

HOUSE BILL 309

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

James G. Townsend and Cathrynn N. Brown and Rod Montoya  
and Alan T. Martinez and Mark Duncan

AN ACT

RELATING TO PUBLIC EMERGENCIES; REQUIRING THAT RULES, ORDERS OR  
OTHER DIRECTIVES ISSUED BY GOVERNMENT ENTITIES PURSUANT TO THE  
ALL HAZARD EMERGENCY MANAGEMENT ACT, THE PUBLIC HEALTH  
EMERGENCY RESPONSE ACT, THE RIOT CONTROL ACT OR THE ENERGY  
EMERGENCY POWERS ACT THAT CLOSE CERTAIN BUSINESSES OR  
FACILITIES AND THAT INCLUDE EXEMPTIONS FOR SOME BUSINESSES OR  
FACILITIES SHALL ALSO INCLUDE EXEMPTIONS FOR FACILITIES  
OPERATED BY RELIGIOUS ORGANIZATIONS THAT ARE EXEMPT FROM  
TAXATION PURSUANT TO FEDERAL LAW; AMENDING, REPEALING AND  
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 12-10-1 NMSA 1978 (being Laws 1959,  
Chapter 190, Section 1, as amended) is amended to read:

"12-10-1. SHORT TITLE.--Sections 12-10-1 through  
.227111.1

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
[bracketed material] = delete

1     ~~[12-10-10]~~ 12-10-10.1 NMSA 1978 may be cited as the "All Hazard  
2     Emergency Management Act".

3             SECTION 2. Section 12-10-4 NMSA 1978 (being Laws 1959,  
4     Chapter 190, Section 5, as amended) is amended to read:

5             "12-10-4. ALL HAZARD EMERGENCY MANAGEMENT--POWERS OF THE  
6     GOVERNOR.--

7             A. The governor shall have general direction and  
8     control of the activities of the homeland security and  
9     emergency management department and shall be responsible for  
10    carrying out the provisions of the All Hazard Emergency  
11    Management Act and, in the event of any man-made or natural  
12    disaster causing or threatening widespread physical or economic  
13    harm that is beyond local control and requiring the resources  
14    of the state, shall exercise direction and control over any and  
15    all state forces and resources engaged in emergency operations  
16    or related all hazard emergency management functions within the  
17    state.

18            B. Except as limited by Section 12-10-10.1 NMSA  
19    1978, in carrying out the provisions of the All Hazard  
20    Emergency Management Act, the governor is authorized to:

21            (1) cooperate with the federal government and  
22    agree to carry out all hazard emergency management  
23    responsibilities delegated in accordance with existing federal  
24    laws and policies and cooperate with other states and with  
25    private agencies in all matters relating to the all hazard

.227111.1

underscored material = new  
~~[bracketed material] = delete~~

1 emergency management of the state and nation;

2 (2) issue, amend or rescind the necessary  
3 orders, rules and procedures to carry out the provisions of the  
4 All Hazard Emergency Management Act;

5 (3) provide those resources and services  
6 necessary to avoid or minimize economic or physical harm until  
7 a situation becomes stabilized and again under local self-  
8 support and control, including the provision, on a temporary,  
9 emergency basis, of lodging, sheltering, health care, food,  
10 transportation or shipping necessary to protect lives or public  
11 property; or for any other action necessary to protect the  
12 public health, safety and welfare;

13 (4) prepare a comprehensive emergency  
14 operations plan and program and to integrate the state  
15 emergency operations plan and program with the emergency  
16 operations plans and programs of the federal government and  
17 other states and to coordinate the preparation of emergency  
18 operations plans and programs by the political subdivisions of  
19 this state;

20 (5) procure supplies and equipment, to  
21 institute training programs and public information programs and  
22 to take all necessary preparatory actions, including the  
23 partial or full mobilization of state and local government  
24 forces and resources in advance of actual disaster, to ensure  
25 the furnishing of adequately trained and equipped emergency

.227111.1

underscored material = new  
[bracketed material] = delete

1 forces of government and auxiliary personnel to cope with  
2 disasters resulting from enemy attack or other causes; and  
3 (6) enter into mutual aid agreements with  
4 other states and to coordinate mutual aid agreements between  
5 political subdivisions of the state."

