



2020 South Dakota Legislature

House Bill 1296

Introduced by: **Representative Qualm**

1 **An Act to revise the authority of the Governor in times of a disaster, act of terrorism,**
2 **or emergency and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 34-48A-5 be AMENDED:

5 **34-48A-5. Authority of Governor in time of disaster, terrorist attack, or**
6 **emergency.**

7 In the event of disaster, war, act of terrorism as defined in state law, or emergency
8 that is beyond local government capability, the Governor:

- 9 (1) May assume direct operational control over all or any part of the emergency
10 management functions within the state which may affect all or any portion of the
11 state;
- 12 (2) May declare an emergency or disaster to exist in the stricken area and employ
13 emergency management to assist local authorities to affect relief, evacuation, and
14 restoration as deemed necessary to preserve life or other disaster or emergency
15 mitigation, response, or recovery;
- 16 (3) May call upon and use any facilities, equipment, other nonmedical supplies, and
17 resources available from any source, other than personal or private funds, in order
18 to carry out the purposes of this chapter by contributing to the expense incurred in
19 providing relief in such amounts as the Governor shall determine. However, nothing
20 in this subdivision may be construed to authorize the taking of firearms, as defined
21 in subdivision 22-1-2(16), without the consent of the owner;
- 22 (4) May suspend the provisions of any regulatory statute of this state prescribing the
23 conduct of state business or the business of a local subdivision, or the orders or
24 rules of any state agency, if strict compliance with the provisions of the statute,
25 order, or rule would in any way prevent, hinder, or delay necessary action in
26 managing a disaster, war, act of terrorism, or emergency, including fire, flood,

- 1 earthquake, severe high and low temperatures, tornado storm, wave action, oil
2 spill, or other water or air contamination, epidemic, blight, drought, pandemic,
3 infestation, explosion, riot, or hostile military or paramilitary action, which is
4 determined by the Governor to require state or state and federal assistance or
5 actions to supplement the recovery efforts of local governments in alleviating the
6 damage, loss, hardship, or suffering caused thereby;
- 7 (5) May control the ingress and egress in a designated disaster or emergency area, the
8 movement of vehicles upon highways within the area, the movement of persons
9 within the area, and the occupancy of premises within the area;
- 10 (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or
11 medical supplies located within the state as may be reasonable and necessary to
12 respond to the disaster, emergency, or act of terrorism;
- 13 (7) May appoint and prescribe the duties of such out-of-state health care providers as
14 may be reasonable and necessary to respond to the disaster, emergency, or act of
15 terrorism;
- 16 (8) May provide for the examination and safe disposal of any dead body as may be
17 reasonable and necessary to respond to the disaster, emergency, or act of
18 terrorism; and
- 19 (9) May provide for the protection, construction or reconstruction, repair, and
20 maintenance of public or private ~~transportation~~ facilities.

21 The powers granted to the Governor under this section shall remain in effect for a
22 period of six months and may be restored for one or more successive six-month periods
23 by declaration of the Governor that the conditions permitting such powers persist.

24 **Section 2.** This Act is repealed on July 1, 2021.

25 **Section 3.** Whereas, this Act is necessary for the immediate preservation of the public peace,
26 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
27 and effect from and after its passage and approval.