

HOUSE BILL NO. 5187

July 01, 2021, Introduced by Reps. Fink, Beeler, Carra, Outman, Posthumus, Griffin, Markkanen, Borton, Allor, Lightner, Paquette, Clements, Hornberger, Bollin, Bellino, Hoitenga, Wakeman, Bezotte, LaFave, Maddock, Steven Johnson, Berman and Green and referred to the Committee on Oversight.

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3 proclamation, or directive may be amended or rescinded by the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

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

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

18 **(5) Except as otherwise provided in this section, an executive**
19 **order, proclamation, or directive issued under this act shall not**
20 **do any of the following:**

21 **(a) Prohibit, regulate, or curtail the otherwise lawful**
22 **possession, carrying, display, sale, transportation, transfer,**
23 **defensive use, or other lawful use of any of the following:**

24 **(i) A firearm, including any component or accessory of a**
25 **firearm.**

26 **(ii) Ammunition, including any component or accessory of**
27 **ammunition.**

28 **(iii) Ammunition-reloading equipment and supplies.**

29 **(iv) A deadly weapon other than a firearm.**

1 (b) Require registration of firearm owners, or of any firearm,
2 including any component or accessory, or ammunition.

3 (c) Seize, commandeer, or confiscate in any manner, any of the
4 following privately owned items that are possessed, carried,
5 displayed, sold, transferred, transported, stored, or used in
6 connection with otherwise lawful conduct:

7 (i) A firearm, including any component or accessory of a
8 firearm.

9 (ii) Ammunition, including any component or accessory of
10 ammunition.

11 (iii) Ammunition-reloading equipment and supplies.

12 (iv) A deadly weapon other than a firearm.

13 (d) Prohibit, suspend, or limit the business operations of any
14 entity engaged in the lawful selling or servicing of a firearm or
15 ammunition, including any components or accessories, ammunition-
16 reloading equipment and supplies, or personal weapons other than
17 firearms.

18 (e) Prohibit, suspend, or limit the business operations of any
19 indoor or outdoor shooting range, whether located on state lands or
20 not, or any entity engaged in providing firearms safety, firearms
21 training, firearms license qualification or requalification,
22 firearms safety instructor courses, or any similar class, course,
23 or program.

24 (f) Place restrictions or quantity limitations on any entity
25 regarding the lawful sale or servicing of any of the following:

26 (i) A firearm, including any component or accessory of a
27 firearm.

28 (ii) Ammunition, including any component or accessory of
29 ammunition.

1 (iii) Ammunition-reloading equipment and supplies.

2 (iv) A deadly weapon other than a firearm.

3 (g) Suspend, restrict, or prohibit otherwise lawful hunting,
4 fishing, or trapping activities or business entities conducting or
5 directly facilitating lawful hunting, trapping, or fishing
6 activities, whether conducted on state lands and waters or not.

7 (6) A person, group, or entity adversely affected by an
8 executive order, proclamation, directive, or other action enacted
9 or enforced in violation of this section may file an action for
10 damages, injunctive relief, declaratory relief, or other
11 appropriate redress in the court having appropriate subject matter
12 jurisdiction.

13 (7) In addition to any actual damages awarded against the
14 governor, state agency, political subdivision, or any other elected
15 or appointed official or employee of this state or of a political
16 subdivision, and other relief provided with respect to such an
17 action, the court shall award reasonable court costs and expenses,
18 including litigation costs and attorney fees, to any person, group,
19 or entity that brings the action, regardless of whether the
20 executive order, proclamation, directive, or other action enacted
21 or the manner of its enforcement is repealed or rescinded or
22 expires after the civil action was filed but prior to a final court
23 determination of the action.

24 Sec. 5. (1) In addition to the general authority granted to
25 the governor by this act, the governor may, upon the declaration of
26 a state of disaster or a state of emergency do 1 or more of the
27 following:

28 (a) Suspend a regulatory statute, order, or rule prescribing
29 the procedures for conduct of state business, when strict

1 compliance with the statute, order, or rule would prevent, hinder,
2 or delay necessary action in coping with the disaster or emergency.
3 This power does not extend to the suspension of criminal process
4 and procedures.

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

9 (c) Transfer the direction, personnel, or functions of state
10 departments, agencies, or units thereof for the purpose of
11 performing or facilitating emergency management.

12 (d) Subject to appropriate compensation, as authorized by the
13 legislature, commandeer or utilize private property necessary to
14 cope with the disaster or emergency.

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

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

21 (g) Control ingress and egress to and from a stricken or
22 threatened area, removal of persons within the area, and the
23 occupancy of premises within the area.

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

26 (i) Provide for the availability and use of temporary
27 emergency housing.

28 (j) ~~Direct~~**Except as provided in section 3(5), direct** all
29 other actions which are necessary and appropriate under the

1 circumstances.

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

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