



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3871

Introduced 2/25/2005, by Rep. Arthur L. Turner

SYNOPSIS AS INTRODUCED:

20 ILCS 2105/2105-400	
20 ILCS 2310/2310-625	
20 ILCS 3305/7	from Ch. 127, par. 1057
20 ILCS 3305/15	from Ch. 127, par. 1065

Amends the Department of Professional Regulation Law, the Department of Public Health Powers and Duties Law, and the Illinois Emergency Management Act. In a Section allowing the Director of Professional Regulation to suspend certain licensing requirements after the proclamation of a disaster by the Governor for persons working for the Illinois Emergency Management Act (IEMA) and the Department of Public Health, provides that working for IEMA may also include working for an emergency services and disaster agency accredited by IEMA and that working for the Department of Public Health may also include working for a local public health department. Makes the same changes to a Section allowing similar license suspension powers to the Director of Public Health. Removes certain restrictions on the Governor's powers during a disaster event. Provides that the immunities provided during emergency management response activities also apply when responding to a disaster as defined in Section 4 of the Act or otherwise serving or attempting to serve the general purpose of this Act. Provides that the immunities of emergency management responders do not apply to services and agencies receiving prior written notice from IEMA of noncompliance with certain provisions of the Act. Effective immediately.

LRB094 07508 RSP 37675 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Professional Regulation Law of
5 the Civil Administrative Code of Illinois is amended by
6 changing Section 2105-400 as follows:

7 (20 ILCS 2105/2105-400)

8 Sec. 2105-400. Emergency Powers.

9 (a) Upon proclamation of a disaster by the Governor, as
10 provided for in the Illinois Emergency Management Agency Act,
11 the Director of Professional Regulation shall have the
12 following powers, which shall be exercised only in coordination
13 with the Illinois Emergency Management Agency and the
14 Department of Public Health:

15 (1) The power to suspend the requirements for permanent
16 or temporary licensure of persons who are licensed in
17 another state and are working under the direction of the
18 Illinois Emergency Management Agency (or an emergency
19 services and disaster agency accredited by the Illinois
20 Emergency Management Agency) and the Department of Public
21 Health (or a local public health department) pursuant to a
22 declared disaster.

23 (2) The power to modify the scope of practice
24 restrictions under any licensing act administered by the
25 Department for any person working under the direction of
26 the Illinois Emergency Management Agency (or an emergency
27 services and disaster agency accredited by the Illinois
28 Emergency Management Agency) and the Illinois Department
29 of Public Health (or a local public health department)
30 pursuant to the declared disaster.

31 (3) The power to expand the exemption in Section 4(a)
32 of the Pharmacy Practice Act of 1987 to those licensed

1 professionals whose scope of practice has been modified,
2 under paragraph (2) of subsection (a) of this Section, to
3 include any element of the practice of pharmacy as defined
4 in the Pharmacy Practice Act of 1987 for any person working
5 under the direction of the Illinois Emergency Management
6 Agency (or an emergency services and disaster agency
7 accredited by the Illinois Emergency Management Agency)
8 and the Illinois Department of Public Health (or a local
9 public health department) pursuant to the declared
10 disaster.

11 (b) Persons exempt from licensure under paragraph (1) of
12 subsection (a) of this Section and persons operating under
13 modified scope of practice provisions under paragraph (2) of
14 subsection (a) of this Section shall be exempt from licensure
15 or be subject to modified scope of practice only until the
16 declared disaster has ended as provided by law.

17 (c) The Director shall exercise these powers by way of
18 proclamation.

19 (Source: P.A. 93-829, eff. 7-28-04.)

20 Section 10. The Department of Public Health Powers and
21 Duties Law of the Civil Administrative Code of Illinois is
22 amended by changing Section 2310-625 as follows:

23 (20 ILCS 2310/2310-625)

24 Sec. 2310-625. Emergency Powers.

25 (a) Upon proclamation of a disaster by the Governor, as
26 provided for in the Illinois Emergency Management Agency Act,
27 the Director of Public Health shall have the following powers,
28 which shall be exercised only in coordination with the Illinois
29 Emergency Management Agency and the Department of Professional
30 Regulation:

31 (1) The power to suspend the requirements for temporary
32 or permanent licensure or certification of persons who are
33 licensed or certified in another state and are working
34 under the direction of the Illinois Emergency Management

1 Agency (or an emergency services and disaster agency
2 accredited by the Illinois Emergency Management Agency)
3 and the Illinois Department of Public Health (or a local
4 public health department) pursuant to the declared
5 disaster.

6 (2) The power to modify the scope of practice
7 restrictions under the Emergency Medical Services (EMS)
8 Systems Act for any persons who are licensed under that Act
9 for any person working under the direction of the Illinois
10 Emergency Management Agency (or an emergency services and
11 disaster agency accredited by the Illinois Emergency
12 Management Agency) and the Illinois Department of Public
13 Health (or a local public health department) pursuant to
14 the declared disaster.

