

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 409

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE GOVERNOR AND DISASTER EMERGENCIES; AMENDING SECTION  
2 46-1008, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE GOVERNOR AND  
3 DISASTER EMERGENCIES; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-  
4 FECTIVE DATE.  
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 46-1008, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,  
10 the governor may issue executive orders and proclamations and may amend or  
11 rescind them. Executive orders and proclamations have the force and effect  
12 of law; provided, however, that any such orders, proclamations, or rules  
13 must be essential to protect life or property from the occurrence or immi-  
14 nent threat of the state of disaster emergency threatening the safety of per-  
15 sons or property within the state and must be narrowly tailored to effec-  
16 tively protect life or property without placing unnecessary restrictions on  
17 the ability for a person or persons, regardless of job type or classifica-  
18 tion, to work, provide for their families, or otherwise contribute to the  
19 economy of the state of Idaho.

20 (2) A If the governor has exercised his authority to convene a special  
21 session of the legislature by proclamation under section 9, article IV of the  
22 constitution of the state of Idaho, then he may also declare a disaster emer-  
23 gency shall be declared by executive order or proclamation of the governor if  
24 he finds a disaster has occurred or that the occurrence or the threat thereof  
25 is imminent and only if the stated purpose for convening the special ses-  
26 sion includes the matter of the disaster emergency. Provided, however, in  
27 the case of disaster emergencies related to fires, floods, tornadoes, earth-  
28 quakes, or invasive species the governor may declare a disaster emergency  
29 without exercising his authority to convene a special session. The state of  
30 disaster emergency shall continue until the governor finds that the threat  
31 or danger has passed or the disaster has been dealt with to the extent that  
32 emergency conditions no longer exist, and when either or both of these events  
33 occur, the governor shall terminate the state of disaster emergency by ex-  
34 ecutive order or proclamation; provided, however, that no state of disaster  
35 emergency may continue for longer than thirty (30) days unless the governor  
36 finds that it should be continued for another thirty (30) days or any part  
37 thereof. The governor shall not continue the state of disaster emergency be-  
38 yond sixty (60) days from the date the disaster emergency was declared. The  
39 legislature by concurrent resolution may terminate a state of disaster emer-  
40 gency at any time. Thereupon, the governor shall issue an executive order or  
41 proclamation ending the state of disaster emergency. All executive orders  
42 or proclamations issued under this subsection shall indicate the nature of

1 the disaster, the area or areas threatened, the area subject to the proclama-  
2 tion, and the conditions causing the disaster. An executive order or proclama-  
3 tion shall be disseminated promptly by means calculated to bring its con-  
4 tents to the attention of the general public and, unless the circumstances  
5 attendant upon the disaster prevent or impede, be promptly filed with the  
6 Idaho office of emergency management, the office of the secretary of state,  
7 and the office of the recorder of each county where the state of disaster  
8 emergency applies.

9 (3) An executive order or proclamation of a state of disaster emergency  
10 shall activate the disaster response and recovery aspects of the state, lo-  
11 cal, and intergovernmental disaster emergency plans applicable to the po-  
12 litical subdivision or area in question and be authority for the deployment  
13 and use of any forces to which the plan or plans apply and for use or dis-  
14 tribution of any supplies, equipment, and materials and facilities assem-  
15 bled, stockpiled, or arranged to be made available pursuant to this act or  
16 any other provision of law relating to disaster emergencies.

17 (4) During the continuance of any state of disaster emergency, the  
18 governor is commander-in-chief of the militia and may assume command of all  
19 other forces available for emergency duty. To the greatest extent prac-  
20 ticable, the governor shall delegate or assign command authority by prior  
21 arrangement embodied in appropriate executive orders or rules, but nothing  
22 herein restricts his authority to do so by orders issued at the time of the  
23 disaster emergency.

