

HOUSE BILL 436

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC EMERGENCIES; REQUIRING THAT RULES, ORDERS OR
OTHER DIRECTIVES ISSUED BY GOVERNMENT ENTITIES PURSUANT TO THE
ALL HAZARD EMERGENCY MANAGEMENT ACT, THE PUBLIC HEALTH
EMERGENCY RESPONSE ACT, THE RIOT CONTROL ACT OR THE ENERGY
EMERGENCY POWERS ACT THAT CLOSE CERTAIN BUSINESSES OR
FACILITIES AND THAT INCLUDE EXEMPTIONS FOR SOME BUSINESSES OR
FACILITIES SHALL ALSO INCLUDE EXEMPTIONS FOR FACILITIES
OPERATED BY RELIGIOUS ORGANIZATIONS THAT ARE EXEMPT FROM
TAXATION PURSUANT TO FEDERAL LAW; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 12-10-1 NMSA 1978 (being Laws 1959,
Chapter 190, Section 1, as amended) is amended to read:

"12-10-1. SHORT TITLE.--Sections 12-10-1 through
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1 ~~[12-10-10]~~ 12-10-10.1 NMSA 1978 may be cited as the "All Hazard
2 Emergency Management Act".

3 SECTION 2. Section 12-10-4 NMSA 1978 (being Laws 1959,
4 Chapter 190, Section 5, as amended) is amended to read:

5 "12-10-4. ALL HAZARD EMERGENCY MANAGEMENT--POWERS OF THE
6 GOVERNOR.--

7 A. The governor shall have general direction and
8 control of the activities of the homeland security and
9 emergency management department and shall be responsible for
10 carrying out the provisions of the All Hazard Emergency
11 Management Act and, in the event of any man-made or natural
12 disaster causing or threatening widespread physical or economic
13 harm that is beyond local control and requiring the resources
14 of the state, shall exercise direction and control over any and
15 all state forces and resources engaged in emergency operations
16 or related all hazard emergency management functions within the
17 state.

18 B. Except as limited by Section 12-10-10.1 NMSA
19 1978, in carrying out the provisions of the All Hazard
20 Emergency Management Act, the governor is authorized to:

21 (1) cooperate with the federal government and
22 agree to carry out all hazard emergency management
23 responsibilities delegated in accordance with existing federal
24 laws and policies and cooperate with other states and with
25 private agencies in all matters relating to the all hazard

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1 emergency management of the state and nation;

2 (2) issue, amend or rescind the necessary
3 orders, rules and procedures to carry out the provisions of the
4 All Hazard Emergency Management Act;

5 (3) provide those resources and services
6 necessary to avoid or minimize economic or physical harm until
7 a situation becomes stabilized and again under local self-
8 support and control, including the provision, on a temporary,
9 emergency basis, of lodging, sheltering, health care, food,
10 transportation or shipping necessary to protect lives or public
11 property; or for any other action necessary to protect the
12 public health, safety and welfare;

13 (4) prepare a comprehensive emergency
14 operations plan and program and to integrate the state
15 emergency operations plan and program with the emergency
16 operations plans and programs of the federal government and
17 other states and to coordinate the preparation of emergency
18 operations plans and programs by the political subdivisions of
19 this state;

20 (5) procure supplies and equipment, to
21 institute training programs and public information programs and
22 to take all necessary preparatory actions, including the
23 partial or full mobilization of state and local government
24 forces and resources in advance of actual disaster, to ensure
25 the furnishing of adequately trained and equipped emergency

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1 forces of government and auxiliary personnel to cope with
2 disasters resulting from enemy attack or other causes; and

3 (6) enter into mutual aid agreements with
4 other states and to coordinate mutual aid agreements between
5 political subdivisions of the state."

6 SECTION 3. Section 12-10-5 NMSA 1978 (being Laws 1959,
7 Chapter 190, Section 6, as amended) is amended to read:

8 "12-10-5. LOCAL EMERGENCY MANAGEMENT.--The governing
9 bodies of the political subdivisions of the state are
10 responsible for the all hazard emergency management of their
11 respective jurisdictions. Except as limited by Section
12 12-10-10.1 NMSA 1978, each political subdivision is authorized
13 to establish, by ordinance or resolution, a local office of
14 emergency management as an agency of the local government and
15 responsible to the governing body, in accordance with the state
16 emergency operations plan and program. Every local coordinator
17 of emergency management shall be appointed by the governing
18 body, subject to the approval of the [~~state director~~] secretary
19 of homeland security and emergency management, and the local
20 coordinator shall have direct responsibility for carrying out
21 the all hazard emergency management program of the political
22 subdivision. The state director shall coordinate the emergency
23 management activities of all local governmental departments and
24 agencies and shall maintain liaison with and cooperate with
25 emergency management agencies and organizations of other

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1 political subdivisions and of the state government. Each local
2 organization shall perform emergency management functions
3 within the territorial limits of the political subdivision
4 within which it is organized."

