

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;

28 (b) make rules to establish and clarify standards pertaining to the curriculum and teaching
29 methods of a motor vehicle accident prevention course under Section 31A-19a-211;

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

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

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

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

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

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

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

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

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

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

51 **CHAPTER 2. EMERGENCY MANAGEMENT**

52 **Part 1. Comprehensive Emergency Management Act**

53 **53-2-101. Short title.**

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

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

56 **53-2-102. Definitions.**

57 As used in this ~~[chapter]~~ part:

58 (1) "Attack" means a nuclear, conventional, biological, or chemical warfare action against

59 the United States of America or this state.

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

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

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

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

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

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

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

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

80 (10) "Technological hazard" means any hazardous materials accident, mine accident, train
81 derailment, air crash, radiation incident, pollution, structural fire, or explosion.

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

83 **53-2-104. Division duties -- Powers.**

84 (1) The division shall:

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

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

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

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

- 90 (ii) prompt and effective response to and recovery from disasters;
- 91 (iii) identification of areas particularly vulnerable to disasters;
- 92 (iv) coordination of hazard mitigation and other preventive and preparedness measures
- 93 designed to eliminate or reduce disasters;
- 94 (v) assistance to local officials in designing local emergency action plans;
- 95 (vi) coordination of federal, state, and local emergency activities;
- 96 (vii) coordination of emergency operations plans with emergency plans of the federal
- 97 government;

- 98 (viii) coordination of search and rescue activities;
- 99 (ix) coordination of rapid and efficient communications in times of emergency; and
- 100 (x) other measures necessary, incidental, or appropriate to this [chapter] part.

101 (2) The division may consult with the Legislative Management Committee, the Judicial
 102 Council, and legislative and judicial staff offices to assist them in preparing emergency succession
 103 plans and procedures under Title 63, Chapter 5b, Emergency Interim Succession Act.

104 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."

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

53-2-202. Compact.

(1) Article I. Purposes and Authorities.

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

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

120 (c) This compact shall also provide for mutual cooperation in emergency-related exercises.

121 testing, or other training activities using equipment and personnel simulating performance of any
122 aspect of the giving and receiving of aid by party states or subdivisions of party states during
123 emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance
124 in this compact may include the use of the states' national guard forces, either in accordance with
125 the National Guard Mutual Assistance Compact or by mutual agreement between states.

126 (2) Article II. General Implementation.

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

134 (b) The prompt, full, and effective utilization of resources of the participating states,
135 including any resources on hand or available from the federal government or any other source, that
136 are essential to the safety, care, and welfare of the people in the event of any emergency or disaster
137 declared by a party state, shall be the underlying principle on which all articles of this compact
138 shall be understood.

139 (c) On behalf of the governor of each state participating in the compact, the legally
140 designated state official who is assigned responsibility for emergency management will be
141 responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary
142 to implement this compact.

143 (3) Article III. Party State Responsibilities.

144 (3) (a) It shall be the responsibility of each party state to formulate procedural plans and
145 programs for interstate cooperation in the performance of the responsibilities listed in this article.
146 In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

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

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

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

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

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

157 (v) protect and assure uninterrupted delivery of services, medicines, water, food, energy
158 and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human
159 and material;

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

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

163 (b) The authorized representative of a party state may request assistance of another party
164 state by contacting the authorized representative of that state. The provisions of this agreement
165 shall only apply to requests for assistance made by and to authorized representatives. Requests
166 may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of
167 the verbal request. Requests shall provide the following information:

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

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

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

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

180 (4) Article IV. Limitations.

181 (4) (a) Any party state requested to render mutual aid or conduct exercises and training for
182 mutual aid shall take such action as is necessary to provide and make available the resources

183 covered by this compact in accordance with the terms hereof; provided that it is understood that
184 the state rendering aid may withhold resources to the extent necessary to provide reasonable
185 protection for such state.

186 (b) Each party state shall afford to the emergency forces of any party state, while operating
187 within its state limits under the terms and conditions of this compact, the same powers, except that
188 of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are
189 afforded forces of the state in which they are performing emergency services. Emergency forces
190 will continue under the command and control of their regular leaders, but the organizational units
191 will come under the operational control of the emergency services authorities of the state receiving
192 assistance. These conditions may be activated, as needed, only subsequent to a declaration of a
193 state of emergency or disaster by the governor of the party state that is to receive assistance or
194 commencement of exercises or training for mutual aid and shall continue so long as the exercises
195 or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or
196 loaned resources remain in the receiving state, whichever is longer.

197 (5) Article V. Licenses and Permits.

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

204 (6) Article VI. Liability.

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

212 (7) Article VII. Supplementary Agreements.

213 Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among

214 two or more states may differ from that among the states that are party hereto, this instrument
215 contains elements of a broad base common to all states, and nothing herein contained shall
216 preclude any state from entering into supplementary agreements with another state or affect any
217 other agreements already in force between states. Supplementary agreements may comprehend,
218 but shall not be limited to, provisions for evacuation and reception of injured and other persons
219 and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and
220 communications personnel, and equipment and supplies.

221 (8) Article VIII. Compensation.

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

227 (9) Article IX. Reimbursement.

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

236 (10) Article X. Evacuation.

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

241 (b) Such plans shall be put into effect by request of the state from which evacuees come
242 and shall include the manner of transporting such evacuees, the number of evacuees to be received
243 in different areas, the manner in which food, clothing, housing, and medical care will be provided,
244 the registration of the evacuees, the providing of facilities for the notification of relatives or

245 friends, and the forwarding of such evacuees to other areas or the bringing in of additional
246 materials, supplies, and all other relevant factors.

247 (c) Such plans shall provide that the party state receiving evacuees and the party state from
248 which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses
249 incurred in receiving and caring for such evacuees, for expenditures for transportation, food,
250 clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as
251 agreed by the party state from which the evacuees come. After the termination of the emergency
252 or disaster, the party state from which the evacuees come shall assume the responsibility for the
253 ultimate support of repatriation of such evacuees.

254 (11) Article XI. Implementation.

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

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

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

267 (12) Article XII. Validity.

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

272 (13) Article XIII. Additional Provisions.

273 Nothing in this compact shall authorize or permit the use of military force by the National
274 Guard of a state at any place outside that state in any emergency for which the President is
275 authorized by law to call into federal service the militia, or for any purpose for which the use of

276 the Army or the Air Force would in the absence of express statutory authorization be prohibited
277 under Section 1385 of Title 18, United States Code.

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

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

280 **53-2-301. Authority of governor to join compact.**

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

284 Section 8. **Effective date.**

285 This act takes effect on July 1, 2001.

Legislative Review Note
as of 1-15-01 3:11 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel