

SENATE BILL 234
EMERGENCY BILL

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P3

2002 Regular Session
2lr0168
CF 2lr0171

By: **The President (Administration) and Senators Bromwell, Collins,
Conway, Exum, Forehand, Green, Hollinger, Hughes, Kelley, Lawlah,
Teitelbaum, and Van Hollen**

Introduced and read first time: January 18, 2002

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Catastrophic Health Emergencies - Powers of the Governor and the**
3 **Secretary of Health and Mental Hygiene**

4 FOR the purpose of authorizing the Governor to proclaim the existence of a
5 catastrophic health emergency; specifying the powers of the Governor during a
6 catastrophic health emergency; specifying when a proclamation of a catastrophic
7 health emergency will expire; authorizing the Secretary of Health and Mental
8 Hygiene to exercise certain duties under certain circumstances in order to
9 maintain an effective disease surveillance system; authorizing the Secretary to
10 require certain health care facilities to develop and implement certain
11 contingency plans; requiring the Secretary to develop certain protocols;
12 authorizing the Secretary to require certain health care practitioners to
13 implement certain plans; prohibiting certain persons from disclosing certain
14 information; authorizing the Secretary to perform certain duties when
15 investigating actual or potential exposures to certain deadly agents; specifying
16 certain penalties under certain circumstances; requiring the Maryland
17 Emergency Management Agency to coordinate efforts with the Maryland
18 Institute for Emergency Medical Services Systems and the Department of
19 Health and Mental Hygiene; requiring a certain report by a certain date;
20 making this Act an emergency measure; defining certain terms; and generally
21 relating to catastrophic health emergencies.

22 BY adding to

23 Article 41 - Executive and Administrative Departments
24 Section 2-201 through 2-204, inclusive, to be under the new subtitle "Subtitle 2.
25 Governor's Emergency Powers - Catastrophic Health Emergencies"
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2001 Supplement)

28 BY adding to

29 Article - Health - General
30 Section 18-901 through 18-907, inclusive, to be under the new subtitle "Subtitle

1 9. Catastrophic Health Emergency Disease Surveillance Program"
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2001 Supplement)

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

6 **Article 41 - Executive and Administrative Departments**

7 SUBTITLE 2. GOVERNOR'S EMERGENCY POWERS - CATASTROPHIC HEALTH
8 EMERGENCIES.

9 2-201.

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) (1) "CATASTROPHIC HEALTH EMERGENCY" MEANS AN IMMINENT
13 THREAT OF EXTENSIVE LOSS OF LIFE OR OF SERIOUS DISABILITY CAUSED BY
14 EXPOSURE TO A DEADLY AGENT.

15 (2) "DEADLY AGENT" MEANS:

16 (I) ANTHRAX, EBOLA, PLAGUE, SMALLPOX, TULAREMIA, OR OTHER
17 BACTERIAL, FUNGAL, RICKETTSIAL, OR VIRAL AGENT, BIOLOGICAL TOXIN, OR OTHER
18 AGENT CAPABLE OF CAUSING EXTENSIVE LOSS OF LIFE OR SERIOUS DISABILITY;

19 (II) MUSTARD GAS, NERVE GAS, OR OTHER CHEMICAL AGENT
20 CAPABLE OF CAUSING EXTENSIVE LOSS OF LIFE OR SERIOUS DISABILITY; OR

21 (III) RADIATION AT LEVELS CAPABLE OF CAUSING EXTENSIVE LOSS
22 OF LIFE OR SERIOUS DISABILITY.

23 (3) "EXPOSURE TO A DEADLY AGENT" MEANS A THREAT TO HUMAN
24 HEALTH CAUSED BY:

25 (I) THE RELEASE OR DISTRIBUTION OF A DEADLY AGENT IN
26 MARYLAND; OR

27 (II) THE RELEASE OR DISTRIBUTION OF A DEADLY AGENT IN
28 ANOTHER JURISDICTION THAT POSES AN IMMINENT THREAT TO MARYLAND
29 CITIZENS THROUGH THE MOVEMENT OF EXPOSED INDIVIDUALS, WIND CURRENTS,
30 OR OTHER CAUSE INTO THE STATE.

31 (4) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN §
32 19-114(E)(1) OF THE HEALTH - GENERAL ARTICLE.

33 (5) (I) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN §
34 19-114(F) OF THE HEALTH - GENERAL ARTICLE.

1 (II) "HEALTH CARE PRACTITIONER" INCLUDES AN INDIVIDUAL
2 LICENSED OR CERTIFIED AS AN EMERGENCY MEDICAL SERVICES PROVIDER UNDER
3 § 13-516 OF THE EDUCATION ARTICLE.

