

# Senate Study Bill 206

## Bill Text

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1 1 Section 1. Section [29C.21](#), Code 1997, is amended by  
1 2 striking the section and inserting in lieu thereof the  
1 3 following:

1 4 29C.21 EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

1 5 The interstate emergency management assistance compact is  
1 6 entered into with all other states which enter into the  
1 7 compact in substantially the following form:

1 8 ARTICLE I - PURPOSE AND AUTHORITIES

1 9 This compact is made and entered into by and between the  
1 10 participating member states which enact this compact,  
1 11 hereinafter called party states. For the purposes of this  
1 12 agreement, the term "states" is taken to mean the several  
1 13 states, the Commonwealth of Puerto Rico, the District of  
1 14 Columbia, and all United States territorial possessions.

1 15 The purpose of this compact is to provide for mutual  
1 16 assistance between the states entering into this compact in  
1 17 managing any emergency or disaster that is duly declared by  
1 18 the governor of the affected state, whether arising from  
1 19 natural disaster, technological hazard, man-made disaster,  
1 20 civil emergency aspects of resource shortages, community  
1 21 disorders, insurgency, or enemy attack.

1 22 This compact shall also provide for mutual cooperation in  
1 23 emergency-related exercises, testing, or other training  
1 24 activities using equipment and personnel simulating  
1 25 performance of any aspect of the giving and receiving of aid  
1 26 by party states or subdivisions of party states during  
1 27 emergencies, such actions occurring outside actual declared  
1 28 emergency periods. Mutual assistance in this compact may  
1 29 include the use of the states' national guard forces, either  
1 30 in accordance with the national guard mutual assistance  
1 31 compact or by mutual agreement between states.

1 32 ARTICLE II - GENERAL IMPLEMENTATION

1 33 Each party state entering into this compact recognizes many  
1 34 emergencies transcend political jurisdictional boundaries and  
1 35 that intergovernmental coordination is essential in managing  
2 1 these and other emergencies under this compact. Each state  
2 2 further recognizes that there will be emergencies which  
2 3 require immediate access and present procedures to apply  
2 4 outside resources to make a prompt and effective response to  
2 5 such an emergency. This is because few, if any, individual  
2 6 states have all the resources they may need in all types of  
2 7 emergencies or the capability of delivering resources to areas  
2 8 where emergencies exist.

2 9 The prompt, full, and effective utilization of resources of  
2 10 the participating states, including any resources on hand or  
2 11 available from the federal government or any other source,  
2 12 that are essential to the safety, care, and welfare of the  
2 13 people in the event of any emergency or disaster declared by a  
2 14 party state, shall be the underlying principle on which all  
2 15 articles of this compact shall be understood.

2 16 On behalf of the governor of each state participating in  
2 17 the compact, the legally designated state official who is  
2 18 assigned responsibility for emergency management will be  
2 19 responsible for formulation of the appropriate interstate  
2 20 mutual aid plans and procedures necessary to implement this  
2 21 compact.

ARTICLE III - PARTY STATE RESPONSIBILITIES

1. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

a. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.

b. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

c. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

d. Assist in warning communities adjacent to or crossing the state boundaries.

e. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

f. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

g. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

2. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide all of the following:

a. A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

b. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

c. The specific place and time for staging of the assisting party's response and a point of contact at that location.

3. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV - LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof, provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall afford to the emergency forces of any party state, while

4 19 operating within its state limits under the terms and  
4 20 conditions of this compact, the same powers, except that of  
4 21 arrest unless specifically authorized by the receiving state,  
4 22 duties, rights, and privileges as are afforded forces of the  
4 23 state in which they are performing emergency services.  
4 24 Emergency forces will continue under the command and control  
4 25 of their regular leaders, but the organizational units will  
4 26 come under the operational control of the emergency services  
4 27 authorities of the state receiving assistance. These  
4 28 conditions may be activated, as needed, only subsequent to a  
4 29 declaration of a state of emergency or disaster by the  
4 30 governor of the party state that is to receive assistance or  
4 31 commencement of exercises or training for mutual aid and shall  
4 32 continue so long as the exercises or training for mutual aid  
4 33 are in progress, the state of emergency or disaster remains in  
4 34 effect, or loaned resources remain in the receiving state,  
4 35 whichever is longer.