5 SECTION 4. Section 12-10-10.1 NMSA 1978 (being Laws 2005,
6 Chapter 22, Section 2) is repealed and a new Section 12-10-10.1
7 NMSA 1978 is enacted to read:

8 "12-10-10.1. [NEW MATERIAL] RESTRICTIONS ON PLACES OF
9 WORSHIP--LIMITATIONS--CIVIL LIABILITY.--

10 A. An order, a rule or other directive issued by a
11 governmental entity pursuant to the All Hazard Emergency
12 Management Act to close or limit businesses or facilities
13 otherwise open to public use or patronage that includes
14 exemptions in whole or in part for some businesses or
15 facilities shall also include exemptions for facilities
16 operated by religious organizations that are exempt from
17 taxation pursuant to Section 501(c)(3) of the federal Internal
18 Revenue Code of 1986 as places of worship to the same extent as
19 the most permissive exemption provided by the order, rule or
20 other directive.

21 B. A person or an entity alleging harm due to a
22 violation of this section may seek declaratory or injunctive
23 relief or money damages. Upon a showing of malicious
24 application or reckless enforcement of an order by a violator,
25 a court may also award punitive damages."

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1 SECTION 5. A new Section 12-10-13.1 NMSA 1978 is enacted
2 to read:

3 "12-10-13.1. [NEW MATERIAL] SHORT TITLE.--Sections
4 12-10-11 through 12-10-13.1 NMSA 1978 may be cited as the
5 "Emergency Licensing Act"."

6 SECTION 6. Section 12-10-18 NMSA 1978 (being Laws 1969,
7 Chapter 281, Section 3) is amended to read:

8 "12-10-18. EMERGENCY RESTRICTIONS.--

9 A. During the existence of a state of emergency,
10 the governor may, by proclamation, prohibit:

11 (1) any person being on the public streets, in
12 the public parks or at any other public place during the hours
13 proclaimed by the governor to be a period of curfew;

14 (2) any designated number of persons from
15 assembling or gathering on the public streets, public parks or
16 other open areas, either public or private, or in any public
17 building;

18 (3) the manufacture, transfer, use, possession
19 or transportation of any device or object designed to explode
20 or produce uncontained combustion;

21 (4) the transportation, possession or use of
22 combustible, flammable or explosive materials in a glass or
23 uncapped container of any kind except in connection with the
24 normal operation of motor vehicles, normal home use or
25 legitimate commercial use;

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1 (5) the possession of firearms or any other
2 deadly weapon by a person in any place other than [~~his~~] the
3 person's place of residence or business, except for peace
4 officers;

5 (6) the sale, purchase or dispensing of
6 alcoholic beverages or other commodities or goods designated by
7 the governor;

8 (7) the use of certain streets or highways by
9 the public; and

10 (8) other activities the governor reasonably
11 believes should be prohibited to help maintain life, property
12 or the public peace.

13 B. An order, a rule or other directive issued by a
14 governmental entity pursuant to the Riot Control Act to close
15 or limit businesses or facilities otherwise open to public use
16 or patronage that includes exemptions in whole or in part for
17 some businesses or facilities shall also include exemptions for
18 facilities operated by religious organizations that are exempt
19 from taxation pursuant to Section 501(c)(3) of the federal
20 Internal Revenue Code of 1986 as places of worship to the same
21 extent as the most permissive exemption provided by the order,
22 rule or other directive.

23 C. A person or an entity alleging harm due to a
24 violation of this section may seek declaratory or injunctive
25 relief or money damages. Upon a showing of malicious

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1 application or reckless enforcement of an order by a violator,
2 a court may also award punitive damages.

3 [B-] D. Any proclamation issued under this section
4 becomes effective immediately upon its signing by the governor,
5 but the governor shall give public notice of its contents
6 through the public press and other news media. The
7 restrictions may be imposed during times, upon conditions, with
8 exceptions and in areas of the state designated by proclamation
9 of the governor from time to time."

10 SECTION 7. Section 12-10A-17 NMSA 1978 (being Laws 2003,
11 Chapter 218, Section 17, as amended) is amended to read:

12 "12-10A-17. RULEMAKING--EXEMPTIONS--CIVIL LIABILITY.--

13 A. The secretary of public safety, the secretary of
14 health, the state director and, where appropriate, other
15 affected state agencies in consultation with the secretaries
16 and state director, shall promulgate and implement rules that
17 are reasonable and necessary to implement and effectuate the
18 Public Health Emergency Response Act.

