



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

April 14, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 396, an Act relating to disaster preparedness and providing an effective date.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 396

AN ACT

RELATING TO DISASTER PREPAREDNESS AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION XV

DISASTER PREPAREDNESS

Section 1. NEW SECTION. 135.150 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism.
2. "Department" means the Iowa department of public health.
3. "Director" means the director or the director's designee of public health.
4. "Disaster" means disaster as defined in section 29C.2.
5. "Disaster medical assistance team" or "DMAT" means a team of professionals, including licensed health care providers, nonmedical professionals skilled and trained in disaster or emergency response, and public health

practitioners, which is sponsored by a hospital or other entity and approved by the department to provide disaster medical assistance in the event of a disaster or threatened disaster.

6. "Division" means the division of epidemiology, emergency medical services, and disaster operations of the department.

7. "Public health disaster" means a state of disaster emergency proclaimed by the governor in consultation with the department pursuant to section 29C.6 for a disaster which specifically involves an imminent threat of an illness or health condition that meets any of the following conditions of paragraphs "a" and "b":

a. Is reasonably believed to be caused by any of the following:

- (1) Bioterrorism or other act of terrorism.
 - (2) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin.
 - (3) A chemical attack or accidental release.
 - (4) An intentional or accidental release of radioactive material.
 - (5) A nuclear or radiological attack or accident.
- b. Poses a high probability of any of the following:
- (1) A large number of deaths in the affected population.
 - (2) A large number of serious or long-term disabilities in the affected population.
 - (3) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of the affected population.

Sec. 2. NEW SECTION. 135.151 DIVISION OF EPIDEMIOLOGY, EMERGENCY MEDICAL SERVICES, AND DISASTER OPERATIONS -- ESTABLISHED -- DUTIES OF DEPARTMENT.

1. A division of epidemiology, emergency medical services, and disaster operations is established within the department. The division shall coordinate the administration of this division of this chapter with other administrative divisions of the department and with federal, state, and local agencies and officials.

2. The department shall do all of the following:

a. Coordinate with the emergency management division of the department of public defense the administration of emergency planning matters which involve the public health, including development, administration, and execution of the public health components of the comprehensive plan and emergency management program pursuant to section 29C.8.

b. Coordinate with federal, state, and local agencies and officials, and private agencies, organizations, companies, and persons, the administration of emergency planning matters that involve the public health.

c. Conduct and maintain a statewide risk assessment of any present or potential danger to the public health from biological agents.

d. If a public health disaster exists, or if there is reasonable cause to believe that a public health disaster is imminent, conduct a risk assessment of any present or potential danger to the public health from chemical, radiological, or other potentially dangerous agents.

e. For the purpose of paragraphs "c" and "d", an employee or agent of the department may enter into and examine any premises containing potentially dangerous agents with the consent of the owner or person in charge of the premises or, if the owner or person in charge of the premises refuses admittance, with an administrative search warrant obtained under section 808.14. Based on findings of the risk assessment and examination of the premises, the director may order reasonable safeguards or take any other action reasonably necessary to protect the public health pursuant to rules adopted to administer this subsection.

f. Coordinate the location, procurement, storage, transportation, maintenance, and distribution of medical supplies, drugs, antidotes, and vaccines to prepare for or in response to a public health disaster, including receiving, distributing, and administering items from the strategic national stockpile program of the centers for disease control and prevention of the United States department of health and human services.

g. Conduct or coordinate public information activities regarding emergency and disaster planning matters that involve the public health.

h. Apply for and accept grants, gifts, or other funds to be used for programs authorized by this division of this chapter.

i. Establish and coordinate other programs or activities as necessary for the prevention, detection, management, and containment of public health disasters.

j. Adopt rules pursuant to chapter 17A for the administration of this division of this chapter including rules adopted in cooperation with the Iowa pharmacy association and the Iowa hospital association for the development of a surveillance system to monitor supplies of drugs, antidotes, and vaccines to assist in detecting a potential public health disaster.