4 (6) "HEALTH CARE PROVIDER" MEANS:

5 (I) A HEALTH CARE FACILITY; OR

6 (II) A HEALTH CARE PRACTITIONER.

7 (7) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
8 HYGIENE.

9 2-202.

10 (A) IF THE GOVERNOR DETERMINES THAT EXPOSURE TO A DEADLY AGENT
11 PRESENTS AN IMMINENT THREAT OF EXTENSIVE LOSS OF LIFE OR OF SERIOUS
12 DISABILITY, THE GOVERNOR MAY PROCLAIM THE EXISTENCE OF A CATASTROPHIC
13 HEALTH EMERGENCY.

14 (B) FOLLOWING A PROCLAMATION UNDER SUBSECTION (A) OF THIS SECTION,
15 THE GOVERNOR MAY ORDER:

16 (1) THE SECRETARY OR OTHER DESIGNATED OFFICIAL TO:

17 (I) USE APPROPRIATE MEANS TO REDUCE MORBIDITY AND
18 MORTALITY CAUSED BY A CATASTROPHIC HEALTH EMERGENCY; AND

19 (II) ENSURE TO THE GREATEST EXTENT FEASIBLE THAT ALL
20 PERSONS EXPOSED TO A DEADLY AGENT ARE SUBJECT TO APPROPRIATE
21 TREATMENT AND CONTROL.

22 (2) THE SECRETARY OR OTHER DESIGNATED OFFICIAL TO TAKE
23 IMMEDIATE POSSESSION OF ANY ITEM OR MATERIAL NEEDED TO RESPOND TO THE
24 MEDICAL CONSEQUENCES OF THE CATASTROPHIC HEALTH EMERGENCY AND TO
25 WORK COLLABORATIVELY, TO THE EXTENT FEASIBLE, WITH HEALTH CARE
26 PROVIDERS TO DESIGNATE AND GAIN ACCESS TO A FACILITY NEEDED TO RESPOND
27 TO THE CATASTROPHIC HEALTH EMERGENCY;

28 (3) ANY HEALTH CARE PROVIDER TO PARTICIPATE IN DISEASE
29 SURVEILLANCE, TREATMENT, AND SUPPRESSION EFFORTS OR OTHERWISE ACT IN
30 ACCORDANCE WITH THE DIRECTIVES OF THE SECRETARY OR OTHER DESIGNATED
31 OFFICIAL;

32 (4) THE SECRETARY OR OTHER DESIGNATED OFFICIAL TO CONTROL,
33 RESTRICT, OR REGULATE THE USE, SALE, DISPENSING, DISTRIBUTION OR
34 TRANSPORTATION OF ANY ITEM OR MATERIAL NEEDED TO RESPOND TO THE
35 MEDICAL CONSEQUENCES OF THE CATASTROPHIC HEALTH EMERGENCY BY:

36 (I) RATIONING;

- 1 (II) THE CREATION AND DISTRIBUTION OF STOCKPILES;
- 2 (III) THE USE OF QUOTAS;
- 3 (IV) THE PROHIBITION OF SHIPMENTS;
- 4 (V) THE SETTING OF PRICES; OR
- 5 (VI) OTHER APPROPRIATE MEANS;
- 6 (5) THE SECRETARY OR OTHER DESIGNATED OFFICIAL TO:
- 7 (I) REQUIRE INDIVIDUALS TO SUBMIT TO MEDICAL EXAMINATION
- 8 OR TESTING;
- 9 (II) UNLESS THE VACCINATION OR MEDICAL TREATMENT WILL
- 10 LIKELY CAUSE SERIOUS HARM TO THE INDIVIDUAL OR CONFLICTS WITH THE
- 11 INDIVIDUAL'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES, REQUIRE THE
- 12 INDIVIDUAL TO SUBMIT TO VACCINATION OR MEDICAL TREATMENT;
- 13 (III) ESTABLISH PLACES OF TREATMENT, ISOLATION, AND
- 14 QUARANTINE; AND
- 15 (IV) REQUIRE INDIVIDUALS TO GO TO AND REMAIN IN PLACES OF
- 16 ISOLATION AND QUARANTINE;
- 17 (6) THE EVACUATION, CLOSING, OR DECONTAMINATION OF ANY
- 18 FACILITY;
- 19 (7) INDIVIDUALS TO REMAIN INDOORS OR REFRAIN FROM
- 20 CONGREGATING UNTIL FURTHER ORDER; AND
- 21 (8) SUCH OTHER ACTIONS AS ARE DEEMED NECESSARY TO REDUCE
- 22 MORBIDITY AND MORTALITY CAUSED BY THE CATASTROPHIC HEALTH EMERGENCY.
- 23 (C) A PROCLAMATION BY THE GOVERNOR UNDER THIS SECTION:
- 24 (1) SHALL BE RESCINDED BY THE GOVERNOR WHENEVER THE
- 25 GOVERNOR DETERMINES THAT A CATASTROPHIC HEALTH EMERGENCY NO LONGER
- 26 EXISTS;
- 27 (2) UNLESS RENEWED, SHALL EXPIRE 30 DAYS AFTER ISSUANCE; AND
- 28 (3) MAY BE RENEWED BY THE GOVERNOR FOR SUCCESSIVE PERIODS,
- 29 EACH NOT TO EXCEED 30 DAYS, IF THE GOVERNOR DETERMINES THAT A
- 30 CATASTROPHIC HEALTH EMERGENCY CONTINUES TO EXIST.

