

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 492 Session of 2009

INTRODUCED BY K. SMITH, BELFANTI, BRENNAN, BUXTON, CALTAGIRONE, CARROLL, FRANKEL, GEORGE, GRUCELA, HORNAMAN, KOTIK, LONGIETTI, MANDERINO, MELIO, MUNDY, MURT, M. O'BRIEN, READSHAW, SANTONI, SCAVELLO, SIPTROTH, STURLA, THOMAS, YOUNGBLOOD AND YUDICHAK, FEBRUARY 18, 2009

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, FEBRUARY 18, 2009

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
 2 "An act providing for and reorganizing the conduct of the  
 3 executive and administrative work of the Commonwealth by the  
 4 Executive Department thereof and the administrative  
 5 departments, boards, commissions, and officers thereof,  
 6 including the boards of trustees of State Normal Schools, or  
 7 Teachers Colleges; abolishing, creating, reorganizing or  
 8 authorizing the reorganization of certain administrative  
 9 departments, boards, and commissions; defining the powers and  
 10 duties of the Governor and other executive and administrative  
 11 officers, and of the several administrative departments,  
 12 boards, commissions, and officers; fixing the salaries of the  
 13 Governor, Lieutenant Governor, and certain other executive  
 14 and administrative officers; providing for the appointment of  
 15 certain administrative officers, and of all deputies and  
 16 other assistants and employes in certain departments, boards,  
 17 and commissions; and prescribing the manner in which the  
 18 number and compensation of the deputies and all other  
 19 assistants and employes of certain departments, boards and  
 20 commissions shall be determined," providing for measures to  
 21 detect and track potential and existing public health  
 22 emergencies, for declaring state of public health emergency,  
 23 for control of property and persons during state of public  
 24 health emergency and for public information regarding and  
 25 planning for public health emergencies; and establishing the  
 26 Public Health Emergency Planning Commission.

27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

1 Section 1. The act of April 9, 1929 (P.L.177, No.175), known  
2 as The Administrative Code of 1929, is amended by adding an  
3 article to read:

4 ARTICLE XXV-D

5 EMERGENCY HEALTH POWERS AND PROCEDURES

6 (a) Preliminary Provisions

7 Section 2501-D. Short title.

8 This article shall be known and may be cited as the Emergency  
9 Health Powers Act.

10 Section 2502-D. Legislative findings.

11 The General Assembly finds that:

12 (1) The Commonwealth must do more to protect the health,  
13 safety and general well-being of its citizens.

14 (2) New and emerging dangers, including emergent and  
15 resurgent infectious diseases and incidents of civilian mass  
16 casualties, pose serious and immediate threats.

17 (3) A renewed focus on the prevention, detection,  
18 management and containment of public health emergencies is  
19 called for.

20 (4) Emergency health threats, including those caused by  
21 bioterrorism and epidemics, require the exercise of  
22 extraordinary government functions.

23 (5) The Commonwealth must have the ability to respond  
24 rapidly and effectively to potential or actual public health  
25 emergencies.

26 (6) The exercise of emergency health powers must promote  
27 the common good.

28 (7) Emergency health powers must be grounded in a  
29 thorough scientific understanding of public health threats  
30 and disease transmission.

1       (8) Guided by principles of justice, it is the duty of  
2 the Commonwealth to act with fairness and tolerance toward  
3 individuals and groups.

4       (9) The rights of people to liberty, bodily integrity  
5 and privacy must be respected to the fullest extent possible  
6 consistent with the overriding importance of the public's  
7 health and security.

8       (10) This article is necessary to protect the health and  
9 safety of the citizens of this Commonwealth.

10 Section 2503-D. Purposes.

11 The purposes of this article are to:

12       (1) Authorize the collection of data and records, the  
13 control of property, the management of persons and access to  
14 communications.

15       (2) Facilitate the early detection of a health emergency  
16 and allow for immediate investigation of such an emergency by  
17 granting access to individuals' health information under  
18 specified circumstances.

19       (3) Grant State officials the authority to use and  
20 appropriate property as necessary for the care, treatment and  
21 housing of patients and for the destruction of contaminated  
22 materials.

23       (4) Grant State officials the authority to provide care  
24 and treatment to persons who are ill or who have been exposed  
25 to infection and to separate affected individuals from the  
26 population at large for the purpose of interrupting the  
27 transmission of infectious disease.

28       (5) Ensure that the needs of infected or exposed persons  
29 will be addressed to the fullest extent possible given the  
30 primary goal of controlling serious health threats.

1           (6) Provide State officials with the ability to prevent,  
2           detect, manage and contain emergency health threats without  
3           unduly interfering with civil rights and liberties.

4           (7) Require the development of a comprehensive plan to  
5           provide for a coordinated, appropriate response in the event  
6           of a public health emergency.

7 Section 2504-D. Definitions.

8           The following words and phrases when used in this article  
9           shall have the meanings given to them in this section unless the  
10           context clearly indicates otherwise:

11           "Bioterrorism." The intentional use of any microorganism,  
12           virus, infectious substance or biological product that may be  
13           engineered as a result of biotechnology or any naturally  
14           occurring or bioengineered component of any such microorganism,  
15           virus, infectious substance or biological product to cause  
16           death, disease or other biological malfunction in a human,  
17           animal, plant or another living organism in order to influence  
18           the conduct of government or to intimidate or coerce a civilian  
19           population.

20           "Chain of custody." The methodology of tracking specimens  
21           for the purpose of maintaining control and accountability from  
22           initial collection to final disposition of the specimens and  
23           providing for accountability at each stage of collecting,  
24           handling, testing, storing and transporting the specimens and  
25           reporting test results.

26           "Commission." The Public Health Emergency Planning  
27           Commission.

28           "Contagious disease." An infectious disease that can be  
29           transmitted from person to person, animal to person or insect to  
30           person.

1 "Health care facility." A non-Federal institution, building  
2 or agency, or portion thereof, whether for profit or nonprofit,  
3 that is used, operated or designed to provide health services,  
4 medical treatment or nursing, rehabilitative or preventive care  
5 to any person or persons. The term includes, but is not limited  
6 to, ambulatory surgical facilities, health maintenance  
7 organizations, home health agencies, hospices, hospitals,  
8 infirmaries, intermediate care facilities, kidney treatment  
9 centers, long-term care facilities, medical assistance  
10 facilities, mental health centers, outpatient facilities, public  
11 health centers, rehabilitation facilities, residential treatment  
12 facilities, skilled nursing facilities and adult day-care  
13 centers. The term also includes, but is not limited to, the  
14 following related property when used for or in connection with  
15 the foregoing: laboratories, research facilities, pharmacies,  
16 laundry facilities, health personnel training and lodging  
17 facilities, patient, guest and health personnel food service  
18 facilities and offices and office buildings for persons engaged  
19 in health care professions or services.

20 "Health care provider." A person or entity who provides  
21 health care services. The term includes, but is not limited to,  
22 hospitals, medical clinics and offices, special care facilities,  
23 medical laboratories, physicians, pharmacists, dentists,  
24 physician assistants, nurse practitioners, registered and other  
25 nurses, paramedics, emergency medical or laboratory technicians  
26 and ambulance and emergency medical workers.

27 "Infectious disease." A disease caused by a living organism,  
28 which disease may or may not be transmissible from person to  
29 person, animal to person or insect to person.

30 "Infectious waste." Any of the following:

1           (1) Biological waste, including blood and blood  
2 products, excretions, exudates, secretions, suctioning and  
3 other body fluids and waste materials saturated with blood or  
4 body fluids.

5           (2) Cultures and stocks, including etiologic agents and  
6 associated biologicals, specimen cultures and dishes and  
7 devices used to transfer, inoculate and mix cultures, wastes  
8 from production of biologicals and serums and discarded live  
9 and attenuated vaccines.

10           (3) Pathological waste, including biopsy materials and  
11 all human tissues, anatomical parts that emanate from  
12 surgery, obstetrical procedures, autopsy and laboratory  
13 procedures and animal carcasses exposed to pathogens in  
14 research and the bedding and other waste from such animals,  
15 but not including teeth or formaldehyde or other preservative  
16 agents.

17           (4) Sharps, including needles, IV tubing with needles  
18 attached, scalpel blades, lancets, glass tubes that could be  
19 broken during handling and syringes that have been removed  
20 from their original sterile containers.

21           "Isolation." The compulsory physical separation, including  
22 the restriction of movement or confinement, of individuals or  
23 groups believed to have been exposed to or known to have been  
24 infected with a contagious disease from individuals who are  
25 believed not to have been exposed or infected, in order to  
26 prevent or limit the transmission of the disease to others.

27           "Mental health support personnel." This term includes, but  
28 is not limited to, psychiatrists, psychologists, social workers  
29 and volunteer crisis counseling groups.

30           "PA-NEDSS." Pennsylvania's National Electronic Disease

1 Surveillance System, an Internet-based instrument utilized by  
2 health care providers to report diseases and enable the  
3 Department of Health to analyze data and respond immediately.

4 "Protected health information." Information, whether oral,  
5 written, electronic, visual, pictorial, physical or any other  
6 form that relates to an individual's past, present or future  
7 physical or mental health status, condition, treatment, service,  
8 products purchased or provision of care, and that reveals the  
9 identity of the individual whose health care is the subject of  
10 the information, or where there is a reasonable basis to believe  
11 such information could be utilized, either alone or with other  
12 information that is or should reasonably be known to be  
13 available to predictable recipients of such information, to  
14 reveal the identity of that individual.

15 "Public health authority." The Department of Health, a local  
16 government agency that acts principally to protect or preserve  
17 the public's health, a person authorized to act on behalf of the  
18 Department of Health or local public health agency.

19 "Public health emergency." An occurrence or imminent threat  
20 of an illness or health condition, caused by bioterrorism,  
21 epidemic or pandemic disease or novel and highly fatal  
22 infectious agent or biological toxin, that poses a substantial  
23 risk of a significant number of human fatalities or incidents of  
24 permanent or long-term disability, where such illness or health  
25 condition includes, but is not limited to, an illness or health  
26 condition resulting from a natural disaster.

27 "Public safety authority." The Pennsylvania Emergency  
28 Management Agency, a local government agency that acts  
29 principally to protect or preserve the public safety or a person  
30 authorized to act on behalf of the Pennsylvania Emergency

1 Management Agency or local agency.

2 "Quarantine." The term shall have the same meaning as the  
3 term "isolation."

4 "Specimens." The term includes, but is not limited to,  
5 blood, sputum, urine, stool, other bodily fluids, wastes,  
6 tissues and cultures necessary to perform required tests.

7 "Tests." The term includes, but is not limited to, any  
8 diagnostic or investigative analysis necessary to prevent the  
9 spread of disease or protect the public's health, safety and  
10 welfare.

11 (b) Measures to Detect and Track Potential and  
12 Existing Public Health Emergencies

13 Section 2511-D. Reporting.

14 (a) Illness or health condition.--

15 (1) A health care provider, coroner or medical examiner  
16 shall report all cases of persons who harbor any illness or  
17 health condition that may be caused by bioterrorism, epidemic  
18 or pandemic disease or novel and highly fatal infectious  
19 agents or biological toxins and might pose a substantial risk  
20 of a significant number of human fatalities or incidents of  
21 permanent or long-term disability.

22 (2) Such illnesses and health conditions include, but  
23 are not limited to, the diseases caused by the biological  
24 agents listed in 42 CFR 73.3(b) (relating to HHS select  
25 agents and toxins) and any illnesses or health conditions  
26 identified by the public health authority as potential causes  
27 of a public health emergency.

28 (b) Pharmacists.--

29 (1) In addition to the requirements of subsection (a)  
30 for health care providers, a pharmacist shall report any



1 unusual or increased prescription rates, unusual types of  
2 prescriptions or unusual trends in pharmacy visits that may  
3 be caused by bioterrorism, epidemic or pandemic disease or  
4 novel and highly fatal infectious agents or biological toxins  
5 and might pose a substantial risk of a significant number of  
6 human fatalities or incidents of permanent or long-term  
7 disability.

8 (2) Prescription-related events that require a report  
9 include, but are not limited to, any of the following:

10 (i) An unusual increase in the number of  
11 prescriptions to treat fever, respiratory or  
12 gastrointestinal complaints.

13 (ii) An unusual increase in the number of  
14 prescriptions for antibiotics.

15 (iii) An unusual increase in the number of requests  
16 for information on over-the-counter pharmaceuticals to  
17 treat fever, respiratory or gastrointestinal complaints.

18 (iv) Any prescription that treats a disease that is  
19 relatively uncommon and has bioterrorism potential.

20 (c) Manner of reporting.--The report shall be made within 24  
21 hours to the public health authority in writing or via PA-NEDSS  
22 or another electronic disease surveillance system approved by  
23 the Department of Health. The report shall include the following  
24 information, if available:

25 (1) The patient's name, date of birth, sex, race and  
26 current address, including municipality and county.

27 (2) The name and address of the health care provider,  
28 coroner or medical examiner and of the reporting individual,  
29 if different.

30 (3) Any other information needed to locate the patient

1 for follow up.

2 (4) For cases related to animal or insect bites, the  
3 suspected locating information of the biting animal or insect  
4 and the name and address of any known owner.

5 (d) Animal diseases.--

6 (1) A veterinarian, livestock owner, veterinary  
7 diagnostic laboratory director or other person having the  
8 care of animals shall report animals having or suspected of  
9 having any disease that may be caused by bioterrorism,  
10 epidemic or pandemic disease or novel and highly fatal  
11 infectious agents or biological toxins and might pose a  
12 substantial risk of a significant number of human and animal  
13 fatalities or incidents of permanent or long-term disability.

14 (2) The report shall be made in writing within 24 hours  
15 to the public health authority and shall include the  
16 following information, if available:

17 (i) The suspected locating information of the  
18 animal.

19 (ii) The name and address of any known owner.

