

**EMERGENCY MANAGEMENT ASSISTANCE ACT**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lyle W. Hillyard**

**This act modifies the Public Safety Code to adopt the Emergency Management Assistance Compact in order to join the coalition providing for mutual aid and resources to member states**

**affected by disasters. This act takes effect on July 1, 2001.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**53-1-106**, as last amended by Chapter 130, Laws of Utah 1999

**53-2-101**, as enacted by Chapter 234, Laws of Utah 1993

**53-2-102**, as enacted by Chapter 234, Laws of Utah 1993

**53-2-104**, as renumbered and amended by Chapter 234, Laws of Utah 1993

ENACTS:

**53-2-201**, Utah Code Annotated 1953

**53-2-202**, Utah Code Annotated 1953

**53-2-301**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-1-106** is amended to read:

**53-1-106. Department duties -- Powers.**

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6, Traffic Rules and Regulations, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6-102; and

(ii) advising the Department of Transportation regarding the safe design and operation of school

buses, as required by Section 41-6-115;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching

methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking using funds appropriated under Section 58-37-20;

(d) as part of the annual budget hearings, provide the Executive Offices, Criminal Justice, and Legislature Appropriations Subcommittee with a complete accounting of expenditures and revenues from the funds under Section 58-37-20;

(e) meet with the Department of Administrative Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations, as required by Section 63A-6-107;

(f) provide assistance to the Crime Victims' Reparations Board and Reparations Office in conducting research or monitoring victims' programs, as required by Section 63-25a-405;

(g) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association~~[, as required by Section 63-25a-409]; [and]~~

(h) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 63-5-5~~[-]; and~~

(i) implement the provisions of Section 53-2-202, the Emergency Management Assistance Compact.

(2) (a) The department may establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) The fees shall be established in accordance with Section 63-38-3.2.

Section 2. Section **53-2-101** is amended to read:

**CHAPTER 2. EMERGENCY MANAGEMENT**

**Part 1. Comprehensive Emergency Management Act**

**53-2-101. Title.**

This ~~chapter~~ part is known as the "Comprehensive Emergency Management Act."

Section 3. Section **53-2-102** is amended to read:

**53-2-102. Definitions.**

As used in this [chapter] part:

(1) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America or this state.

(2) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena, or technological hazard.

(3) "Director" means the division director appointed under Section 53-2-103.

(4) "Division" means the Comprehensive Emergency Management Division created in Section 53-2-103.

(5) "Expenses" means actual labor costs of government and volunteer personnel, including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment, cost of equipment operation, cost of materials, and the cost of any contract labor and materials.

(6) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(7) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

(8) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

(9) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, and safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(10) "Technological hazard" means any hazardous materials accident, mine accident, train

derailment, air crash, radiation incident, pollution, structural fire, or explosion.

Section 4. Section **53-2-104** is amended to read:

**53-2-104. Division duties -- Powers.**

(1) The division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to comprehensive emergency management matters as directed by the commissioner;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed

to eliminate or reduce disasters;

(v) assistance to local officials in designing local emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this [chapter] part.

(2) The division may consult with the Legislative Management Committee, the Judicial Council,

and legislative and judicial staff offices to assist them in preparing emergency succession plans and procedures under Title 63, Chapter 5b, Emergency Interim Succession Act.

Section 5. Section **53-2-201** is enacted to read:

**Part 2. Emergency Management Assistance Compact**

**53-2-201. Title.**

This part is known as the "Emergency Management Assistance Compact."

Section 6. Section **53-2-202** is enacted to read:

**53-2-202. Compact.**

(1) Article I. Purposes and Authorities.

(1) (a) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia,

and all U.S. territorial possessions.

(b) The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

(c) This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

(2) Article II. General Implementation.

(2) (a) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(b) The prompt, full, and effective utilization of resources of the participating states, including any



resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state,

shall be the underlying principle on which all articles of this compact shall be understood.

(c) On behalf of the governor of each state participating in the compact, the legally designated state

official who is assigned responsibility for emergency management will be responsible for formulation of the

appropriate interstate mutual aid plans and procedures necessary to implement this compact.

(3) Article III. Party State Responsibilities.

(3) (a) It shall be the responsibility of each party state to formulate procedural plans and programs

for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such

plans, and in carrying them out, the party states, insofar as practical, shall:

(i) review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack;

(ii) review party states' individual emergency plans and develop a plan which will determine the

mechanism for the interstate management and provision of assistance concerning any potential emergency;

(iii) develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

(iv) assist in warning communities adjacent to or crossing the state boundaries;

(v) protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel,

search and rescue, and critical lifeline equipment, services, and resources, both human and material;

(vi) inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

(vii) provide, to the extent authorized by law, for temporary suspension of any statutes.

(b) The authorized representative of a party state may request assistance of another party state by

contacting the authorized representative of that state. The provisions of this agreement shall only apply to





requests for assistance made by and to authorized representatives. Requests may be verbal or in writing.

If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(i) a description of the emergency service function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

(ii) the amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

(iii) the specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

(4) Article IV. Limitations.

(4) (a) Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

(b) Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the

emergency services authorities of the state receiving assistance. These conditions may be activated, as

needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

(5) Article V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

(6) Article VI. Liability.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

(7) Article VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for

evacuation

and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

(8) Article VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

(9) Article IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

(10) Article X. Evacuation.

(10) (a) Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant shall be worked out and maintained between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur.

(b) Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors.

(c) Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in



receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

(11) Article XI. Implementation.

(11) (a) This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

(12) Article XII. Validity.

This act shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this act and the applicability thereof to other persons and circumstances shall not be affected thereby.

(13) Article XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18, United

States Code.

Section 7. Section **53-2-301** is enacted to read:



**Part 3. Authority of the Governor to Enter Into Compact**

**53-2-301. Authority of governor to join compact.**

The governor of Utah is authorized and directed to execute a compact on behalf of this state with any other state or states joining the Emergency Management Assistance Compact as provided in Section 53-2-202.

Section 8. **Effective date.**

This act takes effect on July 1, 2001.