24 (5) In addition to any other powers conferred upon the governor by law,  
25 he may:

26 (a) Suspend the provisions of any rules prescribing the procedures for  
27 conduct of public business that would in any way prevent, hinder, or de-  
28 lay necessary action in coping with the emergency;

29 (b) Utilize all resources of the state, including, but not limited to,  
30 those sums in the disaster emergency account as he shall deem necessary  
31 to pay obligations and expenses incurred during a declared state of dis-  
32 aster emergency;

33 (c) Transfer the direction, personnel, or functions of state depart-  
34 ments and agencies or units thereof for the purpose of performing or fa-  
35 cilitating emergency services;

36 (d) Subject to any applicable requirements for compensation under sec-  
37 tion 46-1012, Idaho Code, and except as provided in subsection (7) (c) of  
38 this section, commandeer or utilize any private property, real or per-  
39 sonal, if he finds this necessary to cope with the disaster emergency;

40 (e) Direct and compel the evacuation of all or part of the population  
41 from any stricken or threatened area within the state if he deems this  
42 action necessary for the preservation of life or other disaster mitiga-  
43 tion, response, or recovery;

44 (f) Prescribe routes, modes of transportation, and destinations in  
45 connection with evacuation;

46 (g) Control ingress and egress to and from a disaster area, the movement  
47 of persons within the area, and the occupancy of premises therein;

48 (h) Suspend or limit the sale, dispensing or transportation of alco-  
49 holic beverages, explosives, and combustibles; and

- 1 (i) Make provision for the availability and use of temporary emergency  
2 housing.
- 3 (6) Whenever an emergency or a disaster has been declared to exist in  
4 Idaho by the president under the provisions of the disaster relief act of  
5 1974 (P.L. 93-288, 42 U.S.C. 5121), as amended, the governor may:
- 6 (a) Enter into agreements with the federal government for the sharing  
7 of disaster recovery expenses involving public facilities;
- 8 (b) Require as a condition of state assistance that a local taxing dis-  
9 trict be responsible for paying forty percent (40%) of the nonfederal  
10 share of costs incurred by the local taxing district that have been de-  
11 termined to be eligible for reimbursement by the federal government,  
12 provided that the total local share of eligible costs for a taxing dis-  
13 trict shall not exceed ten percent (10%) of the taxing district's tax  
14 charges authorized by section 63-802, Idaho Code;
- 15 (c) Obligate the state to pay the balance of the nonfederal share of el-  
16 igible costs within local taxing entities qualifying for federal assis-  
17 tance; and
- 18 (d) Enter into agreements with the federal government for the sharing  
19 of disaster assistance expenses to include individual and family grant  
20 programs.
- 21 (7) During the continuance of any state of disaster emergency, neither  
22 the governor nor any agency of any governmental entity or political subdivi-  
23 sion of the state shall:
- 24 (a) Impose or enforce any additional restrictions on the lawful man-  
25 ufacturing, possession, transfer, sale, transport, storage, display  
26 or use of firearms or ammunition or their components or accessories, or  
27 otherwise limit or suspend any rights guaranteed by the United States  
28 constitution or the constitution of the state of Idaho, including but  
29 not limited to the right to peaceable assembly or free exercise of re-  
30 ligion. The transport, storage, transfer, sale, commerce in, import  
31 and export of, distribution, repair, maintenance, and manufacture of  
32 firearms, ammunition, and related accessories and components, shooting  
33 ranges, and other goods and services directly related to lawful firearm  
34 possession, use, storage, repair, maintenance, sale or transfer, and  
35 training in the use of firearms are declared to be life-sustaining,  
36 essential businesses and services for the purposes of safety and secu-  
37 rity in times of declared emergency or any other statutorily authorized  
38 responses to disaster, war, acts of terrorism, riot or civil disorder,  
39 public health crises, or emergencies of whatever kind or nature;
- 40 (b) Suspend or revoke a license to carry concealed weapons or refuse  
41 to accept and process an application for a license to carry concealed  
42 weapons, except in accordance with the provisions of chapter 33, title  
43 18, Idaho Code; or
- 44 (c) Notwithstanding the provisions of subsection (5) of this section,  
45 seize, commandeer, or confiscate in any manner any privately owned  
46 firearm, ammunition, or firearms or ammunition components that are pos-  
47 sessed, carried, displayed, sold, transferred, transported, stored, or  
48 used in connection with otherwise lawful conduct.
- 49 (8) During any state of disaster emergency, the governor may not alter,  
50 adjust, or create any provision of the Idaho Code.

1           SECTION 2. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after  
3 July 1, 2025.