20 (iii) The name and address of the reporting  
21 individual.

22 (e) Enforcement.--The public health authority may enforce  
23 the provisions of this section in accordance with existing  
24 enforcement rules and regulations.

25 (f) Definition.--As used in this section, the term "health  
26 care provider" includes an out-of-State medical laboratory,  
27 provided that the laboratory has agreed to the reporting  
28 requirements of this Commonwealth. Results must be reported by  
29 the laboratory that performs the test, but a laboratory in this  
30 Commonwealth that sends specimens to a laboratory outside this

1 Commonwealth shall also report the results.

2 Section 2512-D. Tracking.

3 (a) General rule.--The public health authority shall:

4 (1) Ascertain the existence of cases of an illness or  
5 health condition caused by bioterrorism, epidemic or pandemic  
6 disease or novel and highly fatal infectious agent or  
7 biological toxin that poses a substantial risk of a  
8 significant number of human fatalities or incidents of  
9 permanent or long-term disability.

10 (2) Investigate all such cases for sources of infection  
11 and ensure that they are subject to proper control measures.

12 (3) Define the distribution of the illness or health  
13 condition.

14 (b) Identification of exposed individuals.--To fulfill these  
15 duties, the public health authority shall identify exposed  
16 individuals as follows:

17 (1) Acting on information developed in accordance with  
18 section 2511-D or other reliable information, the public  
19 health authority shall identify all individuals thought to  
20 have been exposed to an illness or health condition caused by  
21 bioterrorism, epidemic or pandemic disease or novel and  
22 highly fatal infectious agents or biological toxins that  
23 poses a substantial risk of a significant number of human  
24 fatalities or incidents of permanent or long-term disability.

25 (2) The public health authority shall counsel and  
26 interview such individuals as appropriate to assist in the  
27 positive identification of exposed individuals and develop  
28 information relating to the source and spread of the illness  
29 or health condition. Such information includes the name and  
30 address, including city and county, of any person from whom

1 the illness or health condition may have been contracted and  
2 to whom the illness or health condition may have spread.

3 (3) The public health authority shall, for examination  
4 purposes, close, evacuate or decontaminate any facility or  
5 decontaminate or destroy any material when the authority  
6 reasonably suspects that such facility or material may  
7 endanger the public health.

8 (c) Enforcement.--An order of the public health authority  
9 given to effectuate the purposes of this section shall be  
10 enforceable immediately by the public safety authority.

11 Section 2513-D. Information sharing.

12 (a) Duty of public safety authority.--Whenever the public  
13 safety authority learns of a case of a reportable illness or  
14 health condition, an unusual cluster or a suspicious event, it  
15 shall immediately notify the public health authority.

16 (b) Duty of public health authority.--Whenever the public  
17 health authority learns of a case of a reportable illness or  
18 health condition, an unusual cluster or a suspicious event that  
19 it reasonably believes has the potential to be caused by  
20 bioterrorism, it shall immediately notify the appropriate public  
21 safety authority and Federal health and public safety  
22 authorities.

23 (c) Limitation.--Sharing of information on reportable  
24 illnesses, health conditions, unusual clusters or suspicious  
25 events between authorized personnel shall be limited to  
26 information necessary for the treatment, control, investigation  
27 and prevention of a public health emergency.

28 (c) Declaring State of Public Health Emergency  
29 Section 2521-D. Standards for declaration.

30 (a) Declaration by Governor.--

1           (1) A state of public health emergency shall be declared  
2 by the Governor if the Governor finds an occurrence or  
3 imminent threat of an illness or health condition caused by  
4 bioterrorism, epidemic or pandemic disease or novel and  
5 highly fatal infectious agents or biological toxins that  
6 poses a substantial risk of a significant number of human  
7 fatalities or incidents of permanent or long-term disability.  
8 The declaration shall be published as a notice in the  
9 Pennsylvania Bulletin.

10           (2) To make such a finding, the Governor shall consult  
11 with the public health authority and may consult with any  
12 public health and other experts as needed.

13           (b) Construction.--Nothing in the duty of the Governor to  
14 consult with the public health authority or the discretion to  
15 consult with public health or other experts shall be construed  
16 to limit the Governor's authority to act without such  
17 consultation when the situation calls for prompt and timely  
18 action.

19 Section 2522-D. Procedures for declaration.

20           The state of public health emergency shall be declared by an  
21 executive order that indicates:

22           (1) The nature of the public health emergency.

23           (2) The area that is or may be threatened.

24           (3) The conditions that have brought about the public  
25 health emergency.

26 Section 2523-D. Effect of declaration.

27           (a) General rule.--The declaration of a state of public  
28 health emergency shall activate the disaster response and  
29 recovery aspects of the State, local and interjurisdictional  
30 disaster emergency plans in the affected political subdivision

1 or area. The declaration shall authorize the deployment and use  
2 of any forces to which the plans apply and the use or  
3 distribution of any supplies, equipment and materials and  
4 facilities assembled, stockpiled or arranged to be made  
5 available pursuant to this article.

6 (b) Emergency powers of Governor.--During a state of public  
7 health emergency, the Governor may:

8 (1) Suspend the provisions of any regulatory statute  
9 prescribing procedures for conducting State business or the  
10 orders, rules and regulations of any State agency if strict  
11 compliance with the same would prevent, hinder or delay  
12 necessary action, including emergency purchases, by the  
13 public health authority to respond to the public health  
14 emergency and increase the health threat to the population.  
15 The suspension shall be published as a notice in the  
16 Pennsylvania Bulletin.

17 (2) Utilize all available resources of the State  
18 government and its political subdivisions, as reasonably  
19 necessary to respond to the public health emergency.

20 (3) Transfer the direction, personnel or functions of  
21 State departments and agencies to perform or facilitate  
22 response and recovery programs regarding the public health  
23 emergency.

24 (4) Mobilize all or any part of the Pennsylvania  
25 National Guard into service of the Commonwealth. An order  
26 directing the Pennsylvania National Guard to report for  
27 active duty shall state the purpose for which it is mobilized  
28 and the objectives to be accomplished.

29 (5) Provide aid to and seek aid from other states in  
30 accordance with any interstate emergency compact made with

1 the Commonwealth.

2 (c) Coordination by public health authority.--The public  
3 health authority shall coordinate all matters pertaining to the  
4 public health emergency response of the Commonwealth. The public  
5 health authority shall have primary jurisdiction, responsibility  
6 and authority for:

7 (1) Planning and executing public health emergency  
8 assessment, mitigation, preparedness response and recovery  
9 for the Commonwealth.

10 (2) Coordinating public health emergency response  
11 between State and political subdivisions.

12 (3) Collaborating with relevant Federal Government  
13 authorities, elected officials of other states, private  
14 organizations or private sector companies.

15 (4) Coordinating recovery operations and mitigation  
16 initiatives subsequent to public health emergencies.

17 (5) Organizing public information activities regarding  
18 State public health emergency response operations.

