

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1118

Introduced by

Representatives Devlin, Becker, Bellew, Delzer, Pollert, M. Ruby, Vigesaa, Weisz

Senator Heckaman

1 A BILL for an Act to create and enact a new subsection to section 37-17.1-05 of the North
2 Dakota Century Code, relating to the governor's authority to issue executive orders during a
3 declared disaster or emergency; to amend and reenact subsection 12 of section 23-01-05 and
4 subsection 3 of section 37-17.1-05 of the North Dakota Century Code, relating to the ~~duration of~~
5 ~~a authority of the state health officer and the~~ gubernatorial declaration of disaster or emergency
6 ~~relating to public health and extension requests~~; and to declare an emergency.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 12. Issue ~~any orders~~ a written order relating to a disease control ~~measures-~~
11 ~~deemed~~ measure necessary to prevent the spread of a communicable disease.
12 ~~Disease~~ A disease control ~~measures~~ measure may include a special immunization
13 ~~activities~~ activity and decontamination ~~measures~~ measure. ~~Written orders~~

14 a. The state health officer shall limit a written order issued under this section to the
15 geographical area affected by the communicable disease. The state health officer
16 may not issue a statewide order under this section unless the governor has
17 declared a statewide disaster or emergency under chapter 37-17.1. The
18 statewide order is limited in duration to the duration of the declared disaster or
19 emergency.

20 b. A written order issued under this section ~~shall have~~ has the same effect as a
21 physician's standing medical order.

22 c. The state health officer may apply to the district court in a judicial district ~~wherein~~
23 which a communicable disease is present for an injunction canceling a public
24 ~~events~~ event or closing ~~places~~ a place of business. On application of the state

health officer showing the necessity of ~~such~~the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

SECTION 2. AMENDMENT. Subsection 3 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The

a. ~~Except as provided in subdivision b, the state of disaster or emergency shall continue~~continues until the governor determines ~~that~~ the threat of an emergency has passed or the governor determines the disaster has been dealt with to the extent ~~that~~ emergency conditions no longer exist, whichever occurs first.

b. ~~A declared state of disaster or emergency relating to public health, such as an epidemic or pandemic, is limited to sixty days, but the governor may request the legislative assembly approve an extension of the declared state of disaster or emergency relating to public health. A request must be for a specific number of days, not to exceed thirty days, beyond the sixty-day declaration or a previously approved extension. The legislative assembly may approve an extension request by concurrent resolution. If an extension request is not approved, the declared state of disaster or emergency relating to public health is deemed expired no later than the end of the sixtieth day or the end of a previously approved extension. If a declared state of disaster or emergency relating to public health is in effect and the legislative assembly is not in session, the legislative management may meet to vote on whether the legislative management should request the governor call a special session of the legislative assembly. If the governor does not call a special session within seven days after receiving the request from the legislative management, the declared state of disaster or emergency relating to public health terminates thirty days after the request from the legislative management was received by the governor. If the governor calls a special session within seven days after receiving the request from the legislative management, the special session must be held within fifteen days of the governor's call for a special session.~~

1 c. The legislative assembly by concurrent resolution may terminate a state of
2 disaster or emergency at any time.

3 d. ~~If a state of disaster or emergency relating to public health terminates after sixty-~~
4 ~~days or an extension request is not approved, the governor may not declare~~
5 ~~another state of disaster or emergency for the same disaster or emergency~~
6 ~~conditions.~~

7 ~~e.~~ All executive orders or proclamations issued under this subsection must indicate
8 the nature of the disaster or emergency, the area or areas threatened, the
9 conditions ~~which~~that have brought it about or which make possible termination of
10 the state of disaster or emergency. An executive order or proclamation must be
11 disseminated promptly by means calculated to bring its contents to the attention
12 of the general public, unless the circumstances attendant upon the disaster or
13 emergency prevent or impede such dissemination, and it must be ~~promptly~~ filed
14 promptly with the department of emergency services, the legislative council, the
15 secretary of state, and the county or city auditor of the jurisdictions affected.

16 **SECTION 3.** A new subsection to section 37-17.1-05 of the North Dakota Century Code is
17 created and enacted as follows:

18 Notwithstanding subsection 3, the governor may not issue an executive order under
19 this section unless the executive order specifically addresses the mitigation of a
20 declared state of disaster or emergency.

21 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.