

IN THE SENATE

SENATE BILL NO. 1104

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE STATE DISASTER PREPAREDNESS ACT; AMENDING SECTION 46-1008,  
2 IDAHO CODE, TO PROVIDE THAT THE GOVERNOR SHALL NOT EXTEND A STATE OF DIS-  
3 ASTER EMERGENCY WITHOUT PETITIONING THE LEGISLATURE; AND DECLARING AN  
4 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 46-1008, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,  
10 the governor may issue executive orders and proclamations and may amend or  
11 rescind them. Executive orders and proclamations have the force and effect  
12 of law; provided, however, that any such orders, proclamations, or rules  
13 must be essential to protect life or property from the occurrence or immi-  
14 nent threat of the state of disaster emergency threatening the safety of per-  
15 sons or property within the state and must be narrowly tailored to effec-  
16 tively protect life or property without placing unnecessary restrictions on  
17 the ability for a person or persons, regardless of job type or classifica-  
18 tion, to work, provide for their families, or otherwise contribute to the  
19 economy of the state of Idaho.

20 (2) A disaster emergency shall be declared by executive order or  
21 proclamation of the governor if he finds a disaster has occurred or that  
22 the occurrence or the threat thereof is imminent. The state of disaster  
23 emergency shall continue until the governor finds that the threat or danger  
24 has passed or the disaster has been dealt with to the extent that emergency  
25 conditions no longer exist, and when either or both of these events occur,  
26 the governor shall terminate the state of disaster emergency by executive  
27 order or proclamation; provided, however, that no state of disaster emer-  
28 gency may continue for longer than thirty (30) days unless the governor finds  
29 that it should be continued for another thirty (30) days or any part thereof.  
30 The governor shall not extend the state of disaster emergency by executive  
31 order or proclamation beyond this additional thirty (30) day period unless  
32 the governor petitions the legislature with reasonable justification. The  
33 legislature may, by concurrent resolution, grant the governor an addi-  
34 tional thirty (30) days. Otherwise the state of disaster emergency shall  
35 terminate. The legislature by concurrent resolution may terminate a state  
36 of disaster emergency at any time. Thereupon, the governor shall issue an  
37 executive order or proclamation ending the state of disaster emergency.  
38 All executive orders or proclamations issued under this subsection shall  
39 indicate the nature of the disaster, the area or areas threatened, the area  
40 subject to the proclamation, and the conditions causing the disaster. An  
41 executive order or proclamation shall be disseminated promptly by means  
42 calculated to bring its contents to the attention of the general public and,

1 unless the circumstances attendant upon the disaster prevent or impede, be  
2 promptly filed with the Idaho office of emergency management, the office of  
3 the secretary of state, and the office of the recorder of each county where  
4 the state of disaster emergency applies.

5 (3) An executive order or proclamation of a state of disaster emergency  
6 shall activate the disaster response and recovery aspects of the state, lo-  
7 cal, and intergovernmental disaster emergency plans applicable to the po-  
8 litical subdivision or area in question and be authority for the deployment  
9 and use of any forces to which the plan or plans apply and for use or dis-  
10 tribution of any supplies, equipment, and materials and facilities assem-  
11 bled, stockpiled, or arranged to be made available pursuant to this act or  
12 any other provision of law relating to disaster emergencies.

13 (4) During the continuance of any state of disaster emergency, the  
14 governor is commander-in-chief of the militia and may assume command of all  
15 other forces available for emergency duty. To the greatest extent prac-  
16 ticable, the governor shall delegate or assign command authority by prior  
17 arrangement embodied in appropriate executive orders or rules, but nothing  
18 herein restricts his authority to do so by orders issued at the time of the  
19 disaster emergency.

20 (5) In addition to any other powers conferred upon the governor by law,  
21 he may:

22 (a) Suspend the provisions of any rules prescribing the procedures for  
23 conduct of public business that would in any way prevent, hinder, or de-  
24 lay necessary action in coping with the emergency;

25 (b) Utilize all resources of the state, including, but not limited to,  
26 those sums in the disaster emergency account as he shall deem necessary  
27 to pay obligations and expenses incurred during a declared state of dis-  
28 aster emergency;

29 (c) Transfer the direction, personnel, or functions of state depart-  
30 ments and agencies or units thereof for the purpose of performing or fa-  
31 cilitating emergency services;

32 (d) Subject to any applicable requirements for compensation under sec-  
33 tion 46-1012, Idaho Code, and except as provided in subsection (7) (c) of  
34 this section, commandeer or utilize any private property, real or per-  
35 sonal, if he finds this necessary to cope with the disaster emergency;

36 (e) Direct and compel the evacuation of all or part of the population  
37 from any stricken or threatened area within the state if he deems this  
38 action necessary for the preservation of life or other disaster mitiga-  
39 tion, response, or recovery;

40 (f) Prescribe routes, modes of transportation, and destinations in  
41 connection with evacuation;

42 (g) Control ingress and egress to and from a disaster area, the movement  
43 of persons within the area, and the occupancy of premises therein;

44 (h) Suspend or limit the sale, dispensing or transportation of alco-  
45 holic beverages, explosives, and combustibles; and

46 (i) Make provision for the availability and use of temporary emergency  
47 housing.

48 (6) Whenever an emergency or a disaster has been declared to exist in  
49 Idaho by the president under the provisions of the disaster relief act of  
50 1974 (P.L. 93-288, 42 U.S.C. 5121), as amended, the governor may:

1 (a) Enter into agreements with the federal government for the sharing  
2 of disaster recovery expenses involving public facilities;

3 (b) Require as a condition of state assistance that a local taxing dis-  
4 trict be responsible for paying forty percent (40%) of the nonfederal  
5 share of costs incurred by the local taxing district that have been de-  
6 termined to be eligible for reimbursement by the federal government,  
7 provided that the total local share of eligible costs for a taxing dis-  
8 trict shall not exceed ten percent (10%) of the taxing district's tax  
9 charges authorized by section 63-802, Idaho Code;

10 (c) Obligate the state to pay the balance of the nonfederal share of el-  
11 igible costs within local taxing entities qualifying for federal assis-  
12 tance; and

13 (d) Enter into agreements with the federal government for the sharing  
14 of disaster assistance expenses to include individual and family grant  
15 programs.

16 (7) During the continuance of any state of disaster emergency, neither  
17 the governor nor any agency of any governmental entity or political subdivi-  
18 sion of the state shall:

19 (a) Impose or enforce any additional restrictions on the lawful man-  
20 ufacturing, possession, transfer, sale, transport, storage, display  
21 or use of firearms or ammunition or their components or accessories, or  
22 otherwise limit or suspend any rights guaranteed by the United States  
23 constitution or the constitution of the state of Idaho, including but  
24 not limited to the right to peaceable assembly or free exercise of re-  
25 ligion. The transport, storage, transfer, sale, commerce in, import  
26 and export of, distribution, repair, maintenance, and manufacture of  
27 firearms, ammunition, and related accessories and components, shooting  
28 ranges, and other goods and services directly related to lawful firearm  
29 possession, use, storage, repair, maintenance, sale or transfer, and  
30 training in the use of firearms are declared to be life-sustaining,  
31 essential businesses and services for the purposes of safety and secu-  
32 rity in times of declared emergency or any other statutorily authorized  
33 responses to disaster, war, acts of terrorism, riot or civil disorder,  
34 public health crises, or emergencies of whatever kind or nature;

35 (b) Suspend or revoke a license to carry concealed weapons or refuse  
36 to accept and process an application for a license to carry concealed  
37 weapons, except in accordance with the provisions of chapter 33, title  
38 18, Idaho Code; or

39 (c) Notwithstanding the provisions of subsection (5) of this section,  
40 seize, commandeer, or confiscate in any manner any privately owned  
41 firearm, ammunition, or firearms or ammunition components that are pos-  
42 sessed, carried, displayed, sold, transferred, transported, stored, or  
43 used in connection with otherwise lawful conduct.

44 (8) During any state of disaster emergency, the governor may not alter,  
45 adjust, or create any provision of the Idaho Code.

46 SECTION 2. An emergency existing therefor, which emergency is hereby  
47 declared to exist, this act shall be in full force and effect on and after  
48 July 1, 2023.