19 (d) Identification.--After the declaration of a state of  
20 public health emergency, special identification for all public  
21 health personnel working during the emergency shall be issued by  
22 the Governor or public health authority as soon as possible. The  
23 identification shall indicate the authority of the bearer to  
24 exercise public health functions and emergency powers during the  
25 state of public health emergency. Public health personnel shall  
26 wear the identification in plain view.

27 Section 2524-D. Enforcement.

28 During a state of public health emergency, the public health  
29 authority may request assistance in enforcing orders pursuant to  
30 this article from the public safety authority. The public safety

1 authority may request assistance, with the approval of the  
2 Governor, from the Pennsylvania National Guard in enforcing the  
3 orders of the public health authority.

4 Section 2525-D. Termination of declaration.

5 (a) Executive order.--The Governor shall terminate the state  
6 of public health emergency by executive order upon finding that  
7 the occurrence of an illness or health condition caused by  
8 bioterrorism, epidemic or pandemic disease or novel and highly  
9 fatal infectious agents or biological toxins no longer poses a  
10 substantial risk of a significant number of human fatalities or  
11 incidents of permanent or long-term disability or that the  
12 imminent threat of such an occurrence has passed. The executive  
13 order shall be published as a notice in the Pennsylvania  
14 Bulletin.

15 (b) Automatic termination.--

16 (1) Notwithstanding any other provision of this article,  
17 a state of public health emergency shall be terminated  
18 automatically 30 days after its declaration unless renewed by  
19 the Governor under the same standards and procedures set  
20 forth in this article for a declaration of a state of public  
21 health emergency.

22 (2) Any such renewal shall also be terminated  
23 automatically after 30 days unless renewed by the Governor  
24 under the same standards and procedures set forth in this  
25 article for a declaration of a state of public health  
26 emergency.

27 (c) State legislature.--By a two-thirds vote of both  
28 chambers, the General Assembly may terminate a state of public  
29 health emergency after 60 days from the date of original  
30 declaration upon finding that the occurrence of an illness or



1 health condition caused by bioterrorism, epidemic or pandemic  
2 disease or novel and highly fatal infectious agents or  
3 biological toxins no longer poses a substantial risk of a  
4 significant number of human fatalities or incidents of permanent  
5 or long-term disability or that the imminent threat of such an  
6 occurrence has passed. Such a termination by the General  
7 Assembly shall supersede any renewal by the Governor.

8 (d) Content of termination order.--All orders terminating a  
9 state of public health emergency shall indicate:

10 (1) The nature of the emergency.

11 (2) The area that was threatened.

12 (3) The conditions that make possible the termination of  
13 the state of public health emergency.

14 (d) Control of Property During State of Public  
15 Health Emergency

16 Section 2531-D. Emergency measures concerning dangerous  
17 facilities and materials.

18 The public health authority may exercise, for such period as  
19 the state of public health emergency exists, the following  
20 powers:

21 (1) To close, direct and compel the evacuation of or to  
22 decontaminate or cause to be decontaminated any facility of  
23 which there is reasonable cause to believe that it may  
24 endanger the public health.

25 (2) To decontaminate or cause to be decontaminated or  
26 destroy any material of which there is reasonable cause to  
27 believe that it may endanger the public health.

28 Section 2532-D. Access to and control of facilities and  
29 property.

30 The public health authority may exercise, for such period as

1 the state of public health emergency exists, the following  
2 powers concerning facilities, materials, roads or public areas:

3 (1) To procure, by condemnation or otherwise, construct,  
4 lease, transport, store, maintain, renovate or distribute  
5 materials and facilities as may be reasonable and necessary  
6 for emergency response, with the right to take immediate  
7 possession thereof. Such materials and facilities include,  
8 but are not limited to, communication devices, carriers, real  
9 estate, fuels, food, clothing and health care facilities.

10 (2) To compel a health care facility to provide services  
11 or the use of its facility if such services or use are  
12 reasonable and necessary for emergency response. The use of  
13 the health care facility may include transferring the  
14 management and supervision of the health care facility to the  
15 public health authority for a limited or unlimited period of  
16 time, but shall not exceed the termination of the state of  
17 public health emergency.

18 (3) To control, restrict and regulate by rationing and  
19 using quotas, prohibitions on shipments, price fixing,  
20 allocation or other means, the use, sale, dispensing,  
21 distribution or transportation of food, fuel, clothing and  
22 other commodities, alcoholic beverages, firearms, explosives  
23 and combustibles, as may be reasonable and necessary for  
24 emergency response.

25 (4) To prescribe routes, modes of transportation and  
26 destinations in connection with evacuation of persons or the  
27 provisions of emergency services.

28 (5) To control ingress and egress to and from any  
29 stricken or threatened public area, the movement of persons  
30 within the area and the occupancy of premises therein, if

1 such action is reasonable and necessary for emergency  
2 response.

3 Section 2533-D. Safe disposal of infectious waste.

4 The public health authority may exercise, for such period as  
5 the state of public health emergency exists, the following  
6 powers regarding the safe disposal of infectious waste:

7 (1) To adopt and enforce measures to provide for the  
8 safe disposal of infectious waste as may be reasonable and  
9 necessary for emergency response. Such measures may include,  
10 but are not limited to, the collection, storage, handling,  
11 destruction, treatment, transportation and disposal of  
12 infectious waste.

13 (2) To compel any business or facility authorized to  
14 collect, store, handle, destroy, treat, transport and dispose  
15 of infectious waste under the laws of this Commonwealth and  
16 any landfill business or other such property to accept  
17 infectious waste or provide services or the use of the  
18 business, facility or property, if such action is reasonable  
19 and necessary for emergency response. The use of the  
20 business, facility or property may include transferring the  
21 management and supervision of such business, facility or  
22 property to the public health authority for a limited or  
23 unlimited period of time, but shall not exceed the  
24 termination of the state of public health emergency.

25 (3) To procure, by condemnation or otherwise, any  
26 business or facility authorized to collect, store, handle,  
27 destroy, treat, transport and dispose of infectious waste  
28 under the laws of this Commonwealth and any landfill business  
29 or other such property as may be reasonable and necessary for  
30 emergency response, with the right to take immediate

1 possession thereof.

2 (4) To require that all bags, boxes or other containers  
3 for infectious waste be clearly identified as containing  
4 infectious waste.

5 Section 2534-D. Safe disposal of corpses.

6 The public health authority may exercise, for such period as  
7 the state of public health emergency exists, the following  
8 powers regarding the safe disposal of corpses:

9 (1) To adopt and enforce measures to provide for the  
10 safe disposal of corpses as may be reasonable and necessary  
11 for emergency response. Such measures may include, but are  
12 not limited to, the embalming, burial, cremation, interment,  
13 disinterment, transportation and disposal of corpses.

14 (2) To take possession or control of any corpse.

15 (3) To order the disposal of any corpse of a person who  
16 died of an infectious disease through burial or cremation  
17 within 24 hours after death.

