

CHAPTER 31

GOVERNMENT - STATE

HOUSE BILL 00-1077

BY REPRESENTATIVES Witwer, Bacon, Berry, Chavez, Clarke, Decker, Gagliardi, Gordon, Gotlieb, Hoppe, Keller, Kester, Mace, Miller, Morrison, Saliman, Scott, Smith, Spence, Tapia, Tate, Taylor, Tochtrop, Vigil, S. Williams, and Windels; also SENATORS Arnold, Epps, Evans, and Wham.

AN ACT

CONCERNING THE CREATION OF THE GOVERNOR'S EXPERT EMERGENCY EPIDEMIC RESPONSE COMMITTEE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-32-2103 (1), Colorado Revised Statutes, is amended, and the said 24-32-2103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-32-2103. Definitions. As used in this part 21, unless the context otherwise requires:

(1) ~~"Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, or hostile military or paramilitary action.~~ "BIOTERRORISM" MEANS THE INTENTIONAL USE OF MICROORGANISMS OR TOXINS OF BIOLOGICAL ORIGIN TO CAUSE DEATH OR DISEASE AMONG HUMANS OR ANIMALS.

(1.3) "COMMITTEE" MEANS THE GOVERNOR'S EXPERT EMERGENCY EPIDEMIC RESPONSE COMMITTEE CREATED IN SECTION 24-32-2104.

(1.5) "DISASTER" MEANS THE OCCURRENCE OR IMMINENT THREAT OF WIDESPREAD OR SEVERE DAMAGE, INJURY, OR LOSS OF LIFE OR PROPERTY RESULTING FROM ANY NATURAL CAUSE OR CAUSE OF HUMAN ORIGIN, INCLUDING BUT NOT LIMITED TO FIRE, FLOOD, EARTHQUAKE, WIND, STORM, WAVE ACTION, HAZARDOUS SUBSTANCE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

INCIDENT, OIL SPILL OR OTHER WATER CONTAMINATION REQUIRING EMERGENCY ACTION TO AVERT DANGER OR DAMAGE, VOLCANIC ACTIVITY, EPIDEMIC, AIR POLLUTION, BLIGHT, DROUGHT, INFESTATION, EXPLOSION, CIVIL DISTURBANCE, OR HOSTILE MILITARY OR PARAMILITARY ACTION.

(1.7) "EMERGENCY EPIDEMIC" MEANS CASES OF AN ILLNESS OR CONDITION, COMMUNICABLE OR NONCOMMUNICABLE, CAUSED BY BIOTERRORISM, PANDEMIC INFLUENZA, OR NOVEL AND HIGHLY FATAL INFECTIOUS AGENTS OR BIOLOGICAL TOXINS.

(1.9) "PANDEMIC INFLUENZA" MEANS A WIDESPREAD EPIDEMIC OF INFLUENZA CAUSED BY A HIGHLY VIRULENT STRAIN OF THE INFLUENZA VIRUS.

SECTION 2. 24-32-2104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-32-2104. The governor and disaster emergencies. (8) (a) THERE IS HEREBY CREATED A GOVERNOR'S EXPERT EMERGENCY EPIDEMIC RESPONSE COMMITTEE. THE DUTIES OF THE COMMITTEE SHALL BE TO DEVELOP BY JULY 1, 2001, A NEW SUPPLEMENT TO THE STATE DISASTER PLAN THAT IS CONCERNED WITH THE PUBLIC HEALTH RESPONSE TO ACTS OF BIOTERRORISM, PANDEMIC INFLUENZA, AND EPIDEMICS CAUSED BY NOVEL AND HIGHLY FATAL INFECTIOUS AGENTS AND TO PROVIDE EXPERT PUBLIC HEALTH ADVICE TO THE GOVERNOR IN THE EVENT OF AN EMERGENCY EPIDEMIC. THE COMMITTEE SHALL MEET AT LEAST ANNUALLY TO REVIEW AND AMEND THE SUPPLEMENT AS NECESSARY. THE COMMITTEE SHALL PROVIDE INFORMATION TO AND FULLY COOPERATE WITH THE COUNCIL.

(b) (I) STATE MEMBERS OF THE COMMITTEE SHALL INCLUDE THE FOLLOWING:

(A) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(B) THE CHIEF MEDICAL OFFICER OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(C) THE CHIEF PUBLIC INFORMATION OFFICER OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(D) THE EMERGENCY RESPONSE COORDINATOR FOR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(E) THE STATE EPIDEMIOLOGIST FOR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(F) A HOSPITAL INFECTIOUS DISEASE CONTROL PRACTITIONER;

(G) THE PRESIDENT OF THE BOARD OF HEALTH OR THE PRESIDENT'S DESIGNEE;

(H) THE PRESIDENT OF THE STATE MEDICAL SOCIETY OR THE PRESIDENT'S DESIGNEE;

(I) THE PRESIDENT OF THE COLORADO HEALTH AND HOSPITAL ASSOCIATION OR THE PRESIDENT'S DESIGNEE;

(J) THE STATE VETERINARIAN;

(K) A WILDLIFE DISEASE SPECIALIST WITH THE DIVISION OF WILDLIFE;

(L) A PHARMACIST MEMBER OF THE STATE BOARD OF PHARMACY; AND

(M) THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT.

(II) IN ADDITION TO THE STATE MEMBERS OF THE COMMITTEE, THE GOVERNOR SHALL APPOINT TO THE COMMITTEE AN INDIVIDUAL FROM EACH OF THE FOLLOWING CATEGORIES:

(A) A LICENSED PHYSICIAN WHO SPECIALIZES IN INFECTIOUS DISEASES;

(B) A LICENSED PHYSICIAN WHO SPECIALIZES IN EMERGENCY MEDICINE;

(C) A MEDICAL EXAMINER;

(D) A SPECIALIST IN POSTTRAUMATIC STRESS MANAGEMENT;

(E) A DIRECTOR OF A LOCAL PUBLIC HEALTH DEPARTMENT; AND

(F) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE.

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL SERVE AS THE CHAIR OF THE COMMITTEE. A MAJORITY OF THE MEMBERSHIP OF THE COMMITTEE, NOT INCLUDING VACANT POSITIONS, SHALL CONSTITUTE A QUORUM.

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL SERVE AS AN EX OFFICIO MEMBER OF THE COMMITTEE AND SHALL NOT BE ABLE TO VOTE ON DECISIONS OF THE COMMITTEE. THE EXECUTIVE DIRECTOR SHALL SERVE AS A LIAISON BETWEEN THE COMMITTEE, THE COUNCIL, AND THE COLORADO EMERGENCY PLANNING COMMISSION IN THE EVENT OF AN EMERGENCY EPIDEMIC.

(c) THE COMMITTEE SHALL INCLUDE IN THE SUPPLEMENT TO THE STATE DISASTER PLAN A PROPOSAL FOR THE PRIORITIZATION, ALLOCATION, STORAGE, PROTECTION, AND DISTRIBUTION OF ANTIBIOTIC MEDICINES, ANTIVIRAL MEDICINES, ANTIDOTES, AND VACCINES THAT MAY BE NEEDED AND IN SHORT SUPPLY IN THE EVENT OF AN EMERGENCY EPIDEMIC.

(d) THE COMMITTEE SHALL CONVENE AT THE CALL OF THE GOVERNOR OR THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO CONSIDER EVIDENCE PRESENTED BY THE DEPARTMENT'S CHIEF MEDICAL OFFICER OR STATE EPIDEMIOLOGIST THAT THERE IS AN OCCURRENCE OR IMMINENT THREAT OF AN EMERGENCY EPIDEMIC. IF THE COMMITTEE FINDS THAT THERE IS AN OCCURRENCE OR IMMINENT THREAT OF AN EMERGENCY EPIDEMIC, THE EXECUTIVE DIRECTOR OF THE

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ADVISE THE GOVERNOR TO DECLARE A DISASTER EMERGENCY.

(e) IN THE EVENT OF AN EMERGENCY EPIDEMIC THAT HAS BEEN DECLARED A DISASTER EMERGENCY, THE COMMITTEE SHALL CONVENE AS RAPIDLY AND AS OFTEN AS NECESSARY TO ADVISE THE GOVERNOR, WHO SHALL ACT BY EXECUTIVE ORDER, REGARDING REASONABLE AND APPROPRIATE MEASURES TO REDUCE OR PREVENT SPREAD OF THE DISEASE, AGENT, OR TOXIN AND TO PROTECT THE PUBLIC HEALTH. SUCH MEASURES MAY INCLUDE, BUT ARE NOT LIMITED TO:

(I) PROCURING OR TAKING SUPPLIES OF MEDICINES AND VACCINES;

(II) ORDERING PHYSICIANS AND HOSPITALS TO TRANSFER OR CEASE ADMISSION OF PATIENTS OR PERFORM MEDICAL EXAMINATIONS OF PERSONS;

(III) ISOLATING OR QUARANTINING PERSONS OR PROPERTY;

(IV) DETERMINING WHETHER TO SEIZE, DESTROY, OR DECONTAMINATE PROPERTY OR OBJECTS THAT MAY THREATEN THE PUBLIC HEALTH;

(V) DETERMINING HOW TO SAFELY DISPOSE OF CORPSES AND INFECTIOUS WASTE;

(VI) ASSESSING THE ADEQUACY AND POTENTIAL CONTAMINATION OF FOOD AND WATER SUPPLIES;

(VII) PROVIDING MENTAL HEALTH SUPPORT TO AFFECTED PERSONS; AND

(VIII) INFORMING THE CITIZENS OF THE STATE HOW TO PROTECT THEMSELVES, WHAT ACTIONS ARE BEING TAKEN TO CONTROL THE EPIDEMIC, AND WHEN THE EPIDEMIC IS OVER.

SECTION 3. Part 21 of article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-2111.5. Governor's expert emergency epidemic response committee - compensation - liability. (1) NEITHER THE STATE NOR THE MEMBERS OF THE EXPERT EMERGENCY EPIDEMIC RESPONSE COMMITTEE DESIGNATED OR APPOINTED PURSUANT TO SECTION 24-32-2104 (8) SHALL BE LIABLE FOR ANY CLAIM BASED UPON THE COMMITTEE'S ADVICE TO THE GOVERNOR OR THE ALLEGED NEGLIGENT EXERCISE OR PERFORMANCE OF, OR FAILURE TO EXERCISE OR PERFORM AN ACT RELATING TO AN EMERGENCY EPIDEMIC. LIABILITY AGAINST A MEMBER OF THE COMMITTEE MAY BE FOUND ONLY FOR WANTON OR WILLFUL MISCONDUCT OR WILLFUL DISREGARD OF THE BEST INTERESTS OF PROTECTING AND MAINTAINING THE PUBLIC HEALTH. DAMAGES AWARDED ON THE BASIS OF SUCH LIABILITY SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS FOR ANY INJURY TO OR DAMAGE SUFFERED BY ONE PERSON OR THREE HUNDRED THOUSAND DOLLARS FOR AN INJURY TO OR DAMAGE SUFFERED BY THREE OR MORE PERSONS IN THE COURSE OF AN EMERGENCY EPIDEMIC.

(2) THE CONDUCT AND MANAGEMENT OF THE AFFAIRS AND PROPERTY OF EACH HOSPITAL, PHYSICIAN, HEALTH INSURER OR MANAGED HEALTH CARE ORGANIZATION, HEALTH CARE PROVIDER, PUBLIC HEALTHWORKER, OR EMERGENCY MEDICAL SERVICE

PROVIDER SHALL BE SUCH THAT THEY WILL REASONABLY ASSIST AND NOT UNREASONABLY DETRACT FROM THE ABILITY OF THE STATE AND THE PUBLIC TO SUCCESSFULLY CONTROL EMERGENCY EPIDEMICS THAT ARE DECLARED A DISASTER EMERGENCY. SUCH PERSONS AND ENTITIES THAT IN GOOD FAITH COMPLY COMPLETELY WITH BOARD OF HEALTH RULES REGARDING THE EMERGENCY EPIDEMIC AND WITH EXECUTIVE ORDERS REGARDING THE DISASTER EMERGENCY SHALL BE IMMUNE FROM CIVIL OR CRIMINAL LIABILITY FOR ANY ACTION TAKEN TO COMPLY WITH THE EXECUTIVE ORDER OR RULE.

(3) NO PERSONAL SERVICES MAY BE COMPENSATED BY THE STATE OR ANY SUBDIVISION OR AGENCY OF THE STATE, EXCEPT PURSUANT TO STATUTE OR LOCAL LAW OR ORDINANCE.

(4) COMPENSATION FOR PROPERTY SHALL BE MADE ONLY IF THE PROPERTY WAS COMMANDEERED OR OTHERWISE USED IN COPING WITH AN EMERGENCY EPIDEMIC THAT IS DECLARED BY THE GOVERNOR OR A MEMBER OF THE DISASTER EMERGENCY FORCES OF THIS STATE.

