

# SENATE BILL NO. 7

## 101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

2840S.01H

ADRIANE D. CROUSE, Secretary

### AN ACT

To repeal sections 44.010, 44.032, and 44.100, RSMo, and to enact in lieu thereof three new sections relating to emergency powers.

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

Section A. Sections 44.010, 44.032, and 44.100, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be  
3 known as sections 44.010, 44.032, and 44.100, to read as  
4 follows:

44.010. As used in sections 44.010 to 44.130, the  
2 following terms mean:

- 3 (1) "Agency", the state emergency management agency;
- 4 (2) "Bioterrorism", the intentional use of any  
5 microorganism, virus, infectious substance, or biological  
6 product that may be engineered as a result of biotechnology,  
7 or any naturally occurring or bioengineered component of any  
8 such microorganism, virus, infectious substance, or  
9 biological product, to cause death, disease, or other  
10 biological malfunction in a human, an animal, a plant, or  
11 another living organism in order to influence the conduct of  
12 government or to intimidate or coerce a civilian population;
- 13 (3) "Director", the director of the state emergency  
14 management agency;
- 15 (4) "Disasters", disasters which may result from  
16 terrorism, including bioterrorism, or from fire, wind,  
17 flood, earthquake, or other natural or man-made causes;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18           (5) "Disaster area", a geographic area or areas within  
19 the state which have been designated as such by the governor  
20 or by resolution of the general assembly, due to the  
21 occurrence of a disaster, for the purpose of providing  
22 economic or other relief as provided in section 44.032;

23           [(5)] (6) "Economic or geographic area", an area or  
24 areas within the state, or partly in this state and adjacent  
25 states, comprising political subdivisions grouped together  
26 for purposes of administration, organization, control or  
27 disaster recovery and rehabilitation in time of emergency;

28           [(6)] (7) "Emergency", any state of emergency declared  
29 by proclamation by the governor, or by resolution of the  
30 legislature pursuant to sections 44.010 to 44.130 upon the  
31 actual occurrence of a natural or man-made disaster of major  
32 proportions within this state when the safety and welfare of  
33 the inhabitants of this state are jeopardized;

34           [(7)] (8) "Emergency management", government at all  
35 levels performing emergency functions, other than functions  
36 for which military forces are primarily responsible;

37           [(8)] (9) "Emergency management functions", "emergency  
38 management activities" and "emergency management service",  
39 those functions required to prepare for and carry out  
40 actions to prevent, minimize and repair injury and damage  
41 due to disasters, to include emergency management of  
42 resources and administration of such economic controls as  
43 may be needed to provide for the welfare of the people,  
44 either on order of or at the request of the federal  
45 government, or in the event the federal government is  
46 incapable of administering such control;

47           [(9)] (10) "Emergency resources planning and  
48 management", planning for, management and coordination of  
49 national, state and local resources;

50            [(10)] (11) "Executive officer of any political  
51 subdivision", the county commission or county supervisor or  
52 the mayor or other manager of the executive affairs of any  
53 city, town, village or fire protection district;

54            [(11)] (12) "Local organization for emergency  
55 management", any organization established under this law by  
56 any county or by any city, town, or village to perform local  
57 emergency management functions;

58            [(12)] (13) "Management", the activities of the  
59 emergency management director in the implementation of  
60 emergency operations plans during time of emergency;

61            [(13)] (14) "Planning", activities of the state and  
62 local emergency management agency in the formulation of  
63 emergency management plans to be used in time of emergency;

64            [(14)] (15) "Political subdivision", any county or  
65 city, town or village, or any fire district created by law;

66            [(15)] (16) "Urban search and rescue task force", any  
67 entity whose primary responsibility is to locate, remove,  
68 and provide medical care to persons in collapsed buildings.

44.032. 1. The general assembly recognizes the  
2 necessity for anticipating and making advance provisions to  
3 care for the unusual and extraordinary burdens imposed on  
4 this state and its political subdivisions by disasters or  
5 emergencies. To meet such situations, it is the intention  
6 of the general assembly to confer emergency powers on the  
7 governor, acting through the director, and vesting the  
8 governor with adequate power and authority within the  
9 limitation of available funds in the Missouri disaster fund  
10 to meet any such emergency or disaster.

11            2. There is hereby established a fund to be known as  
12 the "Missouri Disaster Fund", to which the general assembly  
13 may appropriate funds and from which funds may be

14 appropriated annually to the state emergency management  
15 agency. The funds appropriated shall be expended during a  
16 state emergency at the direction of the governor and upon  
17 the issuance of an emergency declaration which shall set  
18 forth the emergency, **or the designation of a disaster area**  
19 **as defined in section 44.010**, and shall state that it  
20 requires the expenditure of public funds to furnish  
21 immediate aid and relief. The director of the state  
22 emergency management agency shall administer the fund.

