

58-2-107. Emergency management powers of the governor.

(a)

(1) The governor is responsible for addressing the dangers presented to this state and its people by emergencies. In the event of an emergency beyond local control, the governor, or, in the governor's absence, the governor's successor as provided by law, may assume direct operational control over all or any part of the emergency management functions within this state, and such person has the power through proper process of law to carry out this chapter. The governor is authorized to delegate such powers as the governor may deem prudent.

(2) Pursuant to the authority vested in the governor under subdivision (a) (1), the governor may issue executive orders, proclamations, and rules and may amend or rescind them. Such executive orders, proclamations, and rules have the force and effect of law.

(b)

(1) The governor or the governor's designee, shall declare a state of emergency or a disaster declaration in one (1) of two (2) ways:

(A) By executive order or proclamation; or

(B) By the activation of the TEMP.

(2) These two (2) types of threats may be declared by the governor if the governor finds an emergency has occurred or the occurrence of threat thereof is imminent. The state of emergency shall continue until the governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and the governor terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than forty-five (45) days unless renewed by the governor. All executive orders or proclamations issued under this section shall indicate the nature of the emergency, the area or areas threatened, and the conditions which have brought the emergency about or which make possible its termination. An executive order or proclamation shall be promptly disseminated by means calculated to bring its contents to the attention of the general public; and, unless the circumstances attendant upon the emergency prevent or impede such filing, the order or proclamation shall be filed promptly with the department of state and in the office of the chief executive officer in each county to which the order or proclamation applies.

(c) An executive order or proclamation of a state of emergency shall:

(1) Activate the emergency mitigation, response, and recovery aspects of the state, local, and interjurisdictional emergency management plans applicable to the political subdivision or area in question;

(2) Be authority for the deployment and use of any forces to which the plan or plans apply and for the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other law relating to emergencies; and

(3) Identify whether the state of emergency is due to a minor, major, or catastrophic disaster.

(d) During the continuance of a state emergency, the governor is commander in chief of the Tennessee national guard and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or rules, but nothing in this section restricts the governor's authority to do so by orders issued at the time of the emergency.

(e) In addition to any other powers conferred upon the governor by law, the governor may:

(1) Suspend any law, order, rule or regulation prescribing the procedures for conduct of state business or the orders or rules or regulations of any state agency, if strict compliance with any such law, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the state government and of each political subdivision of the state, as reasonably necessary to cope with the emergency;

(3) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Subject to any applicable requirements for compensation, commandeer or utilize any private property, which term shall not be construed to include firearms, ammunition, or firearm or ammunition components, if the governor finds this necessary to cope with the emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery;

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) Control ingress and egress to and from an emergency area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, or combustibles, which terms shall not be construed to include firearms, ammunition, or firearm or ammunition components;

(9) Make provision for the availability and use of temporary emergency housing;

(10) Take effective measures for limiting or suspending lighting devices and appliances, gas and water mains, electric power distribution, and all other utility services in the general public interest;

(11) Take measures concerning the conduct of civilians, the movement and cessation of movement of pedestrian and vehicular traffic prior to, during, and subsequent to drills and actual or threatened emergencies, the calling of public meetings and gatherings, and the evacuation and reception of civilian population, as provided in the TEMP and political subdivisions thereof; and

(12) Authorize the use of forces already mobilized as the result of an executive order, rule, or proclamation to assist the private citizens of the state in clean up and recovery operations during emergencies when proper permission to enter onto or into private property has been obtained from the property owner.

(f) The governor shall take such action and give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with this chapter and with the orders and rules made pursuant thereto.

(g) The governor shall employ such measures and give such directions to the department of health and department of human services, division of vocational rehabilitation, as may be reasonable and necessary for the purpose of securing compliance with this chapter or with the findings or recommendations of such agency by reason of conditions arising from emergencies or threats of emergency.

(h) The governor shall delegate emergency responsibilities to the officers and agencies of the state and of the political subdivisions thereof prior to an emergency or threat of an emergency, and shall utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof, including their personnel and other resources, as the primary emergency management forces of the state, and all such officers and agencies shall cooperate with and extend their services and facilities to the agency, as it may require.

(i) The governor and the agency shall establish agencies and offices and appoint executive, professional, technical, clerical and other personnel as may be necessary to carry out this chapter.

(j) The governor shall formulate and execute plans and rules for the control of traffic in order to provide for the rapid and safe movement or evacuation over public highways and streets of people, troops, or vehicles and materials for national defense or for use in any defense industry, and may coordinate the activities of the departments or agencies of the state and the political subdivisions thereof concerned directly or indirectly with public highways and streets in a manner which will effectuate such plans.

(k) The governor may delegate to the director of TEMA the authority to declare a state of emergency in order that certain commercial vehicles engaged in the distribution of electric power, the supply of fuel, or telecommunications services to residences and businesses may be considered to be participating in an emergency relief effort for the purpose of the federal hours-of-service regulations promulgated by the federal motor carrier safety administration. Pursuant to the delegation of authority granted by this subsection (k), the director of TEMA may declare a state of emergency prospectively in anticipation of an emergency.

(l)

(1) If the governor of Tennessee declares an emergency in response to a catastrophic or major disaster, voluntary health care providers, including hospitals and community mental health care centers, participating in the Emergency Management Assistance Compact or Southern Regional Emergency Management Assistance Compact are immune from liability in providing the health care to victims or evacuees of the catastrophic or major disaster, as long as the services are provided within the limits of the provider's license, certification or authorization, unless an act or omission was the result of gross negligence or willful misconduct.

(2) If additional medical resources are required, the governor, by executive order, may provide limited liability protection to health care providers, including hospitals and community mental health care centers and those licensed, certified or authorized under titles 33, 63 or 68, and who render services within the limits of their license, certification or authorization to victims or evacuees of such emergencies; provided, however, that this protection may not include any act or omission caused by gross negligence or willful misconduct.

(3) The duration of the protection provided by this subsection *(l)* shall not exceed thirty (30) days, but may be extended by the governor by executive order for an additional thirty (30) days, if required to ensure the provision of emergency medical services in response to the catastrophic or major disaster.

(m) During any state of emergency, major disaster or natural disaster, the state, a political subdivision or a public official shall not prohibit nor impose additional restrictions on the lawful possession, transfer, sale, transport, carrying, storage, display or use of firearms and ammunition or firearm and ammunition components.

(n) During a state of emergency, major disaster, or natural disaster, the state, a political subdivision, or a public official shall not prohibit the operations of a church or religious organization for purposes of worship services.