

SECOND REGULAR SESSION

HOUSE BILL NO. 1609

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (155) (Sponsor), SCHAD, STEVENSON,
EMERY AND ONDER (Co-Sponsors).

Read 1st time January 10, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3914L.01I

AN ACT

To repeal section 44.100, RSMo, and to enact in lieu thereof three new sections relating to emergency triage guidelines for care, with an emergency clause.

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

Section A. Section 44.100, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 44.100, 44.108, and 192.825, to read as follows: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 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:

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

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.

- 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) To waive or suspend the operation of any statutory requirement or administrative rule
43 prescribing procedures for conducting state business, where strict compliance with such
44 requirements and rules would prevent, hinder, or delay necessary action by the department of
45 health and senior services to respond to a declared emergency or increased health threat to the
46 population;
- 47 (i) In accordance with rules or regulations, to provide that all law enforcement authorities
48 and other emergency response workers and agencies of other states who may be within this state
49 at the request of the governor or pursuant to state or local mutual-aid agreements or compacts
50 shall have the same authority and possess the same powers, duties, rights, privileges and

51 immunities as are possessed by like law enforcement authorities and emergency response
52 workers and agencies of this state;

53 (j) To perform and exercise such other functions, powers and duties as may be necessary
54 to promote and secure the safety and protection of the civilian population;

55 **(k) To temporarily waive or suspend any statutory restrictions or administrative**
56 **rules prescribing the scope of practice of health care providers shall be determined with**
57 **advice and guidance from the emergency triage guidelines for care task force as established**
58 **in section 192.825, 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.

44.108. 1. As used in this section, "emergency triage guidelines for care" means a
2 **system for health care delivery during an emergency, as described in section 44.100,**
3 **addressing public health goals while serving an individual patient to ensure that limited**
4 **resources are used as effectively as possible.**

5 **2. The department of health and senior services shall develop guidelines for health**
6 **care providers to implement and follow in their emergency triage guidelines for care plans.**
7 **In developing guidelines, the department shall consider recommendations from the**
8 **emergency triage guidelines for care task force as established in section 192.825, RSMo.**

9 **3. The department's emergency triage guidelines for care shall include tiers that**
10 **recognize the severity of health threats during emergencies.**

11 **4. Health care providers shall be immune from any civil liability or administrative**
12 **sanctions for any failure to exercise the skill and learning of an ordinarily careful health**
13 **care provider in similar circumstances, but shall be liable for damages due to willful and**
14 **wanton acts or wanton omissions in the delivery of health care necessitated by the**
15 **emergency that is in accordance to an emergency triage guidelines for care that complies**
16 **with department guidelines.**

17 **5. The department may promulgate rules to implement the provisions of this**
18 **section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
19 **that is created under the authority delegated in this section shall become effective only if**
20 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**

21 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
22 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
23 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
24 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
25 adopted after the effective date of this section shall be invalid and void.

192.825. 1. There is hereby created an "Emergency Triage Guidelines for Care
2 Task Force" within the department of health and senior services. The task force shall:

3 (1) Recommend emergency triage guidelines for care for use by health care
4 providers during emergencies to implement altered standards of care plans; and

5 (2) Develop recommendations regarding the waiver or suspension of any statutory
6 restrictions or administrative rules prescribing the scope of practice of health care
7 providers during a declared state of emergency.

8 2. The task force shall adhere to the following principles in developing the
9 guidelines:

10 (1) Patient rights and civil liberties shall be protected as much as practicable;

11 (2) Guidance shall be provided for the allocation of scarce resources to maximize
12 the number of lives saved;

13 (3) Guidelines shall be developed on the basis of the best available medical
14 information, clinical knowledge, and strict medical ethics;

15 (4) Guidelines shall be implemented without discrimination or regard for sex, race,
16 religion, ethnicity, disability, age, income, or insurance status; and

17 (5) Deliberations and decisions by the task force shall involve the general public as
18 much as practicable.

19 3. The director of the department of health and senior services shall determine the
20 number of and appoint all task force members. In making the appointments, the director
21 shall give consideration to individuals having experience in the practice of medicine,
22 administering health care facilities, health care law, medical ethics, emergency
23 management, caring for individuals with special needs, and the state's religious
24 community.

25 4. Members of the general assembly may participate in task force proceedings as
26 ex officio members of the task force.

27 5. This section shall expire August 30, 2009.

Section B. Because immediate action is necessary to respond immediately in the wake
2 of a state of emergency, section A of this act is deemed necessary for the immediate preservation
3 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act

4 within the meaning of the constitution, and section A of this act shall be in full force and effect
5 upon its passage and approval.

✓