

Montana Code Annotated 2025

TITLE 10. MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES

CHAPTER 3. DISASTER AND EMERGENCY SERVICES

Part 1. General Provisions and Administration

General Authority Of Governor

10-3-104. General authority of governor. (1) The legislature finds that the governor has broad authority to proclaim a state of emergency or disaster in the state and to exercise emergency powers during the emergency. The legislature intends to allow the governor to immediately respond during a proclaimed state of emergency or disaster, including through the issuance of executive orders, proclamations, and orders necessary to carry out the purpose of this chapter, and the ability to amend or rescind them. These executive orders, proclamations, and regulations have the force of law. Subject to legislative oversight, the governor is responsible for carrying out parts 1 through 4 of this chapter.

(2) In addition to any other powers conferred upon the governor by law, the governor may:

(a) except as provided in subsections (4) and (5), suspend the provisions of a regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster;

(b) direct and compel the evacuation of all or part of the population from an emergency or disaster area within the state if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(c) except as provided in subsection (4), control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area.

(3) Under this section, the governor may issue executive orders, proclamations, and regulations and amend and rescind them. All executive orders or proclamations declaring or terminating a state of emergency or disaster must indicate the nature of the emergency or disaster, the area threatened, and the conditions that have brought about the declaration or that make possible termination of the state of emergency or disaster.

(4) The governor may not suspend the provisions of any statute prescribing the procedures for an election or otherwise control the ingress and egress to a polling location without the consent of the legislature through the polling process provided in **10-3-121** or through a regular or special legislative session.

(5) The governor may not suspend a statute that affects the exercise of an individual's constitutional rights under the United States constitution or the Montana constitution, including **13-19-104(3)**, even if the statute is otherwise considered a regulatory statute prescribing the procedures for conduct of state business.

History: En. Sec. 6, Ch. 218, L. 1951; Sec. 77-1306, R.C.M. 1947; amd. and redes. 77-2304 by Sec. 11, Ch. 94, L. 1974; amd. Sec. 6, Ch. 335, L. 1977; R.C.M. 1947, 77-2304(1) thru (3); amd. Sec. 2, Ch. 176, L. 1995; amd. Sec. 2, Ch. 357, L. 2021; amd. Sec. 10, Ch. 504, L. 2021.

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