6 SECTION 3. Section 12-10-5 NMSA 1978 (being Laws 1959,  
7 Chapter 190, Section 6, as amended) is amended to read:

8 "12-10-5. LOCAL EMERGENCY MANAGEMENT.--The governing  
9 bodies of the political subdivisions of the state are  
10 responsible for the all hazard emergency management of their  
11 respective jurisdictions. Except as limited by Section  
12 12-10-10.1 NMSA 1978, each political subdivision is authorized  
13 to establish, by ordinance or resolution, a local office of  
14 emergency management as an agency of the local government and  
15 responsible to the governing body, in accordance with the state  
16 emergency operations plan and program. Every local coordinator  
17 of emergency management shall be appointed by the governing  
18 body, subject to the approval of the [~~state director~~] secretary  
19 of homeland security and emergency management, and the local  
20 coordinator shall have direct responsibility for carrying out  
21 the all hazard emergency management program of the political  
22 subdivision. The state director shall coordinate the emergency  
23 management activities of all local governmental departments and  
24 agencies and shall maintain liaison with and cooperate with  
25 emergency management agencies and organizations of other

.227111.1

underscored material = new  
~~[bracketed material] = delete~~

1 political subdivisions and of the state government. Each local  
2 organization shall perform emergency management functions  
3 within the territorial limits of the political subdivision  
4 within which it is organized."

5 SECTION 4. Section 12-10-10.1 NMSA 1978 (being Laws 2005,  
6 Chapter 22, Section 2) is repealed and a new Section 12-10-10.1  
7 NMSA 1978 is enacted to read:

8 "12-10-10.1. [NEW MATERIAL] RESTRICTIONS ON PLACES OF  
9 WORSHIP--LIMITATIONS--CIVIL LIABILITY.--

10 A. An order, rule or other directive issued by a  
11 governmental entity pursuant to the All Hazard Emergency  
12 Management Act to close or limit businesses or facilities  
13 otherwise open to public use or patronage that includes  
14 exemptions in whole or in part for some businesses or  
15 facilities shall include exemptions to facilities operated by a  
16 religious organization that is exempt from taxation pursuant to  
17 Section 501(c)(3) of the federal Internal Revenue Code of 1986  
18 as a place of worship to the same extent as the most permissive  
19 exemption provided by the order, rule or other directive.

20 B. A person or entity alleging harm due to a  
21 violation of this section may seek declaratory or injunctive  
22 relief or money damages. Upon a showing of malicious  
23 application or reckless enforcement of an order by a violator,  
24 a court may also award punitive damages."

25 SECTION 5. A new Section 12-10-13.1 NMSA 1978 is enacted

.227111.1

underscoring material = new  
~~[bracketed material] = delete~~

1 to read:

2 "12-10-13.1. [NEW MATERIAL] SHORT TITLE.--Sections  
3 12-10-11 through 12-10-13.1 NMSA 1978 may be cited as the  
4 "Emergency Licensing Act"."

5 SECTION 6. Section 12-10-18 NMSA 1978 (being Laws 1969,  
6 Chapter 281, Section 3) is amended to read:

7 "12-10-18. EMERGENCY RESTRICTIONS.--

8 A. During the existence of a state of emergency,  
9 the governor may, by proclamation, prohibit:

10 (1) any person being on the public streets, in  
11 the public parks or at any other public place during the hours  
12 proclaimed by the governor to be a period of curfew;

13 (2) any designated number of persons from  
14 assembling or gathering on the public streets, public parks or  
15 other open areas, either public or private, or in any public  
16 building;

17 (3) the manufacture, transfer, use, possession  
18 or transportation of any device or object designed to explode  
19 or produce uncontained combustion;