18 (4) To compel any business or facility authorized to  
19 embalm, bury, cremate, inter, disinter, transport and dispose  
20 of corpses under the laws of this Commonwealth to accept any  
21 corpse or provide the use of its business or facility if such  
22 actions are reasonable and necessary for emergency response.  
23 The use of the business or facility may include transferring  
24 the management and supervision of such business or facility  
25 to the public health authority for a limited or unlimited  
26 period of time, but shall not exceed the termination of the  
27 state of public health emergency.

28 (5) To procure, by condemnation or otherwise, any  
29 business or facility authorized to embalm, bury, cremate,  
30 inter, disinter, transport and dispose of corpses under the

1 laws of this Commonwealth as may be reasonable and necessary  
2 for emergency response, with the right to take immediate  
3 possession thereof.

4 (6) To require that any corpse, prior to disposal, be  
5 clearly labeled with all available information to identify  
6 the decedent and the circumstances of death. Any corpse of a  
7 person with an infectious disease shall have an external,  
8 clearly visible tag indicating that the corpse is infected  
9 and, if known, the infectious disease.

10 (7) To require that any person in charge of disposing of  
11 a corpse shall maintain a written record of the corpse and  
12 all available information to identify the decedent and the  
13 circumstances of death and disposal. If a corpse cannot be  
14 identified, prior to disposal a qualified person shall, to  
15 the extent possible, take fingerprints and one or more  
16 photographs of the corpse and collect a DNA specimen. All  
17 information gathered under this paragraph shall be promptly  
18 forwarded to the public health authority.

19 Section 2535-D. Control of health care supplies.

20 (a) Procurement.--The public health authority may purchase  
21 and distribute antitoxins, serums, vaccines, immunizing agents,  
22 antibiotics and other pharmaceutical agents or medical supplies  
23 that it deems advisable in the interest of preparing for or  
24 controlling a public health emergency, without any additional  
25 legislative authorization.

26 (b) Rationing.--

27 (1) If a state of public health emergency results in a  
28 Statewide or regional shortage or threatened shortage of any  
29 product covered by subsection (a), whether or not such  
30 product has been purchased by the public health authority,

1 the public health authority may control, restrict and  
2 regulate by rationing and using quotas, prohibitions on  
3 shipments, price fixing, allocation or other means, the use,  
4 sale, dispensing, distribution or transportation of the  
5 relevant product necessary to protect the health, safety and  
6 welfare of the people of this Commonwealth.

7 (2) In making rationing or other supply and distribution  
8 decisions, the public health authority may give preference to  
9 health care providers, disaster response personnel and  
10 mortuary staff.

11 (c) Distribution.--

12 (1) During a state of public health emergency, the  
13 public health authority may procure, store or distribute any  
14 antitoxins, serums, vaccines, immunizing agents, antibiotics  
15 and other pharmaceutical agents or medical supplies located  
16 within this Commonwealth as may be reasonable and necessary  
17 for emergency response, with the right to take immediate  
18 possession thereof.

19 (2) If a public health emergency simultaneously affects  
20 more than one state, nothing in this section shall be  
21 construed to allow the public health authority to obtain  
22 antitoxins, serums, vaccines, immunizing agents, antibiotics  
23 and other pharmaceutical agents or medical supplies for the  
24 primary purpose of hoarding such items or preventing their  
25 fair and equitable distribution among affected states.

26 Section 2536-D. Compensation.

27 The Commonwealth shall pay just compensation to the owner of  
28 any facility or materials that are lawfully taken or  
29 appropriated by a public health authority for its temporary or  
30 permanent use under this article according to the procedures and

1 standards set forth in section 2575-D. Compensation may not be  
2 provided for facilities or materials that are closed, evacuated,  
3 decontaminated or destroyed when there is reasonable cause to  
4 believe that they may endanger the public health pursuant to  
5 section 2531-D.

6 Section 2537-D. Destruction of property.

7 To the extent practicable, consistent with the protection of  
8 public health, prior to the destruction of any property under  
9 this article, the public health authority shall institute  
10 appropriate civil proceedings against the property to be  
11 destroyed in accordance with the existing laws and rules of the  
12 courts of this Commonwealth or any such rules that may be  
13 developed by the courts for use during a state of public health  
14 emergency. Any property acquired by the public health authority  
15 through such proceedings shall, after entry of the decree, be  
16 disposed of by destruction as the court may direct.

17 (e) Control of Persons During Public Health Emergency  
18 Section 2541-D. Control of individuals.

19 During a state of public health emergency, the public health  
20 authority shall use every available means to prevent the  
21 transmission of infectious disease and to ensure that all cases  
22 of infectious disease are subject to proper control and  
23 treatment.

24 Section 2542-D. Mandatory medical examinations.

25 (a) Powers of public health authority.--The public health  
26 authority may exercise, for such period as the state of public  
27 health emergency exists, the following emergency powers over  
28 persons:

29 (1) To compel a person to submit to a physical  
30 examination or testing, or both, as necessary to diagnose or

1 treat the person subject to the following:

2 (i) The medical examination or testing may be  
3 performed by any qualified person authorized by the  
4 public health authority.

5 (ii) The medical examination or testing may not be  
6 reasonably likely to result in serious harm to the  
7 affected individual.

8 (iii) The medical examination or testing shall be  
9 performed immediately upon the order of the public health  
10 authority without resort to judicial or quasi-judicial  
11 authority.

12 (iv) If the public health authority is uncertain  
13 whether a person who refuses to undergo medical  
14 examination or testing may have been exposed to an  
15 infectious disease or otherwise poses a danger to public  
16 health, the public health authority may subject the  
17 individual to isolation or quarantine as provided in this  
18 article.

19 (2) To require any physician or other health care  
20 provider to perform the medical examination or testing, or  
21 both.

22 (b) Enforcement.--An order of the public health authority  
23 given to effectuate the purposes of this section shall be  
24 immediately enforceable by any law enforcement officer.

25 (c) Penalty.--A person who refuses to submit or perform a  
26 medical examination or test under this section commits a  
27 misdemeanor of the third degree.

28 Section 2543-D. Isolation and quarantine.

29 (a) State policy and powers.--

30 (1) It is the policy of the Commonwealth that the



1 individual dignity of any person isolated or quarantined  
2 during a state of public health emergency shall be respected  
3 at all times and upon all occasions.

4 (2) The needs of persons isolated or quarantined shall  
5 be addressed in a systematic and competent fashion.

6 (3) To the extent possible, the premises in which  
7 persons are isolated or quarantined shall be maintained in  
8 safe and hygienic manners, designed to minimize the  
9 likelihood of further transmission of infection or other harm  
10 to persons subject to isolation or quarantine.

11 (4) Adequate food, clothing, medication and other  
12 necessities and competent medical care shall be provided to  
13 persons who are isolated or quarantined.

14 (5) The public health authority may exercise, for such  
15 period as the state of public health emergency exists, the  
16 following emergency powers over persons:

17 (i) To establish and maintain places of isolation  
18 and quarantine.

19 (ii) To require isolation or quarantine of any  
20 person by the least restrictive means necessary to  
21 protect the public health. All reasonable means shall be  
22 taken to prevent the transmission of infection among the  
23 isolated or quarantined individuals.

