

SENATE BILL 235
EMERGENCY BILL

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P3

2002 Regular Session
2lr0160
CF 2lr0161

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 **Governor's Emergency Powers**

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

13 BY repealing and reenacting, with amendments,
14 Article 16A - Maryland Emergency Management Agency
15 Section 3(d), 6(a) and (b), and 12
16 Annotated Code of Maryland
17 (2001 Replacement Volume)

18 BY adding to
19 Article 16A - Maryland Emergency Management Agency
20 Section 12A
21 Annotated Code of Maryland
22 (2001 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article 65 - Militia
25 Section 9(a)
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 2001 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article 88B - Department of State Police
3 Section 14(a)
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Health - General
8 Section 2-102(b)(1)
9 Annotated Code of Maryland
10 (2000 Replacement Volume and 2001 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 18-102
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - State Government
18 Section 3-401
19 Annotated Code of Maryland
20 (1999 Replacement Volume and 2001 Supplement)

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

23 **Article 16A - Maryland Emergency Management Agency**

24 3.

25 As used in this subtitle:

26 (d) "Emergency" means:

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

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

1 6.

2 (a) The Governor shall have general direction and control of the Maryland
3 Emergency Management Agency, and shall be responsible for the carrying out of the
4 provisions of this subtitle. In the event of the occurrence or threat of an emergency
5 [beyond local control], the Governor may assume direct operational control over all or
6 any part of any emergency management function created or authorized by this article.
7 The Governor may delegate such powers as he may see fit [to the Adjutant General or
8 the Director].

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

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

13 (2) May issue orders, rules and regulations necessary or desirable to
14 carry out the provisions of this subtitle, to prepare and revise, as necessary, a
15 comprehensive plan and program for the emergency management operations of this
16 State, to integrate such plan and program with the emergency management
17 operations plans of the federal government and other states, and to coordinate the
18 preparation of plans and programs for emergency management operations by the
19 political subdivisions of this State;

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

23 (4) Authorize such studies and surveys of the industries, resources, and
24 facilities in this State as may be necessary or desirable to ascertain the capabilities of
25 the State for emergency management operations and to prepare plans for the
26 emergency management of resources in accordance with the national plan for
27 emergency preparedness;

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

32 (6) May delegate his authority under this subsection [to the Adjutant
33 General].

34 12.

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

1 (B) WITH RESPECT TO AN EMERGENCY UNDER § 3(D)(2) OF THIS SUBTITLE, IT
2 IS THE DUTY OF EVERY STATE OR COUNTY LAW ENFORCEMENT OFFICER AND EVERY
3 HEALTH OFFICER OF A SUBDIVISION TO EXECUTE AND ENFORCE ORDERS, RULES,
4 AND REGULATIONS MADE BY THE GOVERNOR UNDER AUTHORITY OF THIS SUBTITLE.
5 12A.

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

10 (B) A PERSON WHO WILLFULLY VIOLATES ANY ORDER, RULE, OR REGULATION
11 ISSUED UNDER THE AUTHORITY OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON
12 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
13 NOT EXCEEDING \$10,000 OR BOTH.

14 **Article 65 - Militia**

15 9.

16 (a) The Adjutant General shall:

17 (1) Be appointed by the Governor by and with the advice and consent of
18 the Senate;

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

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

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

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

26 14.

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

31 **Article - Health - General**

32 2-102.

33 (b) (1) The Secretary serves at the pleasure of the Governor and is
34 responsible directly to the Governor. The Secretary shall advise the Governor on all

1 matters assigned to the Department and is responsible for carrying out the
2 Governor's policies on these matters.

3 18-102.

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

5 (1) The introduction of an [infectious or contagious] INFECTIOUS,
6 CONTAGIOUS, OR COMMUNICABLE disease into this State OR OTHER CONDITION OR
7 ACTION THAT ENDANGERS PUBLIC HEALTH IN THIS STATE; or

8 (2) The spread of an [infectious or contagious] INFECTIOUS,
9 CONTAGIOUS, OR COMMUNICABLE disease OR OTHER CONDITION OR ACTION THAT
10 ENDANGERS PUBLIC HEALTH in this State.

11 (B) WHEN THE SECRETARY HAS REASON TO BELIEVE THAT AN INFECTIOUS,
12 CONTAGIOUS, OR COMMUNICABLE DISEASE OR OTHER CONDITION OR ACTION THAT
13 ENDANGERS PUBLIC HEALTH EXISTS WITHIN THE STATE, THE SECRETARY SHALL:

14 (1) INVESTIGATE THE SUSPECTED DISEASE, CONDITION, OR ACTION;
15 AND

16 (2) ACT PROPERLY TO PREVENT THE SPREAD OF THE DISEASE,
17 CONDITION, OR ACTION.

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

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

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

26 1. The individual, if the individual is 18 years of age or older;
27 or

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

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

34 2. The individual is a minor and the individual's parent or
35 guardian signs a written waiver in a form approved by the Secretary stating that the

1 parent or guardian has received and reviewed the information provided and has
2 chosen to not have the individual vaccinated against meningococcal disease.

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

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

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

12 Article - State Government

13 3-401.

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

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

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

20 (i) State employees;

21 (ii) units of the State government; or

22 (iii) persons who are under the jurisdiction of those employees or
23 units or who deal with them;

24 (3) establishes a unit, including an advisory unit, study unit, or task
25 force; or

26 (4) changes the organization of the Executive Branch of the State
27 government.

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