Prior to adoption, the rules shall be approved by the state board of health and the administrator of the emergency management division of the department of public defense.

Sec. 3. NEW SECTION. 135.152 HEALTH CARE SUPPLIES.

1. The department may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies as deemed advisable in the interest of preparing for or controlling a public health disaster.

2. If a public health disaster exists or there is reasonable cause to believe that a public health disaster is imminent and if the public health disaster or belief that a public health disaster is imminent results in a statewide or regional shortage or threatened shortage of any product described under subsection 1, whether such product has been purchased by the department, the department may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of this state. The department shall collaborate with persons who have control of the products when reasonably possible.

3. In making rationing or other supply and distribution decisions, the department shall give preference to health care providers, disaster response personnel, and mortuary staff.

4. During a public health disaster, the department may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the public health disaster, and may take immediate possession of these pharmaceutical agents and supplies. If a public health disaster affects more than one state, this section shall not be construed to allow the department to obtain antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing the fair and equitable distribution of these pharmaceutical and medical supplies among affected states. The department shall collaborate with affected states and persons when reasonably possible.

5. The state shall pay just compensation to the owner of any product lawfully taken or appropriated by the department for the department's temporary or permanent use in accordance with this section. The amount of compensation shall be limited to the costs incurred by the owner to procure the item.

Sec. 4. NEW SECTION. 135.153 DISASTER MEDICAL ASSISTANCE TEAMS.

1. The department shall approve disaster medical assistance teams to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources at or near the site of a disaster or threatened disaster by providing direct medical care to victims or by providing other support services.

2. A member of a disaster medical assistance team acting pursuant to this division of this chapter shall be considered an employee of the state under chapter 669, shall be afforded protection as an employee of the state under section 669.21, and shall be considered an employee of the state for purposes of workers' compensation and death benefits, provided that the member has done all of the following:

a. Registered with and received approval to serve on a disaster medical assistance team from the department.

b. Provided direct medical care to a victim of a disaster or provided other support services during a disaster.

3. The department shall provide the department of personnel with a list of individuals who have registered with and received approval from the department to serve on a disaster medical assistance team. The department shall update the list on a quarterly basis, or as necessary for the department of personnel to determine eligibility for coverage.

4. Upon notification of a compensable loss, the department of personnel shall seek funding from the executive council for those costs associated with covered workers' compensation benefits.

Sec. 5. NEW SECTION. 135.154 ADDITIONAL DUTIES OF THE DEPARTMENT RELATED TO A PUBLIC HEALTH DISASTER.

If a public health disaster exists, the department, in conjunction with the governor, may do any of the following:

1. Decontaminate or cause to be decontaminated, to the extent reasonable and necessary to address the public health disaster, any facility or material if there is cause to believe the contaminated facility or material may endanger the public health.

2. Adopt and enforce measures to provide for the identification and safe disposal of human remains, including performance of postmortem examinations, transportation, embalming, burial, cremation, interment, disinterment, and other disposal of human remains. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or the deceased person's family shall be considered when disposing of any human remains.

3. Take reasonable measures as necessary to prevent the transmission of infectious disease and to ensure that all cases of communicable disease are properly identified, controlled, and treated.

4. Take reasonable measures as necessary to ensure that all cases of chemical, biological, and radiological contamination are properly identified, controlled, and treated.

5. Order physical examinations and tests and collect specimens as necessary for the diagnosis or treatment of individuals, to be performed by any qualified person

authorized to do so by the department. An examination or test shall not be performed or ordered if the examination or test is reasonably likely to lead to serious harm to the affected individual. The department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter, any individual whose refusal of medical examination or testing results in uncertainty regarding whether the individual has been exposed to or is infected with a communicable or potentially communicable disease or otherwise poses a danger to public health.

6. Vaccinate or order that individuals be vaccinated against an infectious disease and to prevent the spread of communicable or potentially communicable disease. Vaccinations shall be administered by any qualified person authorized to do so by the department. The vaccination shall not be provided or ordered if it is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter, any person who is unable or unwilling to undergo vaccination pursuant to this subsection.