24 (b) Individual cooperation.--A person subject to isolation  
25 or quarantine:

26 (1) Shall comply with the public health authority's  
27 rules and orders.

28 (2) Shall not go beyond the isolation or quarantine  
29 premises.

30 (3) Shall not put himself in contact with any person not

1 subject to isolation or quarantine other than a physician or  
2 other health care provider, public health authority or person  
3 authorized to enter an isolation or quarantine premises by  
4 the public health authority.

5 (c) Unauthorized entry.--No person other than a person  
6 authorized by the public health authority shall enter an  
7 isolation or quarantine premises. If, by reason of an  
8 unauthorized entry into an isolation or quarantine premises, the  
9 person poses a danger to public health, that person may be  
10 subject to isolation or quarantine pursuant to the provisions of  
11 this article.

12 (d) Termination.--Isolation or quarantine of any person  
13 shall be terminated when the public health authority determines  
14 that such isolation or quarantine of such person is no longer  
15 necessary to protect the public health.

16 (e) Due process.--

17 (1) Before isolating or quarantining a person, the  
18 public health authority shall obtain a written, ex parte  
19 order from a court of this Commonwealth authorizing such  
20 action. The court shall grant such order upon finding that  
21 probable cause exists to believe isolation or quarantine is  
22 warranted pursuant to the provisions of this article. A copy  
23 of the authorizing order shall be given to the person  
24 isolated or quarantined, along with notification that the  
25 person has a right to a hearing under this paragraph.

26 (2) Notwithstanding paragraph (1), the public health  
27 authority may isolate or quarantine a person without first  
28 obtaining a written, ex parte order from the court if any  
29 delay in the isolation or quarantine of the person would pose  
30 an immediate threat to the public health. Following such

1 isolation or quarantine, the public health authority shall  
2 promptly obtain a written, ex parte order from the court  
3 authorizing the isolation or quarantine.

4 (3) A person isolated or quarantined pursuant to the  
5 provisions of paragraph (1) or (2) shall have the right to a  
6 court hearing to contest the ex parte order. If such person,  
7 or person's representative, requests a hearing, the hearing  
8 shall be held within 72 hours of receipt of such request,  
9 excluding Saturdays, Sundays and legal holidays. The request  
10 shall be in writing. A request for a hearing shall not stay  
11 the order of isolation or quarantine. At the hearing, the  
12 public health authority must show that the isolation or  
13 quarantine is warranted pursuant to the provisions of this  
14 section.

15 (4) On or after 30 days following a hearing on the ex  
16 parte order or such hearing as is provided for this  
17 subsection, a person isolated or quarantined pursuant to the  
18 provisions of this section may request in writing a court  
19 hearing to contest that person's continued isolation or  
20 quarantine. The hearing shall be held within 72 hours of  
21 receipt of such request, excluding Saturdays, Sundays and  
22 legal holidays. A request for a hearing shall not alter the  
23 order of isolation or quarantine. At the hearing, the public  
24 health authority must show that continuation of the isolation  
25 or quarantine is warranted pursuant to the provisions of this  
26 section.

27 (5) A person isolated or quarantined pursuant to the  
28 provisions of this section may request a hearing in the  
29 courts of this Commonwealth for remedies regarding that  
30 person's treatment and the terms and conditions of such

1 isolation or quarantine. Upon receiving a request for either  
2 type of hearing described in this paragraph, the court shall  
3 fix a date for a hearing. The hearing shall take place within  
4 ten days of the receipt of the request by the court. The  
5 request for a hearing shall not alter the order of isolation  
6 or quarantine.

7 (6) If, upon hearing, the court finds that the isolation  
8 or quarantine of the individual is not warranted under the  
9 provisions of this section, then the person shall be released  
10 from isolation or quarantine. If the court finds that the  
11 isolation or quarantine of the individual is not in  
12 compliance with the provisions of subsection (a), the court  
13 may then fashion remedies appropriate to the circumstances of  
14 the state of public health emergency and in keeping with the  
15 provisions of this article.

16 (7) Judicial decisions shall be based upon clear and  
17 convincing evidence, and a written record of the disposition  
18 of the case shall be made and retained. The petitioner shall  
19 have the right to be represented by counsel or other lawful  
20 representative. The manner in which the request for a hearing  
21 is filed and acted upon will be in accordance with the  
22 existing laws and rules of the courts of this Commonwealth or  
23 any such rules that are developed by the courts for use  
24 during a state of public health emergency.

25 (f) Penalty.--A person who fails to comply with the  
26 provisions of subsection (b) or (c) commits a misdemeanor of the  
27 third degree.

28 Section 2544-D. Vaccination and treatment.

29 (a) Powers of public health authority.--The public health  
30 authority may, for such period as the state of public health

1 emergency exists, compel a person to be vaccinated or treated,  
2 or both, for an infectious disease subject to the following  
3 provisions:

4 (1) Vaccination may be performed by any qualified person  
5 authorized by the public health authority.

6 (2) A vaccine may not be given if the public health  
7 authority has reason to know that a particular individual is  
8 likely to suffer serious harm from the vaccination.

9 (3) Treatment may be performed by any qualified person  
10 authorized by the public health authority.

11 (4) Treatment must not be such as is reasonably likely  
12 to lead to serious harm to the affected individual.

13 (b) Refusal.--If, by reason of refusal of vaccination or  
14 treatment, the person poses a danger to the public health, the  
15 person may be isolated or quarantined pursuant to the provisions  
16 of this article.

17 (c) Enforcement.--An order of the public health authority  
18 given to effectuate the purposes of this section shall be  
19 immediately enforceable by any peace officer.

20 (d) Penalty.--A person who fails to comply with this section  
21 commits a misdemeanor of the third degree.

22 Section 2545-D. Collection of laboratory specimens; performance  
23 of tests.

24 The public health authority may, for such period as the state  
25 of public health emergency exists, collect specimens and perform  
26 tests on any person or animal, living or deceased, and may  
27 acquire any previously collected specimens or test results that  
28 are reasonable and necessary for emergency response subject to  
29 the following provisions:

30 (1) A specimen shall be clearly marked.

1           (2) Specimen collection, handling, storage and transport  
2 to a testing site shall be performed in a manner that will  
3 reasonably preclude specimen contamination or adulteration  
4 and provide for the safe collection, storage, handling and  
5 transport of the specimen.

6           (3) A person authorized to collect specimens or perform  
7 tests shall use chain of custody procedures to ensure proper  
8 recordkeeping, handling, labeling and identification of  
9 specimens to be tested. This requirement applies to all  
10 specimens, including specimens collected using onsite testing  
11 kits.

12           (4) A business, facility or agency authorized to collect  
13 specimens or perform tests shall provide such support as is  
14 reasonable and necessary to aid in a relevant criminal  
15 investigation.

16 Section 2546-D. Access and disclosure of patient records.

17           (a) Access to patient records.--Access to protected health  
18 information of patients under the isolation, quarantine or care  
19 of the public health authority shall be limited to those persons  
20 having a legitimate need to acquire or use the information for  
21 purposes of:

22           (1) providing treatment or care to the individual who is  
23 the subject of the health information;

24           (2) conducting epidemiological research; or

25           (3) investigating the causes of transmission.

