

Sixty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 authority  
5 of the state health officer and the gubernatorial declaration of disaster or emergency; and to  
6 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 ~~event~~ event or closing ~~places~~ a place of business. On application of the state

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

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

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

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

12 b. If a declared state of disaster or emergency relating to public health is in effect  
13 and the legislative assembly is not in session, the legislative management may  
14 meet to vote on whether the legislative management should request the governor  
15 call a special session of the legislative assembly. If the governor does not call a  
16 special session within seven days after receiving the request from the legislative  
17 management, the declared state of disaster or emergency relating to public  
18 health terminates thirty days after the request from the legislative management  
19 was received by the governor. If the governor calls a special session within seven  
20 days after receiving the request from the legislative management, the special  
21 session must be held within fifteen days of the governor's call for a special  
22 session.

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

25 d. All executive orders or proclamations issued under this subsection must indicate  
26 the nature of the disaster or emergency, the area or areas threatened, the  
27 conditions ~~which~~that have brought it about or which make possible termination of  
28 the state of disaster or emergency. An executive order or proclamation must be  
29 disseminated promptly by means calculated to bring its contents to the attention  
30 of the general public, unless the circumstances attendant upon the disaster or  
31 emergency prevent or impede such dissemination, and it must be promptly filed

1                    promptly with the department of emergency services, the legislative council, the  
2                    secretary of state, and the county or city auditor of the jurisdictions affected.

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

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

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