23 3. Expenditures may be made upon direction of the  
24 governor for emergency management, as defined in section  
25 44.010, or to implement the state disaster plans.  
26 Expenditures may also be made to meet the matching  
27 requirements of state and federal agencies for any  
28 applicable assistance programs.

29 4. Assistance may be provided from the Missouri  
30 disaster fund to political subdivisions of this state which  
31 have suffered from a disaster to such an extent as to impose  
32 a severe financial burden exceeding the ordinary reserve  
33 capacity of the subdivision affected. Applications for aid  
34 under this section shall be made to the state emergency  
35 management agency on such forms as may be prescribed and  
36 furnished by the agency, which forms shall require the  
37 furnishing of sufficient information to determine  
38 eligibility for aid and the extent of the financial burden  
39 incurred. The agency may call upon other agencies of the  
40 state in evaluating such applications. The director of the  
41 state emergency management agency shall review each  
42 application for aid under the provisions of this section and  
43 recommend its approval or disapproval, in whole or in part,  
44 to the governor. If approved, the governor shall determine  
45 and certify to the director of the state emergency

46 management agency the amount of aid to be furnished. The  
47 director of the state emergency management agency shall  
48 thereupon issue his voucher to the commissioner of  
49 administration, who shall issue his warrants therefor to the  
50 applicant.

51 5. When a disaster or emergency has been proclaimed by  
52 the governor or there is a national emergency, the director  
53 of the state emergency management agency, upon order of the  
54 governor, shall have authority to expend funds for the  
55 following:

56 (1) The purposes of sections 44.010 to 44.130 and the  
57 responsibilities of the governor and the state emergency  
58 management agency as outlined in sections 44.010 to 44.130;

59 (2) Employing, for the duration of the response and  
60 recovery to emergency, additional personnel and contracting  
61 or otherwise procuring necessary appliances, supplies,  
62 equipment, and transport;

63 (3) Performing services for and furnishing materials  
64 and supplies to state government agencies, counties, and  
65 municipalities with respect to performance of any duties  
66 enjoined by law upon such agencies, counties, and  
67 municipalities which they are unable to perform because of  
68 extreme natural or man-made phenomena, and receiving  
69 reimbursement in whole or in part from such agencies,  
70 counties, and municipalities able to pay therefor under such  
71 terms and conditions as may be agreed upon by the director  
72 of the state emergency management agency and any such  
73 agency, county, or municipality;

74 (4) Performing services for and furnishing materials  
75 to any individual in connection with alleviating hardship  
76 and distress growing out of extreme natural or man-made  
77 phenomena, and receiving reimbursement in whole or in part

78 from such individual under such terms as may be agreed upon  
79 by the director of the state emergency management agency and  
80 such individual;

81 (5) Providing services to counties and municipalities  
82 with respect to quelling riots and civil disturbances;

83 (6) Repairing and restoring public infrastructure;

84 (7) Furnishing transportation for supplies to  
85 alleviate suffering and distress;

86 (8) Furnishing medical services and supplies to  
87 prevent the spread of disease and epidemics;

88 (9) Quelling riots and civil disturbances;

89 (10) Training individuals or governmental agencies for  
90 the purpose of perfecting the performance of emergency  
91 assistance duties as defined in the state disaster plans;

92 (11) Procurement, storage, and transport of special  
93 emergency supplies or equipment determined by the director  
94 to be necessary to provide rapid response by state  
95 government to assist counties and municipalities in  
96 impending or actual emergencies;

97 (12) Clearing or removing from publicly or privately  
98 owned land or water, debris and wreckage which may threaten  
99 public health or safety;

100 (13) Reimbursement to any urban search and rescue task  
101 force for any reasonable and necessary expenditures incurred  
102 in the course of responding to any declared emergency under  
103 this section; and

104 (14) Such other measures as are customarily necessary  
105 to furnish adequate relief in cases of catastrophe or  
106 disaster.

107 6. The governor may receive such voluntary  
108 contributions as may be made from any source to aid in

109 carrying out the purposes of this section and shall credit  
110 the same to the Missouri disaster fund.

111 7. All obligations and expenses incurred by the  
112 governor in the exercise of the powers and duties vested by  
113 the provisions of this section shall be paid by the state  
114 treasurer out of available funds in the Missouri disaster  
115 fund, and the commissioner of administration shall draw  
116 warrants upon the state treasurer for the payment of such  
117 sum, or so much thereof as may be required, upon receipt of  
118 proper vouchers provided by the director of the state  
119 emergency management agency.

120 8. The provisions of this section shall be liberally  
121 construed in order to accomplish the purposes of sections  
122 44.010 to 44.130 and to permit the governor to cope  
123 adequately with any emergency which may arise, and the  
124 powers vested in the governor by this section shall be  
125 construed as being in addition to all other powers presently  
126 vested in the governor and not in derogation of any existing  
127 powers.

128 9. Such funds as may be made available by the  
129 government of the United States for the purpose of  
130 alleviating distress from disasters may be accepted by the  
131 state treasurer and shall be credited to the Missouri  
132 disaster fund, unless otherwise specifically provided in the  
133 act of Congress making such funds available.

