTITLE.

22 12A.

23 (A) A PERSON WHO VIOLATES ANY ORDER, RULE, OR REGULATION ISSUED
 24 UNDER THE AUTHORITY OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON
 25 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~1 YEAR~~ 6 MONTHS OR
 26 A FINE NOT EXCEEDING \$1,000 OR BOTH.

27 (B) A PERSON WHO WILLFULLY VIOLATES ANY ORDER, RULE, OR REGULATION
 28 ISSUED UNDER THE AUTHORITY OF THIS SUBTITLE IS GUILTY OF A ~~FELONY~~
 29 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
 30 EXCEEDING ~~3 YEARS~~ 1 YEAR OR A FINE NOT EXCEEDING ~~\$10,000~~ \$5,000 OR BOTH.

31 **Article 65 - Militia**

32 9.

33 (a) The Adjutant General shall:

34 (1) Be appointed by the Governor by and with the advice and consent of
 35 the Senate;

36 (2) Have a commissioned grade not above that of Lieutenant General;
 37 [and]

1 (3) Have a salary as stated in the annual budget; AND

2 (4) BE RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES
3 WITH RESPECT TO THOSE MATTERS SPECIFIED IN THIS ARTICLE AND ARTICLE 16A
4 OF THE CODE.

5 **Article 88B - Department of State Police**

6 14.

7 (a) The affairs and operations of the Department shall be supervised and
8 directed by a Secretary. The Secretary shall report to the Governor AND BE
9 RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES WITH RESPECT TO
10 THOSE MATTERS SPECIFIED IN THIS ARTICLE AND ARTICLE 16A OF THE CODE.

11 **Article - Health - General**

12 2-102.

13 (b) (1) The Secretary serves at the pleasure of the Governor and is
14 responsible directly to the Governor. The Secretary shall advise the Governor on all
15 matters assigned to the Department and is responsible for carrying out the
16 Governor's policies on these matters.

17 18-102.

18 (a) The Secretary shall adopt rules and regulations necessary to prevent:

19 (1) The introduction of an ~~{infectious or contagious}~~ ~~INFECTIOUS,~~
20 ~~CONTAGIOUS, OR COMMUNICABLE~~ disease into this State ~~OR OTHER CONDITION OR~~
21 ~~ACTION DISEASE THAT ENDANGERS PUBLIC HEALTH IN THIS STATE;~~ or

22 (2) The spread of an ~~{infectious or contagious}~~ ~~INFECTIOUS,~~
23 ~~CONTAGIOUS, OR COMMUNICABLE~~ disease ~~OR OTHER CONDITION OR ACTION~~
24 ~~DISEASE THAT ENDANGERS PUBLIC HEALTH~~ in this State.

25 (B) WHEN THE SECRETARY HAS REASON TO BELIEVE THAT AN INFECTIOUS,
26 ~~CONTAGIOUS, OR COMMUNICABLE~~ OR CONTAGIOUS DISEASE OR OTHER ~~CONDITION~~
27 ~~OR ACTION DISEASE THAT ENDANGERS PUBLIC HEALTH EXISTS WITHIN THE STATE,~~
28 THE SECRETARY SHALL:

29 (1) INVESTIGATE THE SUSPECTED ~~DISEASE, CONDITION, OR ACTION~~
30 DISEASE; AND

31 (2) ACT PROPERLY TO PREVENT THE SPREAD OF THE ~~DISEASE,~~
32 ~~CONDITION, OR ACTION~~ DISEASE.

33 [(b)] (C) (1) Except as provided in paragraph (2) of this subsection, an
34 individual enrolled in an institution of higher education who resides in on-campus
35 student housing shall be vaccinated against meningococcal disease.

1 (2) An individual is exempt from the vaccination requirement in
2 paragraph (1) of this subsection if:

3 (i) The institution of higher education provides detailed
4 information on the risks associated with meningococcal disease and the availability
5 and effectiveness of any vaccine to:

6 1. The individual, if the individual is 18 years of age or older;
7 or

8 2. The individual's parent or guardian, if the individual is a
9 minor; and

10 (ii) 1. The individual is 18 years of age or older and the individual
11 signs a written waiver in a form approved by the Secretary stating that the individual
12 has received and reviewed the information provided and has chosen not to be
13 vaccinated against meningococcal disease; or

14 2. The individual is a minor and the individual's parent or
15 guardian signs a written waiver in a form approved by the Secretary stating that the
16 parent or guardian has received and reviewed the information provided and has
17 chosen to not have the individual vaccinated against meningococcal disease.

18 (3) Nothing in this subsection shall be construed to require any
19 institution of higher education to provide or pay for vaccinations against
20 meningococcal disease.

21 (4) The Secretary, in consultation with the Maryland Higher Education
22 Commission, shall adopt regulations necessary to implement this subsection.

23 [(c)] (D) The Secretary may enter on and inspect private property to
24 determine the presence, cause, and source of an [infectious or contagious]
25 ~~INFECTIOUS, CONTAGIOUS, OR COMMUNICABLE~~ disease OR OTHER CONDITION OR
26 ~~ACTION DISEASE~~ THAT ENDANGERS PUBLIC HEALTH IN THIS STATE.

27 Article - State Government

28 3-401.

29 In this subtitle, "executive order" means an order or an amendment or rescission
30 of an order that, over the signature of the Governor:

31 (1) proclaims or ends a state of emergency or exercises the authority of
32 the Governor during [the] AN emergency, under Article 41, § 2-101 of the Code OR
33 ANY OTHER PROVISION OF LAW;

34 (2) adopts guidelines, rules of conduct, or rules of procedure for:

35 (i) State employees;

- 1 (ii) units of the State government; or
- 2 (iii) persons who are under the jurisdiction of those employees or
3 units or who deal with them;
- 4 (3) establishes a unit, including an advisory unit, study unit, or task
5 force; or
- 6 (4) changes the organization of the Executive Branch of the State
7 government.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
9 emergency measure, is necessary for the immediate preservation of the public health
10 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
11 members elected to each of the two Houses of the General Assembly, and shall take
12 effect from the date it is enacted.