

HOUSE BILL No. 1244

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-14-3; IC 16-20-1.

Synopsis: State disaster emergency declarations. Provides that during a disaster or emergency beyond local control, any order, rule, or regulation made, amended, or rescinded by the governor limiting the operation of a business or industry shall comply with the following: (1) The limit of the sale of items, the hours of operation, or the manner of operation of a business or industry shall be applied equally to any business or industry. (2) If a limit allows a business or industry the sale of specified items or categories of items, then any business or industry may sell those specified items or categories of items. (3) If a limit allows a business or industry the sale of specified items or categories of items, and as a result, the business or industry is allowed to sell other items not mentioned in the governor's order, rule, or regulation, then any business or industry may sell those other items or continue to sell those other items. (4) The operation of a business or industry may be limited if the limitation is based on a percentage of occupancy of the business or industry determined by the governor that is in compliance with the occupancy classifications described in the Indiana building code adopted by the fire prevention and building safety commission; however, any limitation shall be applied equally to a business or industry having the same building code occupancy classification. Provides that any state or local agency, including the state department of health or local boards of health, shall not impose any restriction greater than what the governor issues by executive order, unless the governor's executive order specifically allows a state or local agency the ability to impose greater restrictions. Provides that if a state disaster emergency and a local emergency is simultaneously declared, a
(Continued next page)

Effective: July 1, 2021.

Clere, Morrison

January 14, 2021, read first time and referred to Committee on Government and Regulatory Reform.



Digest Continued

political subdivision may not impose any restriction greater than what the governor issues by executive order, unless the governor's executive order specifically allows the political subdivision the ability to impose greater restrictions. Limits the authority of the local health board and local health officers under certain circumstances.



Introduced

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1244

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 10-14-3-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) The governor
3 has general direction and control of the agency and is responsible for
4 carrying out this chapter. In the event of disaster or emergency beyond
5 local control, the governor may assume direct operational control over
6 all or any part of the emergency management functions within Indiana.
7 (b) In performing the governor's duties under this chapter, the
8 governor may do the following:
9 (1) Make, amend, and rescind the necessary orders, rules, and
10 regulations to carry out this chapter with due consideration of the
11 plans of the federal government. **However, any order, rule, or**
12 **regulation limiting the operation of a business or industry**
13 **shall comply with the following:**
14 (A) **The limit of the sale of items, the hours of operation, or**
15 **the manner of operation of a business or industry shall be**



- 1 applied equally to any business or industry.
- 2 (B) If a limit described in clause (A) allows the sale of
- 3 specified items or categories of items by a business or
- 4 industry, then any business or industry may sell those
- 5 specified items or categories of items.
- 6 (C) If a limit described in clause (A) allows the sale of
- 7 specified items or categories of items by a business or
- 8 industry, and as a result, the business or industry is
- 9 allowed to sell other items not mentioned in the governor's
- 10 order, rule, or regulation, then any business or industry
- 11 may sell those other items or continue to sell those other
- 12 items.
- 13 (D) The operation of a business or industry may be limited
- 14 if the limitation is based on a percentage of occupancy of
- 15 the business or industry determined by the governor that
- 16 is in compliance with the occupancy classifications
- 17 described in the Indiana building code adopted by the fire
- 18 prevention and building safety commission established
- 19 under IC 22-12-2-1. However, any limitation shall be
- 20 applied equally to a business or industry having the same
- 21 building code occupancy classification described in this
- 22 clause.
- 23 (2) Cooperate with the President of the United States and the
- 24 heads of the armed forces, the Federal Emergency Management
- 25 Agency, and the officers and agencies of other states in matters
- 26 pertaining to emergency management and disaster preparedness,
- 27 response, and recovery of the state and nation. In cooperating
- 28 under this subdivision, the governor may take any measures that
- 29 the governor considers proper to carry into effect any request of
- 30 the President of the United States and the appropriate federal
- 31 officers and agencies for any emergency management action,
- 32 including the direction or control of disaster preparations,
- 33 including the following:
- 34 (A) Mobilizing emergency management forces and other tests
- 35 and exercises.
- 36 (B) Providing warnings and signals for drills, actual
- 37 emergencies, or disasters.
- 38 (C) Shutting off water mains, gas mains, and electric power
- 39 connections and suspending any other utility service.
- 40 (D) Conducting civilians and the movement and cessation of
- 41 movement of pedestrians and vehicular traffic during, before,
- 42 and after drills, actual emergencies, or other disasters.