15 (3) The power to modify the scope of practice
16 restrictions under the Nursing Home Care Act for Certified
17 Nursing Assistants for any person working under the
18 direction of the Illinois Emergency Management Agency (or
19 an emergency services and disaster agency accredited by the
20 Illinois Emergency Management Agency) and the Illinois
21 Department of Public Health (or a local public health
22 department) pursuant to the declared disaster.

23 (b) Persons exempt from licensure or certification under
24 paragraph (1) of subsection (a) and persons operating under
25 modified scope of practice provisions under paragraph (2) of
26 subsection (a) and paragraph (3) of subsection (a) shall be
27 exempt from licensure or certification or subject to modified
28 scope of practice only until the declared disaster has ended as
29 provided by law.

30 (c) The Director shall exercise these powers by way of
31 proclamation.

32 (Source: P.A. 93-829, eff. 7-28-04.)

33 Section 15. The Illinois Emergency Management Agency Act is
34 amended by changing Sections 7 and 15 as follows:

1 (20 ILCS 3305/7) (from Ch. 127, par. 1057)

2 Sec. 7. Emergency Powers of the Governor.

3 (a) In the event of a disaster, as defined in Section 4,
4 the Governor may, by proclamation declare that a disaster
5 exists. Upon such proclamation, the Governor shall have and may
6 exercise for a period not to exceed 30 days the following
7 emergency powers; provided, however, that the lapse of the
8 emergency powers shall not, as regards any act or acts
9 occurring or committed within the 30 days period, deprive any
10 person, firm, corporation, political subdivision, or body
11 politic of any right or rights to compensation or reimbursement
12 which he, she, it, or they may have under the provisions of
13 this Act:

14 (1) To suspend the provisions of any regulatory statute
15 ~~prescribing procedures for conduct of State business,~~ or
16 the orders, rules and regulations of any State agency, if
17 strict compliance with the provisions of any statute,
18 order, rule, or regulation would in any way prevent, hinder
19 or delay necessary action, including emergency purchases,
20 ~~by the Illinois Emergency Management Agency,~~ in coping with
21 the disaster.

22 (2) To utilize all available resources of the State
23 government as reasonably necessary to cope with the
24 disaster and of each political subdivision of the State.

25 (3) To transfer the direction, personnel or functions
26 of State departments and agencies or units thereof for the
27 purpose of performing or facilitating disaster response
28 and recovery programs.

29 (4) On behalf of this State to take possession of, and
30 to acquire full title or a lesser specified interest in,
31 any personal property as may be necessary to accomplish the
32 objectives set forth in Section 2 of this Act, including:
33 airplanes, automobiles, trucks, trailers, buses, and other
34 vehicles; coal, oils, gasoline, and other fuels and means
35 of propulsion; explosives, materials, equipment, and
36 supplies; animals and livestock; feed and seed; food and

1 provisions for humans and animals; clothing and bedding;
2 and medicines and medical and surgical supplies; and to
3 take possession of and for a limited period occupy and use
4 any real estate necessary to accomplish those objectives;
5 but only upon the undertaking by the State to pay just
6 compensation therefor as in this Act provided, and then
7 only under the following provisions:

8 a. The Governor, or the person or persons as the
9 Governor may authorize so to do, may forthwith take
10 possession of property for and on behalf of the State;
11 provided, however, that the Governor or persons shall
12 simultaneously with the taking, deliver to the owner or
13 his or her agent, if the identity of the owner or
14 agency is known or readily ascertainable, a signed
15 statement in writing, that shall include the name and
16 address of the owner, the date and place of the taking,
17 description of the property sufficient to identify it,
18 a statement of interest in the property that is being
19 so taken, and, if possible, a statement in writing,
20 signed by the owner, setting forth the sum that he or
21 she is willing to accept as just compensation for the
22 property or use. Whether or not the owner or agent is
23 known or readily ascertainable, a true copy of the
24 statement shall promptly be filed by the Governor or
25 the person with the Director, who shall keep the docket
26 of the statements. In cases where the sum that the
27 owner is willing to accept as just compensation is less
28 than \$1,000, copies of the statements shall also be
29 filed by the Director with, and shall be passed upon by
30 an Emergency Management Claims Commission, consisting
31 of 3 disinterested citizens who shall be appointed by
32 the Governor, by and with the advice and consent of the
33 Senate, within 20 days after the Governor's
34 declaration of a disaster, and if the sum fixed by them
35 as just compensation be less than \$1,000 and is
36 accepted in writing by the owner, then the State

1 Treasurer out of funds appropriated for these
2 purposes, shall, upon certification thereof by the
3 Emergency Management Claims Commission, cause the sum
4 so certified forthwith to be paid to the owner. The
5 Emergency Management Claims Commission is hereby given
6 the power to issue appropriate subpoenas and to
7 administer oaths to witnesses and shall keep
8 appropriate minutes and other records of its actions
9 upon and the disposition made of all claims.