1 2-203.

2 THE AUTHORITY GRANTED UNDER THIS SUBTITLE IS IN ADDITION TO, AND NOT
3 IN DEROGATION OF, ANY OTHER AUTHORITY THAT THE GOVERNOR, THE SECRETARY,
4 OR ANY OTHER PUBLIC OFFICIAL MAY EXERCISE UNDER OTHER LAW.

5 2-204.

6 (A) A PERSON MAY NOT KNOWINGLY AND WILLFULLY FAIL TO COMPLY WITH
7 ANY ORDER, REQUIREMENT, OR DIRECTIVE ISSUED IN ACCORDANCE WITH THIS
8 SUBTITLE.

9 (B) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF
10 A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3
11 YEARS, A FINE NOT EXCEEDING \$10,000, OR BOTH.

12 **Article - Health - General**

13 SUBTITLE 9. CATASTROPHIC HEALTH EMERGENCY DISEASE SURVEILLANCE
14 PROGRAM.

15 18-901.

16 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "CATASTROPHIC HEALTH EMERGENCY" HAS THE MEANING STATED IN
19 ARTICLE 41, § 2-104 OF THE CODE.

20 (C) "DEADLY AGENT" HAS THE MEANING STATED IN ARTICLE 41, § 2-104 OF
21 THE CODE.

22 (D) "EXPOSURE TO A DEADLY AGENT" HAS THE MEANING STATED IN ARTICLE
23 41, § 2-104 OF THE CODE.

24 (E) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN ARTICLE 41, §
25 2-104 OF THE CODE.

26 (F) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN ARTICLE 41,
27 § 2-104 OF THE CODE.

28 (G) "HEALTH CARE PROVIDER" HAS THE MEANING STATED IN ARTICLE 41, §
29 2-104 OF THE CODE.

30 18-902.

31 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY MAY
32 EXERCISE THE AUTHORITY GRANTED IN THIS SUBTITLE TO:

1 (1) CONTINUOUSLY EVALUATE AND MODIFY EXISTING DISEASE
2 SURVEILLANCE PROCEDURES IN ORDER TO DETECT A CATASTROPHIC HEALTH
3 EMERGENCY;

4 (2) INVESTIGATE ACTUAL OR POTENTIAL EXPOSURES TO A DEADLY
5 AGENT; AND

6 (3) MINIMIZE POTENTIAL MORBIDITY AND MORTALITY CAUSED BY A
7 CATASTROPHIC HEALTH EMERGENCY.

8 18-903.

9 (A) (1) IN ACCORDANCE WITH PROCEDURES TO BE ADOPTED BY THE
10 DEPARTMENT, THE SECRETARY, IN CONSULTATION WITH HEALTH CARE FACILITIES,
11 MAY REQUIRE HEALTH CARE FACILITIES TO DEVELOP AND IMPLEMENT
12 CONTINGENCY PLANS ADDRESSING:

13 (I) STAFF TRAINING NEEDS;

14 (II) STOCKPILING OF EQUIPMENT, MEDICATION, AND SUPPLIES
15 NECESSARY TO ADDRESS A CATASTROPHIC HEALTH EMERGENCY;

16 (III) TREATMENT AND DECONTAMINATION PROTOCOLS;

17 (IV) THE COORDINATION OF SERVICES WITH OTHER PUBLIC AND
18 PRIVATE ENTITIES; AND

19 (V) ANY OTHER AREA THAT THE SECRETARY DETERMINES IS
20 NECESSARY TO ASSIST IN THE EARLY DETECTION AND TREATMENT OF AN
21 INDIVIDUAL EXPOSED TO A DEADLY AGENT.

