

TITLE 46  
MILITIA AND MILITARY AFFAIRS  
CHAPTER 6

MARTIAL LAW AND ACTIVE DUTY

**46-601.** AUTHORITY OF GOVERNOR. (1) The governor shall have the power in the event of a state of extreme emergency to order into the active service of the state, the national guard, or any part thereof, and the organized militia, or any part thereof, or both as he may deem proper.

"State of extreme emergency" means: (a) the duly proclaimed existence of conditions of extreme peril to the safety of persons and property within the state, or any part thereof, caused by an enemy attack or threatened attack; or (b) the duly proclaimed existence of conditions of extreme peril to the safety of persons and property within the state, or any part thereof, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake, insurrection, breach of the peace, which conditions by reason of their magnitude are or are likely to be beyond the control of the services, personnel, equipment and facilities of any county, any city, or any city and county.

(2) During a period of a state of extreme emergency, the governor shall have complete authority over all agencies of the state government, including all separate boards and commissions, and the right to exercise within the area or regions wherein the state of extreme emergency exists all police power vested in the state by the constitution and the laws of the state of Idaho. In the exercise thereof he is authorized to promulgate, issue and enforce rules, regulations and orders which he considers necessary for the protection of life and property. Such rules, regulations and orders shall, whenever practicable, be prepared in advance of extreme emergency and the governor shall cause widespread publicity and notice to be given of such rules, regulations and orders. Rules, regulations and orders issued under the authority of this section and prepared in advance of a state of extreme emergency shall not become operative until the governor proclaims a state of extreme emergency. Such rules, regulations and orders shall be in writing and shall take effect upon their issuance. They shall be filed in the office of the secretary of state as soon as possible after their issuance. A copy of such rules, regulations and orders shall likewise be filed in the office of the county clerk of each county, any portion of which is included within the area wherein a state of extreme emergency has been proclaimed. Whenever the state of extreme emergency has been ended by either the expiration of the period for which it was proclaimed or the need for said state of extreme emergency has ceased, the governor shall declare the period of the state of extreme emergency to be at an end.

(3) During the continuance of any proclaimed state of extreme emergency, insurrection or martial law, neither the governor nor any agency of any governmental entity or political subdivision of the

state shall impose additional restrictions on the lawful possession, transfer, sale, transport, storage, display or use of firearms or ammunition.

History:

[(46-601) 1927, ch. 261, sec. 5, p. 510; I.C.A., sec. 45-601; am. 1957, ch. 174, sec. 58, p. 312; am. 2009, ch. 215, sec. 1, p. 674.]

TITLE 46  
MILITIA AND MILITARY AFFAIRS  
CHAPTER 10

STATE DISASTER PREPAREDNESS ACT

**46-1008.** THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act, the governor may issue executive orders, proclamations and amend or rescind them. Executive orders and proclamations have the force and effect of law.

(2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the Idaho office of emergency management, the office of the secretary of state and the office of the recorder of each county where the state of disaster emergency applies.

(3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or

arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.

(4) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the militia and may assume command 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 regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.

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

(a) Suspend the provisions of any regulations prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) Utilize all resources of the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during a declared state of disaster emergency;

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

(d) Subject to any applicable requirements for compensation under section [46-1012](#), Idaho Code, commandeer or utilize any private property, real or personal, if he finds this necessary to cope with the disaster emergency;

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

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

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

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

(i) Make provision for the availability and use of temporary emergency housing.

(6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president under the provisions of the disaster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

(a) Enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;

(b) Require as a condition of state assistance that a local taxing district be responsible for paying forty percent (40%) of the nonfederal share of costs incurred by the local taxing district that have been determined to be eligible for reimbursement by the federal

government, provided that the total local share of eligible costs for a taxing district shall not exceed ten percent (10%) of the taxing district's tax charges authorized by section [63-802](#), Idaho Code;

(c) Obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and

(d) Enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs.

(7) During the continuance of any state of disaster emergency, neither the governor nor any agency of any governmental entity or political subdivision of the state shall impose restrictions on the lawful possession, transfer, sale, transport, storage, display or use of firearms or ammunition.

History:

[46-1008, added 1975, ch. 212, sec. 2, p. 584; am. 1981, ch. 89, sec. 1, p. 123; am. 1981, ch. 320, sec. 4, p. 669; am. 1984, ch. 4, sec. 1, p. 7; am. 1996, ch. 208, sec. 11, p. 669; am. 1996, ch. 322, sec. 45, p. 1075; am. 1997, ch. 117, sec. 7, p. 305; am. 2004, ch. 58, sec. 8, p. 274; am. 2006, ch. 264, sec. 1, p. 818; am. 2016, ch. 118, sec. 11, p. 337.]