7. Treat or order that individuals exposed to or infected with disease receive treatment or prophylaxis. Treatment or prophylaxis shall be administered by any qualified person authorized to do so by the department. Treatment or prophylaxis shall not be provided or ordered if the treatment or prophylaxis is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division, any individual who is unable or unwilling to undergo treatment or prophylaxis pursuant to this section.

8. Isolate or quarantine individuals or groups of individuals pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter.

9. Inform the public when a public health disaster has been declared or terminated, about protective measures to take

during the disaster, and about actions being taken to control the disaster.

10. Accept grants and loans from the federal government pursuant to section 29C.6 or available provisions of federal law.

Sec. 6. NEW SECTION. 135.155 INFORMATION SHARING.

1. When the department of public safety or other federal, state, or local law enforcement agency learns of a case of a reportable disease or health condition, unusual cluster, or a suspicious event that may be the cause of a public health disaster, the department or agency shall immediately notify the department, the administrator of the emergency management division of the department of public defense, the department of agriculture and land stewardship, and the department of natural resources as appropriate.

2. When the department learns of a case of a reportable disease or health condition, an unusual cluster, or a suspicious event that the department reasonably believes could potentially be caused by bioterrorism or other act of terrorism, the department shall immediately notify the department of public safety, the emergency management division of the department of public defense, and other appropriate federal, state, and local agencies and officials.

3. Sharing of information on reportable diseases, health conditions, unusual clusters, or suspicious events between the department and public safety authorities and other governmental agencies shall be restricted to sharing of only the information necessary for the prevention, control, and investigation of a public health disaster.

4. Release of information pursuant to this section shall be consistent with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 7. Section 29C.6, subsection 1, Code 2003, is amended to read as follows:

1. After finding a disaster exists or is threatened, proclaim a state of disaster emergency. This proclamation shall be in writing, indicate the area affected and the facts upon which it is based, be signed by the governor, and be filed with the secretary of state. If the state of disaster emergency specifically constitutes a public health disaster as

defined in section 135.150, the written proclamation shall include a statement to that effect. A state of disaster emergency shall continue for thirty days, unless sooner terminated or extended in writing by the governor. The general assembly may, by concurrent resolution, rescind this proclamation. If the general assembly is not in session, the legislative council may, by majority vote, rescind this proclamation. Recision shall be effective upon filing of the concurrent resolution or resolution of the legislative council with the secretary of state. A proclamation of disaster emergency shall activate the disaster response and recovery aspect of the state, local and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan applies, and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available.

Sec. 8. Section 135.11, subsection 29, Code 2003, is amended by striking the subsection.

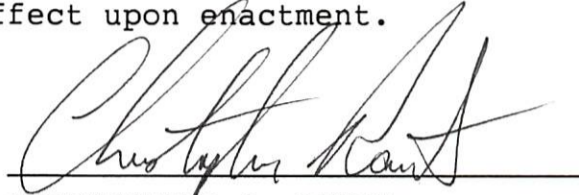
Sec. 9. Section 139A.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 17A. "Public health disaster" means public health disaster as defined in section 135.150.

Sec. 10. NEW SECTION. 139A.3A INVESTIGATION AND CONTROL.

When the department receives a report under this chapter or acts on other reliable information that a person is infected with a disease, illness, or health condition that may be a potential cause of a public health disaster, the department shall identify all individuals reasonably believed to have been exposed to the disease, illness, or health condition and shall investigate all such cases for sources of infection and ensure that such cases are subject to proper control measures. Any hospital, health care provider, or other person may provide information, interviews, reports, statements, memoranda, records, or other data related to the condition and treatment of any individual if not otherwise prohibited by the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, to the department to be used for the limited purpose of determining whether a public health disaster exists.

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.



CHRISTOPHER C. RANTS
Speaker of the House



MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 396, Eightieth General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved April 14, 2003



THOMAS J. VILSACK
Governor