20 (4) the transportation, possession or use of  
21 combustible, flammable or explosive materials in a glass or  
22 uncapped container of any kind except in connection with the  
23 normal operation of motor vehicles, normal home use or  
24 legitimate commercial use;

25 (5) the possession of firearms or any other

.227111.1

underscored material = new  
[bracketed material] = delete

1 deadly weapon by a person in any place other than [~~his~~] the  
2 person's place of residence or business, except for peace  
3 officers;

4 (6) the sale, purchase or dispensing of  
5 alcoholic beverages or other commodities or goods designated by  
6 the governor;

7 (7) the use of certain streets or highways by  
8 the public; and

9 (8) other activities the governor reasonably  
10 believes should be prohibited to help maintain life, property  
11 or the public peace.

12 B. An order, rule or other directive issued by a  
13 governmental entity pursuant to the Riot Control Act to close  
14 or limit businesses or facilities otherwise open to public use  
15 or patronage that includes exemptions in whole or in part for  
16 some businesses or facilities shall include an exemption for  
17 facilities operated by a religious organization that is exempt  
18 from taxation pursuant to Section 501(c)(3) of the federal  
19 Internal Revenue Code of 1986 as a place of worship to the same  
20 extent as the most permissive exemption provided by the order,  
21 rule or other directive.

22 C. A person or entity alleging harm due to a  
23 violation of this section may seek declaratory or injunctive  
24 relief or money damages. Upon a showing of malicious  
25 application or reckless enforcement of an order by a violator,

.227111.1

underscoring material = new  
[bracketed material] = delete

1 a court may also award punitive damages.

2 [~~B-~~] D. Any proclamation issued under this section  
3 becomes effective immediately upon its signing by the governor,  
4 but the governor shall give public notice of its contents  
5 through the public press and other news media. The  
6 restrictions may be imposed during times, upon conditions, with  
7 exceptions and in areas of the state designated by proclamation  
8 of the governor from time to time."

9 SECTION 7. Section 12-10A-17 NMSA 1978 (being Laws 2003,  
10 Chapter 218, Section 17, as amended) is amended to read:

11 "12-10A-17. RULEMAKING--EXEMPTIONS--CIVIL LIABILITY.--

12 A. The secretary of public safety, the secretary of  
13 health, the state director and, where appropriate, other  
14 affected state agencies in consultation with the secretaries  
15 and state director, shall promulgate and implement rules that  
16 are reasonable and necessary to implement and effectuate the  
17 Public Health Emergency Response Act.

18 B. An order, rule or other directive issued by a  
19 governmental entity pursuant to the Public Health Emergency  
20 Response Act to close or limit businesses or facilities  
21 otherwise open to public use or patronage that includes  
22 exemptions in whole or in part for some businesses or  
23 facilities shall include an exemption for facilities operated  
24 by a religious organization that is exempt from taxation  
25 pursuant to Section 501(c)(3) of the federal Internal Revenue



underscored material = new  
[bracketed material] = delete

1 Code of 1986 as a place of worship to the same extent as the  
2 most permissive exemption provided by the order, rule or other  
3 directive.

4 C. A person or entity alleging harm due to a  
5 violation of this section may seek declaratory or injunctive  
6 relief or money damages. Upon a showing of malicious  
7 application or reckless enforcement of an order by a violator,  
8 a court may also award punitive damages."

9 SECTION 8. Section 12-12-3 NMSA 1978 (being Laws 1980,  
10 Chapter 107, Section 3) is amended to read:

11 "12-12-3. ENERGY SUPPLY ALERT--ENERGY EMERGENCY--POWERS  
12 OF THE GOVERNOR.--

13 A. The governor, after making written findings of  
14 the grounds upon which ~~[he]~~ the governor bases ~~[his]~~ a  
15 decision, may issue a declaration that an energy supply alert  
16 exists. The governor shall publish ~~[his]~~ the declaration and  
17 the findings upon which it is based along with any orders  
18 issued pursuant to the declared alert. After declaring that  
19 the state or any region thereof is in an alert status, the  
20 governor may issue executive orders directed at state agencies  
21 and political subdivisions of the state. Such orders may  
22 include but are not limited to the following provisions:

23 (1) imposition of restrictions on any  
24 wasteful, inefficient or nonessential use of energy resources;

25 (2) ordering changes in operation schedules

.227111.1

underscored material = new  
~~[bracketed material] = delete~~

1 and working hours;

2 (3) curtailing the use of land vehicles,  
3 watercraft and aircraft; and

4 (4) such other provisions as are deemed  
5 necessary to reduce the consumption of energy resources.

6 B. The governor, upon termination of an energy  
7 supply alert or after determining that the declaration of an  
8 energy supply alert would be insufficient to meet the situation  
9 facing the people of New Mexico and after making written  
10 findings of the grounds upon which ~~[he]~~ the governor bases  
11 ~~[his]~~ a decision that an energy emergency exists, which  
12 findings shall be provided to the presiding officer of each  
13 house of the legislature, may issue a declaration that such an  
14 emergency exists. Upon the issuance of publication of such a  
15 declaration and the written determination of need, the governor  
16 may issue executive orders and may take such steps as are  
17 necessary and appropriate to carry out the provisions of the  
18 Energy Emergency Powers Act and generally to protect the peace,  
19 health, safety and welfare and preserve the lives and property  
20 of the people of this state. Executive orders may include but  
21 are not limited to the following provisions:

22 (1) imposition of restrictions on any  
23 wasteful, inefficient or nonessential use of energy resources;

24 (2) allocation of available supplies of energy  
25 resources among areas, users, persons or categories of persons

.227111.1

underscored material = new  
[bracketed material] = delete

1 or users. In allocating available resources, the governor  
2 shall give priority to energy resource use essential to public  
3 health and safety and shall thereafter attempt to allocate the  
4 remaining supply equitably;

5 (3) regulation of the days and times when  
6 energy resources may be sold to end users and the amounts  
7 [~~which~~] that may be sold or purchased;

8 (4) regulation of the hours and days during  
9 which nonresidential buildings may be open and the temperature  
10 at which they may be maintained; and

11 (5) such provisions as may be necessary to  
12 [~~assure~~] ensure that adequate transportation facilities exist  
13 to supply the energy needs of this state.

14 C. The governor shall review the requests of the  
15 chief [~~executive~~] executives of political subdivisions that the  
16 governor issue orders to require specific actions to be taken  
17 within those subdivisions. The governor may grant those  
18 requests [~~he~~] the governor deems in the best interest of the  
19 state and may delegate to the political subdivisions such  
20 powers as [~~he~~] the governor determines would best be vested in  
21 local entities.

22 D. An order, rule or other directive issued by a  
23 governmental entity pursuant to the Energy Emergency Powers Act  
24 to close or limit businesses or facilities otherwise open to  
25 public use or patronage that includes exemptions in whole or in

.227111.1

underscored material = new  
[bracketed material] = delete

1 part for some businesses or facilities shall include an  
2 exemption for facilities operated by a religious organization  
3 that is exempt from taxation pursuant to Section 501(c)(3) of  
4 the federal Internal Revenue Code of 1986 as a place of worship  
5 to the same extent as the most permissive exemption provided by  
6 the order, rule or other directive.

7 E. A person or entity alleging harm due to a  
8 violation of this section may seek declaratory or injunctive  
9 relief or money damages. Upon a showing of malicious  
10 application or reckless enforcement of an order by a violator,  
11 a court may also award punitive damages.

12 ~~[D.]~~ F. Executive orders issued pursuant to this  
13 section shall take effect three days after publication in a  
14 manner designed to [assure] ensure statewide notification. In  
15 addition, executive orders issued [here under] pursuant to the  
16 Energy Emergency Powers Act are exempt from the provisions of  
17 the State Rules Act."

18 SECTION 9. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2024.

20 - 12 -  
21  
22  
23  
24  
25