26           (b) Disclosure of patient records.--Protected health  
27 information held by the public health authority may not be  
28 disclosed to other persons without specific informed consent of  
29 the patient except for disclosures made:

30           (1) directly to the patient;

1       (2) to the patient's immediate family members or life  
2 partners;

3       (3) to appropriate Federal agencies or authorities;

4       (4) to health care personnel where needed to protect the  
5 health or life of the patient who is the subject of the  
6 information;

7       (5) pursuant to a court order or executive order of the  
8 Governor, to avert a clear danger to an individual or the  
9 public health; or

10       (6) to identify a deceased person or determine the  
11 manner or cause of death.

12 Section 2547-D. Licensing and appointment of health personnel.

13       The public health authority may exercise, for such period as  
14 the state of public health emergency exists, the following  
15 emergency powers regarding licensing of health personnel:

16       (1) To appoint and prescribe the duties of such  
17 emergency health care providers from other states as may be  
18 reasonable and necessary for emergency response, subject to  
19 the following provisions:

20       (i) The appointment of emergency health care  
21 providers from other states pursuant to this section may  
22 be for a limited or unlimited time, but shall not exceed  
23 the termination of the state of public health emergency.  
24 The public health authority may terminate the out-of-  
25 State appointments at any time or for any reason provided  
26 that such termination may not jeopardize the health,  
27 safety and welfare of the people of this Commonwealth.

28       (ii) The public health authority may waive any or  
29 all licensing requirements, permits or fees required by  
30 State law and applicable orders, rules or regulations for

1 health care providers from other jurisdictions to  
2 practice in this Commonwealth.

3 (iii) An emergency health care provider from another  
4 state appointed pursuant to this section may not be held  
5 liable for any civil damages as a result of medical care  
6 or treatment related to the emergency response unless  
7 such damages result from providing or failing to provide  
8 medical care or treatment under circumstances  
9 demonstrating a reckless disregard for the consequences  
10 so as to affect the life or health of the patient.

11 (2) To authorize the medical examiner or coroner to  
12 appoint and prescribe the duties of such emergency assistant  
13 medical examiners or coroners as may be required for the  
14 proper performance of the duties of the office, subject to  
15 the following provisions:

16 (i) The appointment of emergency assistant medical  
17 examiners or coroners pursuant to this section may be for  
18 a limited or unlimited time, but shall not exceed the  
19 termination of the state of public health emergency. The  
20 medical examiner or coroner may terminate the emergency  
21 appointments at any time or for any reason, provided that  
22 the termination may not impede the performance of the  
23 duties of the office.

24 (ii) The medical examiner or coroner may waive any  
25 or all licensing requirements, permits or fees required  
26 by State law and applicable orders, rules or regulations  
27 for the performance of these duties.

28 (iii) An emergency assistant medical examiner or  
29 coroner appointed pursuant to this section and acting  
30 without malice and within the scope of the prescribed



1 duties shall be immune from civil liability in the  
2 performance of such duties.

3 (f) Public Information Regarding Public  
4 Health Emergency

5 Section 2551-D. Dissemination of information.

6 (a) General rule.--The public health authority shall inform  
7 the people of this Commonwealth when a state of public health  
8 emergency has been declared or terminated, how to protect  
9 themselves and what actions are being taken to control the  
10 emergency.

11 (b) Means of dissemination.--The public health authority  
12 shall provide information by all available and reasonable means  
13 calculated to bring the information promptly to the attention of  
14 the general public.

15 (c) Languages.--If the public health authority has reason to  
16 believe there are people of this Commonwealth who lack  
17 sufficient skills in English to understand the information, the  
18 public health authority shall make reasonable efforts to provide  
19 the information in the primary languages of those people as well  
20 as in English.

21 (d) Accessibility.--The provision of information shall be  
22 made in a manner accessible to individuals with disabilities.

23 Section 2552-D. Provision of access to mental health support  
24 personnel.

25 During and after a state of public health emergency, the  
26 public health authority shall provide information about and  
27 referrals to mental health support personnel to address  
28 psychological responses to the public health emergency.

29 (g) Planning for Public Health Emergency

30 Section 2561-D. Public Health Emergency Planning Commission.

1 A Public Health Emergency Planning Commission is established  
2 and shall consist of the secretaries, or their designees, of  
3 agencies the Governor deems relevant to public health emergency  
4 preparedness and any other persons chosen by the Governor. The  
5 Governor shall designate the chairperson of the commission.

6 Section 2562-D. Public health emergency plan.

7 (a) Content.--The commission shall, within six months of its  
8 appointment, deliver to the Governor a plan for responding to a  
9 public health emergency that includes provisions for the  
10 following:

11 (1) A means of notifying and communicating with the  
12 population during a state of public health emergency in  
13 compliance with this article.

14 (2) Centralized coordination of resources, manpower and  
15 services, including coordination of responses by Federal,  
16 State and local agencies.

17 (3) The location, procurement, storage, transportation,  
18 maintenance and distribution of essential materials,  
19 including medical supplies, drugs, vaccines, food, shelter  
20 and beds.

21 (4) The continued, effective operation of the judicial  
22 system, including, if deemed necessary, the identification  
23 and training of personnel to serve as emergency judges  
24 regarding matters of isolation and quarantine as described in  
25 this article.

26 (5) The method of evacuating populations and housing and  
27 feeding evacuated populations.

28 (6) The identification and training of health care  
29 providers to diagnose and treat persons with infectious  
30 diseases.

1       (7) Guidelines for the vaccination of persons, in  
2 compliance with this article.

3       (8) Guidelines for the treatment of persons who have  
4 been exposed to or who are infected with diseases or health  
5 conditions caused by bioterrorism, epidemic or pandemic  
6 disease or novel and highly fatal infectious agents or  
7 biological toxins, that pose a substantial risk of a  
8 significant number of fatalities or incidents of permanent or  
9 long-term disability. The guidelines shall cover, but not be  
10 limited to, the following diseases: anthrax, botulism,  
11 smallpox, plague, tularemia and viral hemorrhagic fevers.

12       (9) Guidelines for the safe disposal of corpses, in  
13 compliance with this article.

14       (10) Guidelines for the safe disposal of infectious  
15 waste, in compliance with this article.

16       (11) Guidelines for the safe and effective management of  
17 persons isolated, quarantined, vaccinated or treated during a  
18 state of public health emergency.

19       (12) Tracking the source and outcomes of infected  
20 persons.

21       (13) Ensuring that each municipality identifies the  
22 following:

23           (i) Sites where persons may be isolated or  
24 quarantined, with such sites complying with this article  
25 regarding the least restrictive means for isolation and  
26 quarantine and the requirements for the safety, health  
27 and maintenance of personal dignity of those isolated or  
28 quarantined.

29           (ii) Sites where medical supplies, food and other  
30 essentials may be distributed to the population.

1           (iii) Sites where emergency workers may be housed  
2           and fed.