5 1                   ARTICLE V - LICENSES AND PERMITS

5 2       Whenever any person holds a license, certificate, or other  
5 3 permit issued by any state party to the compact evidencing the  
5 4 meeting of qualifications for professional, mechanical, or  
5 5 other skills, and when such assistance is requested by the  
5 6 receiving party state, such person shall be deemed licensed,  
5 7 certified, or permitted by the state requesting assistance to  
5 8 render aid involving such skill to meet a declared emergency  
5 9 or disaster, subject to such limitations and conditions as the  
5 10 governor of the requesting state may prescribe by executive  
5 11 order or otherwise.

5 12                   ARTICLE VI - LIABILITY

5 13       Officers or employees of a party state rendering aid in  
5 14 another state pursuant to this compact shall be considered  
5 15 agents of the requesting state for tort liability and immunity  
5 16 purposes; and no party state or its officers or employees  
5 17 rendering aid in another state pursuant to this compact shall  
5 18 be liable on account of any act or omission in good faith on  
5 19 the part of such forces while so engaged or on account of the  
5 20 maintenance or use of any equipment or supplies in connection  
5 21 therewith. Good faith in this article shall not include  
5 22 willful misconduct, gross negligence, or recklessness.

5 23                   ARTICLE VII - SUPPLEMENTARY AGREEMENTS

5 24       Inasmuch as it is probable that the pattern and detail of  
5 25 the machinery for mutual aid among two or more states may  
5 26 differ from that among the states that are party hereto, this  
5 27 instrument contains elements of a broad base common to all  
5 28 states, and nothing herein contained shall preclude any state  
5 29 from entering into supplementary agreements with another state  
5 30 or affect any other agreements already in force between  
5 31 states. Supplementary agreements may comprehend, but shall  
5 32 not be limited to, provisions for evacuation and reception of  
5 33 injured and other persons and the exchange of medical, fire,  
5 34 police, public utility, reconnaissance, welfare,  
5 35 transportation and communications personnel, and equipment and  
6 1 supplies.

6 2                   ARTICLE VIII - COMPENSATION

6 3       Each party state shall provide for the payment of  
6 4 compensation and death benefits to injured members of the  
6 5 emergency forces of that state and representatives of deceased  
6 6 members of such forces in case such members sustain injuries  
6 7 or are killed while rendering aid pursuant to this compact, in  
6 8 the same manner and on the same terms as if the injury or  
6 9 death were sustained within their own state.

6 10                   ARTICLE IX - REIMBURSEMENT

6 11       Any party state rendering aid in another state pursuant to  
6 12 this compact shall be reimbursed by the party state receiving  
6 13 such aid for any loss or damage to or expense incurred in the  
6 14 operation of any equipment and the provision of any service in  
6 15 answering a request for aid and for the costs incurred in

6 16 connection with such requests; provided that any aiding party  
6 17 state may assume in whole or in part such loss, damage,  
6 18 expense, or other cost, or may loan such equipment or donate  
6 19 such services to the receiving party state without charge or  
6 20 cost; and provided further, that any two or more party states  
6 21 may enter into supplementary agreements establishing a  
6 22 different allocation of costs among those states. Article  
6 23 VIII expenses shall not be reimbursable under this provision.