10 b. When the compensation to be paid for the taking
11 or use of property or interest therein is not or cannot
12 be determined and paid under item (a) above, a petition
13 in the name of The People of the State of Illinois
14 shall be promptly filed by the Director, which filing
15 may be enforced by mandamus, in the circuit court of
16 the county where the property or any part thereof was
17 located when initially taken or used under the
18 provisions of this Act praying that the amount of
19 compensation to be paid to the person or persons
20 interested therein be fixed and determined. The
21 petition shall include a description of the property
22 that has been taken, shall state the physical condition
23 of the property when taken, shall name as defendants
24 all interested parties, shall set forth the sum of
25 money estimated to be just compensation for the
26 property or interest therein taken or used, and shall
27 be signed by the Director. The litigation shall be
28 handled by the Attorney General for and on behalf of
29 the State.

30 c. Just compensation for the taking or use of
31 property or interest therein shall be promptly
32 ascertained in proceedings and established by judgment
33 against the State, that shall include, as part of the
34 just compensation so awarded, interest at the rate of
35 6% per annum on the fair market value of the property
36 or interest therein from the date of the taking or use

1 to the date of the judgment; and the court may order
2 the payment of delinquent taxes and special
3 assessments out of the amount so awarded as just
4 compensation and may make any other orders with respect
5 to encumbrances, rents, insurance, and other charges,
6 if any, as shall be just and equitable.

7 (5) When required by the exigencies of the disaster, to
8 sell, lend, rent, give, or distribute all or any part of
9 property so or otherwise acquired to the inhabitants of
10 this State, or to political subdivisions of this State, or,
11 under the interstate mutual aid agreements or compacts as
12 are entered into under the provisions of subparagraph (5)
13 of paragraph (c) of Section 6 to other states, and to
14 account for and transmit to the State Treasurer all funds,
15 if any, received therefor.

16 (6) To recommend the evacuation of all or part of the
17 population from any stricken or threatened area within the
18 State if the Governor deems this action necessary.

19 (7) To prescribe routes, modes of transportation, and
20 destinations in connection with evacuation.

21 (8) To control ingress and egress to and from a
22 disaster area, the movement of persons within the area, and
23 the occupancy of premises therein.

24 (9) To suspend or limit the sale, dispensing, or
25 transportation of alcoholic beverages, firearms,
26 explosives, and combustibles.

27 (10) To make provision for the availability and use of
28 temporary emergency housing.

29 (11) A proclamation of a disaster shall activate the
30 State Emergency Operations Plan, and political subdivision
31 emergency operations plans applicable to the political
32 subdivision or area in question and be authority for the
33 deployment and use of any forces that the plan or plans
34 apply and for use or distribution of any supplies,
35 equipment, and materials and facilities assembled,
36 stockpiled or arranged to be made available under this Act

1 or any other provision of law relating to disasters.

2 (12) Control, restrict, and regulate by rationing,
3 freezing, use of quotas, prohibitions on shipments, price
4 fixing, allocation or other means, the use, sale or
5 distribution of food, feed, fuel, clothing and other
6 commodities, materials, goods, or services; and perform
7 and exercise any other functions, powers, and duties as may
8 be necessary to promote and secure the safety and
9 protection of the civilian population.

10 (13) During the continuance of any disaster the
11 Governor is commander-in-chief of the organized and
12 unorganized militia and of all other forces available for
13 emergency duty. To the greatest extent practicable, the
14 Governor shall delegate or assign command authority to do
15 so by orders issued at the time of the disaster.

16 (14) Prohibit increases in the prices of goods and
17 services during a disaster.

18 (Source: P.A. 92-73, eff. 1-1-02.)

19 (20 ILCS 3305/15) (from Ch. 127, par. 1065)

20 Sec. 15. Immunity. Neither the State, any political
21 subdivision of the State, nor, except in cases of gross
22 negligence or willful misconduct, the Governor, the Director,
23 the Principal Executive Officer of a political subdivision, or
24 the agents, employees, or representatives of any of them,
25 engaged in any emergency management response or recovery
26 activities, while responding to a disaster as defined in
27 Section 4, or otherwise serving or attempting to serve the
28 general purposes of this Act, or complying with or attempting
29 to comply with this Act or any rule or regulations promulgated
30 pursuant to this Act is liable for the death of or any injury
31 to persons, or damage to property, as a result of such
32 activity. This Section does not, however, apply to political
33 subdivisions and principal executive officers required to
34 maintain emergency services and disaster agencies that have
35 been given prior written notice by the Illinois Emergency

1 Management Agency that they are not in compliance with Section
2 10 of this Act, notwithstanding provisions of any other laws.
3 This Section does not, however, affect the right of any person
4 to receive benefits to which he or she would otherwise be
5 entitled under this Act under the Workers' Compensation Act or
6 the Workers' Occupational Diseases Act, or under any pension
7 law, and this Section does not affect the right of any such
8 person to receive any benefits or compensation under any Act of
9 Congress.

10 (Source: P.A. 92-73, eff. 1-1-02.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.