

SECOND REGULAR SESSION

# HOUSE BILL NO. 1817

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BEHNEN (Sponsor), MUNZLINGER, HOBBS, CHINN, SMITH (150), WOOD, FISHER, PHILLIPS, COOPER (120), BAKER (123), WILSON (119), WELLS, MCGHEE, RUESTMAN, STEVENSON, TILLEY, WHORTON, HUNTER, NIEVES, SELF, SANDER AND SCHAD (Co-sponsors).

Read 1st time February 20, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

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### AN ACT

To repeal section 44.100, RSMo, and to enact in lieu thereof one new section relating to the governor's powers to regulate firearms during a state of emergency.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 44.100, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 44.100, to read as follows:

44.100. 1. The emergency powers of the governor shall be as follows:

(1) The provisions of this section shall be operative only during the existence of a state of emergency (referred to in this section as "emergency"). The existence of an emergency may be proclaimed by the governor or by resolution of the legislature, if the governor in his **or her** proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of major proportions has actually occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.

(2) Any emergency, whether proclaimed by the governor or by the legislature, shall terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a resolution terminating such emergency.

(3) During the period that the state of emergency exists or continues, the governor shall:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12           (a) Enforce and put into operation all plans, rules and regulations relating to disasters and  
13 emergency management of resources adopted under this law and to assume direct operational  
14 control of all emergency forces and volunteers in the state;

15           (b) Take action and give directions to state and local law enforcement officers and  
16 agencies as may be reasonable and necessary for the purpose of securing compliance with the  
17 provisions of this law and with the orders, rules and regulations made pursuant thereof;

18           (c) Seize, take or requisition to the extent necessary to bring about the most effective  
19 protection of the public:

20           a. Any means of transportation, other than railroads and railroad equipment and fuel, and  
21 all fuel necessary for the propulsion thereof;

22           b. Any communication system or part thereof necessary to the prompt and efficient  
23 functioning of the emergency management of the state;

24           c. All stocks of fuel;

25           d. Facilities for housing, feeding and hospitalization of persons, including buildings and  
26 plants;

27           (d) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on  
28 shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel,  
29 clothing and other commodities, materials, goods or services;

30           (e) Prescribe and direct activities in connection with but not limited to use, conservation,  
31 salvage and prevention of waste of materials, services and facilities, including production,  
32 transportation, power and communication facilities, training and supply of labor, utilization of  
33 industrial plants, health and medical care, nutrition, housing, including the use of existing and  
34 private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection  
35 and other essential civil needs;

36           (f) To use or distribute all or any of this property among the inhabitants of the state in  
37 any area adversely affected by a natural or man-made disaster and to account to the state treasurer  
38 for any funds received thereof;

39           (g) To waive or suspend the operation of any statutory requirement or administrative rule  
40 regarding the licensing, certification or issuance of permits evidencing professional, mechanical  
41 or other skills;

42           (h) In accordance with rules or regulations, to provide that all law enforcement  
43 authorities and other emergency response workers and agencies of other states who may be  
44 within this state at the request of the governor or pursuant to state or local mutual-aid agreements  
45 or compacts shall have the same authority and possess the same powers, duties, rights, privileges  
46 and immunities as are possessed by like law enforcement authorities and emergency response  
47 workers and agencies of this state;

48 (i) To perform and exercise such other functions, powers and duties as may be necessary  
49 to promote and secure the safety and protection of the civilian population.

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51 **However, nothing in this subsection shall be construed to authorize the confiscation of**  
52 **firearms or other weapons whose possession and use is not a crime, municipal ordinance**  
53 **violation, or an infraction, neither shall this subsection be construed to authorize the**  
54 **seizure of firearms lawfully held under the individual right to bear arms provision of**  
55 **Section 23, Article I of the Missouri Constitution or to allow the revocation of firearms**  
56 **permits or the restriction of any privileges and defenses afforded to those persons who**  
57 **possess lawfully issued permits to carry firearms under the provisions of section 571.101,**  
58 **RSMo.**

59 2. When any property is seized, taken or requisitioned under this section, the circuit court  
60 of the county in which the property was taken may on the application of the owner thereof or on  
61 the application of the governor in cases where numerous claims may be filed, appoint three  
62 disinterested commissioners in the manner provided by section 523.040, RSMo, to assess the  
63 damages which the owners may have sustained by reason of the appropriation thereof. Upon the  
64 application the amount due because of the seizure of property shall be determined in the manner  
65 provided in chapter 523, RSMo, for the determination of damages in case of the exercise of the  
66 power of eminent domain.

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