6 24 ARTICLE X - EVACUATION

6 25 Plans for the orderly evacuation and interstate reception  
6 26 of portions of the civilian population as the result of any  
6 27 emergency or disaster of sufficient proportions to so warrant,  
6 28 shall be worked out and maintained between the party states  
6 29 and the emergency management or services directors of the  
6 30 various jurisdictions where any type of incident requiring  
6 31 evacuations might occur. Such plans shall be put into effect  
6 32 by request of the state from which evacuees come and shall  
6 33 include the manner of transporting such evacuees, the number  
6 34 of evacuees to be received in different areas, the manner in  
6 35 which food, clothing, housing, and medical care will be  
7 1 provided, the registration of the evacuees, the providing of  
7 2 facilities for the notification of relatives or friends, and  
7 3 the forwarding of such evacuees to other areas or the bringing  
7 4 in of additional materials, supplies, and all other relevant  
7 5 factors. Such plans shall provide that the party state  
7 6 receiving evacuees and the party state from which the evacuees  
7 7 come shall mutually agree as to reimbursement of out-of-pocket  
7 8 expenses incurred in receiving and caring for such evacuees,  
7 9 for expenditures for transportation, food, clothing, medicines  
7 10 and medical care, and like items. Such expenditures shall be  
7 11 reimbursed as agreed by the party state from which the  
7 12 evacuees come. After the termination of the emergency or  
7 13 disaster, the party state from which the evacuees come shall  
7 14 assume the responsibility for the ultimate support of  
7 15 repatriation of such evacuees.

7 16 ARTICLE XI - IMPLEMENTATION

7 17 1. This compact shall become operative immediately upon  
7 18 its enactment into law by any two states; thereafter, this  
7 19 compact shall become effective as to any other state upon its  
7 20 enactment by such state.

7 21 2. Any party state may withdraw from this compact by  
7 22 enacting a statute repealing the same, but no such withdrawal  
7 23 shall take effect until thirty days after the governor of the  
7 24 withdrawing state has given notice in writing of such  
7 25 withdrawal to the governors of all other party states. Such  
7 26 action shall not relieve the withdrawing state from  
7 27 obligations assumed hereunder prior to the effective date of  
7 28 withdrawal.

7 29 3. Duly authenticated copies of this compact and of such  
7 30 supplementary agreements as may be entered into shall, at the  
7 31 time of their approval, be deposited with each of the party  
7 32 states and with the federal emergency management agency and  
7 33 other appropriate agencies of the United States government.

7 34 ARTICLE XII - VALIDITY

7 35 This Act shall be construed to effectuate the purposes  
8 1 stated in Article I hereof. If any provision of this compact  
8 2 is declared unconstitutional, or the applicability thereof to  
8 3 any person or circumstances is held invalid, the  
8 4 constitutionality of the remainder of this Act and the  
8 5 applicability thereof to other persons and circumstances shall  
8 6 not be affected thereby.

8 7 ARTICLE XIII - ADDITIONAL PROVISIONS

8 8 Nothing in this compact shall authorize or permit the use  
8 9 of military force by the national guard of a state at any  
8 10 place outside that state in any emergency for which the  
8 11 president is authorized by law to call into federal service  
8 12 the militia, or for any purpose for which the use of the army

8 13 or the air force would in the absence of express statutory  
8 14 authorization be prohibited under section 1385 of Title 18,  
8 15 United States Code.

8 16 EXPLANATION

8 17 This bill provides for the emergency management assistance  
8 18 compact which is to replace the interstate civil defense and  
8 19 disaster compact in Code section 29C.21. Specifically, this  
8 20 compact provides the following:

8 21 1. That the purpose of the compact is to provide for  
8 22 mutual assistance between the states entering into the compact  
8 23 in managing any emergency or disaster that is duly declared by  
8 24 the governor of the affected state. The compact also provides  
8 25 for mutual cooperation in emergency-related exercises,  
8 26 testing, or other training activities.

8 27 2. That on behalf of the governor of each party state, a  
8 28 designated official is responsible for the formulation of the  
8 29 appropriate interstate mutual aid plans and procedures  
8 30 necessary to implement the compact.