3           (iv) Routes and means of transportation of people  
4           and materials.

5           (14) Coordination with the Federal Government and other  
6           states.

7           (15) Taking into account cultural norms, values and  
8           traditions that may be relevant.

9           (16) Distribution of the plan and guidelines to those  
10          persons who will be responsible for implementing the plan.

11          (17) Other measures necessary to carry out the purposes  
12          of this article.

13          (b) Review.--The commission shall review its plan for  
14          responding to a public health emergency every two years.

15                   (h) Miscellaneous Provisions

16          Section 2571-D. Rules and regulations.

17          The public health authority is authorized to promulgate and  
18          implement such rules and regulations as are reasonable and  
19          necessary to implement and effectuate the provisions of this  
20          article.

21          Section 2572-D. Enforcement.

22          (a) General rule.--The public health authority shall have  
23          the power to enforce the provisions of this article through the  
24          imposition of fines and penalties, the issuance of orders and  
25          such other remedies as are provided by law.

26          (b) Construction.--Nothing in this section shall be  
27          construed to limit specific enforcement powers enumerated in  
28          this article.

29          Section 2573-D. Financing and expenses.

30          (a) Transfer of funds.--Subject to subsection (c), the

1 Governor may transfer from any fund available to the Governor in  
2 the State Treasury such sums as may be necessary to meet the  
3 public health emergency.

4 (b) Repayment.--Moneys transferred pursuant to subsection  
5 (a) shall be repaid to the fund from which they were transferred  
6 when moneys become available for that purpose, by legislative  
7 appropriation or otherwise.

8 (c) Conditions.--A transfer of funds by the Governor  
9 pursuant to this section may be made only when one or more of  
10 the following conditions exists:

11 (1) No appropriation or other authorization is available  
12 to meet the public health emergency.

13 (2) An appropriation is insufficient to meet the public  
14 health emergency.

15 (3) Federal moneys available for such a public health  
16 emergency require the use of State or other public moneys.

17 (d) Expenses.--All expenses incurred by this Commonwealth  
18 during a state of public health emergency shall be subject to  
19 the following limitations:

20 (1) No expense shall be incurred against the moneys  
21 authorized under this section, without the approval of the  
22 Governor.

23 (2) The aggregate amount of all expenses incurred under  
24 the provisions of this section shall not exceed \$10,000,000  
25 for any fiscal year.

26 (3) Moneys authorized for a state of public health  
27 emergency in prior fiscal years may be used in subsequent  
28 fiscal years only for the public health emergency for which  
29 they were authorized. Moneys authorized for a public health  
30 emergency in prior fiscal years and expended in subsequent

1 fiscal years for the public health emergency for which they  
2 were authorized, apply toward the \$10,000,000 expense limit  
3 for the fiscal year in which they were authorized.

4 Section 2574-D. Liability.

5 (a) State immunity.--Neither the Commonwealth, its political  
6 subdivisions, nor, except in cases of gross negligence or  
7 willful misconduct, the Governor, the public health authority or  
8 any other State official referenced in this article shall be  
9 liable for the death of or any injury to persons or damage to  
10 property as a result of complying with or attempting to comply  
11 with this article or any rule or regulations promulgated  
12 pursuant to this article.

13 (b) Private liability.--

14 (1) During a state of public health emergency, no person  
15 owning or controlling real estate or other premises who  
16 voluntarily and without compensation grants a license or  
17 privilege or otherwise permits the designation or use of the  
18 whole or any part or parts of such real estate or premises  
19 for the purpose of sheltering persons, together with that  
20 person's successors in interest, if any, shall be civilly  
21 liable for negligently causing the death of or injury to any  
22 person on or about such real estate or premises under such  
23 license, privilege or other permission or for negligently  
24 causing loss of or damage to the property of such person.

25 (2) During a state of public health emergency, no  
26 private person, firm or corporation and employees and agents  
27 of such person, firm or corporation in the performance of a  
28 contract with and under the direction of the Commonwealth or  
29 its political subdivisions under the provisions of this  
30 article shall be civilly liable for causing the death of or

1 injury to any person or damage to any property except in the  
2 event of gross negligence or willful misconduct.

3 (3) During a state of public health emergency, no  
4 private person, firm or corporation and employees and agents  
5 of such person, firm or corporation who renders assistance or  
6 advice at the request of the Commonwealth or its political  
7 subdivisions under the provisions of this article shall be  
8 civilly liable for causing the death of or injury to any  
9 person or damage to any property except in the event of gross  
10 negligence or willful misconduct.

11 (c) Applicability.--The immunities provided in this section  
12 shall not apply to any private person, firm or corporation or  
13 employees and agents of such person, firm or corporation whose  
14 act or omission caused in whole or in part the public health  
15 emergency and who would otherwise be liable therefor.

16 Section 2575-D. Compensation.

17 (a) Taking.--Compensation for property shall be made only if  
18 private property is lawfully taken or appropriated by a public  
19 health authority for its temporary or permanent use during a  
20 state of public health emergency declared by the Governor  
21 pursuant to this article.

22 (b) Actions.--Any action against the Commonwealth with  
23 regard to the payment of compensation shall be brought in the  
24 courts of this Commonwealth in accordance with existing court  
25 laws and rules or any such rules that may be developed by the  
26 courts for use during a state of public health emergency.

27 (c) Amount.--The amount of compensation shall be calculated  
28 in the same manner as compensation due for taking of property  
29 pursuant to eminent domain procedures, as provided in 26 Pa.C.S.  
30 (relating to eminent domain), except that the amount of

1 compensation calculated for items obtained under section 2536-D  
2 shall be limited to the costs incurred to produce the item.

3 Section 2. The provisions of this act are severable. If any  
4 provision of this act or its application to any person or  
5 circumstances is held invalid in a Federal or State court having  
6 jurisdiction, the invalidity will not affect other provisions or  
7 applications of this act that can be given effect without the  
8 invalid provision or application.

9 Section 3. This act does not explicitly preempt other laws  
10 or regulations that preserve to a greater degree the powers of  
11 the Governor or public health authority, provided such laws or  
12 regulations are consistent and do not otherwise restrict or  
13 interfere with the operation or enforcement of the provisions of  
14 this act.

15 Section 4. This act shall not be construed to supersede any  
16 provision of section 301 of the act of December 16, 2002 (P.L.  
17 1967, No.227), known as the Counterterrorism Planning,  
18 Preparedness and Response Act.

19 Section 5. This act shall not be construed to restrict any  
20 person from complying with Federal law or regulations.

21 Section 6. No later than 90 days after the effective date of  
22 this act, and every 12 months thereafter, the Governor shall  
23 transmit to the General Assembly a report that shall include:

24 (1) A description of the detection and tracking efforts  
25 made under this act.

26 (2) A description of any state of public health  
27 emergency declared under this act.

28 (3) A description of the emergency powers utilized under  
29 this act.

30 (4) A description of the moneys transferred and



1 liabilities and expenses incurred under this act.

2 Section 7. This act shall take effect immediately.