

HOUSE BILL NO. 6136

May 24, 2022, Introduced by Reps. Carra, Marino, Bezotte, Clements, Mekoski and LaFave and referred to the Committee on Government Operations.

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending sections 3 and 5 (MCL 30.403 and 30.405), section 3 as amended by 2002 PA 132 and section 5 as amended by 2006 PA 545.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The governor is responsible for coping with
2 dangers to this state or the people of this state presented by a
3 disaster or emergency.

4 (2) The governor may issue executive orders, proclamations,

1 and directives having the force and effect of law to implement this
2 act. Except as provided in section 7(2), an executive order,
3 proclamation, or directive may be amended or rescinded by the
4 governor.

5 (3) The governor shall, by executive order or proclamation,
6 declare a state of disaster if ~~he or she~~ **the governor** finds a
7 disaster has occurred or the threat of a disaster exists. The state
8 of disaster ~~shall continue~~ **continues** until the governor finds that
9 the threat or danger has passed, the disaster has been dealt with
10 to the extent that disaster conditions no longer exist, or until
11 the declared state of disaster has been in effect for 28 days.
12 After 28 days, the governor shall issue an executive order or
13 proclamation declaring the state of disaster terminated, unless a
14 request by the governor for an extension of the state of disaster
15 for a specific number of days is approved by resolution of both
16 houses of the legislature. An executive order or proclamation
17 issued pursuant to this subsection ~~shall~~ **must** indicate the nature
18 of the disaster, the area or areas threatened, the conditions
19 causing the disaster, and the conditions permitting the termination
20 of the state of disaster. An executive order or proclamation ~~shall~~
21 **must** be disseminated promptly by means calculated to bring its
22 contents to the attention of the general public and ~~shall~~ **must** be
23 promptly filed with the emergency management division of the
24 department and the secretary of state, unless circumstances
25 attendant upon the disaster prevent or impede its prompt filing.

26 (4) The governor shall, by executive order or proclamation,
27 declare a state of emergency if ~~he or she~~ **the governor** finds that
28 an emergency has occurred or that the threat of an emergency
29 exists. The state of emergency ~~shall continue~~ **continues** until the

1 governor finds that the threat or danger has passed, the emergency
2 has been dealt with to the extent that emergency conditions no
3 longer exist, or until the declared state of emergency has been in
4 effect for 28 days. After 28 days, the governor shall issue an
5 executive order or proclamation declaring the state of emergency
6 terminated, unless a request by the governor for an extension of
7 the state of emergency for a specific number of days is approved by
8 resolution of both houses of the legislature. An executive order or
9 proclamation issued pursuant to this subsection ~~shall~~**must** indicate
10 the nature of the emergency, the area or areas threatened, the
11 conditions causing the emergency, and the conditions permitting the
12 termination of the state of emergency. An executive order or
13 proclamation ~~shall~~**must** be disseminated promptly by means
14 calculated to bring its contents to the attention of the general
15 public and ~~shall~~**must** be promptly filed with the emergency
16 management division of the department and the secretary of state,
17 unless circumstances attendant upon the emergency prevent or impede
18 its prompt filing.

19 **(5) An executive order, proclamation, or directive issued**
20 **under this act must not prohibit, suspend, or limit the operations**
21 **of a church or religious organization for purposes of worship**
22 **services.**

23 **(6) A church, religious organization, or other person**
24 **adversely affected by an executive order, proclamation, directive,**
25 **or other action enacted or enforced in violation of this section**
26 **may file an action for damages, injunctive relief, declaratory**
27 **relief, or other appropriate redress in the court having**
28 **appropriate subject matter jurisdiction.**

29 **(7) In addition to any actual damages awarded against the**

1 governor, state agency, political subdivision, or any other elected
 2 or appointed official or employee of this state or of a political
 3 subdivision, and other relief provided with respect to such an
 4 action, the court shall award reasonable court costs and expenses,
 5 including litigation costs and attorney fees, to any church,
 6 religious organization, or other person that brings the action,
 7 regardless of whether the executive order, proclamation, directive,
 8 or other action enacted or the manner of its enforcement is
 9 repealed or rescinded or expires after the civil action was filed
 10 but before a final court determination of the action.

11 Sec. 5. (1) In addition to the general authority granted to
 12 the governor by this act, the governor may, upon the declaration of
 13 a state of disaster or a state of emergency do 1 or more of the
 14 following:

15 (a) Suspend a regulatory statute, order, or rule prescribing
 16 the procedures for conduct of state business, ~~when~~**if** strict
 17 compliance with the statute, order, or rule would prevent, hinder,
 18 or delay necessary action in coping with the disaster or emergency.
 19 This power does not extend to the suspension of criminal process
 20 and procedures.

21 (b) Utilize the available resources of ~~the~~**this** state and its
 22 political subdivisions, and those of the federal government made
 23 available to ~~the~~**this** state, as are reasonably necessary to cope
 24 with the disaster or emergency.

25 (c) Transfer the direction, personnel, or functions of state
 26 departments, agencies, or units thereof for the purpose of
 27 performing or facilitating emergency management.

28 (d) Subject to appropriate compensation, as authorized by the
 29 legislature, commandeer or utilize private property necessary to

1 cope with the disaster or emergency.

2 (e) Direct and compel the evacuation of all or part of the
3 population from a stricken or threatened area within ~~the~~**this** state
4 if necessary for the preservation of life or other mitigation,
5 response, or recovery activities.

6 (f) Prescribe routes, modes, and destination of transportation
7 in connection with an evacuation.

8 (g) Control ingress and egress to and from a stricken or
9 threatened area, removal of persons within the area, and the
10 occupancy of premises within the area.

11 (h) Suspend or limit the sale, dispensing, or transportation
12 of alcoholic beverages, explosives, and combustibles.

13 (i) Provide for the availability and use of temporary
14 emergency housing.

15 (j) ~~Direct~~**Except as otherwise provided in section 3(5),**
16 **direct** all other actions ~~which~~**that** are necessary and appropriate
17 under the circumstances.

18 (2) Subsection (1) does not authorize the seizure, taking, or
19 confiscation of lawfully possessed firearms or ammunition.

20 (3) A person who willfully disobeys or interferes with the
21 implementation of a rule, order, or directive issued by the
22 governor ~~pursuant to~~**under** this section is guilty of a misdemeanor.