8 31 3. That in formulating the plan to implement the compact,  
8 32 the state shall review the individual state hazards analyses  
8 33 and determine and identify potential emergencies the party  
8 34 states might jointly suffer, review the individual emergency  
8 35 plans and develop a plan which will determine the mechanism  
9 1 for the interstate management and provision of assistance  
9 2 concerning any potential emergency, develop interstate  
9 3 procedures to fill gaps and resolve identified inconsistencies  
9 4 or overlaps in existing plans, assist in warning communities  
9 5 adjacent to or crossing the state boundaries, protect and  
9 6 assure uninterrupted delivery of services and resources, and  
9 7 inventory and set procedures for interstate loan and delivery  
9 8 of human and material resources and the procedures for  
9 9 reimbursement or forgiveness. Requests for assistance may be  
9 10 verbal or in writing. Verbal requests must be confirmed in  
9 11 writing within 30 days. The requests must provide a  
9 12 description of the emergency assistance which is needed, the  
9 13 amount and type of personnel, equipment, materials, and  
9 14 supplies needed, and a reasonable estimate of the length of  
9 15 time they will be needed, and a specific time and place for  
9 16 the staging of the assisting party's response and a point of  
9 17 contact at that location.

9 18 4. That the state rendering aid may withhold resources  
9 19 necessary to provide reasonable protection for such state.  
9 20 Emergency forces of any party state are provided the same  
9 21 powers, duties, rights, and privileges as are afforded forces  
9 22 of the state in which they are performing emergency services.  
9 23 Emergency forces continue under the command and control of  
9 24 their regular leaders, but the organizational units will come  
9 25 under the operational control of the emergency services  
9 26 authorities of the state receiving assistance.

9 27 5. That licenses and permits evidencing the meeting of  
9 28 qualifications for professional, mechanical, or other skills  
9 29 held by persons in a party state shall be honored by the state  
9 30 requesting assistance.

9 31 6. That officers and employees of a party state rendering  
9 32 aid in another state shall be considered agents of the  
9 33 requesting state for tort liability and immunity purposes. No  
9 34 party state or its officers or employees rendering aid shall  
9 35 be liable on account of any act or omission in good faith on  
10 1 the part of such forces while so engaged.

10 2 7. That the compact does not preclude any state from  
10 3 entering into supplementary agreements with another state.  
10 4 The compact also does not affect any agreements already in  
10 5 force between states.

10 6 8. That each party state shall pay compensation and death  
10 7 benefits to injured members of the emergency forces of that  
10 8 state and representatives of deceased members in the same  
10 9 manner and on the same terms as if the injury or death were

10 10 sustained within their own state.

10 11 9. That any party state rendering aid may be reimbursed by  
10 12 the state receiving aid for any loss or damage to or expense  
10 13 incurred in the operation of any equipment and the provision  
10 14 of any service in answering a request for aid and for the  
10 15 costs incurred in connection with such requests.

10 16 10. That evacuation plans shall be worked out and  
10 17 maintained between the party states where any type of incident  
10 18 requiring evacuations might occur. Plans will be put into  
10 19 effect by a request of the state from which evacuees come.  
10 20 Evacuation plans shall provide that the party state receiving  
10 21 evacuees and the party state from which the evacuees come  
10 22 shall mutually agree as to reimbursement of out-of-pocket  
10 23 expenses.

10 24 11. That the compact shall become operative immediately  
10 25 upon its enactment into law by any two states and shall become  
10 26 effective as to any other state upon its enactment by such  
10 27 state. Withdrawal shall occur 30 days after the governor of  
10 28 the withdrawing state has given notice of the repeal of the  
10 29 statute to all of the other party states.

10 30 12. That the compact shall be construed to effectuate the  
10 31 purposes stated in the compact and if any provision of the  
10 32 compact is declared unconstitutional, the remainder of the  
10 33 compact shall not be affected.

10 34 13. That military force shall not be used by the national  
10 35 guard of a state outside that state in an emergency for which  
11 1 the president is authorized by law to call into federal  
11 2 service the militia or for a purpose for which the use of the  
11 3 army or air force would be prohibited absent express statutory  
11 4 authorization.

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