19 B. An order, a rule or other directive issued by a
20 governmental entity pursuant to the Public Health Emergency
21 Response Act to close or limit businesses or facilities
22 otherwise open to public use or patronage that includes
23 exemptions in whole or in part for some businesses or
24 facilities shall also include exemptions for facilities
25 operated by religious organizations that are exempt from

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1 taxation pursuant to Section 501(c)(3) of the federal Internal
2 Revenue Code of 1986 as places of worship to the same extent as
3 the most permissive exemption provided by the order, rule or
4 other directive.

5 C. A person or an entity alleging harm due to a
6 violation of this section may seek declaratory or injunctive
7 relief or money damages. Upon a showing of malicious
8 application or reckless enforcement of an order by a violator,
9 a court may also award punitive damages."

10 SECTION 8. Section 12-12-3 NMSA 1978 (being Laws 1980,
11 Chapter 107, Section 3) is amended to read:

12 "12-12-3. ENERGY SUPPLY ALERT--ENERGY EMERGENCY--POWERS
13 OF THE GOVERNOR.--

14 A. The governor, after making written findings of
15 the grounds upon which ~~he~~ the governor bases ~~his~~ a
16 decision, may issue a declaration that an energy supply alert
17 exists. The governor shall publish ~~his~~ the declaration and
18 the findings upon which it is based along with any orders
19 issued pursuant to the declared alert. After declaring that
20 the state or any region thereof is in an alert status, the
21 governor may issue executive orders directed at state agencies
22 and political subdivisions of the state. Such orders may
23 include but are not limited to the following provisions:

24 (1) imposition of restrictions on any
25 wasteful, inefficient or nonessential use of energy resources;

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1 (2) ordering changes in operation schedules
2 and working hours;

3 (3) curtailing the use of land vehicles,
4 watercraft and aircraft; and

5 (4) such other provisions as are deemed
6 necessary to reduce the consumption of energy resources.

7 B. The governor, upon termination of an energy
8 supply alert or after determining that the declaration of an
9 energy supply alert would be insufficient to meet the situation
10 facing the people of New Mexico and after making written
11 findings of the grounds upon which ~~he~~ the governor bases
12 ~~his~~ a decision that an energy emergency exists, which
13 findings shall be provided to the presiding officer of each
14 house of the legislature, may issue a declaration that such an
15 emergency exists. Upon the issuance of publication of such a
16 declaration and the written determination of need, the governor
17 may issue executive orders and may take such steps as are
18 necessary and appropriate to carry out the provisions of the
19 Energy Emergency Powers Act and generally to protect the peace,
20 health, safety and welfare and preserve the lives and property
21 of the people of this state. Executive orders may include but
22 are not limited to the following provisions:

23 (1) imposition of restrictions on any
24 wasteful, inefficient or nonessential use of energy resources;

25 (2) allocation of available supplies of energy

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1 resources among areas, users, persons or categories of persons
2 or users. In allocating available resources, the governor
3 shall give priority to energy resource use essential to public
4 health and safety and shall thereafter attempt to allocate the
5 remaining supply equitably;

6 (3) regulation of the days and times when
7 energy resources may be sold to end users and the amounts
8 [~~which~~] that may be sold or purchased;

9 (4) regulation of the hours and days during
10 which nonresidential buildings may be open and the temperature
11 at which they may be maintained; and

12 (5) such provisions as may be necessary to
13 [~~assure~~] ensure that adequate transportation facilities exist
14 to supply the energy needs of this state.

15 C. The governor shall review the requests of the
16 chief [~~executive~~] executives of political subdivisions that the
17 governor issue orders to require specific actions to be taken
18 within those subdivisions. The governor may grant those
19 requests [~~he~~] the governor deems in the best interest of the
20 state and may delegate to the political subdivisions such
21 powers as [~~he~~] the governor determines would best be vested in
22 local entities.

23 D. An order, a rule or other directive issued by a
24 governmental entity pursuant to the Energy Emergency Powers Act
25 to close or limit businesses or facilities otherwise open to

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1 public use or patronage that includes exemptions in whole or in
2 part for some businesses or facilities shall also include
3 exemptions for facilities operated by religious organizations
4 that are exempt from taxation pursuant to Section 501(c)(3) of
5 the federal Internal Revenue Code of 1986 as places of worship
6 to the same extent as the most permissive exemption provided by
7 the order, rule or other directive.

8 E. A person or an entity alleging harm due to a
9 violation of this section may seek declaratory or injunctive
10 relief or money damages. Upon a showing of malicious
11 application or reckless enforcement of an order by a violator,
12 a court may also award punitive damages.

13 [D-] F. Executive orders issued pursuant to this
14 section shall take effect three days after publication in a
15 manner designed to [assure] ensure statewide notification. In
16 addition, executive orders issued [here under] pursuant to the
17 Energy Emergency Powers Act are exempt from the provisions of
18 the State Rules Act."

19 **SECTION 9. EFFECTIVE DATE.--**The effective date of the
20 provisions of this act is July 1, 2025.