22 (2) TO THE EXTENT FEASIBLE, THE PROCEDURES TO BE ADOPTED BY
23 THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE
24 CONSISTENT WITH ACCREDITATION REQUIREMENTS OF THE JOINT COMMISSION ON
25 THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS.

26 (B) AFTER CONSULTING WITH THE APPROPRIATE LICENSING BOARD, THE
27 SECRETARY:

28 (1) SHALL PUBLISH PROTOCOLS TO ASSIST HEALTH CARE
29 PRACTITIONERS IN DEVELOPING PLANS TO RESPOND TO A CATASTROPHIC HEALTH
30 EMERGENCY; AND

31 (2) MAY, IF NECESSARY, REQUIRE HEALTH CARE PRACTITIONERS TO
32 IMPLEMENT THE PLANS DEVELOPED UNDER ITEM (1) OF THIS SUBSECTION.

33 18-904.

34 (A) IN THIS SECTION, "INFORMATION" MEANS MEDICAL, EPIDEMIOLOGICAL,
35 OR OTHER DATA CONCERNING A SPECIFIC INDIVIDUAL OR A GROUP OF

1 INDIVIDUALS, REGARDLESS IF THE INFORMATION IS OTHERWISE DEEMED
2 CONFIDENTIAL BY LAW.

3 (B) IN ORDER TO MAINTAIN AN EFFECTIVE DISEASE SURVEILLANCE SYSTEM,
4 THE SECRETARY MAY BY ORDER, DIRECTIVE, OR REGULATION:

5 (1) REQUIRE A HEALTH CARE PROVIDER OR OTHER PERSON TO REPORT
6 INFORMATION TO THE SECRETARY OR OTHER PUBLIC OFFICIAL ON THE
7 FOLLOWING:

8 (I) THE PRESENCE OF AN INDIVIDUAL OR GROUP OF INDIVIDUALS
9 WITH SPECIFIED ILLNESSES OR SYMPTOMS;

10 (II) DIAGNOSTIC AND LABORATORY FINDINGS RELATING TO
11 DISEASES CAUSED BY DEADLY AGENTS;

12 (III) STATISTICAL OR UTILIZATION TRENDS RELATING TO
13 POTENTIAL DISEASE OUTBREAKS;

14 (IV) INFORMATION NEEDED TO CONDUCT CONTACT TRACING FOR
15 EXPOSED INDIVIDUALS; AND

16 (V) OTHER DATA DEEMED BY THE SECRETARY TO HAVE
17 EPIDEMIOLOGICAL SIGNIFICANCE IN DETECTING POSSIBLE CATASTROPHIC HEALTH
18 EMERGENCIES;

19 (2) OBTAIN ACCESS TO INFORMATION IN THE POSSESSION OF A HEALTH
20 CARE PROVIDER;

21 (3) REQUIRE OR AUTHORIZE A HEALTH CARE PROVIDER TO DISCLOSE
22 INFORMATION TO AN AGENCY OF THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR
23 ANOTHER HEALTH CARE PROVIDER;

24 (4) REQUIRE A HEALTH CARE PROVIDER OR OTHER PERSON TO SUBMIT
25 REPORTS TO THE DEPARTMENT CONTAINING INFORMATION DETAILING THE
26 PRESENCE AND USE OF DEADLY AGENTS;

27 (5) OBTAIN ACCESS TO PREMISES IN ORDER TO SECURE
28 ENVIRONMENTAL SAMPLES AND OTHERWISE INVESTIGATE ACTUAL OR POTENTIAL
29 EXPOSURES TO DEADLY AGENTS; AND

30 (6) REQUIRE A VETERINARIAN OR OTHER PERSON TO REPORT DATA
31 RELATING TO SPECIFIED ILLNESSES OR SYMPTOMS IN ANIMAL POPULATIONS.

32 (C) (1) IF THE INFORMATION REQUESTED IN SUBSECTION (B) OF THIS
33 SECTION IS OTHERWISE CONFIDENTIAL BY LAW, A PERSON THAT RECEIVES THE
34 INFORMATION MAY NOT REDISCLOSE THE INFORMATION EXCEPT AS PROVIDED IN
35 PARAGRAPH (2) OF THIS SUBSECTION.

1 (2) A PERSON MAY REDISCLOSE THE INFORMATION TO ANOTHER
2 HEALTH CARE PROVIDER OR PUBLIC OFFICIAL PROVIDED THAT THE SECRETARY
3 DEEMS THE REDISCLOSURE NECESSARY FOR THE TREATMENT, CONTROL,
4 INVESTIGATION, AND PREVENTION OF A CATASTROPHIC HEALTH EMERGENCY.

