

SENATE BILL 235
EMERGENCY BILL

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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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 18, 2002

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
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)

1 BY repealing and reenacting, with amendments,
2 Article 65 - Militia
3 Section 9(a)
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article 88B - Department of State Police
8 Section 14(a)
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 2001 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article - Health - General
13 Section 2-102(b)(1)
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Health - General
18 Section 18-102
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - State Government
23 Section 3-401
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 2001 Supplement)

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

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

29 3.

30 As used in this subtitle:

31 (d) "Emergency" means:

32 (1) [the] THE threat or occurrence of [an enemy attack or] any
33 hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave,
34 earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, [act of
35 terrorism] or other catastrophe in any part of the State which requires State

1 emergency assistance to supplement local efforts in order to save lives and protect
2 public health and safety] ~~HEALTH, SAFETY, AND WELFARE~~; OR

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

5 6.

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

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

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

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

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

29 (4) Authorize such studies and surveys of the industries, resources, and
30 facilities in this State as may be necessary or desirable to ascertain the capabilities of
31 the State for emergency management operations and to prepare plans for the
32 emergency management of resources in accordance with the national plan for
33 emergency preparedness;

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

38 (6) May delegate his authority under this subsection [to the Adjutant
39 General] TO AN INDIVIDUAL EMPLOYED IN THE EXECUTIVE DEPARTMENT OF THE

1 STATE GOVERNMENT OR EMPLOYED AS A SECRETARY OF A PRINCIPAL DEPARTMENT
 2 OR AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

3 12.

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

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

13 12A.

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

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

22

Article 65 - Militia

23 9.

24 (a) The Adjutant General shall:

25 (1) Be appointed by the Governor by and with the advice and consent of
 26 the Senate;

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

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

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

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

2 14.

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

7 **Article - Health - General**

8 2-102.

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

13 18-102.

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

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

18 (2) The spread of an {infectious or contagious} ~~INFECTIONOUS,~~
 19 ~~CONTAGIOUS, OR COMMUNICABLE~~ disease OR OTHER CONDITION OR ACTION
 20 DISEASE THAT ENDANGERS PUBLIC HEALTH in this State.

21 (B) WHEN THE SECRETARY HAS REASON TO BELIEVE THAT AN INFECTIONOUS,
 22 ~~CONTAGIOUS, OR COMMUNICABLE~~ OR CONTAGIOUS DISEASE OR OTHER ~~CONDITION~~
 23 ~~OR ACTION~~ DISEASE THAT ENDANGERS PUBLIC HEALTH EXISTS WITHIN THE STATE,
 24 THE SECRETARY SHALL:

25 (1) INVESTIGATE THE SUSPECTED ~~DISEASE, CONDITION, OR ACTION~~
 26 DISEASE; AND

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

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

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

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

4 1. The individual, if the individual is 18 years of age or older;
 5 or

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

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

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

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

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

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

25 Article - State Government

26 3-401.

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

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

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

33 (i) State employees;

34 (ii) units of the State government; or

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

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

5 (4) changes the organization of the Executive Branch of the State
6 government.

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