134 10. The foregoing provisions of this section  
135 notwithstanding, any expenditure or proposed series of  
136 expenditures which total in excess of one thousand dollars  
137 per project shall be approved by the governor prior to the  
138 expenditure.

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

3           (1) The provisions of this section shall be operative  
4 only during the existence of a state of emergency (referred  
5 to in this section as "emergency"). **Any emergency shall be**  
6 **limited to the least restrictive geographic area and the**  
7 **provisions of this section shall be enforced in any**  
8 **emergency in the least intrusive, disruptive, or restrictive**  
9 **manner to the economic and social activities of the citizens**  
10 **of this state.** The existence of an emergency may be  
11 proclaimed by the governor or by resolution of the  
12 legislature, if the governor in his proclamation, or the  
13 legislature in its resolution, finds that a natural or man-  
14 made disaster of major proportions has actually occurred  
15 within this state, and that the safety and welfare of the  
16 inhabitants of this state require an invocation of the  
17 provisions of this section;

18           (2) **Any emergency proclaimed by the governor may be**  
19 **called for no more than ten days unless extended by**  
20 **resolution of the general assembly. Any emergency**  
21 **proclaimed by resolution of the general assembly, or any**  
22 **extension of an emergency, shall be called for no more than**  
23 **thirty days and such resolution shall be by a two-thirds**  
24 **majority of the members of both the house of representatives**  
25 **and the senate.** Any emergency, whether proclaimed by the  
26 governor or by the legislature, shall terminate upon the  
27 proclamation thereof by the governor, or the passage by the  
28 legislature, of a resolution terminating such emergency;

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

31           (a) Enforce and put into operation all plans, rules  
32 and regulations relating to disasters and emergency  
33 management of resources adopted under this law and to assume



34 direct operational control of all emergency forces and  
35 volunteers in the state;

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

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

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

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

49 c. All stocks of fuel;

50 d. Facilities for housing, feeding and hospitalization  
51 of persons, including buildings and plants;

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

57 (e) Prescribe and direct activities in connection with  
58 but not limited to use, conservation, salvage and prevention  
59 of waste of materials, services and facilities, including  
60 production, transportation, power and communication  
61 facilities, training and supply of labor, utilization of  
62 industrial plants, health and medical care, nutrition,  
63 housing, including the use of existing and private  
64 facilities, rehabilitation, education, welfare, child care,

65 recreation, consumer protection and other essential civil  
66 needs;

67 (f) Use or distribute all or any of this property  
68 among the inhabitants of the state in any area adversely  
69 affected by a natural or man-made disaster and to account to  
70 the state treasurer for any funds received thereof;

71 (g) Waive or suspend the operation of any statutory  
72 requirement or administrative rule regarding the licensing,  
73 certification or issuance of permits evidencing  
74 professional, mechanical or other skills;

75 (h) Waive or suspend the operation of any statutory  
76 requirement or administrative rule prescribing procedures  
77 for conducting state business, where strict compliance with  
78 such requirements and rules would prevent, hinder, or delay  
79 necessary action by the department of health and senior  
80 services to respond to a declared emergency or increased  
81 health threat to the population;

82 (i) In accordance with rules or regulations, provide  
83 that all law enforcement authorities and other emergency  
84 response workers and agencies of other states who may be  
85 within this state at the request of the governor or pursuant  
86 to state or local mutual-aid agreements or compacts shall  
87 have the same authority and possess the same powers, duties,  
88 rights, privileges and immunities as are possessed by like  
89 law enforcement authorities and emergency response workers  
90 and agencies of this state;

91 (j) Perform and exercise such other functions, powers  
92 and duties as may be necessary to promote and secure the  
93 safety and protection of the civilian population;

94 (k) Authorize the director of finance and the director  
95 of credit unions to waive or suspend the operation of any  
96 statutory requirement or administrative rule applicable to

97 the division of finance, banking, financial services, or the  
98 division of credit unions and take action and give direction  
99 to banks, credit unions, and financial institutions,  
100 including coordinating actions with emergency responders,  
101 federal agencies, and state banking and credit union  
102 associations as may be reasonable and necessary to preserve  
103 the safety and soundness of banks, credit unions, and  
104 financial institutions; and facilitate disaster response and  
105 recovery efforts to serve essential civil needs and protect  
106 the public interest.

107 2. When any property is seized, taken or requisitioned  
108 under this section, the circuit court of the county in which  
109 the property was taken may on the application of the owner  
110 thereof or on the application of the governor in cases where  
111 numerous claims may be filed, appoint three disinterested  
112 commissioners in the manner provided by section 523.040 to  
113 assess the damages which the owners may have sustained by  
114 reason of the appropriation thereof. Upon the application  
115 the amount due because of the seizure of property shall be  
116 determined in the manner provided in chapter 523 for the  
117 determination of damages in case of the exercise of the  
118 power of eminent domain.

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