5 18-905.

6 (A) IN INVESTIGATING ACTUAL OR POTENTIAL EXPOSURES TO A DEADLY
7 AGENT, THE SECRETARY MAY:

8 (1) IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION,
9 ESTABLISH, MAINTAIN, AND ENFORCE APPROPRIATE EVALUATION, ISOLATION,
10 TREATMENT, AND QUARANTINE ORDERS FOR ANY PERSONS ACTUALLY OR
11 POTENTIALLY EXPOSED TO A DEADLY AGENT;

12 (2) COORDINATE AND DIRECT THE EFFORTS OF ANY HEALTH OFFICER
13 OR HEALTH COMMISSIONER OF ANY SUBDIVISION IN SEEKING TO DETECT OR
14 RESPOND TO THREATS POSED BY A DEADLY AGENT; AND

15 (3) ORDER ANY SHERIFF, DEPUTY SHERIFF, OR OTHER LAW
16 ENFORCEMENT OFFICER OF THE STATE OR ANY SUBDIVISION TO ASSIST IN THE
17 EXECUTION OR ENFORCEMENT OF ANY ORDER ISSUED UNDER THIS SUBTITLE.

18 (B) THE SECRETARY MAY ISSUE AN ORDER UNDER SUBSECTION (A) OF THIS
19 SECTION:

20 (1) IF, PRIOR TO THE ISSUANCE OF A PROCLAMATION UNDER ARTICLE
21 41, § 2-104 OF THE CODE, THE SECRETARY DETERMINES THAT THE DISEASE OR
22 OUTBREAK CAN BE MEDICALLY CONTAINED BY THE DEPARTMENT AND
23 APPROPRIATE HEALTH CARE PROVIDERS; AND

24 (2) AS NECESSARY TO IMPLEMENT AN ORDER ISSUED BY THE
25 GOVERNOR UNDER ARTICLE 41, § 2-104 OF THE CODE.

26 18-906.

27 (A) (1) A PERSON MAY NOT KNOWINGLY AND WILLFULLY FAIL TO COMPLY
28 WITH ANY ORDER, REGULATION, OR DIRECTIVE ISSUED IN ACCORDANCE WITH §
29 18-905 OF THIS SUBTITLE.

30 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
31 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
32 EXCEEDING 2 YEARS, OR A FINE NOT EXCEEDING \$5,000, OR BOTH.

33 (B) IF A HEALTH CARE FACILITY FAILS TO COMPLY WITH AN ORDER,
34 REGULATION, OR DIRECTIVE ISSUED UNDER § 18-903 OR § 18-904 OF THIS SUBTITLE,
35 THE SECRETARY MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH
36 OFFENSE.

1 (C) IF A HEALTH CARE PRACTITIONER FAILS TO COMPLY WITH AN ORDER,
2 REGULATION, OR DIRECTIVE ISSUED UNDER § 18-903 OR § 18-904 OF THIS SUBTITLE,
3 THE SECRETARY MAY REQUEST THE APPROPRIATE LICENSING BOARD TO TAKE
4 DISCIPLINARY ACTION AGAINST THE HEALTH CARE PRACTITIONER, INCLUDING:

- 5 (1) PLACING THE LICENSEE OR CERTIFICATE HOLDER ON PROBATION;
6 (2) SUSPENDING OR REVOKING THE LICENSE OR CERTIFICATE HOLDER;
7 OR
8 (3) IMPOSING A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH
9 OFFENSE.

10 18-907.

11 ON OR BEFORE DECEMBER 31, 2002, AND ON OR BEFORE EVERY DECEMBER 31
12 OF EACH SUCCEEDING YEAR THROUGH 2005, THE SECRETARY OF HEALTH AND
13 MENTAL HYGIENE SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY IN
14 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE REGARDING THE
15 IMPLEMENTATION AND OPERATION OF MARYLAND'S CATASTROPHIC HEALTH
16 EMERGENCY DISEASE SURVEILLANCE PROGRAM.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Emergency
18 Management Agency shall coordinate efforts with the Maryland Institute for
19 Emergency Medical Services Systems and the Department of Health and Mental
20 Hygiene to assure that surveillance efforts to detect and respond to a catastrophic
21 health emergency are conducted in a manner that support, and are not duplicative of,
22 the State's overall emergency preparedness efforts.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
24 measure, is necessary for the immediate preservation of the public health or safety,
25 has been passed by a ye and nay vote supported by three-fifths of all the members
26 elected to each of the two Houses of the General Assembly, and shall take effect from
27 the date it is enacted.