

CS FOR HOUSE BILL NO. 325(MLV)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

Offered: 4/19/02

Referred: State Affairs, Health Education and Social Services

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the emergency and disaster powers of the governor and to disasters,**
2 **including enemy or terrorist attack, an outbreak of disease, or the threat of them; and**
3 **providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 26.20.040 is amended to read:

6 **Sec. 26.20.040. Emergency powers of the governor.** In the event of actual
7 enemy **or terrorist** attack against the state, **or a credible threat of enemy or**
8 **terrorist attack,** the governor may declare that a state of emergency exists, and,
9 during the period of time that the state of emergency exists or continues, the governor
10 has and may exercise the additional emergency power

11 (1) to enforce all laws and regulations relating to civil defense and
12 assume direct operational control of all civil defense forces and helpers in the state;

13 (2) to seize, take, or condemn property for the protection of the public
14 or at the request of the president, the armed forces or the civil defense agency of the

1 United States, including

2 (A) all means of transportation and communication, except
3 newspapers and news services;

4 (B) all stocks of fuel of whatever nature;

5 (C) food, clothing, equipment, materials, [MEDICINES, AND]
6 supplies, and pharmaceuticals and other medicines; and

7 (D) facilities including buildings and plants;

8 (3) to sell, lend, give, or distribute the fuel, food, clothing,
9 [MEDICINES, AND] supplies, and pharmaceuticals and other medicines among
10 the inhabitants of the state and account to the commissioner of revenue for funds
11 received for the property;

12 (4) to make compensation for the property seized, taken, or condemned
13 on the basis described in AS 26.20.045;

14 (5) to perform and exercise other functions, powers, and duties that are
15 considered necessary to promote and secure the safety and protection of the civilian
16 population.

17 * **Sec. 2.** AS 26.20.040 is amended by adding a new subsection to read:

18 (b) In (a) of this section, "credible threat" means a threat that the adjutant
19 general of the department or a designee of the adjutant general certifies is credible
20 based on specific information received from a local, a state, a federal, or an
21 international agency, or another source that the adjutant general or the designee
22 determines is reliable.

23 * **Sec. 3.** AS 26.23.020(g) is amended to read:

24 (g) In addition to any other powers conferred upon the governor by law, the
25 governor may, under AS 26.23.010 - 26.23.220,

26 (1) suspend the provisions of any regulatory statute prescribing
27 procedures for the conduct of state business, or the orders or regulations of any state
28 agency, if compliance with the provisions of the statute, order, or regulation would
29 prevent, or substantially impede or delay, action necessary to cope with the disaster
30 emergency;

31 (2) use all available resources of the state government and of each

1 political subdivision of the state as reasonably necessary to cope with the disaster
2 emergency;

3 (3) transfer personnel or alter the functions of state departments and
4 agencies or units of them for the purpose of performing or facilitating the performance
5 of disaster emergency services;

6 (4) subject to any applicable requirements for compensation under
7 AS 26.23.160, commandeer or utilize any private property, except for all news media
8 other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor
9 considers this necessary to cope with the disaster emergency;

10 (5) direct and compel the relocation of all or part of the population
11 from any stricken or threatened area in the state [,] if the governor considers relocation
12 necessary for the preservation of life or for other disaster mitigation purpose;

13 (6) prescribe routes, modes of transportation, and destinations in
14 connection with necessary relocation;

15 (7) control ingress to and egress from a disaster area, the movement of
16 persons within the area, and the occupancy of premises in it;

17 (8) suspend or limit the sale, dispensing, or transportation of alcoholic
18 beverages, firearms, explosives, and combustibles;

19 (9) make provisions for the availability and use of temporary
20 emergency housing;

21 (10) allocate or redistribute food, water, fuel, [OR] clothing,
22 **pharmaceuticals and other medicines, or supplies;** [AND]

23 (11) use money from the oil and hazardous substance release response
24 account in the oil and hazardous substance release prevention and response fund,
25 established by AS 46.08.010, to respond to a declared disaster emergency related to an
26 oil or hazardous substance discharge; **and**

27 **(12) access, inspect, and share with authorized representatives of**
28 **the Department of Health and Social Services health care and medical records on**
29 **an as-needed basis to facilitate a response to protect public health and safety.**

30 * **Sec. 4.** AS 26.23.071(b) is amended to read:

31 (b) The commission consists of the commissioners of community and

1 economic development, environmental conservation, fish and game, health and social
 2 services, labor, natural resources, public safety, and transportation and public
 3 facilities, or the designees of the commissioners, the adjutant general [OF THE
 4 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS] or a designee, and
 5 seven members of the public appointed by the governor, two of whom must be
 6 members of a local emergency planning committee for an emergency planning district
 7 that is predominantly rural in character and two of whom must be members of a local
 8 emergency planning committee for an emergency planning district that is
 9 predominantly urban in character. Two of the other three members of the public who
 10 are appointed to the commission must be members of the governing body of, or the
 11 mayor of, a political subdivision that has a local emergency planning committee or a
 12 person who, in the opinion of the governor, is otherwise appropriate to represent the
 13 political subdivision. The United States Department of Defense - Alaska Command,
 14 the Federal Emergency Management Agency, the United States Environmental
 15 Protection Agency, and the United States Coast Guard may each appoint a
 16 representative to serve on the commission in an ex-officio, nonvoting capacity. To the
 17 extent practicable, the commission must include members with expertise in the
 18 emergency response field.

19 * **Sec. 5.** AS 26.23.071(c) is amended to read:

20 (c) The adjutant general [OF THE DEPARTMENT OF MILITARY AND
 21 VETERANS' AFFAIRS], or the adjutant general's designee, and the commissioner of
 22 environmental conservation, or the commissioner's designee, shall co-chair the
 23 commission. The Department of Military and Veterans' Affairs shall provide staff
 24 support to the commission.

25 * **Sec. 6.** AS 26.23.900(2) is amended to read:

26 (2) "disaster" means the occurrence or imminent threat of widespread
 27 or severe damage, injury, loss of life or property, or shortage of food, water, or fuel
 28 resulting from

29 (A) an incident such as storm, high water, wind-driven water,
 30 tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
 31 avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic,

1 explosion, or riot;

2 (B) the release of oil or a hazardous substance if the release
3 requires prompt action to avert environmental danger or mitigate
4 environmental damage; or

5 (C) equipment failure if the failure is not a predictably frequent
6 or recurring event or preventable by adequate equipment maintenance or
7 operation;

8 **(D) enemy or terrorist attack, or an imminent threat of**
9 **enemy or a terrorist attack, that the adjutant general or a designee of the**
10 **adjutant general certifies is credible based on specific information**
11 **received from a local, a state, a federal, or an international agency, or**
12 **another source that the adjutant general determines is reliable; or**

13 **(E) an outbreak of disease, or an imminent threat of an**
14 **outbreak of disease, that the commissioner of health and social services or**
15 **a designee of the commissioner certifies is credible based on specific**
16 **information received from a local, a state, a federal, or an international**
17 **agency, or another source that the commissioner determines is reliable;**

18 * **Sec. 7.** AS 26.23.900 is amended by adding a new paragraph to read:

19 (10) "adjutant general" means the adjutant general of the Department
20 of Military and Veterans' Affairs.

21 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).