(5) THE AMOUNT OF COMPENSATION SHALL BE CALCULATED IN THE SAME MANNER AS COMPENSATION DUE FOR TAKING OF PROPERTY PURSUANT TO EMINENT DOMAIN PROCEDURES, AS PROVIDED IN ARTICLES 1 TO 7 OF TITLE 38, C.R.S.

SECTION 4. 24-32-2202 (3) and (4), Colorado Revised Statutes, are amended to read:

24-32-2202. Definitions. As used in this part 22, unless the context otherwise requires:

(3) "Civil defense worker" means any natural person who is registered with the office of emergency management or with a local organization for civil defense for the purpose of engaging in civil defense service pursuant to the provisions of this part 22 without pay or other consideration OR IS A PHYSICIAN, HEALTH CARE PROVIDER, PUBLIC HEALTH WORKER, OR EMERGENCY MEDICAL SERVICE PROVIDER WHO IS ORDERED BY THE GOVERNOR OR A MEMBER OF THE DISASTER EMERGENCY FORCES OF THIS STATE TO PROVIDE SPECIFIC MEDICAL OR PUBLIC HEALTH SERVICES DURING AND RELATED TO AN EMERGENCY EPIDEMIC AND WHO COMPLIES WITH SUCH AN ORDER WITHOUT PAY OR OTHER CONSIDERATION.

(4) "Injury" means and includes all accidental injuries and all occupational diseases recognized and compensated by the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., AS WELL AS ANY ILLNESS THAT IS CAUSED BY AN EMERGENCY EPIDEMIC DECLARED TO BE A DISASTER EMERGENCY.

SECTION 5. 25-1-107 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-1-107. Powers and duties of the department - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(a.5) (I) TO INVESTIGATE AND MONITOR THE SPREAD OF DISEASE THAT IS

CONSIDERED PART OF AN EMERGENCY EPIDEMIC AS DEFINED IN SECTION 24-32-2103 (1.7), C.R.S., TO DETERMINE THE EXTENT OF ENVIRONMENTAL CONTAMINATION RESULTING FROM THE EMERGENCY EPIDEMIC, AND TO RAPIDLY PROVIDE EPIDEMIOLOGICAL AND ENVIRONMENTAL INFORMATION TO THE GOVERNOR'S EXPERT EMERGENCY EPIDEMIC RESPONSE COMMITTEE, CREATED IN SECTION 24-32-2104 (8), C.R.S.

(II) EXCEPT AS OTHERWISE DIRECTED BY EXECUTIVE ORDER OF THE GOVERNOR, THE DEPARTMENT SHALL EXERCISE ITS POWERS AND DUTIES TO CONTROL EPIDEMIC AND COMMUNICABLE DISEASES AND PROTECT THE PUBLIC HEALTH AS SET OUT IN THIS SECTION.

(III) THE DEPARTMENT MAY ACCEPT AND EXPEND FEDERAL FUNDS, GIFTS, GRANTS, AND DONATIONS FOR THE PURPOSES OF AN EMERGENCY EPIDEMIC OR PREPARATION FOR AN EMERGENCY EPIDEMIC.

SECTION 6. 25-1-108 (1) (c), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

25-1-108. Powers and duties of the state board of health. (1) In addition to all other powers and duties conferred and imposed upon the state board of health by the provisions of this part 1, the board has the following specific powers and duties:

(c) (VI) TO ADOPT RULES AND TO ESTABLISH SUCH STANDARDS AS THE BOARD MAY DEEM NECESSARY OR PROPER TO ASSURE THAT HOSPITALS, OTHER ACUTE CARE FACILITIES, LOCAL PUBLIC HEALTH DEPARTMENTS, TRAUMA CENTERS, AREA TRAUMA ADVISORY COUNCILS, AND MANAGED CARE ORGANIZATIONS ARE PREPARED FOR AN EMERGENCY EPIDEMIC, AS DEFINED IN SECTION 24-32-2103 (1.7), C.R.S., THAT IS DECLARED TO BE A DISASTER EMERGENCY, INCLUDING THE IMMEDIATE INVESTIGATION OF ANY CASE OF A SUSPECTED EMERGENCY EPIDEMIC.

SECTION 7. Effective date. This act shall take effect upon signature of the governor.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 15, 2000