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- (E) Holding public meetings or gatherings.
- (F) Evacuating and receiving the civilian population.
- (3) Take any action and give any direction to state and local law enforcement officers and agencies as may be reasonable and necessary for securing compliance with this chapter and with any orders, rules, and regulations made under this chapter.
- (4) **Except as provided in subdivision (1)**, employ any measure and give any direction to the state department of health or local boards of health as is reasonably necessary for securing compliance with this chapter or with the findings or recommendations of the state department of health or local boards of health because of conditions arising from actual or threatened:

- (A) national security emergencies; or
- (B) manmade or natural disasters or emergencies.

However, any state or local agency, including the state department of health or local boards of health, shall not impose any restriction greater than what the governor issues by executive order, unless the governor's executive order specifically allows a state or local agency the ability to impose greater restrictions.

- (5) Use the services and facilities of existing officers, agencies of the state, and of political subdivisions. All officers and agencies of the state and of political subdivisions shall cooperate with and extend services and facilities to the governor as the governor may request.
- (6) Establish agencies and offices and appoint executive, technical, clerical, and other personnel necessary to carry out this chapter, including the appointment of full-time state and area directors.

SECTION 2. IC 10-14-3-29, AS AMENDED BY P.L.172-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 29. (a) A local disaster emergency:

- (1) may be declared only by the principal executive officer of a political subdivision; and
- (2) may not be continued or renewed for more than seven (7) days except by or with the consent of the governing board of the political subdivision.

Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly in the office of the clerk of the political subdivision.

- (b) The effect of a declaration of a local disaster emergency is to:



1 (1) activate the response and recovery aspects of all applicable
2 local or interjurisdictional disaster emergency plans; and

3 (2) authorize the furnishing of aid and assistance under the plans.

4 (c) An interjurisdictional agency or official may not declare a local
5 disaster emergency unless expressly authorized by the agreement under
6 which the agency functions. However, an interjurisdictional disaster
7 agency shall provide aid and services according to the agreement.

8 (d) If a local disaster emergency is declared under this section, the
9 political subdivision may not prohibit individuals engaged in
10 employment necessary to:

11 (1) maintain a safe rail system;

12 (2) restore utility service; or

13 (3) provide any other emergency public service;

14 from traveling on the highways within the political subdivision during
15 the local disaster emergency.

16 (e) If a local disaster emergency is declared under this section, the
17 political subdivision may not prohibit individuals trained and certified
18 as first response broadcasters, as set forth in section 22.5 of this
19 chapter, from traveling on the highways within the political subdivision
20 during the local disaster emergency.

21 (f) If a local emergency is declared under this section, the political
22 subdivision may not prohibit individuals trained and certified as first
23 response communications service providers, as set forth in section 22.6
24 of this chapter, from traveling on the highways within the political
25 subdivision during the local disaster emergency.

26 **(g) If a state disaster emergency and a local emergency is**
27 **simultaneously declared under this chapter, a political subdivision**
28 **may not impose any restriction greater than what the governor**
29 **issues by executive order, unless the governor's executive order**
30 **specifically allows the political subdivision the ability to impose**
31 **greater restrictions.**

32 SECTION 3. IC 16-20-1-21 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 21. **Except as**
34 **provided in IC 10-14-3-11 and IC 10-14-3-29**, each local health
35 board has the responsibility and authority to take any action authorized
36 by statute or rule of the state department to control communicable
37 diseases. The board of each local health department or a designated
38 representative may make sanitary and health inspections to carry out
39 this chapter and IC 16-20-8.

40 SECTION 4. IC 16-20-1-24 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 24. (a) **Except as**
42 **provided in IC 10-14-3-11 and IC 10-14-3-29**, local health officers



1 may order schools and churches closed and forbid public gatherings
2 when considered necessary to prevent and stop epidemics.
3 (b) An individual who takes action under this section shall comply
4 with state laws and rules.

